

# *Financial Institutions*

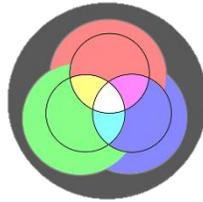
Nadav Orian Peer

Spring 2019 (4LAW 5140-01)

Classes meet in Room 202, Tuesdays and Thursday, 10:00am-11:20am

Office hours Thursdays 01:00pm-03:00pm (259B) or by appointment

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## **1. Course Description**

The financial system is the infrastructure on which all economic activity takes place with enormous political and distributive stakes. The law of financial institutions is thus of central concern to students of diverse interests: aspiring private practitioners, regulators, and public interest lawyers concerned with social justice.

We will develop an integrative picture of financial law by focusing on three core areas-

1. Money & Banking that enable economic exchange and the payment of debt;
2. Capital Markets, where society's savings are channeled into productive investment and;
3. Access to Credit law that tries to insure financial institutions' allocation of credit is fair and inclusive.

A decade now since the Global Financial Crisis, the legal reforms put into place are profoundly transforming all three areas and their interrelationships. We will study these transformations, focusing on the law of commercial banks and the Federal Reserve (Part 1); broker-dealers, hedge funds, and registered investment companies (Part 2); and civil rights legislation applying to financial institutions (Part 3).

No background in finance or economics is required and students of all backgrounds are encouraged to register. Final Exam will be held on Saturday, May 4, 2019, 09:00 a.m.

## **2. Learning Outcomes**

The course has several primary learning outcomes:

1. Substantive Law
  - 1.1. Understand the legal and regulatory frameworks governing money & banking, capital markets and access to credit (the "three core areas");
  - 1.2. Understand the different business models involved in the three core areas, their interrelations, and the regulatory challenges posed by those interrelations;
  - 1.3. Understand the central vulnerabilities of the pre-crisis financial system, and the legal reforms put in place to address them;
  - 1.4. Understand the distributive implications of financial law.

## 2. Legal Skills

- 2.1. Interpreting statutes and rules;
- 2.2. Reading and analyzing case law;
- 2.3. Crafting and evaluating policy arguments and policy implications of reforms;

## 3. Assessment

- 3.1. The above-mentioned learning outcomes will be evaluated through attendance and informed participation (20%), a midterm exam, and an open book final exam (60%).

### ***3. Attendance, Reading & Participation Policy***

Regular class attendance, reading and participation are required and essential for successful and engaged learning:

- The reading load will be kept manageable, aiming at around 2 hours of reading per class;
- Attendance and informed participation in class discussion will count towards 20% of students' final grade.
- This grading for this component will consist of "points" that can be earned through attendance and participation (see Point Metric below). Students with 5-6 points will receive an A; students with 4 points will receive a B; students with 3 points will receive a C; students with 2 points will receive a D; and students with one or zero points will receive an F.

#### **Point Metric for Attendance and Participation Component (20%)**

	Attendance	Informed Participation
3 points	No more than 1 absence	Participation in almost all classes
2 points	No more than 3 absences	Participation in about half of classes
1 point	No more than four absences	Sporadic participation

- While attendance is required, it is understood that students sometimes have to miss class due to emergencies and life transitions ("justified absences"). Justified absences will not affect a student's grade provided students notify the instructor by email ([norianpeer@tulane.edu](mailto:norianpeer@tulane.edu)) and make up the relevant material. If you need to miss a class, please contact me as soon as possible, and you will receive full support in making up the material;
- Absences that are excessive and unjustified (more than four absences) may result in automatic withdrawal from the course or further grade reduction.

### ***4. Required Course Materials***

The casebook for our course is **Barr, Jackson and Thayer, Financial Regulation: Law & Policy** (1<sup>st</sup> ed., 2015) [[URL](#)]. Unless otherwise indicated, readings are from this book. To reduce the reading load, please do not read the full chapters. Read only the specific pages provided in the "Excerpts" column in the Calendar of Reading Assignments below.

Non-textbook readings –numbered in [square brackets]– are posted on our course dropbox and printed copies will be made available in class. Excerpts from statutes will be provided in class. You do not need to purchase a statutory supplement.

### 5. Office Hours

Office hours will be held Thursdays, 01:00pm-03:00pm at 259B. During those hours, I will be available to students wishing to avail and revise class material etc. If you are interested in coming to office hours but have conflicting commitments, kindly write me and we will find another time.

### 7. Midterm Exam

A take-home midterm exam will be held on Friday, Mar 1, 2019. The exam will count towards 20% of students' final grade.

### 6. Final Exam

A final open book exam will be held on Sat, May 4, 2019 at 09:00am. We will discuss the exam format in revision classes scheduled throughout the term (Classes 13, 20, 25, 26).

### 9. Safe Learning Environment

Tulane University recognizes the inherent dignity of all individuals and promotes respect for all people. As such, Tulane is committed to providing an environment free of all forms of discrimination including sexual and gender-based discrimination, harassment, and violence like sexual assault, intimate partner violence, and stalking.

If you (or someone you know) has experienced or is experiencing these types of behaviors, know that you are not alone. Resources and support are available: you can learn more at [titleix.tulane.edu](http://titleix.tulane.edu). Any and all of your communications on these matters will be treated as either "Confidential" or "Private" as explained in the chart below.

Please know that if you choose to confide in me I am mandated by the university to report to the Title IX Coordinator, as Tulane and I want to be sure you are connected with all the support the university can offer. You do not need to respond to outreach from the university if you do not want. You can also make a report yourself, including an anonymous report, through the form at [tulane.edu/concerns](http://tulane.edu/concerns).

<b>Confidential</b>	<b>Private</b>
<i>Except in extreme circumstances, involving imminent danger to one's self or others, nothing will be shared without your explicit permission.</i>	<i>Conversations are kept as confidential as possible, but information is shared with key staff members so the University can offer resources and accommodations and take action if necessary for safety reasons.</i>
<b>Counseling &amp; Psychological Services (CAPS)   (504) 314-2277 or The Line (24/7)   (504) 264-6074</b>	<b>Case Management &amp; Victim Support Services   (504) 314-2160 or <a href="mailto:srss@tulane.edu">srss@tulane.edu</a></b>
<b>Student Health Center   (504) 865-5255</b>	<b>Tulane University Police (TUPD)   Uptown - (504) 865-5911. Downtown (504) 988-5531</b>
<b>Sexual Aggression Peer Hotline and Education (SAPIIE)   (504) 654-9543</b>	<b>Title IX Coordinator   (504) 314-2160 or <a href="mailto:msmith76@tulane.edu">msmith76@tulane.edu</a></b>

## 7. Calendar of Reading Assignments

Class	Date		Topic	Readings	Excerpts (pls do <u>not</u> read full chapters)
			<b><i>Introduction</i></b>		
1	Jan 15		Class overview (RGB diagram)	Today is a freebee	
2	Jan 17		Historical overview	Ch. 1.2	pp. 31-52
			<b><i>Part 1: Money &amp; Banking</i></b>		
3	Jan 22	1.1. Money	Power of Congress over money	[1] Legal tender cases	Handout
4	Jan 25		Why sovereigns make money	[2] Christine Desan	Handout
5	Jan 29	1.2. Com. Banking	Bank lending creates deposits	Ch. 1.5, Ch. 2.2	pp. 132-144; 159; 165-7
6	Feb 5		Deposit insurance	Ch. 2.4	pp. 233-252
7	Feb 7		Banking activities restrictions	Ch. 2.2, 2.3	pp. 183-196; 198-208; 210-212
8	Feb 12		Holding companies	Ch. 2.3., 6.1	pp. 223-229; 666-673; 674-679; 681-688
9	Feb 14		Basel I and II (pre-crisis)	Ch. 2.5; Ch. 2.6	pp. 259-263; 272-279; 281-284; 300-302
10	Feb 19		Basel III (post-crisis)	Ch. 2.7	pp. 307, 310-329
11	Feb 21	1.3. Cen. Banking	The Fed: Lender of Last Resort	[3] Fed Act (Part 1) [4] Ben Bernanke #1 <a href="#">[URL]</a>	Handout; Bernanke at 14:00-58:00
12	Feb 26		The Fed: Monetary Policy Transmission & Implementation	[5] Fed Act (Part 2) [6] Ben Bernanke #2 <a href="#">[URL]</a>	Handout; Bernanke 00:00-38:00
13	Feb 28		Revision of Money & Banking	Pls review your notes	
	Mar. 1		Midterm (Take-home)		

<b>Part 2: Capital Markets</b>					
14	Mar 12	2.1. Issuers	Mortgages	Ch.5.2.	pp. 579-604
15	Mar 14		Securitization (Private Label and GSEs)	Ch.12.1	Pp. 1137-1143; 1154-58; 1164-66 (Ch.12.1); pp. 1170-74; 1181-84 (Ch. 12.2)
16	Mar 19	2.2. SB	Wholesale funding	[7] Nadav Orian Peer; Ch. 12.4	Handout; pp. 1222-29; 1234-1237; 1245-46.
17	Mar 21		Broker-dealers	[8] Perry Mehrling; Ch. 4.1	Please watch the following videos together with the Mehrling handout: #1 <a href="#">[URL]</a> ; #2 <a href="#">[URL]</a> ; #3 <a href="#">[URL]</a> ; pp. 457-460; Handout
18	Mar 26		Hedge funds	Ch. 12.3; Ch. 12.4; [9] <i>Phelps v. Stomber</i>	pp. 1027-1038; 1049-51; <i>Phelps v. Stomber</i> (pp. 1-18)
19	Mar 28	2.3. AMs	Mutual funds	Ch. 10.1; Ch. 10.2	pp. 975-979; 1003-1020; Optional (for background: 945-951).
20	Apr 2		Revision of Capital Markets	Pls review your notes	
<b>Part 3: Access to Credit</b>					
21	Apr 4	GSE 3.1.	The GSEs: Housing Goals and Duty-to-Serve	[10] FHFA annual report	Handout
22	Apr 11	FHFA/ECOA 3.2.	The Legacy of Discrimination in the Housing Market	[11] Lisa Rice	Handout
23	Apr 16		The Fair Housing Act and the Credit Equal Opportunity Act	[12] JPM and Hudson complaints	Handout
24	Apr 18	CR 3.3.	The Community Reinvestment Act	[13] CRA reader	
25	Apr 21		Revision of access to credit	Please review your notes	Please watch the following videos about HUD's Choice Neighborhoods program: #1 <a href="#">[URL]</a> ; #2 <a href="#">[URL]</a> ; #3 <a href="#">[URL]</a> .
<b>Wrap-up</b>					
26	Apr 23		Full revision and exam prep	Please review your notes	
	May 4		Final Exam (09:00 am)	You've learned a lot. Have fun!	

## 8. Syllabus Diagram (Class 1)

Important note: You are in no way expected to understand this diagram yet. In fact, a major goal of the course is to gradually reach the point where this diagram makes sense, and where you are actually in the position to offer critical observation on it. We will discuss the diagram in the first class, as well as in the four revision classes scheduled throughout the term (Classes 13, 20, 25, 26).

