TEXTBOOK: Macey, Miller and Carnell, BANKING LAW AND REGULATION, Fifth Edition
Banking Law Statutory Supplement – Available On TWEN

OVERVIEW AND HISTORICAL ANTECEDENTS

Class 1
8/21
Banking History

Hamilton’s Proposal, The Federalist Papers
Jefferson’s Opinion, The Federalist Papers
Available on TWEN
MMC: Chapter 1, Introduction and Historical Antecedents, 1-32
What is a Bank? MMC 34-63

THE GLOBAL REGULATION OF BANKING, Introduction and Chapter 1

Policy Questions:
What vestiges of the historical debates on the banking structure still exist?
How have politics, markets, technology and law (PMTL) influenced banking?

Class 2
8/28
The Financial Regulatory Ecology

The Regulatory and Organizational Structure

Chapter 2
Entry into Banking, MMC 73-81

Policy Questions:
Is there a valid basis for retaining the distinction between banks, thrifts and other types of financial institutions?
Does the dual banking system improve the safety and soundness of the nation’s banking system?

Part 2
TWEN:
What Should Central Banks Do?
What Can Central Banks Do in a Financial Crisis?

Policy Questions:
Should financial regulators be independent?
How are banks “too big to fail”?

Workshop Assignment 1 Due
THE REGULATION OF BANK ACTIVITIES

Class 3
9/4
Interaction Between State and Federal Law, MMC 95-104
TWEN: Cuomo v. Clearinghouse
Aguayo v. U.S. Bank

Policy Question: Does the regulation and supervision of the business of banking make banking “special”?

Simulation: Reviewing a Charter Application

Workshop Assignment 2 Due

Class 4
9/11
“Banking” in its Modern Forms

Chapter 3
Incidental and Related Powers, MMC 108-128
Securities, MMC142-151
Insurance, MMC 143-174

Policy Question: What is the ‘business of banking’?
Are the rationales for limiting the activities on banks justified?

Class 4
Part 2
Chapter 8
Holding Companies
MMC, 427-461

Policy Questions: Are the restrictions that separate banking from commerce adequate?
What is the business of banking?

Paper Topics Due
Class 5  
9/18  
Snapshots on  
Geographic Expansion, Other Financial Segments, Culture and Ethics

Short Paper Topic Presentations on

- Traditional “walls:” Glass-Steagall, McFadden, BHC Act, McCarran-Ferguson
- Geographic Expansion in the Banking Industry
- Merger and Acquisitions in the Banking Industry and ‘Too Big to Fail’
- Graham-Leach Bliley & “Deregulation”
- Enron, Accounting Trickery and the Effect on the Industry
- Investment Banking
- “Shadow Banking” and its Effect on the Regulated Financial Institutions
- Rating Agencies and the Inherent Conflict
- Competition, Scale and Universal Banking
- The Globalization of Financial Institutions
- The Conflicting Ethics and Cultures of Modern Finance

SUPERVISION

Class 6  
9/25  
Part 1  
Chapter 5  
Capital
MMC 251-278
Prepare problems

Prompt Corrective Action
MMC 280-307
Prepare problems

Policy Question: Are the capital requirements properly structured? If so, explain why? If not, how should they be changed?

Part 2  
Chapter 6  
Deposit Insurance
MMC 314-333

Policy Question: Given the original purpose of deposit insurance, is it still needed? How does deposit insurance inspire confidence in the banking system?

Case Study: Assuring Confidence in the Financial System
Available on TWEN
Workshop Assignment 3 Due
### Class 7

**Consumer Protection and Basic Financial Services**

**Chapter 7**

- MMC 335-354 (On your own)
- MMC 348-395

**Simulation:** *The Community Reinvestment Act- is "Encouragement " To Lend Still Needed?*

**Outline Due**

**Student Meetings**

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### EXAMINATION AND ENFORCEMENT

#### Class 8

**Enforcement**

**Part 1**

**Chapter 12**

- MMC 640-664

**Policy Questions:**

- What is regulatory failure? How is it different from market failure?
- Does the present regulatory system take regulation seriously?
- Would the regulatory system be more effective if it was comprised of more internal constraints such as ethical and moral precepts?
- Are the ambitions of regulatory constraints—such as preventing systemic failures—are achievable?

**Part 2**

**Failed Bank Resolution**

**Chapter 13**

- Marshaling Assets
  - MMC 708-715
- Paying Valid Claims in Order of Priority
  - MMC 716-721
- Structuring Resolution
  - MMC 729-731

**Policy Questions:**

- *Why banks are handed differently through the receivership rather than the bankruptcy process?*
- *Are internal constraints such as ethical and moral precepts better alternatives to regulatory supervision?*
- *Are some of the ambitions of regulatory constraints—such as preventing systemic failures—achievable?*
# The Sub-Prime Crisis

<table>
<thead>
<tr>
<th>Class</th>
<th>Topic</th>
<th>Reading</th>
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<tbody>
<tr>
<td>9</td>
<td>The Process of Securitization and the Role of Mortgage Brokers</td>
<td>Frankel and Fagan, pp., 70-100</td>
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<tr>
<td>10/16</td>
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<td><em>Anatomy of a Meltdown</em>, Frontline</td>
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**Policy Questions:**

- What is a mortgage broker?
- Does a mortgage broker owe a fiduciary duty to a client? To a lender?
- What role did mortgage brokers play in the subprime crisis?
- Are there adequate constraints on the behavior of mortgage brokers?

**Workshop Assignment 4 Due**

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<th>Class</th>
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<tr>
<td>10/23</td>
<td>The Impact of Securitization</td>
<td>Frankel and Fagan, pp. 401-433</td>
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<td>Part I</td>
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<td>Available on TWEN</td>
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<td><em>The Credit Crisis Visualized</em>, <a href="http://www.youtube.com/watch?v=Q0zEXdDO5JU">Available on TWEN</a></td>
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<td>Case Study: A Million Home Foreclosures How Could it Happen?</td>
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**Policy Question:**

- Was the Financial Crisis of 2008 due to market failure or regulatory failure?
- What are effective reforms for the subprime mortgage market?

| Part 2  | Stabilizing the Financial System                                    |                          |
|---------|----------------------------------------------------------------------|                          |
| TWEN:   | Systemic Risk in The Global Financial Crisis, (GFC), 11-20          |                          |
|         | The International Response, GFC, 168-172                             |                          |
|         | Raise International Regulatory Standards and Improve International Cooperation, GFC, 80-88 |                          |

**Additional Reading**

- Ron Chernow, *Everyman's Financial Meltdown*
- William Silber, *When Washington Shut Down Wall Street*
- Alan Feuer, *For Playing Solitaire or Saving the Economy*
# DODD-FRANK and FINANCIAL REFORM

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<tr>
<th>Class</th>
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<th>Topic</th>
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<tr>
<td>Class 11</td>
<td>10/30</td>
<td>Understanding Dodd-Frank and its Implications Overview&lt;br&gt;<code>Breaking the Bank, Frontline Documentary</code></td>
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<td>Class 12</td>
<td>11/6</td>
<td>Understanding Dodd-Frank and its Implications – Part 2</td>
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<td>Class 13</td>
<td>11/13</td>
<td>Panel Discussion – Careers in the Financial Services Industry&lt;br&gt;A group of UB Law Alum will discuss their careers in the financial services industry</td>
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<td>Class 14</td>
<td>11/20</td>
<td>Student Presentations</td>
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