

TEXTBOOK: Macey, Miller and Carnell, *BANKING LAW AND REGULATION, Fifth Edition*
Aspen Law & Business Company, 2013
Banking Law Statutory Supplement – Available On- TWEN

OVERVIEW AND HISTORICAL ANTECEDENTS

Class 1
8/22

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
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
8/29
Part 1
Chapter 1

The Financial Regulatory Ecology

What is a Bank? MMC 34-63

Policy Questions: How does the history provide an understanding of the crucial elements of how the regulatory thickets and the financial industry were formed?

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 9/5 Chapter 2	The Regulatory and Organizational Structure
TWEN:	Entry into Banking, MMC 73-81 Interaction Between State and Federal Law, MMC 95-104 <i>Cuomo v. Clearinghouse</i> <i>Aguayo v. U.S. Bank</i>
Policy Question:	Does the regulation and supervision of the business of banking make banking “special”?
<i>Simulation:</i>	<i>Reviewing a Charter Application</i>

Workshop Assignment 2 Due

Class 4 9/12	“Banking” in its Modern Forms
Chapter 3	Incidental and Related Powers, MMC 108-128 Securities, MMC 142-151 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
Lecture:	Drafting Basics
Policy Questions:	Are the restrictions that separate banking from commerce adequate? What is the business of banking?

Paper Topics Due

Class 5 Snapshots on
9/19 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
Workshop Assignment 2 Due

SUPERVISION

Class 6 Safety & Soundness
9/26

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 Deposit Insurance
Chapter 6 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 4 Due

Class 7 10/3 Chapter 7	Consumer Protection and Basic Financial Services MMC 335-354 (on your own) MMC 348-395
Simulation:	<i>The Community Reinvestment Act- is "Encouragement " To Lend Still Needed?</i>

Outline Due

Student Meetings

EXAMINATION AND ENFORCEMENT

Class 8 10/10 Part 1 Chapter 12	Enforcement 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 Chapter 13	Failed Bank Resolution Marshaling Assets MMC 708-715 Paying Valid Claims in Order of Priority MMC 716-721 Structuring Resolution MMC 729-731
Policy Questions:	<i>Why banks are handed differently through the receivership rather than the bankruptcy process?</i> <i>Are internal constraints such as ethical and moral precepts better alternatives to regulatory supervision?</i> <i>Are some of the ambitions of regulatory constraints—such as preventing systemic failures— achievable?</i>

The Sub-Prime Crisis

Class 9 The Process of Securitization and the Role of Mortgage Brokers
10/17
TWN

Frankel and Fagan, pp., 70-100
Anatomy of a Meltdown, Frontline

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 5 Due

Class 10 The Impact of Securitization
10/24
Part I Frankel and Fagan, pp. 401-433 (Available on TWEN)

The Credit Crisis Visualized,
<http://www.youtube.com/watch?v=O0zEXdDO5JU>

Case Study: *A Million Home Foreclosures How Could it Happen?*

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

Available on TWEN: 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

Class 11 Understanding Dodd-Frank and its Implications
10/31 Overview

Breaking the Bank, Frontline Documentary

Class 12
11/7

Class 13 Panel Discussion – Careers in the Financial Services Industry
11/14 A group of UB Law Alum will discuss their careers in the financial services industry

Class 14 Student Presentations
11/28
