

## ISSUES OF LAW AND FINANCE IN AFRICA

Romuald HAULE

### COURSE DESCRIPTION

The seminar will be organised around the following subjects:

Preliminary chapter: African law or law in Africa? Definitions of law, its essence, modes of formation and specificities according to different legal systems.

Chapter 1: Historical, economic, political and social factors of contemporary African legal and financial systems. Influence on these systems of customary law, colonisation, domestic political, economic, socio-cultural factors on the one hand and international, especially international capitalism on the other hand.

Chapter 2: African legal and financial systems. African constitutionalism, land issues, investment and financial systems, regional organisations.

Chapter 3: Evolution of African legal and financial systems and influence of globalization on this process. Since the 1980s under the pressure of Bretton Woods institutions (WB and IMF), many African countries started “structural adjustment” programs which led to the emergence of new legal and financial systems in order to protect the interests of international capitalism and emphasized the process of destruction of African countries’ sovereignty .

Chapter 4: Struggle of African people through civil society and regional organizations against the maneuvers of international capitalism. African States’ attempts to protect their interests in the negotiations of GATT and with the EU Commission (prolongation of the Cotonou’s Agreement).

hours	24
credits	2

**ROMUALD HAULE** (MCL, PhD) lectures in Public International Law at Ruaha University College, where he is Dean of the Faculty of Law, and is Managing Director of the African Institute for Comparative and International Law, Songea, Tanzania. He is editor-in-chief of the Journal of African and International Law (JAIL).

# ISSUES OF LAW AND FINANCE IN CENTRAL EUROPE AND RUSSIA

Norbert REICH

## COURSE DESCRIPTION

After the fall of socialism, the former socialist countries “jumped” into economic freedom without particular safeguards in the area of banking and financial services. This resulted in several banking crisis in the 1990s provoking huge financial losses for citizens of the newly established democracies, thereby greatly undermining trust in the market economy. Regulation and consumer protection in financial services became a high priority on the political agenda. Countries on their way to membership in the EU like Poland, Hungary and the Baltic countries more or less voluntarily took over the “acquis communautaire”. Russia, particularly after the 1998 crash, intensified state control and regulation over the banking industry, tried to stop outflow of capital and improve consumer protection through mandatory rules in the new Civil Code and special legislation on investment services.

The course will give an overview of the present state of regulation by making use of the comprehensive study: “Financial Services Regulation in Europe”, Oxford University Press 2006. It will then take up certain issues of financial services in new EU Member countries with a particular emphasis on consumer and investor protection. There will always be a reference to relevant EU regulations and directives, including the recent Dir. 2008/48 on consumer credit. Russia is a special case because of its position outside the EU and its still limited liberalisation. Therefore, the relevant provisions of the Russian Civil Code (which will be made available in an English translation) must be studied as well as specific rules on securities by the Federal Securities Commission, including self-regulation by the so-called NAUFOR rules.

hours	24
credits	2

**NORBERT REICH** was visiting professor at the University of Tartu (Estonia) where he taught EU internal market, competition and consumer protection law in 2006-2008, Rector of the Riga Graduate School of Law in 2000-2004, Director of the Centre of European Legal Policy in Bremen (ZERP) in 1982-1991, and Professor of civil and economic law at the University of Bremen until his retirement in 2005. He is a Braudel Senior Fellow at the European University Institute in Florence. He has published and lectured extensively on EU law, economic and contract law of new member countries, and consumer and investor protection in Russia.

## ISSUES OF LAW AND FINANCE IN CHINA

Guanghua LIU

### COURSE DESCRIPTION

By analyzing influential cases, exploring basic knowledge and examining major issues of law and public finance and private finance in China, this seminar will cover topics from the background of China's financial system, the framework of China's legal system, and issues of banking, securities exchange, insurance, financial regulation and grass-root finance in China. Students will be exposed to up-to-date information and fundamental issues of the transition law and finance experience of China; they will also carry out an international comparison between the socialist market and law system with Chinese characteristics and other counterparts (especially the global capitalist market and law system) from a legal, economic and political perspective. In order to receive credits, each participant will be required to produce a paper on any topic in consultation with the instructor from a comparative law and finance perspective.

Covered topics will be: an introduction to China and Chinese Culture, with a view to traditional Chinese (herbal) medicine, Chinese language and characters, local religion (Confucianism etc.); legal system in China, main existing system and historic evolution of the institutions; finance system of China, main existing system and historic evolution of the institutions; main issues of law and finance in China, public finance, banking, securities exchange, insurance, bonds, financial regulation, supervision and audit, grass-root finance, private funds and sovereign wealth funds; China and the World in the Context of Global Capitalism.

### BIBLIOGRAPHY

Lin Yutang, *My Country and My People*, John Day Company 1935 or Foreign Language Teaching and Research Press 2000.

Albert Hung-yea Chen, *The Introduction to the Legal System of the People's Republic of China*, 3<sup>rd</sup> Ed., LexisNexis, December 2004.

hours	24
credits	2

**LIU GUANGHUA** – BA, MA and PhD in Law—is Associate Professor of Law at the Law School of Lanzhou University, where he is also currently serving as Associate Academic Dean. He was visiting scholar at the University of California, Hastings College of the Law (2004-2005). Dr. Liu's main interests focus on Economic Law/Business Regulation, Social Law and Comparative Law. He is the author of 4 books and over 60 articles on law and related subjects in Chinese, for which he was awarded three times the prize of the highest Social Science of Gansu Province. He is a member of the China Bar, the China Economic Law Studies Association and the China Social Law Studies Association of China Law Society.

Randall Peerenboom, *China's Long March toward Rule of Law*, University of California, Los Angeles, September 2002.

Stanley B. Lubman, *Bird in A Cage—Legal Reform in China after Mao*, Stanford University Press.

David Smith & ZHU Guobin, *China and the WTO: Going West*, Thomson Sweet & Maxwell Press, October 2001.

Nicholas R. Lardy, *Integrating China into the Global Economy*, Brookings Institution, 2002.

hours	24
credits	2

SPECIALIZED COURSES

## ISSUES OF LAW AND FINANCE IN INDIA

Avi SINGH

### COURSE DESCRIPTION

India's growth trajectory, whether real or hyped, likely needs no introduction. Both of the descriptions are indeed true. Parts of the economy have been deregulated, and globalised, and feature Indian companies that have become active players in international finance and trade. Other parts of the economy are still regulated, with different growth patterns. The patchwork of regulations is exemplified by the recent decision, extremely controversial, and politically opposed, to set up special economic zones, ostensibly outside either the regulations of the law, or the protections offered by it.

The course will initially focus on the legal formants, and layers of formal law, and informal practice in India. Thereafter, it will focus on certain areas of the law, where old common law code, socialist-era remnants, are being contemplated and transformed with new globalised model regulations which are partly a response to, and partly a concession to the globalised sections of the economy, and the dichotomy that exists in the law between these sections of the economy, and the law that governs other economic and other activities. The law and economics movement has not been received wholesale in India. Indeed, an entirely different input from economics—from Marxist economics—has informed and inspired a vast zone of Indian legislation and jurisprudence—which is still the law today. Thus, the plurality of formants in India is not only a mix between more traditional and more modern layers, but also layers from different ideological engagement and reception. Recent decisions, such as *Umadevi*, will indicate that the efficiency principle is not paramount, but efficiency and equity intersect at random.

To look at the plurality of extremes that Indian legal systems wrestle with, the seminar shall examine:

Introduction to Indian system: Complexity of plurality in Indian - Hindu law, Islamic Law, Persian law, Common

hours	24
credits	2

**AVI SINGH** is a barrister who is admitted to practice law in California and India. Having studied in India, Netherlands, UK, and the US, Mr. Singh has extensive experience appearing before the international tribunals in the Hague and Arusha. Currently, Mr. Singh is practicing in New Delhi, India, where he specializes in white collar regulations, particularly those with cross-border implications.

Law, Civil Law, Constitutional Law, Socialist Law, WTO/TRIPs.

The Indian Constitution: The Republic, pursuant to a constitutional amendment, never repealed, in the 1970s, is a socialist republic, a principle reaffirmed in constitutional decisions till recently. However, the rhetoric of development, economic growth, and market efficiency informs more recent constitutional decisions. The plurality is also found in the constitution, which both grants the right to conduct one's trade or business as part of the freedom of speech, and allows it to be restricted if such restrictions are reasonably related to the government's stated public purpose.

The patchwork of old "mixed economy" statist legislation and connected jurisprudence, such as the Essential Commodities Act, the Industries (Development and Regulation) Act, Foreign Exchange Management Act (FERA has been repealed).

Selected "new economy" regulatory statutes that have been recently implemented to regulate those "new economy" sectors which were deregulated in the 1990s. The deregulation was in itself sometime deliberate and often arbitrary executive decisions leading to unequal application of economic laws on different sectors in the country.

Competition Law: enabled by the Constitution, which envisions distribution of wealth, the competition law is slowly being implemented. Socialist laws and newer efficient market bestow significant advantage to existing institutional players, creating concentration of wealth at unprecedented levels.

Money Laundering Act

Increased introduction of market efficiency economics into judicial decisions, in particular, the rhetoric of development (Special Economic Zones, Foreign Direct Investment, Public Private Partnerships)

Property Law: Property rights were curtailed in the 1970s and have not enjoyed a full restoration, except where international obligations have enabled the government to legislate expansion in intellectual property concepts.

Tribunalisation of the system. The normal courts increasingly do not exercise primary jurisdiction over a host of issues that have been removed to the domain of administrative law, creating a two-tier judicial system, with wide disparities in efficiency and cost in favour of tribunals.

hours	24
credits	2

Right to Information Act, 2005 and Consumer Act, 2005: Substantive and procedural grant of new rights is creating new citizen involvement. In particular, the seminar will examine the recently introduced case attempting to use Consumer Protection Act and tribunals to achieve compensation for beneficiaries of food aid. Environmental laws and the Bhopal toxic cleanup case. The seminar will examine the panoply of environmental regulation through studying the Bhopal toxic cleanup case.

hours	24
credits	2

# ISSUES OF LAW AND FINANCE IN THE ISLAMIC WORLD

Bashar H. MALKAWI

## COURSE DESCRIPTION

During the last three decades, Islamic finance has expanded rapidly, growing to involve over 300 financial institutions in both Islamic and other countries, and managing billions of dollars in assets. Islamic finance is unique, and can be set apart from conventional finance, since it is founded on Muslims' attempts to live according to the Divine Will as evident in the Islamic law. A well-known principle of Islamic finance is the prohibition of *riba*, which means interest on loans. In addition, Islamic finance prohibits *gharar*, a term which has been translated as "risk-taking." The prohibition against *riba* has not prevented Islamic banks from finding ways around. New alternatives, based on the concept of sharing profit and loss, have been developed to avoid *gharar* and make finance possible. These alternatives are *mudaraba*, *musharaka*, and *murabaha*.

Some of the issues that the course will cover include: sources of Islamic Law (Qur'an, Sunnah, analogical reasoning, and consensus); Islamic Laws of Usury and Risk; Islamic Contracts and Property; Islamic Economics; Islamic Financial Institutions; Islamic Banks; Islamic Equity and Mutual Funds; Life Insurance; Islamic Market Index and Islamic Finance.

hours	24
credits	2

**BASHAR H. MALKAWI** is Associate Professor of Law at the Hashemite University. He teaches different topics such as Islamic law, business law, and international trade. He holds an LLB from Yarmouk University, an LL.M. from the University of Arizona, and a JSD from the College of Law at the American University in Washington, D.C. He has acted as reviewer for several leading US law journals, and participated in several international donor-funded projects and programs with the goal of attracting foreign investment and advancing legal reforms in the Middle East. Prof. Malkawi is the author of more than 30 articles on law and related issues.

## ISSUES OF LAW AND FINANCE IN LATIN AMERICA

Sergio Ariel MURO

### COURSE DESCRIPTION

Latin American exponential economic growth in recent years has brought to surface a host of legal challenges. More than ever before, international and domestic investors as well as national governments recognize the importance of the legal framework to enable sustainable growth within the region and project it globally. Throughout Latin America, the swift growth has placed the spotlight on the legal structure of financial markets and corporations as a way to foster long-term and fair economic development. At the heart of the debate is the relationship between capital structure and governance. Entrepreneurs and investors need to have a solid understanding of the financial and governance framework as implicit determinants of business failure or success.

This seminar will introduce students to corporate governance theory and practice in Latin America, focusing on Argentina, Brazil and Mexico. The course will explore how and why corporate law shapes and constrains corporate governance structures. Many topics will be approached within an agency cost framework, focusing upon conflicts between stockholders, managers, and other constituencies. Students will be encouraged to analyze and discuss the real-world problems faced by parties, legal counselors and courts called upon to judge such transactions.

Some of the issues to be covered will be: different understandings of corporation objectives and its relations with the theory firm; mechanisms that generate and constrain private benefits and agency costs, including public regulation, disclosure requirements, shareholder voting, derivative suits, takeovers; the role of debt and stock in corporate governance, and the impact of the growing role of derivatives on how corporations are or should be governed; how securitization is shaping the finance structure; various types of financing available to business corporations and related legal issues

hours	24
credits	2

**SERGIO ARIEL MURO** holds a JSD from Cornell University Law School. He received his LLB from the Universidad Nacional de Rosario, an MA in Law & Economics from the Universidad Torcuato Di Tella (Buenos Aires), thesis with honors, and an LLM from Cornell University, thesis with honors. He is currently a visiting professor at Universidad Torcuato Di Tella, where he teaches Bankruptcy Theory. He was a teaching assistant at Cornell University (Economic Analysis of the Law) in 2007 and a research assistant at the University of Texas Law School in 2004 and Cornell University Law School from 2005 to 2007. Born and raised in Argentina, Mr. Muro has published articles in Italy, Mexico, The Netherlands, Spain and the United States.

(issuance of equity and debt, commercial loans and bonds, instruments of mezzanine financing, intra-group cash management, derivatives, etc); private practices such as board independence and monitoring mechanisms; corporate distress private and public treatment.

hours	24
credits	2

SPECIALIZED COURSES

## ANTITRUST

Paolisa NEBBIA

### COURSE DESCRIPTION

This module is articulated in 4 parts. First, the different goals that underlie competition policy and law are discussed. While the negative welfare consequences of monopoly power justify the need for competition rules, economic efficiency is not the only possible goal of competition policy: rules of competition law may be inspired by other considerations, such as consumer welfare, defence of smaller firms, promotion of market integration and fairness. Second, an overview of the evolution of the thinking and approach to competition law will be provided: competition rules may be adapted as the underlying economic theory changes in both space and time, and accordingly the outcomes of competition law cases may be affected by changes in the underlying theory. The third part will then address the notion of market power and devote a critical analysis to the concept of relevant market, which forms the basis of the assessment of market power. The fourth part will contain an economic analysis of the substantive rules of competition law, including the prohibition of horizontal restraints, the regulation of vertical restraints and of abuses of dominant position.

Throughout the course, frequent comparisons between the US and the EU will be drawn. Since competition laws are often phrased in deliberately general terms, they get their precise meaning when competition authorities and courts interpret them. For this reason, leading cases from the EU and the US will be discussed.

hours	24
credits	2

### note

For a biography of Paolisa Nebbia see the Incentives and Regulations course.

# COMPARATIVE LAW AND ECONOMICS OF THE PUBLIC SECTOR

Edoardo REVIGLIO

## COURSE DESCRIPTION

The seminar will introduce students to the law and economics of the public sector in contemporary Western countries. The approach will be both comparative and historical, focusing on the evolution of public spending in the 20th century and the changing balance between public and private power in the passage from mixed economy and large welfare systems to privatization, open market economies and attempts to reduce the social role of the State. The course will be divided in three parts. The first part deals with the theoretical underpinnings of the law and economics of the public sector in an historical perspective. The second part deals with the comparative evolution of the welfare systems in major Western countries and the challenge of recasting a new Welfare State for the future. The third part studies the evolution of modern capitalism in the 20th century and the passage from mixed economy to market economy systems all the way to privatization and to its failure.

The welfare system, we will argue, is one the greatest achievement in the history of civilization. Such a model has been under attack in the last 20 years due to the rise and dominance of neo-liberal ideologies. However, in the last 20 years there has been no reduction on the public spending/GDP ratio in any of the major European or American countries. At the end of the 20th century, many countries underwent massive privatization programs. Privatization was joined by deregulation and the introduction of competitive policies. The results of such a process will be studied from a critical perspective. There is today very convincing empirical evidence that privatization, deregulation and competitive regulation have not produced any benefit in terms of price and quality of services or any positive social and economic externalities for the economy and society as a whole. They have just produced a massive transfer of wealth from the poorest to the richest, and a heavy downgrading

hours	24
credits	2

**EDOARDO REVIGLIO**, Chief Economist and Head of Research and Strategy and of International Relations at “Cassa depositi e prestiti”, Ministry of Economy and Finance (Rome), is the General Secretary of the Commission to reform the Public Property section of the Italian Civil Code, and a founding member of the Club of Long Term Investors, Paris (OECD, EIB, KFW, CDC and CDP). He is Professor of Finance and Banking and of International Economics at the University of Reggio Calabria. In the past he has covered various positions in the public sector, including: Chief Economist and Head of the Research Department at IRI (2000-2001); Member of the Council of Economic Advisers to the Italian Ministry of Economy and Finance (2001-2003); Head of Strategy and Research at Patrimonio dello Stato, Ministry of Economy and Finance (2003-2007).

Prof. Reviglio received his BA, Summa Cum Laude, from Yale College; was Research Fellow at the Mathematical Center V. Volterra (Università di Roma Tor Vergata, 1988-90); visiting Scholar at Yale University (Department of Mathematics, 1990-1992); Post Doctoral Fellow and Research Associate at the Imperial College, University of London (1992-1994). Among his books: *Assetti proprietari e mercati finanziari europei* (with G.M. Gros-Pietro and A. Torrisi, Il Mulino, 2001), *Privatization in Europe. A Brief History of European Capitalism in the XX Century* (Edindustria, 2002), and *Invertire la rotta. Idee per una riforma della proprietà pub-*

of the quality of the long-term infrastructural basis of the economy.

The course will explore the effects of the present crisis in world economy and try to understand what kind of State intervention will emerge as a response to it. The challenge is that of reinventing the future according to a revised balance between private and public power, between the short-term view of private actors and the long-term view of public institutional actors. We believe that the latter should return at the centre of the stage. But how should we govern this political and structural change? That is where new ideas and visions are needed.

hours	24
credits	2

*blica* (with U. Mattei and S. Rodotà, Il Mulino 2007); *I beni pubblici. Dal governo democratico dell'economia alla riforma di Codice civile* (with U. Mattei and S. Rodotà, Accademia dei Lincei, Edizione Bardi 2009); *La finanza locale nello scenario globale* (Il Sole 24-Ore, 2009); *Long Term Investments. The European Answer to the Crisis. Towards a New Policy of Value Creation for Future Generations: The "Marguerite" Network* (with F. Bassanini, Paris Conference for Long Term Value & Economic Stability, 2009).

# COMPARATIVE LAW AND ECONOMICS OF TAXATION

Nicola SARTORI

## COURSE DESCRIPTION

Tax is an important part of the business environment. With the growth in globalization and the expansion of cross border flow of investments, tax plays a major role in the decision making process. Therefore, the ability to accommodate the distinctions of various tax systems around the globe and to understand the policy considerations behind them is what this course is aimed at. This course offers a comparative analysis of various solutions that were adopted by several tax systems as a response to increasing common tax problems of their income tax systems. First, the common core of tax systems of industrialized countries in relation to basic tax problems will be identified. Second, different tax models (and their circulation) among different countries will be analyzed. Finally, a closer look at the US and Italian tax mechanisms for the resolution of the tax problems discussed earlier in the course will be taken.

In the first part of the course, the theory and methods of comparative taxation (tax models, formants and common core in tax law) will be illustrated and the economic principles of taxation (efficiency, vertical and horizontal equity, simplicity) will be described so to critically analyze tax policy issues and compare different tax designs. Some of the specific issues and topics that will be covered in a comparative way during the course are: Definition, history and reasons of tax law; Progressive versus proportional tax systems; Ability-to-pay principle and new trade-off between efficiency and equity as a new way to introduce equity into models of tax analysis; Tax legislative process, constitutional limitations, power to make tax laws (distribution of tax-law-making power between the legislative and executive branches of government and division of tax powers between central and local governments); Tax procedure and litigation (regulations and rulings, tax returns and record keeping, audits, dispute settlement, recovery, refunds, penalties, litigation); Prevention of tax avoidance and evasion: enforcement tools; Definition of tax: income

hours	24
credits	2

**NICOLA SARTORI** specializes in International and Comparative Taxation and Tax Policy. He is experienced in both Italian and US Tax Law. He earned his degree in Law and Business Administration, summa cum laude, from Bocconi University, Milan, in 2003, and his PhD in Law (curriculum Tax Law) from the University of Milan Bicocca in 2008. He also holds an LLM in International Taxation from the University of Michigan, School of Law, where he is currently an SJD student. Before joining IUC Torino, he has been tutor professor of tax law and research assistant in Italian, International and Comparative Tax Law at Bocconi University, where he is a member of the International Technical Committee.

versus consumption taxes; Definition of taxable income: global versus schedular system and source versus accretion concept of income; Role of business in tax law: why tax corporations? Who bears the corporate tax? What is the relationship between corporate and individual level of taxes? International tax regime: international tax as international law (the benefit principle and the single tax principle); Principles of international taxation: taxation of multinationals and cross border investments; Use of tax law for delivering social policies.

hours	24
credits	2

# INTELLECTUAL PROPERTY LAW FOR THE FINANCIAL SERVICES INDUSTRY

Stuart WEINSTEIN

Charles WILD

## COURSE DESCRIPTION

Today's technology decisions are the seeds of tomorrow's competitive bank. Increasingly, financial services institutions are starting to recognize the fact that they are innovative, high-technology organizations with considerable intellectual property assets to protect. The rapid increase in patents granted on software and business methods in the US has led to significant debate in Europe raising important questions about attempts to reform the process of business-method patenting in Europe. Global financial services companies need to have a solid understanding of the implications of the US business methods patent despite the fact that European law has not fully embraced software and business methods patents.

Beyond business method patents issues, financial services institutions need to know how to properly manage their intellectual assets as a whole in a comprehensive fashion that protects its value:

- The trade mark portfolio must be serviced on a regular basis and infringing uses must be stopped;
- Comparative advertising must be carefully monitored on a regular basis to avoid unfair comparisons harming goodwill;
- Innovative new data management solutions mean that software companies are securing new licensing deals with investment and commercial banks, pension funds, securities firms and insurance companies;
- Outsourcing is not only an efficient cost-cutting tool but an opportunity for the financial institution to re-think its organization. Yet, each outsourcing transaction is rife with IP issues such as ownership rights, cross-border data transfer issues, etc.
- Banks and financial institutions are just starting to realize the power of branding. This puts legal de-

hours	24
credits	2

**STUART WEINSTEIN** is Associate Head of the Law School at the University of Hertfordshire. He received his Doctor of Laws from Columbia University School of Law, a Bachelor of Arts with Honors from Williams College and a Master of Business Administration from the University of Hertfordshire Business School. Prior to becoming an academic, Stuart was general counsel with a major multinational. In addition to being a member of the California, District of Columbia and New York Bars and a solicitor of the Supreme Court of England and Wales, Stuart is the author or co-author of numerous books and articles on subjects including company law, intellectual property law, commercial law, Internet law and law and popular culture.

**CHARLES WILD** (LLM, MBA, PhD) is Head of the Law School and the Centre for International Law at the University of Hertfordshire. He teaches Company and Business law, undertakes postgraduate research supervision and is widely published in the area.

partments on point to see that sound branding is protected legally. Think of “Northern Rock”, “Nationwide”, “HSBC”. What is the value of the name from a legal point of view?

Some of the issues we will cover:

- Conducting an IP audit at a financial institution;
- Obtaining and managing US patents before launching new products;
- Conducting IP due diligence when advising on M&A transactions;
- Managing the legal challenge of branding in the banking industry – image rights law;
- Negotiating sponsorship agreements such as sporting events – Barclays Premiere League case study;
- Advertising law in the financial services industry – consumer protection guidance;
- Protecting IP rights in Europe and the UK: recent cases in the software area;
- Domain name disputes in the banking industry;
- Likelihood of confusion in trademark law – The Royal Bank of Scotland/HBOS controversy;
- How recent US financial IP litigation will affect European banking practice;
- Integrating IP law into risk assessment practice and procedures;
- Managing breach of confidentiality litigation concerning departing employees and contractor litigation;
- The innovation cycle in financial services and the role of the IP lawyer;
- CHIP and PIN fraud: Can financial institutions face liability for security breaches that are not foreseeable?
- Bank secrecy laws and the Liechtenstein case: is it theft of trade secrets?
- Educating bank employees on copyrights, trade marks, trade secrets, design rights and identifying IP risks;
- Non-compete agreements for key employees;
- Can the bank be liable for computer viruses, phishing, hackers, system crashes, etc.;
- Data protection law and the cross-border bank;
- Drafting and negotiating contracts for the provision of financial transfer services (e.g., SWIFT), soft-

hours	24
credits	2

- ware licences, non-disclosure agreements, licensing contracts and electronic contracting;
- IP Law pitfalls in joint venture negotiations and outsourcing transactions;
- IT law implications of Sarbanes-Oxley.

hours	24
credits	2

## INTERGENERATIONAL TRANSFERS OF WEALTH

Alexandra BRAUN

### COURSE DESCRIPTION

Succession law has undergone interesting and significant modifications as the result of socio-economic and cultural changes in our society, such as: increased life expectancy, changes in family structures and relations, higher divorce rates, as well as changes in the nature of family wealth. One of the trends that strongly emerge is that “estate planning” has acquired an increasing relevance for families and this has carried with it the importance of structuring the passage of property from one generation to the other. The aim of this lecture and seminar based course is a) to analyse these socio-economic changes and the way legal systems respond to them and b) to examine the different legal devices used to regulate the transfer of wealth from one generation to another. The course explores a variety of legal instruments from a comparative point of view, such as wills (single wills, mutual wills, gemeinschaftliche Testamente), trusts (inter vivos trusts, testamentary trusts, secret trusts), contracts (Erbverträge, patti di famiglia, ante-nuptial contracts), gifts (donations mortis causa and inter vivos gifts) and other legal devices such as life insurances, pension funds and foundations (Privatstiftungen). Attention will thus be paid to the legal tools that allow ‘lifetime transfers’ as well as to the instruments through which wealth is transferred upon death. Issues such as the tension between forced heirship and freedom of devolution, as well as the tension between freedom of testation and freedom of contract will be considered.

Students will gain: a) an understanding of the historical developments and modern trends of succession law within the major common and civil law jurisdictions, b) an appreciation of the points of contact between these legal jurisdictions and, c) a recognition of the changing role of inheritance law and its importance.

hours	24
credits	2

**ALEXANDRA BRAUN** is a stipendiary lecturer at St. John's College, Oxford, where she has worked since 2004. Prior to this, she was an Assistant Professor at the University of Genoa. She received her BA degree, summa cum laude, from the University of Genoa and holds a PhD in comparative private law from the University of Trento. Her research interests lie in the field of Comparative Law, European Private Law and Legal History, Succession Law and the Law of Trusts.

# INTERNATIONAL SECURITIES REGULATIONS

Giuliano CASTELLANO

## COURSE DESCRIPTION

This course will examine the internationalization of capital markets in the last 20 years from a legal and regulatory perspective. An introductory section will look at the history, trends and issues associated with internationalization of the markets and the regulatory techniques that have developed in response to them. Several different markets will be studied, regulated and unregulated, developed economies as well as developing or emerging markets, the Euromarket, the EU, the US, China and others. Part of the course will be devoted to specific US regulatory responses to the internationalization of capital markets: Foreign Private Issuer exemptions, Regulation S, Rule 144A, Mutual Recognition Systems, ADRs. The last part of the course will examine the consolidation of stock exchanges, the emergence of international standards, the work of the International Organization of Securities Commissions (IOSCO) in developing principles of securities regulation and disclosure; the OECD Principles of Corporate Governance and the role of international financial institutions such as the International Monetary Fund and The World Bank, developments in China and basic principles of Islamic finance. The course concludes with country studies.

Course materials have been specially prepared for this course. The readings below will be supplemented by class handouts. The course format will be a combination of lecture, class discussion and in-class student presentations worth 50% of the final mark. There will then be a short (90 minutes) final exam worth 50% of the final mark. The exam will be a combination of problem and essay questions. The presentations should be no longer than 20 minutes accompanied by a written outline (which may be in powerpoint form) and a short bibliography. Below are possible topics (based on the existing reading list); other topics may be discussed with the instructor.

hours	24
credits	2

## note

For a biography of Giuliano Castellano see the Financial Instruments course.

SPECIALIZED COURSES

1. Regulation of UK capital markets: the Financial Services Authority
2. International Accounting Standards: an Overview of the Issues
3. Sarbanes-Oxley and its international implications
4. Stock Exchanges: Recent Developments
5. IOSCO, its origins and impact
6. IOSCO International Standards
7. European Markets: the Prospectus Directive
8. European Markets: Market in Financial Instruments Directive
9. European Markets: Cross-border mergers
10. European Markets: Market Abuse Directive
11. Emerging Markets: Issues, institutions and regulation (choose a market)
12. Regional Markets, their development and prospects.

hours	24
credits	2

**note**

For a biography of Giuliano Castellano see the Financial Instruments course.