Implementation of Financial Market Reform Legislation - Spring 2017

Professor JonMarc P. Buffa

This course provides a comprehensive overview of the implementation of the Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank"). Topics addressed will include: an overview of U.S. financial markets generally, with emphasis on legal and policy issues underlying regulation of derivatives, banking, and systemic risk; legislative and administrative initiatives pre- and post- Dodd-Frank legislation; genesis and policy development of the Dodd-Frank legislation; overview of fundamental aspects of financial reform in Dodd-Frank; relevant agencies involved in implementation of Dodd-Frank; agency rulemaking process, including a team class project on Administrative Procedure Act notice and comment rulemaking; review of derivatives, securities and banking reforms.

Course Materials:

- Text: Regulating Wall Street, Acharya, Cooley, Richardson, Walter
- Text: Financial Crisis Inquiry Report (No need to purchase the whole report as we will only use certain portions of the report which are available for free online; URLs provided below and uploaded onto Canvas)
- Publicly available government reports (URLs provided below and/or documents uploaded onto Canvas)
- In-class handouts
- Handouts posted on Canvas

January 23, 2017

Class 1: Overview of U.S. Financial Markets; Fundamentals of Finance; Genesis of Financial Market Regulation; Regulatory Approaches.

Reading/Source Materials:

- Regulating Wall Street, pp. 1-50.
January 30, 2017

Class 2: *Overview of the 2008 Financial Crisis I.* Pre-Dodd-Frank Regulatory Responses to Financial Crises; History of 2008 Financial Crisis; Role of Central Banks in Financial Market Regulation.

Reading/Source Materials:

- Financial Crisis Inquiry Report ([tinyurl.com/financialcrisisinquiryreport](http://tinyurl.com/financialcrisisinquiryreport)), pp. 280-308 (Fall of Bear Stearns; Financial Panic)
- Financial Crisis Inquiry Report ([tinyurl.com/financialcrisisinquiryreport](http://tinyurl.com/financialcrisisinquiryreport)), pp. 324-386 (Lehman, Bailout of AIG, and Financial Crisis)
- Optional Reading: Quarterly Report on Federal Reserve Balance Sheet Developments

February 6, 2017

Class 3: *Overview of the 2008 Financial Crisis II.* Major areas of reform and concomitant rulemakings; Roundtable on causes of 2008 Financial Crisis.

Reading/Source Materials:

- Financial Crisis Inquiry Report ([tinyurl.com/financialcrisisinquiryreport](http://tinyurl.com/financialcrisisinquiryreport)), pp. 413-439 (dissenting opinion)
- Congressional Research Service Report on Causes of the Financial Crisis (available on Canvas)

February 13, 2017

Class 4: *Federal Agency Rulemaking and the Administrative Procedure Act.* The process of federal agency rulemaking and role the public plays in the rulemaking process. Overview of the Administrative Procedure Act. Assignment and discussion of comment letter team project and how to draft a compelling comment letter

*(See below for details of the team project).*
Reading/Source Materials:

- **Handouts**: Samples of comment letters (available on Canvas)
- Administrative Procedure Act §553 (available on Canvas)
- Sunshine Act Notice Exemplars (available on Canvas)

**February 23, 2017** *(Class meets on Thursday rather than Monday)*

**Class 5**: Systemic Risk; Prudential Regulation; Systemically Important Institutions; Financial Stability Oversight Council; Challenges to SIFI designation

Reading/Source Materials:

- *Regulating Wall Street*, pp. 87-106
- *MetLife v. FSOC*, 1:15-cv-00045 (D.D.C.) (available on Canvas)
- *Optional Reading*: FSOC Decision Designating MetLife As A Non-Bank SIFI (available on Canvas)
- *Optional Reading*: Final Rule Implementing FSOC (available on Canvas)

**February 27, 2017**

**Class 6**: *Derivatives Market Fundamentals I*: Derivatives Overview; Financial Derivative Products; Futures; Swaps; Margin; Clearing

Reading/Source Materials:

- *Regulating Wall Street*, pp. 367-402
- Dodd-Lincoln Letter re: End Users (available on Canvas)
- Baucus-Lucas Letter re: Implementation of Section VII of Dodd-Frank (available on Canvas)
- *Optional Reading*: Remarks of Former CFTC Chairman Gary Gensler: "A Transformed Marketplace" to the DC Bar (Dec. 2013) (available on Canvas)
Optional Reading: CME NYMEX WTI Crude Oil (CL) Product Specifications (available on Canvas)

**Final drafts of comment letter project due on Thursday, March 2, 2017 by 11 p.m. All letters will be posted onto Canvas to allow students to review them prior to Class 7.**

March 6, 2017

Class 7: Part one. Comment letter team presentations and debate on the merits.

Part two. Derivatives Market Fundamentals II: Derivatives Overview; Financial Derivative Products; Futures; Swaps; Margin; Clearing

Reading/Source Materials:

- Regulating Wall Street, pp. 402-425
- Financial Crisis Inquiry Report (tinyurl.com/financialcrisisinquiryreport), pp. 38-51

March 20, 2017

Class 8: Derivatives Market Reform I. Overview of Pre-Dodd Frank Regulation of Derivatives; Judicial Rulings; Section 4(c) exemptive authority; the CFTC Concept Release; and the Commodity Futures Modernization Act

Guest Lecturer: Nancy Doyle, Esq; Adjunct Professor of Law at GULC and Assistant General Counsel at the CFTC

Reading/Source Materials:

- CFTC v. Co Petro Marketing Group, Inc., 680 F.2d 573 (9th 1982) (available on Canvas)
- Timeline of Financial Crises and Reforms in the USA
- Optional Reading: Professor Doyle has posted optional reading on Canvas
March 27, 2017

**Class 9:**  *Part one. Derivatives Market Reform II* New Categories of Market Participants and Mechanisms; Dodd-Frank’s Title VII reforms; Criticisms of Dodd-Frank Title VII; Derivative Market Enforcement Power (disruptive trading, manipulation); Whistleblower rules.


**Reading/Source Materials:**

Regulating Wall Street, pp. 73 – 84, 402-405

- In-class handout

April 3, 2017

**Class 10:**  Tri-Party Repurchase Agreements; Money Market Mutual Funds.

**Reading/Source Materials:**

- Regulating Wall Street, pp. 305-350
- Financial Crisis Inquiry Report ([tinyurl.com/financialcrisisinquiryreport](http://tinyurl.com/financialcrisisinquiryreport)), pp. 27-37
- SEC Staff Report Responses to Questions Posed by Commissioners Aquilar, Paredes, and Gallagher regarding Money Market Mutual Funds: pp. 1-4 and Executive Summary (available on Canvas)
- In-class handouts

April 10, 2017

**Class 11:**  Role and Regulation of Rating Agencies; Conflicts of Interest; Securitization; Accounting Reforms.

**Reading/Source Materials:**
April 17, 2017

Class 12: Banking Reforms I: Glass-Steagel; Gramm-Leach-Bliley; Run-up to 2008 Financial Crisis; Basel, Capital and Liquidity Requirements; Federal Reserve's Comprehensive Capital Analysis and Review; Federal Reserve Stress Test.

Reading/Source Materials:

- Regulating Wall Street, pp. 143-178
- Gramm-Leach-Bliley Act of 1999 (optional reading)
- Financial Crisis Inquiry Report (www.tinyurl.com/financialcrisisinquiryreport), pp. 52-66
- Federal Reserve's 2016 Comprehensive Capital Analysis and Review, pp. 1-16 (available on Canvas)
- Federal Reserve's 2016 Stress Test of Major Banks, pp. 1-18 (available on Canvas)

April 24, 2017

Class 13: Banking Reforms II: Volcker Rule; Proprietary Trading; Resolution Authority.

Reading/Source Materials:

- Regulating Wall Street, pp. 181-240
- In-class handouts

TEAM PROJECT:
Students in a team of 3 or 4 (depending on class enrollment) will research and compose a 5 to 10 page comment letter on a topic raised in class or relating to financial markets. This is a pass-fail project.

The comment letter should, at a minimum: 1) identify an issue/concern related to the subject matter of this course that warrants action; 2) explain why this issue/concern warrants action; 3) propose a solution or resolution of the issue/concern; 4) analyze and explain the legal and policy justification/basis for the proffered solution; and 5) advocate for this solution in a persuasive and legally sound manner.

In Class 7, each team will make a 5 minute in-class presentation advocating for the position articulated in their comment letter. Classmates are encouraged to offer comments and discuss the merits/drawbacks of the team’s proffered approach. Students may utilize various research resources outside of the course materials, such Lexis/Westlaw, news websites, think tank materials, etc. to formulate their topic and develop their solution. Students may not consult any person who is not a member of your team for assistance with this project. Failure to pass this project will result in a one quarter grade penalty/reduction on your failure grade.

Remote Executive LLM Program Students: Remote Executive LLM Program Students are required draft the 5-10 page group comment letter submission in groups of 3 or 4 (depending on class enrollment), but do not have any obligation to do a presentation of their comment letter. Remote Executive LLM Program Students are asked to collaborate virtually and/or telephonically to draft their submission. The same submission timeline applies to these students.

**FINAL EXAM:**

This course is graded based on an 8-hour exam that is an OPEN book exam, with one exception. You may not consult with any other living human, verbally, by internet, or through any other means, about this exam during the time that you are taking the exam.

The exam is 80 multiple choice exam questions with a short answer option. For each multi-choice question you may explain, if you wish, why you chose the answer you did in
a short answer statement. If you choose the correct answer, you will get full credit for that question and I will not read any explanation you write.

You do not need to provide a written follow-up to any question and therefore may wish to do so only for questions for which you are uncertain of the answer. If you do not choose the correct answer, I will read what you wrote and I will consider whether to give you full credit if your reasoning reveals legal mastery of the subject tested. If you elect this option for any question, please provide no more than 3 sentences at most, and in many cases 1-2 sentences will do. Please keep in mind that there is clearly just one best answer for each question. I will be examining your answer for substance, not expositional skill.

GRADING:

In-person at GULC and Remote Executive LLM Program Students: Students taking the course in-person at GULC and Remote Executive LLM Program Students will be graded jointly on a single grading curve.

VIDEOS:

Videos will be removed from Canvas at 11:59 p.m. on the day before the final exam period begins.

Remote Executive LLM Program Students: CLASS PARTICIPATION:

To ensure that Remote Executive LLM Program Students actively participate in the course, these students can satisfy their participation requirement by posting every other week a 150- to 250-word response to the lectures or readings on the Canvas discussion board by 1 p.m. on the Sunday following each class. Students whose last names begin with the letters A to M will post after even-numbered classes (i.e. Class 2, Class 4, Class 6, etc.). Students whose last names begin with the letters N to Z will post after odd-numbered classes (i.e. Class 1, Class 3, Class 5, etc.).
**OFFICE HOURS**

Professor Buffa is available to discuss any questions or concerns throughout the semester. He is happy to meet with any of you individually or in groups to address your questions at a time of mutual convenience.

On **Wednesdays from 8 pm to 9 pm**, Professor Buffa will hold online office hours for both students taking the course live at GULC and Remote Executive LLM Program Students. You may access the online videoconference via Canvas’ Zoom video chatting feature.

Of course, Professor Buffa is happy to schedule an in-person or telephonic meeting for those who prefer an in-person conference.