INTERNATIONAL PROJECT FINANCE  
(LAWG-928-08 & LAWJ-928-08)  
Wednesday Evenings, 5:45-7:45 p.m., Room 342 (McDonough)

SYLLABUS

Course Description:
This course provides a detailed overview and analysis of the technique of project financing in an international environment (particularly in emerging markets). Emphasis is placed upon structuring and risk allocation issues, which are looked at in the context of transactions and from the perspective of the various parties to the project (equity holders, providers of goods and services, and especially banks and other lenders).

In addition to reading materials, transaction documents are used to illustrate the issues that arise when different sources of financing participate in the project. The aspects peculiar to infrastructure projects in specific industries (such as power generation, ports, toll roads, etc.) are also considered.

The course will be taught by Rick Jenney, former Assistant General Counsel at the Overseas Private Investment Corporation and for the past 15 years a Partner in the Finance & Projects Group at the law firm of Morrison & Foerster LLP in Washington, DC.

The professor will generally be available by phone and by E-mail at any time, and for meetings by prior appointment.

Course Requirements:
1. Mid-term exercise: The mid-term exercise will be a closed book, written question-and-answer exercise, 40 minutes in total.

2. Final examination: The final exam will be a closed book exam; no books, articles, notes or papers, and no computers or calculators will be permitted. The exam will be 120 minutes total.

3. Textbook and Required Readings: Principally from the Hoffman textbook, supplemented by Class Notes and glossaries of terms posted on Canvas, as indicated in this syllabus. Additional readings, including sample international project finance form documents, will be posted on the Canvas system.

4. Class Participation: Students will be expected to speak up and participate in class.
Grading
Grading will be based on class participation, the mid-term exercise, and the final exam, as follows. Distribution of class grades will be based on the curve suggested by the Law School.

**Mid-Term Exercise**  20%
**Final Exam**  60%
**Class Participation**  20%

The table below summarizes the grading principles for this course:

<table>
<thead>
<tr>
<th>Questions/Points</th>
<th>Mid-Term</th>
<th>Final</th>
<th>Class</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Short (15 words)</td>
<td>$10 \times 3 = 30$</td>
<td>$30 \times 3 = 90$</td>
<td>Quant = 20</td>
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<tr>
<td>Medium (50 Words)</td>
<td>$1 \times 10 = 10$</td>
<td>$3 \times 10 = 30$</td>
<td>Qual = 20</td>
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<tr>
<td># of minutes</td>
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<td>120</td>
<td>N/A</td>
<td>200</td>
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<tr>
<td># of points</td>
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<td>120</td>
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<td>200</td>
</tr>
<tr>
<td>% of Total</td>
<td>20%</td>
<td>60%</td>
<td>20%</td>
<td>100%</td>
</tr>
</tbody>
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Materials

**Textbook**


**Glossary** = Glossary of Project Finance Terms (Sorted Class-by-Class), posted on Canvas.
CLASS SESSIONS

(Jan 18) [#1] Introduction to International Project Finance
Description and basic components of project finance; project participants and their roles, including:

a. Administrative overview of course
b. What is "international project finance"
c. Overview of basic terminology
d. Typical parties involved

Required Reading
Class Notes #1 Introduction to International Project Finance
International Financing Choices [diagram]
Glossary, entries for Class #1
Hoffman, Chapter 1 - §1.01-§1.11 only -- An Introduction to Project Finance [10 pp.]
Hoffman, Chapter 5 – Project Finance Participants and Their Roles [7 pp.]

Optional Reading
Hoffman, Chapter 1 - §1.12-§1.22-- An Introduction to Project Finance [12 pp.]

Discussion Topics
What are the elements of the customary definition of project financing?
The concept of limited recourse financing refers to limitations on what?

(Jan 25) [#2] Analyzing and Addressing Risks
Overview of issues common to all lending transactions, including cross-border lending;
Overview of basic types of project financing risks; Approaches to risk identification, quantification, allocation and mitigation

Required Reading
Class Notes #2 Analyzing and Addressing Risks
Glossary, entries for Class #2
Hoffman, Chapter 2 – Project Finance Risks [12 pp.]
Hoffman, Chapter 4 —Project Finance Commercial Risks [11 pp.]

Discussion Topics
Which party (or parties) are in the best position to mitigate risk?
From a project finance lender's perspective, is it riskier for the project sponsor to (x) build the project itself, or (y) hire an independent construction contractor to build the project?

(Feb 1) [#3]  Three Case Studies & Risk Analysis
Three real-world examples of international project financings and analysis of the specific risks involved, based on three project financings

Required Reading
Class Notes #3 Three Case Studies & Risk Analysis
Deal Diagrams for 3 Case Studies

(Feb 8) [#4]  Cross-Border Risks and Political Risk Insurance
Approaches to mitigation and allocation of cross-border risks; legal doctrines and business issues with respect to classic political risks.

Required Reading
Class Notes #4 Cross-Border Risks and PRI
Glossary, entries for Class #4
Hoffman, Chapter 3 – Project Finance Cross-Border Risks [19 pp.]

Discussion Topics
What are three of the principal risks that political risk insurance is designed to address?

(Feb 15) [#5]  General Risks & Mitigation
Role of structuring, governmental approvals and consents, legal opinions, sponsor support, host government support, property and casualty insurance

Required Reading
Class Notes #5 General Risks & Mitigation
Glossary, entries for Class #5
Hoffman, Chapter 14, §14.06 only -- regarding Implementation Agreements [6 pp.]
Hoffman, Chapter 24, §24.01-§24.03 only -- regarding Project Risks to Lenders [7 pp.]

Optional Reading
Hoffman, Chapter 6 – Project Finance Structures [5 pp.]

Discussion Topics
What types of risks can be mitigated and what types can be shifted?
(Feb 22)  NO CLASS (Faculty Retreat)

Structure and substance of project documents, including basic issues and special issues with Engineering, Procurement and Construction (EPC) Contracts; Overview of force majeure

Required Reading
Class Notes #6 EPC Contracts & Force Majeure
Glossary, entries for Class #6
Hoffman, Chapter 15 – Construction Contracts [24 pp.] (ignore Sample Provisions)

Optional Reading
Hoffman, Chapter 12 – An Overview of Project Documentation [8 pp.]

Discussion Topics
In an EPC Contract, why are liquidated damages preferable to seeking and proving actual damages in court?
What is the basic concept of force majeure and how is it used in project documents?

(Mar 8)  [#7]  Project Documents (Part 2): Offtake, Supply and O&M Agreements
Supply (Input) Agreements, Offtake (Output) Agreements, Operating and Maintenance Agreements; Issues of concern to lenders

Required Reading
Class Notes #7 Offtake, Supply and O&M Agreements
Glossary, entries for Class #7
Hoffman, Chapter 16 – Input (Supply) Contracts [10 pp.] (ignore Sample Provisions)
Hoffman, Chapter 17 – Operation and Maintenance Agreements [11 pp.] (ignore Sample Provisions)
Hoffman, Chapter 18 – §18.01-§18.12 only -- Project Finance Off-Take Sales Contracts [8 pp.]

Discussion Topics
What are some of the major benefits and major drawbacks to a Borrower of entering into an offtake contract with the host government for the entire output of the project?
(Mar 15)  NO CLASS (Spring Break)

(Mar 22)  Mid-Term Exercise (in Class)
(Mar 22)  [#8]  Loan Documents (Part 1): Loans & Preliminary Documents
Overview of lending procedures; Role of commitment letters and term sheets

Required Reading
Class Notes #8 Loans & Preliminary Documents
Glossary, entries for Class #8 (and review entries for Classes 1-7)

Optional Reading
Hoffman, Chapter 23 – Project Finance Debt Commitment Letters  [8 pp.]

Discussion Topics
How are the goals of a Term Sheet different from the goals of final loan documentation?
What is the difference between a commitment letter and a term sheet?

(Mar 29)  [#9]  Loan Documents (Part 2): Loan Agreements
Structure and substance of project finance loan agreements; elements of a Loan Agreement; Allocation of legal risks

Required Reading
Class Notes #9 Loan Agreements
Glossary, entries for Class #9
Hoffman, Chapter 24 — §24.04-§24.14 only -- re Credit Agreements [29 pp.] (ignore Sample Provisions)

Optional Reading
Hoffman, Chapter 13 – Representations and Warranties in Project Finance Credit Agreements and Contracts  [18 pp.]

Discussion Topics
What is the amortization profile of a loan and how is it determined by the Lender?
What are the three standard remedies in a Loan Agreement upon the occurrence of an Event of Default?

(Apr 5)  [#10]  Loan Documents (Part 3): Credit Support and Collateral Security
Credit analysis for a project; Credit Support; Equity support, Project completion agreements; Guarantees; Collateral security for loans
Required Reading
Class Notes #10 Credit Support & Collateral Security
Glossary, entries for Class #10
Hoffman, Chapter 20 – §20.01-§20.09 only – regarding Guarantees [8 pp.]

Optional Reading
Hoffman, Chapter 20 – §20.10-§20.22 – Project Finance Credit Enhancement [18 pp.]
Hoffman, Chapter 26, §26.01-§26.09 – regarding Collateral Security [16 pp.]

Discussion Topics
What are some of the types of support that a project Sponsor could provide to a lender?

(Apr 12) [#11] Sample Documents Review
A review of sample documents with a focus on how risks are addressed

Required Reading
Class Notes #11 Sample Dox Review
Sample form of Offtake Agreement
Sample form of Project Completion Agreement

Discussion Topics
What are some of the key provisions for risk allocation in these agreements?

(Apr 19) [#12] Sources of Financing and Tolerance for Risk
Sources of financing; Distinguish the roles of equity and debt; Roles of Capital markets and commercial banks, and other financial institutions; Roles of International Financial Institutions ("IFIs"), Export Credit Agencies ("ECA's") and bilateral Development Agencies

Required Reading
Class Notes #12 Sources of Financing & Tolerance for Risk
Glossary, entries for Class #12

Optional Reading
Hoffman, Chapter 21 – Financing Sources for the Project [31 pp.]
Hoffman, Chapter 26, §26.10 – Intercreditor Agreements [2 pp.]

Discussion Topics
What other types of lenders (besides banks) may be interested in an international project financing?
What are some of the distinguishing characteristics that differentiate the providers of the principal sources of debt financing for an international project?

(Apr 26) [#13] Loan Monitoring, Workouts & Loan Restructurings
(+Preview of Final Exam)
Types of issues that can endanger a project finance loan; Overview of project finance workouts, restructurings and bankruptcy issues.

Required Reading
Class Notes #13 Loan Monitoring, Workouts & Restructurings
Glossary, review entries for Classes #1-12

Discussion Topics
What are some of the most common risks that a project might face during its operational period (i.e., after construction is completed)?

(May 10 -- Wednesday, 6:00 pm) Final Exam