

LW6109E: BANKING AND FINANCE LAW

Effective Term

Semester B 2024/25

Part I Course Overview

Course Title

Banking and Finance Law

Subject Code

LW - Law

Course Number

6109E

Academic Unit

School of Law (FL)

College/School

School of Law (FL)

Course Duration

One Semester

Credit Units

3

Level

P5, P6 - Postgraduate Degree

Medium of Instruction

English

Medium of Assessment

English

Prerequisites

Nil

Precursors

Nil

Equivalent Courses

LW5631 Banking Law

Exclusive Courses

Nil

Part II Course Details

Abstract

This course aims to equip students with a sound general knowledge and conceptual understanding of aspects of Banking and Finance Law and aims to develop in students associated practical legal skills in the application of those principles to banking transactions.

The modern economy is driven by credit and debt. The amount of new debt determines the amount of money that is released into the economy. This in turn stimulates various sectors of the economy, such as construction, communication, manufacturing, etc. Banking and Finance Law is central to this dynamic. In order to facilitate new debt, every modern economy requires a robust legal framework to give investors certainty of credit protection. Without proper legal framework, the whole global financial system would collapse.

In a market downturn, knowledge of Banking and Finance Law is even more valuable for lawyers and other market participants.

The course will cover both the theoretical and practice aspects of Banking and Finance Law, develop a good understanding of different types of financial instruments and structures in the market, insolvency and debt restructuring techniques, and how the legal concepts apply in each case.

Course Intended Learning Outcomes (CILOs)

CILOs		Weighting (if DEC-A1 DEC-A2 DEC-A3 app.)			
1	Analytically and evaluatively describe and explain the basic principles of different areas of law which impinge on Banking and Finance Law		x	x	x
2	Apply the principles of Banking and Finance Law to solve legal problems by: - Analysing cases - Interpreting statutes - Conducting independent research on the law - Marshalling arguments clearly, logically, coherently and effectively, both orally and in writing.		x	x	x
3	Research, analyse and critically evaluate: - Legal principles and doctrines in Banking and Finance Law in light of both doctrinal coherence and in relation to the policy objective of the law. - The framework and the applicability of Banking and Finance Law in Hong Kong		x	x	x

A1: Attitude

Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.

A2: Ability

Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to real-life problems.

A3: Accomplishments

Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.

Learning and Teaching Activities (LTAs)

LTAs	Brief Description	CILO No.	Hours/week (if applicable)
1	Lectures	- Students will be introduced to issues and concerns and different aspects of the operation of the substantive rules of Banking and Finance Law through multimedia or other presentation. - Students will receive guidance on their readings through multimedia or other presentations to enhance their understanding of the substantive rules of Banking and Finance Law. - Students will be encouraged to challenge policies and to engage in discussion with the teacher.	1, 2, 3
2	Presentation	- 30% of the course will be assessed by a class presentation at the end of the course..	1, 2, 3

Assessment Tasks / Activities (ATs)

ATs		CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1	Class Presentation	1, 2, 3	30	For this course, the use of GenAI tools to assist you in finishing your presentation is permitted, only if the benefit and support you get from the GenAI tools are clearly indicated and acknowledged. Please remember that, this permission is intended to allow access to benefits of new technological development that will assist and facilitate the improvement of your academic research quality, rather than a green light for dishonest free riding. The onus of clearly indicating and acknowledging the use of GenAI tools is on you, and failure to do so will be treated as academic dishonesty.

Continuous Assessment (%)

30

Examination (%)

70

Examination Duration (Hours)

3

Additional Information for ATs

Examination (duration: 3 hours)

- An open-book examination held at the end of the semester during the normal examination period will be part of the assessment.

- The examination will assess the student's ability to analyse and critically evaluate, and to communicate arguments in writing with knowledge and understanding of the rules and principles learnt from reading primary and secondary resources and also in class.

Grading of Student Achievement: Standard (A+ A A- ... F)

Applicable to students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter

Students must obtain a minimum mark of 40% in examination and an overall mark of 40% or above in order to pass the course.

When University facilities and resources are available, students are required to take a computer-based examination in computer labs. During the examination, students are blocked from access to files, programme and the Internet.

Applicable to students admitted from Semester A 2022/23 to Summer Term 2024

Students must obtain a minimum mark of 50% in examination and an overall mark of 50% or above in order to pass the course.

When University facilities and resources are available, students are required to take a computer-based examination in computer labs. During the examination, students are blocked from access to files, programme and the Internet.

Assessment Rubrics (AR)

Assessment Task

Class Presentation (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Ability to identify and present recent legal issues and to apply analytical thinking.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Examination (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Ability to spot legal issues and to apply legal knowledge and legal principles to solve both problem and essay type questions.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Class Presentation (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Ability to identify and present recent legal issues and to apply analytical thinking.

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Assessment Task

Examination (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Ability to spot legal issues and to apply legal knowledge and legal principles to solve both problem and essay type questions.

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Part III Other Information

Keyword Syllabus

Banking System of Hong Kong; Bank Lending; Security and Guarantees; Specialised types of Financial Instruments; Insolvency Law.

Detailed Syllabus

The Hong Kong Banking System and Banking Regulation.

Bank lending.

Security & Guarantees: types of security under common law, enforcement of security.

Specialised types of Financial Instruments: Project Finance, Asset Finance, Securitisation, Derivatives, Repos.

Insolvency Law: the function of modern insolvency law, challenges with cross border recognition, centre of main interest, UNCITRAL model law on cross border insolvency.

Reading List

Compulsory Readings

Title	
1	Main Text(s)
2	Hong Kong Institute of Bankers, Banking law and practice (Singapore: Wiley, 2012) (e-book)
3	Other Text(s)
4	Kingsley Ong & Simon Barrell, "Halsbury's Laws of Hong Kong (Vol. 3): Banking & Finance Law", Lexis Nexis (2nd Edition, 2022).
5	Kingsley Ong et. al., "The Hong Kong Encyclopaedia of Forms and Precedents, Vol 7(1): Financing and Taking Security" (2nd Edition, 2021).
6	Philip Wood, "Law and Practice of International Finance," Sweet & Maxwell.
7	Roy Goode, "Credit and Security", Sweet & Maxwell.
8	Hsiao, "International Banking & Finance Law" Sweet & Maxwell
9	Online Resources (copies will be made available in Canvas).

Additional Readings

Title	
1	Nil