Aston Business School
Birmingham

BLM143 LAW OF CORPORATE FINANCE & SECURITIES REGULATION

Academic Year 2013/14

Number of Aston Credits: 15

Number of ECTS Credits: 7.5

Staff Member Responsible for the Module:

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Pre-requisites for the Module:

None

Mode of Study:

On Campus

Module Objectives and Learning Outcomes:

This module provides students with the opportunity to explore the legal and regulatory framework governing the UK securities market and the raising of capital by companies. The module begins by providing an introduction to core company law principles before considering a number of specific topics including the development of European securities law; the legal nature of shares; the rules regarding the maintenance of companies' share capital; the rules governing share issues; secured lending and the distinctions between fixed and floating charges; the control of market abuse and insider dealing; the requirements for listing on the London Stock Exchange; the legal protection provided to shareholders, particularly in the context of takeovers; and the role of the new European Securities and Markets Authority with the European System of Financial Supervision.

At the end of the module, students will:

- Understand the core features of the UK model of corporate law, including the company's separate legal personality, directors' duties, capital maintenance and shareholders' rights.
- Understand the principal differences between debt and equity capital and the legal rules governing the issue of shares and companies' share capital.
- Understand the history and development of the UK regulatory framework governing securities regulation.
- Understand the operation and effect of the principal Acts in this area, including the Financial Services and Markets Act 2000, the Criminal Justice Act 1993 (as it relates to insider dealing), the Companies Act 2006, Financial Services Act 2010 and the Financial Services Act 2012.
- Understand the powers and remit of the UK Listing Authority and the content of the UK Listing Rules.
- Understand and be able to critically discuss the function of the UK Takeover Code and the manner in which it achieves equality of treatment for shareholders
- Be able to critically appraise and evaluate the operation of the regulatory framework and the legal and regulatory rules considered throughout the module, demonstrating a thorough understanding of the justifications offered to support the regulation of the securities market.
- Be able to reflect critically on the pressures and influences driving worldwide and pan-European regulation of financial services and capital markets, and understand the difficulties this brings.
- Appreciate current developments and trends within the field.

Contribution of the module to relevant programme level objectives and outcomes:

MSc Business and Management: A1, A2, A3, B1, B2, B3, C1, C2, C3, D3, D4, D7.
MSc Finance and Financial Regulation: A1, A5, A6, B1, B2, B3, C2, C1, D2, D3.

Module Content:

Week 1: Introduction: legal and regulatory concepts; the framework provided By European securities market law and UK company law; core features of the legal framework governing the company limited by shares: limited liability for shareholders and separate legal personality for the company; the legal nature of shares; types of share.

Week 2: Share capital; minimum capital requirements; payment for shares; maintenance and reduction of capital.

Week 3: The rights of shareholders; the purported relationship between strong legal protection for shareholders and dispersed share ownership and deep stock markets in the UK.

Week 4: The role of the UK Listing Authority; the Listing Rules; the regulation of share issues; the European Prospectus Directive (2003/71/EC); amendments to the Prospectus Directive in Directive 2010/73/EU; the European Transparency Directive (2004/109/EC); UK Disclosure Rules and Transparency Rules.

Week 5: The regulation of takeovers; the development of the Takeover Code and role of the UK Takeover Panel; the European Takeover Directive (2004/25/EC): purpose and core principles; equality of treatment for shareholders and mandatory bid rules; implementation of the Takeover Directive across Europe; the Takeover Panel's 2010 review of the Takeover Code and potential Government proposals emanating from the BIS consultation *A Long-term focus for Corporate Britain* (2010), including the Kay Review (2012).

Week 6: Market abuse and insider dealing: legal and ethical issues; the European Market Abuse Directive (2003/6/EC); criminal penalties for market abuse under UK law. Market abuse and the LIBOR scandal. What is wrong with short-selling and the regulation of short-selling.

Week 7 & 8: Secured and unsecured debt; overdrafts and term loans; consensual security interests; fixed and floating charges; the registration of charges; priority issues; the avoidance of charges under the Insolvency Act 1986. An overview of the different treatment of debt and equity capital under UK tax law.

Week 9: Revision

Week 10: **Exam**

Corporate Connections:

The module will draw on the experience of practitioners and market participants where possible.

International Dimensions:

This course is explicitly international in focus. The development of the UK's regulatory framework cannot be understood without knowledge of the European and international forces which continue to shape it, particularly following the recent financial crisis. References are made throughout the course to legal jurisdictions other than England and Wales, and much of the academic literature referred to is international in focus.

Contribution of Research:

This module draws upon research conducted by the lecturer as well as colleagues throughout the Business School.

Ethics, Responsibility & Sustainability:

Ethics and responsibility issues are recurring themes throughout the module, explored, for example, in the context of the debate about the role and purpose of securities regulation and the specific legal and regulatory rules examined.

Method of Teaching:

Lectures will introduce students to the core principles. Seminar style discussion will be held throughout the module, enabling students to draw upon their experiences and knowledge of regulation in their respective jurisdictions. Students must undertake reading and research between lectures and this work is essential if students are to gain the most from the teaching and do well in the examination. This independent reading is essential and builds on the lecture materials. Students will not pass the exam by relying only on the lecture slides. The learning hours below indicate how much time students should be spending on this module.

Method of Assessment and Feedback:

The module outcomes are assessed through examination and coursework completed individually. Each component is weighted 50%. The coursework will consist of an essay question providing the opportunity for in depth research. A choice of essay questions will be provided enabling students to focus on what interests them and to reflect on current developments in securities market regulation.

The examination will require students to answer several essay questions, covering the learning outcomes. The examination is 3 hours in length and closed book in format, although legislative and regulatory materials will be provided.

All students have the option of submitting practise essays throughout the course, based on past exam questions, in order to get feedback on their writing style and guidance on how to improve their work. It is important that all students make use of this opportunity. Individual feedback is also available on students' performance in the examination and coursework.

Further details about both forms of assessment will be provided at the start of the course. Students will receive individual feedback on their coursework and exam performance. Feedback and guidance is also provided throughout the module in the weekly sessions, in the lecturer's office hours and by e-mail.

Learning Hours:

Pre-reading	10
Lectures and discussion sessions	24
Revision session	3
Coursework research and preparation	40
Private study, directed reading and research	73
Total	**150**

The following readings are subject to change. Students should not therefore purchase textbooks prior to commencing their course. If students wish to undertake background reading before starting the course, many of the chapters/readings are available in electronic form via on-line library catalogues and other resources.

Pre-reading:

The pre-reading takes the form of the first two chapters from the book *The Anatomy of Corporate Law: A Comparative and Functional Approach*, by Armour et al and published in 2009 by Oxford University Press. These chapters have been published on the Social Sciences Research Network (SSRN), where you will be able to view and download them free of charge.

For chapter one see:
http://ssrn.com/abstract=1436551

For chapter two see:
http://ssrn.com/abstract=1436555

When reading the chapters you should identify the core features of corporate law systems and the manner in which corporate law systems respond to the agency conflicts that arise when economic activity is conducted through a company. When the course begins we will consider the UK framework in more detail. You should read these first two chapters to gain an overview: you are not expected to remember all the rules and principles discussed in the chapters.

Essential Reading:

Important Note:
Please wait until the start of the course before purchasing any books because new editions are expected and it is essential that an up to date text is purchased.

The most useful books for the course are:

- Ferran, E., *Principles of Corporate Finance Law*, Oxford, Oxford University Press, 2008.
- Gullifer, L. and Payne, J., *Corporate Finance Law: Policy and Principle*, Oxford, Hart Publishing, 2011.
- Hudson, A., *The Law of Finance*, London, Sweet and Maxwell, 2013.
- Kay, J., *The Kay Review of UK Equity Markets and Long-Term Decision Making*, London: BIS, 2012.
- Macneil, I., *An Introduction to the Law on Financial Investment*, Oxford: Hart Publishing, 2012.

In addition to the essential reading from textbooks, articles and other resources are provided through Blackboard. Students are advised to read a good quality UK newspaper each day – ideally the *Financial Times* – because many of the topics covered in the course feature within the press on a regular basis.

Indicative Bibliography:

Avgouleas, E., *Governance of Global Financial Markets: the Law, the Economics, the Politics*, Cambridge: Cambridge University Press, 2012.

Avgouleas, E., *The Mechanics and Regulation of Market Abuse: A Legal and Economic Analysis*, Oxford, Oxford University Press, 2005.

Bamford, C., *Principles of International Financial Law (Student edition)*, Oxford, Oxford University Press, 2011.

Benjamin, J., *Financial Law*, Oxford, Oxford University Press, 2007.

Blair, M., Walker, G. and Purves, R., *Financial Services Law*, Oxford, Oxford University Press, 2009.

Blair, M. and Walker, G., *Financial Markets and Exchanges Law*, Oxford, Oxford University Press, 2007.

Blair, M., *Blackstone's Guide to the Financial Services and Markets Act 2000*, Oxford, Oxford University Press, 2009.

Boatright, J., *Ethics in Finance*, Oxford, Blackwell Publishing, 1999.

Casey, J-P. et al.., *The MiFID Revolution*, Cambridge, Cambridge University Press, 2009.

Cheffins, B., *Company Law: Theory, Structure and Operation,* Oxford, Oxford University Press, 1997.

Clarke, M., *Citizens' Financial Futures – The Regulation of Retail Investment Financial Services in Britain,* Aldershot, Ashgate, 1999.

Davies, P., *Gower and Davies' Principles of Modern Company Law,* London, Sweet and Maxwell, 2008.

Ellinger, E. et al., *Ellinger's Modern Banking Law*, Oxford, Oxford University Press, 2010.

Faure, M. and Stephen, F., *Essays in the Law and Economics of Regulation*: *in honour of Anthony Ogus*, Intersentia, 2008.

Ferran, E., *Principles of Corporate Finance Law*, Oxford, Oxford University Press, 2008.

Ferran, E., *Building an EU Securities Market*, Cambridge, Cambridge University Press, 2004.

Ferrarini, G. and Wymeersch, E., *Investor Protection in Europe: Corporate Law Making, the MiFD and Beyond*, Oxford, Oxford University Press, 2006.

Fisher, J et al., *The Law of Investor Protection,* London, Sweet and Maxwell, 2003.

Frase, D., *Law and Regulation of Investment Management,* London, Sweet and Maxwell, 2011.

Freshfields, *Financial Services: Investigations and Enforcement,* Tottel Publishing, 2005.

Goodhart, C., *The Regulatory Response to the Financial Crisis*, Edward Elgar Publishing, 2009.

Gray, J. and Hamilton, J., *Implementing Financial Regulation*, John Wiley & Sons, 2006.

Grote, R. (ed.), *The Regulation of International Financial Markets*, Cambridge, Cambridge University Press, 2009.

Gullifer, L. and Payne, J., *Corporate Finance Law: Policy and Principle*, Oxford, Hart Publishing, 2011.

Haynes, A., *Financial Services Law Guide* (3rd edition), Tottel Publishing, 2006.

Hollington, R., *Shareholders' Rights*, London, Sweet and Maxwell, 2010.

Hopt, K. and Wymeersch, E., *Capital Markets and Company Law*, Oxford, Oxford University Press, 2003.

Kokkoris, I. and Olivares-Caminal, R., *Antitrust Law amidst Financial Crises*, Cambridge, Cambridge University Press, 2010.

Hudson, A., *The Law of Finance*, London, Sweet and Maxwell, 2009.

Katz, E. (ed.), *Financial Services Regulation in Europe*, Oxford, Oxford University Press, 2008.

Kurnatowska, M. et al., *A Practitioner's Guide to Law and Regulation of Financial Crime*, London, Sweet and Maxwell, 2010.

Lowry, J. and Reisberg, A., *Pettet's Company and Capital Markets Law*, London, Longman, 2008.

MacNeil, I. (ed.), *The Future of Financial Regulation*, Oxford, Hart Publishing, 2010.

McVea, H., *Financial Services Law and Regulation: Text and Materials*, London, Sweet and Maxwell, 2011.

Moloney, N., *EC Securities Regulation,* Oxford, Oxford University Press, 2008.
Moloney, N., *How to Protect Investors: Lessons from the EC and the UK (International Corporate Law and Financial Market Regulation)*, Cambridge: Cambridge University Press, 2010.

Montagu, G. and Weston, M., *Banking and Capital Markets Companion,* Bloomsbury Professional, 2010.

Morgan, B. and Yeung, K., *An Introduction to Law and Regulation: Text and Materials*, Cambridge, Cambridge University Press, 2007.

Mwenda, K. *Legal Aspects of Financial Services Regulation and the Concept of a Unified Regulator*, World Bank, 2006.

Nelson, P., *Capital Markets Law and Compliance: The Implications of MiFID*, Cambridge, Cambridge University Press, 2008.

Ogus, A., *Regulation*, Oxford, Hart Publishing, 2004.

Panasar, R. and Boeckman, P., *European Securities Law*, Oxford, Oxford University Press, 2010.

Prentice, D. and Reisberg, A., *Corporate Finance Law in the UK and EU,* Oxford, Oxford University Press, 2011.

Rider, B., Alexander, K. and Linklater, L., *Market Abuse and Insider Trading*, London, Tottel Publishing, 2009.

Schammo, P., *EU Prospectus Law*, Cambridge, Cambridge University Press, 2011.

Tison, M. (ed.), *Perspectives in Company Law and Financial Regulation*, Cambridge, Cambridge University Press, 2009.

Usher, J., *Law of Money and Financial Services in the EC,* Oxford, Oxford University Press, 2011.

Van Gerven, D., *Common Legal Framework for Takeover Bids in Europe*, Cambridge, Cambridge University Press, 2010.

Wood, P., *The Law and Practice of International Finance*, London, Sweet and Maxwell, 2013.

Wymeersch, E. et al., *Financial Regulation and Supervision: a post crisis analysis*, Oxford, Oxford University Press, 2012.

Web Based Readings:

Robert Goddard's website contains updates on many of the topics covered in the course and links to relevant websites and materials:
http://www.corporatelawandgovernance.blogspot.com

Note also the excellent resources available on Professor Alastair Hudson's website:

http://www.alastairhudson.com

Further links are provided on Blackboard.

Business Strategy Review