

**UNIVERSITY OF VICTORIA**

**FACULTY OF LAW**

**LAW 311 – REGULATION OF FINANCIAL INSTITUTIONS**

Fall 2011 (1.0 units)

**Instructor Contact Information**

Claude Marchessault, Barrister & Solicitor, Sessional Instructor, Faculty of Law  
Office Location: I have no Faculty of Law office at this time.  
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You are invited to schedule an appointment with me at any time by calling my office or sending me an e-mail. In addition, I will be available for consultation before and after most classes.

**Course Schedule**

Room: Library 265 – Murray and Anne Fraser Building  
Wednesdays, 1:30 to 3:30 p.m.

**Course Moodle Site**

Please check Moodle and your UVic e-mail on a regular basis; especially before class in the event of a cancellation. I will strive to send out a general notice on Moodle in the event of a last minute cancellation. Cancelled classes will be rescheduled promptly following sufficient notice to all students.

**Course Description**

Law 311 offers an overview of basic laws and fundamental principles applicable to the regulation and oversight of financial institutions (Banks, Trust and Insurance Companies) in Canada and, to a lesser extent, the regulation and oversight of Credit Unions and Insurers in British Columbia. The 2008 global financial crisis underscored the importance of financial regulation in respect of the soundness of individual institutions and the stability of the financial system as a whole. Law 311 will allow students to explore the fascinating legal and social issues relating to the 1980's Savings & Loan debacle in the U.S. and the current world banking crisis and the corresponding regulatory response. Class attendance, while not mandatory, is important and encouraged.

General topics to be covered include: role played by Canadian banks, Credit Unions, Trust and Insurance companies as financial intermediaries in our society and the need for a supervisory framework to protect both the soundness of these institutions and the security of their customers; Federal / Provincial jurisdictional issues relating to regulation of financial institutions; regulation of new business, investment and cross-ownership powers; foreign banks and the North America Free Trade Agreement dealing with financial services; consumer protection schemes offered to depositors, policyholders and the holders of securities; history of the U.S. Savings & Loan debacle; the current world banking crisis and the new banking regulations put forward in response; role of, and regulatory tools available to, regulators of financial institutions.

### **Course Objectives**

- To consider the role played by financial institutions in the Canadian economy.
- To understand and identify the risks inherent with large financial institutions and the need for their regulation.
- To develop the knowledge and skill needed to understand how financial institutions are regulated.
- To become familiar with general principles and processes relating to the regulation of financial institutions.
- To consider the role and professional responsibility of solicitors dealing with regulation of financial institutions.

### **Teaching Methodology**

Law 311 will be taught using a variety of techniques including basic lectures, in-class exercises and class discussions. Students are expected to come to class having read assigned materials and ready to discuss relevant issues identified in the readings in the context of financial institution regulation. Lectures are designed to outline general principles and to serve as a framework for organizing the detailed subject matter in the assigned readings. Class discussions and in-class exercises are designed to stimulate critical thought and to offer students an opportunity to apply knowledge from the readings and lectures to real life problems.

### **Classroom Climate**

To create a positive learning environment, an inclusive and respectful classroom atmosphere is crucial. To ensure that all participants feel welcome and comfortable participating in class discussions, we must all be respectful in the use of our language and the manner in which we conduct our classroom business. We all have an obligation to support this kind of learning environment. The University of Victoria and the Faculty of Law are committed to promoting, providing and protecting a positive, supportive and safe learning and working environment for all its members. I expect all aspects of this class to be conducted with this commitment firmly in mind. Should you ever have concerns about the classroom atmosphere, please speak to me. For further information, I encourage you to refer to the University of Victoria's Discrimination and Harassment Policy <http://web.uvic.ca/uvic-policies/pol-1000/1150HPP.html> .

### **Communication and other Administrative Matters**

**Electronic Communications:** Moodle will be used for purposes of communication with students. Please check your UVic e-mail account regularly for notices from me about class cancellations, reading assignments or other matters. Also, be sure to regularly check the "News forum" on Moodle. Please feel free to e-mail me to ask questions of a general nature or to make an appointment to meet with me. As I do not answer substantive questions by e-mail, please see me before or after class if you have such a question.

**Academic Accommodation:** If you would like to discuss classroom, assignment or exam accommodation necessitated by a disability or other reason, please arrange to meet with the Associate Dean Academic and Student Relations. The Associate Dean will speak to me where necessary and appropriate.

Electronic Recordings: As a general rule I do not permit lectures to be recorded, however, I do make exceptions in special circumstances. If you would like to record a lecture, please speak to me beforehand.

Laptops Computers: If you choose to take notes relating to the lecture portion of the class on a laptop computer, please do so in a quiet manner that is respectful of those seated around you. I expect you to avoid displaying material on your laptop computer that is not related to the class.

### **Required Materials and Assigned Readings**

The required course materials for this class are as follows:

(1) Balancing the Banks: Global Lessons from the Financial Crisis

Mathias Dewatripont (Author), Jean-Charles Rochet (Author), Jean Tirole (Author), Keith Tribe (Translator)

(2) 13 Bankers: The Wall Street Takeover and the Next Financial Meltdown

Simon Johnson (Author)

(3) S & L Hell: The People and the Politics Behind the \$1 Trillion Savings and Loan Scandal

Kathleen Day (Author)

The reading list for this course is posted on Moodle and includes statutes, regulations, cases, commentary, reports and proposals for reform. Materials on the reading list which do not appear in the required course materials are generally accessible via links in Moodle or through commercial databases such as Quicklaw. Articles, papers, proposals for reform and other commentary as well as reference materials are at the Reserve Desk in the Priestly Law Library or accessible via links in Moodle. Time limits will invariably prevent an in-depth discussion about everything on the reading list. Students are nevertheless expected to be familiar with all of the assigned readings which are all examinable.

### **Method of Evaluation**

The final grade for this course will be based on **two** components, as follows:

**A mid-term exam** will comprise 40% of the final grade in this course. The exam is scheduled for Wednesday, October 26, 2011, during regular class hours (subject to change). It is your responsibility to confirm the date, time and location of the mid-term exam. The exam will be “qualified open-book” which means that you may only bring your notes, summary/outline and the required course materials into the examination room. No library materials or electronic devices (other than a laptop to write exam) are permitted in the examination room.

**A final exam** will comprise the remaining 60% of the final grade in this course. The exam is scheduled for Friday, December 16, 2011 at 9 a.m. – location TBA (subject to change). It is your responsibility to check the final exam schedule for the date, time and location of the exam. The exam will be “qualified open-book” which means that you may only bring your notes, summary/outline and the required course materials into the examination room. No library materials or electronic devices (other than a laptop to write exam) are permitted in the examination room.

Code names will be used on the mid-term exam and final exam. Please obtain your mid-term and final exam code names from the Main Office in advance.

### Penalties for Failure to Exams

Failure to write either exam will result in a grade of “N” (incomplete).

### Grading

The mid-term and final exams will be graded by numerical percentage. The final grade for this course will be calculated by adding the weighted numerical grades of all evaluation components and determining the equivalent letter grade for the total of those weighted components as in the following example:

	Percentage		Weight	Marks
Mid-Term Exam	80%	x	40%	32.0
Final Exam	60%	x	60%	36.0
Final Grade			=	68.0 = B- (Final Grade)

### University of Victoria – Faculty of Law - Relevant Equivalencies

The following are the relevant equivalencies between numerical and letter grades at the University of Victoria, Faculty of Law:

Letter Grade	Grade Point Value	Percentage Value	Narrative Description
A+	9	90-100%	Exceptional, outstanding, and excellent performance, normally achieved by a minority of students. These grades indicate a student who is self-initiating, exceeds expectation, and has an insightful grasp of subject matter.
A	8	85-89%	
A-	7	80-84%	
B+	6	75-79%	Very good, good, and solid performance, normally achieved by the largest number of students. These grades indicate a good grasp of subject matter or excellent grasp in one area balanced with satisfactory grasp in the other area.
B	5	70-74%	
B-	4	65-69%	
C+	3	60-64%	Satisfactory or minimally satisfactory performance. These grades indicate a satisfactory performance and knowledge of subject matter.
C	2	55-59%	
D	1	50-54%	Marginal performance. A student receiving this grade demonstrates a superficial grasp of subject matter.
F	0	49 and below	Unsatisfactory performance.

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### **Academic Integrity**

Academic integrity is expected of all participants in the university community. It is a serious academic offence to engage in plagiarism or other forms of academic dishonesty, or to assist others in doing so. You should familiarize yourself with the University's Policy on Academic Integrity which is set out in the University Undergraduate Calendar. The policy is available online at: <http://web.uvic.ca/calendar2010/FACS/UnIn/UARe/PoAcI.html>. I recommend you review the policy.

If you have any questions about what constitutes paraphrasing, plagiarism or cheating or if you have any concerns or questions about the University's policy, please speak to me or to the Associate Dean Academic and Student Relations or send me an e-mail.

For convenience, the definition of plagiarism is included here:

#### ***“Plagiarism***

*A student commits plagiarism when he or she:*

- 1 submits the work of another person as original work*
- 2 gives inadequate attribution to an author or creator whose work is incorporated into the student's work, including failing to indicate clearly (through accepted practices within the discipline, such as footnotes, internal references and the crediting of all verbatim passages through indentations of longer passages or the use of quotation marks) the inclusion of another individual's work*
- 3 paraphrases material from a source without sufficient acknowledgement as described above*

*Students who are in doubt as to what constitutes plagiarism in a particular instance should consult their course instructor.”*

### **Reference Materials**

The following are some of the materials on reserve for this course accessible at the Reserve Desk in the Priestly Law Library. Other materials may be added to the reserve list as needed.

2010-2011 Consolidated Bank Act (Canada) and Regulations:  
With Guidelines and Other Regulatory Documents (22nd Ed.)  
Prepared by Torys LLP