

Financial Markets Law

Master in L&M 2E 2022/2023

Lecturer	Rute Saraiva
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Class Schedule	14:00 - 18:00

Introduction

The main goal of the course is the introduction to the major themes, issues and concepts related to the regulation, supervision and institutional aspects of Financial Markets.

Goals

- LG1. Knowledge at an introductory level of financial regulation and supervision.
- LG2. To identify and assess institutional regulatory and supervisory solutions.
- LG3. To identify trends in financial regulation and supervision

Methods

The module uses the following teaching methods:

1. Lectures to present the theoretical frameworks.
2. Tutorials and seminars, with analysis of regulations. Socratic method and active learning with individual and collaborative activities.
3. Self-study and flipped classes related to the student's independent work, as set out in the planning of classes.
4. Tutorials, namely in the office hours.

Course Contents

- I. Importance and objectives of financial regulation and supervision. Conceptual definitions.
- II. Structuring principles and legal sources
- III. Models of financial regulation and supervision
 - a. Institutional, functional, integrated and twin peaks models
 - b. The role of central banks
 - c. Capture and (In)dependence of the regulator
 - d. Accountability
 - e. Liability of the Supervisor
- IV. The Portuguese case
- V. European Union
 - a. Before and after de Larosière
 - b. The Banking Union
 - i. Legal basis
 - ii. Structure
 - c. The SSM, in particular
 - i. Relation between EBA and EBC
 - ii. Relation between EBC, EBA and the NA
- VI. Financial regulation
 - Types of subjects
 - a. Access and activity
 - i. Prudential regulation
 - ii. Conduct regulation
 - b. Resolution

Assessment

Students will be evaluated based on:

- a) A written exam – 24 hours take-home exam (50%)
- b) Their participation in class and written assignments (50%)

References

Mandatory

- Rute Saraiva – Direito dos Mercados Financeiros, AAFDL, 2.ª ed., 2015.
- Luís Morais – Modelos de Supervisão Financeira em Portugal e no contexto da união Europeias, Banco de Portugal, 2016. <https://www.bportugal.pt/sites/default/files/anexos/pdf-boletim/estudomodelosupervisao2016.pdf>
- João Calvão da Silva - Banca, Bolsa e Seguros. Direito Europeu e Português, tomo I – Parte Geral, 4.ª ed., Almedina, Coimbra, 2013.
- Paulo Câmara, Manuel Magalhães (coord.) O Novo Direito Bancário, Almedina, 2012.
- Carlos Costa Pina - Instituições e Mercados Financeiros, Almedina, Coimbra, 2004.

Further readings

- Inês Palma Ramalho - O Mecanismo Único de Supervisão: uma breve análise sobre os desafios da sua implementação (Parte I), RDS, 2015.
- Nuno Cunha Rodrigues, A União Bancária resolve?, *Análise Europeia* 1 (2016) 135-147. http://www.apeeuropeus.com/uploads/6/6/3/7/66379879/cunha_rodrigues_nuno_2016_.pdf
- João Paulo Vasconcelos Raposo , Regime europeu de recuperação e resolução de instituições financeiras: Resposta efetiva ou “wishful thinking”? | A solução do BES como “case study” | revista Julgar. <http://julgar.pt/wp-content/uploads/2016/10/20161019-ARTIGO-JULGAR-Regime-Europeu-de-Recupera%C3%A7%C3%A3o-e-Resolu%C3%A7%C3%A3o-de-Institui%C3%A7%C3%B5es-Financeiras-Jo%C3%A3o-Paulo-Raposo.pdf>

English

- ABRAMS, Richard K.; Michael W. Taylor - Issues in the Unification of Financial Sector Supervision, IMF Working Paper n.º 00/213, 2000. <http://www.imf.org/external/pubs/ft/wp/2000/wp00213.pdf>
- ATHANASSIOU, Phoebus - Financial sector supervisor’s accountability: A European perspective, Legal Working Paper n.º 12, 2011.
- BENINK, Harald; George Benston - The Future of Banking Regulation in Developed Countries: Lessons from and for Europe.
- BRIAULT, Clive – Revisiting the Rationale for a Single Financial Services Regulator, FSA Occasional Paper n.º 16, 2002.
- BRIAULT, Clive – The Rationale for a Single National Financial Services Regulator, FSA Occasional Paper n.º 2, 1999. <http://www.fsa.gov.uk/pubs/occpapers/OP02.pdf>
- FERRAN, Eilis – The Reorganisation of Financial Services Supervision in the UK: An Interim Progress Report, University of Cambridge, Faculty of Law, Research Paper n.º 49/2011, 2011.
- GARICANO, Luis; Rosa M. Lastra – Towards a new Architecture for financial stability, CEP Discussion Paper No 990, 2010.
- GIESEN, Ivo - Regulating regulators through liability. The case for applying normal tort rules to supervisors, *Utrecht Law Review*. Vol. 2, n.º 1, 2006.

- GOODHART, Charles - The Role of Macro-Prudential Supervision, 2010.
- HÜPKES, Eva; Marc Quintyn; Michael W. Taylor - The Accountability of Financial Sector Supervisors: Principles and Practice, IMF Working Paper n.º 05/51, 2005.
- JURKOWSKA-ZEIDLER, Anna - The role of central banks in financial supervision. The European perspective, Faculty of Law and Administration, University of Gdansk.
- LASTRA, Rosa M. – The Governance Structure for financial regulation and supervision in Europe, Columbia Journal of European Law, Vol. 10, 2003.
- MASCIANDARO, Donato; Marc Quintyn; Michael Taylor - Financial Supervisory Independence and Accountability – Exploring the Determinants, IMF Working Paper n.º 08/147, 2008.
- QUINTYN, Marc; Michael W. Taylor – Regulatory and supervisory independence and financial stability, IMF Working Paper n.º 02/46, 2002.
- QUINTYN, Marc; Silvia Ramirez; Michael W. Taylor - The Fear of Freedom: Politicians and the Independence and Accountability of Financial Sector Supervisors, IMF Working Paper n.º 07/25, 2007.
- TAYLOR, Michael – The road from twin peaks and the way back, Connecticut Insurance Law Journal, Vol. 16, 2009.
- TAYLOR, Michael – 'Twin Peaks' Revisited... a second chance for regulatory reform, CSFI, n.º 89, 2009.
- TEIXEIRA, Pedro Gustavo - The evolution of the law and regulation of the Single European Financial Market until the crisis, In Revista de Concorrência e Regulação, A. 1, n.º 2, Abr.-Jun. 2010.
- TISON, Michel - Do not attack the watchdog! Banking supervisor's liability after Peter Paul, Ghent University, Financial Law Institute, Working Paper n.º 2005/02, 2005.
- WYMEERSCH, Eddy - The Structure of Financial Supervision in Europe: About single, twin peaks and multiple financial supervisors.