

Financial Markets Law

Master in L&M 3E 2023/2024

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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. Behavioural Finance
 - a. Homo Oeconomicus/Efficient Market vs Homer Simpson/Market Exuberance
 - b. Main biases in financial markets
 - c. Regulatory Implications
- III. Structuring principles and legal sources
- IV. 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
- V. The Portuguese case
- VI. 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

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, 2nd 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 nº 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 nº 08/147, 2008.
- QUINTYN, Marc; Michael W. Taylor – Regulatory and supervisory independence and financial stability, IMF Working Paper nº 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 nº 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.