

**Shanghai Jiao Tong University
Law School**

Course Information

Academic Year 2021

Course Code: LLAW6110

Course Name: Law and Financial Markets

Course Description:

This course involves an examination of the legal framework governing banking, securities and insurance markets in China.

The course will convey some basic concepts, norms and principles in financial markets, financial law and financial regulation. These concepts, norms and principles include financial liberalization, financial repression, regulatory arbitrage, regulatory failure, regulatory capture, regulatory competition, among others.

The course begins with a discussion of the central bank, the People's Bank of China, regarding its role, activities, and regulatory power. The course will cover other main financial regulators such as CBIRC, CSRC and SAFE in China. Entry into the business of banking and regulation of the activities of banking business are examined. In addition to the regulatory regime, the law of negotiable instruments and the international transaction aspects of banking business are also treated. The course will discuss such matters as the types of security interests, principal terms of most common forms of loan facilities, basic structure of syndicated loan and international bond issues. The course will also address the causes, systemic risks and potential regulatory instruments in relation to China's booming shadow banking sector.

The course then moves into the regulatory regime governing the banking, securities and insurance industries. Restrictions of entry and activities of banking, securities, and insurance companies are examined. Prudential management and investment limitations are also dealt with. Regulatory supervision of insurance companies and regulation of insurance agents and brokers are analysed. Other topics of insurance law include: insurable interest, subrogation, the insurance contract, third party claimants, and bad faith claims.

Shadow banking would be investigated and its functions, rationales, underlying logics, and regulatory instruments would be studied in the Chinese context.

The business part of the course is to make students appreciate, distinguish and make use of terms and conditions in financial transaction-related contracts. From time to time, we would separate students into groups and ask them to take opposite roles in negotiating and drafting contracts including loan agreement, security agreement and equity transfer agreement. This is the practical part of the course. The purpose is to train our students to grasp practical experience in the course.

Expected Course Learning Outcomes:

At the end of this course, students who fulfill the requirements of this course will be able to:

- Describe and explain various theories covered such as financial liberalisation and financial repression theories;
- Describe the key features of China's financial markets;
- Use relevant information about financial law to explain economic phenomena and events;
- Apply contractual terms to various financing transactions such as lending transactions;
- Understand instructions to assist drafting relevant documents and legal concepts and doctrines in structuring banking transactions;
- Appreciate the different results from different documents;
- Undertake constant review of documentation, the law, and the interpretation of documents by the courts;
- Explain the importance of shadow banking from both business and regulatory perspectives;
- Understand the difficulty in reforming and improving the regulatory framework for the entire financial markets;
- Demonstrate legal skills and knowledge in drafting and negotiating documents in hypothetical cases.

Proposed Learning Activities:

1. Study reading materials and prepare for the classes beforehand
2. Participate in the class discussions or group discussions
3. Undertake some basic research tasks and present the research results to the class
4. Negotiate transactional documents in hypothetical cases
5. Draft one or two financial documents

Content:

Lecture 1: Financial Market, Financial Law and Financial Regulation

Lecture 2: Financial Regulators and Regulatory Framework

Lecture 3: Banks and Banking Regulation

Lecture 4: Capital Market and Securities Regulation

Lecture 5: Insurance Market and Insurance Regulation

Lecture 6: Key Financial Issues in US-China Trade War

Lecture 7: Financial Transactions

Lecture 8: Contractual Terms in Finance Documents

Lecture 9: Negotiation Exercises

Lecture 10: Drafting Exercises

Lecture 11: Revision

Proposed Assessment:

100% assessment – close book exam OR essay

Prerequisite / Co-requisite:

Ideally, the students should have some basic knowledge of Chinese legal system.

Any proposed cap on student numbers (subject to confirmation by the Head of the Department of Law):

No.

References:

Shen Wei: Conceptualizing the Regulation Thicket: China's Financial Market after the Global Financial Crisis

ISBN9780367410537

Routledge 2020

Shen Wei: Chinese Business Law: Narrative and Commentary

ISBN 978-988-13956-7-2

Wolters Kluwer 2016

Shen Wei: Shadow Banking in China: Risk, Regulation and Policy

ISBN 978 1 78471 677 6, xiv+455 pp.

Edward Elgar 2016

Shen Wei: Investor Protection in Capital Markets – The Case of Hong Kong

ISBN 978-962-661-756-4

Sweet & Maxwell 2015

Shen Wei: The Anatomy of China's Banking Sector and Regulation

Wolters Kluwer 2014

ISBN 978-988-12216-7-4