

LGST 807/223 - Securities Regulation

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Office Hours: Wednesday, 3:00 p.m.
to 5:00 p.m., or by appointment

COURSE DESCRIPTION

This course examines the federal securities laws and the work of the Securities and Exchange Commission. The first half of the course focuses on the regulation of the capital-raising process. Topics covered include registration of securities under the Securities Act, civil liability, the definition of a security, financial derivatives, divestitures, recapitalizations, mergers and acquisitions, the regulatory advantages afforded small firms in capital formation, private placements, and resales of control and restricted securities. The second half of the course considers the disclosure obligations of public companies. Topics covered include the registration and reporting requirements of the Securities Exchange Act, going-private transactions, proxy solicitations and proxy contests, tender offers, state takeover regulation and its relationship to federal law, insider trading, securities fraud, and the various theories of liability for the unlawful use of nonpublic information in securities transactions.

COURSE MATERIALS

- Required Text: L. Loss & J. Seligman, Fundamentals of Securities Regulation (5th ed. 2004), 2007 Supplement, and the “Errata”
- Pamphlet: Securities Regulation: Selected Statutes, Rules and Forms (T. Hazen ed., 2007)
- Study Guide: W. Tyson, Study Guide for Securities Regulation (5th ed. 2006)
- Working Paper: W. Tyson, Excerpts from “The Conceptual Problems with the Law of Insider and Outsider Trading” (2007)
- Recommended Text: L. Soderquist & T. Gabaldon, Securities Law (2d ed. 2004)
- Optional Text: T. Hazen, The Law of Securities Regulation (5th ed. 2005)
- Practice Examination Materials: A. Palmiter, Securities Regulation: Examples & Explanations (3d ed. 2005)

EXAMINATIONS, GRADING, ATTENDANCE, AND DROP/ADD POLICY

There are two examinations, and each one will last three hours. The first examination will be on Saturday, February 24 at 12:00 noon and will cover the first half of the course. The second examination will be on Thursday, April 26 at 6:30 p.m. and will cover, for the most part, only the second half of the course. The two examinations will be weighted equally. During the examinations, nothing may be consulted except the pamphlet, and the pamphlet may contain reasonable marginal annotations. The final

grade in the course will be based on the two examinations, with an adjustment based on class participation. Regular and punctual class attendance is expected. MBA and Ph.D. students may not drop or add the course after Friday, January 19. Undergraduate students may not drop or add the course after Friday, February 9.

READING ASSIGNMENTS, WEBCAFÉ, WRITTEN ASSIGNMENTS, EXAMINATION VIEWING, AND CATCH-UP/REVIEW CLASSES

By the date indicated, read and be prepared to discuss the following:

- (1) the assigned pages in the required text (RT);
- (2) the accompanying pages in the supplement (Supp.) for the required text (a dagger (†) after the assigned pages in the required text means that there are accompanying pages in the supplement);
- (3) the appropriate entries in the errata for the required text,
- (4) the assigned pages in the study guide (SG);
- (5) the assigned statutory and regulatory material in the pamphlet (P) (an asterisk (*) means skim only);
and
- (6) the assigned pages of the working paper (WP).

This required reading can be supplemented by the suggested reading in the recommended and optional texts, which is listed on page 8. The errata and the working paper will be distributed in class. All of the other course materials can be purchased at the Penn Bookstore and are available on reserve at Lippincott Library.

There is a site on webCafé for the course. It contains a course calendar, the syllabus, the errata, and the working paper. The screen notes used in class will be posted on the site before class. It is recommended that they be printed out for use in class.

There are eight written assignments in the study guide. A paper copy of the answers to these assignments should be submitted at the beginning of class on the date indicated. An electronic copy will not be accepted. The assignment questions and answers may be discussed with others, but individual answers should be written up and submitted. The answers will be graded, but the grades will not count in the determination of the final grade in the course. There will be a substantial final course grade penalty, however, for late or unsubmitted assignments. Model answers for the assignments will be posted on the webCafé site for the course when the graded answers are returned. Assignment answers that demonstrate little effort will not be accepted.

There will be an examination viewing on Friday, March 16 (3:00 p.m. to 5:00 p.m.) in P-100 at the Law School. There will be catch-up/review classes on Friday, January 26 (3:00 p.m. to 5:00 p.m.) and Friday, April 20 (3:00 p.m. to 5:00 p.m.) in our regular classroom. A video recording of these classes will be posted on the webCafé site for the course.

SCHEDULE AND OUTLINE OF COURSE OF STUDY

- Jan. 8
I. Introduction
SG: 1-2

Securities Act

- II. Distribution of Securities Under the Securities Act
A. Registration and Prospectus Provisions

Jan. 10
RT: 92-108† & Supp. 20-37, 51-55, 70-71, 73.
SG: 3-7
P: §§ 2(a)(3), 2(a)(4), 2(a)(10), 2(a)(11), 2(a)(12), 4(1), 5
Rules 135, 137, 138, 139, 163, 163A, 168, 169

Jan. 17
RT: 108-116 & Supp. 37-51, 71-72
SG: 7-9
P: §§ 2(a)(10), 5, 10(a) & (b)
Rules 134, 164, 430, 431, 433

Jan. 22
RT: 116-124† & Supp. 68-70, 77
SG: 9-11
P: §§ 2(a)(10), 4(3), 5, 10(a) & (b)
Rules 172, 173, 174, 424(b)(3)*; Rule 15c2-8 (a) & (b) (Exchange Act)

Jan. 24
SG: 11-14
P: § 10(a)(3)
Rules 415(a)(1), (2) & (5), 430A*

Jan. 26 (Fri. 3:00 p.m.)
Catch-up/Review Class

- B. Civil Liability

Jan. 29
RT: 1192-1226† & Supp. 55-56, 72-75
SG: 15-17
P: §§ 12, 15
Assignment #1 due

Jan. 31
RT: 1227-1239†
1334-1337†
SG: 17-18
P: §§ 11, 13

Feb. 5
RT: 1027-1029
1297-1300
SG: 18-22
P: §§ 17(a) & (c), 27A

III. Definitions

Feb. 7

A. "Security"

RT: 231-233†
246-272†
SG: 23-25
P: § 2(a)(1); § 3(a)(10) (Exchange Act)
Assignment #2 due

Feb. 12

B. "Offer," "Sale," "Underwriter," and "Dealer"

RT: 315-321
324-341
SG: 26-29
P: §§ 2(a)(3), 2(a)(11), 2(a)(12)

IV. Securities Act Exemptions

Feb. 14

A. General Considerations

RT: 341-343†
359-365
SG: 30
P: Rule 155*

B. Exchanges and Reorganizations

RT: 365-375
SG: 31-32
P: §§ 3(a)(9), 3(a)(10)
Rules 135, 145(a) & (b), 153a, 165, 166, 425*
Assignment #3 due

Feb. 19

C. Intrastate Issues

RT: 377-387
SG: 33-34
P: § 3(a)(11)
Rule 147

D. Small Issues

RT: 387-395
SG: 35-36
P: § 3(b)
Rules 251, 252, 253, 254, 255

Feb. 21

E. Limited Offerings

RT: 395-411
SG: 37-40
P: § 4(2)
Rules 501, 502, 503, 504, 505, 506
Assignment #4 due

Feb. 24 (Sat. 12:00 noon)
Examination
350 Steinberg Hall-Dietrich Hall

Feb. 26

- F. Trading Exemptions
RT: 412-419
SG: 41-43
P: §§ 2(a)(11), 2(a)(12), 4(1), 4(3), 4(4)

- G. Resales of Control and Restricted Securities

RT: 420-429
SG: 44-45

Feb. 28

RT: 430-434
SG: 45-50
P: Rule 144

Mar. 12

RT: 434-442†
SG: 50-54
P: Rules 144A, 145(c), (d), & (e), 147(e)

Securities Exchange Act

- V. Registration and Postregistration Provisions of the Securities Exchange Act

- A. Registration and Reporting Provisions

Mar. 14

RT: 471-483
486-493
498-502
SG: 55-58
P: §§ 3(a)(10), 3(a)(11), 3(a)(12)(A), 12(a), 12(b), 12(d), 12(g)(1), 12(g)(2)(A),
12(h)*, 15(d)
Rule 12g-1
Assignment #5 due

Mar. 16 (Fri. 3:00 p.m.)

Examination Viewing
P-100 Law School

Mar. 19

RT: 509-529†
SG: 58-59
P: §§ 12(g)(4), 12(j), 12(k), 13(a), 18*
Rules 12g-4, 12h-3, 15d-6*

- B. Proxies

RT: 529-537†
SG: 60
P: § 14(a)
Rule 3a12-11

Mar. 21

RT: 537-573†

SG: 60-64

P: Rules 14a-1, 14a-2, 14a-3(a), (b), (c), & (f), 14a-4, 14a-6, 14a-7, 14a-8, 14a-10, 14a-12

Mar. 26

RT: 574-604†

1265-1270

SG: 63-67

P: §§ 14(b)*, 14(c)*

Rule 14a-9

C. Tender Offers

Mar. 28

RT: 604-618

627-638

SG: 68-70

P: §§ 13(d)*, 13(e)*, 13(g)*, 14(d), 14(e)*, 14(f)*

Rules 14d-1*, 14d-2, 14d-3, 14d-4, 14d-5*, 14d-6

Apr. 2

RT: 639-646†

651-653

1270-1273†

SG: 70-72

P: §§ 14(d), 14(e)

Rules 14d-7, 14d-8, 14d-9, 14d-10, 14d-11, 14e-1, 14e-2, 14e-4, 14e-5, 14e-8;

Rules 135, 162, 166, 432 (Securities Act)

Assignment #6 due

Apr. 4

RT: 619-626

647-651

653-675

SG: 72-83

P: §§ 13(d), 13(e), 13(g)

Rules 13d-1, 13d-2, 13d-3, 13d-5*, 13e-1*, 13e-3*, 13e-4*

D. Insider Trading--Section 16

Apr. 9

RT: 675-687

693-698

718-719

SG: 84-86

P: §§ 16(a), 16(b)

Rules 16a-2, 16a-3, 16a-10

Assignment #7 due

Apr. 11

RT: 688-693
699-718
720-721
SG: 86-90
P: § 16 (c)*
Rules 16a-1, 16a-4, 16b-6

VI. Fraud and Insider Trading--Section 10(b)

RT: 936-947
950-951
958-960
SG: 91-93
P: § 10(b)
Rules 10b-5, 10b5-1

Apr. 16

RT: 947-950
951-957†
968-1018
1050-1060†
SG: 93-95
P: §§ 20A, 21A
Rules 10b5-2, 14e-3; Regulation FD
WP: 1-16

Apr. 18

RT: 960-968
1018-1050†
1273-1297†
1339-1342
SG: 95-101
P: § 21D(f)(1), (2), (3), (8), (9), & (10)*
Assignment #8 due (may be submitted at beginning of class on Apr. 21)

Apr. 20 (Fri. 3:00 p.m.)

Catch-up/Review Class

Apr. 26 (Thurs. 6:30 p.m.)

Examination
350 Steinberg Hall-Dietrich Hall

SUGGESTED READING IN RECOMMENDED AND OPTIONAL TEXTS

The recommended text should be purchased. The optional text is on closed reserve in Biddle Law Library and Lippincott Library. The outline below follows the topical outline on pages 3-7 of the syllabus. The chapters listed below contain a discussion of the corresponding topic in the outline. This discussion will supplement the required reading.

	<u>Soderquist & Gabaldon</u> (Recommended)	<u>Hazen</u> (Optional)
I.	Chapters 2 & 15	Chapter 1
II.	A. Chapters 3, 4 (pp. 35-47; pp. 50-62), & 5 B. Chapter 8	Chapters 2 & 3 Chapter 7
III.	A. Chapter 1 B. Chapter 4 (pp. 48-50)	Chapter 1 Chapters 4 & 5
IV.	A. Chapter 6 (pp. 73-74) B. Chapter 4 (pp. 47-48) C. Chapter 6 (pp. 78-81) D. Chapter 6 (pp. 81-86) E. Chapter 6 (pp. 74-78) F. -- G. Chapter 7	Chapter 4 Chapter 4 Chapter 4 Chapter 4 Chapter 4 Chapter 4 Chapter 4
V.	A. Chapters 9 & 14 B. Chapter 10 C. Chapter 11 D. Chapter 13	Chapter 9 Chapter 10 Chapter 11 Chapter 13
VI.	Chapter 12	Chapter 12

I. Introduction

- I. Federal Securities Law
 - A. Securities Act of 1933
 - B. Securities Exchange Act of 1934
 - C. Public Utility Holding Company Act of 1935
 - D. Trust Indenture Act of 1939
 - E. Investment Company Act of 1940
 - F. Investment Advisers Act of 1940
 - G. Securities Investor Protection Act of 1970
 - H. Bankruptcy Reform Act of 1978
 - I. Sarbanes-Oxley Act of 2002
 - J. Jurisdictional Base
 - K. Federal Securities Code

- II. Securities and Exchange Commission (SEC)
 - A. Composition
 - B. Functions
 - 1. Quasi-Legislative
 - 2. Executive
 - 3. Quasi-Judicial
 - C. Evaluation

- III. Securities Industry
 - A. Securities Markets
 - 1. Securities Exchanges
 - 2. Over-the-Counter (OTC) Market
 - 3. Other Markets
 - B. Securities Firms

- IV. State Securities Laws
 - A. Blue Sky Laws
 - B. Uniform Securities Act

- V. Transnational Transactions