

**UNIVERSITY OF PENNSYLVANIA
WHARTON SCHOOL
DEPARTMENT OF LEGAL STUDIES AND BUSINESS ETHICS
FALL TERM 2020
SECURITIES REGULATION SYLLABUS
MW 3:00-4:20 PM**

Professor: David Zaring

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Office Hours: Tuesday, 1:30-3:00, or by appointment

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Subject:

This course on securities regulation will primarily focus on two fundamental features of the federal securities laws, although other topics will be addressed as well: first, the process by which capital is raised to fund a business and its operations; and second, the disclosure regime to which issuers of securities are subject. As for the disclosure regime, particular attention will be placed on the prohibition against fraud, including insider trading. Throughout, the course will also discuss the structure and dynamics of the Securities and Exchange Commission as an independent agency.

Instructor:

I am a Professor at the Wharton School, and have taught at the Penn, Cambridge, Washington & Lee, Bucerius, and NYU law schools. Before entering academia, I was a litigator in the Department of Justice, handling administrative law cases. I study financial regulation as a species of administrative and international law. I have testified before Congress on financial regulation, and wrote an occasional column for the New York Times/DealBook for four years on the subject.

Readings:

The readings will be available on Canvas. If you're a non-Wharton student, set up an account at <https://apps.wharton.upenn.edu/iam/accountcreator/>.

Further Reading:

If you want to listen over the course of the semester as well as read, Cox's SUM AND SUBSTANCE ON SECURITIES REGULATION is good, but technical. Among the commercial review guides, I like Palmiter's SECURITIES REGULATION: EXAMPLES AND EXPLANATIONS. Securities Regulation gets deep into the world of corporate finance and business regulation, and if you want to make sense of a world, a guide written for the laity makes sense. There are very inexpensive subscriptions for students available from

the Wall Street Journal, New York Times, and Financial Times, and one of the best ways to get a handle on securities regulation is to read about developments in the field in the paper.

There is a great compendium of resources for further reading [here](https://law.duke.edu/lib/researchguides/securities/) (or here: <https://law.duke.edu/lib/researchguides/securities/>).

Evaluation:

There will be a midterm and a noncumulative final. The midterm is currently set for October 26, but that date may move slightly. In total, the grade will be determined by

- Midterm exam – 40%
- Final exam – 40%
- Class participation – 15%
- Exemption presentations – 5%

Schedule:

We have approximately 28 classes, and, as you can see, 27 topics to cover. We may adjust the schedule as the semester continues. Nonetheless, you should plan to read the next topic for the next class, even if we haven't exhausted all discussion of the current one.

Securities Regulation - Assignments

Topic 1 Introduction and Overview

Securities and Public Companies

Topic 2 Securities, defined
SEC v. W J Howey Co
Chu on Bowie Bonds (skim)

Topic 3 Security, defined
Reeves v. Ernst & Young
US v. Zaslavskiy

Topic 4 The Regulatory Environment
Murphy on Who Regulates Whom and How? An Overview of U.S.
Financial Regulatory Policy for Banking and Securities Markets

Topic 5 Materiality
Basic v. Levinson

Topic 6 Materiality
 Matrixx Initiatives, Inc. v. Siracusanano

Topic 7 Intent
 Makor v. Tellabs

Topic 8 Private Enforcement
 Halliburton Co. v. Erica John Fund

Topic 9 Regulatory Enforcement
 SEC v. Goldman Sachs

Raising Money By Issuing Securities

Topic 10 Public Offerings
 Process of Going Public in the United States
 The Google IPO

Topic 11 Public Offerings
 Facebook IPO One Year Later, The Atlantic
 The WeWork Non-IPO
 Snap's S-1

Topic 12 Public Offering Alternatives
 Hoffman, et al., on ICOs (skim parts II and III)
 SEC Charges Kik Interactive with Conducting \$100 million ICO
 Kik Says SEC Lawsuit "Twisted Facts"
 SPACs

Topic 13 Public Offering Alternatives
 Crowdfunding Stories
 SEC Staff Report on Regulation Crowdfunding pp.1-10

Topic 14 Offering Exemptions
 Class Presentations
 Background: SEC, Concept Release On Harmonization Of Securities Offerings

Topic 15 Midterm, currently set for October 26

Insider Trading

Topic 16 Insider Trading

SEC on Insider Trading
Texas Gulf Sulfur
US v. Chiarella

Topic 17 Insider Trading
Dirks v. SEC
US v. O'Hagan

Topic 18 Insider Trading
US v. Newman
US v. Salman

Topic 19 Insider Trading
Profile of Rajnaratnam
Haddock on Insider Trading

Securities Regulation as Regulation

Topic 20 Cost Benefit Analysis
Business Roundtable v. SEC
Raso on CBA
Shapiro on CBA

Topic 21 Reg FD & Deregulation
Fisch on Reg FD
The JOBS Act of 2012

Topic 22 Enforcement in Courts and Agencies
Eaglesham on ALJs
Lucia v. SEC

Topic 23 Scandal: Theranos and Tesla
Carreyou Excerpts

Topic 24 Investment Banks
Barclays Capital and the Sale of Del Monte Foods
Goldman Sachs and 1MDB

The Global Context

Topic 25 Extraterritoriality
Morrison v. NAB
Coffee on The Globalization of Securities Regulation

Topic 26 The International Organization of Securities Commissions
IOSCO's MMOU

Zaring on IOSCO

Topic 27

FCPA

US v. Ezquenazi

JPMorgan: Hiring Princelings Becomes a Royal Pain

Topic 28

Overflow and Review