

Law 663 / Finance 816
Economic and Regulatory Policy for Global Markets – Spring 2023
Professor Jay Clayton

Course Information

- Meeting Time: Tuesdays: 1:30 pm – 3:30 pm
- Location: Silverman 245A – **SOME (approx. 3) CLASSES WILL BE ZOOM**
- Contact Info: claytonwj@sullcrom.com; (212) 558-3445
- T.A. Contact Info: TBD
- Course Deliverables: Deliverables for the course consist of (1) a thirty minute in-class presentation and (2) an accompanying ten page paper. Students will **work in teams** of five or six on both deliverables. Each team will choose a topic relevant to the course, to be approved by Professor Clayton. In-class presentations will take place the last weeks of the semester. A draft paper will be submitted to Professor Clayton in late March for review and comment.
- Class participation is strongly encouraged, including incorporating current events into each week’s lecture and discussion.**
- Course Readings: There is no textbook for this course. All reading materials will be available on Canvas. Readings for each class are indicated in italics on the schedule below **and will be updated from time to time.**
- DO NOT READ MORE THAN A WEEK OR TWO AHEAD.**
TOPICS WILL CHANGE AS MARKETS CHANGE.
- Reading is not expected to require more than a few hours per week.**
Questions for discussion will be circulated ahead of class and students will be expected to engage with Professor Clayton, Guest Lecturers, and each other around those questions.
- Class Recordings: All classes will be recorded per Wharton’s policy. Recordings will be available to all students. Class sessions featuring guest speakers may not be recorded based on the guest’s preference.
- Guest Lectures: The Class Schedule is subject to change to accommodate planned and additional guest lecturers. Guest lecturers generally will present for 30-60 minutes, followed by discussion led by Professor Clayton.
- Course Objectives: Students will bring and share varying perspectives on and experiences with financial markets. Through discussion of current topics, class

participant will broaden their understanding of the regulatory, political, economic, national security and social interconnections in domestic and international markets. Student teams also will have an opportunity to explore in depth and explain to their colleagues their understanding and perspectives on an aspect of our financial markets.

Class Schedule – Subject to Updates

January 16:

Class will be Virtual/Zoom

Course Introduction, Overview of the International Regulatory Framework

- Who Regulates Whom?
 - [Who Regulates Whom? An Overview of the U.S. Financial Regulatory Framework \(congress.gov\)](#)
- Introduction to Financial Services: The Regulatory Framework
 - [IN11016.pdf \(fas.org\)](#)
- Congressional Oversight Manual
 - [RL30240 \(congress.gov\)](#)
- A basic Primer on the Major Questions Doctrine
 - [A basic primer on the major questions doctrine | Davis Polk](#)

Discussion Topics: Evolution of Markets and Regulation

- Status of capital markets today and over time
 - US, Europe, Asia
 - Banking, Capital Markets, Insurance
- Drivers of market development / Regulatory reactions
 - Economic policy:
 - Monetary
 - Fiscal
 - Housing
 - Innovation:
 - Access to investments
 - Access to credit
 - Consolidation / Globalization
 - Regulatory responses: Sarbanes Oxley, Dodd-Frank, Basel
 - ...
- Dynamic relationship with regulation
 - “Capital”, “Liquidity”, “Leverage” . . .
 - “Shadow banking”

- “Regulatory arbitrage”
- Key aspects of Securities Regulation
 - Regulation of transactions, issuers and intermediaries
 - Regulation at key nodes in our financial networks
 - Regulatory cooperation

January 23:

The Intersection of Big Tech, Financial Markets and Regulation

Guest Lecturer: Makan Delrahim (Dept. of Justice Antitrust Division)
[Makan Delrahim \(lw.com\)](https://www.lw.com/en/people/makan-delrahim)

- Will technology (“Big Tech”) Change financial markets and how should regulators respond?
 - Antitrust Enforcement and Digital Gatekeepers [MAKAN DELRAHIM Remarks as Prepared for Delivery at Antitrust New Frontiers Conference: The Digital Economy and Economic Concentration \(justice.gov\)](#) ;
 - “A Whole New World:” An Antitrust Entreaty for a Digital Age [Office of Public Affairs | Assistant Attorney General Makan Delrahim Delivers Final Address | United States Department of Justice](#)

January 30:

Deep Dive into Market Structure and Prudential Regulation

- COVID-19 Pandemic: Financial Stability Impact and Policy Responses (Report submitted to the G20 by the Financial Stability Board) [COVID-19 pandemic: Financial stability implications and policy measures taken – Report to the G20 - Financial Stability Board \(fsb.org\)](#)
- U.S Credit Markets Interconnectedness and the Effects of the COVID-19 Economic Shock (SEC Division of Economic Risk and Analysis) [US Credit Markets COVID-19 Report \(sec.gov\)](#)

Environmental, Social, and Governance – “ESG” – Regulation

- What does “ESG” mean? “Impact investing”? “Investment strategy or management perspective”?
 - The case for “ESG” oriented management McKinsey (2019) Five ways ESG creates value [Five ways that ESG creates value \(mckinsey.com\)](#)
 - The case for “ESG” regulation?- Focus on “E” Clayton/Wiseman Op-Ed [Op-ed: BlackRock CEO Larry Fink is right about climate change disclosure \(cnbc.com\)](#);
 - Lee speech re SEC approach - [A Climate for Change: Meeting Investor Demand for Climate and ESG Information at the SEC](#)

- The case against the SEC' approach to "E" -- Clayton/McHenry Op-Ed [The SEC's Climate-Change Overreach - WSJ](#); Richard Epstein article [SEC's Pointless Climate Disclosures | Hoover Institution SEC's Pointless Climate Disclosures](#)

February 6:

Class will be Virtual/Zoom
Financial Regulation and Inequality

- Notes on Easy Money and Inequality (Krugman NYT Opinion) [Notes on Easy Money and Inequality - The New York Times \(nytimes.com\)](#)
- ProPublica (Sloan and Podkul) ([How the Federal Reserve Is Increasing Wealth Inequality — ProPublica](#))
- Monetary Policy and Home Buying Inequality (Ringo) [Monetary Policy and Home Buying Inequality \(federalreserve.gov\)](#)
- Homepage – Economic Inequality: A Research Series [Economic Inequality: A Multi-Part Research Series - Federal Reserve Bank of New York - FEDERAL RESERVE BANK of NEW YORK \(newyorkfed.org\)](#)

February 13:

Deep Dive into COVID Economic Response; Monetary Policy

- Overview of financial regulators response to COVID-19 shutdowns
 - [What did the Fed do in response to the COVID-19 crisis? | Brookings](#)
 - [Covid-Crisis Lessons for the U.S.: How to Handle the Next Pandemic Better | Barron's \(barrons.com\)](#)
 - [SEC.gov | SEC Staff Releases Report on U.S. Credit Market Interconnectedness and the Effects of the COVID-19 Economic Shock](#)

Current status of monetary and fiscal policy

February 20/27:

Financial Regulation as a Tool of U.S. Foreign Policy / National Security
Guest Lecturer(s): Brent McIntosh (Under Sec. Treasury for International, General Counsel Citi); Justin Muzinich (Deputy Treasury Secretary; CEO Muzinich & CO)

- Relevance of Economic Strength in Foreign Policy; Mutual benefits and mutual harms; Sanctions, Disqualifications (CFIUS/Reverse CFIUS), Tariffs, SEC disclosures

- *America's National Security has an Economic Blindspot* (Muzinich) [American National Security Has an Economic Blindspot | Foreign Affairs](#)
- *Wielding Tools of Economic Statecraft* (McIntosh) [GT-JSLP210043 101..108 \(jnslp.com\)](#)
- *Treasury Sanctions Homepage* (skim) [Home | Office of Foreign Assets Control \(treasury.gov\)](#)
- *China Committee Homepage* (skim) [Select Committee on the CCP | \(house.gov\)](#)
- *Executive Order Directs Establishment of Outbound Investment Regime* (S&C Memo) [S&C Publication: New Executive Order Directs Establishment of Outbound Investment Regime \(sullcrom.com\)](#)

Policing Financial Transactions; *Anti-Bribery (FCPA)*; *Anti-Money Laundering (AML)*; *Countering the Financing of Terrorism (CFT)*/Bank Secrecy Act (BSA); Have they been Effective?

- *Overview of FCPA (CRS in Focus)* [The Foreign Corrupt Practices Act \(FCPA\): An Overview \(fas.org\)](#)
- *Stanford FCPA Tracking Site* [Foreign Corrupt Practices Act: Home \(stanford.edu\)](#)
- *NY City Bar Report on FCPA* [Microsoft Word - SCI-#3067634-v18-FCPA_Article.DOC \(nycbar.org\)](#)
- [TBD]

SPRING BREAK

March 12: Deep Dive into “Digital Assets”
Guest Lecturer: Tim Massad (Treasury; CFTC Chair)
The Rise of digital assets and the federal regulatory response

- *Brief History*
 - *Bitcoin*
 - *IOCs and the “Howey” debate*
 - *Money laundering, terrorist finance*
 - *Stablecoins*
 - *FTX; Binance*
- *Current status*
- *Future?*
- *Clayton / Massad; Clayton/McIntosh; Clayton – Op-Eds*

As of January 6, 2024
Subject to Periodic Change / Updating

- [How to Start Regulating the Crypto Markets—Immediately - WSJ;](#)
- [A Path Forward for Regulating Crypto Markets - WSJ;](#)
- [Crypto Needs Regulation, but It Doesn't Need New Rules - WSJ;](#)
- [America's Future Depends on the Blockchain - WSJ](#)
- *Executive Order – 2022 [Executive Order on Ensuring Responsible Development of Digital Assets | The White House](#)*

- March 17: Pursuing an IPO of a Non-US Company in the U.S. – Why and How?
Regulation of “Private Equity” and “Private Credit”
- March 24: Role of Administrative Agencies; Enforcement
Guest Lecturers: Jeff Wall; Steve Peikin; Elad Roisman
- March 31: International Regulatory Cooperation and Competition
Guest Lecturer: Raquel Fox (SEC Head of International, Skadden Partner)
- April 2: Class presentations (90 min); current events; guest?
- April 9: Class presentations (90 min); current events; guest?
- April 16: Class presentations (90 min); current events; guest?