



LGST 2430
Other People's Money:
The Regulation of Financial Institutions and Markets

Fall 2024
Tuesday / Thursday: 8:30-9:45am
Room: JMHH F50

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Office Hours: by appointment

Course Description:

The global financial system is comprised of myriad financial institutions, markets, and regulatory authorities. Banks and capital markets are the bedrock of financial capitalism in the U.S. (and in many places abroad). Although these institutions undergird free-markets, they are also the subject of complex regulatory frameworks and the supervisory oversight of various administrative agencies.

The financial system is also intensely innovative and often reacts to new regulation and the incentives it creates. Consider, for example, that banks used to be the main source of credit in the economy; today, other 'nonbank' financial institutions occupy the lending space. Similarly, banks used to have a monopoly on the payments system; today, the number of fintech or nonbank payments providers continues to grow.

This course will equip you with the basic knowledge and vocabulary that you will need to navigate this labyrinth of institutions, markets, laws, and regulation. You will finish the course with a solid understanding of the main 'players' in the financial system (how they are connected, and how they interact), the context behind its current structure, and the opportunities and challenges of its future.

Note: There will be a special event on 'financial policy in the next administration' held on **October 23rd from 5:15pm to 6:30pm**, which will count as one of our class sessions. If you cannot attend this session, please let me know asap.

Grading:

Your grade is divided into **four** parts: 20% class participation, 20% debate/case study preparation and delivery, 30% midterm, 30% final exam.

Class participation. Your class participation grade will primarily be determined by the quality of your comments in class (meaning, how engaged with the reading, how responsive to other students, and how focused on the “discussion questions” which appear on the syllabus), your attendance, and your punctuality. I will take attendance and make a note of any latecomers or missing students each session for grading purposes. **Please use the QR code projected in class to check in via Canvas within ten minutes of the start of class.**

Debates and Case Studies. In addition to giving you a foundational knowledge of the financial system, this course will push you to engage in high-level conversation about contentious issues. We will be engaging with matters that are neither clearly settled nor obvious. You will need to understand the underlying matters and be aware of, and able to engage critically with, the arguments for and against particular positions. The best way to engage critically with the issues is to debate them with others coming from a different perspective.

At the beginning of the term, you will randomly be assigned a debate group with several of your colleagues. For each debate, your group will be assigned a position either “for” or “against” the proposition to be debated. In class, one of the “for” teams will be assigned to present its arguments for 5-7 minutes. One of the “against” teams will be assigned to present a five-minute rebuttal. Each side may then have a 1–2-minute rebuttal. The rest of the class will then be given the opportunity to ask questions of the presenters, to add any points that were not made, and to discuss the related case study questions.

My expectation is that you will read the case and prepare the associated questions for in-class discussion. I may “cold call” to assess preparation.

Final Exam. A final exam will be given on December 16. It will be a two-hour, take-home exam, which must be taken between 9am and 9pm. It will be a combination of multiple choice and short-answers.

Chat GPT and Generative AI:

You may use ChatGPT or other generative AI for the purpose of generating ideas and brainstorming for your debates and case studies but only to supplement your reading of primary and secondary sources. But you should be aware that these resources are rudimentary and their accuracy is not always reliable. If you draw on material generated by an AI program, you should fact-check it through primary and secondary sources.

You may not use any work generated by AI as your own. Therefore, ChatGPT or other generative AI may not be used to create answers on the midterm or final exam. Nor may it be used as the textual basis of your debate presentations. Doing so will be considered a violation of the University policies on Academic Integrity.

Required Text and Readings:

Almost all required texts (as listed by lecture below) will be available through Canvas. The exception is the following book:

- John Armour et al., *Principles of Financial Regulation* (Oxford University Press, 2016) [abbreviated to “PFR” in the assigned readings].

The book provides an excellent, accessible guide through the financial system and we will use this book as our ‘home base.’ The book is available [electronically](#) for free, you can also buy a hard copy on Amazon.

Optional Preparatory Material:

The Financial Crisis of 2008 motivated a great deal of the regulation that we will study. As such, it is a kind of ‘super case study’ that gives context to much of what we will cover in the course. It will be invaluable for you to have some insight into what went wrong. These two texts will give you a solid sense.

- Gary Gorton, ‘[Questions and Answers about the Financial Crisis](#)’, testimony prepared for the US Financial Crisis Inquiry Commission (2010) (A summary of the views of the economist who has arguably done most to explain the key mechanisms that propagated instability).
- Tim Geithner, *Stress Test* (Crown Publishers, 2014) (again, this is optional, and will not be on the exam; but it is a very readable eyewitness account from one of the most crucial players for those interested in knowing more).

We will also read a few Supreme Court cases later in the semester. The Supreme Court writes in a very accessible way, but if you’d like to be better prepared, this is a handy reference document. It’s meant for law students, but if you think you might be interested in law, this reading may also help you gauge that.

- Orin Kerr, ‘[How to Read a Legal Opinion](#),’ 11 Green Bag 2D 51 (2007)

Lectures and Assigned Readings:

Topic 1: Introduction to The Financial System

To kick off the course, we’ll start by discussing the main components and structure of the financial system. In the first class, we’ll gain an understanding of the main mechanisms by which savings are channelled into investment: via financial markets and financial institutions (or intermediaries). We will also preview the two financial crises that have beset our economy in the past decade: the 2008 global financial crisis and the 2020 coronavirus crisis. Our first goal in these sessions is descriptive: to understand the terrain of the landscape. Our second, and more

important goal, is analytic: to be aware of the limitations in the functioning of each mechanism. This analytic discussion will help us to understand the rationale(s) for regulatory intervention in financial institutions and markets.

Session 1: The Purpose of the Financial System [8/27]

Readings:

- a. *PFR*, chapter 2
- b. ROBERT SHILLER, *FINANCE AND THE GOOD SOCIETY* (2012) (prologue & introduction).
- c. RAGHURAM G. RAJAN & LUIGI ZINGALES, *SAVING CAPITALISM FROM THE CAPITALISTS* (2004) (chapter 2) (optional)

Discussion Questions:

- a. What is the primary purpose of the financial system?
- b. What is the relationship between capitalism and human flourishing? What should the government do when capitalism also produces problems?

Session 2: Regulatory Architecture and Institutional Design [8/29]

Readings:

- a. *PFR*, chapters 24, 25, 27

Discussion Questions:

- a. What are the benefits and drawbacks of a sector-based system of financial regulation?
- b. What incentives do regulators have to regulate or abstain from regulation?

Session 3: Goals and Challenges of Financial Regulation [9/3]

Readings:

- a. *PFR*, CHAPTERS 3, 4
- b. ANTHONY OGUS, *REGULATION: LEGAL FORM AND ECONOMIC THEORY* (1994, reissued without revisions in 2004) (chapters 2-4)

Discussion Questions:

- a. How do regulators decide which institutions, risks, activities to regulate?
- b. What factors should regulators consider when they are designing regulation?

Session 4: Cost-Benefit Analysis [9/5]

Debate: “Financial regulation should be subject to cost-benefit analysis.”

Topic 2: Insured Depository Institutions (Banks)

In these sessions, we examine the core economic functions of banks, along with the risks stemming from the credit, liquidity, and maturity transformation which they perform. We will also discuss the basic regulatory strategies which have been developed to address these risks: emergency liquidity assistance (or ‘lender of last resort’) regimes, deposit guarantee schemes, and risk-based capital requirements. In this topic, we will also explore the internal mechanisms of bank “regulation,” that is, the governance of a bank and its compliance function.

Session 5: Economic Function of Banks [9/10]

Readings:

- a. *PFR*, chapter 13
- b. Dan Awrey, ‘Unbundling Banking, Money, and Payments,’ 110 [Geo. L.J.](#) 715 (2022) (stop at top of p.770)

Discussion Questions:

- a. Why are banks “special” and what about their specialness warrants regulation?
- b. Should all banks be regulated similarly, or should regulators try to “tier” their regulation according to size, geographic footprint, and mix of activities?

Session 6: Bank Regulation [9/12]

Readings:

- a. *PFR*, chapters 14, 15

Discussion Questions:

- a. Why does a bank’s capital structure matter for financial stability?
- b. How do capital and liquidity requirements affect banks’ ability and incentive to engage in credit intermediation?

Session 7: Bank Governance and Risk Management [9/17]

Readings:

- a. Prepare Case Study #1: Harvard Law School, Case Study, [Wells Fargo Corporate Governance](#) (attachments optional)
- b. *PFR*, chapter 17 (optional)

Session 8: Capital Requirements Deep Dive [9/19]

- a. Debate: “Banks should be required to hold more equity capital.”

- b. Prepare Case Study #2: HLS Case Study on Bank Capital, October 2017

Session 9: Deposit Insurance [9/24]

Readings:

- a. Prepare Case Study #3: Carolyn Wilkins, [The Rise and Fall of Silicon Valley Bank](#), Feb. 2024
- b. Senate Hearing on “Perspectives on Deposit Insurance Reform after Recent Bank Failures,” [Written Testimony of Andrew Olmem](#) (July 20, 2023) (optional)

Topic 3: Non-Bank Financial Intermediation

After the 2008 financial crisis, the term “shadow banking” came to be used to refer to a broad range of financial institutions that perform liquidity and maturity transformation outside of the banking sector. But the term, and its negative connotations, has come under scrutiny in the past few years. In this topic, we’ll study some of the major players in what is now, more accurately, referred to as nonbank credit intermediation. We’ll ask whether these institutions and activities pose economically similar risks to those generated within the conventional banking system, and whether the regulatory strategies applied to banks should be extended to NBFI.

Session 10: Retail Funds and Public Debt [9/26]

Readings:

- a. *PFR*, chapter 20, 22
- b. IMF, [What is Sovereign Debt](#), Dec. 2022
- c. Jordan Barone et al., ‘The Global Dash for Cash: Why Sovereign Bond Market Functioning Varied Across Jurisdictions in March 2020,’ [Federal Reserve Bank of New York](#), No. 1010, March 2022
- d. Paul G. Mahoney & Julia D. Mahoney, ‘The New Separation of Ownership and Control,’ 2021 [Colum. Bus. L. Rev.](#) 840 (2021) (optional)

Discussion Questions:

- a. What strategy is used to regulate mutual funds?
- b. What is going awry in sovereign debt markets and why does it matter?

Session 11: Private Funds [10/1]

Readings:

- a. Christina Parajon Skinner, [Nonbank Credit](#), Harvard Business Law Review (2019)

Session 12: Retail Investors and Private Funds [10/8]

- a. Debate: “Retail investors should have access to private fund investment.”
- b. Prepare: Case Study #4, HLS Private Equity Case Study on Retail Access

Session 13: Market and Conduct Supervisors [10/10]

Readings:

- a. *PFR*, chapters 5, 8

Discussion Questions:

- a. What are the “mandates” of market supervisors, and how do they differ from those of bank regulators?
- b. Should regulators attempt to regulate for a financial firm’s culture?

Session 14: In class midterm [10/15]

Topic 5: Central Banks

Central banks are most commonly thought of in their monetary policy setting capacity. But central banks today play many roles and, increasingly, are responsible for macro financial stability. We will study some of central banks’ key roles: monetary policy, bank supervisor, crisis manager, and manager of payments systems. We will also consider the work of international networking bodies of national central banking authorities.

Session 15: An Overview of Central Banks [10/17]

Readings:

- a. Jesus Fernandez-Villaverde & Christina Parajon Skinner, Central Banks in Constitutional Democracy (manuscript) (2024) (preface, introduction) (PDF posted to Canvas)
- b. Paul Wachtel & Mario I. Blejer, ‘[A Fresh Look at Central Bank Independence.](#)’ *Cato Journal*, Winter 2020.
- c. Kyle Campbell, ‘Vance Doubles Down on Trump Call for Bigger Role in Interest Rates,’ *American Banker*, August 13, 2024

Discussion Questions:

- a. What makes a central bank independent?
- b. Do we always want a central bank that is independent (entirely) from the executive branch’s influence?

- c. How can or should central bank responsibilities evolve?

Session 16: Crisis Fighting Tools [10/22]

Readings:

- a. Thomas M. Humphrey, '[Lender of Last Resort: The Concept in History, Economic Review](#),' March/April 1989
- b. Speech, Vice Chairman Stanley Fischer, '[The Lender of Last Resort Function in the United States](#)' (Feb. 10, 2016)
- c. [The Fed Goes to War](#): Part I, Money and Banking, March 23, 2020

Discussion Questions:

- a. What tools do central banks have to address financial crisis; are their down sides to their use?
- b. How are central banks held accountable for their crisis-management decisions?

Session 17: Bank Supervision [10/24]

Readings:

- a. Jesus Fernandez-Villaverde & Christina Parajon Skinner, Central Banks in Constitutional Democracy (manuscript) (2024) (chapter 7) (PDF posted to Canvas)
- b. Speech, Randal K. Quarles, Vice Chair for Supervision, Bd. of Governors of the Federal Reserve System (Jan. 17, 2020) (optional)

Discussion Questions:

- a. Why are central banks also bank supervisors?
- b. What are the trade-offs between using informal versus formal supervisory action?
- c. Should central bankers have more concrete supervisory mandates?

Session 18: Financial Stability and Macroprudential Regulation [10/29]

Readings:

- a. *PFR*, ch. 19
- b. *MetLife, Inc. v. Financial Stability Oversight Council*, No. 16-5188 (D.C. Cir. 2017)
- c. Christina Parajon Skinner, 'Regulating Nonbanks,' 106 *Georgetown Law Journal* 1379 (2018) (optional)
- d. Jeremy Kress & Jeffrey Y. Zhang, '[The Macroprudential Myth](#),' 112 *Georgetown Law Journal* 569 (2024) (Introduction, Part I, Part II only) (optional)

Discussion Questions:

- a. Should the FSOC continue to use its designation power?
- b. Is the prophylactic approach of macroprudential regulation justifiable?

Session 19: The Legitimacy and Independence of Central Banks [10/31]

Debate: “Central Bank’s today perform too many roles.”

Topic 4: Global Issues in Financial Regulation

Today, much of the regulation and supervisory strategies that are imposed on large, internationally active banks emanates from a variety of international financial regulators. These bodies are effective at coordinating standards across borders but they are not treaty-based institutions and have no formal standing in the law. As such, they present an interesting and important set of legal, policy, and economic questions. In this topic, we’ll study these institutions alongside number of cross-border regulatory issues (some of which do have a domestic law corollary).

Session 20: International Financial Regulation [11/5]

Readings:

- a. *PFR*, chapter 28
- b. David Zaring, *The Globalized Governance of Finance* (Cambridge Univ. Press 2020) (chapters 1 and 2)

Discussion Questions:

- a. What are the benefits of international financial regulation?
- b. Can you think of any rule-of-law related problems with these institutional arrangements?

Session 21: Anti-Money Laundering and Sanctions [11/7]

Readings:

- a. Prepare Case Study #5: Harvard Law School [Case](#), Anti-Money Laundering and Blockchain Technology, May 2020
- b. Juan C. Zarate, *Treasury’s War: The Unleashing of a New Era of Financial Warfare* (2013) (introduction & chapter 1) (optional)
- c. Kathryn Judge & Anil K Kashyap: *Anti-Money Laundering: Opportunities for Improvement*, Wharton Initiative on Financial Policy and Regulation, [working paper](#) (optional)

Session 22: Sustainability and Climate Change [11/12]

Readings:

- a. Christina Parajon Skinner, *Central Banks and Climate Change*, 74 [Vand. L. Rev.](#) 1301 (2021)
- b. Sarah Light & Christina Skinner, *Banks and Climate Governance*, 121 [Colum. L. Rev.](#) 1895 (2021)
- c. Rosa Lastra & Christina Skinner, *Sustainable Central Banking* (forthcoming 2022)

Discussion Question:

- a. Why are central banks being asked to intervene in climate change issues? Are their policy tools fit for purpose?
- b. Which institution has a comparative advantage in addressing climate change—markets or the state?
- c. Can you think of some challenges or downsides to banks' private climate governance?

Topic 6: The Future of the Financial System

In our remaining classes, we'll discuss what's coming next for the financial system and financial regulation.

Session 23: Bank Lending and AI [11/14]

Readings:

- a. Debate: "Banks' use of AI should be subject to regulation and supervision."
- b. Prepare Case Study #6: Harvard Law School Case Study, [Machine Learning in the Underwriting of Consumer Loans](#)

Session 24: Stablecoins [11/19]

Readings:

- a. Coinbase, [Stablecoins](#), July 2022
- b. [Lael Brainard](#), Speech, Crypto-Assets and Decentralized Finance through a Financial Stability Lens, July 2022

Discussion Questions:

- a. What are the economic benefits of stablecoin; what are the risks?
- b. Why might Congress have a difficult time passing stablecoin legislation?
- c. Are stablecoins a new form of money or a new form of payment?

Session 25: The Future of Money and CBDC [11/21] [VIA ZOOM]

Readings:

- a. Felix Martin, *Money* (2013) (chapters 1 and 9)
- b. Christina Parajon Skinner, '[Central Bank Digital Currency as New Public Money](#)', 172 *University of Pennsylvania Law Review* 151 (2023)

Discussion Questions:

- a. Why would a government want a CBDC?
- b. What advantages would CBDC offer over bank-created money or stablecoins?
- c. What will happen if some countries adopt a CBDC but the U.S. does not?

Session 26: The Supreme Court and Financial Regulation [11/26] [ZOOM]

Readings:

- a. [Seila Law v. CFPB](#), 140 S. Ct. 2183 (2020)
- b. [West Virginia v. EPA](#), 142 S. Ct. 2587 (2022) (excerpts)
- c. [Loper Bright v. Raimondo](#), Sup. Ct., No. 22-451 (decided June 28, 2024)

Discussion Questions:

- a. What does the Constitution's separation-of-powers suggest about the financial regulatory agencies?
- b. Should Congress draft laws broadly, and give agencies a lot of discretion to address financial risks, or narrowly, and give agencies specific instructions about what they should do?

Session 27: Guest speaker [12/5]

Readings:

- a. TBD