UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

# SYLLABUS DEL CORSO

## Comparative Company Law

**2122-2-F7701M126**

### Learning objectives

**LEARNING OUTCOMES:**

The course aims at providing the students with fundamentals on company law, in the EU context and with reference to certain domestic company law. The course will address company law topics (namely, forms of organizations, limited liability, formation of the company and company's share capital, corporate governance, members, fundamental changes and market for corporate control), instructing the students to analyze EU rules where applicable and to compare domestic rules on the topics of interest.

**KNOWLEDGE AND UNDERSTANDING:**

Knowledge and understanding of the EU legal framework and certain domestic company law with special reference to corporations and private companies

**APPLYING KNOWLEDGE AND UNDERSTANDING:**

Search for, understand, construe the EU sources of law on, and the domestic regulation of, companies

**MAKING JUDGEMENTS:**

Identify and assess the interests protected and enforced by certain domestic company law in the EU framework with reference to stockholders and stakeholders

**COMMUNICATION SKILLS:**

Build up a legal vocabulary and illustrate a discussion of legal provisions with reference to EU and certain domestic company law

**LEARNING SKILLS:**

Assess, describe and debate legal issues with reference to asset separation in companies and to corporate governance, corporate finance, shareholders rights, mergers and acquisition, investors' protection and take over.

## Contents

The course aims at:

- introducing students to the various legal forms of the business organizations and their main features;
- studying the main issues of the corporate form in a European Union regulatory perspective and taking into account some of the European jurisdictions with reference to selected issues.

For each area the students shall focus on the interests and the legal issues involved, in order to compare solutions developed by the European Union and the national regulators, with special regard to Italy and with references to UK and Germany.

## Detailed program

The Course will roughly follow this table of contents:

1. **Is there a "European Corporate Law"?** ["ECL"]

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|---|---|
| Introduction. Company/corporate law and the EU Framework | Kraakman, Chapter 1 *What is Corporate Law?* + Chapter 2 *Agency Problems and Legal Strategies* Cahn, Chapters, 1 (pp. 2-24), 2 (pp. 25-45), 3 (94-101) |

2. **Forms of business organizations** ["BO"]

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|---|---|
| Partnerships vs. companies. | Cahn, Chapter 4 (pp. 103-123) |

3. **Forming and Financing the company** ["FIN"]

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|---|---|
| Formation of Private and Public companies. | Cahn, Chapter 5 (pp. 150-166) |
| Share capital and equity securities | Cahn, Chapter 6 (pp. 188-204) |
| Increase and reduction of capital; Acquisition and redemption of shares. Financial assistance | Cahn, Chapters 7 (pp. 219-238), 8 (pp. 254-267), 9 (pp. 286-296) |
| Shares issuance and other fundamental changes | Cahn, Chapter 10 (pp. 306-321)<br>Kraakman, Chapter 7 *Fundamental Changes* |

4. **Corporate governance** ["CG"]

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|---|---|
| Models of management and control | Kraakman, Chapter 3 *The Basic Governance Structure: The Interests of Shareholders as a Class*<br><br>Cahn, Chapter 11 (pp. 349-364) |
| Managerial power and corporate board appointment | Cahn, Chapters 12 (pp. 365-377), 15 (pp. 501-511 and 516-525) |
| Directors' duties and liabilities | Cahn, Chapter 13 (pp. 393-412), 14 (pp. 444-450), 16 (pp. 533-555) |

5. **Shareholders' rights and the other stakeholders** ["SHA"]

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| The shareholders | Kraakman: Chapter 4 *The Basic Governance Structure: Minority Shareholder and Non-Shareholders Constituencies*<br><br>Cahn, Chapter 18 (pp. 585-591 and 593-601), 19 (pp. 640-652 and 655-662), 20 (pp. 680-704), 21 (pp. 680-704), 22 (pp. 743-753) |
| Creditors and other stakeholders' constituencies | Kraakman: Chapter 5 *Transaction with Creditors* |

6. **The market for corporate control** ["MCC"]

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|---|---|
| Take over | Kraakman: Chapter 8<br><br>Cahn, Chapters 26 (pp. 885-901), 27 (pp. 927-935) |

## Prerequisites

Good knowledge of the English Language. Having passed Commercial Law exam.

## Teaching methods

The course will be taught mostly through lectures and partly in an interactive manner. Students will be encouraged to participate in the class discussions based on cases similar to those which will be part of the exam

## Assessment methods

**For students who will attend live lectures:**

- one third of the final grade will be awarded on the basis of the results of the written tests (multiple choice) that will be given during the course;

- one third of the final grade will be awarded on the basis of the results of a composition to be written at home;

- one third of the final grade will be awarded on the basis of the final oral exam.

**For students who will NOT attend live lectures:**

- oral exam.

## Textbooks and Reading Materials

**- Reinier Kraakman, John Armour, Paul Davies, Luca Enriques, Henry Hansmann, Gerard Hertig, Klaus Hopt, Hideki Kanda, Mariana Pargendler, Wolf-Georg Ringe, and Edward Rock**, The Anatomy Of Corporate Law: A Comparative And Functional Approach**, Oxford University Press, 2016 (2017)**, **3rd Edition**, ISBN 9780198724315, with reference to the chapters above listed,

**and**

**- Andreas Cahn, David C. Donald,** Comparative Company Law, Text and Cases on the Laws Governing Corporations in Germany, the UK and the USA, **Cambridge University Press**, **2018**, **2nd Edition**, ISBN

9781316637159, with reference to the chapters above listed.

Additional studying materials to be uploaded on the website.

Please note that slides (where provided) are only an additional tool and in no way a substitute for books, legal text or other reading materials.

## Semester

Second

## Teaching language

English