UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

SYLLABUS DEL CORSO

Diritto Bancario

2627-2-FSG02A014

Learning objectives

At the end of the course, the student will have acquired:

• Knowledge and understanding of the essential dynamics of banking law, with particular regard to the regulation of banks
• The ability to apply the acquired knowledge to the analysis of concrete cases and to the resolution of legal issues related to banking law
• Independent judgment in interpreting regulations and identifying the most appropriate legal solutions
• Communication skills in presenting and discussing legal topics, both in written and oral form
• The ability to learn independently through the analysis of legal sources, academic literature, and case law

Contents

The first part of the course will discuss the functions of the banking system, focusing – within a Law & Economics perspective – on the main obstacles to the circulation of money, as well as on the characteristics and functions of law within the banking system. The second part of the course will address the main issues related to the banking activity, along with the solutions offered by the legal system. The third part of the course will be dedicated to examining the general principles governing contractual relationships between intermediaries and clients, with particular attention to the special regulations applicable to certain banking contracts. In this context, the analysis of the most recent case law and supervisory authority guidelines represents an essential component of the course.

Detailed program

First part – Capital market and banking intermediation

• Obstacles to the circulation of money and the role of banking intermediation
• The notion of banking activity
• Justifications for legal intervention: the financial and asset instability of banks and the perverse incentives of shareholders
• Legal sources within the banking regulatory framework

Second part – The regulation of banks

• Authorization process
• Prudential regulation. Own funds requirements, pillar III disclosure, and governance
• Deposit guarantee schemes and liquidity requirements
• Banking resolution and recovery

Third part – The contractual relationship between bank and client

• Banking contracts
• Transparency and fairness in banking activity

Prerequisites

Private law, business law and European Union law.

Teaching methods

Classes will be held in person with interactive discussions on practical cases. In special cases and upon notification to students, classes will be held remotely for up to a maximum of six hours.

Assessment methods

Oral exam on the topics discussed in class and on the textbooks and the reading materials.
The exam (6 credits) must be taken in its entirety starting from the exam sessions following the end of the lessons (May exam session).

During the oral examination, the following will be assessed:

(a) knowledge and understanding of banking law institutions;
(b) the ability to present the relevant legal institutions with appropriate mastery of legal terminology;
(c) the ability to apply the knowledge acquired to the resolution of legal cases proposed by the instructor;
(d) the ability to argue solutions through critical reasoning and to situate the legal institutions within the broader systemic context.

Textbooks and Reading Materials

For the first and the second part
C. Brescia Morra, Il diritto delle banche. Le regole dell’attività, Il Mulino, latest edition available
Materials available on the e-learning page of the course

For the third part
AA.VV, Diritto commerciale, vol. IV, a cura di M. Cian, Giappichelli, latest edition available, pp. 157 - 186 e 214-245
Materials available on the e-learning page of the course

Sustainable Development Goals

INDUSTRY, INNOVATION AND INFRASTRUCTURE