
COURSE: LAWS 3206 A – Banking Law

TERM: Fall 2021

PREREQUISITES: LAWS 2202 or BUSI 2601 and 0.5 credit in LAWS at the 2000 level

CLASS: Day & Mondays excluding Thanksgiving and Fall Break, with a make-up class on Friday (December 10, 2021)
Time: 6:05 PM – 8:55 pm
Room: Please check Carleton Central

COVID 19: Please see this link.

<https://carleton.ca/covid19/safe-return-to-campus/>

INSTRUCTOR: Sam Schwisberg

CONTACT: Office Hrs: As mutually agreed on an individual basis.
Telephone: 613-262-2951 (cell)
Email: sam@tslegaloffice.com

CALENDAR COURSE DESCRIPTION

The law relating to banks and banking; the nature of the legal relationship created; legal rights and duties of the parties involved. Consumer and corporate aspects of banking (including computerization and electronic funds transfers); regulation of banking.

COURSE DESCRIPTION

Banking has evolved rapidly over the last several years as customers rely less and less on cheques and the use of paper money and gravitate to a digital economy. The Fall 2021 section of the course updates the course content by reducing readings related to paper transactions such as chequing and the significance of branches, to leave time to deal with issues such as mobile banking, “open banking”, the impact of fintech, and on-line banking.

LEARNING OBJECTIVES

1. Understand the legal definition of banking
2. Learn the international and domestic regulatory framework for banking
3. Understand the importance of banks to the economy

4. Learn the legal principles that govern banks and their relationships with customers
5. Understand how technology is impacting all of the above

REQUIRED TEXTS

M.H Ogilvie, Bank and Customer Law in Canada, 2nd edition (Toronto, Irwin Law Inc., 2013) (“Ogilvie”)

Patricia Meredith and James L. Darroch, Stumbling Giants: Transforming Canada's Banks for the Information Age, (Toronto, Buffalo, London, University of Toronto Press, 2017) (“Meredith”)

Both may be purchased through the Carleton University Bookstore website:

<https://www.bkstr.com/carletonstore/home>)

EVALUATION

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

Assignment 1 (see below)	25%
Assignment 2 (see below)	25%
Final Examination (take home)	50%

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

The granting of extensions is determined by the instructor who will confirm whether an extension is granted and the length of the extension. For requests for extensions lasting less than 7 days, please complete the form at the following link and submit it to the instructor prior to the assignment due date: <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>.

Extensions for longer than 7 days will normally not be granted. In those extraordinary cases where extensions lasting longer than 7 days are granted, the student will be required to provide additional information to justify the longer extension (up to a maximum of 14 days).

SCHEDULE

September 13, 2021, 6:05 PM INTRODUCTION TO KEY LEGAL CONCEPTS

Before this lecture, you should have read the following material either posted on Brightspace and/or in one of the two course textbooks:

Readings: Slides and Notes posted on Brightspace under Lecture 1

September 20, 2021 6:05 PM CONSTITUTIONAL AND INTERNATIONAL FRAMEWORK

Before this lecture, you should have completed the following material either posted on Brightspace or in one of the two course textbooks:

Readings: Slides and Notes posted on Brightspace under Lecture 2
 Ogilvie, chapters 1, sections A, B and D, chapter 2 and 2 pages in chapter 5, pages 179-180 (dealing in insurance) and chapter 6, section J (pages 235-236)
 Canadian Western Bank v. Alberta, 2007 SCC 22 (CanLII), [2007] 2 SCR 3

September 27, 2021, 6:05 PM THE REGULATION OF BANKS IN CANADA

Before this optional lecture, you should have completed the following material either posted on Brightspace or in one of the two course textbooks:

Readings: Slides and Notes posted on Brightspace
 Ogilvie, Chapter 3 excluding section I (pages 82-84)

MODULE 1 ASSIGNMENT COVERING LECTURES 1,2 and 3

Date Assigned: On or before September 28, 2021

Due: On Monday October 11 at 10 AM

Mark Allocation: 25% of Final Grade

Length: 1500 – 2000 words as a guide but key for success is identifying and elaborating on key legal issue and not the length.

Topic: TBA

October 4, 2021 6:05 PM BANKS AND THE 2008 FINANCIAL CRISIS

Before this optional lecture, you should have completed the following material posted on Brightspace

Readings: Slides, articles and Notes posted on Brightspace under Lecture 4

October 11, 2021 THANKSGIVING NO CLASS

NOTE: THIS LECTURE IS REPLACED BY A SESSION ON FRIDAY DECEMBER 10, 2021.

October 18, 2021, 6:05 PM INNOVATION IN THE MORTGAGE MARKET

Before this lecture you should have completed the following reading material:

Readings: Slides and Notes posted on Brightspace and Meredith, chapter 3

October 25, 2021, FALL BREAK NO CLASS

November 1, 2021, 6:05 PM HAVE CANADIAN BANKS LOST THEIR WAY

Before this lecture, you should have completed the following material:

Readings: Slides and Notes posted on Brightspace and Meredith, chapter 1

MODULE 2 ASSIGNMENT COVERING LECTURES 4,5 and 6

Date Assigned: On or before November 2, 2021

Due: 10:AM on Monday, November 15, 2021

Mark Allocation: 25% of Final Grade

Length: 1500 – 2000 words. This will be more of a “traditional essay”.

Topic: TBA

November 8, 2021, 6:05 PM FROM BRANCHES TO SMARTPHONES

Before this lecture you should have completed the following material:

Readings: Slides and Notes posted on Brightspace, Ogilvie, chapter 5, sections A and B-1 to B-5 inclusive and Meredith, chapter 2

November 15, 2021, 6:05 PM PRIVACY AND ANTI-MONEY LAUNDERING

Before this lecture, you should have completed the following material:

Readings: Slides and Notes posted on Brightspace, Ogilvie, chapter 3, section I (pages 82-84) and chapter 8, section F (pages 324-337)

November 22, 2021, 6:05 PM OPEN BANKING – DOES CANADA TRAIL THE THIRD WORLD?

Before this lecture, optional Zoom enabled group session, you should have completed the following material:

Readings: Slides and Notes posted on Brightspace, Meredith, chapter 6.

November 29, 2021, 6:05 PM OPERATION OF BANK ACCOUNTS

Before this lecture you should have completed the following material:

Readings: Slides and Notes posted on Brightspace, Ogilvie, chapter 7, sections A,B,C and M (pages 238-244) and chapter 8, sections A,B, C, D and E (pages 267-323).

December 6, 2021, 6:05 PM ELECTRONIC FUNDS TRANSFER SYSTEMS

Before this lecture you should have completed the following material:

Readings: Slides and Notes posted on Brightspace, Ogilvie, chapter 9

December 10, 2021, 6:05 PM MORTGAGES

Before this lecture you should have completed the following material:

Readings: Slides and Notes posted on Brightspace

TAKE HOME EXAM - COVERING LECTURES 7 to 12

Date to be Assigned: :Last day of classes

Due: 11:59 PM on last say of examination period

Mark Allocation: 50% of Final Grade

Length: Up to 2000 words

Topic: TBA

ACADEMIC ACCOMMODATIONS

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows: <https://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf>

Pregnancy obligation: write to me with any requests for academic accommodation during the

first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For accommodation regarding a formally-scheduled final exam, you must complete the [Pregnancy Accommodation Form](#).

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details [click here](#).

Academic Accommodations for Students with Disabilities

If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (PMC) at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me as soon as possible to ensure accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable) <https://carleton.ca/pmc>

Plagiarism

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence. More information on the University's Academic Integrity Policy can be found at: <https://carleton.ca/registrar/academic-integrity/>

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/studentssupport/svpolicy/>

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

For more information on academic accommodation, please contact the departmental administrator or visit: <https://students.carleton.ca/services/accommodation/>

Department Policy

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations: <https://carleton.ca/law/current-students/>