



SCHOOL OF ACCOUNTING & COMMERCIAL LAW

Telephone 463 5383, Facsimile 495 5076. E-mail: sacl@vuw.ac.nz

COML 309: BANKING LAW & REGULATION IN NZ

Trimester One 2008

COURSE OUTLINE

Contact Details

Lecturers:

Mr Palitha De Silva - Academic Co-ordinator
Senior Lecturer in Commercial Law
Room 611 Rutherford House
Phone: (04) 463 6960
Email: palitha.desilva@vuw.ac.nz
Office hours: Monday and Tuesday, 10.30am-12noon

By arrangement with the class, practicing lawyers, specialist academics and bankers will be invited to give guest lectures on selected topics. These lectures will be part of or in addition to the lectures given below in the Course Program.

Administration Co-ordinator

Ms Marina Dobrovolskaya
Room 708 Rutherford House
Phone: (04) 463 5775
Email: marina.dobrovolskaya@vuw.ac.nz
Office hours: Monday- Friday, 8.30am-5pm

Please see Ms Marina Dobrovolskaya for all general administrative inquiries.

Class Times and Room

Monday 08.30-10.20 RH LT 3

Tuesday 08.30-10.20 in GB LT 3

Lectures

Lectures are structured assuming that students have done preparatory reading of reference materials indicated in handouts by the lecturer.

Refer to lecture guides provided by lecturers for details of readings, cases, etc for each of the lecture topics given in the Course Program.

Tutorials

Because it is a small class COML 309 will not have separate tutorial classes. Students are encouraged to bring any questions they may have on material already covered to discuss during class times.

Course Content

This course aims to provide an understanding of the laws and regulations governing the relationship between a bank and its customers. The role of the Reserve Bank in the registration and supervision of banks in New Zealand, some legal incidents of the bank customer relationship, various domestic and international transactions facilitated by banks and anti-money laundering legislation are some of the topics covered in the course. (See below Course Program).

Course Objectives

Students passing this course should be able to:

1. Explain the nature of the banking environment in New Zealand, any statutory/governmental regulation of banking business and the role of the Reserve Bank in relation to the conduct of banking.
2. Describe and explain the historical development of the legal relationship between a bank and its customers and the implied common law terms that apply to the contract between these two parties.
3. Complete an essay analysing an issue within the field of banking law.
4. Demonstrate competence in understanding the legal rules that apply to domestic and international banking transactions.

Readings

There is no required text for COML 309. Students need to access the books given under "Reference Text Books" for further clarification of any issues covered in lectures.

There will be two books of case/other material covering the main cases and legal articles discussed in the sessions. These books can be purchased from the Student Notes Shop. The first book covers topics listed in Part 1 and the second is for the topics in Part 2 (see Course Program). Students are strongly advised to purchase these two books.

Reference Text Books:

Alan L. Tyree, *Tyree's Banking Law in New Zealand*, 2nd Ed., LexisNexis, 2003 ("Tyree") - Call Number KUQ885 T992 T (Commerce Library); KUQ885 T992 T 2003 (Law Library)

Mark Hapgood (Ed.), *Paget's Law of Banking*, 13th Ed., Sweet & Maxwell, 2006 ("Paget") - Call Number (has been ordered by Law Library)

E.P. Ellinger, Eva Lomnicka & Richard Hooley, *Ellinger's Modern Banking Law*, 4th Ed., Oxford University Press, 2006 ("Ellinger") - Call Number KD1715 E46 E 2006 (Law Library)

G. A. Weaver et al, *The Law Relating to Banker and Customer in Australia* (four volumes), 3rd Ed., Law Book Co, 2003 ("Weaver") - Call Number KU885 W363 L 2003 (Law Library)

W. S. Weerasooriya, *Banking Law and the Financial System in Australia*, 5th Ed., Butterworths, 2000 ("Weerasooriya") – Call Number KU885 W398 2000 (Law Library)

M. H. Ogilvie, *Bank and Customer Law in Canada*, Irwin Law, 2007 ("Ogilvie") – Call Number KE999 O348 B 2007 (Law Library)

Assessment

Assessment for the course will consist of the following:

Assessment 1: A 2000-word **Essay** (the question for the essay will be given by the lecturer) - 20%

Assessment 2: A **Class Test** (open book) - 20%

Assessment 3: A Three-hour **Final Examination** (open book) - 60%

In order to secure a pass in COML 309 students will be required to obtain a mark of 40% or better in the Final Examination and an overall mark of at least 50%.

Grades are awarded as follows:

| | | |
|----------|---------------|------|
| A+ | 85% and over | |
| A | 80-84% | |
| A- | 75-79% | |
| B+ | 70-74% | |
| B | 65-69% | |
| B- | 60-64% | |
| C+ | 55-59% | |
| <u>C</u> | <u>50-54%</u> | |
| D | 40-49% | Fail |
| E | Below 40% | “ |

To obtain a grade in the “A” or higher “B” range a student will be expected to have read relevant articles and cases beyond the indicated essential reading and to demonstrate an ability to bring an advanced level of analytical and critical skills to bear on the questions raised.

The **Essay** aims to develop students' research skills and deepen knowledge in a selected area of law. It requires the undertaking of personal research and provides scope for demonstrating original analysis as well as technical legal skills.

The **Class Test** will test students' understanding of the principles learned in each of the lecture topics, and will also assess the application of those principles to practical situations.

Students are required to strictly adhere to the **Essay Instructions and Guidelines** which will be included with the handout containing the Essay topic. Essays are to be placed in the box labeled "COML 309".

Extensions to the due date for submitting essays will only be granted in exceptional circumstances (e.g. ill health, bereavement or other circumstances beyond your control). "Pressure of work" whether for full- or part-time students will not be accepted as exceptional circumstances. Students seeking an extension should contact the Academic Coordinator of the course and should produce a doctor's certificate or other documentary evidence to support their application for extension.

Late essays (excluding authorised extensions) will have 10% deduction from the marks given for the essay.

The **Final Examination** aims to assess the students' overall understanding of the basic concepts, principles and rules of selected examinable topics lectured in class and their application to fact situations. The test will consist of essay-type as well as problem-type questions.

Materials brought to your Final Examination may include, amongst other materials, legislation, *COML 309 Materials*, and personal notes taken during the paper.

Penalties

Please see below the General University Policies and Statutes, page 6 of this Course Outline.

Mandatory Course Requirements

Attainment of terms requires completion of the **Essay** and the **Class Test** (see "Assessment" above). The attention of all students is drawn to the Terms Regulations as set out in the 2008 Calendar. Terms will be awarded on the last lecture day of the trimester.

Communication of Additional Information

Additional information concerning this course will be posted on the Blackboard. Students are encouraged to regularly read notices that appear on the Blackboard regarding administrative and academic matters throughout the term.

Once you have registered for this course you should be able to connect to Blackboard at <http://blackboard.scs.vuw.ac.nz>. If you are not registered, please contact the FCA office on the ground floor of the Railway West Wing opposite Rutherford House. If you cannot access Blackboard after 48 hours please come to our office at RH708 where we can enrol you on Blackboard.

Faculty of Commerce and Administration Offices

Railway West Wing (RWW) - FCA Student and Academic Services Office

The Faculty's Student and Academic Services Office is located on the ground and first floors of the Railway West Wing. The ground floor counter is the first point of contact for general enquiries and FCA forms. Student Administration Advisers are available to discuss course status and give further advice about FCA qualifications. To check for opening hours call the Student and Academic Services Office on (04) 463 5376.

Easterfield (EA) - FCA/Education/Law Kelburn Office

The Kelburn Campus Office for the Faculties of Commerce and Administration, Education and Law is situated in the Easterfield Building - it includes the ground floor reception desk (EA005) and offices 125a to 131 (Level 1). The office is available for the following:

- Duty tutors for student contact and advice.
- Information concerning administrative and academic matters.
- Forms for FCA Student and Academic Services (e.g. application for academic transcripts, requests for degree audit, COP requests).
- Examinations-related information during the examination period.

To check for opening hours call the Student and Academic Services Office on (04) 463 5376.

General University Policies and Statutes

Students should familiarise themselves with the University's policies and statutes, particularly the Assessment Statute, the Personal Courses of Study Statute, the Statute on Student Conduct and any statutes relating to the particular qualifications being studied; see the Victoria University Calendar or go to www.vuw.ac.nz/policy.

For information on the following topics, go to the Faculty's website www.vuw.ac.nz/fca under Important Information for Students:

- Academic Grievances
- Academic Integrity and Plagiarism
- Student and Staff Conduct
- Meeting the Needs of Students with Impairments
- Student Support

Manaaki Pihipihinga Programme

Manaaki Pihipihinga is an academic mentoring programme for undergraduate Māori and Pacific students in the Faculties of Commerce and Administration, and Humanities and Social Sciences. Sessions are held at the Kelburn and Pipitea Campuses in the Mentoring Rooms, 14 Kelburn Parade (back courtyard), Room 109D, and Room 210, Level 2, Railway West Wing. There is also a Pacific Support Coordinator who assists Pacific students by linking them to the services and support they need while studying at Victoria. Another feature of the programme is a support network for Postgraduate students with links to Postgraduate workshops and activities around Campus.

For further information, or to register with the programme, email manaaki-pihipihinga-programme@vuw.ac.nz or phone (04) 463 5233 ext. 8977. To contact the Pacific Support Coordinator, email pacific-support-coord@vuw.ac.nz or phone (04) 463 5842.

Course Program Part 1

| Lecturer | Session | Lecture | Topic | Due Dates | |
|------------------|---------|----------|----------------------------------------------------------------------------------|-------------------------------------------------------|--|
| Palitha De Silva | 1 | 25 Feb | Introduction: the Study of Banking Law; Bank-Customer Relationship | | |
| Palitha De Silva | 2 | 26 Feb | Library Tour | | |
| Palitha De Silva | 3 | 3 March | Special Customers | | |
| Palitha De Silva | 4 | 4 March | Banks' Duty of Secrecy | | |
| Palitha De Silva | 5 | 10 March | Banks' Right to Appropriate Payments; Right to Combine or Set-Off; Bankers' Lien | | |
| Palitha De Silva | 6 | 11 March | Banks' Opinions and Investment Advice | | |
| Palitha De Silva | 7 | 17 March | Termination of Bank-Customer Relationship; Banking Industry Ombudsman | First Assignment question handed out: Monday 17 March | |
| Palitha De Silva | 8 | 18 March | Concept of Negotiability; Bills of Exchange Act 1908; Law Relating to Cheques | | |
| Palitha De Silva | 9 | 24 March | Easter Holiday | | |
| Palitha De Silva | 10 | 25 March | Easter Holiday | | |
| Palitha De Silva | 11 | 31 March | Paying Bank | | |
| Palitha De Silva | 12 | 1 April | Collecting Bank | | |

Course Program Part 2

| Lecturer | Session | Lecture | Topic | Due Dates | |
|------------------|---------|----------|----------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|--|
| Palitha De Silva | 13 | 7 April | Banks' Liability as Constructive Trustee | | |
| Palitha De Silva | 14 | 8 April | New Zealand Banking Environment; Reserve Bank Act; Functions of the RB – Prudential Control, Registration of New Banks etc | First Essay due: Friday 11 April by 4 p.m. | |
| Palitha De Silva | 15 | 28 April | Current Payment Methods: Debit Cards, Credit Cards, Smart Cards, Travellers' Cheques | | |
| Palitha De Silva | 16 | 29 April | EFTS, EFTPOS, Internet Banking; Move Towards a Cashless Society | | |
| Palitha De Silva | 17 | 5 May | Documentary Letters of Credit | | |
| Palitha De Silva | 18 | 6 May | Contd. | | |
| Palitha De Silva | 19 | 12 May | Standby Letters of Credit, Performance Bonds, International Guarantees | | |
| Palitha De Silva | 20 | 13 May | Securities for Bank Lending: Guarantees; Other Forms of Security | | |
| Palitha De Silva | 21 | 19 May | Money Laundering | | |
| Palitha De Silva | 22 | 20 May | Study Break: Revision for Terms Test | | |
| Palitha De Silva | 23 | 26 May | Study Break: Revision for Terms Test | | |
| Palitha De Silva | 24 | 27 May | Terms Test | | |