LEGT 2761 LAW OF BANKING AND FINANCE

COURSE OUTLINE

Session 1 — 2007

1. COURSE STAFF

1.1 Staff Members and Contact Details

<table>
<thead>
<tr>
<th>Lecturer</th>
<th>Room</th>
<th>Phone</th>
<th>E-mail</th>
<th>Consultation Times</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anil Hargovan</td>
<td>JG G8</td>
<td>9385-3577</td>
<td><a href="mailto:a.hargovan@unsw.edu.au">a.hargovan@unsw.edu.au</a></td>
<td>Thursdays 3.00-4.00pm Otherwise by appointment</td>
</tr>
<tr>
<td>Senior Lecturer</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>(Lecturer/Tutor in charge)</td>
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</tr>
</tbody>
</table>

1.2 Communication with Staff

Students are invited to consult with the lecturer in charge on any aspect of the course. Consultation hours outside of class sessions are:

- During Session: See above, otherwise by appointment if these hours are inconvenient for you.
- At the End of Session: New consultation times will be announced in lectures and posted to the course Webct at the end of session during the lead up to the final exam.
- Students may contact staff by e-mails regarding course administration matters, using only their official university email address as per University Email Policy. E-mail is not an appropriate medium for learning. It is a poor substitute for personal consultation. Do not expect staff to reply to e-mails which request extensive or substantive answers. Teaching staff will use their discretion when consulted via e-mail and may instead invite students to meet in person during consultation hours to discuss complex questions, solutions to tutorial questions, past exam questions, etc.
2. **COURSE INFORMATION**

This course consists of lectures and tutorials, conducted immediately after the lecture at the lecture venue. Attendance at tutorials is mandatory. Attendance will be recorded.

2.1 **Lecture times and Locations**

<table>
<thead>
<tr>
<th>Lectures</th>
<th>Time</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tuesday</td>
<td>12.00-3.00pm</td>
<td>Webster Theatre A</td>
</tr>
</tbody>
</table>

**Tutorial times and locations**

Tutorials commence in Week 2 and are conducted at the same venue as the lectures. It is your responsibility to ensure that you have a formal Tutorial Guide. This document will be distributed by the tutor/lecturer in the first class during Week 2 of session.

2.2 **Units of Credit**

This course is worth 6 credit points.

2.3 **Parallel teaching in the course**

There is only one lecture stream available for this course.

2.4 **Relationship of this course to other course offerings**

Law of Banking and Finance is the main course offered by the School of Business Law and Taxation for students majoring in banking and finance. CPA Australia and the Institute of Chartered Accountants in Australia have accepted UNSW as an approved tertiary institution for purpose of the membership qualifications. Bachelor of Commerce (Accounting) students will generally need to complete the following courses to satisfy profession requirements:

- LEGT 1711 *Legal Environment of Commerce*
- LEGT 2721 *Business Transactions*
- LEGT 2741 *Business Entities and*
- LEGT 2751 *Business Taxation*

Students may chose to study Law of Banking and Finance as part of a Business Law co-major or a Taxation major.

A Business Law co-major involves completing 3 compulsory courses (the first three detailed above) and 4 options. The school offers, for example, the following options that build upon the knowledge gained in this course.

*Business Law*

- LEGT 4721 *Special Topic in Business Law* (for example, aspects of banking or finance may be the focus of research as a special topic)
2.5 Approach to Learning and Teaching

The approach to learning and teaching in this course is premised on the fact that active student involvement in the course will facilitate understanding and deep learning of the course materials. The accompanying tutorial program to this course facilitates this outcome together with the opportunities that will arise from time to time in the lectures. Consequently, students are expected to understand rather than memorise and to apply, rather than regurgitate.

In order to obtain the potential benefit from the course and to succeed in all aspects of course assessment, students are required to follow the points below:

1. Read the prescribed materials before class lectures. This will make the class material easier to follow and comprehend;
2. Download the lecture handout/slides (available from Webct) before class lectures. It is essential to bring the handout/slides to class and to supplement it with notes taken from the lecture. It is important to remember that the lecture handouts are not designed to be comprehensive and serve as a substitute for class lectures;
3. Actively participate in class: answer answers and ask your own;
4. Attend classes on time (important announcements are usually made prior to the delivery of lectures);
5. Attempt all the questions the in tutorial guide for self-evaluation; and
6. See the lecturer or tutors during their consultation hours if further clarification regarding the course content is required.

This course assumes you have studied Legal Environment of Commerce (LEGT 1711) or equivalent courses. If you need to refresh your memory and re-familiarise yourself with the general principles of Australian law, you should read a short introductory book such as Carvan, Understanding the Australian Legal System, 4th ed. 2002 (Law Book Co), or Chisholm and Nettheim, Understanding Law 6th ed. 2002 (Butterworths).

Reading cases is the best way to gain an understanding of:

- how common law and equity evolve (ie. Judge made law, based on previous decisions)
- how the judges interpret the provisions of statutes

3. Course Aims and Outcomes

3.1 Course Aims

This course examines the legal environment of banking and finance with particular reference to lending transactions and the securities taken by all financial institutions that lend for profit. Topics include legal concepts underlying the bank-customer relationship; duties of banker and customer; regulation of electronic banking; the regulation and use of negotiable instruments (cheques, promissory notes and bills of exchange); regulation of financial
markets; an examination of forms of finance and securities for projects and trade and legal options available for individual and companies in financial distress.

Lecture material will be grounded in contemporary commercial and legal developments to illustrate the practical relevance of topics studied.

3.2 Student Learning Outcomes

By the end of this course, you should be able to:

3.2.1 Provide an overview of the Australian banking and financial industry, the impact of deregulation, and the regulatory structure of the industry;

3.2.2 understand the role of the Banking Ombudsman and the Code of Banking Practice;

3.2.3 understand legal concepts which underlie financial institutions/customer relationships and their respective legal duties;

3.2.4 apply the law regulating cheques, bills of exchanges and other negotiable instruments;

3.2.5 examine legal issues in electronic banking;

3.2.6 examine the various methods used by business to finance projects and trade (such as project finance);

3.2.7 examine the various methods used by financial institutions and other creditors to secured lending and credit facilities (such as mortgages, guarantees and letters of comfort);

3.2.8 understand legal options available to individuals and companies in financial distress;

3.2.9 apply logical argument, in written or oral form, to legal problems that arise in modern banking and finance law

The course also seeks to develop learning outcomes introduced in prior studies, including:

3.2.10 confidence in oral and written communication of legal issues;

3.2.11 the ability to analyse legal issues in a logical and structured way (i.e. to identify problems, research relevant sources, propose an outcome and identify possible challenges to the proposed outcome);

3.2.12 the ability to resolve an issue in a logical and structured manner; and

3.2.13 the ability to evaluate available legal options in their wider commercial context

3.3 Teaching Strategies

The teaching strategies in this course adopts a combination of weekly lectures and tutorials (or seminars) designed to allow the delivery of a body of material and the opportunity thereafter to discuss and contextualise the material. This is done with real life examples to aid student understanding. The teaching strategies adopted aims to encourage critical thinking, deep and positive learning. The course is also designed to cater for the learning needs of a diverse range of students. It incorporates self review questions, found in the
tutorial guide, to facilitate your own assessment of your progress in understanding the course materials.

The tutorial program for this course serves several useful and practical purposes. It is designed to help consolidate, interpret and apply the lecture material. Students are taught to learn by understanding and application, not memorisation and regurgitation. Solutions to tutorial questions are not provided to ensure that students participate actively in class to confirm their understanding, learn from their mistakes and receive feedback on the correct approach to the questions. Students may see the lecturer or tutor during their consultation hours if further clarification regarding the tutorial questions is needed.

Additionally, the tutorial program and assessment is also designed to allow students to develop the skills (both verbal and written) necessary to analyse problems which may arise in practice. The guide is designed to allow each student to reach the goal of being able to apply theory, knowledge and problem solving technique to fact situations that may arise in company law. It is essential that students learn to select the important issues in such fact situations and that they be able to advance, in discussion, a carefully analysed solution aimed at resolution of the factual situation based on both relevant legislation and case law.

4. **STUDENT RESPONSIBILITIES AND CONDUCT**

4.1 **Workload**

It is expected that you will spend at least ten hours per week studying this course. This time should be made up of reading, research, working on exercises and problems, performing computer tasks and attending classes. In periods where you need to complete written assessment tasks or prepare for examinations the workload may be greater.

Over commitment to non-academic activities has been a significant cause of failure for some students. You should take the required workload into account when planning how to balance study with employment and other activities.

4.2 **Attendance**

Your regular and punctual attendance at lectures and tutorials is expected in this course. University regulations indicate that if students attend less than eighty per cent of scheduled classes then they may be refused final assessment.

4.3 **General Conduct and Behaviour**

You are expected to conduct yourself with consideration and respect for the needs of your fellow students and teaching staff. Conduct which unduly disrupts or interferes with a class, such as ringing or talking on mobile phones, is not acceptable and students may be asked to leave the class. More information on student conduct is available at www.my.unsw.edu.au

4.4 **Keeping informed**

You should take note of all announcements made in lectures, tutorial or on the course web site. From time to time, the University will send important announcements to your
university email address without providing you with a paper copy. You will be deemed to have received this information.

5. **LEARNING ASSESSMENT**

5.1 **Formal Requirements**

Assessment in this course (detailed below) consists of tutorial assessment, a research assignment, a mid-session exam and a final exam.

**OVERVIEW OF ASSESSMENT REGIME**

<table>
<thead>
<tr>
<th>Assessment</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Tutorial assessment</td>
<td>15%</td>
</tr>
<tr>
<td>Research assignment</td>
<td>20%</td>
</tr>
<tr>
<td>Mid-session exam</td>
<td>10%</td>
</tr>
<tr>
<td>Final exam</td>
<td>55%</td>
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</tbody>
</table>

In order to attain a pass grade for this course, you must:

- Achieve a composite mark of at least 50; and
- Make a satisfactory attempt at all assessment tasks (see below).

5.2 **Assessment Details**

5.2.1 **ASSESSMENT**

**TUTORIAL**

The tutorials carry a 15% assessment which consists of:

- **An individually written assessment** of a tutorial question which will be allocated by the tutor in the first tutorial in Week 2, **worth 10 marks**. This is a formal written assessment which involves legal research and analysis. It has a minimum word limit of 1,400 words and maximum word limit of 1,600 words (see style guide and cover sheet attached to tutorial guide, distributed in tutorials in Week 2, for further details). **and**

- **(b) an oral presentation** of the written tutorial assignment, **worth 5 marks**, and which must be delivered in the tutorial class in the week the written paper is due. The oral presentation must not exceed 25 minutes and, ideally, should be about 20-25 minutes in duration. To enhance presentation marks, students are encouraged to use audio-visual aids and to present in an interactive manner which involves audience participation. An innovative approach which stimulates class discussion will be rewarded. Marks will be deducted for, inter alia, merely reading out the paper verbatim to the class.

This form of assessment is designed to achieve student learning outcomes identified in 3.2.2-3.2.3 and 3.2.4-3.2.9
5.2.2 MID-SESSION EXAM
A mid-session examination will be held on Tuesday, 17 April 2007 at 12.00 noon (ie, in week 7) at the same venue as the lectures. The mid-session examination is worth 10 marks.

The examination contains of twenty (20) multiple-choice questions worth 0.5 marks each (total of 10 marks).

The mid-session exam is a closed book examination and covers material lectured in weeks 1 through 6 inclusive. The examination will be 30 minutes in length.

Students are to be seated at the venue by 12:05 pm at which time the examination commences. The examination finishes at 12.35 pm. Students who arrive late to the examination will be admitted, but will be required to finish the examination at 12.35 am. Students must bring their student card, a pencil and an eraser to the exam room.

Note: After a 10 minute break:
• the mid-session exam will be reviewed
• the Research Assignment Topic will be released and commented upon.

The mid-session exam is compulsory. Students who do not sit the mid-session exam as a result of illness or misadventure must advise the Lecturer-in-Charge of their circumstances in writing with accompanying supporting documentation within three (3) days of the mid-session exam. Students whose circumstances are accepted as a valid reason for not sitting the mid-session exam may, at the lecturer’s discretion, have the 10 marks allocated for the mid-session exam added to the 55 marks allocated for the final examination (i.e., these students may have their Final Exam marked out of 65 marks). All other students who did not sit the mid-session exam will be awarded no (0) marks for the mid-session exam and their final exam will be marked out of 55.

This form of assessment is designed to achieve student learning outcomes identified in 3.2.1-3.2.2

5.2.3 Research Assignment
A written research assignment topic will be handed out to students in class in Week 7 and is due in Week 11 at the commencement of that class.

This assessment will account for 20% of the final mark. It has a minimum word limit of 2,000 words and a maximum word limit of 2,200 words. Further details will be announced in class by the lecturer in Week 7.

This form of assessment is designed to achieve student learning outcomes identified in 3.2.9-3.2.11
5.2.4 Final Examination

The final examination is worth 55% of the course assessment and is a closed book exam. It will consist of problem questions and essay questions. It will be 2 and a half hours long and cover the entire course material, including tutorial materials, unless advised otherwise by the lecturer. The final examination will be held in the regularly scheduled University examination period. Further information concerning the exam and its format will be announced in lectures between Weeks 13-14 and a summary of the key points will be posted to the course Webct.

This form of assessment is designed to achieve student learning outcomes identified in 3.2.1-3.2.3 and 3.2.8

5.3 Tutorial/Research Assignment Assessment Submission Procedure

The written tutorial assessment, together with the attached cover sheet (see tutorial guide) must be handed over to the tutor at the commencement of class in which it is due. Similarly, the research assignment paper must be handed over to the lecturer at the commencement of the class in which it is due.

5.4 Late Submission

Late lodgment of any assessment or any other unauthorised method of lodgment (for ex, by email or slipping the tutorial/research paper under the office door of the lecturer/tutor/secretary), will attract an immediate penalty deduction of 3 marks and thereafter 2 marks for each day late. Extensions will not be granted lightly and may only be granted in exceptional circumstances, supported by detailed documentation.

5.5 Special Consideration and Supplementary Examination

If you feel that illness or circumstances beyond your control have affected your performance in, or attendance at an examination (mid-session or final), or if you missed an examination because of illness or other compelling reasons, you may apply for special consideration. Such an application may lead to the granting of additional assessment. Each of the following procedures must be followed.

1. **Within 3 days** of the examination, a request for special consideration must be submitted to New South Q in the Chancellery, along with full supporting documentation; a copy of such request and supporting documentation should be delivered to the Lecturer-in-Charge of the subject within the same time frame by leaving it with the secretary at the School’s office, G20 John Goodsell Building.

2. A written letter will be forwarded by the School of Business Law & Taxation to each student who has been granted additional assessment at their current local address appearing on the University’s records. It is your responsibility to ensure that the University has your latest contact details.
   - You must confirm the actual date/time/room of any supplementary examination which will be held before the start of Session 2.
   - If you have more than one additional assessment and if these are scheduled for the same time, you must email the Lecturer in Charge, as soon as possible before the supplementary examination and he will attempt to solve the problem.
• There will be only one supplementary final examination held, most probably during the week beginning 16 July 2007. Students who apply for special consideration and are granted a supplementary final exam as a result and who fail to attend will not be given an alternate supplementary final examination.

3. You will need to produce your University Student Card before you can gain entry to the supplementary examination.

4. A list of students who have been granted additional assessment as a result of an application for special consideration may be posted to the course Webct page as soon as possible after determination by the Assessment Committee of the Faculty. Due to privacy considerations, only student numbers may be published.

Important Notes on Special Consideration:

(a) Students with a poor record of attendance or performance through the session may be failed regardless of illness or compassionate grounds affecting the final examination. The following may be taken into account:
- the student’s performance in other items of assessment in the course;
- the severity of the event;
- academic standing in other courses; and
- history of previous applications for special consideration.

(b) The additional assessment may be of a different from the original assessment.

(c) In exceptional circumstances the requirements for applications to be lodged within 3 days of the examination may be waived; for example, an accident or sudden illness occurring which requires your immediate hospitalisation.

You should also be aware that it is Faculty policy that:

1. The lodging of applications for special consideration does not guarantee that supplementary assessments will be granted.

2. It is the responsibility of students who apply for special consideration to be available for supplementary assessments during the specified period (holiday plans and/or pre-booked tickets are not sufficient reason for non-availability).

3. For administrative and organisational reasons it is not possible to announce the venue and time of the supplementary examinations until after the Faculty Assessment Committee Meeting, although it is anticipated that any supplementary final exam is likely to be held in the week beginning 10 July 2006.

For further information on the grounds for the granting of special consideration consult the UNSW Student Guide.

5.6 Tutorial Assessment/Research Paper Format

All students must comply with the instructions in the style guide for written presentation which is attached to the tutorial guide (distributed in week 2 in each tutorial by the tutor).
6. ACADEMIC HONESTY AND PLAGIARISM

The University regards plagiarism as a form of academic misconduct, and has very strict rules regarding plagiarism. For full information regarding policies, penalties and information to help you avoid plagiarism see:

www.my.unsw.edu.au/student/atoz/Plagiarism

Plagiarism is the presentation of the thoughts or work of another as one’s own.*  Examples include:

- direct duplication of the thoughts or work of another, including by copying work, or knowingly permitting it to be copied. This includes copying material, ideas or concepts from a book, article, report or other written document (whether published or unpublished), composition, artwork, design, drawing, circuitry, computer program or software, web site, Internet, other electronic resource, or another person’s assignment without appropriate acknowledgement;
- paraphrasing another person’s work with very minor changes keeping the meaning, form and/or progression of ideas of the original;
- piecing together sections of the work of others into a new whole;
- presenting an assessment item as independent work when it has been produced in whole or part in collusion with other people, for example, another student or a tutor; and,
- claiming credit for a proportion a work contributed to a group assessment item that is greater than that actually contributed.†

Submitting an assessment item that has already been submitted for academic credit elsewhere may also be considered plagiarism.

The inclusion of the thoughts or work of another with attribution appropriate to the academic discipline does not amount to plagiarism.

Students are reminded of their Rights and Responsibilities in respect of plagiarism, as set out in the University Undergraduate and Postgraduate Handbooks, and are encouraged to seek advice from academic staff whenever necessary to ensure they avoid plagiarism in all its forms.

The Learning Centre website is the central University online resource for staff and student information on plagiarism and academic honesty. It can be located at:

www.lc.unsw.edu.au/plagiarism

The Learning Centre also provides substantial educational written materials, workshops, and tutorials to aid students, for example, in:

- correct referencing practices;
- paraphrasing, summarising, essay writing, and time management;
- appropriate use of, and attribution for, a range of materials including text, images, formulae and concepts.

Individual assistance is available on request from The Learning Centre.

Students are also reminded that careful time management is an important part of study and one of the identified causes of plagiarism is poor time management. Students should allow sufficient time for research, drafting, and the proper referencing of sources in preparing all assessment items.

* Based on that proposed to the University of Newcastle by the St James Ethics Centre. Used with kind permission from the University of Newcastle
† Adapted with kind permission from the University of Melbourne.
7. STUDENT RESOURCES

7.1 Course Resources

PRESCRIBED MATERIALS

*Note*: Students are strongly advised to use the latest edition of prescribed materials to ensure accuracy. Due to a continuous process of law reform and judicial pronouncements in a rapidly changing corporate environment, it is unadvisable to use previous editions of the prescribed materials.

ONLINE RESOURCES

Students are encouraged to check the course website for announcements and the following resources designed to assist students with their study of this course:
- course outline and tutorial guide
- assessment details (venue for mid-session exam; sample questions for mid-session exam; mid-session exam results; format of final exam)
- relevant lecture slides;
- cases and articles;
- useful links

Webct is designed to assist you with your studies in the course but it does not replace the lectures, readings or tutorials. Visit the Webct page at:

http://webct.edtec.unsw.edu.au/webct/public/home.pl

REFERENCE MATERIALS

General texts and/or casebooks
There are many references available which could assist students in various subject areas covered in the course. Some of these are listed below; others will be supplied by the lecturer:-
- Weaver, et al *The Law Relating to Banker & Customer in Australia*, LBC
- Weaver & Kingsley, *Bank & Lending Practice*, 4th ed, LBC

WEB REFERENCES
- Australasian Legal Information Institute (http://www.austlii.edu.au)
- Federal (Commonwealth) government entry point (search engine and portfolios)
  http://www.fed.gov.au
• Federal (Commonwealth) Parliament (bills, legislation, committees etc) [http://www.aph.gov.au]
• Federal Parliament legal search engine: [www.lawsearch.gov.au]
• Australian Securities and Investment Commission: [www.asic.gov.au]
• FindLaw Data Base and Search Engine: [www.findlaw.com.au]
• Australian Stock Exchange: [www.asx.com.au]
• Sydney Futures Exchange: [www.sfe.com.au]
• Commonwealth Legislation News: [www.lawsearch.gov.au]
• Australian Consumer and Competition Commission: [www.accc.gov.au]
• Australian Banking Ombudsman: [www.abio.org.au]
• AUSTRAC and the Financial Transactions Act: [www.austrac.gov.au]
• Australasian Institute of Banking & Finance: [www.aibf.com.au]
• Australian Government Treasury: [www.treasury.gov.au]
• Australian Productivity Commission: [www.pc.gov.au]
• Australian Prudential Regulation Authority: [www.apra.gov.au]
• Department of Finance and Administration: [www.dofa.gov.au]
• Australian Bankers’ Association: [www.bankers.asn.au]

Specific topic reference texts


7.2 Other Resources, Support and Information

7.2.1 Learning Support

Education Development Unit

Additional learning support, tailored to the needs of FCE students, is available from the Education Development Unit (EDU) in the Faculty. The EDU offers a range of services for FCE students including:

• Academic skills workshops run throughout the session;
• Printed and on-line study skills resources e.g. referencing guide, report writing and exam preparation;
• A limited consultation service for students with individual or small group learning needs.

More information about the EDU services including on-line resources and, workshop details are available from the EDU website: [http://education.fce.unsw.edu.au]

7.2.2 Other UNSW Support

In addition, the UNSW Learning Centre provides academic skills support services for students. For further information on The Learning Centre, see: [http://www.lc.unsw.edu.au/].

Students experiencing problems of an academic or personal nature are encouraged to contact the Counselling Service at UNSW. This service is free and confidential and run by professional counsellors. For further information, see: [http://www.counselling.unsw.edu.au]
Students who have a disability that requires some adjustment in their teaching or learning environment are encouraged to discuss their needs with the Course Coordinator or the Equity Officer. For further information on Disability Support services, see: http://www.equity.unsw.edu.au/disabil.html

In addition, it is important that all students are familiar with University policies and procedures in relation to such issues as:

- **Examination procedures** and advice concerning illness or misadventure: http://my.unsw.edu.au/student/academiclife/assessment/examinations/examination rules.html


8. **CONTINUAL COURSE IMPROVEMENT**

Each year feedback is sought from students and other stakeholders about the courses offered in the School and continual improvements are made based on this feedback. UNSW’s Course and Teaching Evaluation and Improvement (CATEI) Process (http://www.ltu.unsw.edu.au/ref 4-5-1 catei process.cfm) is one of the ways in which student evaluative feedback is gathered. Significant changes to courses and programs within the School are communicated to subsequent cohorts of students.
## Course Schedule: S 1 - 2007 (Overview)

### LEGT 2761 LAW OF BANKING & FINANCE

**COURSE CONTENT: S 1, 2007**

<table>
<thead>
<tr>
<th>Class</th>
<th>Topic</th>
<th>Lecturer</th>
</tr>
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<tbody>
<tr>
<td>Week 1 – Feb 27</td>
<td>Regulatory Environment of Banking and Finance</td>
<td>Anil</td>
</tr>
<tr>
<td>Week 2 – March 6</td>
<td>Legal Nature of Bank-Customer Relationship: Duties of the Banker</td>
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<tr>
<td>Week 3 – March 13</td>
<td>Duties of the Customer: Content and Scope</td>
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<tr>
<td>Week 4 - March 20</td>
<td>Negotiable Instruments: Cheques Act (Cth)</td>
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<tr>
<td>Week 5 – March 27</td>
<td>Negotiable Instruments: Cheques: Duties of Bank and Customer</td>
<td></td>
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<tr>
<td>Week 6 – April 3</td>
<td>Negotiable Instruments: Cheques: (Statutory Defences); Bills of Exchange; Promissory Notes</td>
<td></td>
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<tr>
<td><strong>Mid-Session Break Friday 6 – 13 April</strong></td>
<td>MID-SESSION EXAM (12.05-12.35am) Break: 12.35-12.45 Review of mid-session exam (12.45-1.00pm)</td>
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<tr>
<td>Week 7 - April 17</td>
<td>Research Assignment Topic Released</td>
<td></td>
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<tr>
<td>Week 8 – April 24</td>
<td>Legal Issues in Electronic Banking (ATM’s)</td>
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<tr>
<td>Week 9 – May 1</td>
<td>Security: Mortgages</td>
<td></td>
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<tr>
<td>Week 10 – May 8</td>
<td>Security: Guarantees</td>
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<tr>
<td>Week 11 – May 15</td>
<td>Guarantees</td>
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<td></td>
<td>Letters of Comfort (overview)</td>
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<td></td>
<td>International Issues in Banking and Finance (Mareva Injunctions)</td>
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<td></td>
<td><strong>Research Assignment Due in Class at 12.00</strong></td>
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<tr>
<td>Week 12 – May 22</td>
<td>Corporate Finance and Securities (shares, debentures, charges)</td>
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</table>
10. **Session 1 2007, Key Dates**

*It is your responsibility to ensure that:*

1. You are recorded by the University as being correctly enrolled in all your courses. The last day for students to discontinue without financial penalty is **Friday March 30** and the last day to discontinue without academic penalty is **Friday 27 April**.

2. You have successfully completed all prerequisite courses. Any work done in courses for which prerequisites have not been fulfilled will be disregarded (unless an exemption has been granted), and no credit given or grade awarded.

3. You organise your affairs to take account of examination and other assessment dates where these are known. Be aware that your final examination may fall at any time during the session’s examination period. The scheduling of examinations is controlled by the University administration. No early examinations are possible. The examination period for Session 1, 2007 falls between **15 June and 3 July**.

4. When the provisional examination timetable is released (**May 8**), ensure that you have no clashes or unreasonable difficulty in attending the scheduled examinations. The final examination timetable is released on **Tuesday 29 May**.

5. You keep the University informed of all changes to your contact details.

6. **You make a copy of all work submitted for assessment, and keep returned marked assignments and essays.**

A full list of UNSW Key Dates is located at: [https://my.unsw.edu.au/student/resources/KeyDates.html](https://my.unsw.edu.au/student/resources/KeyDates.html)
TOPICS:

Week 1  (27 February)
Regulatory Environment of Banking and Finance
- Impact of Wallis reforms
- Function of the Reserve Bank of Australia; Australian Prudential Regulation Authority (APRA) and Australian Securities and Investment Commission (ASIC).
- Role of the Code of Banking Practice
- Role and powers of the Banking Ombudsman

Read:
- Chapter 1 of prescribed text
- Chapter 1 of *Australian Finance Law* (5th ed, Lawbook Co, 2003)

Week 2  (6 March)
Legal Nature of Bank-Customer Relationship
- *Foley v Hill* (1848) 9ER 1002
- *Joachimson v Swiss Bank Corp* [1921] 3 KB 110
- Consequences of the debtor-creditor relationship

Duties of the Banker
- Duty of secrecy and exceptions (statutory and common law)
- *Financial Transaction Reports Act* 1988 (Cth)
- Duty of confidentiality and banker’s reference
- Duty of care when giving financial advice

Read:
- Chapter 2 of prescribed text (pp 30-49);
- Chapter 5 of prescribed text
- Chapter 29 of *Australian Finance Law* at pp 726-730 (5th ed, LBC, 2003); skim read Chapter 30

Week 3  (13 March)
Duties of the Customer
- *Macmillan* duty to exercise reasonable care when drawing cheques
- *Greenwood* duty to notify bank promptly of forgeries
- Applicability of the *Tai Hing* legal principles -Policy considerations (*NAB v Hokit* (1996) 27 NSWLR 377)

Read:
- Chapter 6 of prescribed text
**Weeks 4 – 6 (20 -27 March; 3 April)**

**Negotiable Instruments**
- Concept, distinctions, definitions, usage, parties and liabilities
- Cheques (*Cheques Act 1986 Cth*)
- Bills of Exchange (*Bills of Exchange Act 1909 Cth*)
- Promissory Notes

Read:
- Chapters 7, 8 and 4 of prescribed text
- Chapter 8 (and skim read chapter 13) of *Australian Finance Law* (5th ed, LBC, 2003)

**Week 7 (17 April)**

**Mid-Session Multiple Choice Exam**
- Research Assignment Released

**Week 8 (24 April)**

**Legal Issues in Electronic Banking**
- Nature of transactions covered
- Liability of parties (rules and procedures)

Read:
- Chapter 9 of prescribed text

**Week 9 (1 May)**

**Security: Mortgages**
- ‘old system/deeds system’
- Torrens system
- Legal v equitable mortgages
- Priorities
- Remedies

Read: Chapter in prescribed text on ‘Mortgages’

**Week 10 (8 May – 15 May)**

**Security: Guarantees**
- Nature
- Legal requirements
- Avoidance of guarantees
  - Misrepresentation
  - Duty of disclosure?
  - Undue influence
  - Unconscionable conduct
- Principle in *Yerkey v Jones* (1939); *Garcia* (1998)
- Grounds for discharge

Read: Chapters in prescribed text on Guarantees and Enforcement
Week 11 (15 May)
Guarantees - continued
Letters of Comfort (Over-view of Assignment Issues)
Mareva Injunctions
• Definition
• Purpose
• Requirements for granting
• Effects of enforcement

Read: Chapter in prescribed text on ‘Mareva Orders’

Week 12 (22 May)
Corporate Finance
• Factors influencing choices (equity v debt finance)
• Types of shares (ordinary v preference)
• Nature and entitlements
• Types of debentures
• Nature of charge
• Distinction between fixed and floating charges
• Practical utility of floating charged
• Registration requirements

Read: Chapter in prescribed text on ‘Corporate Securities’

Week 13-14 (29 May-5 June)
Financial Distress: Bankruptcy and Insolvency
• Key provisions of the Bankruptcy Act 1966 (Cth)
  • Administration
  • Acts of bankruptcy
  • Debtors and creditors petition
  • Effects of bankruptcy (personal and on property)
  • Voidable transactions
  • Alternatives to bankruptcy (Part IX and X)
  • Discharge
  • Reforms
Key provisions of the Corporations Act 2001 (Cth)
• Liquidation
  • Alternatives to Liquidation
    • Creditors scheme of arrangements
    • Voluntary administration
    • Receivership
Reforms

Read: Materials distributed in class