

# LW4631: BANKING LAW

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## Effective Term

Semester A 2022/23

## Part I Course Overview

### Course Title

Banking Law

### Subject Code

LW - Law

### Course Number

4631

### Academic Unit

School of Law (FL)

### College/School

School of Law (FL)

### Course Duration

One Semester

### Credit Units

3

### Level

B1, B2, B3, B4 - Bachelor's Degree

### Medium of Instruction

English

### Medium of Assessment

English

### Prerequisites

LW2903 Business and Law for BBA Students

### Precursors

LW2602A Law of Contract I and

LW2602B Law of Contract II

### Equivalent Courses

LW4131 Banking Law (LLB) (from the old curriculum)

LW4131A Banking Law (AMLLB) (from the old curriculum)

LW5631 Banking Law

### Exclusive Courses

Nil

## Part II Course Details

### Abstract

This course aims to:

- Introduce students to the study of the substantives rules of banking law and its instruments and the regulatory framework that operates in Hong Kong;
- Develop student' s analytical, critical and problem-solving skills and the attitude to inquire;
- Enable students to synthesis and understand the concept and essential principles of banking law and to apply them to solve real-life problems; and
- Allow students to reflect effective solutions or challenge current institutional framework

### Course Intended Learning Outcomes (CILOs)

|   | CILOs  | Weighting (if app.) | DEC-A1 | DEC-A2 | DEC-A3 |
|---|--|---------------------|--------|--------|--------|
| 1 | Analytically and evaluatively describe and explain the basic principles of different areas of law which impinge on Banking Law   |                     | x      |        |        |
| 2 | Apply the principles of Banking Law to solve legal problems by:<br>- Analysing cases and challenging legal arguments<br>- Interpreting statutes<br>- Conducting independent research on the law<br>- Marshalling arguments clearly, logically, coherently and effectively, both orally and in writing. |                     |        | x      | x      |
| 3 | Research, analyse apply and critically evaluate:<br>- Legal principles and doctrines in Banking Law in light of both doctrinal coherence and in relation to the policy objective of the law.<br>- The framework and the applicability of Banking Law in Hong Kong                                      |                     |        | x      |        |
| 4 | Construct and suggest effective solutions to real-life banking issues.   |                     |        |        | x      |

#### A1: Attitude

Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.

#### A2: Ability

Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to real-life problems.

#### A3: Accomplishments

Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.

## Teaching and Learning Activities (TLAs)

| TLAs | Brief Description                                    | CILO No.  | Hours/week (if applicable) |
|------|--|---|----------------------------|
| 1    | Tutorials or other small groups/interaction sessions | <ul style="list-style-type: none"> <li>- Students' understanding will be enhanced by seeing the operation of the law in case studies and group discussions and presentations.</li> <li>- Students will analyse cases, interpret statutes; conduct research and challenge policies to solve the legal issues presented in tutorial questions.</li> <li>- Students will apply relevant legal analysis to case study situations, thereby develop issue recognition, problem solving and application skills and present it in writing.</li> </ul> | 1, 2, 3, 4                 |
| 2    | Lectures   | <ul style="list-style-type: none"> <li>- Students will be introduced to issues and concerns and different aspects of the operation of the substantive rules of Banking Law through multimedia or other presentation.</li> <li>- Students will receive guidance on their readings through multimedia or other presentations to enhance their understanding of the substantive rules of Banking Law.</li> <li>- Students will be encouraged to challenge policies and to engage in discussion with the teacher.</li> </ul>                      | 1                          |

|   |       |   |      |  |
|---|-------|---|------|--|
| 3 | Other | <p>- This subject is taught through a lecture and tutorial and/or workshop program involving three class hours per week over the course of the semester.</p> <p>- Prescribed chapters, cases and statutes and other materials will provide the framework and substantive rules of Banking Law</p> <p>- Research are given on specific banking topics</p> <p>- Out of classroom visits</p> <p>- Students will visit institutions outside the University (e.g. Hong Kong Monetary Authority) and are able to view the running and working of banking institutions to further apply classroom knowledge to develop creative ideas.</p> | 3, 4 |  |
|---|-------|---|------|--|

**Assessment Tasks / Activities (ATs)**

|   | ATs   | CILO No.   | Weighting (%) | Remarks (e.g. Parameter for GenAI use)  |
|---|---|------------|---------------|---|
| 1 | <p>Assignment:</p> <p>Students will be required to challenge the current banking structure and discover new and innovative ways to change the banking system/policies. Students' ability to research, collect data and decipher primary and secondary materials in order to resolve problems and forward arguments, and to communicate in writing will be tested.</p> | 1, 2, 3, 4 | 20            | Students' ability to challenge, discover, research, analyse and resolve problems and communicate solutions in writing will be tested. |

|   |   |         |    |  |
|---|---|---------|----|--|
| 2 | Tutorials:<br>Students' ability to analyse and critically evaluate, and to communicate arguments orally and in writing will be tested in in class activities. | 1, 2, 3 | 10 | Students will be required to make presentations on real life problems and questions allotted to them and all students are required to contribute to tutorial discussions. Students' ability to research, analyse and resolve problems and communicate solutions orally will be tested. |
| 3 | Quiz:<br>Assess student' s knowledge and understanding of the rules and principles learnt from reading primary and secondary resources and also in class.     | 1, 2, 3 | 20 |  |

**Continuous Assessment (%)**

50

**Examination (%)**

50

**Examination Duration (Hours)**

2

**Additional Information for ATs**

Grading of Student Achievement: Refer to Grading of Courses in the Academic Regulations (Attachment) and to the Explanatory Notes.

Standard (A+, A, A- ...F) Grading is based on student performance in assessment tasks/activities.

To pass this course students must obtain an aggregate mark of 40% and a minimum of 30% in each of the coursework, the class participation and the examination.

**Assessment Rubrics (AR)****Assessment Task**

Tutorials

**Criterion**

Demonstration of ability to articulate argument in an effective and clear way. Ability to apply the law with effective communication skills. Ability to complete examination questions and show ability of team work.

**Excellent (A+, A, A-)**

Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

**Good (B+, B, B-)**

Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

**Fair (C+, C, C-)**

Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

**Marginal (D)**

Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

**Failure (F)**

Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

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**Assessment Task**

Assignments

**Criterion**

Require good articulation in written form of arguments and in depth opinions with proper research for evidences and authority.

**Excellent (A+, A, A-)**

Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

**Good (B+, B, B-)**

Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

**Fair (C+, C, C-)**

Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

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**Failure (F)**

Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

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**Assessment Task**

Examination

**Criterion**

Ability to spot legal issues and to apply legal knowledge and legal principles to solve both problem and essay type questions.

**Excellent (A+, A, A-)**

Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

**Good (B+, B, B-)**

Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

**Fair (C+, C, C-)**

Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

**Marginal (D)**

Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

**Failure (F)**

Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

## Part III Other Information

### Keyword Syllabus

Banking System of Hong Kong; Banks and Customer. Negotiable Instruments; Payment and Collection of Cheques; Secrecy; International banking; Practical banking in context; Recovery of money paid by mistake; Banker's Commercial Credits; Banking Secrecy; Investment advice and banker's references; Bankers' Lien; Bankers' guarantee; overdrafts; Combining accounts; garnishee order; Termination of the banker-customer relationship.

### Detailed Syllabus

- The Hong Kong Banking System: the nature of its business and its supervision; special features of the banking industry in Hong Kong; the role of the Commissioner of Banking; the Note-Issuing Banks; Classification of Banks.
- Definition of Banks; privileges of Banks; definition of a Customer; the relationship of banker and customer.
- Payment Systems: Currency, Bills of Exchange and their negotiability; Plastic Cards and Electronic Funds Transfer.
- Payment and Collection of Cheques: Role of the Paying banker; Protection of Paying Banker; Wrongful dishonour of Cheques; Protection of Collecting Banker.
- Banker's Right to Recover Money Paid by Mistake: General Principles of the action; types of mistaken payments; defences.
- Banker's Commercial Credits: Nature and types of Credit, documents; Legal relationship of the various parties.
- Banking Secrecy; Investment Advice and Bankers' References.
- Bankers' Lien; Bankers' Guarantee; Overdrafts; Combining Accounts; Garnishee Orders.
- Termination of the banker-customer relationship.
- AMareva Injunction.

### Reading List

#### Compulsory Readings

| Title |   |
|-------|---|
| 1     | A detailed list of texts and other reference material will be circulated prior to the start of the course.            |
| 2     | Online Resources: <a href="http://www.legislation.gov.hk/eng/home.htm">http://www.legislation.gov.hk/eng/home.htm</a> |

#### Additional Readings

| Title |     |
|-------|-----|
| 1     | Nil |