

## Syllabus

### **Bank Bailouts and Bank Resolution in a Comparative Perspective (Spring 2018)**

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#### **Course Description and Learning Objectives**

The financial sector is the most highly regulated market in general. Bankruptcy law itself represents state intervention in the economy, and, in the contractual relation between creditors and debtors in order to promote economic efficiency in case of insolvency. The law and regulation of bank bailout and bank resolution cannot be fully understood without comparing the legal-regulatory alternatives. This course is designed to provide a comprehensive overview of this area through a list of case studies.

In the post-2008 legal-regulatory architecture financial institution-specific insolvency proceedings were developed on both sides of the Atlantic. Ten years after the outbreak of the most recent financial crisis we already have sufficient empirical evidence to be able to evaluate the outcome of the bank bailouts in the United States ('US') and the European Union ('EU'), and we can also reflect on the first handful of bank resolution cases under the EU's new regime.

Building upon case studies from the US, the EU, the United Kingdom ('UK'), Spain and Hungary we particularly focus on the different bailout and bank resolution techniques and tools. We start with a brief look at some key concepts and an overview of the relevant events in the four selected jurisdictions. Then we review and compare the current legal-regulatory framework with a focus on the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, H.R. 4173) ('Dodd-Frank') in the US and the Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms ('2014 BRRD') in the EU. Finally, we compare and analyze a variety of regulatory alternatives and bank bailout methods.

The participants of this course will be equipped to compare Hungary's post-2008 bailout and bank resolution measures with those measures in the US, the UK and Spain, understand the differences between the legal-regulatory options and bailout techniques, their pros and cons.

#### **Selected Case Studies**

##### United States

- Bear Stearns -- Central bank-facilitated private bailout
- Bailout of the American International Group ('AIG') -- *De facto* nationalization
- Fannie Mae & Freddie Mac -- Nationalization of almost half of the US mortgage market
- Federal Deposit Insurance Corporation ('FDIC') bank bailouts -- The Temporary Liquidity Guarantee Program
- Troubled Asset Relief Program ('TARP') bank bailouts

##### European Union

- Bank bailouts financed from the European Stability Mechanism ('ESM') loan

##### United Kingdom

- Financial support measures to the banking industry
- Lloyds Banking Group's restructuring
- Royal Bank of Scotland's restructuring plan and financial support measures

##### Spain

- Guarantee schemes
- Bank recapitalization scheme
- Bank bailouts financed from the ESM loan
- Rescue measures in favour of BFA/Bankia
- Nationalization, recapitalization and resale of Banco de Valencia

#### Hungary

- Liquidity scheme
- Bank support scheme (recapitalization and state guarantee)
- FHB Mortgage Bank's recapitalization
- MKB Bank's restructuring without bail-in

#### Selected 2014 BRRD cases

- Precautionary recapitalization of Monte dei Paschi di Siena Bank
- Acquisition of Banco Popular by Banco Santander
- Resolution of MKB Bank

#### **Recommended Materials**

All materials and handouts will be made available online/via email:

- Rec. (1), (5), (31), (45)-(46), (55), (67), (109), Art. 2(28), Art. 5(3), Art. 10(3)(a), Art. 10(7)(i)(i), Art. 12(3)(f)(i), Art. 15(1)(a), Art. 16(1)(a), Art. 31(1), Art. 31(2)(c), Art. 32(5), Art. 36(5), Arts. 37(10)(a), Art. 74(3)(c) and Art. 103(7)(e) of the 2014 BRRD.
- §§ 210(o), 214(a), 214(c), 335, 619, 622, 716, 1101, 1105 and 1302 of the Dodd-Frank.
- Levitin, A., In Defense of Bailouts, 99 Geo. L.J. 435-514 (2011).
- Gordon, J. N., Muller, C., Confronting Financial Crisis: Dodd-Frank's Dangers and the Case for a Systemic Emergency Insurance Fund, 28 Yale J. on Reg. (2011).
- Casey, A. and Posner, E., A Framework for Bailout Regulation, University of Chicago Coase-Sandor Institute for Law & Economics Research Paper No. 724 (2015).

#### *Additional, recommended books*

- BERNANKE, B. S., THE COURAGE TO ACT: A MEMOIR OF A CRISIS AND ITS AFTERMATH, Norton, New York (2015).
- GEITHNER, T. F., STRESS TEST: REFLECTIONS ON FINANCIAL CRISES, Broadway Books, New York (2015).

#### **Grading and Examinations**

Final, multiple choice examination. Your grade will be based primarily on an open-book final examination at the end of the course.

#### **Attendance and Preparedness**

Especially given the problem-oriented approach to this course, your active participation during class is essential.

#### **Office Hours and Discussion**

I am available via email for any questions related to the course. Appointments may be scheduled via email ([blazsek\\_virag@phd.ceu.edu](mailto:blazsek_virag@phd.ceu.edu)).