

Course title	EU banking law - the European Banking Union
Course Code	Law411.2
Category (core/elective)	Elective
Level	LLM in EU Law
Duration (semesters)	1
Semester when taught (autumn/spring)	Spring
ECTS:	7,5
Access requirements	None
Responsible	Professor Christos Gortsos
Course objectives	
The objective of this course is to introduce students to the legal framework pertaining to the EU banking law	
Course Description	
<p>The course will focus, firstly, on the definition and the evolution (especially in view of the recent (2007-2009) international financial crisis and the current eurozone fiscal crisis) of EU banking law. Then, the course will deal with the presentation of the provisions of the legal sources of EU banking law in force (some of which are still in the making), and in particular the provisions of:</p> <ul style="list-style-type: none"> ➤ the Capital Requirements Regulation (CRR), ➤ the Capital Requirements Directive IV (CRD IV), ➤ the Reorganisation and Winding-Up Directive, ➤ the Directive on the Recovery and Resolution of credit institutions (BRRD), and ➤ the Directive on deposit guarantee schemes. 	

The aspects with regard to the creation of a Single Supervisory Mechanism, as well as a Single Resolution Mechanism and a Single Resolution Fund will also be discussed, alongside with the course on EMU Law.

Specific reference will also be made on the role of the European Banking Authority (EBA), an agency of utmost importance for the making of EU banking law, as well as to the Communications of the European Commission with regard to the state aid provided to EU credit institutions in the course of their recapitalisation by public funds.

Course Outline

PART ONE: INSTITUTIONAL ASPECTS

CHAPTER ONE: DEFINITION - HISTORICAL EVOLUTION

Section 1: Definition

Section 2: Historical evolution

CHAPTER TWO: THE LAW-MAKING PROCESSES - THE SOURCES

Section 1: The law-making process in general

A. Level 1

B. Level 2

C. Level 3

Section 2: In particular: law-making by the ECB

Section 3: The sources of EBL

CHAPTER THREE: INSTITUTIONAL ASPECTS

Section 1: The Single Supervisory Mechanism (SSM)

Section 2: The Single Resolution Mechanism (SRM)

Section 3: The European Banking Authority (EBA)

Section 4: The European Systemic Risk Board (ESRB)

PART TWO: SUBSTANTIVE ASPECTS

CHAPTER ONE: FREEDOMS IN THE BANKING SECTOR

Section 1: Freedom of establishment

Section 2: Freedom to provide services

CHAPTER TWO: STRUCTURAL ISSUES

CHAPTER THREE: PRUDENTIAL REGULATORY INTERVENTION:

Section 1: Authorisation

Section 2: Prudential regulation

Section 3: Prudential supervision

Section 4: Recovery and resolution planning

CHAPTER FOUR: CRISIS PREVENTION

Section 1: Early intervention - temporary administrator

Section 2: Write down and conversion powers

CHAPTER FIVE: CRISIS MANAGEMENT

Section 1: Recovery and resolution

Section 2: Winding-up

Section 3: Deposit guarantee schemes

Excursus: Recapitalisation by public funds

Educational Outcomes

Students should be able to have a solid understanding of the legal framework pertaining to EU banking law

Basic Textbook(s)

Gortsos, Ch. V. (2012): *Fundamentals of Public International Financial Law: International Banking Law within the System of Public International Financial Law*, Schriften des Europa-Instituts der Universität des Saarlandes - Rechtswissenschaft, Band 89, Nomos Verlag, Baden-Baden

Gortsos, Ch.V. (2015): The Single Supervisory Mechanism (SSM): the first pillar of the European Banking Union (forthcoming)

Binder, J.-H. (2015): Resolution Planning and Structural Bank Reform within the Banking Union, in Castaneda, J., Giannoula Karamichailidou, G., David Mayes, D. and G. Wood (2015, editors): *European Banking Union. Prospects and challenges*, Routledge (forthcoming), available at: <http://ssrn.com/abstract=2540038>

Binder, J.-H. (2015): To Ring-Fence or Not, and How? Strategic Questions for Post-Crisis Banking Reform in Europe, available at: <http://ssrn.com/abstract=2543860>

Castaneda, J., Giannoula Karamichailidou, G., David Mayes, D. and G. Wood (2015, editors): *European Banking Union. Prospects and challenges*, Routledge (forthcoming)

Basic Bibliography

Allen, F. and A.M. Santomero (1999): *What Do Financial Intermediaries Do?*, Financial Institutions Center, Wharton, 99-30-B

Avgouleas, E., Goodhart, C.A.E. and D. Schoenmaker (2009): *Living Wills as a Catalyst for Action*, DSF Policy Papers No. 4, Duisenberg School of Finance, Amsterdam

Bagehot (1873): *Lombard Street*, new edition of 1901, Kegan Paul, Trench, Trumbr & Co., London

Barth, J.R., Caprio, G. and R. Levine (2006): *Rethinking Bank Regulation – Till Angels Govern*, Cambridge University Press, Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore, São Paulo

Borio, C. (2008): *The Financial Turmoil of 2007-?: A Preliminary Assessment and Some Policy Considerations*, BIS working Papers, no 251, Bank for International Settlements, March

Borio, C. (2003): *Towards a macroprudential framework for financial supervision and regulation?*, BIS working Papers, no. 128, Bank for International Settlements, February

Calomiris, Ch. W. (2008): **The subprime turmoil: What's old, what's new, and what's next**, Jackson Hole Symposium: *Maintaining Stability in a Changing Financial System*, Federal Reserve Bank of Kansas City, August

Carisano, R. (1992): *Deposit insurance; theory, policy and evidence*, Luiss, Dartmouth

Chalmers, D., Hadjiemmanuil, Ch. Monti, G. and A. Tomkins (2006): *European Union Law*, Cambridge University Press, Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore, São Paulo

Claessens, St., Herring, R. J. and D. Schoenmaker (2010): *A safer world financial system: Improving the resolution of systemic institutions*, Geneva Reports on the World Economy 12, International Center for Monetary and Banking Studies (ICMB), Geneva

Clement, P. (2010): The term “macroprudential”: origins and evolution, *BIS Quarterly Review*, March, pp. 59-67

Committee on the Global Financial System (2008): *Central bank operations in response to the financial turmoil*,

CGFS Papers, No. 31, Bank for International Settlement

Committee on the Global Financial System (2010): *Macroprudential instruments and frameworks: a stocktaking of issues and experiences*, CGFS Papers, No. 38, May

Craig, P. and G. de Búrca (2011, editors): *The Evolution of EU Law*, 2nd edition, Oxford University Press, Oxford – New York

De Haan, J., Oosterloo, S. and D. Schoemaker (2009): *European Financial Markets and Institutions*, Cambridge University Press, Cambridge (and other)

European Central Bank (2008): *The incentive structure of the 'originate and distribute' model*, European Central Bank, December

Fernandez-Bollo, E. et G. Tabourin (2007): Les établissements de credit, in Commentaire J. Megret : *Integration des marchés financiers*, Direction Dominique Servais, Institut d' Etudes Européennes, Editions de l' Université de Bruxelles, Bruxelles, pp. 91-148

Gortsos Ch.V. (2010a): European financial integration: Economic aspects, the existing legal framework and the way ahead, article to be published in the collective work (editor Miroslav Jovanovich): *Handbook of Economic Integration*, Edward Elgar, Hehlthahn, pp. 394-425

Gortsos, Ch.V. (2010b): The Proposals of the Larosière Group on the Future of Financial Supervision in the European Union, in Giovanoli, M. and D. Devos (editors): *International Monetary and Financial Law: The Global Crisis*, Oxford University Press, Oxford – New York, pp. 127-145

Gortsos Ch.V. (2011): "Basel III": the revision of the regulatory framework in force of the Basel Committee on Banking Supervision for the enhancement of the stability of the international banking system, in: *Festschrift: 60 Jahre Europa-Institut der Universität des Saarlandes – 60 Jahre Europa- und Völkerrecht*, Nomos Verlag, Baden-Baden, pp. 167-183

Huertas, T.F. and R.M. Lastra (2011): The perimeter issue: to what extent should *lex specialis* be extended to systemically significant financial institutions? An exit strategy from too big to fail, in: Lastra, R.M. (2011, editor): *Cross-Border Bank Insolvency*, Oxford University Press, Oxford –

New York, pp. 250-280

Lannoo, K. (2002): Supervising the European Financial System, *Centre for European Policy Studies*, April

Lastra, R.M. (2006): *Legal foundations of international monetary stability*, Oxford University Press, Oxford-New York, Chapters 10 (Banking Supervision and Last Resort in the EU) and 11 (European Financial Architecture), pp. 297-342

Lastra, R.M. and G. Wood (2010): The crisis of 2007-2009: nature, causes and reactions, *Journal of International Economic Law*, vol. 13, n. 3, September, Oxford University Press, Oxford, September, pp. 531-550

Lastra, R.M. (2011, editor): *Cross-Border Bank Insolvency*, Oxford University Press, Oxford – New York

Louis J.-V. (2010): The implementation of the Larosière report: a progress report, in Giovanoli, M. and D. Devos (editors): *International Monetary and Financial Law: The Global Crisis*, Oxford University Press, Oxford – New York, pp. 146-176

Petrovic, A. and R. Tutsch (2009): *National rescue measures in response to the current financial crisis*, Legal Working Paper Series, No. 8, European Central Bank, July

Schnyder, A.K. (2005): *Europäisches Banken- und Versicherungsrecht*, *Ius Communitatis*, C.F. Müller Verlag, Heidelberg

Schwarze, J. (2007): *Europäisches Wirtschaftsrecht*, Nomos, Baden-Baden

Servais, D. (direction, 2007): *Integration des marchés financiers*, Commentaire J. Megret, Institut d' Etudes Européennes, Editions de l' Université de Bruxelles, Bruxelles

Sousi-Roubi, B. (1995): *Droit bancaire européen*, Dalloz, Paris

Tirole, J. (2010): Lessons from the Crisis, in: Dewatripont, M., Rochet, J-Ch. and J. Tirole: *Balancing the Banks: Global Lessons from the Financial Crisis*, Princeton University Press, Princeton and Oxford, chapter 2, pp. 10-77

Tridimas, T. (2011): EU Financial Regulation: Federalization, Crisis Management, and Law Reform, in

	<p>Craig, P. and G. de Búrca (2011, editors): <i>The Evolution of EU Law</i>, Oxford University Press, Oxford (2nd edition), pp. 783-804</p> <p>Walker, G.A. (2007): <i>European Banking Law – Policy and Programme Construction</i>, Sir Joseph Gold Memorial Series, International Financial & Economic Law, Vol. 6, The British Institute of International and Comparative Law, London</p> <p>Wessels, B. (2006): Commentary on Directive 2001/24/EC on the Reorganisation and Winding-up of Credit Institutions, in Moss, G. and B. Wessels (editors): <i>EU Banking and Insurance Insolvency</i>, Oxford University Press, Oxford-New York, pp. 47-103</p>
<p>Additional Bibliography</p>	<p>Allen, F. and D. Gale (2001): <i>Comparative Financial Systems: A Survey</i>, Financial Institutions Center, Wharton, April</p> <p>Bradley, K. (2011): Powers and procedures in the EU Constitution: legal bases and the Court, in Craig, P. and G. de Búrca (2011, editors): <i>The Evolution of EU Law</i>, Oxford University Press, Oxford (2nd edition), pp. 85-109</p> <p>Brunnenmeier, M., Crockett, A., Goodhart, Ch. Persaud, A.D. and H. Shin (2009): <i>The Fundamental Principles of Financial Regulation</i>, Geneva Reports on the World Economy, no. 11, International Center for Monetary and Banking Studies (ICMB) – Centre for Economic Policy Research (CEPR)</p> <p>Carmassi, J., Luchetti, El., and S. Micossi (2010): <i>Overcoming too-big-to-fail: a regulatory framework to limit moral hazard and free riding in the financial sector</i>, Report, Centre for European Policy Studies, Brussels</p> <p>Craig, P. (2010): <i>The Lisbon Treaty: Law, Politics and Treaty Reform</i>, Oxford University Press, Oxford – New York</p> <p>Eichengreen, B. (2008): Thirteen Questions about the Subprime Crisis, Conference of the Tobin Project: <i>Toward a new Theory of Financial Regulation</i>, While Oak Conference and Residency Center, February</p> <p>European Central Bank (2010): Macroprudential policy: objectives and tools, in: <i>Financial Stability Review</i>, IV. Special Features, Section A, European Central Bank, June</p> <p>European Commission (2000): <i>Institutional Arrangements for the Regulation and Supervision of the Financial Sector</i>, Internal Market Directorate General, January</p> <p>Ferrarini, G. and F. Chiodini (2009): Regulating cross-</p>

border banks in Europe: a comment on the de Larosière report and a modest proposal, *Capital Markets Law Journal*, Vol. 4, Oxford University Press, pp. 123-140

Financial Stability Board, International Monetary Fund and Bank for International Settlements (2011): “*Macroprudential policy tools and frameworks*”, February 14, at:
http://www.financialstabilityboard.org/publications/r_1103.pdf

Galati, G. and R. Moessner (2011): *Macroprudential policy - a literature review*, BIS Working Papers No. 337, Monetary and Economic Department, Bank for International Settlements, February

Giovanoli, M. (2000, editor): *International Monetary Law - Issues for the New Millennium*, Oxford University Press, Oxford

Giovanoli, M. and D. Devos (2010, editors): *International Monetary and Financial Law: The Global Crisis*, Oxford University Press, Oxford – New York

Goodhart, C.A.E. (2009): *The Regulatory Response to the Financial Crisis*, Edward Elgar, Cheltenham, UK – Northampton, MA, USA

Goodhard, C.A.E. (editor, 2000): *Which lender of last resort for Europe?*, Central Banking Publications, London

Gorton, G. and A. Winton (2002): *Financial Intermediation*, Financial Institutions Center, Wharton, 02-28

Gortsos, Ch.V. (2009): *Assessment of the banking “rescue” packages and “recovery” plans by Member States in the European Union*, European Parliament (2008), IP/A/ECON/RT/2008-29, pp. 9-46

Guttentag, J. and R. Herring (1987): Emergency liquidity assistance for international banks, in Portes, R. and A.K. Swoboda (editors): *Threats to international financial stability*, Cambridge University Press, Cambridge, pp. 150-186

Herring, R. and A. Santomero (2000): *What is Optimal Financial Regulation?*, Financial Institutions Center, Wharton, 00-34

Kellerhals, A. (2006): *Wirtschaftsrecht and europäische Integration*, Wirtschaftsrecht und Wirtschaftspolitik, Band 200, Nomos, Baden-Baden - Schulthess, Zürich

Leaven, L. and F. Valencia (2008): *Systemic Banking Crisis: A new Database*, IMF Working Paper, WP/08/224, International Monetary Fund

Recine, F. and P.G. Texeira (2010): *The New Financial Stability Architecture in the EU*, Working Paper Series No. 110, Institute for Law and Finance, Göthe-Universität Frankfurt am Main

Shapiro, M. (2011): Independent agencies, in Craig, P. and G. de Búrca (2011, editors): *The Evolution of EU Law*, Oxford University Press, Oxford (2nd edition), pp. 111-120

Smits, R. (2010): European supervisors in the credit crisis: issues of competence and competition, in Giovanoli, M. and D. Devos (editors): *International Monetary and Financial Law: The Global Crisis*, Oxford University Press, Oxford – New York, pp. 305-328

Sousi-Roubi, B. (2007): La politique législative, dans Dom. Servais (directeur): *Intégration des marchés financiers*, Commentaire J. Megrét, éditions de l' Université de Bruxelles, pp. 23-38

Stillhart (2002): *Theorie der Finanzintermediation und Regulierung von Banken*, Bank- und finanzwirtschaftliche Forschungen, Verlag Paul Haupt, Bern-Stuttgart-Wien

Swoboda, A. (2008): *Restoring International Financial Stability: Five Guidelines for Regulatory Reform*, paper prepared for the conference "Building an International Monetary and Financial System for the 21st Century: Agenda for Reform", The Reinventing Bretton Woods Committee, New York, November

Van Couter, L. (2003): A new EU legislation addressing the emergence of financial services groups: an introduction to the Financial Conglomerates Directive of 16 December 2002, *Euredia*, vol. 2, pp. 165-200

Vigneron, P. and A. Smith (1990): The Concept of Reciprocity in Community Legislation: The Example of the Second Banking Directive, *Journal of International Banking Law*, volume 5, pp. 181-191

Teaching Methodology	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="padding: 5px;">Lectures</td> <td style="padding: 5px; text-align: center;">12 x 2 = 24 h</td> </tr> <tr> <td style="padding: 5px;">Tutorials</td> <td style="padding: 5px; text-align: center;">6 x 2 = 12 h</td> </tr> <tr> <td></td> <td style="padding: 5px; text-align: center;">Total = 36 h</td> </tr> </table>	Lectures	12 x 2 = 24 h	Tutorials	6 x 2 = 12 h		Total = 36 h		
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Language	English								
Traineeship	Yes								
Location	Athens								