

SECURITIES REGULATION
Law 6560 (20980)
University of Florida, Levin College of Law
Fall 2020
Professor Andrew Winden

CONTACT: Office: Holland Hall # 332
Phone: (352) 273-0978
winden@law.ufl.edu

CLASSROOM: Holland 283/284

CLASS TIME: Tuesday & Thursday: 9:00 – 10:25 a.m.

OFFICE HOURS: Wednesday, 4:30 p.m. to 6:30 p.m. and
by appointment or open door

FINAL EXAM: Monday, December 7, 2020, 8:30am to 12:30pm

TEXTS & MATERIALS:

Required:

Stephen J. Choi & A.C. Pritchard, *SECURITIES REGULATION, CASES AND ANALYSIS* (Foundation Press, 5th Ed. 2019).

Suggested:

Stephen J. Choi & A.C. Pritchard, *SECURITIES REGULATION, STATUTORY SUPPLEMENT, 2020 EDITION* [The securities laws and regulations are available for free online. I will include links on the CANVAS website for the course. It may be helpful, however, to have everything in print in one place.]

I will also post articles and other materials on CANVAS from time to time.

I will post reading and questions/problems assignments on CANVAS at least a week in advance of class. An outline of the class and the assignments for the first two classes are below at the end of the syllabus.

COURSE OVERVIEW

Securities regulations must be considered any time a business seeks financing from investors. This course provides an overview of the key concepts in U.S. federal securities laws, focusing on the offering and trading of securities under the Securities Act of 1933, the Securities Exchange Act of 1934 and the SEC rules promulgated thereunder. We will review how the securities laws shape the process of raising capital through IPOs, public offerings, and private placements. We will also discuss the mandatory disclosure regime for publicly traded companies and liability for securities fraud and insider trading. We will study core concepts such as the definition of a security and “materiality”. Finally, we will examine the roles of the

SEC and private shareholder litigation in interpreting and enforcing the securities laws.

COURSE OBJECTIVES and STUDENT LEARNING OUTCOMES

Upon completion of this course, students should be able to:

- (1) Explain the regulatory philosophy underlying the U.S. federal securities laws.
- (2) Explain the registration requirements for offerings of securities.
- (3) Explain the available exemptions from the registration requirements and how and when they apply.
- (4) Demonstrate an understanding of the definitions of “security” and “materiality” as they are applied in the federal securities laws.
- (5) Describe the bases for liability under the securities laws, including the elements of a claim for securities fraud and insider trading.
- (6) Apply the laws and regulations covered in the course to new factual scenarios.
- (7) Provide advice to future clients on basic questions regarding the registration and disclosure requirements of the U.S. federal securities laws and the bases for liability thereunder.

COURSE GRADING

Grading will be consistent with College of Law policy. Your grade will be based on a final exam (100% of the final grade) and class participation. The final exam will be an in-class, open-resource exam. The exam will likely include multiple-choice questions, an issue-spotter transactional essay and a policy essay. Exam grades are done on a blind basis. All grades are final. I will not regrade exams, except to correct any mathematical or clerical errors in computing the final score. As explained below under “Attendance, Preparation and Participation”, I may raise or lower your grade by a third of a letter grade (e.g., from B to B+ or B -) based on exemplary or poor class participation. Because the course must adhere to a mandatory mean grade, participation may also be used to differentiate among students with equal final exam grades.

WRITING ASSIGNMENTS

I will assign hypotheticals and problems from the casebook or other sources for discussion in class. Each of you will be expected to prepare written responses to the questions and problems twice during the semester. Responses will be due by 6:00 p.m. the evening before the relevant class. I will provide written feedback (before class when possible). The quality and timeliness of your written responses will affect my assessment of your class participation.

ATTENDANCE, PREPARATION AND PARTICIPATION

You will be requested to record your attendance and preparation on a sign-in sheet. **By signing in, you confirm that you are prepared for class.** It is your responsibility to sign-in and/or initial the sheet before class begins. **You may not sign the attendance sheet if you arrive in class after I have begun teaching.** It is a serious

violation of the Academic Honesty policy to sign in for another person or to have others sign in for you.

If you fail to sign the sign-in sheet (either because you are absent or because you are unprepared) more than six times during the semester, I will lower your final grade by at least one-third of a point.

You do not need to tell me why you are absent or unprepared. If, however, you expect to be absent from class more than six times due to a family emergency or medical situation, please notify me. Observance of a University-recognized religious holiday does not count as an absence. However, please notify me of such absences in advance.

I expect each of you to attend class prepared. Preparation includes completing the assigned reading and thinking through assigned hypotheticals and problems. Consistent with American Bar Association Standard 310, you should expect to spend *at least* six hours per week preparing for this three-credit course. **I expect you to come to class prepared to discuss how you would answer the questions and problems I assign from the casebook. I will cold call on these questions and problems.** Sometimes, I will ask you to discuss hypotheticals and problems in groups in class before I call on someone.

Your grade may be affected by the quality of your participation in class. Exemplary participation means offering a few thoughtful comments or questions in more than half of all classes (at least 13 classes), listening to and engaging with ideas raised by other students, and exercising judgment to foster participation by your classmates. You do not have to agree with your classmates, but I expect you to treat them with respect.

USE OF LAPTOPS

You are permitted to use laptops to take notes in class, however any other use of laptops during class is prohibited. Impermissible uses include, but are not limited to, looking at emails or instant messages, visiting social media sites, or any other use of the Internet, unless I explicitly invite you to look something up. Misuse of laptops during class may result in you losing the privilege of using a laptop in the classroom and may negatively affect the class participation portion of your grade. I will make the PowerPoint slides used in class available to you on CANVAS. I strongly encourage you to listen, participate in the discussion, process the material, and take notes accordingly, rather than trying to transcribe everything that is said in class. Studies have shown that students taking notes by hand perform better than students taking notes on computers. I have seen that anecdotally in my classes as well.

UNIVERSITY POLICIES:

Academic Honesty:

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

Grading information and grading scale:

The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following table describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent	Letter Grade	Point Equivalent
A (Excellent)	4.0	C (Satisfactory)	2.0
A-	3.67	C-	1.67
B+	3.33	D+	1.33
B	3.0	D (Poor)	1.0
B-	2.67	D-	0.67
C+	2.33	E (Failure)	0.0

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

Accommodations:

Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

Online Course Evaluation Process:

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

CLASS OUTLINE

The following outline provides a general overview of the topics we will cover throughout the semester. Reading assignments for each class will be posted on CANVAS approximately one week in advance. References to “CP” below are references to the Choi & Pritchard casebook

Date	Class #	Topic
8/25	1	Introduction – Why Securities Laws? CP Chapter 1 [excerpts]
8/27	2	Securities Regulatory Regime CP Chapters 1, 4 [excerpts]
9/1	3	Public Offerings & Securities Act Liability CP Chapters 7, 8
9/3	4	
9/8	5	
9/10	6	
9/15	7	
9/17	8	
9/22	9	Exempt Transactions CP Chapter 9
9/24	10	
9/29	11	
10/1	12	Secondary Transactions CP Chapter 10
10/6	13	
10/8	14	Definition of a Security CP Chapter 3
10/13	15	
10/15	16	
10/20	17	Financial Reporting CP Chapters 1, 4 [excerpts]
10/22	18	Materiality CP Chapter 2
10/27	19	
10/29	20	Private Enforcement CP Chapter 5
11/3	21	
11/5	22	
11/10	23	Public Enforcement CP Chapter 12
11/12	24	
11/17	25	Insider Trading CP Chapter 6
11/19	26	
12/1 – 12/3	Optional Review	Optional Class Review Lecture

FIRST TWO ASSIGNMENTS

Assignments will be posted on CANVAS. I am listing the first two assignments below. Please do the readings and come to class prepared to discuss the readings and the hypotheticals. I will cold-call on the hypotheticals.

Class	Subject	Readings & Problems
1 8/25	<p>Introduction</p> <p>Why Securities Regulation?</p> <p>Disclosure Philosophy and the Efficient Capital Markets Hypothesis</p>	<p>CP, Chap. 1, Motivating Hypo, Sections I & V</p> <p>Articles (on CANVAS):</p> <p><u>Elon Musk, Twitter and the SEC:</u></p> <p>Mark Matousek, <i>Elon Musk and the SEC are in a fierce battle over one of Musk's tweets – here's what you need to know about their dispute</i>, BUSINESS INSIDER, Apr. 3, 2019</p> <p>Andrew J. Hawkins, <i>Elon Musk ordered to work things out with the SEC over his tweets</i>, THE VERGE, Apr. 4, 2019</p> <p>Matthew Goldstein, <i>Elon Musk and S.E.C. Reach New Accord, Lifting Cloud Over Tesla</i>, N.Y. TIMES, Apr. 26, 2019</p> <p><u>DJ Khaled, Initial Coin Offerings (ICOs) and the SEC:</u></p> <p>Securities and Exchange Commission, <i>Two ICO issuers Settle SEC Registration Charges, Agree to Register Tokens as Securities</i>, Press Release, 2018-264, Nov. 16, 2018</p> <p>Securities and Exchange Commission, <i>Two Celebrities Charged with Unlawfully Touting Coin Offerings</i>, Press Release 2018-268, Nov. 29, 2018</p> <p>Matt Levine, <i>Don't Use Instagram for ICO Research: Well but Why Did You Think DJ Khaled Was a Crypto Expert?</i> BLOOMBERG, Nov. 30, 2018</p> <p>Matt Levine, <i>Instagram ICOs</i>, BLOOMBERG, Dec. 3, 2018</p>
2 8/27	<p>U.S. Securities Regulatory Structure</p> <p>The Two Commandments of U.S. Securities Law</p> <p>What Makes a Company "Public"?</p>	<p>CP, Chap. 1, Sections III & VI</p> <p>CP, Chap. 4, Sections I & II</p> <p>CP, Chap. 4, Motivating Hypo and Hypo 1</p>