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del Sacro Cuore

## Transnational business law

PROF. LUCA BOGGIO; PROF. SARA DETHRIDGE

### Course aims and intended learning outcomes

Students will be taught to identify and understand the legal issues in transnational business transactions, which are commonly found in today's global financial and operating environment, with particular focus on financial arrangements and the management of distressed debts (both private and sovereign) (I Module) as well as on the cross-border commerce and IPs (II Module).

It is assumed that students have already studied Principles of Law and International Business Law.

### Course content

I MODULE: *Prof. Luca Boggio*

The first Module will explore the international financial legal framework and, in particular, which kind of protection is available to investors who subscribe or buy private and sovereign bonds in the financial markets. Given to the complexity and the incompleteness of the regulations in this area, students will be required to analyse some relevant cases of issuer's default in order to understand the key elements and possible solutions.

1. Introduction and general concepts.
2. Main relevant characters of Financial Markets.
3. Is there a Transnational Financial Law?
4. Sources.
5. The role of some International Financial Institutions.
6. WTO, BIT and CETA rules
7. Structure of the international bond issues (phases, main actors, authorities, etc.).
8. General Guidelines for Transnational Financial Governance (market stability, mutual recognition, harmonization, involvement of private sector, role of the contracts).
9. EU and US Regulations related to the financial market, focusing on the investors' protection (financial services, prospectus, transparency, market abuse and bail-in).
10. Private Insolvency and Restructurings: Problems and Principles (Uncitral Model Law, WB Principles, EU/US Regulations).
11. Structure of the Sovereign Bond Issues and their relevant specificities.
12. Large insolvencies, systemic risk and protection of investors.
13. Sovereign Insolvency: Problems and Comparison to Private Insolvency Legal Framework.
14. Case Studies: history and problems of some private and public defaults.
15. Conclusions (on the role of Laws, Institutions, Contracts, Jurisdictions and ADR).

II MODULE: *Prof. Sara Dethridge*

1. *Choice of Law and jurisdiction.* A basic recap of contract law 101, the distinction between choice of governing law and courts' jurisdiction, "forum shopping", different rules of evidence, efficiency and speed of judicial proceedings, reputation for fairness, costs, cross-border enforcement issues.
2. *Sale of Goods.* Hague Convention, UN Conventional of Contract for International Sale of Goods, IncoTerms, "Battle of the forms", implied terms and conditions, trade custom.
3. *Cross-border commerce.* Includes licensing agreements, international franchising and business process outsourcing for multi-nationals.
4. *Cyber world.* Cyber security and theft; hacking and privacy issues (case study: Ashley Madison case); IP and copyright issues (case study: Sony Pictures hacking case); "piracy", copyright infringement in



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the context of “file sharing” and streaming content over the internet (case study: from Napster to iTunes); jurisdiction and difficulties in international enforcement.

5. *Technology*. “Operating in a borderless world” – technology infrastructure agreements, implications of the rise of e-commerce/m-commerce, operating in “the cloud”. A look at the latest trends: Internet of things, Wearable technology, “Big Data”.
6. *Intellectual Property Rights*. A review of different classes of IP and the differing rules and protection periods across jurisdictions, building a global portfolio, patents case study – Blackberry (RIM v. NTP).
7. *Privacy and Personal Data*: Does privacy still exist? Does it even matter? A review of the General Data Protection Regulations (EU) 2018, implications in the context of e-commerce/m-commerce, how to protect “content” created over social media.
8. *Dispute Resolution*: international arbitration, mediation, negotiation and litigation; enforcement of foreign judgments and arbitration awards, New York Convention 1958.

## Reading list

Lectures will be based on specific reading materials indicated during the classes and available on the teachers’ blackboard pages at the beginning of the course. The reading materials loaded on the blackboard are both for attending and non-attending students.

## Teaching method

The course will be taught through lectures also using practical examples, and discussions stimulated by real life case studies. Students are encouraged to participate actively in class also exposing the main topics concerning the selected cases.

## Assessment method and criteria

### *Evaluation and Examination*

Written final exam (with no mid-term exam) with open questions and possibly a case study. The two modules will be assessed jointly and at the same time at the end of the course. The exam questions addressed to students who attend and participate in class may be different from those addressed to non-attending ones.

The final mark will be represented by the average of the two modules examination results if both course modules receive a positive score.

## Notes and prerequisites

Attendance, anyway, is strongly recommended.