

**American University of Central Asia (AUCA)
International and Business Law Department (IBL)**

Law-237ID-00507

SYLLABUS

(subject to change)

Elective course: “BANKING LAW”, Fall – 2013: September 3 – December 13
Study Weeks – 15, credits – 3
Instructor: SAGYN CHEPASHEVICH OMURALIEV (СагынЧепашевич Омуралиев)

- Assistant Professor, International and Business Law (IBL) Department of AUCA; - Arbitrator of The International Court of Arbitration (Bishkek, Kyrgyz Republic, Международный Третейский Суд, арбитр); - Lawyer

Class Meeting Time: Tuesday 15:35-16:50; Thursday 15:35-16:50; Room: _____

“Bank history is not only the history of their flight, but also their fall, not only their rise of richness, but their periodically crisis and bankruptcy as well”.¹

1. Objectives and General Description of the Course As banking system of any country is large and very complicated direction of the economy today, students need to know properly its legal basics and banking legislation. The elective course “BANKING LAW” has prerequisites and is designed to continue students’ training on law subjects during their study at **not only Law Department of AUCA**. The course is designed to train students who can work under conditions of real market economy, any profession and in democratic legal society, to familiarize them theory and practice of banking business through banking law. Besides, students need practical experience, visiting commercial banks, financial institutions and state organizations. The program is intended to provide students theoretical and practical insights into banking business through law, let them know the system of corporate management, fighting money laundering and terrorism finance, many types of risks in banking activity, such as political, country, market and other kinds of risks. “BANKING LAW” will help them during their study at the University and while working on any specialty in different kinds of jobs, professional activity, especially in law, economy and business sphere...

2. Teaching Program, Assignments and Learning Outcomes. The class of “Banking Law” course will meet twice a week and consists of 30 theoretic lectures and practical seminars each for 1 hour and 15 min. Students will be assigned to read theoretical materials, cases and/or journal articles for classes. They are expected to prepare the readings beforehand and participate in discussions. Students must be prepared for classes, including: discussing cases, rules and theory of the subject; and reviewing questions that assigned in the readings. They will work at written assignments, visit National and Commercial banks, courts, companies and firms, take part on different discussions about banking law problems on the course issue. Sometimes, they will be provided with copies of necessary materials for their study and practice. By the end of the course students will be able to: 2.1. Know the types of normative legal acts, because the group is mixed - not only the students of IBL Dept. The whole course will be taught through different kinds of

¹Lavrushin O.I. Foundation of banking system in Russia. // The world of economy and international relations. #2. 1996. P.115-116.

normative legal acts.2.2.Understand the banking system of the country, legal status of the National Bank of The Kyrgyz Republic and commercial banks.2.3.Learn about other financial-credit institutions such as credit unions, micro-credit companies.2.4.Analyse the legal basics of security market in banking system.2.5.Know judicial ways of solving economic and banking cases through state and arbitrary courts.2.6.Differentiate and identify Money Laundering and White Collar Crimes, committed through banking system, responsibility for them according to the law.

The Instructor is able to invite specialists (guest lecturer) for some classes in order to illustrate specific and particular issues of the course subject.

3.Mid-Term and Final Exams.a)In the middle of semester students will have a Mid-Term Exam in written form. It will cover the **first half** of semester course and include short-answers and/or essay questions. b)The Final Exam will cover the **whole subjects of the course** and will be in written form.

4.Academic Contact. Course PoliciesStudents are expected **to be on time** for classes. If Instructor marked the student absent in case that he is late for classes, **he is considered to be absent for the whole class**, unless excused by the Instructor.If the student misses the class with an excuse of Instructor, special certificate (ex. medical, flight ticket) about the absence must be presented no later than the next class after when the student will come. In case when the requirements mentioned above are not observed, student's absence is considered to be unexcused. If the student misses 3 classes without excuse or 50% of the whole course (with or without excuse), student is given an "X" grade.Students have to follow academic honesty code. **All types of cheating and cribbing, including plagiarism, during the course especially on exams, are strictly prohibited.** If any student fails to observe this requirement, Instructor may give a grade from an "F" for the work up to the grade "F" for the whole course depending on the type of assignment and other situation.**Eating, drinking beverages, tea, coffee, smoking and sleeping during classes are not allowed.** You should do it on breaks or another time and place. While classes and/or exams **mobile telephones and any other electronic devices** should be either turned off or kept on silence.

5.Control.Being late and absent on lectures, seminars and/or exams without valid reasons are not be approved. Attendance of the students will be checking on every lecture or seminar. Missing lectures and non preparing writing works (tasks) without valid reasons will involve reduction of exam marks. Ill students must present special medical documents on illness. Student's activity during lectures and seminars, discussion of studying themes and dialogues will be taken into consideration on exams. After exams for students will be given marks according to AUCA rules.

6.Grading(a)Grading will be based on the following demands (in %%):

-Class attendance and activity	-15%
-Making written assignments, presentations	-15
-Mid-Term	-30
-Final exams	-40

(b)Grading criteria:

(A) = 94-100 %

(A-)	=	90-93
(B+)	=	86-89
(B)	=	80-85
(B-)	=	77-79
(C+)	=	74-76
(C)	=	68-73
(C-)	=	64-67
(D+)	=	60-63
(D)	=	54-59
(D-)	=	50-53
(F)	=	<50

7. Subject Contents

Note: 1) As the participants of the course are not only students of the **IBL Department**, the beginning of the course may provide 2 lectures reminding Introduction to Law. 2) Dates of classes, breaks and National holidays are appointed according to the Academic Calendar of AUCA.

WEEK 1 : September 3-6, 2013

- a) Lecture: Democratic society, separation of powers, economy and business. Constitutions of The Kyrgyz Republic and USA. The system and branches of legislation in Kyrgyz Republic.
- b) Seminar.

WEEK 2: September 9-13

- a) Lecture: Understanding of Laws, Codes, President and Government Resolutions according to the Law on Normative Legal Acts of the Kyrgyz Republic. Government and other state institutions, regulating economy, business, banking. The Laws of KR “On state registration of legal entities” and “On restriction of monopolistic activity, development and protection of a competition”.
- b) Seminar.

WEEK 3: September 16-20

a) Lecture: Banking activity as a “blood system” of economy and business. Foundation of banking system in CIS and sovereign Kyrgyzstan. The role and legal status of the National (Central) Bank of KR (NBKR). Relationship of the Central Bank with other state, government organizations and commercial banks.

- b) Seminar.

WEEK 4: September 23-27

- a) Lecture: Foundation and function of commercial banks in accordance with the Law on banks and banking activity in Kyrgyz Republic. Tax Code of KR and Banking.

b)Seminar

WEEK 5:September 30 -October 4

a) Lecture: Credit policy of commercial banks in accordance with the Law of the Kyrgyz Republic “About a Pledge”.

b) Seminar.

WEEK 6:October, 7-11

a)Lecture: Peculiarities of agreement on credit and pledge between commercialbanks and clients. Judicial case practices on levying of bank clients’ credit debts.

b)Seminar.

WEEK 7:October,14-18

-Mid-Term Exam

-Lecture: The role and participation of commercial banks on securities market.

WEEK 8: October, 21-25

a) Lecture: Foreign investments, operations in foreign currency and banking system of the Kyrgyz Republic.

b) Seminar.

WEEK 9: October, 28-November 1

a) Lecture: Non-commercial organizations, credit unions, micro-finance companies and banking system of the Kyrgyz Republic.

b) Seminar.

WEEK 10:November, 4-8

a) Lecture: Legislation on Free economic zones. Offshore Zones, Offshore Banks and business.

b) Seminar.

WEEK 11: November,11-15

a)Lecture: Legal aspects of State, Commercial and Banking secrets in banking activity.

b) Seminar

WEEK 12: November,18-22

a) Lecture: Legislation on electronic payments, electronic documents and electronic digital signature.

b) Seminar.

WEEK 13:November, 25-29

a)Lecture: Judicial system and banking. The International Court of Arbitration and financial-credit system of the Kyrgyz Republic.Law-enforcement authorities, economy and banking.Responsibility on criminal legislation of KR for crimes in economic activity.

b)Seminar.

WEEK 14 : December, 2-6

- a) Lecture: White Collar Crime and Business. International and Kyrgyz Legislation on Anti-Money Laundering, Terrorism Financing and banking system. Financial Action Task Force (FATF) recommendations.
- b) Seminar.

WEEK 15: December, 9-13

- a) Lecture: Conservation, liquidation and bankruptcy of commercial banks according to the law. Protection of bank deposits.
- b) Seminar.

WEEK 16: December, 16-20: Final Exam - Dec. 17, Tuesday**8. Literature.**

1. Syrykh V.M. Essential principles of jurisprudence. Publishing House "Bylina".
2. Mikhaylenko N.T. Jurisprudence of the Kyrgyz Republic. Publishers "Bishkek", 1997.
3. Lavrushin O.I. Banking business. Publishers "Moskow", 1999.
4. Piter S. Rose, Banking Management, Publishers "Delo, Ltd.", Moskow, 1995
5. Eriashvili N.D. Bank Law, Publishers "Unity", "Moskow", 1999.
6. Erpyleva N. International Banking Law, Publishers "Forum-Infra-M", "Moskow", 1998.
7. Charlesworth's Business Law, Sixteenth edition by Paul Dobson, London, Sweet & Maxwell, 1997.
8. Banking and Financial Services Regulation, Second edition, William Blair, Austin Allison, Keith Palmer, Peter Richards-Carpenter, George Walker, Butterworths, London, Edinburgh, Dublin, 1998.
9. International Finance. Transactions, Policy and Regulation. 17th edition. Hal. Scott. Foundation Press. New York, New York. 2010.
10. "Regulation on Licensing Bank Activities" (NBKR, March, 2, 2006, #5/7)
11. Seminar on banking law. International Monetary Fund. Bishkek, Kyrgyz Republic, March 27-31, 2006.
12. Fighting money laundering and terrorism finance". Law in transition. Strengthening corporate practices. Annual journal, 2006. Printed in England by Moore. London. P. 12-19.
13. "Focus section: Implementing corporate governance frameworks". Law in transition. Strengthening corporate practices. Annual journal. 2006. P. 34-67, 74-100.

14.Материалы Банковской конференции, посвященной Закону КР «О противодействии финансированию терроризма и легализации (отмыванию) доходов, полученных преступным путем». Бишкек, 25-27 сентября 2006г.

15.Холодкова Ю. «Внутренний контроль как один из компонентов повышения эффективности корпоративного управления в компаниях». Газета «Общественный рейтинг», №33 (402) от 18 сентября 2008г. С.7.

16.Колдасова О. «Роль исполнительного органа в акционерных обществах». Газета «Общественный рейтинг», №38 (407) от 23 октября 2008г. С.11.

17.Орехов Г. «Осторожно, корпоративный шантаж!». Газета «Общественный рейтинг», №43 (412) от 27 ноября 2008г. С.8.

18.Дуванаев И. Нацбанк Кыргызстана – ва-банк?
<http://www.centralasia.ru/news2.php?st=1344883860>. 13.08.2012.

19.В Кыргызстане 8 банков будут вовлечены в проект по выплате госпособий через банковскую систему.
<http://news.mail.ru/inworld/kyrgyzstan/economics/9742553/>. 30.07.2012.

20.Президент Кыргызстана одобрил создание Госбанка.
<http://news.mail.ru/inworld/kyrgyzstan/economics/9742553/>. 30.07.2012. Издание Kabar.kg

21.«Антиотмывочная» поправка подкашивает один банк в неделю». Интернет-журналPoint.Ru
<http://news.mail.ru/economics/9907692/?frommail=1>. 14 августа 2012. Издание Kabar.kg

22. Mandatory Laws of The Kyrgyz Republic:

- Constitutions of the Kyrgyz Republic and USA.
- Civil, Criminal, Administrative, Tax codes of KR.
- “On Normative Legal Acts of The Kyrgyz Republic”
- “On The National Bank of the KR”
- “On Banks and Banking activity in the KR”
- “About a Pledge”
- “On Micro-finance organizations in the KR”
- “On Non-Commercial Organizations”
- “On Credit Unions”
- “On Securities Market”
- “On Operations In Foreign Currency”
- “On Investments”

- “On Bankruptcy (insolvency)”
- “On Conservation, Liquidation and Bankruptcy of Banks”.
- “On Counteraction to Terrorism Financing and Laundering of incomes derived by means of crime”
- “On Protection of State Secrets of KR”
- “On Commercial Secrets”
- “On Banking Secrets”
- “On Bank Deposits Protection”
- “On Electronic Payments”
- “On Electronic Documents and Electronic Digital Signature”
- “On Free Economic Zones”
- “On Supreme Court and Lower Courts”
- “On Arbitration Tribunal in KR”

Assistant Professor

Sagyn Ch. Omuraliev