



# LAWS5012

## Banking and Finance Law

Session 2, Online-scheduled-weekday 2022

*Macquarie Law School*

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## General Information

Unit convenor and teaching staff

Doron Goldbarsht

[doron.goldbarsht@mq.edu.au](mailto:doron.goldbarsht@mq.edu.au)

Credit points

10

Prerequisites

130cp in LAW or LAWS units including LAW459 or LAWS259 or LAWS2000

Corequisites

Co-badged status

Unit description

This unit considers the link between banking and financial crime at the international and domestic levels. The unit will examine the banking and financial institutions' regulatory framework, payment systems, history, sources and development of specific crimes in the international and domestic arena, theories of compliance, and criminal enforcement. Global norms and their interaction with domestic legislatures, government authorities, and regulatory reforms in selected jurisdictions will be investigated at a broad level. Students will then more specifically examine singular criminal regimes. From a practical perspective, examining specific criminal acts and the global regimes will inform students understanding of the prevention and resolution of international conflict, and the promotion of criminal justice in such areas as human trafficking, slavery, 'blood diamonds', money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction.

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

On successful completion of this unit, you will be able to:

**ULO1:** Describe and analyse the history of formal and informal sources of specific crimes in the international and domestic arena, the development of soft and hard norms, and traditional theories of norm compliance.

**ULO2:** Explain binding and non-binding norms (including positive and negative aspects) and their interaction with national legislative and regulatory reforms in selected

jurisdictions.

**ULO3:** Explain and critique the departures from regular international lawmaking processes, and emerging forms of international governance.

**ULO4:** Explain the substantive hard and soft law norms under a specific international regime which prevent international conflict and promote criminal justice.

**ULO5:** Critically analyse the motives for compliance with the international criminal regime in different jurisdictions, including Australia.

## General Assessment Information

### Late Assessment Submission Penalty

*Unless a Special Consideration request has been submitted and approved, a 5% penalty (of the total possible mark) will be applied each day a written assessment is not submitted, up until the 7th day (including weekends). After the 7th day, a mark of '0' (zero) will be awarded even if the assessment is submitted. Submission time for all written assessments is set at 11.55 pm. A 1-hour grace period is provided to students who experience a technical issue.*

*This late penalty will apply to non-timed sensitive assessment (incl essays, reports, posters, portfolios, journals, recordings, etc). **Late submission of time-sensitive tasks** (such as tests/ exams, performance assessments/presentations, scheduled practical assessments/labs, etc) will only be addressed by the unit convenor in a Special consideration application. Special Consideration outcome may result in a new question or topic.*

## Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Test</u>	50%	No	8/11/2022, 9:00-11:00
<u>Essay</u>	30%	No	12/09/2022
<u>Participation</u>	20%	No	In-class (10%): ongoing. On-line (10%): 4.11.2022

### Test

Assessment Type <sup>1</sup>: Quiz/Test

Indicative Time on Task <sup>2</sup>: 2 hours

Due: **8/11/2022, 9:00-11:00**

Weighting: **50%**

A two hour online open book, final examination for this unit will be held during the University Examination period.

On successful completion you will be able to:

- Describe and analyse the history of formal and informal sources of specific crimes in the international and domestic arena, the development of soft and hard norms, and traditional theories of norm compliance.
- Explain binding and non-binding norms (including positive and negative aspects) and their interaction with national legislative and regulatory reforms in selected jurisdictions.
- Explain and critique the departures from regular international lawmaking processes, and emerging forms of international governance.
- Explain the substantive hard and soft law norms under a specific international regime which prevent international conflict and promote criminal justice.
- Critically analyse the motives for compliance with the international criminal regime in different jurisdictions, including Australia.

## Essay

Assessment Type <sup>1</sup>: Essay

Indicative Time on Task <sup>2</sup>: 34 hours

Due: **12/09/2022**

Weighting: **30%**

Students will be required to write a research essay on an aspect of the course. This task requires independent writing and legal research. The essay question and assessment guidance will be released via iLearn.

On successful completion you will be able to:

- Describe and analyse the history of formal and informal sources of specific crimes in the international and domestic arena, the development of soft and hard norms, and traditional theories of norm compliance.
- Explain binding and non-binding norms (including positive and negative aspects) and their interaction with national legislative and regulatory reforms in selected jurisdictions.
- Explain and critique the departures from regular international lawmaking processes, and emerging forms of international governance.
- Explain the substantive hard and soft law norms under a specific international regime which prevent international conflict and promote criminal justice.
- Critically analyse the motives for compliance with the international criminal regime in different jurisdictions, including Australia.

## Participation

Assessment Type <sup>1</sup>: Participatory task

Indicative Time on Task <sup>2</sup>: 24 hours

Due: **In-class (10%): ongoing. On-line (10%): 4.11.2022**

Weighting: **20%**

Students will be assessed on their informed participation in weekly discussions, presentations, role plays, debates and other in class activities.

On successful completion you will be able to:

- Describe and analyse the history of formal and informal sources of specific crimes in the international and domestic arena, the development of soft and hard norms, and traditional theories of norm compliance.
- Explain binding and non-binding norms (including positive and negative aspects) and their interaction with national legislative and regulatory reforms in selected jurisdictions.
- Explain and critique the departures from regular international lawmaking processes, and emerging forms of international governance.
- Explain the substantive hard and soft law norms under a specific international regime which prevent international conflict and promote criminal justice.
- Critically analyse the motives for compliance with the international criminal regime in different jurisdictions, including Australia.

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<sup>1</sup> If you need help with your assignment, please contact:

- the academic teaching staff in your unit for guidance in understanding or completing this type of assessment
- the [Writing Centre](#) for academic skills support.

<sup>2</sup> Indicative time-on-task is an estimate of the time required for completion of the assessment task and is subject to individual variation

## Delivery and Resources

Each week, one lecture or set of lectures will be pre-recorded and available to students on iLearn. These will take place from Week 1 to Week 12. The schedule of topics to be covered in the lectures, and notes on required readings, will be available in detail on iLearn.

A list of covered topics is provided below in the Unit Schedule.

Weekly one-hour tutorials begin in Week 2 and finish in Week 13. Discussion questions for each tutorial will be available on the iLearn page for the unit.

Infrequent students have compulsory sessions and the dates are available via [timetables](#).

The required texts are A. Tyree, [Banking Law in Australia, 10th edition](#) (LexisNexis, 2021), and D. Goldbarsht, [Global Counter-Terrorist Financing and Soft Law](#) (Edward Elgar, 2020). Optional: C. Brummer, [Soft Law and the Global Financial System, 2ed edition](#) (Cambridge, 2015). Additional readings will be available via iLearn or else they will be linked to a publicly available source.

Students require access to a computer and a secure and reliable internet provider.

## Unit Schedule

Week	Date	Lecture topic
1	25 Jul	Introduction to the Unit, The Australian Banking System and Regulation
2	1 Aug	Banker, Customer and Accounts
3	8 Aug	Duties of the Banker and Duties of the Customer
4	15 Aug	Cheques, Payment and Payment Systems
5	22 Aug	Lending and Secured Lending
6	29 Aug	Lending and Secured Lending
7	5 Sep	Blockchains and Cryptocurrencies
Recess	12 Sep	
Recess	19 Sep	
8	26 Sep	AML/CTF
9	3 Oct	Binding and Non-Binding Norms in AML/CTF
10	10 Oct	Theories of compliance
11	17 Oct	Implementation and Compliance
12	24 Oct	The international and domestic legal regime
13	31 Oct	

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://policies.mq.edu.au\)](https://policies.mq.edu.au). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- [Academic Appeals Policy](#)
- [Academic Integrity Policy](#)
- [Academic Progression Policy](#)
- [Assessment Policy](#)
- [Fitness to Practice Procedure](#)
- [Assessment Procedure](#)
- [Complaints Resolution Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#)

Students seeking more policy resources can visit [Student Policies \(https://students.mq.edu.au/support/study/policies\)](https://students.mq.edu.au/support/study/policies). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

To find other policies relating to Teaching and Learning, visit [Policy Central \(https://policies.mq.edu.au\)](https://policies.mq.edu.au) and use the [search tool](#).

## Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: <https://students.mq.edu.au/admin/other-resources/student-conduct>

## Results

Results published on platform other than [eStudent](#), (eg. iLearn, Coursera etc.) or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.mq.edu.au](https://ask.mq.edu.au) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@mq.edu.au)

## Academic Integrity

At Macquarie, we believe [academic integrity](#) – honesty, respect, trust, responsibility, fairness and courage – is at the core of learning, teaching and research. We recognise that meeting the expectations required to complete your assessments can be challenging. So, we offer you a range of resources and services to help you reach your potential, including free [online writing and maths support](#), [academic skills development](#) and [wellbeing consultations](#).

## Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

## The Writing Centre

The Writing Centre provides resources to develop your English language proficiency, academic writing, and communication skills.

- [Workshops](#)
- [Chat with a WriteWISE peer writing leader](#)
- [Access StudyWISE](#)
- [Upload an assignment to Studiosity](#)
- [Complete the Academic Integrity Module](#)

The Library provides online and face to face support to help you find and use relevant information resources.

- [Subject and Research Guides](#)
- [Ask a Librarian](#)

## Student Services and Support

Macquarie University offers a range of [Student Support Services](#) including:

- [IT Support](#)
- [Accessibility and disability support](#) with study
- Mental health [support](#)
- [Safety support](#) to respond to bullying, harassment, sexual harassment and sexual assault
- [Social support including information about finances, tenancy and legal issues](#)

## Student Enquiries

Got a question? Ask us via [AskMQ](#), or contact [Service Connect](#).

## IT Help

For help with University computer systems and technology, visit [http://www.mq.edu.au/about\\_us/offices\\_and\\_units/information\\_technology/help/](http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/).

When using the University's IT, you must adhere to the [Acceptable Use of IT Resources Policy](#). The policy applies to all who connect to the MQ network including students.