# Banking Law

## Prof. Claudio Frigeni

COURSE AIMS AND INTENDED LEARNING OUTCOMES

The course aims to provide a general overview of the banking system by examining both the special rules that govern the organisation of a banking company, and the regulations governing banking activities for customers, with specific in-depth analysis of the negotiation aspects concerning the main banking operations.

Intended learning outcomes

At the end of the course, students will be able to identify the conditions for exercising banking activities by banking and financial intermediaries, as well as understand public control ratios and the role that regulations assign to the supervisory authorities; they will also be able to identify the fundamental features of the bank client-bank relationship in the different phases of the contractual relationship (pre-contractual and contractual) and the main negotiation operations through which banking activities are carried out.

COURSE CONTENT

The course is divided into two parts. The first part examines the organisation of the banking enterprise and focuses on the special discipline related to the public controls governing banking activities in relation to their financial and organisational structure and the role assigned in this context to the regulatory and supervisory authorities. The second part is dedicated to banking activities and the general principles that characterise the bank-client contractual relationship, with particular regard to transparency and fairness in the different phases of the relationship (formation of the contract and information to the customer, form of the contract and delivery of a copy of the contract, nullity of protection, information on the performance of the relationship and request for information, *jus variandi*); we will also examine some of the main banking operations through which savings collection activities, credit activities and the provision of payment services are carried out.

READING LIST

In relation to the first part:

C. Brescia morra, *Il diritto delle banche. Le regole dell’attività*, Bologna, Il Mulino, 3rd ed. 2020, esp. Chaps. 1, 3, 4, 5, 7, 8, 9, 10

In relation to the second part, all the following texts and contributions:

A.a. dolmetta, *Trasparenza dei prodotti bancari. Regole*, Bologna, Zanichelli, 2013, esp. Chaps. 1, 2, 4 (up to para. 4.14, inclusive), 5, 6, 7, 8, 9, 11

A. Sciarrone alibrandi, *I contratti bancari: nozioni e fonti*, in *Trattato dei contratti*, edited by V. Roppo, vol. 5 – Mercati Regolati, Milan, Giuffrè, 2014, 639-661

A.a. dolmetta – u. Malvagna, *Il conto corrente bancario*, in *Tattato dei contratti*, edited by V. Roppo, vol. 5 – Mercati Regolati, Milan, Giuffrè, 2014, 719-756

G. Mucciarone, *Finanziamenti: istruttoria del credito e monitoraggio del cliente*, in *Tattato dei contratti*, edited by V. Roppo, vol. 5 – Mercati Regolati, Milan, Giuffrè, 2014, 781-793

as well as, also for the second part, two of the following contributionschosen by the student:

U. Minneci, *I depositi bancari di dinero*, in *Trattato dei contratti*, edited by V. Roppo, *vol 5 – Mercati Regolati*, Milan, Giuffrè, 2014, 757-778

M. Tatarano, *Il mutuo bancario*, in *Trattato dei contratti*,directed by P. Rescigno and E. Gabrielli, vol. 21 – *I contratti bancari*, edited by E. Capobianco, Milan, UTET, 2016, 845-873

G. Mucciarone, *L’apertura di credito bancario. Lo sconfinamento*, in *Trattato dei contratti*, edited by V. Roppo, *vol. 5 – Mercati Regolati*, Milan, Giuffrè, 2014, 795-813

G. Mucciarone, *Lo sconto bancario*, in *Trattato dei contratti*, edited by V. Roppo, *vol. 5 – Mercati Regolati, Milan*, Giuffrè, 2014, 815-824

TEACHING METHOD

Classroom lectures, with analysis of cases in light of the most significant pronouncements of the subject. Students who attend the lectures, especially in the second part of the course programme, will be invited to comment in class on the judgments and practical cases that will be presented by the lecturer, following a seminar approach.

ASSESSMENT METHOD AND CRITERIA

Students who regularly attend the lectures will be assessed on the basis of an interim test covering the first part of the course programme, as well as on their participation in the seminar activities and a final oral exam.

Students who cannot attend the lectures will be assessed on the basis of an oral exam, which will focus on their knowledge of the subject, as illustrated in the texts indicated in the recommended reading list.

The oral exam will consist of a series of questions on the topics covered by the course and will aim to ascertain the level of overall knowledge acquired by the student, his ability to critically address the topics analysed during lectures and to link the various parts of the programme. For attending students, emphasis will be placed on their analysis of the cases illustrated in class.

The mark out of thirty will be the average of the results obtained for the answers given to these questions. The formulation of the mark will be based in equal measure on the student's command of their arguments (considering both the quality and breadth of their reasoning), the critical vision of the issues addressed, and their ability to draw links between the topics covered by the programme. For the exam assessment, particular emphasis will be given to the student's ability to express themselves in correct and appropriate language and to grasp the reasons behind the special discipline that regulates the organisation and execution of banking activities.

NOTES AND PREREQUISITES

The study of banking law presupposes, in relation to the first part, knowledge of the basic principles of company law and, in relation to the second part, knowledge of private "patrimonial" law (bonds, contracts, debt securities, companies, etc.).

Students are required to be aware of any legislative or regulatory changes that may occur during the year and which will be made known via Blackboard and via a notice published on the lecturer's personal web page (<http://docenti.unicatt.it/ita/claudio_frigeni/>)

Further information can be found on the lecturer's webpage at http://docenti.unicatt.it/web/searchByName.do?language=Eng or on the Faculty notice board.