**Business Crisis Law**

## Proff. Claudio Frigeni – Antonino Barletta

# Module I - Business Crisis Law (substantive law)

## Prof. Claudio Frigeni

***COURSE AIMS AND INTENDED LEARNING OUTCOMES***

The course aims to address the themes and issues raised by the occurrence of a business crisis and the solutions and related legal principles set up by the legal system to protect the interests of the various parties involved.

***Intended learning outcomes***

At the end of the course, students will be able to: i) identify the main problems related to the occurrence of a business crisis and the range of solutions offered by the system to address them; ii) know the fundamental rules of corporate crisis prevention tools; iii) know the agreed regulation tools that companies in crisis can access and the different effects that are linked to each of them; iv) know the fundamental rules of the judicial liquidation of companies in crisis.

***COURSE CONTENT***

The course will examine the principles that regulate the discipline of business crisis and protect the interests of the various parties involved, by taking into account the expected entry into force of the Business Crisis and Insolvency Code (Legislative Decree 14/2019) and the amendments made also in the implementation of the Insolvency Directive. First, the course will examine the prerequisites for being subjected to the special regulations of business crisis, the organisational obligations related to the need for timely detection of the crisis, and the envisaged rules on the negotiated settlement of the crisis. Secondly, the course will address the norms that the company in crisis can use in a restructuring perspective (certified agreements and plans, approved agreements, business continuity composition with creditors) as well as the legal principles designed to facilitate the achievement of this result (protection from creditors, exemption from bankruptcy revocation, financial support and pre-deduction, extension of agreements to non-members, composition with creditors). Finally, the course will deal in general terms with the regulations of liquidation instruments (simplified composition, liquidation agreement) and compulsory liquidation (bankruptcy), intended to be applied if it is not possible to find an agreed solution to the business crisis.

***TEACHING METHOD***

The course is divided into lectures in the classroom, mainly seminars, which require knowledge of the parts of the manual specified from time to time on the Blackboard platform. All students are invited to acquire the basic skills for using the Blackboard platform.

***ASSESSMENT METHOD AND CRITERIA***

The assessment will take place in a unitary and contextual way for the substantive part and for the procedural part of the course, and will consist of a written test with three open-ended questions (two questions on the substantive part, one on the procedural part). The students’ answers will be assessed based on their critical ability in organising the presentation of the topics learnt and their use of appropriate terminology. In particular, the exam will verify the basic notions acquired and the knowledge of the main issues underlying the discipline, as well as the ability to argue possible solutions regarding the profiles indicated for the test.

***READING LIST***

For attending students: lecture notes and the material specified during lectures.

For non-attending students, information will be provided through a notice on the lecturer's personal webpage, available at <http://docenti.unicatt.it/ita/claudio_frigeni/>.

***NOTES AND PREREQUISITES***

Prerequisites for the student are basic knowledge of private law and commercial law principles.

To study this subject it is essential to consult the updated regulatory texts. Students are required to be aware of any legislative or regulatory changes that may occur during the year and which will be disclosed via Blackboard and through a notice published on the teacher's personal web page (<http://docenti.unicatt.it/ita/claudio_frigeni/>).

Information on office hours available on the teacher's personal page at <http://docenti.unicatt.it/>.

# Module 2 - Business Crisis Law (Procedural Part)

## Prof. Antonino Barletta

***COURSE AIMS AND INTENDED LEARNING OUTCOMES***

The module aims to provide students with in-depth knowledge of procedural law on the subject of business crisis and insolvency.

At the end of the course, students will be able to master the mechanisms of prevention and resolution of business crisis and insolvency. In particular, students will be able to independently coordinate the general principles and rules with the provisions for the various procedures on the subject, by applying the knowledge acquired concerning practical cases.

***COURSE CONTENT***

General notions regarding bankruptcy procedures in comparison with individual executions. The transition from bankruptcy law to the new code of business crisis and insolvency (Legislative Decree no. 14 of 2019). The procedural aspects of the negotiated settlement of the crisis and the unitary treatment of requests for access to preventive restructuring frameworks and insolvency procedures (opening, precautionary and protective measures, conclusion and reward measures). The assessment of the conditions for the opening of judicial liquidation and alternative procedures (jurisdiction, competence, legitimacy, application and its waiver, position of the debtor, appeals). The bodies, effects, and main phases of the judicial procedures for regulating the crisis (debt restructuring agreements and composition with creditors) and judicial liquidation. The concordat in the judicial liquidation. Discharge of debt.

***READING LIST***

For attending students: lecture notes and material specified during lectures.

For non-attending students, information will be provided through a notice on the lecturer's web page at <http://docenti.unicatt.it/ita/antonino_barletta/>.

***TEACHING METHOD***

Frontal lessons in the classroom. For more profitable lectures, students are advised to acquire advance knowledge of the topics included in the parts of the manual specified on the Blackboard platform.

***ASSESSMENT METHOD AND CRITERIA***

The assessment will take place in a unitary and contextual way for the substantive and the procedural part of the course, and consists of a written test, with three open-ended questions (two questions on the substantive part, one on the procedural part). The assessment of the answers will take into account the students’ critical ability to organise the presentation of the topics learnt and their use of appropriate terminology. In particular, the test will verify the basic notions acquired and the knowledge of the main issues underlying the discipline of reference, as well as the ability to argue possible solutions regarding the profiles indicated for the test.

***NOTES AND PREREQUISITES***

Prerequisites are a basic knowledge of private law and civil procedural law principles.

Information on office hours available on the teacher's personal page at <http://docenti.unicatt.it/>.