**Business Crisis Law**

## Prof. Claudio Frigeni – Prof. Antonino Barletta

# Module 1 - Business Crisis Law (substantive part)

## Prof. Claudio Frigeni

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

The course aims to provide an analysis of the themes and issues raised by the occurrence of a business crisis situation, and of the solutions and related legal principles established by law to protect the interests of the various subjects involved.

***Intended learning outcomes***

At the end of the course students will be able to: i) identify the main problems associated with the occurrence of a business crisis and the range of solutions offered by the law to address them; ii) know the fundamental rules of the company crisis prevention tools and of the assisted settlement process; iii) know the agreed regulatory tools which the company in crisis can access and the different effects that are connected to each of them; iv) know the fundamental rules of the judicial liquidation of the company in crisis.

***COURSE CONTENT***

The course will examine the principles underlying the discipline of the business crisis, which protect the interests of the various subjects involved, in light of the Code of the Business Crisis and Insolvency (Legislative Decree No. 14/2019) as it effectively entered into force following the changes made also during the implementation of the Insolvency Directive. Firstly, the course will analyse the conditions for being subjected to the special discipline of the business crisis and the organisational obligations connected to the need for timely detection of the crisis, as well as the envisaged discipline on the subject of negotiated settlement of the crisis. Secondly, the course will address the principles to which the company in crisis can resort to in a restructuring perspective (agreements and certified recovery plans, approved agreements, composition with creditors on a going concern basis) as well as the legal principles envisaged to favour the achievement of this result (protection from creditors, exemption from bankruptcy clawback, financial support and pre-deduction, extension of agreements to non-members, composition agreements). Lastly, the course will cover, in general terms, the discipline relating to liquidation instruments (simplified composition agreement, liquidation agreement) and compulsory liquidation to be applied in case it is not possible to find an agreed solution to the business crisis.

***TEACHING METHOD***

The course is mainly structured into seminar lessons in the classroom, which require knowledge of the parts of the manual indicated 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 single and contextual session 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 students’ answers will be assessed based on criteria such as their critical ability in organising the presentation of the topics learned and the use of appropriate terminology. In particular, the test will verify the basic notions acquired and the knowledge of the main issues underlying the reference 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:

G. D’Attorre, *Manuale di diritto della crisi e dell’insolvenza*, Giappichelli, Turin, second edition, 2022 from ch. I to ch. X (pp. 1-384)

***NOTES AND PREREQUISITES***

Prerequisite for the student is a basic knowledge of private law and commercial law.

For the study of the subect it is essential to consult the updated normative texts. 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 by means of a notice published on the lecturer'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 purpose of the module is to provide students with an in-depth knowledge of the procedural discipline in the field 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 crises and insolvency. In particular, students will be able to coordinate the general principles and rules with the provisions for the various procedures on the subject, independently applying the knowledge acquired in relation to practical cases.

***COURSE CONTENT***

General notions regarding insolvency procedures in comparison with individual enforcement procedures. The transition from the 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 single processing procedure of applications for access to preventive restructuring frameworks and insolvency proceedings (opening, precautionary and safety measures, conclusion and reward measures). The verification of the conditions for the opening of the judicial liquidation and of the alternative procedures (jurisdiction, competence, legitimacy, request 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 of judicial liquidation. The arrangement in judicial liquidation. The discharge of debt.

***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 page on the website <http://docenti.unicatt.it/ita/antonino_barletta/>.

***TEACHING METHOD***

Frontal lessons in the classroom. To make the most of the lessons, students are invited to first acquire knowledge of the topics in the parts of the manual indicated on the Blackboard platform.

***ASSESSMENT METHOD AND CRITERIA***

The assessment will take place in a single and contextual session 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 students’ answers will be assessed based on criteria such as their critical ability in organising the presentation of the topics learned and the use of appropriate terminology. In particular, the test will verify the basic notions acquired and the knowledge of the main issues underlying the reference discipline, as well as the ability to argue possible solutions regarding the profiles indicated for the test.

***NOTES AND PREREQUISITES***

Prerequisite for the student is a basic knowledge of private law and civil procedural law.

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