



UNIVERSITY OF CALGARY

FACULTY OF LAW

LAW 693.06: CROSS-BORDER CORPORATE LAW SUMMER TERM 2022

COURSE OUTLINE

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Email for appointment

Course Description

London (along with New York) is the financial capital of the world, and a common place for Canadian firms to find themselves operating. This course is designed to ground students in the corporate law of the United Kingdom and the United States, with a particular focus on current issues in those jurisdictions. Canadian companies frequently raise capital in the U.S. and U.K. markets, find themselves with shareholders in both markets, buy or are bought by companies in both markets, and occasionally find themselves listed in one or more of these markets.

The principal objective of the course is to give students a sense of the similarities and differences between Canadian, U.K. and U.S. corporate law, as well as how certain trends in the corporate world are playing out in those jurisdictions. The focus of the course will be on recent, high-profile scholarship. We are interested in developing a background that will assist students in representing Canadian firms engaged in corporate transactions in the United States and United Kingdom. This means students need to understand the ways in which the legal systems and cultures of these markets vary from those they have been studying in Canada.

The course will cover the following topics: (i) U.S. and U.K. corporate law; (ii) U.S. and U.K. securities law; (iii) corporate governance practices in the U.S. and U.K.; (iv) mergers and acquisitions practices between the two countries; (v) differences in disclosure practices; and (vii) the various anti-corruption and white collar crime regimes. In all cases the legal rules and market norms will be related back to the Canadian corporate context.

Course Objectives

At the end of the course, students should be able to:

- (i) understand the specialized vocabulary used by businesspersons, bankers and lawyers in corporate finance transactions in all three countries;
- (ii) possess a general knowledge of the legal doctrines and rules that can affect corporate structures in all three countries;

- (iii) understand current issues in corporate law in Anglo-American economies;
- (iv) understand the different institutional arrangements that make up the capital markets in the three countries; and
- (v) better comprehend the principles and trade-offs in corporate regulation by discussing it in a comparative context.

Course Materials

Paper copies of the *Course Materials* will be published and made available at Bound & Copied.

Course Evaluation

There are four compulsory evaluation components: class performance, an in-class presentation, an accompanying paper, and a final examination.

1. Class performance (25%)

The format of the class will revolve around seminar-style discussions. Students' contributions to these discussions as well as their broader attendance and participation in the class will form the basis for this portion of the class evaluation. The intelligence, incisiveness and tone of a student's contributions will all be relevant.

I will expect the students who have written papers on a particular reading (see below) to lead the class discussion that day, including presenting and defending their criticisms of the article in question.

The following criteria will be used to evaluate your class participation:

- **Preparation:** The extent of your reading, analyzing and understanding of the assigned readings, as demonstrated by your contribution to class discussion and by the questions you pose. Satisfactory preparation includes, at a minimum, being able to formulate questions about anything that you do not understand in the readings or assignments.
- **Contribution to discussion:** The extent to which you volunteer relevant points and answers to questions for discussion posed by yourself and others that reflect preparation, ask follow-up questions, express your own opinion, analyze the contributions of others, engage the interest of other students, or make connections to other readings in the course.
- **Group skills:** The extent to which you allow others to contribute, avoid class domination, share ideas with others, assist others in group assignments, provide positive feedback to others and exhibit respect for others.
- **Communication skills:** The quality of your expression, clarity, and conciseness.
- **Attendance (includes punctuality).**

Assuming the minimum attendance requirement is met, the criteria of preparation and contribution to discussion will be the heaviest weighted of the above criteria in the following marking guide:

Excellent Contributor	Contributions in class reflect exceptional preparation. Ideas offered are almost always substantive, often integrative of other comments and readings, and provide one or more major insights per class, as well as a direction to be pursued by the class. Challenges are well substantiated and persuasively presented. If this person were not a member of the class, the quality of discussion would be diminished markedly.
Good Contributor	Contributions in class reflect thorough preparation. The majority of Ideas that are offered are substantive, sometimes integrative of other comments and readings, providing good insights and sometimes providing direction for the class. Challenges are supported and often persuasive. If this person were not a member of the class, the quality of discussion would be diminished.
Satisfactory Contributor	Contributions in class reflect satisfactory preparation. Ideas offered are sometimes substantive, occasionally integrative of other comments and readings, provide generally useful insights but seldom offer a new direction for the discussion. Challenges are occasionally fairly well substantiated. If this person were not a member of the class, the quality of discussion would be diminished somewhat.
Unsatisfactory Contributor (Marginal grade)	Contributions in class reflect inadequate preparation and are often merely repetitive of what another student has said, indicating a lack of comprehension and/or listening. Ideas offered are seldom substantive, provide few if any insights and rarely, if ever, offer a constructive direction for the class. Integrative comments and effective challenges are absent. If this person were not a member of the class, valuable air-time would be saved.
Non-Participant (Failing Grade)	This person says little or nothing in class or does not attend. If this person were not a member of the class, the quality of discussion would not be changed or, if their lack of participation is due to their being distracted during class time by something other than class readings and class discussion, the quality of discussion would be improved because other students would not be distracted by their inattentiveness.

Most students (assuming they attend every class and are not a disruptive presence) receive at least a “B” for this component of the course. Contributing to the class in the ways discussed above under “Good Contributor” and “Excellent Contributor” leads to higher grades for this component.

2. Three Critical Response Papers on Readings (45% in aggregate — 15% per paper)

Students must select three of the readings covered in the first two weeks of the course and write a paper on each. Each of the three critical response papers may be no longer than 1200 words (about four pages double-spaced). The paper should make at least three critical points about the reading in question. Students will likely need to do some additional research and reading in order to critically evaluate the reading.

Students would be well advised to spend only the bare amount of time discussing the argument of the reading and then only as required to make the relevance of the student's critical points clear. Empirical evidence supporting your arguments is always helpful, but not always (depending on the points you are making) available. Illustrations from real world corporate events are also helpful. You should expect to spend a bit of time doing research to find critical perspective on the readings.

The papers must be turned in at the start of the class. Students are encouraged to work on these papers before heading to London (so the workload during the three weeks we are in London doesn't become overwhelming).

3. Final Critical Paper (30%)

The last week we are together we will be conducting an in-depth review of a particular topic in corporate law over four class periods. Students must submit a no more than 1200 word paper on the last day of class providing the student's recommendations about the changes policy makers, courts or corporate legal practitioners should make to Canada's rules or practices in relation to the topic. All types of arguments in favour of the suggested policy reforms are welcome, but it would be natural for students to appeal to the practices or experiences of the U.K. or the U.S. (or both) as support for their arguments.

Feedback

Feedback will be in the form of corrections and advice provided in class by the teacher and other students on the assignments.

Method of Arriving at Final Course Grades

Each evaluation component will be graded using one of the following designations:

A+ (4.3)	B+ (3.3)	C+ (2.3)	D+ (1.3)	
A (4.0)	B (3.0)	C (2.0)	D (1.0)	F (0.0)
A- (3.7)	B- (2.7)	C- (1.7)		

The individual grades for each component will be multiplied by the percentage which the component bears to the whole, and the results will then be added to determine the final course grade. Final grades will be assigned on the basis of the following grade point conversion scale:

A+ (4.01-4.30)	B+ (3.15-3.49)	C+ (2.15-2.49)	D+ (1.15-1.47)
A (3.85-4.00)	B (2.85-3.14)	C (1.85-2.14)	D (0.50-1.14)
A- (3.50-3.84)	B- (2.50-2.84)	C- (1.50-1.84)	F (0.00-0.49)

Note that the A+ grade ultimately carries a value of 4.0 on the University's scale for GPA purposes.

The professor may adjust the assigned grades in order to achieve the B median grade required by the Faculty Regulations and/or to adjust the A-range grades to conform to recommended practice in the law school.

Computer Use in Class

Computers may not be used in class except when I expressly request you use them for research purposes. In other words, you are requested to bring your laptops, but asked not to make use of them unless it is part of a group project and I have given permission. In many ways this approach to technology runs counter to my personal inclinations and if you feel you need to use a laptop in class for some reason, please talk to me, preferably before the add/drop period expires.

Let me summarize the reasons why I am restricting the use of laptops in class:

1. It is almost impossible for students (or, indeed, anyone) not to check email, participate in chats, send messages or briefly surf the Internet if their laptop is open. There are a multitude of studies that indicate this kind of multitasking, even if indulged briefly, significantly impairs learning. My favourite study compared someone multitasking with email with someone seriously stoned on marijuana.

Here is a non-academic article on some of the research:

http://www.slate.com/articles/health_and_science/science/2013/05/multitasking_while_studying_divided_attention_and_technological_gadgets.html

2. You might quite reasonably argue that it is a personal choice whether you multitask and thus help your classmates by holding down the bottom half of the curve. There is also research, however, that someone using a laptop distracts not just themselves but the group of students behind and beside the laptop user. Both sets of students underperformed in post-class tests.

Here is a link to this study: <http://www.sciencedirect.com/science/article/pii/S0360131512002254>

3. There is also the question of the classroom environment. I work hard to use assignments and discussion in my classes. I think this approach is both more interesting and more effective than classes exclusively dedicated to lecturing with the occasional question thrown in. If you are on a laptop the rest of the class is often looking at the back of your computer screen and the top of your head, rather than your face. Eye contact is important in communication and I have witnessed class discussions occurring over and around students with their heads buried in their laptop – it sucks a lot of energy out of the conversation.

4. It is possible that you are confident that you will only use your laptop to take notes, even with email, chat requests, instant messages, Facebook, and the rest of the Internet at your disposal. (There are, after all, some very disciplined skinny employees who work in pastry shops. Although, surely most of them must be gluten intolerant or have freakish metabolisms.) Unfortunately, there is also considerable evidence that even when students only use laptops for taking notes, they underperform students who take notes by hand. These studies come as no surprise to professors who see students rapidly typing down nearly everything they say with no apparent effort put into comprehension or synthesizing the material.

Here is a study on this issue that got a great deal of press:

<http://pss.sagepub.com/content/early/2014/04/22/0956797614524581.abstract>

5. I have also found that students who use their laptops to access the weekly assignments frequently haven't read or considered the assignment before class. The ability to download the assignment in class (then surreptitiously read it in class) was impairing an important part of the educational experience. You are through the first year of law school. I am less interested in

teaching you specific items of content than I am in teaching you some skills and ways of thinking. If you don't take advantage of the opportunity to practice those skills, you are wasting our time.

6. What finally precipitated my decision to ban laptops were a couple events that occurred outside of law school. In one case it was a director who was ejected by a board Chair because he could not stop distracting himself with electronic devices during a long (and admittedly boring) meeting. Another was a discussion with senior partners at a downtown firm during which, certain junior lawyers, who also appeared unable to concentrate for a prolonged period of time without electronic distractions, were criticized in ways that made me feel nervous for those associates' job prospects.

Law students need to leave law school being able to focus all their attention on another person and a specific topic for a couple of hours. Everything we know about the role of electronic communications in workers' lives suggests turning it off for periods of the time is vital for productivity and mental health.

An article on this point: <http://www.nytimes.com/2014/08/29/opinion/end-the-tyranny-of-24-7-email.html>

7. Finally, a nice recent article summarizing why professors are increasingly restricting the use of laptops in class: <https://www.nytimes.com/2017/11/22/business/laptops-not-during-lecture-or-meeting.html? r=0>

APPENDIX “A”

THINGS THE UNIVERSITY WANTS INCLUDED IN A COURSE OUTLINE

University of Calgary and Faculty of Law Policies and Regulations

Electronic Communication

In accordance with the University’s Electronic Communications Policy, students may communicate with the instructors of this course via their @ucalgary email accounts only.

Desire 2 Learn (D2L), which is located on the University of Calgary server, will be used extensively for communication with students. **It is the student’s responsibility to ensure that s/he gets all posted communications and documents and that s/he receives emails sent through D2L.** Only your @ucalgary.ca email address should be linked to D2L. Please ensure that you are regularly checking your @ucalgary.ca account.

Regulations

Specific regulations for the Faculty of Law at the University of Calgary, including Faculty-specific regulations on grading, assignments, examinations, deferrals, appeals, academic misconduct, etc., can be found here: <https://law.ucalgary.ca/sites/default/files/teams/2/faculty-regulations-june-2015.pdf>.

Except where the Faculty of Law Regulations specify otherwise, all regulations and deadlines of the University of Calgary apply to students in the Faculty of Law. The University of Calgary Calendar containing those regulations can be found here: <http://www.ucalgary.ca/pubs/calendar/current/>. The Academic Regulations are here: <http://www.ucalgary.ca/pubs/calendar/current/academic-regs.html>.

Academic Misconduct

The Faculty of Law and the University take academic misconduct, including plagiarism and cheating, very seriously. Please review the University of Calgary’s regulations on plagiarism, cheating and other academic misconduct at <http://www.ucalgary.ca/pubs/calendar/current/k-5.html>. You are expected to be familiar with these standards and to uphold the policies of the Faculty and the University in this respect.

Please speak with your instructor if you have any questions or concerns.

Feedback

Student feedback will be sought at the end of the course through the standard University Student Ratings of Instruction (USRI) and Faculty course evaluation forms.

Copyright Legislation

All students are required to read the University of Calgary policy on Acceptable Use of Material Protected by Copyright (www.ucalgary.ca/policies/files/policies/acceptable-use-of-material-protected-by-copyright.pdf) and requirements of the *Copyright Act* (<https://laws->

lois.justice.gc.ca/eng/acts/C-42/index.html) to ensure they are aware of the consequences of unauthorised sharing of course materials (including instructor notes, electronic versions of textbooks etc.). Students who use material protected by copyright in violation of this policy may be disciplined under the Non-Academic Misconduct Policy.

Instructor Intellectual Property

Course materials created by instructors (including presentations and posted notes, labs, case studies, assignments and exams) remain the intellectual property of the instructor. These materials may NOT be reproduced, redistributed or copied without the explicit consent of the instructor. The posting of course materials to third party websites such as note-sharing sites without permission is prohibited. Sharing of extracts of these course materials with other students enrolled in the course at the same time may be allowed under fair dealing.

Religious/Spiritual Observance

The University of Calgary recognizes and respects the diversity of its members, including diversity of religious faiths and observances. It is understood that some students may not be able to attend classes, write tests or write final examinations on days of observance. Please note that to arrange an alternative date or time for a final exam on this basis, students must submit an application accompanied by written evidence to the Assistant Dean of Student Services at agallode@ucalgary.ca prior to the date of the examination. The regulations on exam deferral for religious observance may be found in the Regulations of the Faculty of Law at para. 8(a)(i): <https://law.ucalgary.ca/sites/default/files/teams/2/faculty-regulations-june-2015.pdf>. The general University of Calgary policy on Religious/Spiritual Observance is available here: <http://www.ucalgary.ca/pubs/calendar/current/e-4.html>.

Accessibility Services

The University of Calgary has a range of resources available to facilitate an accessible learning environment for students with disabilities including chronic health issues, physical, mental, psychiatric and learning disabilities, and impairments of a temporary nature due to accident, illness or injury. Students with a disability or medical condition requiring accommodation in the classroom or in the examination or evaluation process must communicate this need to Student Accessibility Services as early as possible in accordance with the Procedure for Accommodations for Students with Disabilities. See <https://www.ucalgary.ca/pubs/calendar/current/b-1.html>.

Student Accessibility Services will work with students and administrators at the Faculty of Law to implement the required accommodations and supports. All requests for accommodation will be kept confidential. Please note that documentation of a disability is a requirement for accommodation. The Student Accessibility Services website is here: <http://www.ucalgary.ca/access/>.

It is the student's responsibility to request academic accommodations according to the University policies and procedures, which can be found here: <https://www.ucalgary.ca/policies/files/policies/student-accommodation-policy.pdf>.

Students needing an accommodation in relation to their coursework or to fulfil requirements for a graduate degree, based on a protected ground other than a disability, should communicate this

need, preferably in writing, as early as possible, to their Instructor or to the Assistant Dean of Student Services, Angela Gallo-Dewar at agallode@ucalgary.ca.

Wellness and Mental Health Resources

The University of Calgary recognizes the pivotal role that mental health plays in physical health, social connectedness and academic success, and aspires to create a caring and supportive campus community where individuals can freely talk about mental health and receive support when needed. We encourage you to explore the excellent mental health resources available throughout the university community, such as counselling, self-help resources, peer support or skills-building available through Student Wellness Services (Room 370, MacEwan Student Centre, <https://www.ucalgary.ca/wellness-services>) and the Campus Mental Health Strategy (<http://www.ucalgary.ca/mentalhealth/>).

Freedom of Information and Privacy

The University of Calgary complies with the requirements of the *Freedom of Information and Privacy Act*. The University's policy on the sharing of student information with third parties can be found here: <http://www.ucalgary.ca/legalservices/files/legalservices/pg-pi-of-students-to-3rd-parties.pdf>. The University's policy on the sharing of student information with the subject can be found here: <http://www.ucalgary.ca/legalservices/files/legalservices/pg-pi-of-student-to-subject.pdf>.

Student Success

The Student Success Centre provides services and programs to ensure students can make the most of their time at the University of Calgary. Our advisors, learning support staff, and writing support staff assist students in enhancing their skills and achieving their academic goals. They provide tailored learning support and advising programs, as well as one-on-one services, free of charge to all undergraduate and graduate students. For more information visit: <https://www.ucalgary.ca/student-services/student-success>

Student Ombuds Office

The Student Ombuds Office supports and provides a safe, neutral space for students. For more information, please visit www.ucalgary.ca/ombuds/ or email ombuds@ucalgary.ca

Student Union (SU) Information

The SU Vice-President Academic can be reached at (403) 220-3911 or suypaca@ucalgary.ca. Information about the SU, including elected Faculty Representatives, can be found here: <https://www.su.ucalgary.ca>

The Law representative on the University Student Union can be contacted via e-mail at lawrep@su.ucalgary.ca.

Graduate Students' Association (GSA) Information

The GSA Vice-President Academic can be reached at (403) 220-5997 or gsa.vpa@ucalgary.ca. Information about the GSA can be found here: <https://gsa.ucalgary.ca>

Emergency Evacuation/Assembly Points

Assembly points for emergencies have been identified across campus. Assembly points are designed to establish a location for information updates from the emergency responders to the evacuees; from the evacuated population to the emergency responders. For more information, see the University of Calgary's Emergency Management website: <http://www.ucalgary.ca/emergencyplan/assemblypoints>

Safewalk

Campus security will escort individuals, day or night, anywhere on campus (including McMahon Stadium, Health Sciences Centre, Student Family Housing, the Alberta Children's Hospital and the University LRT station). Call 403-220-5333 or visit <http://www.ucalgary.ca/security/safewalk>. Use any campus phone, emergency phone or the yellow phone located at most parking lot pay booths. Please ensure your personal safety by taking advantage of this service.

Recording

Despite the fact that I have no intention of doing so, the University requires that I indicate students may be audio or video recorded for lesson capture, assessment of student learning, and/or assessment of teaching practices.