

**University of Washington School of Law**  
**Winter, 2019**  
**Securities Regulation: LAW A517**  
**(4 credits)**  
**Class meets Mondays and Wednesdays at 8:20 – 10:20, Room 117**

Instructors: Mark R. Beatty  
James B. Parsons  
Emails: [mark@markbeatty.law](mailto:mark@markbeatty.law)  
[jparsons@pblaw.biz](mailto:jparsons@pblaw.biz)

Office Hours: By appointment (our offices are in Bellevue – we don't have offices at the law school but can arrange to meet you before or after class or some other convenient time)

## **SYLLABUS**

### **Class Description**

This course introduces students to U.S. regulation of securities and securities markets. It focuses on, among other things, federal regulation of the offer and sale of securities and the public offering process under the Securities Act of 1933; exemptions from federal registration; the reporting obligations of public companies under the Securities Exchange Act of 1934; and statutory and implied remedies for securities violations, and insider trading issues.

### **Learning Objectives**

- At the end of the course, students will have acquired facility in reading and analyzing the securities laws and associated rules and applying those laws and rules to facts.
- At the end of the course, students will have acquired a basic understanding of the public and private offering processes, the role of underwriters in public offerings, disclosure obligations, and the rules and requirements that must be navigated in connection with secondary market transactions.
- At the end of the course, students will have acquired an understanding of basic antifraud doctrine under the securities laws and be able to evaluate facts to determine whether they embody the requisite elements of securities fraud.
- At the end of the course, students will be able to evaluate whether particular components of the securities markets are subject to excessive regulation or whether more regulation is necessary.

### **Textbook and Materials**

The following texts and materials are REQUIRED:

Textbook: Choi & Pritchard, Securities Regulation (4<sup>th</sup> Edition)  
Foundation Press (available at University Bookstore)

Online: SEC Forms and Regulations and Filings  
<http://www.sec.gov/>

Other: Perkins Coie's The Initial Public Offering Handbook, Allison, Bastian, DeJon, Gibson, Hall & McShea (available on class website)

The following is recommended, but not required:

Securities Regulation Statutory Supplement, 2018 Edition  
Stephen J. Choi | Adam C. Pritchard  
ISBN: 9781640209350

### **Grading**

Grades for the class will be determined primarily by the final exam.

Deduction for being regularly unprepared, failing to turn in assignments or failing to show some modicum of effort: Up to 10%

Increase in grade for being exceptionally well prepared and participating in class, turning in assignments and being engaged in the topic: Up to 10%

### **Final Exam**

Except as noted below, the final, comprehensive exam will be closed book, 3 hours, taken in-class: 90%

One essay question (30 points), 30 multiple guess questions (2 points each) and ten (10) true-false questions.

Each student may bring to the final exam one 8 ½ x 11 inch paper with notes and summaries on one-side only. The information and notes can fill the entire page (i.e., no margins are required) and the font size can be as large or small as you like. The one page may not be loaded on your computer – it is hard copy only.

Excerpts of applicable statutes and SEC rules will be provided as part of the exam.

You may use a computer to answer the essay questions or provide supplemental information to the multiple choice questions. If you choose to answer questions with a computer, the School of Law's Policy on the Use of Computers on Exams (<http://www.law.washington.edu/Students/Exams/ComputerUse.aspx>) governs. Any exceptions to this Policy will be announced in class.

The final exam is currently scheduled for Wednesday, March 20, 2019 at 1:00 pm. You are responsible for reviewing the exam schedule to determine if there are any changes. The exam schedule for this quarter is posted at <http://www.law.washington.edu/Students/Exams>.

### **Assignments**

Throughout the course, we will assign (usually on Wednesday) questions or problems to be completed outside of class and handed in the following Monday. Please submit all such assignments through the course website before the start of class on the day there are due. We will review but not grade the submissions. We will usually (but not always) discuss the assignment at the beginning of class on the day that it was due.

### **Class Attendance and Participation**

We expect you to attend class regularly and to be prepared to participate in class discussions. We get bored lecturing, and We think students get bored listening. We encourage participation primarily using an expert panel system. We will post the panels for each class on the course website after the first day of class (please email me if you have a conflict for any of the dates you are assigned to a panel). However, in our weekly discussions of assigned problems, We will call on a number of students, regardless of whether they are on the panel for the day, to elicit their approaches to particular problems. Accordingly, please bring a copy of your answers to class that day and have it before you when we begin class. A student that comes regularly to class unprepared can expect to be quizzed anyway.

### **Law School Attendance Policy**

UW Law's attendance policy provides that, at any time after the fifth week of a course (halfway through a quarter), if you have attended fewer than 80% of the regularly scheduled class sessions, you will be required to drop the course.

### **Course Evaluation**

Course evaluations are open online during the last week of classes. Class time will be made available on the last day of class for filling out your evaluation. Please bring a laptop or mobile device to class on this date to participate in the evaluation.

### **Assigned Seating**

We intend to circulate a seating chart the second day of class. Please use those seats, even if you are late, until we know all students' names.

### **Being Prepared for Class**

Recognizing that life sometimes gets complicated, please email us in advance (or let us know before class). We may give you some latitude for an "unprepared" or "pass" response, but you can expect us to ask you questions even if unprepared. It may serve as mitigation.

### **Review Session**

We have reserved the last class for review, but given the volume of materials that session will also be used to catch up.

### **Electronic Devices (Phones and Computers)**

You are permitted to use laptop computers in class solely for the purpose of taking notes and accessing course materials. As a courtesy to others in the class, please refrain from checking, composing, or transmitting emails or other electronic communications during class time.

### **Podcasting and Recording Classes.**

All class sessions will be digitally recorded and will be available for downloading by students enrolled in the course. To access a recorded class session, visit the "Podcasts & Recordings" page on the course website. Please note that podcasting is provided to facilitate review and

not as a substitute for attending class sessions. Note that because the batteries in the lavalier microphone tend to lose power very frequently there is a good chance that at least some portion of the recording may lack sound. If these difficulties arise, it is your responsibility to obtain notes from a colleague in the course. You are welcome to make your own audio recordings of any class session for your own personal use. You may not sell, license, duplicate, distribute, or otherwise transfer any audio recording of a class lecture without the instructor's prior consent.

### **Guests and Visitors**

Guests and visitors are welcome. Please alert me in advance.

### **Access and Accommodation**

Your experience in this class is important to us. If you have already established accommodations with Disability Resources for Students (DRS), please communicate your approved accommodations to me at your earliest convenience so we can discuss your needs in this course.

If you have not yet established services through DRS, but have a temporary health condition or permanent disability that requires accommodations (conditions include but not limited to; mental health, attention-related, learning, vision, hearing, physical or health impacts), you are welcome to contact DRS at 206-543-8924 or uwdrs@uw.edu or disability.uw.edu. DRS offers resources and coordinates reasonable accommodations for students with disabilities and/or temporary health conditions.

Reasonable accommodations are established through an interactive process between you, your instructor(s) and DRS. It is the policy and practice of the University of Washington to create inclusive and accessible learning environments consistent with federal and state law.

### **Our Availability**

We don't have an office at the law school. Students may email either Professor Beatty or Professor Parsons at any time. If you wish to meet with either or both of us, please email us and we can arrange a time either in the Law School's Adjunct Offices or one of our offices (which are in Bellevue).

**[Note: Class Assignments continue on next page]**

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## **Class Meetings**

### **1. 1/7 Introduction and Overview - What's an IPO? And why should you care?**

Choi & Pritchard: Chapter 1, pp 1-15, and 28-45

SEC Web page – About the SEC – What we do:

- <https://www.sec.gov/Article/whatwedo.html>

Review Tilray (TLRY) Offering –

<https://www.sec.gov/Archives/edgar/data/1731348/000119312518219032/d545137ds1a.htm>

Review “Course Review – Intro” on Class Website

Topics:

- Raising Capital for Start-Ups
- Family & Friends
- Angel investors

### **2. 1/9 Raising Capital (pre-IPOs)**

Choi & Pritchard: Chapter 9: Exempt Offerings

- o pp 549 – 558
- o Chapter 9 Replacement pages 559-588 (2016 Update to Textbook – on website)
- Sections 5 and 4(2), Securities Act of 1933
- Regulation D – Rules 500 – 508

Cases:

- SEC v. Ralston Purina
- Doran v. Petroleum Management Corp.
- In the Matter of Kenman Corp

### **3. 1/14 Exempt Offerings and Materiality**

Choi & Pritchard: Chapter 9: Exempt Offerings (continued)

Chapter 2, Materiality

- pp 605-627 (2016 Update to Textbook – on website)
- pp 47 - 76

Review SEC Rule 147: <https://www.sec.gov/rules/final/2016/33-10238.pdf>

Review Crowdfunding (federal and state):

<https://www.sec.gov/info/smallbus/secg/rccomplianceguide-051316.htm>

#### **New Topic: Disclosure – of What?**

- Basic Inc. v. Levinson
- Litwin v. Blackstone Group, L.P.
- In re Merck & Co., Inc. Securities Litigation
- Matrixx Initiatives, Inc. v. Siracusano

### **4. 1/16 What information is “material”?**

Choi & Pritchard: Chapter 2: Materiality

Chapter 3: The Definition of a Security

- pp 76 – 94, and 95 - 107
- Longman v. Food Lion, Inc.
- In The Matter of Franchard Corporation

#### **New Topic: When do Securities Laws Apply?**

- SEC v. W.J. Howey Co.
- International Brotherhood of Teamsters v. Daniel

### **January 21, 2019 – Holiday (no class)**

**5. 1/23 What is a “security”?**

Choi & Pritchard: Chapter 3: The Definition of a Security

Statement on Cryptocurrencies and Initial Coin Offerings – SEC Chairman Jay Clayton:

<https://www.sec.gov/news/public-statement/statement-clayton-2017-12-11>

- Pp 108- 142
  - SEC v. SG Ltd.
  - United Housing Foundation, Inc. v. Forman
  - SEC v. Edwards
  - Warfield v. Alaniz
  - SEC v. Merchant Capital, LLC
  - SEC v. Mutual Benefits Corp.

**6. 1/28 What is a “security”? What do you need to disclose?**

- Choi & Pritchard: Chapter 3: The Definition of a Security
  - Chapter 4: Disclosure and Accuracy
  - Chapter 7: Public Offerings
- pp 142 – 156
- pp 161 – 169
- pp 393 – 405

Cases:

- Landreth Timber Company v. Landreth
- Reves v. Ernst & Young

**New Topic:– Introduction to Public Companies and the “Going Public” Process**

Review:

- Form S-1
- Form S-3
- SEC Regulation S-K
- SEC Regulation S-X

## **7. 1/30 Public Offerings**

Guest Speaker: Alesia Pinney, General Counsel, Avalara, Inc.

<https://www.sec.gov/Archives/edgar/data/1348036/000119312518191000/d317509ds1a.htm>

Choi & Pritchard: Chapter 7 Public Offerings  
pp 406 – 458

Topic: How Does a Company Become a “Public Company”?

Review Perkins Coie - The IPO Handbook, pp 1 - 33

## **8. 2/4 Public Offerings**

Choi & Pritchard: Chapter 7: Public Offerings (cont/)

- pp 458 – 465  
Pp 169 -196

### **New Topic: Required Disclosures of Public Companies**

- In the Matter of Hewlett-Packard Company
- In the Matter of Oil States International, Inc.
- SEC v. Siebel Systems, Inc.
- SEC Forms 8-K, 10-K, 10-Q and 14A
- SEC Regulation FD

## **9. 2/6 Secondary Market Transactions**

Choi & Pritchard: Chapter 10 – Secondary Market Transactions

Pp 641 - 669

Cases:

Gilligan, Will & Co. v. SEC

SEC v. Chinese Consolidated Benevolent Ass’n, Inc.

United States v. Wolfson

Rule 144

Rule 144A

**10. 2/11 Civil Liability – Section 11**

Choi & Pritchard: Chapter 8 – Civil Liability under the Securities Act

- pp 467 - 521

Krim v. pcOrder.com, Inc.

Omicare, Inc. v. Laborers Dist. Council Constr. Indus. Pension Fund

Escott v. BarChris Construction Corp.

In re WorldCom, Inc. Securities Litigation

Beecher v. Able

Eichenholtz v. Brennan

**11. 2/13 Civil Liability – Section 12**

Choi & Pritchard: Chapter 8: Civil Liability under the Securities Act

- pp 521 - 546

Pinter v. Dahl

Gustafson v. AlloydCo., Inc.

Feiner v. SS & C Technologies, Inc.

Miller v. Thane International, Inc.

**February 18, 2019 – Holiday (no class)**

**12. 2/20 Civil Liability – Rule 10b-5 Antifraud**

Choi & Pritchard: Chapter 5: Rule 10b-5 Antifraud

- pp 197 - 246

Blue Chip Stamps, et al. v. Manor Drug Stores

SEC v. Zanford

In Re Cendant Corp. Litigation

Santa Fe Industries, Inc. et al. v. Green et al.

Virginia Bankshares, Inc. v. Sandberg

Gallagher v. Abbott Laboratories

Asher v. Baxter International Inc.

**13. 2/25 Civil Liability – Rule 10b-5 Antifraud**

Guest Speaker: Barry Kaplan, Partner, Wilson Sonsini Rosati & Goodrich

Choi & Pritchard: Chapter 5: Rule 10b-5 Antifraud (continued)

- pp 246 – 288

Ernst & Ernst v. Hochfelder

Tellabs, Inc. v. Makor Issues & Rights, Ltd.

City of Livonia Employees' Retirement System v. The Boeing Co.

Affiliated Ute Citizens of Utah v. United States

Halliburton Co. v. Erica P. John Fund, Inc.

Dura Pharmaceuticals, Inc. v. Broudo

**14. 2/27 Civil Liability – Rule 10b-5 Antifraud**

Choi & Pritchard: Chapter 5: Rule 10b-5 Antifraud (continued)

- pp 289 – 327

Stoneridge Investment Partners, LLC v. Scientific-Atlanta, Inc.

Janus Capital Group, Inc. et al v. First Derivative Traders

Lustgraaf v. Behrens Garnat. Stifel, Nicolaus & Co., Inc.

Morrison v. National Australia Bank Ltd.

**15. 3/4 Insider Trading**

Choi & Pritchard: Chapter 6: Insider Trading

- pp 329- 350

Topic: What is “Inside Information” and What If You Use It?

Strong v. Repide

Chiarella v. United States

Dirks v. SEC

Salman V. United States (2016 Update to text book)

**16. 3/6 Insider Trading**

Choi & Pritchard: Chapter 6: Insider Trading

- pp 377 - 391

United States v. Newman

United States v. O’Hagan

SEC v. Rocklage

SEC v. Cuban

SEC v. Dorozhoko

**17. 3/11**

**[Catch up]**

**18. 3/13 Course Review**

Review