

**University of Washington School of Law
Winter, 2020**

**Securities Regulation: LAW A517
(4 credits)**

Class meets Mondays and Wednesdays at 8:20 – 10:20 – Remote Instruction Only

Instructors: Mark R. Beatty
James B. Parsons

Emails: mark@markbeatty.law
jparsons@pblaw.biz

Office Hours: By appointment (via Zoom)

Zoom Class Link:
Zoom Passcode:

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.

Textbook and Materials

The following texts and materials are REQUIRED:

Textbook: Choi & Pritchard, Securities Regulation (5th Edition)
Foundation Press (available at University Bookstore)

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

Other: Materials posted from time to time to Canvas

The following is recommended, but not required:

Securities Regulation Statutory Supplement, 2019 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 open book, up to 4 hours, taken remotely: 90%

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

You may use a computer to answer the essay questions or provide supplemental information to the multiple choice questions (no credit for "hedging" an answer). 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 Monday, March 15, 2021 at 8:30 am. 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>.

Class Participation / Expectations

In an effort to facilitate interactivity with students (and so we don't just lecture) and not get lost trying to call on random students on Zoom, we intend to assign two students to each case (or specified text in the textbook). So, if there are 5 cases assigned for the class, we will assign 10 students for that class, each to be ready to discuss the specific case or materials assigned to them. We still encourage all students to read all the cases and materials, of course. Our hope is that shorter length of the assigned material will be less of a burden and still facilitate group learning. Please email us if you have a conflict for any of the dates you are assigned to a case.

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 they 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.

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 time period set by the law school (usually the last week of classes). If needed, class time will be made available on the last day of class for filling out your evaluation.

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.

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.

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 us 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.

Religious Accommodations

Washington state law requires that UW develop a policy for accommodation of student absences or significant hardship due to reasons of faith or conscience, or for organized religious activities. The UW's policy, including more information about how to request an accommodation, is available at Faculty Syllabus Guidelines and Resources. Accommodations must be requested within the first two weeks of this course using the Religious Accommodations Request form available at <https://registrar.washington.edu/students/religious-accommodations-request/>.

Our Availability

We don't have an office at the law school. Students may email either Professor Beatty or Professor Parsons at any time. Telephone calls or zoom calls can be arranged by emailing us.

[Note: Class Assignments continue on next page]

SYLLABUS

Class Meetings

1. 1/4 Introduction and Overview – What are the securities laws? And why do we have them?

Choi & Pritchard: Chapter 1

pp 1-16, 22-32, and 36-48

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

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

Review “Course Review – Intro” on Class Website

Review: Seattle Times article: Anatomy of a Fraud

<https://www.seattletimes.com/business/local-business/anatomy-of-a-fraud-fake-billionaires-6-million-scams-claimed-dozens-of-local-victims/>

News articles – on Class Website

2. 1/06 What is a “security”?

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

Pp 111- 154

Cases:

- SEC v. W.J. Howey Co.
- International Brotherhood of Teamsters v. Daniel
- SEC v. SG Ltd.
- United Housing Foundation, Inc. v. Forman
- Warfield v. Alaniz
- SEC v. Merchant Capital, LLC

3. 1/11 What is a “security”?

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

pp 154 – 195

Cases:

- Avenue Capital Management II, LP v. Schaden
- SEC v. Mutual Benefits Corp.
- Landreth Timber Company v. Landreth

- Reves v. Ernst & Young
- In the Matter of The DAO
- SEC v. Telegram Group Inc.
 - <https://www.sec.gov/litigation/complaints/2019/comp-pr2019-212.pdf>
 - <https://www.scribd.com/document/430781940/Telegram-Response-to-SEC>

4. 1/13 Exempt Offerings and Raising Capital (pre-IPOs)

Reading Assignments:

Choi & Pritchard: Chapter 9: Exempt Offerings

- pp 663-688
- Sections 5 and 4(a)(2), Securities Act of 1933
- SEC 2019 Concept Release: <https://www.sec.gov/rules/concept/2019/33-10649.pdf>

Discuss:

Raising capital

- Family and friends
- Angel Investors
- Venture capital
- Crowdfunding

Exempt Offerings:

Cases:

- SEC v. Ralston Purina
- Doran v. Petroleum Management Corp.
- In the Matter of Kenman Corp
- SEC No-Action Letter Mineral Lands Research & Marketing Corporation

January 18, 2019 – Holiday (no class)

5. 1/20 Exempt Offerings (continued)

- Regulation D – Rules 500 – 508
- Regulation A – Rules 251 260

- Skim SEC Rule 147: <https://www.sec.gov/rules/final/2016/33-10238.pdf>
- Skim Crowdfunding (federal and state):
<https://www.sec.gov/info/smallbus/secg/rccomplianceguide-051316.htm>
- pp 49-89
- Regulation D – Rules 500 – 508
- Regulation A – Rules 251 260
- Skim SEC Rule 147: <https://www.sec.gov/rules/final/2016/33-10238.pdf>
- Skim Crowdfunding (federal and state):
<https://www.sec.gov/info/smallbus/secg/rccomplianceguide-051316.htm>

6. 1/25 Materiality and Disclosure

Choi & Pritchard: Chapter 2, Materiality
Pp 49 - 89

Cases

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

7. 1/27 Materiality (continued) and Introduction to Public Companies and Required Disclosures

Choi & Pritchard: Chapter 2: Materiality
pp 89-109

Cases on Materiality:

- Longman v. Food Lion, Inc.
- In The Matter of Franchard Corporation

Choi & Pritchard: Chapter 4: Disclosure and Accuracy
o pp 197 – 240 and pp 487 – 498

Materials on public companies:

- In the Matter of Hewlett-Packard Company
- In the Matter of BHP Billiton Ltd.

- SEC v. Siebel Systems, Inc.

8. 2/1 Public Offerings

Choi & Pritchard: Chapter 7: Public Offerings

Pp 487 - 539

Review:

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

Topic: How Does a Company Become a "Public Company"?

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

9. 2/3 Public Offerings – Guest Speaker: Alesia Pinney

Assignment: Review SEC filings of Avalarra

<https://www.sec.gov/cgi-bin/browse-edgar?CIK=1348036&owner=exclude>

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

10. 2/8 Public Offerings (continued); Secondary Market Transactions

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

- pp 539 – 567

Choi & Pritchard: Chapter 10 – Secondary Market Transactions

Pp 773 – 811

Review:

- Rule 144
- Rule 144A

Cases:

- Gilligan, Will & Co. v. SEC
- SEC v. Chinese Consolidated Benevolent Ass'n, Inc.
- United States v. Wolfson

11. 2/10 Civil Liability – Section 11

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

pp 569 – 629

Cases

- Krim v. pcOrder.com, Inc.
- Omnicare, 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

February 15, 2021 – Holiday (no class)

12. 2/17 Civil Liability – Section 12

Civil Liability and Rule 10b-5 Antifraud

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

pp 630 – 661

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

pp 241 – 260

Cases

- Pinter v. Dahl
- Gustafson v. AlloydCo., Inc.
- Federal Housing Finance Agency v. Nomura Holding America, Inc. et al.
- Miller v. Thane International, Inc.
- Blue Chip Stamps, et al. v. Manor Drug Stores
- SEC v. Zanford

13. 2/22 Civil Liability – Rule 10b-5 Antifraud

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

pp 261 – 303

Cases:

- 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.
- Indiana Public Retirement System v. SAIC, Inc.
- Ernst & Ernst v. Hochfelder

14. 2/24 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 303 – 357.

15. 3/1 Civil Liability – Rule 10b-5 Antifraud

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

Cases and Materials:

- Affiliated Ute Citizens of Utah v. United States (page 320 - 325)
- Halliburton Co. v. Erica P. John Fund, Inc. (page 324 – 339)
- Dura Pharmaceuticals, Inc. v. Broudo (page 349-354)
- Stoneridge Investment Partners, LLC v. Scientific-Atlanta, Inc. (page 357 -368)
- Janus Capital Group, Inc. et al v. First Derivative Traders (page 369)
- Lustgraaf v. Behrens (page 375)
- Morrison v. National Australia Bank Ltd. (page 392-402)

16. 3/3 Insider Trading

Choi & Pritchard: Chapter 6: Insider Trading

pp 405-448

Cases and Materials:

- Strong v. Repide (page 405-411)
- Chiarella v. United States (page 412-420)
- Dirks v. SEC (421 -428)
- Salman V. United States (428 – 434)
- United States v. Martoma (434 – 448)

17. 3/8 Insider Trading

Choi & Pritchard: Chapter 6: Insider Trading

Cases and Materials:

- United States v. O'Hagan (449 – 458)
- SEC v. Rocklage (459 - 465)
- SEC v. Cuban (466 – 471)
- SEC v. Dorozhoko (471 – 475)
- Lowinger v. Morgan Stanley & Co. (475 – 484)

18. 3/10 Course Review

Review