Students in this unit should read this study guide carefully at the start of semester. It contains important information about the unit. If anything in it is unclear, please consult one of the teaching staff in the unit.
1. ABOUT THIS UNIT

This subject examines the financing of international trade, international payments systems, foreign currency transactions, international capital markets, treaty provisions relating to financial services, international financial institutions such as the IMF and the World Bank and the resolution of international investment disputes (including the ICSID regime).

The unit complements BUSL860 Banking and Finance Law, which focuses on domestic banking.

2. TEACHING STAFF

Unit Convenor/Lecturer in Charge: Mr John Bourke,
Office: W3A Room 421
Phone: 9850 8454; 0422 539 361
E-mail: John.Bourke@law.mq.edu.au.

Adjunct Lecturer: Dr Malcolm Quirey,
Special Counsel
Piper Alderman, Lawyers, Sydney.

Postgraduate Administrator: Lara Hardy, W3A Room 341
E-mail: lara.hardy@mq.edu.au

3. CLASSES AND STUDY TIMES

The unit will be offered in alternate modes:

Internal Students

- Weekly Fridays 6-9pm in Room C5A310

External Students

- Intensive weekend class on the following days:
  Saturday, 21 and Sunday, 22 August, from 10.00 am-5.00 pm, in Room C5A 226

Please check the timetable for class times and rooms on the University website at:
http://www.timetables.mq.edu.au
4. REQUIRED AND RECOMMENDED TEXTS AND/OR MATERIALS

“A” Prescribed text:

- No single text covers this unit. Students may purchase:


  This text tends to focus on UK banking law (which is relevant), but also makes frequent reference to banking regulation in other jurisdictions such as the EU, USA and Japan, and has some coverage of international banking laws topics. Because of this transnational dimension it is worth reading.

  Also,

  *Ellinger’s Modern Banking Law*, by Ellinger and ors, 4th ed, Oxford University Press (5th ed on the way) is very useful and may be consulted.

“B” Other recommended texts:


McCracken and Anna Everett, *Banking and Financial Institutions Law* (7th ed. 2009)


Useful Websites

- Bank for International Settlements: www.bis.org
- Australian Prudential Regulatory Authority: www.apra.gov.au/
- World Bank: www.worldbank.org
- International Monetary Fund: www.imf.org
- Federal Reserve Board (USA): www.federalreserve.gov
- Financial Services Authority (UK): http://www.fsa.gov.uk/Pages/index.shtml

The online law databases available through the university homepage are very useful. These include:

Case Base facilitates searches for Australian legal materials, and provides links to these. (If a case is not available through one of the commercial reports try the parallel BC….. link.)

Hein Online is for searching journal articles.

LexisNexis AU is for searching local primary (cases, legislation) and secondary (articles) materials.

LexisNexis affords a facility for searching for primary and secondary materials from a number of jurisdictions. Although it focuses on US materials it is also a good source for materials from other jurisdictions.

Westlaw international also provides a trans jurisdictional search facility for primary and secondary materials.

Some tips for using these databases – click the Natural Language option; key in fewer rather than more words, so as to provide a wider net for searches (for example, take one distinctive word in the title of a case, if the full title does not get a hit); use AND or & in order to narrow a search (for example, waiver & arbitration will ensure that documents retrieved contain both words).

Worldtradelaw.net – World Trade Organisation dispute resolution materials.
Macquarie University Library offers a wide range of services and resources to postgraduate students. Go to the Library website http://www.lib.mq.edu.au. Library services include information on borrowing periods, services to distance students, links to IT Help (the Library’s IT support service), and links to training information and training course notes.

Postgraduate students are eligible for a number of additional services. These include the Liaison Librarians (LL). The LLs are the first point of contact for Postgraduate students. There is an LL appointed to each Faculty of the University.

Services offered by your LL include:

- Providing further information on the library services
- Providing individual and group library resource sessions for postgraduate students
- Advising on new database trials being held in the Library
- Advising on appropriate contacts for specific services, such as requesting items not held at the Library from the Document Supply Service
- Preparation of resource guides in print and on the web
- Reference advice (face-to-face, phone and email)

Further information about these services is available from the Postgraduates link, listed under Additional Services on the Library homepage.

5. UNIT WEB PAGE

Study guides and information on this unit can be found at: http://www.law.mq.edu.au/html/postgraduate/studyguides.htm

6. LEARNING OBJECTIVES

The unit aims to provide an understanding of the fundamental principles governing the regulation of international banking and financial transactions, and to refine skills of legal analysis through the detailed consideration and application of relevant international instruments, legislation and case law.

7. GENERIC SKILLS

The skills sought to be developed by the unit include critical analysis skills, and problem-solving skills, focused on the law and its institutions.

8. TEACHING AND LEARNING STRATEGY

Students are encouraged to read ahead of class and to participate in discussions on the topics and issues addressed in the lectures. Marks will be awarded in both the weekly class AND, in regard to External students, in the Intensive weekend for class participation.
9. ASSESSMENT

The assessment is based upon three (3) tasks:

A  INTERNAL STUDENTS

(1) Class Participation 5% of overall assessment

(2) An in class Examination to be held prior to the mid-Semester recess, the precise date and other information to be provided in class. 45% of overall assessment

(3) An Essay of 3,500 to 4,500 words on ONE of the following topics:
    50% of overall assessment

    1. Discuss the meaning of ‘Incoterm’ in its application to International Commerce. Refer in your answer to the relationship of Incoterms to the proper law governing a particular transaction with a discussion of decided cases. What is the relationship, if any, between the Incoterms 2000 and UCP600?

    2. Assess the place of Letters of Credit in the International commercial arena. In your answer consider the process of the Letter of Credit transaction and the problems associated with enforcement of parties’ rights in a conflict situation. Refer to decided cases.

    3. Assess the role of Banks and other financial institutions and their interbank relationships in International commerce. Consider the rise of the ‘conglomerate’ Bank with its extension into areas not formerly considered appropriate for Banks. Also touch upon Regulation and Prudential Supervision of Banks and the role of the Central Bank in this area.

The Essay is due on or before 5.00pm Friday 12 November 2010. Essays received after this date may attract penalties and may not be marked.

B  EXTERNAL STUDENTS

(1) Participation in the Intensive Weekend 5% of overall assessment

AND

(2) TWO Essays, each of 3,500 to 4,500 words, selected from Topics 1 - 3 above. These two Essays comprise 95% of the final assessment.

The Essays are due on or before 5.00pm Friday 12 November 2010. Essays received after this date may attract penalties and may not be marked.
INFORMATION ON SUBMISSION OF ESSAYS FOR ALL STUDENTS:

N.B. For Footnoting and Bibliography use *The Australian Guide to Legal Citation*, available on the Internet. This must be used for Footnoting and referencing generally.

Use Footnotes,
Do not use Endnotes,
Do not use Endnotes,
Provide a full Bibliography,
Include a word count.

Place a hard copy with the completed COVER SHEET attached in the Postgraduate Box outside Room 341 in W3A

OR

Mail a hard copy or copies, with the completed COVER SHEET attached to Mr John Bourke, Department of Business Law, Building W3A, MACQUARIE UNIVERSITY, NSW 2109.

10. RELATIONSHIP BETWEEN ASSESSMENT AND LEARNING OBJECTIVES

Completion of the above assessment tasks will foster the acquisition of knowledge specific to the subject matter of the unit, and the development of the more general skills of law-focused data searching, analysis, synthesis and written expression.

11. PLAGIARISM

The University defines plagiarism in its rules: “Plagiarism involves using the work of another person and presenting it as one’s own.” Plagiarism is a serious breach of the University's rules and carries significant penalties. You must read the University's policies and procedures on plagiarism. These can be found in the *Handbook of Postgraduate Studies* or on the web at: [http://www.student.mq.edu.au/plagiarism/](http://www.student.mq.edu.au/plagiarism/).

The policies and procedures explain what plagiarism is, how to avoid it, the procedures that will be taken in cases of suspected plagiarism, and the penalties if you are found guilty. Penalties may include a deduction of marks, failure in the unit, and/or referral to the University Discipline Committee.

12. UNIVERSITY POLICY ON GRADING

The University requires all Divisions to adhere to a policy relating to the distribution of grades across high distinction, distinction, credit and pass grades. This means that on occasion a student’s raw mark for a unit (ie, the total of their marks for each assessment item) may not be the same as that which they receive on their transcript. This is because the total raw mark may be scaled up or down so that the grades of all students in each unit sit within the distribution bands set down by the University. The policy does not require that any numbers of students are to be failed in any unit.
13. SCHEDULE OF TOPICS

The link to these Materials will be placed on Blackboard.

Topic 1. The Historical Development of the International Financial Market from Bretton Woods to the Present Day


Topic 2. Regulation and Prudential Supervision of Banks in the USA, UK EU and Australia: International Regulatory and Supervisory Convergence


Topic 3. International Banking - An Overview


Topic 5. International Lending – Project Finance

Topic 6. Domestic and International Debt Capital Markets


Topic 7. Trade Financing- Export Transactions- Letters of Credit


• ICC Uniform Customs and Practice for Documentary Credits (UCP600).


Topic 8. The International Monetary Fund


• Rosa Maria Lastra, ‘The International Monetary Fund In Historical Perspective’, JIEL 2000.3(507).


Topic 9 Regulatory Measures Available to Emerging Market Nations


# ESSAY COVER SHEET

(Please attach cover sheet to every assignment)

<table>
<thead>
<tr>
<th>Surname:</th>
<th>Student Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Given Name:</td>
<td></td>
</tr>
<tr>
<td>Lecturer</td>
<td>Mr John Bourke</td>
</tr>
<tr>
<td>Date Due:</td>
<td>Unit Number:</td>
</tr>
</tbody>
</table>

**Essay Title:**

“I certify that I am aware of the University’s policy on plagiarism and that this assignment meets those requirements and has not been previously submitted for assessment in any other course of study”

Signed ………………………………………………………………………

**Marker’s Comment**