Class Attendance and Preparation Policy. Frequent absences or lack of preparation are each inconsistent with the professional standards the Duke Law School expects of its students. A report in class from the person being called upon will require the following to occur on the part of the unprepared student. Within 48 hours of the occurrence the student will deliver a memo to me of not less than 1000 words providing an original (the memo may not contain more than 10 percent attributed quotes from other sources) statutory and case analysis of developments related to the material that the student was unprepared to discuss in class. The memo will be graded by me with a maximum of zero points but a possibility of - 10 points that will be taken into consideration in the final exam. However, I can understand that on a limited number of occasions events not entirely within the student’s control may prevent him/her from preparing for the day’s assignment. By informing me of this before class, preferably by dropping by my office, you will be relieved of the obligation to prepare for class and may attend the lecture. This exception, however, is intended to be a very limited one.

No Laptops. I have been gravely disappointed with the dynamics of the classroom since the law school introduced the laptop requirement. Frankly, I opposed the policy when it was initially considered and I believe it is time for us to enter a grand experiment. Therefore, laptops will not be permitted to be operated during the class. I appreciate your understanding on this and am most willing to discuss this decision with you if you like. But let’s give it a try and see how it works.

TEAM PROJECTS: Approximately 50-60% of the course grade will be determined by three written memoranda prepared in teams of three during the course of the semester. The schedule for the memoranda is as follows:

<table>
<thead>
<tr>
<th>Date Assigned</th>
<th>Date Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Memo</td>
<td>February 12</td>
</tr>
<tr>
<td>Second Memo</td>
<td>February 26</td>
</tr>
<tr>
<td>Third Memo</td>
<td>March 26</td>
</tr>
</tbody>
</table>

Each memoranda shall not exceed a stated word length (circa 900-1000 words) on 8 1/2 x 11 paper, typed, double-spaced. The memoranda are collegial undertakings of the team members. Reading and research are confined to the course materials identified in the assignment. I will critique each memorandum with extensive written comments and the memo will be returned promptly to you. However, you will not learn your grade on any memorandum until the final day of the course.

FINAL EXAMINATION: The exam consists of 60-plus objective questions. You may qualify your answer and the qualification is read only if your marked answer is wrong. The qualification serves to redeem a wrong answer, not to render a correct answer wrong. You are expected to bring to the exam Selected Statutes, Rule and Form Under the Federal Securities Laws. That copy shall not have more than eight words written or typed by you on any page. Underlining, highlighting and tabbing are permitted.
**OFFICE HOURS:** With rare exceptions, you can find me in my office between 11 a.m. and noon. If that is not convenient, please see me just before or after class to schedule a mutually convenient time for an appointment. My e-mail address is JDC@law.duke.edu.

**Lunch?** One of my growing regrets is the lack of systematic contact between me and my students. We all have to eat lunch; usually I bring one and eat it at my desk while working. If you and at least one other person would like to have lunch, just let me know so that we can put our schedules together and have lunch together in the blue lounge or elsewhere around the law school. E-mail is generally a good way to work this out.

**RESCHEDULED CLASSES.** We will **not** meet on the following date: January 25th or February 8th.

We will have makeup classes on January 12th._____

I. **The Framework of Regulation**

   CB 1-17
   CB bottom 250-bottom 253
   Problem 4-53 at page 252

II. **Definition of Security**

   A. **Investment Contract**

      Section 2(1)
      CB 19 - top 38 (including all notes)
      Problem 2-1 at 34
      CB bottom 39- top 45
      Problems 2-2 and 2-3 at 40-41

   B. **“Stock”, Partnerships and LLCs as Securities**

      CB 45 - mid 50
      Problem 2-7 at 44
      CB mid 56-57

   C. **Notes as Securities**

      Section 3(a)(3)
      CB 66 - 76
      Notes 1, 4, 5 & 7 at CB 80 - 84
      Problems 2-11 and 2-12 at pages 84-85

   D. **Separate Securities and Pass Through Instruments**

      CB 91 - 93

III. **Markets and Their Efficiency**

   A. **Types of Markets and Their Participants**

      CB 95 - bottom 104

   B. **Market Efficiency**
C. Noise and the Rational Investor Unrobed

CB 110 - 115

IV. Public Offering

A. Underwriting

CB 117-130

B. Underwriting Agreements, Commissions, and Fixed Price Offerings

CB 130- mid 135

C. The IPO Market

CB mid 138-145

D. The Registration Statement & SEC Review

CB 145 - mid161 (including all notes)
Rule 430A

I. Integrated Disclosure

CB 161-mid 168 (including all notes)
Form S-3 parts I A & B 1 & 3, D 1 (i)(iv)

F. Gun Jumping

1. Pre-Filing Period
   Section 2(a)(3), 2(a)(11), 4(1); Rules 135,135d; 137-139; 163, 163A, 168, & 169
   Section 5(c)
   CB 168- bottom 179
   Problems 4-1 thru 4-17

2. Waiting Period
   Sections 5(b)(1)(2); 2(a)(10) & 10
   Rules 134 & 164, 430, 433
   CB mid 182-190
   Problems 4-18 thru 4-32

3. Post-Effective Period
   Sections 5(a) & 4(3)
   Rules 172-174
H. Shelf Registration

Rule 415
CB 196-204 (all notes)
Problems 4-39, 4-40 & 4-41 at 204-205

I. Undertakings to Update

CB 213-bottom 214

J. Trading Practice Rules: Regulation M

1. Purchases During a Distribution
   CB 215- top 218 (including all notes)
   Problem 4-44 at 218
   Rule 101(a)(b)(3)-(5),(7),(8),(c)(1); Rule 102(a)(d) of Reg. M

2. Stabilization
   CB 218-top 221 (all notes)
   Rule 104(a),(e),(f) & (g) of Reg. M
   Problem 4-46 at 220

K. International Public Offerings and Regulation S

CB bottom 221- top 237 (all notes)
Rules 903; 904; & 902(b)(1), (h),(i) & (n) of Securities Act
Problems 4-47 through 4-51 at CB 238

Europe and Overseas Commodity Traders, S.A. v. Banque Paribas at 238

L. Blue Sky Registration

Section 18(a) - (b) of the Securities Act
CB 245-mid 250

V. Exempt Transactions

A. Intrastate Exemption

Section 3(a)(11)
CB 259- top 269
Problems 5-1 & 5-2 at CB 268-269
Rule 147

B. Private Offering Exemption

Sections 4(2) & 4(6); Rule 215
CB bottom 274-top 288 (all notes)
Problems 5-11 and 5-12 at CB 288

C. Regulation D

1. Introductory Concepts
   Rules 501-508
   CB bottom 289 - bottom 298
   Problems 5-14 & 5-15 at CB 294-295
   CB 299

2. Solicitation
   CB mid 300-top 312 (omit problems)

3. Amount
   CB 312-top 314

4. Disclosure and Resales
   CB bottom 314-316 (including all notes)

5. Miscellaneous
   CB bottom 316-321 (omit problems)

D. Rule 701 Employee Benefit Plans

   CB 322-mid 326
   Problem 5-38 at page 326

E. Regulation A

   CB 327-mid 331

F. Integration
   CB 332-340 (all notes)
   Rules 152 & 155
   Problems 5-42 & 5-43 at pages 340-341

VI. Secondary Distributions

A. Construction of section 2(a)(11)

1. Overview
   Sections 2(a)(11), 4(1) & 4(4)
   CB 345-347

2. Underwriter Concept
3. Purchases from an Issuer

CB 353-mid 356 (all notes)
Problem 6-2 at CB 356
CB mid 356-top 358
Problems 6-4, 6-5 & 6-6 at CB 358

4. Control Person Distributions and Broker’s Exemption

CB mid 359-365 (all notes)

B. Rule 144

CB mid 366-375 (including all notes)
Rule 144
Problems 6-10 thru 6-24 at CB 375-377

C. Rule 144A

CB bottom 377-mid 383 (all notes)
Problems 6-25, 6-25 & 6-27 at CB 383

D. Section 4 (1-1/2) Exemption

CB bottom 384-389 (all notes)
Problem 6-28 thru 6-33 at CB 390

VII. Recapitalizations

A. For Value - Introduction to Section 2(3)

Section 2(a)(3)
CB 395-mid 400
Problems 7-1 thru 7-4 at CB 401

B. Spin-offs

CB mid 401-bottom 409 (all notes)

C. Mergers, Acquisitions and Recapitalizations

CB bottom 410- mid 417 (all notes)
Rules 165 & 166
Problems 7 - 9 thru 7-13 at CB 417-418

D. Exchanges under Section 3(a)(9)
Section 3(a)(9)
CB bottom 418-top 422 (all notes)

VIII. Exempt Securities

Omit Material in this Chapter

IX. Liability under the ‘33 Act (Handout Materials)

A. Section 11

Section 11
CB 481-bottom 508 (all notes)

B. Section 12(a)(1)

Section 12(a)(1)
CB mid 516-mid 521 (all notes)
Problem 9-5 at 521

C. Section 12(a)(2)

Section 12(a)(2)(b)
CB 522-mid 533 (all notes)
Problem 9-6, 9-7 & 9-8 at CB 533
CB 534-mid 537 (all notes)
Problem 9-10 at CB 537
Rules 159A & 430B

X. The Financial Reporting Process

A. Metrics and Mechanisms of Disclosure

CB 545-top 554
Exchange Act Rules 12g-1, 12g3-2(a)(b)&(c)(3)

B. “Fair” Presentation

CB mid 554-557

C. FCPA and Reliable Records

CB mid 557-mid 565
Problem 10-2 at CB 565

D. Governance Considerations and Pro Forma Reporting

CB mid 566-571
Problem 10-5 at CB 569
XI. Materiality Determinations

A. Introduction

CB 579-top 583 (all notes)
Problem 11-1 at CB 583

B. Truth on the Market

CB mid 593-599 (all notes)

C. Puffery and Statements of Opinion

CB mid 600-602 (include Note 1)

D. Bespeaks Caution & Soft Information

CB bottom 602-top 611

E. Statutory Safe Harbor

Section 21E of the Exchange Act
CB mid 611-top 621 (all notes)
Problem 11 - 4 at CB 621

F. Management Integrity

CB 625-643 (all notes)
Problems 11-7 and 11-8 at CB 636-637
Problems 11-9 and 11-10 at CB 643-644

G. Violations of Law

CB 644-652 (all notes)
Problem 11-11 at CB 652

XII. Chapter on Elements of 10b-5 Omitted

XIII. Enforcement of the Securities Laws

A. PSLRA and SLUSA

CB 745 - bottom 758 (all notes)
B. Primary and Secondary Violators

1 Aiders, Abettors, and Primary Violators

CB 759-mid 770 (all notes)
Simpson v. AOL Time Warner (handout)
Problem 13-4 & 13-5 at CB 770-771

2. Control Person and Respondeat Superior Liability

CB mid 772-mid 781(all notes)
Problems 13-6 & 13-7 at CB 781

3. Rescission Remedy

CB 782-788
Notes 1 and 2 at CB 788-789

4. Equitable Bars, Indemnity and Contribution

CB 790-796 (omit Bateman Eichler case)

5. Statute of Limitations

CB mid 797-799 (all notes)
Problem 13-10 at CB 799

C. SEC Investigations

1. Procedural Issues

CB 800- mid 808
Problem 13-11 at CB 808

2. Administrative Sanctions

CB mid 808-mid 821 (all notes)
Exchange Act Section 21C

3. SEC Injunctions

CB mid 821-827 (all notes)
Section 21 (d) of Exchange Act

4. Authority over Professionals who Practice before Commission

CB 828-830
D. Duties of Securities Lawyer

CB bottom 831-mid 858 (all notes)
CB 818-829 (all notes)
Problems 13-17 through 13-23 at CB 859-861

E. Criminal Proceedings

CB bottom 861-mid 868 (all notes)
Problem 13-23 at CB 866
CB bottom 868-top 870

Chapters XIV through XVI will be omitted

XVII. Regulation of Markets and Brokers

A. Markets and The Regulations of their Participants

1. The Micro Structure of Markets

CB bottom 1010-bottom 1021 (all notes)

2. Self-Regulation

CB 1021- bottom 1023

B. Registration of Brokers and Supervision Obligation

CB bottom 1023 - top 1032 (all notes)
Exchange Act Sections 3(a)(4)(A) & (5)(A)(B); 15(b)(4)(E)
Problems 17-1, 17-2 & 17-3 at CB 1025-1026

C. Broker’s Responsibility to the Customer

1. Basis of Obligations

CB 1032- top 1035
Problem 17-4 at 1035

2. Know Your Security

CB 1035 - top 1040 (all notes)
Problem 17-5 at 1040

3. The Problem with Analysts

CB 1040-mid 1042

3. Suitability

CB bottom 1043 - 1050 (all notes)
Section 3a(51)
Rules 15g-1(a)(1)(2), 15g-2
Rules 3a(51)-1(d)(i)
Problem 17-7 at 1050

4. Churning

CB 1056 - mid 1061 (all notes)
Problem 17-8 at CB 1061

5. Miscellaneous

CB 1027 - 1028

6. Arbitration

CB 1062 - mid 1063

7. Margin Requirements & Selling Short

CB bottomd 1071 - 1075

XVIII. Investment Advisors and Investment Companies

If time permits = TBA

XIX. Transnational Securities Fraud

A. An Expansive View of Jurisdiction

CB mid 1142 - top 1150 (all notes)

B. Choice of Law Provisions

CB mid 1157 - 1165 (all notes)

D. International Enforcement Mechanisms

CB 1166 - 1170

Assignment
Securities Regulations
Spring 2007

January 10th (Wednesday - first class)
January 11th (Thursday)

A. Definition of Security: Investment Contract

Section 2(1)
CB 19 - top 38 (including all notes)
Problem 2-1 at 34
CB bottom 39 - top 45
Problems 2-2 and 2-3 at 40-41

B. “Stock”, Partnerships and LLCs as Securities

CB 45 - mid 50
Problem 2-7 at 44
CB mid 56 - 57

January 12th (Friday, Make up Class)

C. Notes As Securities

Section 3(a)(3)
CB 66 - 76
Notes 1, 4, 5 & 7 at CB 80 - 84
Problems 2-11 and 2-12 at pages 84-85

D. Separate Securities and Pass Through Instruments

CB 91 - 93

January 16thth (Tuesday)

A. Types of Markets and Their Participants

CB 95 - bottom 104

B. Market Efficiency

CB 104-110 (all notes)
Problems 3-1 and 3-2 at 110

C. Noise and the Rational Investor Unrobed

CB 110 - 115

There is a make up, our last, Scheduled for Friday January 19th