

**SECURITIES REGULATION (LAWS 2138)**  
**DALHOUSIE UNIVERSITY, SCHULICH SCHOOL OF LAW**  
**COURSE OUTLINE & SYLLABUS**  
**Winter 2019**

**Course Instructors: H. Jane Anderson and Shirley P. Lee**

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- Office Hours:** By appointment. You may email one of us, phone us, or speak with us in class to set up an appointment.
- Website:** May be accessed through Dal.brightspace.com
- Classes:** Tuesdays and Thursdays 4:35 pm to 5:55 pm in room 207
- Credit Value:** 3 Credits

## **I. Course Description**

This course will address the fundamental concepts, legal issues and theoretical underpinning of securities regulation, and its role in regulating capital markets and protecting investors. It will provide students with a firm understanding of the basics of securities laws and policies and sufficient guidance to permit them to research certain complex aspects of the subject that cannot be covered in an introductory class. Topics will include the institutional and regulatory framework of securities regulation in Canada, its historical and constitutional development, the prospectus and registration processes, exempt market transactions, continuous disclosure, corporate governance, insider trading, takeover bids, civil liability and enforcement of securities regulations.

Knowledge of the legal underpinnings of securities regulation is a valuable tool for lawyers engaged in the practice of corporate law or corporate litigation, whether in private practice, government practice or as in-house counsel, as well as those interested in the policy implications of modern securities regulation. This course is designed to be of value to students with diverse backgrounds and career goals and should be accessible to law students with no prior background in finance, accounting or business law, beyond the material covered in Business Associations. The course will emphasize the law of Ontario, but reference will also be made to the laws of other Canadian jurisdictions.

## **II. Communications with Students**

Any emails sent from us to students will use their [dal.ca](mailto:dal.ca) email address and will have in the re line, "Securities Regulation". Please read these emails! Students will be deemed to have received course information sent by email.

In addition, we will post copies of the syllabus and any supplementary materials or handouts on the course website which can be accessed on Dalhousie's on-line course management software (often referred to as Brightspace).

The website will be the primary means of communication between the instructors and students outside of the classroom and will be updated often. All students should check it regularly.

### III. Course Materials

The following two books are **required**:

1. *Canadian Securities Regulation, 5th Edition*, (Student Edition) by David Johnston, Kathleen Doyle Rockwell, and Cristie Ford, available at the University Bookstore (the "Textbook").
2. *Consolidated Ontario Securities Act, Regulations and Rules, 2018*, 64th edition, ed. by Borden Ladner Gervais LLP (Toronto: Carswell). **Students may use an earlier version of the statutory materials but are expected to obtain updates and to have this version or the earlier version (with updates) with them during the course and the FINAL EXAMINATION.**

### IV. Evaluation

Students will be evaluated on the basis of an open book written examination conducted during the final examination period which will be worth 100% of your mark for the course. **The exam is presently scheduled for Thursday, April 11, 2019, at 9:30 am.**

Students will be permitted to bring any written or printed materials into the examination room that they wish.

The exam may consist of a combination of short answer questions and longer problem style questions in response to which students may be required to analyze a fact situation, identify issues, and state and apply the law with supporting statutory and case authority. Students may also be required to discuss a legal theory related to securities regulation or respond in essay format to a policy question. The exam may include any topics from the Textbook, assigned readings, class lectures, and class discussions.

In accordance with faculty policy, no cell phones, blackberries or any other electronic communicating devices are permitted in the exam room.

#### Plagiarism

All students must read the University policies on plagiarism and academic honesty <http://academicintegrity.dal.ca/> and the Law School policy on plagiarism <http://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html> . Any paper or assignment submitted by a student at the Schulich School of Law may be checked for

originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above and should consult with the instructor if they have any questions. Ignorance of the policies on plagiarism will not excuse any violation of those policies.

### **Student Requests for Accommodation**

Requests for special accommodation for reasons such as illness, injury or family emergency will require an application to the Law School Studies Committee. Such requests (for example, for assignment extensions) must be made to Associate Dean, Academic Michael Deturbide or the Director of Student Services and Engagement Dana-Lyn Mackenzie as soon as possible, before a scheduled exam or a deadline for an assignment, and will generally require documentation. Retroactive accommodation will not be provided. Please note that individual professors cannot entertain accommodation requests.

Students may request accommodation for either classroom participation or the writing of tests and exams due to barriers related to disability, religious obligation, or any characteristic under the Nova Scotia *Human Rights Act*. Students who require such accommodation must make their request to the Advising and Access Services Center (AASC) at the outset of the regular academic year. Please visit [www.dal.ca/access](http://www.dal.ca/access) for more information and to obtain the Request for Accommodation – Form A. Students may also contact the Advising and Access Services Centre directly at (902) 494-2836.

## **V. Links to Advising Support and Fair Dealing Guidelines**

General Academic Support – Advising Halifax: [https://www.dal.ca/campus\\_life/academic-support/advising.html](https://www.dal.ca/campus_life/academic-support/advising.html)

Fair Dealing Guidelines <https://libraries.dal.ca/services/copyright-office/guidelines/fair-dealing-guidelines.html>

## **VI. Tentative Class Schedule and Assigned Readings**

The following provides an outline of the material to be covered in each class. Students are expected to have reviewed the material to be covered in preparation for each class. Classes will typically involve a presentation by the instructor, followed by a class discussion where time permits. Students are encouraged to actively participate in all discussions.

The reading list below includes a number of references to primary sources of law and policy, including detailed statutory and other regulatory material that will be referred to in the lecture for that day. It is suggested that students skim these primary sources to familiarize themselves

with the material before class, then, after the class, return to them again for review and closer analysis.

**The following is a tentative class schedule only. It may be necessary to amend, supplement or otherwise revise this tentative schedule, in whole or in part, as the term progresses.** If this occurs, students will be informed in class of any such amendments or revisions, and Brightspace will be updated accordingly. If a student must be absent from class, it is that student's responsibility to determine if any changes to the schedule have been announced.

**SECURITIES REGULATION  
Course Schedule & Reading Assignments  
Winter Term 2019**

Date	Topic and Readings
January 8	<b>An Overview of Securities Regulation</b> <b>Readings:</b> Textbook, Chapter 1
	OSA ss. 1.1 and 2.1.
January 10	<b>Sources of Securities Law and the Historical &amp; Constitutional Development of Securities Regulation</b> <b>Readings:</b> Textbook, Chapter 2 and Chapter 17- pp. 631-656
	OSA s. 1(1) Definitions of "Ontario securities law", "regulations", and "rules" and ss. 143-143.8; National Instrument 14-101, <i>Definitions</i> ; OSC Rule 14-501, <i>Definitions</i> .
January 15	<b>The Future of Canadian Securities Regulation</b> <b>Readings:</b> Textbook, Chapter 17 - pp. 657-706
	<i>Reference re Securities Act, 2011 SCC 66</i> <i>Reference of the Government of Quebec in virtue of Order in Council 642-2015 concerning the constitutionality of the implementation of pan-Canadian Securities Regulation, 2017 QCCA 756</i> <i>Reference re Pan-Canadian Securities Regulation, 2018 SCC 48</i>

<p><b>January 17</b></p>	<p><b>Foundational Concepts</b>  <b>Readings:</b> Textbook, Chapter 3 and Chapter 5 – pp.165-173</p> <hr/> <p>OSA s. 1(1) definitions of “security”, “trade”, “distribution”, and “reporting issuer”  <i>Securities and Exchange Commission V. W. J. Howey Co. et al.</i>, 328 U.S. 293 (66 S.Ct. 1100, 90 L.Ed. 1244)  <i>Pacific Coast Coin Exchange v. OSC</i>, [1978] 2 S.C.R. 112</p>
<p><b>January 22</b></p>	<p><b>Securities Regulators and the Regulatory Structure in Canada</b>  <b>Readings:</b> Textbook, Chapter 4</p> <hr/> <p>OSA ss. 2.1-9  Multilateral Instrument 11-102, <i>Passport System</i>; Companion Policy 11-102CP;  National Policy 11-202, <i>Process for Prospectus Reviews in Multiple Jurisdictions</i>;  National Policy 11-203, <i>Process for Exemptive Relief Applications in Multiple Jurisdictions</i>;  National Policy 11-204, <i>Process for Registration in Multiple Jurisdictions</i>;  National Policy 11-205, <i>Process for Designation of Credit Rating Organizations in Multiple Jurisdictions</i>; and  National Policy 11-206, <i>Process for Cease to be a Reporting Issuer Applications</i>.</p>
<p><b>January 24</b></p>	<p><b>Types of Markets and SROs</b>  <b>Readings:</b> Textbook, Chapter 15</p> <hr/> <p>OSA ss. 21-21.2.2;  National Instrument 21-101, <i>Marketplace Operation</i>; Companion Policy 21-101CP;  National Instrument 23-101, <i>Trading Rules</i>; Companion Policy 23-101CP;  National Instrument 23-103, <i>Electronic Trading and Direct Electronic Access to Marketplaces</i>; Companion Policy 23-103CP;  National Instrument 24-101, <i>Institutional Trade Matching and Settlement</i>; Companion Policy 24-101CP.</p>
<p><b>January 29</b></p>	<p><b>Registration Requirements</b>  <b>Readings:</b> Textbook, Chapter 13</p> <hr/> <p>OSA ss. 1(1) “adviser”, “dealer”, “investment fund manager”, “registrant”, “ultimate designated person”, “chief compliance officer”, 19, 20, 25-33.1;  National Instrument 31-102, <i>National Registration Database</i>; Companion Policy 31-102CP;  National Instrument 31-103, <i>Registration Requirements, Exemptions and Ongoing Registrant Obligations</i>; Companion Policy 31-103CP;  National Instrument 33-109, <i>Registration Information</i>; Companion Policy 33-109 CP.</p>

<p><b>January 31</b></p>	<p><b>Materiality and the Prospectus Process I</b>  <b>Readings:</b> Textbook, Chapter 6 and Chapter 7 - pp. 205-222</p> <p>OSA ss. 52-64, 65-71, 133, 138;  OSC Rule 41-801, <i>Implementing NI 41-101 General Prospectus Requirements</i>;  Multilateral Instrument 11-102, <i>Passport System</i>; Companion Policy 11-102CP;  National Policy 11-202, <i>Process for Prospectus Reviews in Multiple Jurisdictions</i>;  National Instrument 41-101, <i>General Prospectus Requirements</i>; Companion Policy 41-101CP.</p>
<p><b>February 5</b></p>	<p><b>The Prospectus Process II</b>  <b>Readings:</b> Textbook, Chapter 7 - pp. 222-242</p> <p>OSA ss. 130, 132, 132.1;  National Instrument 51-102, <i>Continuous Disclosure Obligations</i>, Part 4A, Forward-Looking Information, and Part 4B, FOFI and Financial Outlooks, and related definitions in NI 51-102, Part 1;  National Instrument 44-101, <i>Short Form Prospectus Distributions</i>; Companion Policy 44-101CP;  National Instrument 44-102, <i>Shelf Distributions</i>; Companion Policy 44-102CP;  National Instrument 44-103, <i>Post Receipt Pricing</i>; Companion Policy 44-103CP;  National Instrument 71-101, <i>The Multijurisdictional Disclosure System</i> (Parts 1-11); Companion Policy 71-101CP.</p>
<p><b>February 7</b></p>	<p><b>Exempt Market Transactions I</b>  <b>Readings:</b> Textbook, Chapter 9</p> <p>OSA ss. 1(1) definition of “offering memorandum”, 34-35.3, 72-74 ,130.1;  National Instrument 45-106, <i>Prospectus Exemptions</i>; Companion Policy 45-106CP;  OSC Rule 45-501, <i>Ontario Prospectus and Registration Exemptions</i>; Companion Policy 45-501CP;  Multilateral Instrument 45-108, <i>Crowdfunding</i>; Companion Policy 45-108CP;  National Instrument 31-103, <i>Registration Requirements, Exemptions and Ongoing Registrant Obligations</i> (Part 8);  CSA Staff Notice 45-304 (Revised), <i>Notice of Local Exemptions Related to NI 45-106 and NI 31-103</i>;  National Instrument 45-102, <i>Resale of Securities</i>; Companion Policy 45-102CP.</p>
<p><b>February 12</b></p>	<p><b>Exempt Market Transactions II and Resales</b></p>
<p><b>February 14</b></p>	<p><b>Mid-term review</b></p>
<p><b>February 19 and 21</b></p>	<p><b>WINTER STUDY BREAK – NO CLASSES</b></p>

<b>February 26</b>	<b>Continuous Disclosure I</b> <b>Readings:</b> Textbook, Chapter 8 - pp. 243-262
	OSA ss. 75 to 83 National Instrument 13-101, <i>System For Electronic Document Analysis and Retrieval (SEDAR)</i> ; National Instrument 51-102, <i>Continuous Disclosure Obligations</i> ; Companion Policy 51-102CP; National Policy 51-201, <i>Disclosure Standards</i> .
<b>February 28</b>	<b>Continuous Disclosure II</b> <b>Readings:</b> Textbook, Chapter 8 - pp. 262-294
	National Instrument 54-101, <i>Communication with Beneficial Owners of Securities of a Reporting Issuer</i> ; Companion Policy 54-101CP; National Instrument 52-107, <i>Acceptable Accounting Principles and Auditing Standards</i> ; Companion Policy 52-107CP; National Instrument 52-108, <i>Auditor Oversight</i> ; Companion Policy 52-108CP; National Instrument 52-109, <i>Certification of Disclosure in Issuers' Annual and Interim Filings</i> ; Companion Policy 52-109CP.
<b>March 5</b>	<b>Takeover Bids &amp; Defensive Tactics</b> <b>Readings:</b> Textbook, Chapter 11
	OSA ss. 89-91, 104, 105, 131; National Instrument 62-104, <i>Take-Over Bids and Issuer Bids</i> ; National Policy 62-203, <i>Take-Over Bids and Issuer Bids</i> ; National Instrument 62-103, <i>The Early Warning System and Related Take-over Bid and Insider Reporting Issues</i> ; National Policy 62-202, <i>Take-over Bids - Defensive Tactics</i> .
<b>March 7</b>	<b>Insider Trading</b> <b>Readings:</b> Textbook, Chapter 10
	OSA s. 1(1) definition of "insider", ss. 76, 106-109, 122(4), 134, 135; National Instrument 55-102, <i>System for Electronic Disclosure by Insiders (SEDI)</i> ; Companion Policy 55-102CP; National Instrument 55-104, <i>Insider Reporting Requirements and Exemptions</i> ; Companion Policy 55-104CP; National Policy 51-201, <i>Disclosure Standards (Part III)</i> ; OSC Policy 33-601, <i>Guidelines for Policies and Procedures Concerning Inside Information</i> .
<b>March 12</b>	<b>Civil Liability</b> <b>Readings:</b> Textbook, Chapter 12

	OSA s. 1(1) “material fact”, “material change”, “misrepresentation”, ss. 130-138.14.
<b>March 14</b>	<b>Corporate Governance-Lecture and GUEST SPEAKER Stephen Aftanas, Corporate Secretary at Emera Inc.</b> <b>Readings:</b> Textbook, Chapter 18
	OSA ss. 121.2-121.4; National Instrument 58-101, <i>Disclosure of Corporate Governance Practices</i> ; National Policy 58-201, <i>Corporate Governance Guidelines</i> ; National Instrument 52-110, <i>Audit Committees</i> ; Companion Policy 52-110CP.
<b>March 19</b>	<b>GUEST SPEAKER-Abel Lazarus, Director, Corporate Finance of the Nova Scotia Securities Commission-Derivatives Regulation</b>
<b>March 21</b>	<b>Investment Funds</b> <b>Readings:</b> Textbook, Chapter 16
	OSA ss. 110-121.1; National Instrument 81-101, <i>Mutual Fund Prospectus Disclosure</i> ; Companion Policy 81-101CP; National Instrument 81-102, <i>Investment Funds</i> ; Companion Policy 81-102CP; National Instrument 81-104, <i>Alternative Mutual Funds</i> ; National Instrument 81-105, <i>Mutual Fund Sales Practices</i> ; Companion Policy 81-105CP; National Instrument 81-106, <i>Investment Fund Continuous Disclosure</i> ; Companion Policy 81-106CP; National Instrument 81-107, <i>Independent Review Committee for Investment Funds</i> ; Companion Policy 81-107CP.
<b>March 26</b>	<b>Enforcement</b> <b>Readings:</b> Textbook, Chapter 14
	OSA ss. 11-18, 122-129.2; Multilateral Instrument 11-103, <i>Failure-to-File Cease Trade Orders in Multiple Jurisdictions</i> ; National Policy 11-207, <i>Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions</i> .
<b>March 28</b>	<b>GUEST SPEAKER-Mark Covan, Senior General Counsel for Public Prosecution Service of Canada</b>
<b>April 2</b>	<b>Exam Review</b>
<b>April 4</b>	<b>Class Cancelled with Possible Additional Exam Review Class TBD</b>
<b>April 11</b>	<b>EXAMINATION</b>