

Professional Development Division

Banking & Finance Training Consortium (BFTC)

BANKING AND FINANCE TRAINING CONSORTIUM

The Programme

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BANKING AND FINANCE TRAINING CONSORTIUM

INTRODUCTION

This course aims to provide banking and finance lawyers (0-3 years) with a comprehensive introduction to the fundamentals of banking law and practice. It will provide the foundations upon which specialist knowledge and technical skills can be developed and will give a greater degree of confidence when dealing with issues that arise in a banking transaction, whether acting for a borrower or a lender.

The course is modular in structure, each module focussing on a key element of a banking transaction, from the initial stages of a deal to what happens when things go wrong. The course is practical in content and includes interactive exercises to develop both legal knowledge and commercial awareness.

COURSE OUTLINES

MODULE 1 – RAISING FINANCE (4 HOURS)

Subjects covered in this module include:

- Types and structures of corporate borrowing
- Types of lenders involved in commercial lending
- How lenders fund themselves and make money from lending activities
- Introduction to syndicated loans
- Purpose and key features of due diligence, commitment letters and term sheets

MODULE 2 - LOAN FACILITY AGREEMENT (6 HOURS)

Subjects covered in this module include:

- General structure of a loan facility agreement
- Purpose and interrelationship of representations, undertakings and events of default
- Principal areas of concern for borrowers and lenders
- Consideration of the key terms of a syndicated facility agreement, including:
 - Conditions precedent
 - Representations and warranties
 - Covenants
 - Events of default
 - Tax gross up and indemnities
 - Increased costs and illegality

MODULE 3 - TRANSFER OF LOANS (3 HOURS)

Subjects covered in this module include:

- Why lenders sell loans
- Methods for transferring loans:
 - Novation
 - Assignment
 - Sub-participation (funded and risk)
- Moving rights and obligations
- Overview of the secondary market in syndicated loans
- Principal concerns of the borrower and lenders when transferring participations
- Tax and regulatory capital implications
- Legal opinions
- Overview of securitisation

MODULE 4 - SECURED LENDING (6 HOURS)

Subjects covered in this module include:

- Why take security
- Types of security interests under English law
- What assets may be secured and how
- Types of security commonly taken in secured lending
- Issues relating to perfection and priority
- Types of commercial and quasi-security
- Consideration of the principal terms of a guarantee
- Consideration of the principal terms of a debenture

MODULE 5 – SUBORDINATION (3 HOURS)

Subjects covered in this module include:

- Reasons for subordination
- Methods of subordination
- Contractual
- Structural
- Principal legal issues
- Subordination of secured debt
- Consideration of the key elements of an intercreditor agreement

MODULE 6 - CAPITAL MARKETS (3 HOURS)

Subjects covered in this module include:

- Overview of the capital markets
- Types of investors and other key players involved in debt securities
- Main types of debt security
- Form and nature of a bond
- Overview of a bond issue
- Listing rules and requirements
- Overview of the regulatory framework

MODULE 7 - INSOLVENCY ASPECTS OF CORPORATE LOANS (4 HOURS)

Subjects covered in this module include:

- Warning signs
- Events of default and insolvency
- Overdrafts and guarantees
- Undervalues and preferences
- Restructuring and debt/equity swaps
- Appointment of receivers/administrators
- Proof of debt and set-off
- Order of distribution on insolvency

MODULE 8 - TAX FOR BANKING LAWYERS (3 HOURS)

Subjects covered in this module include:

- Importance of tax and how it interacts with lending transactions
- What withholding tax is and when and how it applies as a tax
- Tax considerations for a borrower when entering into a lending transaction
- Implications of using a margin ratchet on the tax treatment of a loan
- Stamp duty and SDRT in relation to the transfer or assignment of a loan
- VAT issues for banks on lending transactions
- How tax clauses in a standard loan facility agreement operate and how they may potentially impact on the borrower

MODULE 9 - DERIVATIVES (3 HOURS)

Subjects covered in this module include:

- The commercial and economic context of derivatives; who uses them and why.
- Basic terminology in the market and different types of derivative (including CFDs, credit derivatives and commodity derivatives)
- Legal analysis of derivatives –Gambling analysis, contract law analysis, ISDA standard contract.
- How the market works – exchange traded and over the counter.
- MifiD and other regulatory issues (UK and EU)
- Review of ISDA standard contract, significant terms and common issues
- Current market issues – credit derivatives, market disruption, market abuse

MODULE 10 - ISLAMIC FINANCE (3 HOURS)

Subjects covered in this module include:

- What is Islamic finance?
- Sources of Islamic law
- Achieving consensus in the Islamic finance market
- Status of the Sharia under English law
- Key Principles of Sharia applicable to Islamic Finance
- Core prohibitions
- Application to business and banking in particular
- Basic financing structures
- Comparison of murabaha with a conventional loan facility

MODULE 11 – PROJECT FINANCE (3 HOURS)

(3 hours)

Subjects covered in this module include:

- Key features, stages, parties and contracts of project financing
- Risk: identification, allocation, mitigation and monitoring
- Project funding, including how standard loan facility agreements are modified in a project financing
- Project accounts and the payment waterfall, distributions and cover ratios
- Sponsor support and the intercreditor agreement
- Project security and quasi security, including enforcement and international issues
- Direct agreements and step-in rights