

Consumer Financial Protection
193-001
Updated January 3, 2024

Professor Zywicki
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COURSE SCHEDULE/MEETING TIMES/TYPE:

Tuesday 9:50 a.m.-11:50 a.m.

From time-to-time it will not be possible for class to meet in person, in which case we will meet virtually if possible or reschedule the class meeting. It is also possible that the starting or ending time of a class might be adjusted in order to make it possible to meet at approximately our regularly scheduled meeting time.

Exam: April 27, 2024

Class sessions will be co-led with Christopher Mufarrige

OFFICE HOURS: Tuesday immediately after class and by appointment

REQUIRED TEXT: THOMAS A. DURKIN, GREGORY ELLIEHAUSEN, MICHAEL E. STATEN, AND TODD J. ZYWICKI, CONSUMER CREDIT AND THE AMERICAN ECONOMY (2014).

COURSE OVERVIEW/DESCRIPTION:

This class will introduce students to the law, economics, policy, and history of consumer finance and consumer financial protection law and regulation, with a particular focus on the actions of the Consumer Financial Protection Bureau.

LEARNING OUTCOMES: By the end of the course students should have acquired/be able to:

- Understand the fundamental economics of consumer finance and how consumers use financial products
- Understand the policies that have animated consumer financial protection policy
- Become familiar with major regulations, enforcement actions, and other tools of consumer financial protection

BASIS OF EVALUATION & ASSESSMENTS

Your grade in the course will be based on the final exam. The professor reserves the right in his judgment to increase your grade in light of exemplary class participation and performance.

INSTRUCTOR EXPECTATIONS

- Students are expected to be prepared for class each day and meet all required deadlines.

COURSE RULES/STRUCTURE:

- This class is intended to be discussion-oriented and students will be expected to have done the reading and contribute to the class discussion each week.

- Students who are participating online will be expected to have your cameras on and prepared to participate if called on. At all other times, please mute your mic.
- Protocol for how online students can be recognized to participate in the discussion will be announced at a later date.

EMAIL COMMUNICATION: Students must use their MasonLive email account to receive important University information, including communications related to this class. The law school is adopting more widespread use of Blackboard, which I will attempt to master sufficiently to communicate with you in addition to email.

ATTENDANCE: Regular and punctual attendance are required to earn academic credit. Attendance requirements for academic credit will follow the policies set forth in Academic Regulation 4-1. Should circumstances occur where you anticipate the possibility of missing a substantial number of class sessions (e.g. a serious illness), you should immediately contact the Assistant Dean, Student Academic Affairs.

CLASS RECORDINGS PROHIBITED: Pursuant to Academic Regulation 4-2.2, no portion of a class session or an examination may be preserved by means of a recording device such as an audio recording device or camera. Any exceptions to this policy must be expressly permitted in writing by me. For those students who are unable to attend a particular class for health reasons, a video recording of the class will be made available to stream through the law school.

EXAM CONFLICTS: In accordance with AR 4-4.1, excuses and requests for permission not to sit for an examination when scheduled must be presented, with appropriate documentation, to the Assistant Dean, Student Academic Affairs. Except in emergencies, such requests should be presented no later than two weeks before the date of the examination. All requests for extensions or rescheduling of deadlines will be processed through the Assistant Dean, Student Academic Affairs, whose decision will be final.

ACADEMIC INTEGRITY: It is expected that students adhere to the Antonin Scalia Law School Honor Code. The Honor Code prohibits lying, cheating, or stealing. This includes a student obligation to never represent the work of another as their own, and to never provide or accept unauthorized assistance on any school related assignment. The Honor Code is available here: <https://sls.gmu.edu/honor/>.

COMMITMENT TO OPEN DIALOGUE AND DEBATE: Class sessions will be conducted according to the principles established in the law school's Statement of Faculty Principles on Classroom Commitment to Open Dialogue and Debate, which is available here: https://www.law.gmu.edu/about/commitment_to_open_dialogue/.

CLASSROOM ACCOMMODATIONS: Disability Services at George Mason University is committed to providing equitable access to learning opportunities for all students by upholding laws that ensure equal treatment of people with disabilities. If you are seeking accommodations for this class, please visit <https://ds.gmu.edu/> for detailed information about the Disabilities Registration Process. Faculty may not receive or respond to requests for an accommodation. All requests must be handled by the office of Disability Services. You may contact Disability

Services directly via email at ods@gmu.edu or phone at (703) 993-2474. If you have any questions about how in-class or testing accommodations are implemented at the law school, please contact the Assistant Dean, Student Academic Affairs for more information.

ADDITIONAL SCHOOL POLICIES AND RESOURCES:

STUDENT HONOR CODE - [Click Here](#)

ACADEMIC REGULATIONS - [Click Here](#)

UNIVERSITY LIFE: University Life provides student support resources such as **Counseling and Psychological Services (<https://caps.gmu.edu/>)**, **Student Health Services (<https://shs.gmu.edu/>)**, and the **Student Support and Advocacy Center (<https://ssac.gmu.edu/>)**. For more information about University Life on the Arlington Campus, please visit: <https://ularlington.gmu.edu/>

Reading Assignments and Course Coverage
Updated January 3, 2024

Class readings are tentative and subject revision in light of course progress and other relevant developments. Reading materials for later in the semester will be finalized as we progress.

1. Origins of CFPB: What is its purpose and what are its predominant goals?

- Readings:
 - [Chapter 6 of the CFPB Task Report, Volume 1.](#)
 - Then Professor Warren: [Unsafe at any rate](#)
 - Alden Abbott and Todd Zywicki: [How Congress Should Protect Consumers' Finances](#)
 - Director insulation from Executive or Legislative Control, [Seila Law v CFPB](#)
 - Appropriation of funds issue, [CFSA v CFPB](#)
- Suggested Readings (not mandatory)
 - Thomas A. Durkin, Gregory Elliehausen, Michael E. Staten, and Todd Zywicki, Consumer Credit and the American Economy (2014), Chapters 10 & 11
 - Professor Zywicki [CFPB, Savior or Menace?](#)

2. Economics of Information/Disclosure/Usury/ UDAAP and its legal metes and bounds

- Readings:
 - [Task Force Report, Ch 7](#)
 - Todd J. Zywicki, [The Market for Information and Credit Card Regulation](#)
 - Durkin, et al, Pages 481-486.
 - Beales & Craswell, [The Efficient Regulation of Consumer Information](#)
 - [CFPB UDAAP Exam Manual](#)
 - [Consent Order RBS Citizens \(Unfair and Deceptive Deposit Processing Practices\)](#)
 - [Consent Order Wells Fargo \(Unfair and Abusive Practices\)](#)
 - [Dwolla Inc CFPB Consent](#) (Deceptive Practice)
 - [Discover Bank CFPB Consent \(2012\)](#)
- Suggested Readings (not mandatory)
 - [Adam Smith on Usury, An Esoteric Reading](#)
 - Bentham, [In defense of Usury](#)
 - [Stigler, The Economics of Information](#)
 - FTC Policy Statements on Unfairness and Deception
 - CFPB Statement on Abusiveness
 - Beales, [FTC's Use of Unfairness](#)
 - Durkin Chapter 8

3. The Electronic Fund Transfer Act: Prepaid cards/Debit Cards/DDA/Payment Networks/Reg II

- Readings
 - What is the difference between a Reg E transaction (*e.g.*, prepaid/debit) versus a credit transaction (*e.g.*, credit card)?
 - What is the purpose of Reg II?
 - Chris to re-draft a variation of this [deck](#) discussing credit v debit distinction, Walmart rule re debit v credit, Reg II and its coverage/purposes.
 - [Zywicki, The Economics of Payment Card Interchange](#)
 - [CFPB v Paypal](#)
 - [P2P transactions and EFTA Coverage](#)
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- Suggested Readings (not mandatory)
 - Rohner and Durkin, [TILA Finance and Other Credit](#)
 - Zywicki, [The Effects of Price Controls on Interchange](#).

4. Credit

- Readings
 - Zywicki, [The Economics of Credit Cards](#)
 - [Joseph Hall, Financial Technology, Cost, and Competition: The Case of Credit Cards](#)
- Suggested Readings (not mandatory)
 - Elliehausen, [Fintech and Banks](#)
 - [Marquette National v First of Omaha](#)
 - Federal Reserve TILA Write-Up
- a. First half of class on the economics of credit
- b. Second half, introduce TILA. And briefly mention BNPL and other new products.

5. Auto Lending and Consumer Durables

- Readings
 - FTC Cars Rule (CM to curate for students since it is 372 pages long)
 - [Chapter 2 NCCF Report](#)
 - [Melzer & Schroeder, Loan Contracting in the Presence of Usury Limits](#)
 - [CFPB Indirect Auto Lending Guidance \(Rescinded\)](#)
 - [Majority Statement FTC v Passport](#)
 - Complaint
 - [Dissenting Statement Commission Noah Phillips FTC v Passport](#)
- Suggested Readings (not mandatory)
 - [CFPB Auto Lending Exam Manual](#)

6. Credit Cards

- Readings
 - Chapter 7 of Zywicki/Durkin (Green Book)
 - Excerpt from Taskforce Report on the effects of the Credit CARD Act
 - Beales and Zywicki, [Junkyard Dogs: The Law and Economics of “junk” Fees](#)
- Suggested Readings (not mandatory)

7. Small dollar credit

- Readings
 - Zywicki/Durkin, Chapter 8
 - [CFPB Payday Rescission Rule, only read page 24-59.](#)
 - Zywicki, Payday/Overdraft (?) or Taskforce Chapter (?)
- Suggested Readings (not mandatory)
 - [CFPB Payday White Paper](#)
 - [Response from Payday Lenders](#)

8. Debt Collection

- Readings
 - Zywicki, [The Law and Economics of Debt Collection](#)
- Suggested Readings (not mandatory)
 - [CFPB v Wells Fargo](#)

9. Credit Reporting

- Readings
 - Chapter 6 Zywicki/Durkin
 - Hunt, [The law and economics of credit reporting.](#)
 - Something from TF Report on Credit Reporting (maybe excerpt on history of fair lending and women?)
- Suggested Readings (not mandatory)
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10. Financial Privacy and Data

- Readings
 - Cooper and Zywicki, A New Direction for Payments Security or a Chip Off the Old Block
 - Chapter 11 (?) of Taskforce Report
 - I’m writing an article for Cooper on Data Security that might fit in here too
- Suggested Readings (not mandatory)
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11. Consumer empowerment: Student Loans, Savings, Consumer Education

- Chapter 12 of Taskforce Report

12. FinTech

- Readings

- [FinTech Regulation: How True Lender and Usury Impact Fintech Business Models](#)
- Suggested Readings (not mandatory)

13. Fintech

- Readings
- Suggested Readings (not mandatory)

Exam April 27