

Consumer Financial Protection
193-001
Updated January 8, 2025

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.

Class may have to be rescheduled from time to time as a result of other professional commitments. I will be out of town on March 18. I will schedule a make-up class to be held either in-person or virtually.

Exam: May 5, 2025 Noon

OFFICE HOURS: Tuesday immediately after class and by appointment

REQUIRED TEXTS:

ADAM LEVITIN, CONSUMER FINANCE: MARKETS AND REGULATION (2023).

ADAM LEVITIN, CONSUMER FINANCE: SELECT FEDERAL LAW MATERIALS (2024 edition), available from [Amazon.com](https://www.amazon.com/Consumer-Finance-Select-Federal-Materials/dp/B0DNXP7QZ1/), <https://www.amazon.com/Consumer-Finance-Select-Federal-Materials/dp/B0DNXP7QZ1/> .

CONSUMER FINANCIAL PROTECTION BUREAU, TASKFORCE ON CONSUMER FINANCIAL LAW REPORT (2021), Two Volumes, available in <https://www.consumerfinance.gov/data-research/research-reports/taskforce-on-federal-consumer-financial-law-report/>.

NATIONAL COMMISSION ON CONSUMER FINANCE, CONSUMER CREDIT IN THE UNITED STATES (Dec. 1972), available in <https://babel.hathitrust.org/cgi/pt?id=uc1.31822024338451&seq=1>

VIRTUAL CLASSES: Each class will also be recorded via Zoom. If you are unable to attend class because of illness or some other reason, you are welcome to attend via Zoom. Please let us know in advance if you intend to use that option. **The permanent Zoom link for the class will be <https://gmu.zoom.us/j/9786383043>.** In addition, we may from time to time have visiting scholars and others attend class by Zoom to listen to particular lectures.

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://www.law.gmu.edu/academics/academic_standards.

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 <http://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 8, 2025

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.

Class 1: Origins of CFPB and Introduction

- Elizabeth Warren, *Unsafe at Any Rate*, DEMOCRACY (Summer 2007), No. 5, <https://democracyjournal.org/magazine/5/unsafe-at-any-rate/>
- Obama Administration Department of Treasury, Financial Regulatory Reform, A New Foundation: Rebuilding Financial Supervision and Regulation, pp. 55-75 (2009), https://fraser.stlouisfed.org/files/docs/historical/fct/treasury_finregreform_20090617.pdf?utm_source=direct_download
- Todd Zywicki, *Looking Forward by Looking Backward: The Future of Consumer Finance and Financial Protection*, 19(2) J. OF L., ECON., & POL'Y 223 (2024), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4728037
- NATIONAL COMMISSION ON CONSUMER FINANCE, CONSUMER CREDIT IN THE UNITED STATES Chapter 1 (Dec. 1972), <https://babel.hathitrust.org/cgi/pt?id=uc1.31822024338451&seq=1>
- CFPB Taskforce Report Chapter 6

Optional

- *Seila Law LLC v. Consumer Financial Protection Bureau*, 591 US. __ (2020)
- *Consumer Financial Protection Bureau v. Community Financial Services Association of America, LTD.*, 601 U.S. __ (2024)

Class 2: Substantive and Information Regulation

- Levitin Chapter 22
- Levitin Chapter 12
- Todd Zywicki, *Market-Reinforcing versus Market-Replacing Consumer Financial Regulation*, in REFRAMING FINANCIAL REGULATION: ENHANCING STABILITY AND PROTECTING CONSUMERS 319 (Hester Peirce and Benjamin Klutsey, eds., 2016), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2916204
- CFPB Taskforce Report Chapter 7

Class 3: Unfair, Deceptive, and Abusive Acts and Practices (UDAAP)

- Levitin Chapter 10
- Levitin Chapter 11
- *Chamber of Commerce v. Consumer Financial Protection Bureau*, United States District Court, Eastern District of Texas, <https://www.consumerfinancemonitor.com/wp-content/uploads/sites/14/2023/09/Opinion-and-Order.pdf>

Optional

- CFPB, Statement of Policy Regarding Prohibition on Abusive Acts or Practices (Feb. 5, 2020), <https://www.govinfo.gov/content/pkg/FR-2020-02-06/pdf/2020-01661.pdf> (rescinded by Biden Administration)
- CFPB, Policy Statement on Abusive Acts of Practices (Apr. 3, 2023), https://files.consumerfinance.gov/f/documents/cfpb_policy-statement-of-abusiveness_2023-03.pdf.
- FTC Policy Statement on Unfairness (Dec. 17, 1980), <https://www.ftc.gov/legal-library/browse/ftc-policy-statement-unfairness>
- FTC Policy Statement on Deception (Oct. 14, 1983), https://www.ftc.gov/system/files/documents/public_statements/410531/831014deceptions_tmt.pdf

Class 4: Payments

- Levitin Chapter 19
- Levitin Chapter 20
- Todd J. Zywicki, *The Economics of Payment Card Interchange Fees and the Limits of Regulation* (June 2010), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1624002
- CFPB Taskforce Report pp. 585-596

Class 5: Closed-End Credit and Consumer Durables

- Levitin Chapter 21
- Levitin Chapter 24
- Levitin Chapter 25
- Levitin Chapter 29
- NCCF Report Chapter 2
- CFPB Taskforce Report Chapter 2
- CFPB Taskforce Report 93-108
- CFPB Taskforce Report 158-174

Class 6: Credit Cards

- Levitin Chapter 26
- CFPB, Credit Card Penalty Fees Final Rule (Mar. 15, 2024), Summary of the Final Rule pp. 19128-19129, <https://www.govinfo.gov/content/pkg/FR-2024-03-15/pdf/2024-05011.pdf>
- *Chamber of Commerce v. Consumer Financial Protection Bureau*, N.D. Tex (Dec. 6, 2024), https://www.consumerfinancialserviceslawmonitor.com/wp-content/uploads/sites/880/2024/12/12-6-OPINION_ORDER.pdf
- CFPB Taskforce Report pp. 596-604, 615-619
- Howard Beales and Todd J. Zywicki, *Junkyard Dogs: The Law and Economics of “Junk” Fees*, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4446501

Class 7: Small Dollar Credit

- Levitin Chapter 30

- CFPB Overdraft Rule (Dec 12, 2024), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-closes-overdraft-loophole-to-save-americans-billions-in-fees/>
- CFPB Taskforce Report Chapter 5
- Testimony of Professor Todd Zywicki, “The End of Overdraft Fees Examining the Movement to Eliminate the Fees Costing Consumers Billions,” <https://democrats-financialservices.house.gov/uploadedfiles/hhrg-117-ba15-wstate-zywicki-20220331.pdf>

Class 8: Debt Collection

- Levitin Chapter 33
- Todd J. Zywicki, *The Law and Economics of Consumer Debt Collection and Its Regulation*, 28 LOY. CONSUMER L. REV. 167 (2016), <https://lawecommons.luc.edu/lclr/vol28/iss2/2/>
- CFPB Medical Debt Rule, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-to-remove-medical-bills-from-credit-reports/>

Class 9: Credit Reporting and Data Sharing

- Levitin Chapter 35
- CFPB Taskforce Report pp. 394-404, 549-551
- Todd Zywicki, *Consumer Privacy, Information Sharing, and Consumer Finance: Static and Dynamic Defense Strategies*, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4814143

Class 10: Financial Privacy and Data Security

- Levitin Chapter 36
- Levitin Chapter 37
- CFPB Taskforce Report Chapter 11

Optional

- James C. Cooper and Todd Zywicki, *A Chip Off the Old Block or a New Direction for Payment Card Security? The Law & Economics of the U.S. Transition to EMV*, 2018 MICH. ST. L. REV. 869 (2018), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2930955

Class 11: Consumer Empowerment

- Levitin Chapter 31
- CFPB Taskforce Report Chapter 12

Optional

- *Nebraska v. Biden*, ___ U.S. ___ (2023)

Class 12: Competition and FinTech

- CFPB Taskforce Report Chapter 8
- CFPB Taskforce Report Chapter 9
- Robert Savoie, Sarah Edwards, and Jaline Fenwick, *FinTEch Regulation: How True Lender, Valid-When-Made, and the Fight About Usury Impact FinTech Business Models*,

77 BUSINESS LAWYER 549 (Spring 2022), <https://www.mcglinchey.com/wp-content/uploads/2022/04/012-ABA-TBL-77-2-Savoie-et-al.pdf>

Class 13: Inclusion, Discrimination, and Equal Credit

- Chapter 23
- *Consumer Financial Protection Bureau v. Townstone Financial*, 7th Circuit (July 11, 2024), <https://www.consumerfinancialserviceslawmonitor.com/wp-content/uploads/sites/880/2024/07/Townstone-July-11-decision.pdf>
- *Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project*, 576 U.S. 519 (2015)
- CFPB Taskforce Report Chapter 10

Exam May 5, 2025 Noon