

**Course Syllabus Template**

Department/Faculty: Law School
Graduate Program: Political and Economic Law
Degree <input checked="" type="checkbox"/> Academic Master's <input type="checkbox"/> Doctorate (PhD) <input type="checkbox"/> Professional Master's
Course Name: Criminal Compliance and Economic Penal Law
Professor(s) Fábio Ramazzini Bechara / Marco Aurélio Pinto Florêncio Filho
Office hours: 48 class hours
Course Overview Compliance and economic criminal Law. Economic power and its legal limits. Compliance programs and technology. Self-regulation and the punishment of the legal persons. The institutionalization of the criminal compliance programs. Criminal compliance and the revisited boundaries of normative cooperation in regard to money laundering. Criminal economical approach of the anticorruption Act.
Topics outline 1. Comprehend self-regulation policies and the punishment to the legal persons. 2. Comprehend the institutionalization of the criminal compliance programs and the issue of the liability for complying with the duties. 3. Comprehend the revisited boundaries of criminal compliance in regard to money laundering. 4. Comprehend the first impressions of the anticorruption Act to the criminal compliance. 5. Comprehend the collaboration species and the whistleblowing mechanisms established in the criminal compliance programs.



Course Content:

1. Anticorruption compliance programs: risk assesment; code of conduct; anticorruption clauses; due diligence; conflict of interests;
2. Anticorruption compliance and the attribution of liability regime: criminal, civil and administrative offenses;
3. Law as a way to avoid the economic expansion: the Brazilian case;
4. Self-regulation and criminal liability of individuals and legal persons;
5. The Idea of compliance and the Anti Money Laundering Act (Lei n.º 9613/98): crimes of breach of duty, rules regarding liability of individuals and liability of leal entities;
6. The Idea of compliance and the Anti Money Laundering Act (Lei n.º 9.613/98): rules established by Conselho Monetário Nacional, Banco Central and COAF;
7. Compliance Programs and the new Anticorruption Act (Lei n.º 12.846/2013): Posing the issue;
8. Multiple offenders crimes, criminal association and criminal organization in corruption crimes;
9. The control theory of perpetration and corruption.
10. Leniency agreements and whistleblowing mechanisms, according to the Anticorruption Act;
11. Leniency Agreements (art. 87 da Lei n.º 12.529/2011 c/c art. 208, parágrafo único do RICADE), plea bargain (artigo 4º da Lei n.º 12.850/2013) and qualified confession by the report (artigo. 16, da Lei n.º 8.137/90) according to Competition Law, and;
12. The examples of the Trial of AP 470 and the “Car Wash operation”.

Methodology:

Expositive and theoretical classes: presentation of the main topics about self-regulation of the companies, criminal liability and criminal compliance in expositive and theoretical classes that would lead to a debate.

Expositive dialogue class: previous reading of the appointed texts. Seminars realized by the students about the proposed themes.

Assesment criteria:

Classroom debates. Texts summaries. Seminar presentations. Paper.



Texts, Materials, and supplies

ALFLEN, Pablo Rodrigo. *Teoria do domínio do fato*. São Paulo: Saraiva, 2014.

BACIGALUPO, Enrique. La posición de garante em el ejercicio de funciones de vigilância em el ámbito empresarial. In: BACIGALUPO, Enrique. *Curso de derecho penal económico*. 2ª ed. Madrid: Marcial Pons, 2005, p. 81-104.

BADARÓ, Gustavo Henrique; BOTTINI, Pierpaolo Cruz. *Lavagem de dinheiro. Aspectos penais e processuais penais*. 3ª ed. São Paulo: Revista dos Tribunais, 2013.

BERCOVICI, Gilberto; OCTAVIANI, Alessandro. Direito e Subdesenvolvimento. In: OCTAVIANI, Alessandro. *Estudos, pareceres e votos de direito econômico*. São Paulo: Singular, 2014, p. 65-84.

BRAGA, Romulo Rhemo Palitot. *A lavagem de dinheiro: fenomenologia, bem jurídico protegido e aspectos penais relevantes*. 2ª ed. Curitiba: Juruá, 2013.

BRANCO, Fernando Castelo. Reflexões sobre o acordo de leniência: moralidade e eficácia na apurações dos crimes de cartel. In: VILARD, Celso Sanchez; PEREIRA, Flávia Rahal Bresser; DIAS NETO, Theodomiro (coord.) *Direito penal econômico: crimes econômicos e processo penal*. São Paulo: Saraiva, 2008, p. 137-165.

CARDOSO, Débora Motta. *Criminal compliance na perspectiva da lei de lavagem de dinheiro*. São Paulo: LiberArs, 2015.

CASCIONE, Fábio de Souza Aranha (org.). *Lei anticorrupção: uma abordagem interdisciplinar*. São Paulo: LiberArs, 2015.

DOTTI, René Ariel. A incapacidade criminal da pessoa jurídica (uma perspectiva do direito brasileiro). In: PRADO, Luiz Regis (coord.) *Responsabilidade penal da pessoa jurídica. Em defesa do princípio da imputação penal subjetiva*. São Paulo: Revista dos Tribunais, 2001.

FRANCESCHINI, J.I.G; BAGNOLI, V. Direito Concorrencial, in: *Tratado de Direito Empresarial*, vol.7. coord. CARVALHOSA, Modesto. São Paulo: RT, 2016.

MARTINEZ, Ana Paula. *Repressão a Cartéis: Interface entre Direito Administrativo e Direito Penal*. São Paulo: Singular, 2013.

PEDRINHA, Gustavo Mascarenhas Lacerda. *AP 470 - Análise da intervenção da mídia no julgamento do mensalão a partir de entrevistas com a defesa*. São Paulo: Liber Ars, 2013.