

Restructuring Firms and Industries
NYU Stern School of Business and NYU School of Law
Fall 2020
Mondays & Wednesdays, 2:00 - 3:20

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Office Hours:
by appointment on Zoom

Description: This course examines business problems that arise from conflicts between shareholders, managers, and occasionally other groups such as bondholders, labor, and government regulators. Most of these conflicts lead to either a market-based or regulation-based response that changes the shape of the company involved. Topics include choices of organizational form, mergers and acquisitions, spinoffs and other equity restructuring, private equity, takeover defenses, liability restructuring under financial distress, institutional investors, shareholder activism, and the value of corporate voting and control. Many topics are studied within an agency cost framework, which has become the standard paradigm for analyzing financial contracting and regulation. Readings will be drawn from textbooks and academic journals, and many classes will involve case studies of prominent companies challenged by financial and governance problems.

Prerequisites: This is an advanced course that assumes students are familiar with the concepts of corporate law and/or corporate finance. Law students should have completed at least one semester of the basic Corporations course and done well. Stern students should have already taken Corporate Finance and done well. Further knowledge about capital markets would be helpful for all students, whether through work experience or courses such as Securities Regulation (Law School), Investment Banking, or Mergers and Acquisitions (Stern School).

Textbooks: P. Gaughan, *Mergers, Acquisitions and Corporate Restructurings* (7th ed., 2017)
B. Malkiel, *A Random Walk Down Wall Street* (11th ed., 2015) (recommended).

Additional readings: Along with readings assigned from the textbooks, I will assign articles from academic journals and the news media, which may be downloaded from NYU Classes.

Class meetings: We will meet on the Zoom platform. Everyone should join using links that are available from NYU Classes. Be sure to sign into your NYU Zoom account using SSO so that you do not have trouble joining the sessions. All class meetings will be recorded in the Zoom cloud with recordings available on the NYU Classes site.

Course requirements: The course grade will be based upon a take-home final exam consisting of essay questions. The exam will be distributed by mid-November and will be due on Friday, December 18, at the end of the final exam period. The exam will have eight essay questions of 500 words length, and you will answer six of the eight questions and have the take-home count as 100% of your grade.

Academic calendar: The Stern School and Law School have different academic calendars. We will have 26 class sessions as follows:

- Our first day of class is Wednesday, September 2. There is no assignment to be done in advance of the first class.
- There will be no class on Monday, September 7, Monday, September 28, or Wednesday, November 25. These are Stern or NYU-wide holidays that are not all followed by the Law School.
- The final class is Wednesday, December 9. Though the last two classes take place during the Law School exam period, past experience indicates that the inconvenience to most Law School students should be minimal.

Lecture Topics and Readings

Each lecture topic will take 1 to 2 classes to cover

Course introduction

Case Discussion: Restructuring and hostile takeover of ITT Corp.

Gaughan, p 434-435.

Agency costs; Corporations and other business organizations

Gaughan, pp 477.

E. Fama and M. Jensen, "Separation of Ownership and Control," 26 Journal of Law and Economics 301 (1983).

Case Discussion: Armand Hammer and Occidental Petroleum.

Capital market efficiency and managers' behavior

Case Discussion: T. Lys and L. Vincent, "An Analysis of Value Destruction in AT&T's Acquisition of NCR," 39 Journal of Financial Economics 353 (1995).

Malkiel, pp 37-55, 134-188, 291-327, 379-392.

Stakeholder capitalism

(Two lectures)

M. Friedman, "The Social Responsibility of Business Is to Increase its Profits," *The New York Times Magazine* (1970).

A. Shleifer and L. Summers, "Breach of Trust in Hostile Takeovers," in A. Auerbach, ed., *Corporate Takeovers: Causes and Consequences* (National Bureau of Economic Research, 1988).

Business Roundtable, "Statement on Purpose of a Corporation" (2019)
<https://opportunity.businessroundtable.org/ourcommitment/>.

J. Karpoff, "On a Stakeholder Model of Corporate Governance" (2020).

Case Discussion: "Chainsaw" Albert Dunlap.

"Free cash flow" and financial slack

M. Jensen, "Agency Costs of Free Cash Flow, Corporate Finance, and Takeovers," 76 *American Economic Review* 323 (1986).

Case Discussion: Chrysler Corp. and Kirk Kerkorian.

The controversy over share repurchases

Read recent news coverage, including:

- A. Alsins, "The Ugly Truth Behind Stock Buybacks," *Forbes*, February 28, 2017.
- J. Fried and C. Wang, "The Real Problem with Stock Buybacks," *The Wall Street Journal*, July 6, 2018.
- J. Desjardins, "The Controversy Around Stock Buybacks Explained," *Visual Capitalist*, March 1, 2019.
- R. Teitelbaum, "Share Buybacks May Be Bad – Just Not for the Reason You Think," *Institutional Investor*, March 7, 2019.

Mergers and acquisitions: Economic rationales and outcomes

Mergers and acquisitions: Issues for negotiation

(Three lectures)

Gaughan, pp 3-39, 127-145, 156-179, 237-265, 494-517, 519-533. Also 613-629 (skim).

Private benefits of control
Family business groups
Corporate voting

(Three lectures)

Gaughan, pp. 266-308.

D. Yermack, "Shareholder Voting and Corporate Governance," 2 Annual Review of Financial Economics 103 (2010).

Shareholder activism

Gaughan, pp. 477-478, 484-494.

Case Discussion: N. Schwartz, "How Wall Street Bent Steel," *The New York Times*, December 6, 2014.

Diversification and conglomerates

Gaughan, pp 49-58, 145-156, 181-183, 517-518.

Malkiel, pp 60-65.

Case Discussion: G. Baker, "Beatrice: A Study in the Creation and Destruction of Value," 47 Journal of Finance 1081 (1992).

Case Discussion: T. Gryta and T. Mann, "GE Powered the American Century - Then it Burned Out," *The Wall Street Journal*, December 14, 2018.

Spinoffs, split-offs and other equity restructuring

Gaughan, pp 392-435.

P. Anslinger *et. al*, "Breaking Up Is Good To Do," 1 McKinsey Quarterly 16 (1999).

Case Discussion: R. Parrino, "Spinoffs and Wealth Transfers: The Marriott Case," 43 Journal of Financial Economics 241 (1997).

Private equity and highly leveraged transactions (time permitting)

Gaughan, pp 221-226, 305-367, 623-624.

Case Discussion: D. Denis, "Organizational Form and the Consequences of Highly Leveraged Transactions: Kroger's Recapitalization and Safeway's LBO," 36 Journal of Financial Economics 193 (1994).

Financial distress: Costs, benefits and outcomes (time permitting)

Gaughan, pp 437-476.

Case Discussion: D. Cutler and L. Summers, "The Costs of Conflict Resolution and Financial Distress: Evidence from the Texaco-Pennzoil Litigation," 19 Rand Journal of Economics 157 (1988).