

## COURSE SYLLABUS

### U.S. LAW OF MERGERS & ACQUISITIONS Pazmany Peter Catholic University

Professor Maynard and Professor Toth

October 2018

#### INSTRUCTORS:

- Professor Therese Maynard, Loyola Law School – Los Angeles, [Therese.Maynard@lls.edu](mailto:Therese.Maynard@lls.edu)
- Professor Tihamer Toth, Pazmany Peter University, [toth.tihamer@jak.ppke.hu](mailto:toth.tihamer@jak.ppke.hu)

#### COURSE OBJECTIVES: This course will:

- Introduce students to the statutory and case law framework governing mergers and acquisitions law in the U.S.;
- Demonstrate some of the ways in which this framework impacts how mergers and acquisitions transactions are structured; and
- Deepen the students' knowledge of legal English used by U.S. corporate lawyers

**PREREQUISITES:** Students are required to have sound knowledge of English and the law of business associations.

**EVALUATION and GRADING:** Students will be graded on a three-scale grading scheme: excellent (5) satisfactory (3), and fail (1). Students will be evaluated based on three homework assignments ("HW") to be submitted in class (30%), attendance and participation during class (30%), and an open-book final examination (40%).

**READING MATERIALS:** The reading materials for this course will be provided to the students and will consist of excerpts from the following texts and articles:

- Therese Maynard, *MERGERS & ACQUISITIONS: CASES, MATERIALS AND PROBLEMS* (4<sup>th</sup> ed., Wolters Kluwer, 2017) ("Maynard")
- Bryn R. Vaaler, *An Overview of Director Fiduciary Duties* (2015) ("Vaaler")
- Latham & Watkins, *An Overview of Fiduciary Duties* (2016) ("Latham & Watkins")
- Selected Provisions of Delaware General Corporation Law ("DGCL") available at <http://delcode.delaware.gov/title8/c001/index.shtml>

**CLASS SESSIONS:** Professor Maynard will teach five sessions that will meet on October 9, 11, 15, 17 and 18. All of Professor Maynard's classes start at 4pm, *except* the first class on **October 9**, which will start at **5pm**. Professor Toth will teach two introductory sessions on September 18 and 25, starting at 4 pm. All class sessions meet in Room No. Gy313.

**READING ASSIGNMENTS:** The reading assignment for each class session is provided below.

**Reading assignments and topics for Prof. Tóth’s lectures:**

On September 18, we will discuss some basic concepts of M&A law. Please read Maynard’s introductory chapter, pp. 1-39.

On September 25, we will look at two topics relating to M&As: approval by competition authorities and labor law aspects to be considered for transactions. For the competition law topic, please read:

<https://www.nytimes.com/2016/05/11/business/dealbook/staples-office-depot-merger.html> (a list of questions will be circulated during the first lecture)

<https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/mergers/premerger-notification-merger-review>

<https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/mergers/markets>

<https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/mergers/competitive-effects>

**Class Schedule and Reading Assignments – Prof. Maynard’s Lectures:**

<b><u>Date</u></b>	<b><u>Lecture</u></b>	<b><u>Assignment</u></b> (Complete before class)	<b><u>Discussion Topics</u></b> (Topics to be discussed in class)
<b>Oct. 9</b>	<b>#1</b>	<p><b>Read Maynard:</b></p> <ul style="list-style-type: none"> <li>○ <b>Chapter 1, pp. 39-53</b></li> <li>○ <b>Chapter 2, pp. 55-71</b> (Stock-for-Stock Mergers and Cash Mergers)</li> <li>○ <b>DCGL §251 (a)-(c) and (f)</b></li> <li>○ <b>Chapter 2, pp.72-77; and DGCL §271</b> (Asset Purchases)</li> <li>○ <b>Chapter 2, pp. 104-108</b> (Stock Purchases)</li> </ul> <p>-----</p> <p><b>Complete HW #1:</b> Analyze Stock-for-Stock Direct Merger Problem 2 (a)-(b) at pp. 68-69; <i>and</i></p> <p>Analyze Asset Purchase Problem 2(a)-(b) at pp. 82 under DGCL §271 only</p>	<p><b>Overview of Fundamental Principles of U.S. Corporate Law;</b></p> <p><b>Introduction to Delaware Statutes;</b></p> <p><b>Structuring Acquisitions as:</b></p> <ul style="list-style-type: none"> <li>○ <b>Stock-for-Stock Direct Merger</b> (See Diagram 1 in Appendix A at Maynard pg. 826)</li> <li>○ <b>Cash Out Merger</b> (See Diagram 2 in Appendix A at pg. 827)</li> <li>○ <b>Asset Purchase for Cash</b> (See Diagram 4 in Appendix A at Maynard pg. 829)</li> <li>○ <b>Stock Purchase for Cash</b> (See Diagram 6 in Appendix A at Maynard pg. 831)</li> </ul>

<u>Date</u>	<u>Lecture</u>	<u>Assignment</u> (Complete before class)	<u>Discussion Topics</u> (Topics to be discussed in class)
Oct. 11	#2	<p><b>Read Maynard:</b></p> <ul style="list-style-type: none"> <li>○ Chapter 2, pp. 108-118</li> <li>○ Chapter 5, pp. 342-350 and pp. 399-403</li> </ul> <p><b>Review Maynard Chapter 1, pp. 20-32 (Deal Flow)</b></p> <p><b>Review Appendix B and read carefully Articles I-IV at Maynard pp. 843-847</b></p> <p><b>Analyze Problem 2 – AT&amp;T’s acquisition of DirecTV using AT&amp;T stock and cash – at Maynard pp. 117-118</b></p> <p><b>Review Appendix E at Maynard pp. 969-974 (Due Diligence Checklist)</b></p> <p>-----</p> <p><b>Complete HW #2 – Analyze Reverse Triangular Merger Problem 2 (a)-(b) at Maynard pg. 117</b></p>	<p><b>Structuring AT&amp;T’s Acquisition of DirecTV as Reverse Triangular Merger;</b></p> <p><b>Review Terms of Merger Agreement for AT&amp;T’s Acquisition of DirecTV</b> (See Appendix B);</p> <p><b>Review Diagrams 8 and 9 in Appendix A at Maynard pp. 833-834 (Forward Triangular Mergers);</b></p> <p><b>Review Diagrams 10 and 11 in Appendix A at Maynard pp. 835-836 (Reverse Triangular Mergers)</b></p>
Oct. 15	#3	<p><b>Read Maynard:</b></p> <ul style="list-style-type: none"> <li>○ Chapter 6, pp. 405-410; pp. 416-422; pp. 429-431; and pp. 448-454</li> <li>○ Chapter 7, pp. 523-525 (Note Material – <i>Market for Corporate Control</i>)</li> </ul> <p><b>Review Diagram 12 in Appendix A at Maynard pp. 837-838 (Two Step Transactions)</b></p> <p>-----</p> <p><b>Complete HW #3 – Answer Questions 1 and 3 at Maynard pp. 449-450</b></p>	<p><b>Regulation of Open Market Purchases and Tender Offers under Williams Act;</b></p> <p><b>Distinguish Hostile Takeovers from Friendly Tender Offers;</b></p> <p><b>Describe Two-Step Transactions – see Diagram 12 in Appendix A</b></p>

<u>Date</u>	<u>Lecture</u>	<u>Assignment</u> (Complete before class)	<u>Discussion Topics</u> (Topics to be discussed in class)
Oct. 17	#4	<p><b>Read Maynard: Chapter 7, pp. 512-514 and pp. 579-594</b> (<i>Revlon</i> case)</p> <p><b>Read Vaaler Article</b></p> <p><b>Read Latham &amp; Watkins Article</b></p>	<p><b>Overview of Board of Directors' Fiduciary Duty Obligations;</b></p> <p><b>Enhanced (Intermediate) Standard of Judicial Review for Board's Decision to Adopt Defensive Measures;</b></p> <p><b>Use of Deal Protection Devices in Fully-Negotiated M&amp;A Transactions</b></p>
Oct. 18	#5	<p><b>Read Maynard:</b></p> <ul style="list-style-type: none"> <li>○ <b>Chapter 7, pp. 609-626</b> (<i>Time-Warner</i> case)</li> <li>○ <b>Chapter 7, pp.719-734</b> (<i>Topps</i> case) (<i>time permitting</i>)</li> </ul>	<p><b>Use of "Go Shop" Clauses;</b></p> <p><b>Who should decide when – and on what terms – a publicly-traded company is sold?</b></p>