



UNIVERSITY AT BUFFALO LAW SCHOOL
The State University of New York

**UNIVERSITY AT BUFFALO NEW YORK CITY PROGRAM
IN INTERNATIONAL FINANCE AND LAW
SPRING 2009**

TEAM PROJECTS

Sponsor: Gary Alan DeWaal ('80), Senior Managing Director and
Group General Counsel, Newedge
Topic: Investor Liability in the Wake of the Madoff Ponzi Scheme

This team has examined the ways that investors became involved with Bernard L. Madoff funds and other faulty investments. These include capital introduction services offered by prime brokers, third party marketers who have been paid to solicit investors, the sale of interests in hedge funds by broker-dealers and the funds of hedge funds. The students have examined the possible liability in each of these circumstances by first researching each of these services with business resources and then analyzing the possible liability by researching case law, NASD reports and various securities laws. At the end of the semester, the group will produce a case study examining the potential liability in each one of these circumstances that brokers and funds face for the failure to perform sufficient due diligence on Madoff funds.

Sponsor: David E. Franasiak ('78), Partner, Williams & Jensen PLLC
Topic: Securitization: How to Restore Investor Confidence and
Restart the Securitization Market

This project has focused on securitization both before and after the financial crisis, and will produce proposals for restarting the stagnant securitization market. The students have learned about the securitization process, its role in the financial crisis and the current regulatory structure, as well as various public sector, private sector and international reform initiatives. The team has developed five proposed solutions to help restore investor confidence and restart the securitization market. Their proposals are divided into two chronological sections: first, how to restore investor confidence and restart securitization and second, how to prevent a future collapse.

In preparing recommendations for restarting the securitization market, they have analyzed the use of covered bonds and changes to mark-to-market accounting rules. They have also analyzed current legislative proposals to devise a plan based on regulation. Their plans to prevent a future collapse have included a close look at risk-monitoring and management practices, as well as regulatory reforms such as amending Regulation AB and dismantling the NRSRO system.

Sponsor: Joseph Rosenberg, Division of Enforcement, U.S. Commodity Futures Trading Commission

Topic: The CFTC, its Purpose, and its Role in Regulating the Forex Market

The goal of this group project has been to explore, through interviews and legal research, the CFTC's purpose, its history of expanded mandates to regulate select markets in the United States, and its current role in regulating the financial futures contracts. The project has focused the CFTC's international jurisdiction over participants in the foreign exchange markets that engage in abusive practices involving citizens of the United States. Through interviews and legal research, the team has analyzed the extraterritorial reach of the CFTC's jurisdiction, the cooperation of foreign governments, and the agency's ability to seize assets.

The team will produce a case study to demonstrate how different aspects of the CFTC's jurisdiction combine in a practical approach to enforcement. The case study will review investigative procedures practiced by the CFTC, foreign service of process, recovery, and investor education in order to provide an accurate account of a conventional investigation leading to a typical outcome. Finally, the team will propose recommendations for improving the effectiveness of the CFTC, and discuss the probability of these changes being practically implemented.

Sponsor: Thomas M. Salatte ('93), General Counsel, Secretary and Director, Nomura Global Financial Products

Topic: Over-the-Counter Derivatives and a New Regulatory Framework

The current global financial crisis has emphasized weaknesses within existing regulatory frameworks and has drawn attention to unregulated markets such as hedge funds and over-the-counter (OTC) derivatives. The purpose of this project is to establish how OTC derivatives should fit into a new regulatory framework within the U.S. and globally. In order to achieve this objective, the team has examined the placement of OTC derivatives within the current regulatory framework, as well as their role in the global financial crisis. Additionally, the students have analyzed recent government initiatives and legislative proposals, and attempted to balance them with OTC derivative industry concerns. The team has looked closely at these initiatives, and their strengths and weaknesses to facilitate regulatory changes that should be implemented. Lastly, the students have considered implications for OTC derivative markets that may result from their proposed regulatory framework.

The students working on this project also benefitted from the guidance of Sarah Sprague ('08, UB in NYC '08), Counsel, Nomura Securities, Inc.

Sponsor: George M. Williams, Jr. ('78), Partner, Dewey & LeBoeuf LLP
Topic: Regulatory Recommendations for Systemic Risk

This project has explored the problem of systemic risk and potential ways to mitigate it in the financial system. First, the students examined the prospect of a systemic risk regulator which would oversee the financial system. Second, they explored the U.K. regulatory model and response to the financial crisis. Third, they looked at the proposed Treasury Resolution Authority and how it would apply to non-bank financial institutions, as well as which U.S. entity should possess that power. Fourth, they examined the advantages and disadvantages of combining financial regulatory agencies. Finally, they explored the concept of mitigating systemic risk by promoting a healthy economic ecology, drawing an analogy between biodiversity and diversity in financial markets. The team will produce a report, including specific recommendations for regulating systemic risk.