

**COURSE DATA****Data Subject**

<b>Code</b>	35931
<b>Name</b>	Mercantile law
<b>Cycle</b>	Grade
<b>ECTS Credits</b>	6.0
<b>Academic year</b>	2022 - 2023

**Study (s)**

<b>Degree</b>	<b>Center</b>	<b>Acad. Period</b>
1315 - Degree in Finance and Accounting	Faculty of Economics	1 First term

**Subject-matter**

<b>Degree</b>	<b>Subject-matter</b>	<b>Character</b>
1315 - Degree in Finance and Accounting	4 - Law	Basic Training

**Coordination**

<b>Name</b>	<b>Department</b>
HERNANDO CEBRIA, LUIS	70 - Mercantile Law 'Manuel Broseta Pont'

**SUMMARY**

MERCANTILE LAW is a basic training subject lectured in the first term of the first year of the Degree in Finance and Accounting.

This subject has an essential position in the students training since they are introduced in the basic legal concepts necessary for the development of an economic activity in the market. The management of the sources of commercial law, the basic requirements to be an operator in the market, the different commercial contracting options and the legal regime of insolvency and economic crises of entrepreneurs are the four main focuses in which this subject is broken down.

It is intended that the Graduate in Finance and Accounting knows the fundamental concepts and the basic legal system of the entrepreneur and the business activity, whether it is carried out as a natural person or as a legal person.

The student must also know the basic concepts of the main business contracts, as well as the main obligations that are required for the companies.



From these data we can indicate the following as essential points of the subject:

- Basic knowledge of the institutions and legislation that regulate business activity and general legal concepts. Sources of law
- The subject of Law. Natural person and legal person. Concept and legal status of the entrepreneur and the enterprise.
- General theory of the company contract. Organisation, operation and classes of mercantile companies: Public Company, Limited Company and Special Companies.
- Legal aspects of the business crisis (Bankruptcy Law).

## PREVIOUS KNOWLEDGE

### Relationship to other subjects of the same degree

There are no specified enrollment restrictions with other subjects of the curriculum.

### Other requirements

No enrollment restrictions have been specified with other subjects of the curriculum.

## COMPETENCES (RD 1393/2007) // LEARNING OUTCOMES (RD 822/2021)

### 1315 - Degree in Finance and Accounting

- Conocer y comprender los conceptos básicos del Derecho y familiarizarse con el uso del lenguaje jurídico. Conocer las fuentes del Derecho desde la perspectiva económica.
- Conocer el régimen jurídico del empresario y las sociedades mercantiles.
- Conocer el régimen jurídico de los contratos mercantiles y los medios de pago.
- Conocer y comprender la organización funcional y los objetivos empresariales, así como los el proceso de toma de decisiones en la empresa.

## LEARNING OUTCOMES (RD 1393/2007) // NO CONTENT (RD 822/2021)

The results the student must obtain once he/she has finished studying Commercial Law will be the following:

- Ability to interpret legal and jurisprudential texts.
- Ability to apply the hierarchy of norms and appropriate regulation to a specific case.
- Knowledge of the legal system of the employer and the company.



- To identify and correctly interpret the obligations arising from commercial contracts.
- To identify the most adequate means of payment for use in commercial traffic.

## DESCRIPTION OF CONTENTS

### 1. The Legal System and the sources of Commercial Law

1. Legal System: The Law and the legal norm
2. Sources of Law
3. Formal sources of the Spanish Legal System
4. European Law
5. The sources of Commercial Law

### 2. Legal regime of the entrepreneur and the enterprise

1. Legal concept of entrepreneur: characteristic notes
2. Legal status of the commercial entrepreneur
  - a. Capacity, prohibitions, incompatibilities and disqualification
  - b. Obligations
  - c. Responsibility
3. Collaborators dependent on the entrepreneur

### 3. Corporate contracts and commercial companies

1. The associative phenomenon and commercial companies. Concept of company
2. Contractual aspect and corporate dimension of companies (corporate contract and legal status)
3. Classification of commercial companies.
4. Special commercial companies
5. Other forms of organization used in the business sector.

### 4. Capital companies. Constitution and organization

1. Characteristic features and constitution of limited companies
2. Concept and governing principles of share capital
3. Contributions and related services
4. Participation in the share capital: shares and social participations
5. Rights that make up the condition of member
6. Documentation and representation of the shares and the social participations
7. Transferability of the condition of member



## **5. Organisational structure**

1. Organizational structure: distribution of competences in the social bodies
2. General Meeting
  - a. Competences and types of meetings. The object of the ordinary General Meeting.
  - b. Convocation, constitution and operation of the General Meeting
3. Administrative Body
  - a. Competencies and ways to organize the administration. The Board of Directors
  - b. Capacity, appointment, duration, revocation and retribution
  - c. Attribution and Scope of the power of representation
  - d. Duties of the directors
  - e. Responsibilities of the directors
4. Challenge to the resolutions of the Corporate bodies

## **6. By-laws modifications, restructurings and termination of the company**

1. Modification of by-laws. Increase and reduction of share capital
2. Separation and exclusion of members
2. Restructurings: concept and classes
3. Separation and exclusion of shareholders
4. Dissolution and liquidation

## **7. Security titles and other means of payment**

1. Security titles.
  - a. Concept, economic function, characters and types of security titles
  - b. The circulation of the nominative securities, securities on order or securities to the bearer.
2. Commercial payment instruments: bill of exchange, check and promissory note
  - a. Concept and economic function of the bill of exchange
  - b. Formal requirements and subjects of the bill. Issuance formulas
  - c. The acceptance of the bill
  - d. Check
  - e. Promissory note
  - f. The endorsement and the guarantee.
  - e. Presentation and payment of the security titles
  - f. Enforced payment. The protest and the special actions

## **8. Commercial contracting (I)**

1. The contract and commercial contracting
  - a. Essential elements in contracting
  - b. The commercial contract and the characteristics of commercial contracting
2. Property transfer contracts
  - a. The commercial sale contract
  - b. The supply contract



- 3. Collaboration contracts
  - a. The commission contract
  - b. The agency contract
- 4. Distribution contracts
  - a. Exclusive purchase and selective distribution contracts
  - b. The concession contract
  - c. The franchise agreement

## **9. Commercial contracting (II)**

- 1. Financing and guarantee contracts
  - a. The leasing contract
  - b. The factoring contract
  - c. The commercial loan
  - d. Bank contracts: loan, credit opening, discount
  - e. Warranty contracts
- 2. Insurance contracts
  - a. General theory
  - b. Damage insurance. Liability insurance

## **10. Insolvency of the commercial entrepreneur**

- 1. Characteristics of the insolvency proceedings.
- 2. Objective and subjective conditions
- 3. Preinsolvency Institutes
- 4. Effects of the declaration of insolvency
- 5. Bankruptcy administration
- 6. Configuration of the assets and rights and the list of creditors
- 7. Termination. Creditors' agreement and liquidation
- 8. Qualification of the insolvency



**WORKLOAD**

ACTIVITY	Hours	% To be attended
Theory classes	30,00	100
Classroom practices	30,00	100
Attendance at events and external activities	2,00	0
Development of group work	10,00	0
Development of individual work	6,00	0
Study and independent work	14,50	0
Readings supplementary material	7,50	0
Preparation of evaluation activities	20,00	0
Preparing lectures	10,00	0
Preparation of practical classes and problem	10,00	0
Resolution of case studies	10,00	0
<b>TOTAL</b>	<b>150,00</b>	

**TEACHING METHODOLOGY**

The appropriate methodology to teach Commercial Law subject combines master classes with the active work of students, both in the theoretical classes and the practical ones, through exercises and the presentation of works.

The active work of students is basic to achieve the objectives described in the learning outcomes. For this, students will be given, prior to the master class, a dossier with elementary questions that must be prepared with the basic bibliography. The teacher will not explain these issues, but will focus the class on the most complex topics of each of the lessons and will not be limited to repeating the information contained in the legal texts that they must to handle and in the basic bibliography.

In addition, the students will carry out in groups and will present orally a work on a social type of those included in the third lesson, within the section "classification of commercial companies", or on the procedure for establishing a company.

In the practical part, the materials included in the practices dossier will be worked on in class. Individual and team work will be fostered with the objective that the student acquires the ability to identify the legal sources for the resolution of the practical assumptions raised, promoting in any case the analysis and synthesis capabilities. To start the student in the management of commercial law sources, two sessions will be held on the management of legal sources of commercial law and tools related to commercial contracts. During the rest of the practical sessions students will develop the cases raised in the dossier.



## EVALUATION

The integral subjects of this area will be evaluated from the consideration of the following aspects:

- Synthesis test that evaluates the level of scope of the learning results and especially those focused on the specific competences of the subject with respect to content and application. The percentage of the synthesis test will represent 60% of the total of the final assessment and will be divided into two parts, theoretical and practical.
- Continuous assessment of the student based on their participation and involvement in the teaching-learning process. The continuous evaluation will be carried out through seminars, resolution of cases and other activities oriented to the practical application of the theoretical contents. It will also include the preparation of papers, reports and oral presentations, with defense of the positions developed by the student. This section will represent 40% of the total valuation of the subject.

Continuous assessment activities (directed or complementary) will not be recoverable in the second convocation when, due to their nature, it is not possible to design a test that assesses the acquisition of the learning results in the second convocation. This fact will be determined in the teacher's annex that will specify the directed and complementary activities that will be carried out within the framework of this teaching guide.

To pass the subject it is necessary to have passed each of the two parts of the synthesis test, which will be unique for all groups. Passing one of the two parts will exempt the student from examining the same in the second convocation.

Even if the continuous assessment has been followed, totally or partially, if the student does not show up for the final evaluation test, it will be included in the record as a NOT SUBMITTED. Exceptionally, if the student request it, and in view of the circumstances of the specific case, it may be graded as FAIL, with the percentage mark resulting from the continuous evaluation.

The minimum score in the global calculation will be 5 points.

In the case of not passing the synthesis test, the grade that will appear in the minutes will be determined from the weighted sum of the scores obtained in continuous evaluation and final synthesis test without, in any case, exceeding 4.5 (fail).

The date of the examination will be determined by the academic Committee and approved by the Center Board.

Regardless of the general evaluation system (written or oral), the teacher can determine in the annex the possibility of changing the examination system when it is forced to perform the objective test on dates other than the official one in application of the rules provided for the case of coincidence in the dates of examination in the Regulation of evaluation and qualification of the Universitat de València.

## REFERENCES



### Basic

- APUNTES DE DERECHO MERCANTIL (Adaptado a los estudios de ADE, ECONOMIA Y FINANZAS Y CONTABILIDAD) Low cost books. Valencia, última edición.
- DERECHO MERCANTIL: MANUAL HECHO POR ESTUDIANTES (dir. Nuria Latorre; coord. Paula Herráiz). Tirant lo Blanch apuntes (últ. ed.)

### Additional

- INTRODUCCIÓN AL DERECHO MERCANTIL, Francisco Vicent Chuliá, Editorial Tirant lo Blanch.
- INSTITUCIONES DE DERECHO MERCANTIL, Fernando Sánchez Calero, Editorial MacGraw-Hill.
- LECCIONES DE DERECHO MERCANTIL, Guillermo J. Jiménez Sánchez, Editorial Tecnos.
- MANUAL DE DERECHO MERCANTIL, Manuel Broseta Pont, Editorial Tecnos.
- CURSO DE DERECHO PRIVADO, Varios Autores, Tirant lo Blanch, Últimas ediciones.
- PRINCIPIOS DE DERECHO MERCANTIL, Fernando Sánchez Calero, Editorial MacGraw-Hill.