

Restructuring Firms and Industries
NYU Stern School of Business and NYU School of Law
Fall 2024
Mondays & Wednesdays, 1:30 - 2:50
KMC 3-50

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Office Hours:
MW 3:00 - 4:30 or by appointment

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, 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. In line with contemporary market developments, the course will focus closely on restructuring initiated by shareholder activism campaigns, including those inspired by the ESG corporate governance movement.

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), The Financial Services Industry, 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* (13th ed., 2023) (recommended).

Additional readings: Along with readings from the textbooks, I will assign articles from academic journals and the news media, which may be downloaded from the NYU Brightspace course site. These readings will include some of the classics in the corporate governance and restructuring literature as well as some recent applications.

Class meetings: All class meetings will be recorded with playback available on the NYU Brightspace course site via the MediaSite platform that can be accessed through Brightspace. Note that we do not use PanOpto, the Law School's media platform, which is similar to MediaSite.

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 Friday, December 20. 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: We will have 26 class meetings. Our first day of class is Wednesday, September 4. The final class is Monday, December 9. We will not hold class on Monday, October 14, which is a holiday at both schools, or Wednesday, November 27, which is a holiday at the Stern School. Though our last two class meetings take place during the Law School reading and exam period, past experience indicates that the inconvenience to most Law School students should be minimal, and these classes will be recorded for playback like all others.

Lecture Topics and Readings

Each lecture topic will take one to two classes to cover

Course introduction

Case Discussion: “The Campaign to Reenergize ExxonMobil” (2021).

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 Corp., and other examples of agency problems.

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 36-54, 137-184, 289-326, 377-393.

Stakeholder capitalism and the ESG movement

(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/>.

S. Shiflett, "Wall Street's ESG Craze Is Fading," *The Wall Street Journal*, November 19, 2023.

Case Discussion: "Chainsaw" Albert Dunlap as CEO of Scott Paper and Sunbeam.

"Free cash flow" and financial slack

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

B. Malkiel, "Biden's Stock Buyback Tax Would Hit the Little Guy," *The Wall Street Journal*, February 12, 2023.

Case Discussion: Chrysler Corp. and Kirk Kerkorian.

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: Shareholder activism and restructuring at The Timken Co.

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 67-72.

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).