

Table of Contents

CHAPTER 1. ACQUISITION OF INITIAL INTERESTS

I. IN GENERAL

§ 1:1 Introduction

II. THE STATUTORY AND REGULATORY PROVISIONS

§ 1:2 Generally

III. DIFFICULTIES IN APPLICATION

§ 1:3 “Beneficial ownership”

§ 1:4 “Group”

§ 1:5 “Five per centum”

IV. A DETAILED REVIEW OF REGULATION 13D-G

§ 1:6 Generally

§ 1:7 Rule 13d-1—The basic obligation

§ 1:8 Rule 13d-2—Amendments

§ 1:9 Rule 13d-3—Beneficial ownership

§ 1:10 Rule 13d-4—Disclaimers

§ 1:11 Rule 13d-5—“Acquisition”

§ 1:12 Rule 13d-6—Exemptions

§ 1:13 Rule 13d-7—Dissemination

§ 1:14 1998 Amendments to the Beneficial Ownership Reporting Requirements

§ 1:14.50 2023 Amendments to the Beneficial Ownership Reporting Requirements

§ 1:14.60 2025 Updates to SEC Compliance and Disclosure Interpretations

V. THE SCHEDULE 13D DISCLOSURES

§ 1:15 Generally

VI. CONSEQUENCES OF A FAILURE TO FILE OR A MISLEADING FILING

§ 1:16 Generally

§ 1:16.50 SEC Enforcement Actions

VII. “SHORT-SWING” TRADING PROVISIONS—10 PERCENT SHAREHOLDERS

- § 1:17 Generally
- § 1:18 Reporting requirements—Rules
- § 1:18.50 2005 Regulatory changes
- § 1:19 Case law
- § 1:20 *[Reserved]*

VIII. TRADING ON “INSIDE INFORMATION”

- § 1:21 Generally
- § 1:21.50 Appointment of SEC Administrative Law Judges
- § 1:22 Initial use of Rule 10b-5 by the courts
- § 1:22.50 Significant Court Decisions on Rule 10b-5 Liability
- § 1:23 The misappropriation theory
- § 1:24 Contemporaneous trading requirement of Rule 10b-5
- § 1:25 Rule 14e-3 and its application
- § 1:25.50 Class certification
- § 1:26 Civil penalties for insider trading
- § 1:26.50 Disgorgement in SEC Enforcement Actions
- § 1:26.60 Legislation involving disgorgement
- § 1:27 Settlement agreements
- § 1:27.50 2005 Agreements
- § 1:27.60 2006 Agreements
- § 1:27.70 2007 Agreements
- § 1:27.80 2008 Agreements
- § 1:27.90 2009 Agreements
- § 1:27.95 2010 Agreements
- § 1:27.96 2011 Agreements
- § 1:27.97 2012 Agreements
- § 1:27.98 2013 Agreements
- § 1:27.99 2014 Agreements
- § 1:27.100 2015 Agreements
- § 1:27.110 2016 and 2018 Agreements
- § 1:27.120 2018 and 2019 Agreements
- § 1:27.125 2020 and 2021 Agreements
- § 1:27.130 2022 agreements
- § 1:27.135 2023 agreements
- § 1:27.140 2024-2025 Agreements
- § 1:28 Awards paid in connection with insider trading cases
- § 1:28.05 Cases in which settlement agreements are not reached
- § 1:28.50 2005 and 2006 Complaints
- § 1:28.60 2007 Complaints
- § 1:28.70 2008 Complaints
- § 1:28.80 2009 Complaints
- § 1:28.90 2010 Complaints

TABLE OF CONTENTS

§ 1:28.91	2011 Complaints
§ 1:28.95	2012 Complaints
§ 1:28.96	2013 Complaints
§ 1:28.97	2014 Complaints
§ 1:28.98	2015 and 2016 Complaints
§ 1:28.99	2016 and 2017 Complaints
§ 1:28.100	2018 and 2019 Complaints
§ 1:28.105	2022 Complaints
§ 1:28.106	2023-2025 Complaints
§ 1:28.110	Shadow Insider Trading
§ 1:29	Criminal charges and convictions for insider trading
§ 1:29.30	2014 criminal cases
§ 1:29.31	2015 criminal cases
§ 1:29.32	2017 criminal cases
§ 1:29.33	2018-2019 criminal cases
§ 1:29.35	2022-2025 criminal cases
§ 1:29.36	2025 cases
§ 1:29.40	Criminal conviction for insider trading overturned
§ 1:29.50	Case Law—Criminal Liability for Insider Trading
§ 1:30	SEC Regulation FD: Rules concerning selective disclosure and insider trading liability—Introduction
§ 1:31	SEC rules concerning selective disclosure and insider trading liability—Regulation FD
§ 1:31.50	SEC Cases Involving Regulation FD Violations
§ 1:32	SEC rules concerning selective disclosure and insider trading liability—Insider trading liability
§ 1:32.50	Disclosures concerning cybersecurity risks and incidents
§ 1:33	Attorney-client relationships and conflict of interests
§ 1:33.50	Rule 10b5-1 plans
§ 1:33.55	Litigation Involving Rule 10b5-1 Trading Plans
§ 1:33.60	Non-SEC regulatory insider trading developments
§ 1:33.65	Insider trading task force report and pending legislation

IX. SECONDARY LIABILITY UNDER THE FEDERAL SECURITIES LAWS

§ 1:33.70	Generally
-----------	-----------

X. PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

§ 1:34	Generally
§ 1:34.50	PSLRA and Section 20(a) controlling person liability
§ 1:34.60	Interplay between the PSLRA and the proxy antifraud provision of the securities laws
§ 1:34.65	Pleading Requirements under the PSLRA

§ 1:35 Securities Litigation Uniform Standards Act of 1998

XI. SEC GUIDELINES ON AVOIDING ENFORCEMENT ACTIONS

§ 1:36 Generally

XII. SECURITY BASED SWAPS

§ 1:37 Generally

XIII. SARBANES-OXLEY ACT

§ 1:38 Generally

CHAPTER 2. THE ROLE OF THE BOARD OF DIRECTORS

I. IN GENERAL

§ 2:1 Board diversity

§ 2:1.50 Blockholder directors

II. THE BUSINESS JUDGMENT RULE

§ 2:2 Generally

§ 2:3 Elements of the fiduciary duty of officers and directors

§ 2:4 Duty of loyalty

§ 2:5 Duty of care

§ 2:6 Duty of disclosure

§ 2:7 Consideration of Fiduciary Duties

§ 2:7.05 Duties owed by officers

§ 2:7.10 Exculpation of directors and officers by charter provision

§ 2:7.50 Post-Closing challenge to breach of fiduciary duties

§ 2:7.60 Consideration of Fiduciary Duties in Context of Limited Partnership

III. THE “ENTIRE FAIRNESS” TEST

§ 2:8 Generally

IV. ENHANCED JUDICIAL SCRUTINY

§ 2:9 Generally

V. THE AUCTION DUTY

§ 2:10 Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc. and the existence of the auction duty

§ 2:11 The “for sale” determination

TABLE OF CONTENTS

- § 2:12 The special committee
- § 2:12.50 Revlon auction process in the context of private equity fund acquisitions

VI. GENERAL PRINCIPLES CONCERNING APPLICATION OF THE BUSINESS JUDGMENT RULE

- § 2:13 Generally

VII. SPECIFIC APPLICATIONS OF THE BUSINESS JUDGMENT RULE

- § 2:14 Generally
- § 2:15 Proxy contests
- § 2:16 Specific applications in the acquisition context—Poison pills
 - § 2:17 —“Lock-Up” options
 - § 2:18 — —The nature of the acquired entity’s commitment to an acquisition agreement
 - § 2:19 — —The legitimacy of post-agreement bidding
 - § 2:20 — —The federal securities law analysis of lock-ups
 - § 2:21 — —The fiduciary duty cases
 - § 2:22 — —A synthesis of the relevant views
 - § 2:23 —Break-up fees and topping fees
 - § 2:24 —No-talk provisions
- § 2:24.50 Merger Transactions
- § 2:25 Recapitalizations
- § 2:26 Reorganizations
- § 2:27 Controlling shareholders

CHAPTER 3. NEGOTIATED ACQUISITION TRANSACTIONS

I. IN GENERAL

- § 3:1 Introduction
- § 3:1.60 Developments in Delaware law to reduce plaintiff lawsuits in public company mergers

II. FORMS OF NEGOTIATED ACQUISITION TRANSACTIONS

- § 3:2 Generally
- § 3:3 Taxable transactions
- § 3:4 “Tax-free” reorganizations
- § 3:4.05 Asset Sale and Shareholder Transferee Tax Liability
- § 3:4.10 Double Merger Rule

§ 3:4.20	2017 Tax Cuts and Jobs Act and Mergers
§ 3:5	Internal Revenue Service Guidance Regarding “B” Reorganizations
§ 3:6	Judicial doctrines affecting tax treatment of reorganizations
§ 3:7	—Step transactions
§ 3:8	—Continuity of interest
§ 3:9	—Continuity of business
§ 3:10	—Business purpose
§ 3:11	Sale and liquidations
§ 3:11.05	Attempts to revive a dissolved corporation
§ 3:11.10	Reverse mergers with shell companies
§ 3:11.11	Reverse triangular mergers
§ 3:11.12	New listing requirements for reverse merger companies
§ 3:11.15	Rule 144 and reverse mergers
§ 3:11.20	Special purpose acquisition corporation
§ 3:11.20.50	Litigation involving special purpose acquisition companies
§ 3:11.30	SEC Guidance and Rules on SPACs
§ 3:11.35	Proposed NASDAQ Changes to Initial Listing Requirements in de-SPAC Transactions
§ 3:11.40	Reverse Morris Trust transactions

III. CONTRACT AND STATE CORPORATE LAW CONCERNS

§ 3:12	Generally
§ 3:13	Liabilities of the acquired entity—The laws of successor liability, bulk sales, and contract obligations
§ 3:14	Board of directors’ responsibilities
§ 3:15	Shareholder vote and dissenters’ rights of appraisal
§ 3:15.05	2018 Amendments to Delaware appraisal rights statute
§ 3:15.10	Issues arising in cases prior to 2000
§ 3:15.20	Issues arising in cases from 2000–2009
§ 3:15.30	Issues arising in cases from 2010–2016
§ 3:15.40	Issues arising in cases from 2017–2020
§ 3:15.50	Issues arising in 2021 and 2022 cases
§ 3:15.60	Issues Arising in 2023 Cases
§ 3:16	Right of first refusal
§ 3:17	“De facto” merger doctrine
§ 3:18	Negotiated acquisitions of controlling interest only
§ 3:19	Discovery issues
§ 3:20	—Disclosure and privileges
§ 3:21	—Scope and limits of discovery
§ 3:22	—Expedited proceedings

TABLE OF CONTENTS

§ 3:23	Choice of law and choice of forum
§ 3:24	Fairness opinions
§ 3:25	Right to inspect corporate records
§ 3:26	Derivative vs. non-derivative claims
§ 3:26.50	Standing of shareholder representatives to file suit under a merger agreement
§ 3:27	Discrepancy between merger agreement and articles of incorporation
§ 3:27.10	Aiding and abetting claims
§ 3:27.30	Errors in business combination documents
§ 3:27.50	Doctrine of acquiescence
§ 3:27.60	Standing
§ 3:27.65	Collateral estoppel and res judicata
§ 3:27.70	Stock options
§ 3:27.75	Stock splits
§ 3:27.76	Terms needed for a binding contract
§ 3:27.77	Earnout provisions
§ 3:27.80	Right to certain type of consideration following a merger
§ 3:27.85	Limited liability company and merger requirements
§ 3:27.90	Change in Control and Golden Parachute Agreements
§ 3:27.91	Demand requirements
§ 3:27.92	Judicial notice
§ 3:27.93	Limited stockholder rights
§ 3:27.94	Duties of investment banks
§ 3:27.95	Accounting implications of change of control bonus
§ 3:27.96	Post merger remedies under state law
§ 3:27.97	Indemnification provisions in acquisition agreements—Importance of careful drafting
§ 3:27.97.50	M&A Insurance for Representations and Warranties
§ 3:27.98	“Don’t Ask, Don’t Waive” provisions in confidentiality agreements
§ 3:27.99	Back end mergers
§ 3:27.100	Squeeze out mergers
§ 3:27.110	Changes in Delaware General Corporation Law
§ 3:27.112	Business combinations with interested stockholders
§ 3:27.115	Drafting Concerns
§ 3:27.116	Judicial Ratification of Defective Corporate Acts
§ 3:27.120	Material Adverse Effects
§ 3:27.125	Termination provisions in merger agreement
§ 3:27.130	Sandbagging in Merger Agreements
§ 3:27.140	Delaware Rapid Arbitration Act

IV. SECURITIES LAW ASPECTS OF NEGOTIATED ACQUISITIONS

§ 3:28	Generally
--------	-----------

§ 3:29	Proxy rules
§ 3:30	Other Exchange Act considerations pertinent to acquisitions—Sales not involving a “security”
§ 3:31	—Publicity obligations—The disclosure of merger negotiations and restructuring plans
§ 3:32	— —The disclosure of financial information
§ 3:33	— —The proper response to inquiries
§ 3:34	— —Sources of an affirmative disclosure duty
§ 3:34.20	Unbundling of shareholder proposals
§ 3:34.50	Section 16(b) requirements and scienter
§ 3:35	Other Exchange Act considerations pertinent to acquisitions—“Short swing” profits and Section 16
§ 3:36	1933 Act registration obligations—History and background of Rule 145
§ 3:37	—Rule 145
§ 3:38	—Resale of securities received in Rule 145 transactions
§ 3:39	—Form S-4
§ 3:40	1933 Act registration obligations—Disclosure in acquisition transactions
§ 3:41	Acquisitions exempt from registration
§ 3:42	—Section 3(b)
§ 3:43	—Section 3(a)(11)
§ 3:44	—Section 3(a)(10)
§ 3:45	—Section 4(2)
§ 3:46	Securities offering reform
§ 3:47	Hybrid Forms of Consideration: Contingent Value Rights (CVRs); Potential Derivative Securities
§ 3:48	Hybrid securities in merger and acquisition transactions—Transactions using CVRs
§ 3:49	— —Certain tax issues concerning CVRs
§ 3:50	Tracking or letter stock
§ 3:50.50	Treatment of stock options in a merger
§ 3:51	Statute of limitations
§ 3:51.50	Requirements for investment bankers
§ 3:51.55	FINRA Notice requirements for a merger
§ 3:51.60	Say-on-pay and golden parachute compensation rules
§ 3:51.61	Say-on-Pay—Case Law
§ 3:51.62	SEC guidance on reporting reverse mergers and similar transactions
§ 3:51.63	Broker-dealer exemption from registration in merger related activity
§ 3:51.64	2020 Changes to Financial Disclosures for Acquired and Disposed Businesses
§ 3:51.65	Communications in Business Combinations; Rule 241 and Rule 148
§ 3:51.66	Regulation of merger brokers/finders in merger and acquisition transactions

TABLE OF CONTENTS

V. BLUE SKY LAWS

- § 3:52 Generally
- § 3:52.50 Sale of closely held business and state securities laws

VI. ACQUISITION AGREEMENTS AND RELATED DOCUMENTS

- § 3:53 Generally
- § 3:54 Letter of intent
- § 3:55 Definitive agreement—In general
- § 3:56 —Customary provisions—Consideration
- § 3:57 — —Representations and warranties
- § 3:57.10 Reliance on representations outside of the merger agreement
- § 3:58 Definitive agreement—Customary provisions—Covenants
- § 3:59 — —Conditions
- § 3:60 — —Arbitration clauses
- § 3:60.10 — —Non-compete agreements
- § 3:60.15 Covenants not to sue
- § 3:60.20 Non-compete agreements under California law
- § 3:61 Definitive agreement—“Lock-up” provisions
- § 3:62 —“Break-up” and “topping” fees
- § 3:63 —Noncompetition agreements
- § 3:63.50 Divisive mergers

VII. POST MERGER ISSUES

- § 3:64 Settlement payment and attorneys’ fees
- § 3:64.50 Contribution by co-defendants
- § 3:64.75 Conversion of stock issues
- § 3:64.76 Void or Voidable?—Curing Defects in Stock Issuances under Delaware Law
- § 3:64.80 Statute of limitations
- § 3:64.85 Application of failure to prosecute rule
- § 3:64.90 Settlement of litigation
- § 3:64.91 Disclosure-only settlements of class action lawsuits
- § 3:64.92 Regulation G and merger litigation
- § 3:64.93 Settlements of class action lawsuits challenging mergers
- § 3:64.93.10 Bump-up exclusion in directors’ and officers’ insurance
- § 3:64.95 Tactics of plaintiffs’ bar
- § 3:64.96 Registration of additional shares
- § 3:64.97 Assets acquired in a bankruptcy proceedings

VIII. TAX ISSUES

- § 3:65 Generally
- § 3:65.50 Deduction of merger costs

- § 3:65.60 Tax Legislation—Inflation Reduction Act of 2022
- § 3:65.70 Interest netting
- § 3:65.80 Tax court cases

IX. TAX-FREE DIVISION OF A COMPANY: SPIN-OFFS, SPLIT-OFFS, AND SPLIT-UPS

- § 3:66 Generally
- § 3:67 Spin-off
- § 3:67.50 Private Letter Rulings Procedure for treatment of Spin-Offs
- § 3:68 Split-off
- § 3:69 Split-up
- § 3:70 Tax treatment under section 355 of the IRC—Qualifying for tax-free treatment under Section 355
- § 3:71 —Disqualified distributions of stock
- § 3:71.50 IRS study on the “active trade or business” requirement under Section 355(b)
- § 3:72 Reorganizations after tax-free corporate divisions
- § 3:73 Tax developments

X. PROCESSING OF REORGANIZATION EVENTS AND OTHER OFFERS

- § 3:74 Generally

XI. APPLICATION OF THE BANKRUPTCY CODE

- § 3:75 Case Law

CHAPTER 4. PROXY CONTESTS

I. IN GENERAL

- § 4:1 Introduction

II. EXPERTISE IMPORTANT TO THE PROXY CONTEST

- § 4:2 Generally
- § 4:3 Legal counsel
- § 4:4 Nominees
- § 4:5 Solicitors
- § 4:6 Public relations firm
- § 4:7 Inspector of elections
- § 4:8 Printers
- § 4:9 Tabulators
- § 4:10 Brokers
- § 4:11 Accountants

TABLE OF CONTENTS

- § 4:12 Appraisers or other experts
- § 4:13 Investigators

III. THE PROXY RULES

- § 4:14 Generally
- § 4:15 Rule 14a-1—Definitions
- § 4:16 Rule 14a-2—Exemptions
- § 4:17 Rule 14a-3—Information to be furnished to security holders
- § 4:18 Rule 14a-4—Requirements as to proxy
- § 4:19 Rule 14a-6—Filing obligations and fees
- § 4:19.50 Filing fee disclosures and payment methods
- § 4:20 Rule 14a-7—Mailings and shareholder lists
- § 4:21 Rule 14a-8—Shareholder proposals
- § 4:21.30 Alternatives to Shareholder Proposals
- § 4:21.50 2018 SEC Guidance on Shareholder Proposals
- § 4:22 Rule 14a-9—Antifraud provisions
- § 4:23 Rule 14a-12—Solicitation before furnishing a proxy statement
- § 4:23.50 Rule 14a-19—Solicitation of proxies in support of director nominees other than the registrant's nominees
- § 4:24 Section 14(c)
- § 4:24.50 Proxy compliance and disclosure interpretations
- § 4:24.60 ERISA fiduciary duties with relating to proxies

IV. DISCLOSURE OBLIGATIONS

- § 4:25 Schedule 14A
- § 4:26 Public communications by electronic means—Internet and e-mail
- § 4:26.30 Proxy contests and Delaware Section 220 demands for corporate documents
- § 4:26.50 Cases

V. LITIGATION ISSUES UNDER Section 14(a)

- § 4:27 Generally
- § 4:28 Private rights of action
- § 4:28.50 Statute of repose in connection with section 14(a) claims
- § 4:29 Standing
- § 4:30 Materiality

VI. ELECTION CONTESTS

- § 4:31 Generally
- § 4:32 Defensive measures against proxy contests
- § 4:33 —Classified boards of directors
- § 4:34 —Cumulative voting

- § 4:35 —Nominating, qualification, and removal procedures
- § 4:36 —Post-election measures
- § 4:36.20 Advance notice bylaws
- § 4:36.50 SEC Universal Proxy Rule

VII. STATE LAW CONCERNS

- § 4:37 Generally
- § 4:38 Stockholder lists
- § 4:39 Voting of shares
- § 4:40 —Equitable right to vote
- § 4:41 —Impact of stock loan programs
- § 4:42 Reimbursement of expenses
- § 4:43 Consent solicitations
- § 4:43.50 Vote-buying
- § 4:43.60 Change in the law
- § 4:43.70 Enforceability of Oral Settlement

VIII. STRATEGIC CONSIDERATIONS IN PROXY CONTESTS

- § 4:44 Generally
- § 4:45 Insurgents
- § 4:46 Management

IX. CHOOSING BETWEEN PROXY CONTESTS AND TENDER OFFERS

- § 4:47 Generally

X. CONFLICTS BETWEEN PROXY RULES AND TENDER OFFER RULES

- § 4:48 Generally
- § 4:49 The letter of transmittal as soliciting material
- § 4:50 Solicitation of shareholders' votes

Table of Contents

CHAPTER 5. TENDER OFFERS

I. IN GENERAL

§ 5:1 Introduction

II. WHAT IS A TENDER OFFER?

§ 5:2 Generally

III. TENDER OFFER REGULATIONS

§ 5:3 Generally
§ 5:4 Section 14(d) of the Securities Exchange Act
§ 5:5 Regulation 14D
§ 5:6 —Rule 14d-1
§ 5:7 —Rule 14d-2
§ 5:8 —Rule 14d-3
§ 5:9 —Rule 14d-4
§ 5:10 —Rule 14d-5
§ 5:11 —Rule 14d-6
§ 5:12 —Rule 14d-7
§ 5:13 —Rule 14d-8
§ 5:14 —Rule 14d-9
§ 5:15 —Rule 14d-10
§ 5:15.50 2006 Amendments to the Tender Offer Best-Price Rule
§ 5:15.60 Rule 14d-10 case law
§ 5:16 Regulation 14D—Rule 14d-11
§ 5:17 Section 14(e) of the Securities Exchange Act
§ 5:18 Regulation 14E
§ 5:19 —Rule 14e-1
§ 5:20 —Rule 14e-2
§ 5:21 —Rule 14e-3
§ 5:22 —Rule 14e-4
§ 5:23 —Rule 14e-5
§ 5:24 —Rule 14e-6
§ 5:25 —Rule 14e-7
§ 5:26 —Rule 14e-8
§ 5:27 Schedule TO
§ 5:28 Schedule 14D-9
§ 5:29 Issuer tender offers—Rule 13e-4
§ 5:30 —Odd-lot offers

- § 5:31 1999 revisions to the business combination regulations—
Introduction
- § 5:32 —Communications under the Securities Act
- § 5:33 —Communications under the proxy rules
- § 5:34 —Communications under the tender offer rules
- § 5:35 —Early commencement for exchange offers
- § 5:36 —Disclosure requirements for tender offers and mergers
- § 5:37 —Revision of tender offer rules
- § 5:38 Exemptions for cross-border tender offers, exchange
offers, rights offerings and business combinations—
Introduction
- § 5:39 —Tier I exemption
- § 5:40 —Tier II exemption
- § 5:41 —Amendment of Rule 10b-13 under the Securities
Exchange Act
- § 5:42 —Exemption from the Securities Act for exchange offers,
business combinations and rights offerings
- § 5:42.50 2008 revisions to the exemptions for cross-border tender
offers, exchange offers, and business combination and
rights offerings
- § 5:42.60 SEC Guidance
- § 5:43 Tender offer safe harbor
- § 5:44 Mini-tender offers and limited partnership units
- § 5:45 —Mini-tender offers
- § 5:46 —Tender offers for limited partnership units
- § 5:47 —Case law
- § 5:47.50 Relief from tender offer restrictions
- § 5:47.60 Abbreviated tender or exchange offers for non-convertible
debt securities

IV. TENDER OFFER PROCESS

- § 5:48 Generally
- § 5:49 Planning the tender offer
- § 5:50 —Dealer managers and investment bankers
- § 5:51 —Tax advisers
- § 5:52 —Depositaries
- § 5:53 —Forwarding agents
- § 5:54 —Arbitrageurs
- § 5:55 Identification of the bidder
- § 5:56 Acquisitions prior to an offer
- § 5:57 Financing the tender offer
- § 5:58 Tactical and strategic considerations
- § 5:59 Announcement of offer and negotiations with subject
company
- § 5:60 Commencement of offer
- § 5:61 Conditions to offer

TABLE OF CONTENTS

V. DEFENDING AGAINST TENDER OFFERS

§ 5:62	Generally
§ 5:63	Advance planning of defensive measures
§ 5:64	—Director removal provisions
§ 5:64.50	—Staggered board of directors
§ 5:65	—Super-majority voting provisions
§ 5:66	—Fair price provisions
§ 5:67	—Shareholder rights plans
§ 5:68	— —Case law
§ 5:68.50	— —Net operating loss poison pill
§ 5:68.60	— —Stealth poison pill
§ 5:69	— —Economic impact
§ 5:69.30	Coronavirus/COVID-19 pandemic and shareholders rights plans
§ 5:69.50	Canadian poison pills
§ 5:69.60	French poison pill warrants
§ 5:69.65	Change of control provisions in indentures: poison puts
§ 5:70	Advance planning of defensive measures—Termination agreements (“golden parachutes”)—Generally
§ 5:70.5	— —Case law and IRS letter rulings
§ 5:71	—Disproportionate voting rights
§ 5:72	—Creation of friendly voting blocks: ESOPs and others
§ 5:73	Advance preparation for tender offers
§ 5:74	Responding to tender offers
§ 5:75	—Business judgment rule
§ 5:76	—Tactics
§ 5:77	— —Litigation
§ 5:78	— —Disposition of assets
§ 5:79	— —Acquisition of assets
§ 5:80	— —Repurchase of shares and “greenmail”
§ 5:81	— —Issuance of additional securities
§ 5:82	— —Counter-tender
§ 5:83	— —Sale of the company
§ 5:84	— —Settlement

VI. LITIGATION ISSUES IN TENDER OFFERS

§ 5:85	Generally
§ 5:86	Standing/right of action
§ 5:87	—Actions by bidder
§ 5:88	—Actions by subject company
§ 5:89	—Actions by the securities and exchange commission
§ 5:90	—Actions by former shareholders
§ 5:91	Ripeness and forum shopping
§ 5:92	Arguments involving a “Dutch Action” tender offer
§ 5:93	Misrepresentations in communications
§ 5:94	Right to inspect the corporate records

- § 5:95 Standards for injunctive relief
- § 5:95.50 Types of claims

VII. TAX CONSEQUENCES

- § 5:96 Generally
- § 5:97 Friendly and hostile acquisitions
- § 5:98 Share repurchases and stock redemptions

VIII. ATTORNEYS' FEES

- § 5:99 Generally

CHAPTER 6. LEVERAGED ACQUISITIONS

I. THE LEVERAGED BUYOUT TRANSACTION

- § 6:1 Generally
- § 6:2 Nature of the leveraged buyout
- § 6:3 Reasons for the leveraged buyout

II. THE LEVERAGED BUILD-UP TRANSACTION

- § 6:4 Generally

III. FINANCING THE LEVERAGED TRANSACTION

- § 6:5 Generally
- § 6:6 Senior debt
- § 6:7 Subordinated debt
- § 6:8 Equity investors
- § 6:8.50 Funding obligations

IV. LEGAL CONCERNS

- § 6:9 Generally
- § 6:10 General state law concerns
- § 6:11 Fraudulent conveyance attacks—Overview
- § 6:12 —Cases
- § 6:13 Fairness procedures
- § 6:14 —Fairness opinion
- § 6:15 —Appraisals
- § 6:16 —Majority-of-minority provision
- § 6:17 —Disinterested negotiation
- § 6:18 —“Independent review”
- § 6:19 Federal securities law concerns
- § 6:20 Tax consequences

V. GOING PRIVATE TRANSACTIONS

- § 6:21 Generally

TABLE OF CONTENTS

**CHAPTER 7. STATE AND FEDERAL
REGULATORY CONCERNS AFFECTING
CONTROL ACQUISITIONS**

I. IN GENERAL

§ 7:1 Introduction

II. ANTITRUST LAW

§ 7:2	Generally
§ 7:3	Hart-Scott-Rodino Antitrust Improvements Act
§ 7:4	—Jurisdictional requirements
§ 7:4.50	2025 annual adjustments for jurisdictional thresholds and interlocking directorates
§ 7:5	Hart-Scott-Rodino Antitrust Improvements Act— Exemptions
§ 7:6	—Filing fees
§ 7:7	—Notification and report form
§ 7:7.50	2011 Changes to the notification and report form
§ 7:7.60	2019 Changes to the notification and report form
§ 7:7.70	2024 Amendments to the Premerger Notification Form and Associated Instructions
§ 7:8	Hart-Scott-Rodino Antitrust Improvements Act—Wait- ing period
§ 7:8.20	Gun Jumping
§ 7:8.50	Expiration of notification
§ 7:8.55	FTC Reporting of Hart-Scott-Rodino Act Transaction Numbers
§ 7:8.60	Hart-Scott-Rodino Annual Report (Fiscal Year 2012)
§ 7:8.70	Hart-Scott-Rodino Report Annual Report (Fiscal Year 2013)
§ 7:8.75	Hart-Scott-Rodino Report Annual Report (Fiscal Year 2014)
§ 7:8.76	Hart-Scott-Rodino Annual Report (Fiscal Year 2015)
§ 7:8.77	Hart-Scott-Rodino Annual Report (Fiscal Year 2017)
§ 7:8.78	Hart-Scott-Rodino Annual Report (Fiscal Year 2019)
§ 7:8.79	Hart-Scott-Rodino Annual Report (Fiscal Year 2020)
§ 7:8.79.50	Hart-Scott-Rodino Report (Fiscal Year 2021)
§ 7:8.79.60	Hart-Scott-Rodino Annual Report (Fiscal Year 2022)
§ 7:8.80	Withdrawal of premerger notification filing
§ 7:9	Hart-Scott-Rodino Antitrust Improvements Act—Steps to improve the review process
§ 7:9.10	— —Measures Announced in 1995, 1996 and 2000
§ 7:9.20	— —The Merger Review Process Initiative
§ 7:9.30	— —New clearance procedures for merger reviews and antitrust matters—Announced March 2002

§ 7:9.40	— —New guidelines for merger investigations— Announced December 2002
§ 7:9.50	— —Guidelines for negotiating merger remedies
§ 7:9.60	2006 merger reforms
§ 7:9.70	2006 revisions
§ 7:9.75	Compulsory process in investigations
§ 7:9.80	Amendments to Premerger Notification Rules Related to Transfer of Exclusive Patent Rights in the Pharmaceutical Industry
§ 7:9.85	Classifying foreign entities
§ 7:9.90	Premerger notification exemptions for foreign entities
§ 7:10	Hart-Scott-Rodino Antitrust Improvements Act – Assessment of civil penalties
§ 7:10.5	Restructuring a transaction
§ 7:10.10	1996–1999 Cases
§ 7:10.20	2000–2003 Cases
§ 7:10.30	2004–2008 Cases
§ 7:10.40	2009–2010 Cases
§ 7:10.50	2011–2014 Cases
§ 7:10.60	2015–2016 Cases
§ 7:10.70	2017–2018 Cases
§ 7:10.80	2019 Cases
§ 7:10.90	2020 and 2021 cases
§ 7:11	Hart-Scott-Rodino Antitrust Improvements Act— Transactions involving limited liability companies
§ 7:12	The 1992 horizontal merger guidelines and the 1997 revisions
§ 7:12.50	2010 revisions to the horizontal merger guidelines
§ 7:12.60	2020 vertical merger guidelines
§ 7:12.70	2023 Merger Guidelines
§ 7:12.75	Model State HSR Legislation
§ 7:12.80	December 2023 Merger Guidelines—FTC Case
§ 7:13	Memoranda of Understanding between Federal Agencies
§ 7:14	Antitrust analysis
§ 7:15	Antitrust remedies
§ 7:15.30	Analysis of merger review process
§ 7:15.35	Failing firm defense
§ 7:15.36	Department of justice leniency policy
§ 7:15.37	Department of Justice Mergers and Acquisitions Safe Harbor Policy
§ 7:15.40	2020 Merger Remedies Manual
§ 7:15.45	Regulatory changes to divestiture orders
§ 7:15.46	FTC study on merger remedies
§ 7:15.47	Public input on strengthening enforcement against illegal mergers and other issues related to mergers and acquisitions

TABLE OF CONTENTS

§ 7:15.50	Antitrust Modernization Commission
§ 7:15.55	Anti-Trust Modernization Reforms
§ 7:15.55.50	Department of Justice Corporate Compliance Programs Guidance
§ 7:15.56	Changes in criminal antitrust cases
§ 7:15.57	Criminal Antitrust Laws
§ 7:15.58	California Criminal Antitrust Program
§ 7:15.60	2015 FTC guidance
§ 7:15.62	Merger retrospective program
§ 7:15.63	FTC Statement on Use of Prior Approval Provisions: Rescission of 1995 Policy and October 2021 Replacement Policy
§ 7:15.70	Antitrust Guidelines for International Enforcement and Cooperation
§ 7:15.80	Antitrust Merger Investigations Report
§ 7:15.85	Antitrust Guidelines for Business Activities Affecting Workers
§ 7:15.90	2021-2022 proposed antitrust legislation
§ 7:15.100	Killer acquisitions

III. STATE “ANTI-TAKEOVER” LAWS

§ 7:16	Introduction
§ 7:17	Supreme court decisions
§ 7:18	Analysis of specific state laws
§ 7:19	—Pennsylvania’s anti-takeover statute
§ 7:20	—Virginia’s statutes
§ 7:20.10	—New Hampshire’s statute
§ 7:21	Control share acquisition acts
§ 7:22	Business combination statutes
§ 7:23	Directors’ duties statutes
§ 7:24	Fair price statutes
§ 7:25	Shareholder bylaw amendments
§ 7:26	Share rights plan endorsement statutes
§ 7:27	AntiGreenmail statutes
§ 7:28	Disclosure statutes
§ 7:29	Tin parachute statutes

IV. EMPLOYEE BENEFIT PLANS AND ERISA REQUIREMENTS

§ 7:30	Generally
§ 7:31	The obligation to tender
§ 7:32	Affirmative defenses with the use of plan assets
§ 7:33	Use of plan assets by a bidder
§ 7:34	Establishing ESOPs as a defensive measure—Background
§ 7:35	—ESOPs as defensive measures
§ 7:36	— —Size

- § 7:37 — —Leverage
- § 7:38 — —Cost and funding
- § 7:39 — —Voting and tendering
- § 7:40 — —Stockholder dilution
- § 7:41 —Adoption of the plan
- § 7:42 —The cases
- § 7:43 —ERISA fiduciary constraints
- § 7:44 Post-acquisition ERISA concerns

V. FEDERAL MARGIN RULES

- § 7:45 Generally
- § 7:46 Background
- § 7:47 Regulation T
- § 7:48 Regulation U
- § 7:49 Regulation G
- § 7:50 Regulation X

VI. ENVIRONMENTAL LAWS IN MERGERS AND ACQUISITIONS

- § 7:51 Introduction
- § 7:52 Scope of liability under CERCLA and SARA: The superfund law
- § 7:53 Defenses to CERCLA liability and apportioning liability under CERCLA
- § 7:54 Liability of corporate officers and directors under CERCLA
- § 7:55 Taking account of environmental laws in mergers and acquisitions transactions
- § 7:56 Enforcement
- § 7:57 SEC Climate Related Disclosure Rules

CHAPTER 8. ACQUISITIONS INVOLVING FOREIGN COMPANIES

I. IN GENERAL

- § 8:1 Introduction
- § 8:2 Structuring the transaction
- § 8:3 Joint ventures
- § 8:4 Exon-Florio Amendment
- § 8:4.10 Presidential action under CFIUS
- § 8:4.20 Case law concerning transactions under CFIUS
- § 8:4.30 Expansion of CFIUS transactions and powers
- § 8:4.35 CFIUS Enforcement and Penalty Guidelines
- § 8:4.36 CFIUS Annual Reports
- § 8:4.40 CFIUS filing fees
- § 8:4.45 Regulations to implement FIRRMA

TABLE OF CONTENTS

§ 8:4.50	National Industrial Security Program
§ 8:4.60	Reporting ownership of foreign businesses and foreign ownership of United States businesses under the International Investment and Trade in Services Survey Act
§ 8:5	Tax consequences
§ 8:5.50	Anti-Inversion Guidance
§ 8:6	The International Competition Network
§ 8:7	Foreign Corrupt Practices Act in acquisitions
§ 8:7.50	2025 Guidance Regarding the Foreign Corrupt Practices Act
§ 8:8	Italian merger threshold guidelines
§ 8:8.50	Best practices on cooperation in merger investigations
§ 8:9	United Kingdom Merger Guidance
§ 8:9.10	Review of 2011 Amendments to the Takeover Code
§ 8:9.30	2013 Amendments to the Takeover Code
§ 8:9.40	2014 Amendments to Takeover Code
§ 8:9.50	Changes to the European Commission merger regulation
§ 8:9.60	2021 European Commission merger review guidance
§ 8:10	European Commission approved mergers
§ 8:11	European Commission disapproved mergers
§ 8:11.20	European Commission fines
§ 8:11.30	European Securities and Markets Authority—Public statement
§ 8:11.40	2022 updated european union competition rules
§ 8:11.50	Concerns with chinese reverse mergers
§ 8:11.60	2013 Chinese draft merger regulations
§ 8:11.70	Meetings with Chinese officials
§ 8:11.80	Chinese regulatory authority
§ 8:12	United states agreements with other countries
§ 8:13	Canadian mergers and acquisitions
§ 8:13.50	Other Canadian guidelines
§ 8:14	Canadian merger enforcement guidelines
§ 8:14.50	Canadian model timing agreement for merger reviews
§ 8:15	Canadian merger review performance report
§ 8:16	Canadian guidelines for assessing merger reporting requirements
§ 8:16.50	Meeting with Canadian and Mexican officials
§ 8:16.60	Canadian agreements with other countries
§ 8:17	French Competition Authority
§ 8:18	Presidential executive order restricting investment in foreign countries
§ 8:19	Israeli draft guidelines for information sharing during due diligence
§ 8:20	Indian merger law
§ 8:21	Mergers with other countries

CHAPTER 9. MERGERS AND ACQUISITIONS IN REGULATED MARKETS

I. CONSOLIDATION IN THE HEALTH CARE INDUSTRY

- § 9:1 Introduction
- § 9:2 Antitrust laws and regulations
- § 9:3 —Sherman Act, Section 1
- § 9:4 —Sherman Act, Section 2
- § 9:5 —Clayton Act
- § 9:5.50 Antitrust Criminal Penalty Enhancement and Reform Act of 2004
- § 9:6 Antitrust laws and regulations—Hart-Scott-Rodino reporting requirements
- § 9:7 FTC administrative litigation—Procedures
- § 9:7.50 —Cases
- § 9:8 Antitrust laws and regulations—Health care antitrust activity
- § 9:8.02 Task Force on Health Care Monopolies and Collusion
- § 9:8.03 Development of new approaches to pharmaceutical mergers
- § 9:8.05 Bankruptcy approved acquisitions subject to antitrust challenges
- § 9:8.10 Actions involving Columbia Hospital Corporation
- § 9:8.50 2006 Consent agreements
- § 9:8.60 2007 Consent agreements
- § 9:8.70 2008 Consent agreements
- § 9:8.80 2009 Consent agreements
- § 9:8.90 2010–2011 Consent agreements
- § 9:8.95 2012 Consent agreements
- § 9:8.96 2013 Consent agreements
- § 9:8.97 2014 Consent agreements
- § 9:8.98 2015 Consent agreements
- § 9:8.99 2016–2018 Consent agreements
- § 9:8.100 2019 Consent agreements
- § 9:9 Antitrust laws and regulations—Litigation in the federal courts
- § 9:10 — —*FTC v. Freeman Hospital*
- § 9:11 — —*United States v. Mercy Health Services*
- § 9:12 — —*FTC v. Butterworth Health Corporation*
- § 9:13 — —*United States v. Long Island Jewish Medical Center*
- § 9:14 — —*Federal Trade Commission v. Tenet Healthcare Corporation, Inc.*
- § 9:15 Health care policy statements
- § 9:16 —Summary of statements in the 1996 guidelines
- § 9:17 — —Statement 1: Mergers among hospitals

TABLE OF CONTENTS

§ 9:18	— —Statement 2: Hospital joint ventures involving high-technology or other expensive health care equipment
§ 9:19	— —Statement 3: Hospital joint ventures involving specialized clinical or other expensive health care services
§ 9:20	— —Statement 4: Providers' collective provision of non-fee-related information to purchasers of health care services
§ 9:21	— —Statement 5: Providers' collective provision of fee-related information to purchasers of health care services
§ 9:22	— —Statement 6: Provider participation in exchanges of price and cost information
§ 9:23	— —Statement 7: Joint purchasing arrangements among health care providers
§ 9:24	— —Statement 8: Physician network joint ventures
§ 9:25	— —Statement 9: Multiprovider networks
§ 9:26	—Impact of the 1996 policy statements
§ 9:26.50	Antitrust enforcement policy regarding accountable care organizations
§ 9:27	Advisory opinions and business review letters
§ 9:28	Forms of consolidations in the health care industry— Forms of managed care organizations
§ 9:29	—Managed care organizations and antitrust laws
§ 9:30	The limited liability company as a vehicle for consolidation of medical providers
§ 9:31	Pharmaceutical industry mergers and competition
§ 9:31.50	Consent orders
§ 9:31.60	Challenged Industries in the healthcare industry
§ 9:31.70	Contract Issues in Healthcare Litigation

II. FINANCIAL INSTITUTIONS AND ACQUISITIONS

§ 9:32	Generally
§ 9:33	Structuring the transaction
§ 9:34	Federal banking statutes and regulatory framework for banks and bank holding companies
§ 9:34.50	Federal Deposit Insurance Corporation
§ 9:34.55	Office of the Comptroller of the Currency regulations
§ 9:34.60	Federal Reserve Board
§ 9:35	Formal interpretation 17
§ 9:36	Antitrust considerations—Applicable law
§ 9:37	—Federal antitrust activity
§ 9:38	Capital requirements
§ 9:39	Cases
§ 9:39.40	Changes in credit unions
§ 9:39.45	Federally insured credit union limitations on golden parachute and indemnification payments

- § 9:39.50 Department of Justice review of mergers in the banking industry

III. MERGERS IN THE TELECOMMUNICATIONS INDUSTRY

- § 9:40 Introduction
- § 9:41 Radio merger analysis
- § 9:42 Challenges to radio mergers
- § 9:43 Wireless mobile telephones
- § 9:43.50 Pagers
- § 9:44 Television companies
- § 9:44.50 Other telecommunications mergers

IV. DEFENSE INDUSTRY MERGERS

- § 9:45 Generally
- § 9:46 Cases
- § 9:47 Settlement agreements
- § 9:48 Defense merger analysis
- § 9:49 Vertical mergers

V. PUBLIC UTILITY MERGERS

- § 9:50 Generally

VI. MERGERS IN OTHER TYPES OF INDUSTRIES

- § 9:51 Acquisitions challenged by the federal agencies
 - § 9:51.10 Federal Trade Commission v. Staples
 - § 9:51.20 2001–2002 Cases
 - § 9:51.30 2003–2005 Cases
 - § 9:51.40 2006–2007 Cases
 - § 9:51.45 2008–2009 Cases
 - § 9:51.46 2010–2011 Cases
 - § 9:51.47 2012–2013 Cases
 - § 9:51.48 2013 Cases
 - § 9:51.49 2014–2015 Cases
 - § 9:51.49.10 2016–2017 Cases
 - § 9:51.49.20 2018–2019 Cases
 - § 9:51.49.30 2020 Cases
 - § 9:51.49.40 2024 Cases
 - § 9:51.50 Merger activity in the petroleum industry
- § 9:52 Acquisitions not challenged by the federal agencies
 - § 9:52.50 Transactions not pursued

VII. ACQUISITIONS OF INVESTMENT ADVISERS

- § 9:53 Generally

TABLE OF CONTENTS

§ 9:54 2002 amendments to the Investment Company Act

QUESTIONNAIRES

Appendix A1. Officers' and Directors' Questionnaire Tender Offer/Schedule 13D *[Reserved]*

Appendix A2. Information Statement Example Schedule 13D *[Reserved]*

TENDER OFFER DOCUMENTS

Appendix B1. Offer to Purchase for Cash

Appendix B2. Tender Offer—Customer Announcement

Appendix B3. Supplemental Amended Offer to Purchase

Appendix B4. Information Agent Agreement

Appendix B5. Letter to Brokers and Other Nominee Holders

Appendix B6. Letter from Nominee Holders to Beneficial Owners

Appendix B7. Dealer-Manager Agreement

Appendix B8. Depositary Agreement

Appendix B9. Forwarding Agent Agreement

Appendix B10. Information Statement for Spin-Off of Subsidiary

Appendix B11. Tender and Support Agreement for Registered
Exchange of Stock for Warrants

PROXY CONTEST DOCUMENTS

Appendix C1. Demand for Shareholders' List

Appendix C2. Soliciting Agent Agreement

Appendix C3. Rules for Inspectors of Election

Appendix C4. Dissident's Solicitation of Consents to Remove and
Replace Board of Directors

Appendix C5. Proxy Materials to Remove Target Company's Board
of Directors

Appendix C6. Target Company's Defensive Response to an Attempt
to Remove its Board of Directors

Table of Contents

ANTI-TAKEOVER PROVISIONS

Appendix D1.	Shareholder Rights Agreement
Appendix D1.5.	Amended and Restated Rights Agreement
Appendix D1.7.	Net Operating Loss Poison Pill Agreement
Appendix D2.	Stockholder Proposal Relating to Shareholder Rights Plan
Appendix D2.5.	Shareholder Rights Tax Benefit Preservation Plan
Appendix D3.	Resolution for the Board of Directors Relating to a Shareholder Rights Plan
Appendix D4.	Standstill Agreement
Appendix D5.	Standstill and Stock Restriction Agreement
Appendix D6.	Golden Parachute
Appendix D7.	Severance Plan and Amended Golden Parachute Employment Agreement
Appendix D8.	Governance Agreement With Board Representation, Anti-Dilution, Standstill and Voting Restriction Provisions
Appendix D9.	Shark Repellent Charter Provision Regarding the Dilution of the Principal Shareholder
Appendix D9.10.	Change of Control Agreement
Appendix D9.20.	Voting, Support And Exchange Trust Agreement

ACQUISITION CHECKLIST

Appendix E1.	Acquisition Checklist
--------------	-----------------------

NEGOTIATED ACQUISITION DOCUMENTS

Appendix F1.	Initial Inquiry
--------------	-----------------

LETTERS OF INTENT

Appendix F2.	Letter of Intent
Appendix F3.	Letter of Intent to Acquire Television Facilities
Appendix F4.	Letter of Intent—Acquisition and Spin-Off with Lock-Up and Break-Up Penalty
Appendix F5.	Bear Hug Letter

Appendix F6.	Confidentiality Agreement: Purchaser/Seller
Appendix F7.	Confidentiality Agreement: Financing Source
Appendix F8.	Non-disclosure Agreement
Appendix F9.	Nondisclosure and Noncircumvent Agreement
Appendix F10.	Annotated Acquisition Agreements
Appendix F11.	Letter to Employees Regarding Merger
Appendix F12.	Letter to Customers Regarding the Merger
Appendix F12.50.	Letter to Shareholders Regarding Spin Off of Operations

MERGER AGREEMENTS

Appendix F13.	Forward Merger Agreement
Appendix F13.10.	Forward Merger Preceded by Asset Purchase
Appendix F14.	Reverse Triangular Merger in Which Restricted Stock is Issued to One Shareholder
Appendix F15.	Agreement and Plan of Merger
Appendix F15.10.	Agreement and Plan of Merger (Reverse Triangular Merger—Delaware Companies; Exchange Ration adjusted for Market Price of Acquirer)
Appendix F16.	Purchase Agreement and Plan of Merger
Appendix F17.	Forward Triangular Merger of Target Corporation into a Limited Liability Company Subsidiary of Acquirer
Appendix F17.50.	Corporation Acquiring Limited Liability Company
Appendix F18.	Reverse Merger Agreement for Public Shell
Appendix F19.	Reverse Merger into Public Shell with Private Placement for Notes to Follow closing of the Merger
Appendix F20.	E-Commerce Company—Merger Agreement With Escrowed Shares Subject to Satisfaction of Certain Conditions
Appendix F21.	Reverse Merger with Part of Merger Consideration Held in Escrow Until Satisfaction of Conditions
Appendix F22.	Agreement and Plan of Merger For Reverse Merger of Corporation Into a Limited Liability Company
Appendix F23.	Tracking Stock Merger Agreement
Appendix F24.	Merger Agreement With Asset Contributions—Telecommunications Industry

TABLE OF CONTENTS

Appendix F25.	Merger Agreement with Liquidate Damages Clause and Sarbanes Oxley Act of 2002 Clause
Appendix F26.	Shell Company Merger Agreement
Appendix F27.	Freeze Out Merger Agreement following Cash or Stock Exchange Offer
Appendix F27.50.	Cash and Stock Merger - Acquiring Company merges subsidiary software operations into target company

Table of Contents

MERGER AGREEMENTS (CONTINUED)

Appendix F28.	SPAC Merger Agreement
Appendix F28.20.	SPAC Merger with Cayman Islands Exempted Company
Appendix F28.50.	SPAC Acquiring Chinese Company
Appendix F28.60.	SPAC Merger with Pipe Financing
Appendix F28.70.	SPAC Form of Investment Management Trust Agreement
Appendix F28.80.	SPAC Sponsor Support Agreement
Appendix F28.80.10.	SPAC Sponsor Support Agreement, Lock Up Agreement and Stockholder Support Agreement
Appendix F28.90.	SPAC Promissory Note
Appendix F28.95.	Backstop Subscription Agreement
Appendix F29.	Merger Agreement with Top Over Option Provision
Appendix F30.	Section 338(d)(3) Merger with Section 338(h)(10) Election between California Corporations and Delaware with Holdback Escrow in the Form of a Note with Guaranty and Target Shareholders' Release
Appendix F31.	Merger Agreement between Corporation and Limited Liability
Appendix F32.	Super 8K for Shell Company Acquisitions
Appendix F33.	Limited Partnership Merger Agreement
Appendix F34.	Merger Agreement
Appendix F35.	Merger with Class A and B Stock
Appendix F36.	Bank Holding Company Merger
Appendix F37.	Consolidation of Two Public Companies into a Holding Company Structure
Appendix F37.10.	Two Merging Companies Creating Holding Company
Appendix F37.20.	Merger Agreement to Create Holding Company for Natural Resource Company
Appendix F38.	Merger Agreement—Partnership Interests

ACQUISITIONS & MERGERS

Appendix F39.	Merger Agreement Using Restricted Stock to Acquire the Target
Appendix F40.	Merger Agreement for Limited Liability Companies Contribution Agreement and Plan of Reorganization and Merger
Appendix F41.	Share Exchange Agreement Buyer Issues New Class of Preferred Stock to Acquire 100% of Target Company's Common Stock
Appendix F42.	Exchange Agreement
Appendix F42.50.	Regulation S Exchange Agreement with Principal Shareholder of Acquiring Company Exchanging Preferred Stock as part of Exchange Consideration
Appendix F43.	Agreement and Plan of Mergers
Appendix F43.50.	Acquisition of Telecom Subsidiary by Equity Purchase Agreement
Appendix F43.60.	Stock Purchase Agreement—Acquiring 100% of Subsidiary
Appendix F43.61.	Stock Purchase Agreement to Purchase Food Franchise Holding Company
Appendix F43.62.	Cash Merger Agreement for Software Companies
Appendix F43.65.	Form of Rollover Agreement
Appendix F43.70.	Merger Termination Agreement

Table of Contents

MERGER AGREEMENTS (CONTINUED)

Appendix F43.75.	Agreement and Plan of Merger
Appendix F43.80.	Bank and Holding Company and Subsidiary Statutory Mergers
Appendix F43.85.	Bank Holding Company and Merger with Liability and Financial Milestone Escrow
Appendix F43.88.	Statutory Merger Agreement—Bank Holding Companies with Stock-or-Cash Election
Appendix F43.90.	Real Estate Investment Trust Merger into Operation Partnership
Appendix F43.92.	Timber Real Estate Investment Trust Acquires General Partner and Limited Partnership
Appendix F43.95.	Merger of Real Estate Partnerships Followed by Parent Company Merger
Appendix F43.100.	Merger Agreement—Oil and Gas Exploration Corporation acquiring Limited Liability Company with Oil Reserves in Stock for Membership Interest Exchange
Appendix F43.110.	Corporation LLC Merger—Oil and Gas Industry
Appendix F43.120.	Merger to Consolidate Operations into New Company
Appendix F43.130.	Distribution of New Company Stock/Spin Off into Public Company
Appendix F43.135.	Spin-Off of Division Acquired in Merger; Stock Exchange of Acquirer and Parent Company
Appendix F43.140.	Agreement and Plan of Merger
Appendix F43.150.	Change of Control Agreement with Release
Appendix F43.160.	Super 8-K Reverse Merger Private Placement Subscription Agreement
Appendix F43.170.	Two Limited Liability Companies in Merger—Information Technology Industry
Appendix F43.180.	Merger of Equals Merger Agreement
Appendix F43.190.	Reverse Merger with Shareholder Approval of Reverse Stock Split and Issuance of Shares in Compliance with NASDAQ Listing Rules 5635(a) and 5635(b)

- Appendix F43.200. Reverse Merger followed by Upstream Merger
with Target having Multiple Classes of
Common Stock

GOING PRIVATE

- Appendix F44. Going Private Merger with Reverse Stock Split
- Appendix F45. Going Private Share Exchange Plan
Management Cash Out of Public Shareholders
- Appendix F46. Cash Going Private Offer to Purchase
- Appendix F46.50. Going Private Merger—Stock and Cash
Consideration
- Appendix F46.60. Nondisclosure and Confidentiality Agreement for
Going Private Negotiations

Table of Contents

GOING PRIVATE (CONTINUED)

Appendix F47. 2022 Going Private Merger

PLAN OF MERGER OR REORGANIZATION AND PROXY-PROSPECTUS

Appendix F48.	Prospectus/Joint Proxy Statement, Approval of Merger
Appendix F48.50.	Stock Purchase Agreement—Company Acquiring 100% of the Stock of Softwares Corporation with Earnout Provision
Appendix F49.	Plan for Reorganization through Merger Agreement
Appendix F50.	Consent to and Non-Contravention in Merger Agreement
Appendix F51.	Written Consent/Information Statement to Approve Merger

ASSET ACQUISITION

Appendix F52.	Acquisition Agreement: Purchase of Assets—Medical Services Company
Appendix F53.	Proxy Statement, Approval of Merger
Appendix F54.	Asset Purchase Agreement—Serial Preferred Stock issued for Intellectual Property and to Provider with 80% Control of Seller's Equity
Appendix F55.	Asset Exchange Agreement
Appendix F56.	Bill of Sale
Appendix F57.	Technology Asset Purchase Agreement With Escrow Funds And Licensing Of Software
Appendix F58.	Asset Purchase: Wireless Licenses
Appendix F59.	Short Form Asset Purchase Agreement
Appendix F60.	Asset Purchase Agreement—Bankruptcy Sale
Appendix F61.	Proxy Material Explaining Impact of Merger to Target Company Shareholders
Appendix F62.	Proxy for U.S. Company Acquiring Panama Company in a Reverse Triangular Merger
Appendix F63.	Asset Purchase Agreement

Appendix F64.	Asset Rollup
Appendix F65.	Agreement to Assign Payments Due Under Asset Purchase Agreement to Successor of Buyer
Appendix F65.50.	International Asset Purchase Agreement for Cloud Computing Operating Assets
Appendix F65.60.	Asset Purchase Agreement
Appendix F65.70.	Asset Purchase Agreement for Buildings and Land with Escrow
Appendix F65.80.	Purchase Agreement—Sale of Assets and Equity in Operating Division
Appendix F65.90.	Asset Purchase Agreement with Liquidation Plan—Internet Provider
Appendix F65.95.	Asset Sale for Fossil Fuel Generation Assets by LLC
Appendix F65.96.	Asset Purchase Agreement for Prior Spin Off
Appendix F65.97.	Asset Sale Agreement—Telecommunications Towers

LOCK UP AND SIMILAR ARRANGEMENTS

Appendix F66.	Lock-Up Agreement: Stock Purchase Agreement With Agreement Not to Tender Shares and Proxy Grant
Appendix F66.10.	Rule 145 — Affiliate Lock-Up Letter
Appendix F67.	Lock-Up Agreement: Conditional Stock Purchase and Option Agreement
Appendix F68.	Lock-Up And Voting Agreement
Appendix F69.	Form of Voting and Lockup Agreement
Appendix F70.	Exclusivity Letter/Merger Termination Fee Agreement
Appendix F71.	Form Stockholder Voting Agreement in a Merger
Appendix F72.	Drag-Along Agreement
Appendix F73.	Voting Trust Agreement
Appendix F74.	Short Form Lock Up Agreement in Merger

STOCK ACQUISITIONS OR EQUITY ACQUISITIONS

Appendix F75.	Acquisition Agreement: Stock Acquisition
Appendix F76.	Acquisition Agreement: Stock Acquisition—Medical Services Company
Appendix F77.	Acquisition Agreement: Preferred Stock Purchase

TABLE OF CONTENTS

	Agreement for Financing of Takeover Bid—Put/ Call Provisions Contingent on Success of Bid
Appendix F78.	Stock Purchase Agreement For Closed Corporation
Appendix F79.	Partnership Interest Sale Agreement
Appendix F80.	Stock Purchase Agreement—Cash, Stock, and Note Consideration for Multiple Banking Subsidiaries
Appendix F81.	Stock Purchase Agreement - U.S. Company Acquiring European Company Stock for Cash & Stock with Earn Out, Drag Along and Tag Along Provisions
Appendix F82.	Stock Purchase Agreement for Roll-up Transactions

Table of Contents

STOCK ACQUISITIONS OR EQUITY ACQUISITIONS (CONTINUED)

Appendix F83.	Equity Purchase Agreement
Appendix F83.10.	Equity Purchase Agreement (Stock and Membership Interests in Oil and Gas Companies)
Appendix F83.20.	Equity Purchase Agreement (Forward Option Purchase After Initial Public Offering and Merger)
Appendix F84.	Stock Purchase Agreement
Appendix F84.50	Stock Purchase Agreement Where Target Company Stock is Acquired for Cash, Notes and Stock
Appendix F85.	Intellectual Property Rights Assignment
Appendix F86.	Asset Sale Agreement Prior to Bankruptcy Filing
Appendix F87.	Stock and Asset Purchase Agreement: Final Binding Offer
Appendix F88.	<i>[Reserved]</i>
Appendix F89.	Escrow Agreement in a Merger
Appendix F90.	Agreement of Conveyance, Transfer and Assignment of Assets and Assumption of Obligations
Appendix F91.	Asset Purchase Agreement: Operating Assets with Liability Hold back
Appendix F92.	Agreement to Acquire Equity and Assets of Certain Entities
Appendix F93.	Employment, Redemption and Exchange Agreement Between an Acquiror and Executive of a Target Company
Appendix F93.10.	Share Exchange Agreement
Appendix F93.20.	Stock Purchase Agreement to Fund Merger
Appendix F93.30.	Acquisition of LLC by Exchange of Preferred Stock
Appendix F93.40.	Stock Purchase Agreement to Fund Merger
Appendix F93.50.	Stock Purchase Agreement of all Shares of a

ACQUISITIONS & MERGERS

Foreign Software Company with Multi-Year
Step EBITDA Closings

Appendix F93.60. LLC Acquires Corporate REIT by Exchange of
Units Representing LLC Interests for Stock

Appendix F93.70. Pipe Securities Purchase Agreement
(Convertible Notes)

Appendix F93.80. Sponsor of SPAC Unit Purchase Agreement

LIQUIDATION

Appendix F94. Plan of Dissolution and Complete Liquidation

Appendix F95. Liquidation Proxy

MISCELLANEOUS TRANSACTION DOCUMENTS

Appendix F96. Exchange Offer For Split-Off Of Subsidiary

Appendix F97. Exchange Offer Prospectus for Merger

Appendix F98. Form of Commitment For Funding Acquisition

Appendix F99. Form of Equity Commitment Letter For Merger

Appendix F100. Termination of Agreement and Plan of Merger

Appendix F101. S-4 for Registering Shares for Future, Unspecified
Acquisitions

Appendix F102. S4 Proxy Prospectus

Appendix F103. Maryland Corporation Acquiring Maryland Real
Estate Investment Trust

Appendix F104. Dual Stock Merger with Reclassification/
Conversion Merger—Media Companies

Table of Contents

MISCELLANEOUS TRANSACTION DOCUMENTS (CONTINUED)

- Appendix F105. Post Closing Lock-Up Agreement for Merger
- Appendix F106. Merger: Reit
- Appendix F107. Plan and Agreement of Reorganization: Rolli, Inc.
- Appendix F108. Stock-Cash Merger

PARTICULAR PROVISIONS IN CONSOLIDATION AND MERGER AGREEMENTS

- Appendix G1. Particular Provisions in Consolidation and Merger Agreements
- Appendix G1.50. Sample Independent Director Standards

ARTICLES AND CERTIFICATES OF CONSOLIDATION, MERGER, OR EXCHANGE

- Appendix H1. *[Reserved]*
- Appendix H2. *[Reserved]*

DELAWARE AGREEMENTS FOR MERGERS

- Appendix I1. Merger of Delaware Corporation Into Foreign Corporation
- Appendix I2. Plan and Agreement of Merger of Foreign Corporation Into Delaware Corporation
- Appendix I3. Reverse Triangular Merger Among Two Delaware Software Corporations
- Appendix I4. Agreement of Merger and Consolidation (Delaware Corporations)
- Appendix I5. Agreement and Plan of Merger between Delaware Corporation and Corporation of Another Country
- Appendix I6. Reverse Triangular Merger for Cybersecurity Company
- Appendix I7. *[Reserved]*
- Appendix I8. Confidential Disclosure Agreement
- Appendix I9. Delaware Statutory Merger Agreement with

Certificate of Designation—Preferred Stock Issued
as Merger Consideration

Appendix I10. Proxy Statement for Cash Merger

Appendix I11. Delaware State Form Certificate of Merger Forms

NEW YORK AGREEMENTS FOR MERGERS

Appendix J1. New York—Plan of Merger

Appendix J2. New York—Plan of Consolidation

Appendix J3. New York Statutory Merger Into a Delaware
Corporation

CALIFORNIA AGREEMENTS FOR MERGERS

Appendix K1. Agreement and Plan of Merger Between High
Technology Companies

Appendix K2. Merger-Alaska and Washington companies

REINCORPORATIONS

Appendix L1. Reincorporation: Delaware to Washington

Appendix L2. Reincorporation: Delaware to Maryland

Appendix L3. Reincorporation: Delaware to Nevada

Appendix L4. Reverse Merger and Reincorporation by Merger
from New Jersey to Nevada

Appendix L5. Reincorporation by Merger Agreement from U.S. to
Canada

Appendix L6. Reincorporation from Foreign Country to Delaware
by a Combination and Merger

Appendix L7. Reincorporation Florida to Maryland

Appendix L8. Reincorporation from California to Delaware
Followed by Merger

Appendix L9. Reincorporation from British Virgin Islands to
Delaware

Appendix L10. Information Statement for Reincorporation Merger
from Nevada to Wyoming

Appendix L11. Reincorporation: SPAC Reincorporating from
Cayman Islands to Delaware

RESTRUCTURING AGREEMENTS

Appendix M1. Agreement and Plan of Corporate Restructuring

Appendix M1.10. Master Partnership Conversion to Corporation:
Conversion Agreement and Partnership
Restructuring Agreement

TABLE OF CONTENTS

Appendix M2.	Tax Indebtedness Sharing Agreement
Appendix M3.	Tax Sharing and Indemnification Agreement
Appendix M4.	Spin-off Agreement
Appendix M4.10	Spin-off Merger Agreement
Appendix M4.20.	Spin Off Agreement for Healthcare Operations
Appendix M5.	Spin Off Registration Rights Agreement
Appendix M6.	Spin Off Corporate Services Agreement
Appendix M6.50.	Spin Off Employee Matters
Appendix M7.	Spin Off Agreement and Related Tax Matters Agreement
Appendix M7.50.	Spinoff—Separation Agreement
Appendix M7.55.	Separation and Distribution Agreement
Appendix M7.60.	Exchange Offer with Underwriters for Spin Off

Table of Contents

RESTRUCTURING AGREEMENTS (CONTINUED)

Appendix M7.70.	Merger Agreement for Spin Off through Merger of Target Company and Division of Acquirer Followed by Exchange Offer of Spun-Off Entity for Parent Company Shares
Appendix M7.80.	Separation and Distribution Agreement for Transaction
Appendix M8.	Employee Programs Agreement
Appendix M9.	Telecommunications, Software and Computing Services Agreement
Appendix M10.	Spinoff Separation and Distribution Agreement
Appendix M10.50.	Clean Up Spin Off Merger Agreement following Split Up Exchange
Appendix M11.	Acquisition by Recapitalization
Appendix M11.50.	Recapitalization Agreement
Appendix M11.60.	Reorganization Agreement to Restructure Companies
Appendix M11.70.	Redemption and Recapitalization Followed by a Merger Agreement
Appendix M11.71.	Recapitalization Agreement
Appendix M12.	Spin-Off by IPO of a Foreign Subsidiary by a US Parent Company
Appendix M13.	Spin-Off and IPO Master Separation and Distribution Agreement
Appendix M14.	Split-off Agreement
Appendix M15.	Agreement of Conveyance, Transfer and Assignment of Assets, And Assumption of Obligations
Appendix M16.	Split-Off: Master Separation Agreement
Appendix M17.	Split-off Distribution Agreement
Appendix M18.	Asset Spin Off Agreement
Appendix M19.	Spin Off Agreement Followed by Merger in a Reverse Morris Trust Transaction
Appendix M20.	Information Statement for Spin-Off

JOINT VENTURE AGREEMENTS

Appendix N1.	Joint Venture Agreement
--------------	-------------------------

- Appendix N2. Joint Venture to Acquire Control of an Operating
Subsidiary
- Appendix N3. *[Reserved]*
- Appendix N4. Tag-Along, Drag-Along Investor Rights Agreement
for LLC Joint Venture

STOCKHOLDERS' MEETINGS

- Appendix O1. Notice of Special Meeting of Stockholders
- Appendix O2. Where Merger Rather Than Consolidation Is
Proposed
- Appendix O3. Where Establishment of One-Bank Holding
Company Is Proposed
- Appendix O4. Particular Statements of Purpose of Meeting
- Appendix O5. Proxy to Vote at Stockholders' Meeting
- Appendix O6. Form of Voting Agreement
- Appendix O7. Irrevocable Proxy with Shares in a Voting Trust
- Appendix O8. Resolution of Stockholders for Consolidation
- Appendix O9. Resolution Setting Out Terms of Consolidation
- Appendix O10. Minutes of Special Meeting of Stockholders
- Appendix O11. Certificate of Corporate Secretary of Adoption of
Merger Agreement and Approval of Stockholders
- Appendix O12. Contract Between Stockholders of Several
Companies Whereby Debts of One of Companies
Are to Be Paid in Stock of New Company, etc.
- Appendix O13. Letter to Stockholders as to Proposed Merger and
Consolidation
- Appendix O14. Letter to Stockholders as to Issuance of Shares in
Connection with Proposed Acquisition and
Merger
- Appendix O15. Notice to Stockholders of Plan of Merger and of
Option to Exchange Stock
- Appendix O16. Irrevocable Proxy and Voting Agreement

MEETING OF DIRECTORS AND RESOLUTIONS THEREOF

- Appendix P1. Notice of Special Meeting of Directors
- Appendix P2. Resolution of Directors Recommending Consolidation

FAIRNESS OPINIONS

- Appendix Q1. Sample Fairness Opinions
- Appendix Q2. Fairness Opinion #2

TABLE OF CONTENTS

Appendix Q3. Fairness Opinion #3

Appendix Q4. Fairness Opinion #4

OPINIONS OF COUNSEL

Appendix R1. Legality of Securities in Connection with an S-4
Registration Statement

Appendix R2. Legality of Securities in Connection with a
Subscription Agreement

Appendix R3. Request for Tax Rulings

HEALTH CARE AGREEMENTS

Appendix S1. Physician Network Agreements: Messenger Model

Appendix S2. Managed Care Provider (HMO) Contract for
Physician Services

Appendix S3. Independent Physician Association Group Contract

Appendix S4. Physician Network Organizer Agreement

Appendix S5. Agreement and Plan of Reorganization by and
Among Pharmaceutical Holdings Inc.,
Pharmaceuticals Merger Sub Inc. and
Pharmaceuticals Inc.

Appendix S6. Post-Effective Amendment No. 1 to Form S-8

PROXY STATEMENTS

Appendix T1. Control Share Act Proxy Statement to Approve
Merger

MODEL CONSENT BYLAWS

Appendix U1. Model Consent Bylaws for Delaware Corporations
That Have Not Limited the Ability of Stockholders
to Act by Written Consent

MERGER DOCUMENTS INVOLVING FOREIGN COMPANIES

Appendix V1. US-Euro Merger Protocol Agreement: US Software
Co. Acquires Dutch Software Company in Cash/
Stock Deal

Appendix V2. US-Dutch Merger-Shareholder Share Tender
Agreement

Appendix V3. Dutch Bank Fairness Opinion on US-Dutch Stock/
Cash Merger

Appendix V4. Reverse Merger with Foreign Company and U.S.

ACQUISITIONS & MERGERS

Public Shell Company: Share Exchange
Agreement

Table of Contents

MERGER DOCUMENTS INVOLVING FOREIGN COMPANIES (CONTINUED)

Appendix V5.	Reverse Merger with U.S. Public Shell and Foreign Company: Agreement and Plan of Merger
Appendix V6.	Business Combination Agreement Between United States Company and Swiss Company
Appendix V7.	Acquisition of Nevada Company by Chinese Company in a Share Exchange
Appendix V8.	Merger/Conversion/Exchange Agreement between U.S., Hong Kong and Cayman Island Companies with Earn Out Provision
Appendix V9.	Arrangement Agreement for U.S. Company Acquisition of Canadian Company
Appendix V9.10.	U.S. Company acquires Canadian Bitcoin Mining Company by Business Combination between U.S. Subsidiary and Canadian Target Company
Appendix V10.	Going Private Cash Merger Agreement by Nevada Corporation with Cayman Island Acquirors
Appendix V11.	Merger of Delaware Companies to Form United Kingdom Holding Company
Appendix V12.	Reorganization Agreement
Appendix V13.	Chinese - Cayman Merger
Appendix V14.	US Co Acquiring 51% of German Co with Option to Acquire Remaining 49% of Company's Stock
Appendix V15.	Irish—United States Inversion Company Agreement
Appendix V15.50.	Irish Company Acquires U.S. Public Company and U.S. Company Becomes Subsidiary of Irish Company
Appendix V16.	Merger Agreement—Swiss Company Reincorporates into Ireland
Appendix V17.	Stock and Asset Purchase Agreement between United States company and German company
Appendix V18.	Bermuda-Netherlands Merger

ACQUISITIONS & MERGERS

Appendix V19.	Transaction Agreement
Appendix V20.	German Irish Merger—Terms and Memorandum if Association
Appendix V21.	Unisted States and German Companies form Irish Holding Company
Appendix V22.	Spin-off of Operation Into a Foreign Company in Connection with a Merger
Appendix V23.	Share Purchase Agreement—British Virgin Islands Company to Acquire Subsidiary Assets and Licenses
Appendix V24.	UK Acquisition of US Corporation All Stock Reverse Merger
Appendix V25.	Delaware Corporation Acquiring Israeli Company
Appendix V26.	Indian Company Acquiring Delaware Company in Merger

CROSS-BORDER DOCUMENTS

Appendix 1A.	SEC Cross Border Tender Offer, Exchange Offer, And Business Combination Transaction Rules
--------------	--

Table of Contents

SEC FORMS AND SCHEDULES

Appendix 3A.	Form S-4
Appendix 3B.	Schedule 13D
Appendix 3C.	Schedule 13G
Appendix 3D.	Schedule 13E-3
Appendix 3E.	Form 8-K
Appendix 3F.	Schedule 14A
Appendix 3G.	Schedule 14C
Appendix 3H.	Schedule 14D-1F
Appendix 3I.	Schedule 14D-9
Appendix 3J.	Schedule 14D-9F
Appendix 3K.	Form CB
Appendix 3L.	Form TO
Appendix 3M.	Form 3
Appendix 3N.	Form 4
Appendix 3O.	Form 5

GOVERNMENT ANTITRUST AND FRAUD GUIDELINES AND POLICY STATEMENTS FOR THE HEALTH CARE INDUSTRY

Appendix 4A.	1996 Statements of Antitrust Enforcement Policy in Health Care
Appendix 4B.	Statement of Department of Justice and Federal Trade Commission Enforcement Policy on Mergers Among Hospitals
Appendix 4C.	Statement of Department of Justice and Federal Trade Commission Enforcement Policy on Hospital Joint Ventures Involving High-Technology or Other Expensive Health Care Equipment
Appendix 4D.	Statement of Department of Justice and Federal Trade Commission Enforcement Policy on Hospital Joint Ventures Involving Specialized Clinical or Other Expensive Health Care Services
Appendix 4E.	Statement of Department of Justice and Federal Trade Commission Enforcement Policy on

ACQUISITIONS & MERGERS

- Appendix 11B. Joint Statement of Department of Justice and
Federal Trade Commission: Preserving
Competition in the Defense Industry
- Appendix 11C. Updated Guidance Regarding the Use of
Arbitration and Case Selection Criteria

INTERNATIONAL COMPETITION NETWORK

- Appendix 12A. ICN Merger Guidelines Workbook
- Appendix 12B. Implementation Handbook

MISCELLANEOUS DOCUMENTS

- Appendix 13A. Homeland Security Presidential Directive/Hspd-7
- Appendix 13B. National Industrial Security Program Operating
Manual
- Appendix 14A. Rules Relating to Fairness Opinion Disclosures and
Procedures
- Appendix 14B. IRS Legal Advice Memorandum—Timing of Certain
Acquisition Deductions
- Appendix 15A. Merger Assessment Guidelines
- Appendix 16A. M&A at a Glance
- Appendix 17A. Williams Act CDIs
- Appendix 18A. Compliance and Disclosure Interpretations—Rule
145
- Appendix 19A. Compliance and Disclosure Interpretations—Form
S4
- Appendix 20A. Compliance and Disclosure Interpretations on
Tender Offers and Mergers
- Appendix 21A. Compliance and Disclosure Interpretations—Non-
GAAP Financial Measures
- Appendix 22A. CDIs Cross Border Exemptions
- Appendix 23A. Certificate and Report of Inspector of Elections
- Appendix 24A. Vertical Merger Guidelines (June 30, 2020)
- Appendix 25A. SEC Sample Letters to Companies regarding
Special Disclosures in Securities Act and
Exchange Act Filings

Glossary

Table of Laws and Rules

Table of Additional Authorities

Table of Cases

Index