

Introduction to the 2025-2026 Edition

New features and recent developments in this edition include:

- Recent case law developments:
 - The Delaware Court of Chancery ruled that a litigation trust adequately stated on a constructive fraud avoidance claim that the debtor was insolvent or rendered insolvent, was left with unreasonably small capital, and intended or believed it would be unable to pay its debts as they matured when it paid dividends, and pleaded direct evidence of intent to defraud, on an intentional fraud claim. [§ 4:57]
 - The Delaware Court of Chancery found that several aspects of an implicit minority discount concept appeared questionable. First, it was not apparent that implicit minority discounts are in fact ever-present across companies. It seemed preferable to leave the issue of whether a particular stock market trades only in “minority” interests to a case-by-case assessment of the record and each company’s stock market, rather than attaching what is effectively a rebuttable presumption that a company’s stock price requires adjustment. Second, the idea that all stock trades at a discount appeared to clash with the semi-strong efficient market hypothesis, which otherwise provides that a fully informed, efficient market will accurately reflect value. [§ 5:8.50]
 - Nothing in Section 160 of Delaware’s General Corporation Law governing a corporation’s powers respecting ownership, voting, etc., of its own stock and rights of stock called for redemption limits or affects a corporation’s right to resell, under § 153(c) governing the disposition of treasury shares, any of its shares theretofore purchased or redeemed out of surplus and which have not been, or are not required by the certificate of incorporation to be, retired. [§ 6:8]
- Common law and statutory updates, including passage of the Inflation Reduction Act of 2022 imposing a 1% surcharge on corporate stock buybacks
- New Section 6-105, Disclosure requirements relating to repurchases of issuer’s equity securities