

Index

ABUSE OF MUTUAL FUNDS

SEC responses, **17:34**

ACCOUNTANTS AND ACCOUNTING

Cash-basis, **16:10**

Common and collective trust funds, **16:10**

ERISA fiduciaries, **13:16**

Fiduciaries, **2:8, 11:22, 13:16**

Independent public accountants, **17:4, 17:12**

Investment advisers, **5:7**

Liability, **2:8**

Sarbanes-Oxley Act of 2002, **1:14**

ACTUARIES

ERISA fiduciaries, **13:16**

Professional negligence, **13:16**

ADJUSTMENT POWERS

Fiduciaries, income and principal, **11:28**

ADMINISTERING BUSINESS INTERESTS

Generally, **3:3**

ADMINISTERING TRUST

Uniform Trust Code, **11:51**

ADVERTISING

Collective investment funds, **16:11**

Common and collective trust funds, **16:11**

Common trust funds, **16:11**

False, fiduciary liability, **3:27**

Fees and charges, **5:22**

Investment Advisers Act of 1940
Definition, **5:21**

Performance advertising, **5:22**

ADVERTISING—Cont'd

Investment Advisers Act of 1940
—Cont'd

Prohibitions, **5:23**

Mutual funds

Disclosures, **17:30**

Securities Act of 1933, **17:13**

Performance advertising, **5:22**

Prohibitions, **5:23**

Securities Act of 1933, **17:13**

AGENCY

See Fiduciaries

AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE ACT

Fiduciaries, **1:1**

Reports, **21:36**

AMENDMENT OF PLAN

Common and collective trust funds, **16:14**

Employee benefit plans, **13:4**

ANNUAL REPORTS

Assets and Liabilities of US
Branches and Agencies of
Foreign Banks, **App 6C**

Disclosure, **12:9, 12:10**

Federal Deposit Insurance
Corporation (FDIC), **21:2**

Federal Reserve Board

International fiduciary activities, **21:5**

Trust assets, **21:2**

Fiduciaries, **21:2, 21:4, 21:5, App 6A, App 6C**

Indenture trustees, **12:9**

ANNUAL REPORTS—Cont'd

International fiduciary activities,
21:4, 21:5
 Internet submission, **21:13**
 Investment advisers, **5:11**
 Trust Indenture Act of 1939, **12:9,**
12:10
 Trusts
 Assets, **App 6A**
 Disclosure, **12:9, 12:10**
 Federal Deposit Insurance
 Corporation (FDIC), **21:2**
 Federal Reserve Board, **21:2**
 Indenture trustees, **12:9**

ANNUITY PRODUCTS

Bankruptcy Act, **15:13**
 Bank sales
 Generally, **15:11**
 Disclosures, **15:13**
 State refusal to license, **15:12**
 Guaranteed investment contracts,
15:13
 Insurance business versus insur-
 ance contracts, **15:13**
 Insurance companies
 Generally, **15:11**
 Employee benefit plans, **13:5,**
13:35
 Securities license, **7:28**
 Securities Act of 1933, **7:28**
 State laws, **15:13**

ARBITRATION

Brokers and dealers, **6:30**
 Fees, **6:30**

**ASSET ALLOCATION
 PROGRAMS**

Investment Company Act of 1940,
15:9
 Wrap fees, **15:9**

**ASSET CONSERVATION,
 LENDER LIABILITY AND
 DEPOSIT INSURANCE
 PROTECTION ACT**

Effect of act on CERCLA, **20:12**

**ASSET CONSERVATION,
 LENDER LIABILITY AND
 DEPOSIT INSURANCE
 PROTECTION ACT
 —Cont'd**

Innocent trustee liability, **3:30**

ASSET PROTECTION TRUSTS

Fiduciary liability, **3:34**

ASSETS DETERMINATIONS

Special needs trusts, **11:61**

ATOMIC ENERGY ACT

Fiduciaries, **1:1**

ATTORNEYS

Attorney-client privilege, **3:32**
 Attorneys-in-fact, **2:6**
 Audit and compliance, retain
 experienced counsel, **18:33**
 Bank trust department, **4:12**
 Duties to clients and courts, **2:7**
 ERISA fiduciaries, **13:16**
 Independent audit committees,
18:7
 Model Rules of Professional
 Conduct, **2:7**
 Mutual funds, **17:12, 17:35**
 Regulation 9, retention of counsel,
4:12
 Uniform Durable Power of
 Attorney Act, **2:6**

AUDITS

Audit manager qualifications,
18:13
 Auditor independence
 Sarbanes-Oxley Act of 2002,
1:14, 9:2
 Securities Exchange Act of
 1934, **2:8**
 Board of directors
 Audit report review, **4:16**
 Oversight responsibility, **18:2,**
18:13
 Regulation 9, **1:2**

INDEX

AUDITS—Cont'd

- Board of directors—Cont'd
 - Responsibilities, **18:13**
- Collective investment funds, **16:9**
- Common and collective trust funds, **16:9**
- Compliance programs, **18:14, 18:32**
- Conflicts of interest, **18:13**
- Continuous audit system, **4:16, 18:13**
- Environmental liability, **20:13**
- Examiners, **18:13**
- Federal Deposit Insurance Corporation (FDIC), **18:5**
- Federal Deposit Insurance Corporation Improvement Act, **18:6**
- Fees and charges, **16:5, 16:9**
- Fiduciary account asset verification, **18:13**
- Fiduciary audit committee, **4:16, 18:13**
- Independent audit committees
 - Active officers, **4:16**
 - Director membership, **4:16, 18:13**
 - Federal Deposit Insurance Corporation (FDIC), **18:7**
 - Necessity, **4:16**
 - Responsibilities of board of directors, **18:5, 18:7**
- Internal audit program, **18:13**
- Mutual funds, **17:12**
- Objectives, **18:13**
- Office of the Comptroller of the Currency (OCC), **18:13**
- Outside auditors, independence, **18:13**
- Regulation 9
 - Board of directors responsibility, **18:13**
 - Trust departments, **4:16**
- Savings associations, **4:28**
- Time, **4:16, 18:13**

AUDITS—Cont'd

- Trust compliance officers as liaisons, **18:28**
- Trust departments, **4:16**

BANK HOLDING COMPANY ACT OF 1956

- Bank holding company
 - Definition, **17:23**
 - Investment adviser to closed-end investment company, **15:5**
 - Restrictions, **17:23**
- Federal Reserve Board, Regulation Y, **17:23**
- Financial activities conducted abroad, **19:2**
- International transactions
 - Regulation Y, **19:3**
 - Statutory framework, **19:2**
- Mutual funds, non-bank affiliates restrictions, **17:23**
- Regulation Y
 - Bank as investment adviser to closed-end company, **15:5**
 - Federal Reserve Board, **17:23**
 - International transactions, **19:3**

BANKING SERVICES

- Bank retail services, **App 7B**
- Permissible banking services, **App 7A**

BANKRUPTCY AND INSOLVENCY

- Apportionment of trust property, **12:7**
- National banks
 - Fiduciary assets, **4:6**
 - Lien on trust funds by beneficiaries, **4:8**
 - Trust department account assets, **4:16**
- Securities for resale, **15:23**
- Spendthrift clauses, ERISA trusts, **13:5**

**BANKRUPTCY AND
INSOLVENCY—Cont'd**

Trustees, fiduciary relationship,
2:9, 7:13

BANKS

Generally, see Banking Services;
Bank Secrecy Act;
Fiduciaries

Also see more specific entries
throughout this index

Dodd-Frank Act. See Dodd-Frank
Wall Street Reform and
Consumer Protection Act

BANK SECRECY ACT

Broker-dealers, FinCEN guidance,
10:6

Compliance programs, **10:4**

Compliance risks, **18:4**

Customer identification programs,
10:1, 10:2

Enhanced due diligence, **10:3**

Examination procedures, **10:5**

FinCEN guidance for broker-deal-
ers and investment advisers,
10:6

High risk customers, **10:3**

Illegal funds to foreign accounts,
19:6

Know your customer, **10:1**

Lists of known or suspected ter-
rorists, **10:1**

Money laundering, **10:4**

Offshore trusts, **19:6**

Regulatory expectations, **10:5**

Reliance on results of another's
customer identification
programs, **10:2**

Sanctions, enforcement of anti-
money laundering programs,
10:4

Suspicious activity reporting, **10:4**

USA Patriot Act, generally, **1:12,**
10:2

BANK SECRECY ACT—Cont'd

Verification of identity of
customer, **10:1, 10:2**

BENEFICIAL OWNERSHIP

Employee benefit plans, insider
transactions, **21:21**

Section 16 of Securities Exchange
Act of 1934, **15:25**

Securities Exchange Commission,
21:14 to 21:16

BEST EXECUTION

Liability of fiduciary, **3:29**

BLACKOUT PERIODS

Employee benefit trust services,
13:27, 13:54

BOARD OF DIRECTORS

See also Officers and Directors
Administration of fiduciary pow-
ers

Acceptance of fiduciary
accounts, **4:13**

Account review, **4:14**

Annual review, **4:13**

Asset review, **4:15**

Bonding requirements, **4:12**

Legal counsel retention, **4:12**

Material nonpublic information,
4:12

Annual examinations, **18:6**

Audits

Oversight responsibility, **18:2,**
18:13

Regulation 9, **1:2**

Report review, **4:16**

Compliance programs, **3:14**

Conflicts of interest, **18:13**

Crime Control Act of 1990, **18:10**

Criminal penalties, **18:10**

Delegation of powers, **4:13**

Designation of custodian of
investments, **4:21**

Duties

Annual examination, **18:6**

INDEX

BOARD OF DIRECTORS

—Cont'd

Duties—Cont'd
Federal Deposit Insurance Corporation (FDIC), **18:1, 18:5 to 18:7**
Independent audit committees, **18:5, 18:7**
Mutual funds, **17:4**
Embezzlement, **18:10**
Federal Deposit Insurance Corporation (FDIC), **18:1, 18:5 to 18:7**
Fee concessions, **4:22**
Fiduciary compensation approval, **4:22**
Financial Institution Reform, Recovery and Enforcement Act (FIRREA)
Civil penalties, **18:9**
Criminal penalties, **18:10**
Freezing assets, **18:11**
Responsibilities, generally, **18:9**
Restraining transfer of personal assets, **18:11**
Fraud, **18:10**
Freezing assets, **18:11**
Independent audit committees, **18:5, 18:7**
Interested persons, mutual funds, **17:4**
Investment program, **4:13**
Liability
Financial Institution Reform, Recovery and Enforcement Act (FIRREA), **18:9**
Freezing assets, **18:11**
Negligent management, **18:8**
Personal, **3:15**
Restraining transfer of personal assets, **18:11**
Trust department assessment, **18:2**
Managerial compensation, **18:7**

BOARD OF DIRECTORS

—Cont'd

Minutes
Assignment of fiduciary powers, **4:13**
Audit report, **4:16, 18:13**
Audit review, **4:16**
Mutual funds, **17:4**
Negligent management, **18:8**
Personal liability, **3:15**
Regulation 9
Administration of fiduciary powers, **4:12 to 4:26**
Audits, **4:16, 18:13**
Fiduciary compensation approval, **4:22**
Laws and regulations governing, **1:2**
Resolution to relinquish fiduciary powers, **4:4**
Responsibilities
Assignment of functions, **18:2**
Business performance, **18:2**
Competent management, **18:2**
Compliance management programs, **18:15**
Compliance with policies, laws and regulations, **18:2**
Investment strategies, **18:2**
Oversight, **18:2, 18:13**
Risk management program, **18:2, 18:3, 18:13**
Trust department assessment, **18:2**
Restraining transfer of personal assets, **18:11**
Review of fiduciary accounts, **4:13**
Risk management program, **18:2, 18:3, 18:13**
Theft, **18:10**

BONDS

Bearer, **12:17**
Board of directors, **4:12**

BONDS—Cont'd

- Bondholders
 - List, **12:10**
 - Notice of default, **12:12**
- Cancellation, **12:17**
- Fidelity, **17:4**
- Fiduciaries of employee benefit plans, **13:53**
- Municipal
 - Disclosure, **12:22**
 - Indenture trustees, **12:20**
 - Registration, **12:22**
 - Registration exemption, **12:20**
 - Rule 10b-5, **12:22**
 - Secondary market information, **12:20**
 - Securities Act of 1933, **12:20**
 - Securities Exchange Act of 1934, **12:22**
 - Self-dealing, **4:19**
 - Taxation, **12:23**
 - Trustee duties, **12:21**
 - Underwriting syndicates, **4:19**
 - Uniform Securities Act, **12:22**
- Recordkeeping, **12:17**
- Redeemed, taxation, **12:16**
- Registration, **12:17**
- Rule 17g-1, **17:4**
- Taxation, redeemed bonds, **12:16**
- Transfer agents, **12:17**
- Turnaround time, **12:17**
- Unredeemed portions, **12:17**

BROKERS AND DEALERS

- Antifraud
 - Boiler room operations, **6:21**
 - Churning, **6:25**
 - Fiduciary theory, **6:20**
 - Margin rules, **6:26**
 - Market manipulation, **6:23**
 - Scalping, **6:22**
 - Shingle theory, **6:19**
 - Unauthorized trading, **6:24**
- Application for registration,
 - Uniform Application for Bro-

BROKERS AND DEALERS

—Cont'd

- ker-Dealer Registration Form
 - BD, **6:13, 6:14, App 5B**
- Arbitration, **6:30**
- Associated persons of issuer, **6:5**
- Banks, **6:11, 15:10**
- Boiler room operations, **6:21**
- Breach of fiduciary duty, **6:20**
- Chinese walls, **6:28**
- Churning, **6:25**
- Conflicts of interest, **4:19**
- Cooperative apartment houses
 - shares, **6:12**
- Definitions
 - Brokers, **6:2**
 - Sellers, **6:15**
- Disclosure
 - Inaccurate, liability, **6:15**
 - Margin rules, **6:26**
- Discount brokerage activities, **15:3**
- Due diligence
 - Churning, **6:25**
 - Securities Act of 1933, **6:15**
- Engaged in the business, **6:4**
- Examinations, **6:14**
- Extension of credit to customers, **6:29**
- Fiduciaries, **6:20**
- Financial consultants, **6:8**
- Finders, **6:6**
- Fingerprinting, **6:13**
- Foreign broker-dealers, **6:12**
- Fraud, failure to reveal markup, **6:19**
- Glass-Steagall Act, **15:3**
- Government securities, registra-
 - tion, **6:17**
- Inside information, **6:27**
- Insurance agencies marketing
 - securities, **6:10**
- International transactions, registra-
 - tion, **19:7**
- Intrastate business, **6:12**

INDEX

BROKERS AND DEALERS

—Cont'd

Investment advisers, registration, **6:7**
Investor protections. See Dodd-Frank Wall Street Reform and Consumer Protection Act
Know your customer rule, **6:18**
Liability
 Boiler room operations, **6:21**
 Breach of fiduciary duty, **6:20**
 Churning, **6:25**
 Due diligence defense, **6:15**
 Failure to reveal markup, **6:19**
 Inaccurate disclosures, **6:15**
 Inside information, **6:27**
 Margin rules, **6:26**
 Market manipulation, **6:23**
 Scalping, **6:22**
 Unauthorized trading, **6:24**
Mandatory membership in NASD, **6:13**
Margin rules, **6:26**
Margin transactions, **6:29**
Market manipulation, **6:23**
Minimum net capital, **6:13**
Ministerial service providers, **6:9**
Misrepresentations, **6:19**
Multiservice brokerage firms, **6:28**
Mutual funds, registration, **17:14**
National Association of Securities Dealers, Inc. (NASD), **6:18**
New York Stock Exchange (NYSE), **6:18**
Nonresident, service of process, **6:14**
Office of the Comptroller of the Currency (OCC)
 Affiliated brokerage transactions, **4:19**
 Brokerage placement practices, **4:12**
 Regulation 9, **4:12**
 Securities brokerage services, **17:24**

BROKERS AND DEALERS

—Cont'd

Records, **6:13**
Registration
 Amendments, **6:14**
 Applicability, **6:2**
 Associated persons of issuer, **6:5**
 Bankers' acceptances, **6:3**
 Banks, **6:11, 15:3, 15:16**
 Commercial bills, **6:3**
 Commercial paper transactions, **6:3**
 Consequences, **6:13**
 Cooperative apartment houses shares, **6:12**
 Denial, **6:14**
 Engaged in the business, **6:4**
 Exemptions, **6:3, 6:12, 6:15**
 Financial consultants, **6:8**
 Finders, **6:6**
 Fingerprinting, **6:13**
 Foreign broker-dealers, **6:12**
 Form contents, **6:14**
 Government securities, **6:17**
 History, **6:1**
 Insurance agencies marketing securities, **6:10**
 International transactions, **19:7**
 Intrastate business, **6:12**
 Investment advisers, **6:7**
 Mandatory membership in NASD, **6:13**
 Minimum net capital, **6:13**
 Ministerial service providers, **6:9**
 Mutual funds, **17:14**
 Process, **6:14**
 Records, **6:13**
 Regulation R, bank broker, **15:16**
 Securities Exchange Act of 1934, **17:14**
 Securities triggering, **6:3**
 Successors, **6:14**

BROKERS AND DEALERS

—Cont'd

- Registration—Cont'd
 - Uniform Application for Broker-Dealer Registration Form BD, **6:13, 6:14**
- Regulation R, bank broker, **15:16**
- Regulation S transactions with broker-dealers, **15:21**
- Regulatory structure, **6:1**
- Reports
 - Registration amendments, **6:14**
 - Research, **6:15**
- Research reports, **6:15**
- Responsibilities
 - Fiduciary theory, **6:20**
 - Shingle theory, **6:19**
- Scalping, **6:22**
- Sellers, definition, **6:15**
- Service of process, **6:14**
- Unauthorized trading, **6:24**
- Underwriters, **6:15**
- Unseasoned securities recommendation, **6:21**

BUREAU OF CONSUMER FINANCIAL PROTECTION

- Dodd-Frank Wall Street Reform and Consumer Protection Act, **22:3, 22:8, 22:9, 22:34**

BUSINESS JUDGMENT RULE

- Corporate directors, officers and controlling shareholders, **2:12**

CASH

- Failure to invest income cash, **3:6**

CEASE AND DESIST ORDER

- Investment advisers, **5:30**

CERTIFICATE OR EVIDENCE OF INTEREST

- Common and collective trust funds, **16:15**

CHARITABLE TRUSTS

- Collective investment funds, **16:3**
- Common and collective trust funds, **16:3**
- Common trust funds, **16:3**

CHECKS

- Trust department issuance, **4:7**

CHOICE OF LAW

- Uniform Trust Code, **11:50**

CIVIL AERONAUTICS BOARD

- Report by trustee holding five percent of stock, **21:29**

CLASS ACTIONS

- Fiduciaries, liability of, **3:11**

CLEARING

- Dodd-Frank Act. See Dodd-Frank Wall Street Reform and Consumer Protection Act

COMMISSION RESOURCES AND AUTHORITY

- Sarbanes-Oxley Act of 2002, **1:14, 9:6**

COMMODITY EXCHANGE ACT

- Fiduciaries, **1:1**

COMMODITY FUTURES TRADING COMMISSION

- Dodd-Frank Wall Street Reform and Consumer Protection Act, **22:15, 22:23**
- Futures contracts, **17:21**

COMMON AND COLLECTIVE TRUST FUNDS

- Accounting, **16:10**
- Admissions and withdrawals, **16:8**
- Advertising, **16:11**
- Affiliate services, **16:5**
- Audits
 - Fees and charges, **16:5**
 - Requirements, **16:9**
- Cash-basis accounting, **16:10**

INDEX

COMMON AND COLLECTIVE TRUST FUNDS—Cont'd

- Cash overdrafts, **16:8**
- Certificate or evidence of interest, **16:15**
- Charitable trusts, **16:3**
- Closely related accounts, commingling of funds, **16:20**
- Commingling of funds
 - Generally, **16:1**
 - Closely related accounts, **16:20**
 - Prior approval, **16:21**
 - Variable amount notes, **16:19**
- Common and collective trust funds distinguished, **16:1**
- Corporate trust funds, **16:20**
- Defaulted fixed income investments, bank purchase, **16:8**
- Definition, **16:1**
- Eligibility, **16:3**
- Employee Retirement Income Security Act of 1974 (ERISA)
 - Prohibited transaction exemption, **13:37, 16:23**
 - Registration exemption, **14:36**
- Exclusive management and control, **16:5**
- Exemptions
 - Collective trust funds, **16:26**
 - Common trust funds, **16:25**
 - Registration exemption, **14:36**
 - Transaction exemption, **13:37, 16:23**
- Expenses, charging, **16:14**
- Fees and charges
 - Admission and withdrawal, **16:8**
 - Agents or pricing services, **16:5**
 - Audits, **16:5**
 - Expenses, **16:14**
 - Financial reports, **16:10**
 - Fund management, **16:5**
 - Late charges on notes or mortgages, **16:1**

COMMON AND COLLECTIVE TRUST FUNDS—Cont'd

- Fees and charges—Cont'd
 - Management fees, **16:13**
 - Management of fund, **16:5**
 - Mortgage services, **16:5**
 - OCC summary, **16:5**
 - Outside investment advisers, **16:5**
 - Plan amendment, **16:14**
 - Pricing services, **16:5**
 - Valuation of assets, **16:5**
- Fiduciary liability, **3:12**
- Financial reports, **16:10, 16:11**
- Fund performance comparison, **16:11**
- Glass-Steagall Act, **15:4**
- Good faith mistakes, **16:16**
- Governmental plans, **16:24**
- Government obligations, **16:17**
- Historical background, **16:2**
- Individual retirement accounts, **16:27**
- Interest requirement, **16:6**
- Internal Revenue Code exemption, **16:1**
- Investment advisers, **16:5**
- Investment Company Act of 1940, **15:4**
- Investment of fiduciary assets
 - Admissions and withdrawals, **16:8**
 - Government obligations, **16:17**
 - Real estate loans, **16:17**
- Loans based on security of participation in fund, **16:12**
- Merging funds, **16:28**
- Mini-funds, **16:18**
- Mortgages, service fees, **16:5**
- Mutual funds
 - Bank collective investment funds and parties in interest (PTE 80-51), **13:41**
 - Conversion, **17:31**
 - Self-dealing, **17:32**

COMMON AND COLLECTIVE

TRUST FUNDS—Cont'd

Mutual funds—Cont'd
 Use of pooled investment vehicles, **14:36**
 Office of the Comptroller of the Currency (OCC)
 Expenses, **16:5**
 Plan documents, **16:4**
 Valuation, **16:7**
 Participating accounts, proportionate interests, **16:6**
 Participation as security, **16:12**
 Plan amendment, fees and charges, **16:14**
 Plan documents, **16:4**
 Prior approval funds, **16:21**
 Proportionate interests, **16:6**
 Provisions required, **4:25**
 Real estate loans, **16:17**
 Regulation 9, **4:25**
 Regulation 9.18, **16:3**
 Regulation H, **16:3**
 Securities law exemptions
 Collective trust funds, **16:26**
 Common trust funds, **16:25**
 Securities registration, **16:26, 16:27**
 Self-dealing, **16:12, 16:28**
 Short-term investment funds, valuation, **16:8**
 Single loan or obligation, **16:17**
 Small accounts, **16:18**
 Taxation
 Generally, **16:1**
 Conversion, **17:32**
 Exemption, **16:1**
 Regulation 9, **4:25**
 Statutes impacting, **16:22**
 Transaction exemption, ERISA, **13:37, 16:23**
 Transfer of units, **16:12**
 Trust funds of corporations, **16:20**
 Types, **16:3**

COMMON AND COLLECTIVE

TRUST FUNDS—Cont'd

Valuation
 Agents or pricing services, **16:5**
 Assets, **16:5, 16:7**
 Fees and charges, **16:5**
 Predictions, **16:11**
 Regulation 9, **4:25**
 Short-term investment funds, **16:8**
 Withdrawals and admissions, **16:8**
 Written documents, **16:4**

COMMON LAW

Commingling of funds, common trust funds, **16:1**

COMMUNICATION ACT OF 1934

Fiduciaries, **1:1**
 Report of concurrent ownership or carriers, **21:34**

COMMUNITY REINVESTMENT ACT

Savings associations, **4:29**

COMPLIANCE PROGRAMS

Accountability of management, **18:20**
 Audits, **18:14, 18:15, 18:28**
 Avoidance of liability, **18:29 to 18:45**
 Board of directors
 Liability, **3:15**
 Responsibilities, **18:2, 18:15**
 Communication, **18:18**
 Communication and disclosure, **18:35**
 Control department, **18:30**
 Customer complaint resolution, **18:39**
 Disclosure, **18:35**
 Documentation of compliance efforts, **18:37**
 “Early warning” systems, **18:15**

INDEX

COMPLIANCE PROGRAMS

—Cont'd

Elements

Communication, **18:18**

Establishment of program,
18:14

Knowledge, **18:17**

Management accountability and
responsibility, **18:20**

Management commitment,
18:16

Monitoring mechanisms, **18:19**

Reporting, **18:21**

Training, **18:19**

Employee awareness

Communication and training,
18:18

Elements, **18:16**

Training, **18:19, 18:27**

Experienced counsel, **18:33**

Fees and incentives reviews,
18:34

Governmental regulatory agen-
cies, **18:17**

Guidance sources, **18:18**

Importance, **18:15**

Incentives reviews, **18:34**

Internal policies and procedures,
18:31

Knowledge, **18:17, 18:29**

Liability avoidance

Codes of conduct, **18:44**

Communication and disclosure,
18:35

Customer complaint resolution,
18:39

Documentation of compliance
efforts, **18:37**

Engage knowledgeable people,
18:29

Ethics policies, **18:44**

Experienced counsel, **18:33**

Fees and incentives reviews,
18:34

COMPLIANCE PROGRAMS

—Cont'd

Liability avoidance—Cont'd

Internal policies and
procedures, **18:31**

Periodic audits, **18:32**

Products and services separa-
tion, **18:40**

Risk identification, **18:30**

Sales literature review, **18:36**

Suitability reviews, **18:38**

Trust rating system, **18:42**

Turnover issues, **18:41**

Management accountability and
responsibility, **18:20**

Management commitment, **18:16**

Management policy, sample, **App**
10A

Memoranda, compliance, **18:19**

Mission statement, **18:16**

Monitoring, **18:19, 18:26**

Mutual funds, **17:35**

Office of the Comptroller of the
Currency (OCC)

Crucial areas, **18:14**

Federal policies recommended
by Office of Comptroller
of Currency, Midwest
District, **App 10B**

Risk management approach,
18:14

Periodic audits, **18:32**

Personnel turnover issues, **18:41**

Pitfalls, **18:15**

Policies

Communication, **18:18**

Federal policies recommended
by Office of Comptroller
of Currency, Midwest
District, **App 10B**

Implementation, **18:25**

Review, **18:25**

Sample compliance manage-
ment policy, **App 10A**

COMPLIANCE PROGRAMS

—Cont'd

Procedures
 Communication, **18:18**
 Implementation, **18:25**
 Review, **18:25**
 Products and services separation, **18:40**
 Regulatory developments, **18:18**
 Reports, **18:21, 18:26**
 Responsibility of management, **18:20**
 Reviews of incentives and fees, **18:34**
 Risk identification, **18:30**
 Risk management component, **18:3**
 Risk management process, sample, **App 10C**
 Sales literature review, **18:36**
 Sample compliance management policy, **App 10A**
 Sample risk management process, **App 10C**
 Separation of services and products, **18:40**
 Services and products separation, **18:40**
 Suitability reviews, **18:38**
 Training, **18:19**
 Trust compliance officers
 Education, **18:27**
 Knowledge of bank products and services, **18:23**
 Laws and regulations
 Knowledge, **18:23**
 Monitoring for changes, **18:24**
 Publication subscription list, **18:24**
 Liaison to auditors and regulatory examiners, **18:28**
 Monitoring mechanisms, **18:26**
 Policy and procedure review, **18:25**

COMPLIANCE PROGRAMS

—Cont'd

Trust compliance officers—Cont'd
 Regulatory publications, **18:24**
 Responsibilities, **18:22 to 18:28**
 Training, **18:27**
 Turnover issues, **18:41**

COMPREHENSIVE CRIME CONTROL ACT OF 1984

Foreign business records, **19:6**
 International transactions, **19:6**

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT

Asset Conservation, Lender Liability and Deposit Insurance Protection Act, **20:12**
 Effect of amendments to Act, **20:12**
 Joint and several liability, **20:2**
 Operators, **20:1**
 Owners, **20:1**
 Personal liability, **20:8**
 Responsible parties, **20:1**
 Strict liability, **20:1**
 Superfund, **20:1**

COMPTROLLER OF THE CURRENCY

See Office of the Comptroller of the Currency (OCC)

CONFLICTS OF INTEREST

Audit members, **18:13**
 Bank acting as lender and fiduciary, **3:4**
 Bank as trustee and creditor, **3:4**
 Board of directors, **18:13**
 Brokers and dealers, **4:19**
 Dealings with closely held corporations, **3:3**

INDEX

CONFLICTS OF INTEREST

—Cont'd

- Directors, trust committee and audit committee member, **18:13**
- Employee Retirement Income Security Act of 1974 (ERISA)
 - Fiduciaries, **13:28**
 - Prohibited transactions, **3:15**
- Escrow agents and indenture trustees, **12:18**
- Fiduciaries
 - Bank acting as lender and fiduciary, **3:4**
 - Bank as trustee and creditor, **3:4**
 - Breach of duty of loyalty, **3:2, 3:3**
 - Closely held corporations, dealings with, **3:3**
 - Competition with beneficiaries, **3:2**
 - Discretion, **3:2**
 - Guidelines for avoidance, **3:1**
 - Holding shares of fiduciary bank's own stock, **3:5**
 - Investment of income cash, **3:6**
 - Liability, **3:2 to 3:6**
 - Personal profit, **3:2**
 - Remainderman as trustee, **3:3**
 - Self-dealing, **3:2**
- Holding shares of fiduciary bank's own stock, **3:5**
- Indenture trustees, **12:6, 12:7**
- Investment advisers, mutual funds, **17:5, 17:29**
- Investment of income cash, **3:6**
- Multiservice brokerage firms, **6:28**
- Mutual funds, investment advisers, **17:5, 17:29**
- Officers and directors, **18:13**
- Remainderman as trustee, **3:3**
- Sale of trust property to interested parties by affiliated discount broker, **4:19**

CONFLICTS OF INTEREST

—Cont'd

- Sarbanes-Oxley Act of 2002, **1:14, 9:5**

CONSUMER CREDIT PROTECTION ACT

- Fraudulent access to customer information, **8:8**

CONSUMER PROTECTION ACT

- See Dodd-Frank Wall Street Reform and Consumer Protection Act

CONVERSION OF ASSETS

- Fiduciaries, **3:25**

CORPORATE RESPONSIBILITY

- Sarbanes-Oxley Act of 2002, **1:14, 9:3**

CORPORATE TRUSTS

- Agency roles
 - Escrow agent, **12:18**
 - Paying agent, **12:16**
 - Transfer agent, **12:17**
- Annual reports, disclosure, **12:9, 12:10, 21:2**
- Bearer bonds, registration, **12:17**
- Bearer coupons, **12:16**
- Bondholders
 - Information access, **12:10**
 - List, **12:10**
 - Notice of default, **12:12**
- Cancellation of bonds, **12:17**
- Corporate debt financing, **12:1**
- Default duties, **12:11, 12:12**
- Disclosure
 - Annual reports, **12:9, 12:10**
 - Indenture trustee duties, **12:9**
 - Municipal bonds, **12:22**
 - Obligors, **12:10**
- Duties
 - Escrow agents, **12:18**

CORPORATE TRUSTS—Cont'd

Duties—Cont'd
 Indenture trustees, **12:21**
 Paying agent, **12:16**
 Environmental liability, **20:2, 20:3, 20:8**
 Escrow agent, **12:18**
 Fiduciaries, liability, **3:33**
 Foreclosure, **12:12**
 Indenture trustees
 Generally, **12:1**
 Annual reports, **12:9**
 Conflict of interest, **12:6, 12:7**
 Creditors, **12:7**
 Disclosure duties, **12:9**
 Disqualification, **12:5**
 Duty of loyalty, **12:7**
 Eligibility, **12:5**
 Fiduciary duties, **12:11, 12:12**
 Foreclosure, **12:12**
 Liability, **12:11, 12:13, 12:14**
 Misleading statements, **12:13**
 Municipal bonds, **12:20**
 Notice of default, **12:12**
 Obligors, **12:5**
 Penalties, **12:14**
 Postdefault duties, **12:12**
 Predefault duties, **12:11**
 Preferential collection of claim as creditor, **12:7, 12:8**
 Reliance on certificates or opinions, **12:11**
 Insolvent obligor, apportionment of property, **12:7**
 Interest payments, **12:16**
 IRS Form 1099B for redeemed bonds, **12:16**
 Liability, indenture trustees, **12:13, 12:14**
 Misleading statements, **12:13**
 Municipal bonds
 Disclosure, **12:22**
 Municipal Securities Rulemaking Board, **12:22**

CORPORATE TRUSTS—Cont'd

Municipal bonds—Cont'd
 Registration, **12:22**
 Regulation, **12:22**
 Secondary market information, **12:20**
 Securities Act of 1933, **12:20**
 Securities Exchange Act of 1934, **12:22**
 Taxation, **12:23**
 Uniform Securities Act, **12:22**
 Municipal indentures, **12:20**
 Notice
 Cancellation of bonds, **12:17**
 Default, **12:11, 12:12**
 Obligors, disclosure duties, **12:10**
 Paying agent, **12:16**
 Payment, **12:16**
 Preferential collection of claim as creditor, **12:7, 12:8**
 Qualification to serve as trustee statement, **21:8**
 Record date, **12:16**
 Redeemed bonds, IRS Form 1099B, **12:16**
 Registrars, **12:17**
 Reliance on representations of others, **12:15**
 Reports
 Annual, **21:2**
 Qualification to serve as trustee statement, **21:8**
 Statement of Eligibility Under the Trust Indenture Act of 1939 of a Corporation Designated to Act as Trustee (SEC Form T-1), **21:8, App 60**
 Trust Indenture Act of 1939, **21:8**
 Securities Act of 1933, municipal bonds, **12:20**
 Securities Exchange Act of 1934, municipal bonds, **12:22**

INDEX

CORPORATE TRUSTS—Cont'd

- Statement of Eligibility Under the Trust Indenture Act of 1939 of a Corporation Designated to Act as Trustee (SEC Form T-1), **21:8, App 60**
- Statute of limitations, **12:13**
- Taxation, interest payments, **12:16**
- Transfer agent, **12:17**
- Trust indenture, deposit of funds with indenture trustees, **12:16**
- Trust Indenture Act of 1939
 - Coverage, **12:3**
 - Exempt securities, **12:3**
 - Indenture qualification, **12:4**
 - Indenture trustees, **12:5 to 12:15**
 - Penalties, **12:14**
 - Purpose, **12:2**
 - Reports, **21:8**

COURTS

- Employee benefit plans
 - Assets held outside jurisdiction of United States district courts, **14:34**
 - Parties, **13:49**
 - Scope of review, **13:14**
 - Standard of review, **13:24**
- Insurance companies, suspension or revocation of licensing, **7:14**
- Order directing investment of fiduciary account funds, **4:18**

CREDITORS' RIGHTS

- Uniform Trust Code, **11:54**

CRIME CONTROL ACT OF 1990

- Criminal penalties, **18:10**
- Embezzlement, **18:10**
- Fiduciaries, laws and regulations governing, **1:15**
- Fraud, **18:10**
- Freezing assets, **18:11**
- International transactions, **19:6**

CRIME CONTROL ACT OF 1990—Cont'd

- Obstruction of federal agency examination of financial institution, **18:10**
- Overview, **1:15**
- Persons prohibited from owning or controlling depository institutions, **18:10**
- Restraining transfer of personal assets, **18:11**
- Theft, **18:10**

CURRENCY

- ERISA prohibited transaction exemption, **13:46**
- Foreign exchange, **19:1**

CUSTODY AND SAFEKEEPING

- Securities Exchange Act of 1934, **15:20**

CUSTOMER IDENTIFICATION PROGRAMS

- Bank Secrecy Act, **10:1, 10:2**

DEFINITIONS

- Accredited investors, **22:17**
- Advertising, **5:21**
- Advice or analysis concerning securities, **5:5**
- Affiliated person, **17:29**
- Applicable law, **4:11**
- Appropriate consideration, **7:26, 14:31**
- Assessment base, **22:9**
- Attorneys-in-fact, **2:6**
- Bank holding company, **17:23**
- Banking entity, **22:22**
- Broker, **6:2**
- Business enterprise, **21:38**
- Business of insurance, **7:24**
- Collective investment funds, **16:1, 17:31**
- Commercial firm, **22:21**
- Common trust funds, **16:1, 17:31**
- Consultant, **13:51**

REGULATION INVEST MGMT & FIDUCIARY SERV

DEFINITIONS—Cont'd

Consumer, **8:2**
 Controlling person, **15:24**
 Covered transactions, **22:21**
 Dealer, **6:2**
 Defined benefit plans, **13:2**
 Defined contribution plans, **13:2**
 Distribution, **6:15**
 Dodd-Frank Wall Street Reform
 and Consumer Protection Act
 Accredited investors, **22:17**
 Assessment base, **22:9**
 Banking entity, **22:22**
 Commercial firm, **22:21**
 Covered transactions, **22:21**
 Extension of credit, **22:21**
 Financial market utility, **22:26**
 Hedge fund, **22:22**
 Major swap participant, **22:24**
 Municipal advisers, **22:32**
 Private equity fund, **22:22**
 Proprietary trading, **22:22**
 Swap dealer, **22:24**
 Swap execution facility, **22:24**
 Swaps, **22:24**
 Systemic importance, **22:26**
 Trading account, **22:22**
 Eligible individual account plan,
 13:23
 Employee Retirement Income
 Security Act of 1974
 (ERISA)
 Consultant, **13:51**
 Defined benefit plan, **13:2**
 Defined contribution plan, **13:2**
 Employer stock ownership
 plans (ESOPs), **13:6**
 Fiduciaries, **13:13, 14:35, 14:38**
 Individual account plan/defined
 contribution plan, **13:2**
 Investment advice, **14:38**
 Marketable obligation, **13:29**
 Party in interest, **13:28**
 Pension benefit plan, **13:2**

DEFINITIONS—Cont'd

Employee Retirement Income
 Security Act of 1974
 (ERISA)—Cont'd
 Qualifying employer real prop-
 erty, **13:29**
 Qualifying employer security,
 13:29
 Reasonable compensation,
 13:32
 State law, **7:24**
 Employee stock ownership plans
 (ESOPs), **13:6**
 Environmental liability
 Operators, **20:3**
 Owners, **20:3**
 Extension of credit, **22:21**
 Face-amount certificate
 companies, **17:1**
 Fiduciary
 Asset Conservation, Lender
 Liability and Deposit
 Insurance Protection Act,
 20:12
 Employee benefit trust services,
 13:7 to 13:20
 Employee Retirement Income
 Security Act of 1974
 (ERISA), **14:35, 14:38**
 Regulation 9, **4:11**
 Relationships and duties, **2:1**
 Fiduciary capacity, **4:11**
 Financial institution, **8:2**
 Financial market utility, **22:26**
 Foreign person, **21:36**
 Hedge fund, **22:22**
 Interested persons, **17:4**
 Interstate commerce, **19:9**
 In the business, **5:4**
 Investment advice, **14:38**
 Investment advisers, **5:2, 14:38,**
 17:15
 Investment Advisers Act of 1940
 Advertising, **5:21**

INDEX

DEFINITIONS—Cont'd

Investment Advisers Act of 1940
—Cont'd
Advice or analysis concerning securities, **5:5**
In the business, **5:4**
Investment adviser, **14:38**
Investment advisory contract, **5:24**
Securities, **5:6**
Investment advisory contract, **5:24**
Investment authority, **4:11**
Investment companies, **1:8, 17:1**
Investment discretion, **4:11**
Investment manager, **13:18 to 13:20**
Investment securities, **1:5**
Major swap participant, **22:24**
Management companies, **17:1**
Managing agent, **4:11**
Marketable obligation, **13:29**
Material nonpublic information, **4:12**
Municipal advisers, **22:32**
No-load funds, **17:28**
Nonaffiliated third parties, **8:2**
Operators, **20:3**
Owners, **20:3**
Party in interest, **13:28**
Paying agent, **12:16**
Pecuniary interest, **21:21**
Pension benefit plan, **13:2**
Private equity fund, **22:22**
Proprietary funds, **17:28**
Proprietary trading, **22:22**
Qualifying employer real property, **13:29**
Qualifying employer security, **13:29**
Reasonable compensation, **13:32**
Research, **15:15**
Restricted securities, **15:23, 21:19**
Securities, **5:6**

DEFINITIONS—Cont'd

Securities Act of 1933
Distribution, **6:15**
Restricted securities, **15:23**
Sellers, **6:15**
Securities Exchange Act of 1934
Broker, **6:2**
Dealer, **6:2**
Research, **15:15**
Security, **6:2**
Security, **6:2**
Sellers, **6:15**
Series funds, **17:26**
Significant interest or substantial control, **21:36**
State law, **7:24**
Swap dealer, **22:24**
Swap execution facility, **22:24**
Swaps, **22:24**
Sweep arrangements, **17:17**
Sweep fee, **3:12**
Systemic importance, **22:26**
Trading account, **22:22**
Unit investment trusts, **17:1**
Welfare benefit plans, **13:2**

DEPARTMENT OF TRANSPORTATION, MARITIME ADMINISTRATION

Certification of vessel or shipyard
financing trusts, **21:30**

DEPOSITORY INSTITUTIONS

Dodd-Frank Act. See Dodd-Frank
Wall Street Reform and
Consumer Protection Act

DEPOSITS

Securities, bank's fiduciary activities, **4:20**

DERIVATIVES

Dodd-Frank Act. See Dodd-Frank
Wall Street Reform and
Consumer Protection Act

DERIVATIVES—Cont'd

Over-the-counter products and markets, **15:14**

DIRECTED TRUSTEE

Duties and responsibilities, **3:13, 3:16, 13:20, 15:20**

DISCLOSURES

Brokers and dealers. See Brokers and Dealers

Corporate trusts. See Corporate Trusts

Fiduciaries. See Fiduciaries

Investment advisers. See Investment Advisers

Investment Advisers Act. See Investment Advisers Act of 1940

Mutual funds, **17:30**

Personal nonpublic financial information, **8:1**

Privacy policies. See Privacy

SEC. See Securities Exchange Commission

Securities Exchange Act. See Securities Exchange Act of 1934

Trust Indenture Act. See Trust Indenture Act of 1939

DISCOVERY

Bank examination reports, **3:14**

DISTRIBUTION

Special needs trusts, **11:65**

DIVERSIFICATION

Employee benefit plans. See Employee Benefit Plans

ERISA. See Employee Retirement Income Security Act of 1974 (ERISA)

Failure to diversify, **3:13**

Fiduciaries. See Fiduciaries

Insurance companies, **17:1**

Prudent man rule, **14:3, 14:4, 14:14**

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

Generally, **1:17, 22:1**

Access for low and moderate income individuals, **22:36**

Antimanipulation provisions, **22:33**

Arbitration clauses, **22:28**

Bank and savings association holding companies and depository institutions

Hedge fund investments, **22:22**

Merger or acquisition, **22:21**

Moratorium on deposit insurance approval by FDIC, **22:21**

Proprietary trading, **22:22**

Seed investments, **22:22**

Studies and restrictions, **22:21**

Transactions with affiliates, **22:21**

Bureau of Consumer Financial Protection

Federal Deposit Insurance Corporation, **22:8, 22:9, 22:34**

Financial Stability Oversight Council, **22:3**

CFTC regulation of nonsecurity-based swaps, **22:23**

Collateral bars against regulated persons, **22:28**

Compliance programs, whistleblowers, **18:15**

Comptroller of Currency

Consumer Financial Protection Bureau, **22:9**

Deposit insurance, assessments for, **22:9**

Deposit Insurance Fund increase, **22:9**

Elimination of Office of Thrift Supervision, **22:8**

Exceptions, **22:9**

INDEX

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

—Cont'd

Comptroller of Currency—Cont'd
Financial Stability Oversight
Council membership, **22:3**
Office of Minority and Women
Inclusion, **22:9**
Transfer of powers to, **22:8**,
22:9

Corporate governance and internal
controls, **22:31**

Credit rating agencies, **22:29**

Deficit reduction under Pay it
Back Act, **22:37**

Definitions

Accredited investors, **22:17**
Assessment base, **22:9**
Banking entity, **22:22**
Commercial firm, **22:21**
Covered transactions, **22:21**
Extension of credit, **22:21**
Financial market utility, **22:26**
Hedge fund, **22:22**
Major swap participant, **22:24**
Municipal advisers, **22:32**
Private equity fund, **22:22**
Proprietary trading, **22:22**
Swap dealer, **22:24**
Swap execution facility, **22:24**
Swaps, **22:24**
Systemic importance, **22:26**
Trading account, **22:22**

Deposit Insurance Fund increase,
22:9

Derivatives

Bank and savings association
holding companies and
depository institutions,
22:21, **22:22**
Municipal securities, **22:32**
Payment, clearing and settle-
ment supervision, **22:26**

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

—Cont'd

Derivatives—Cont'd

Swaps markets regulation,
22:23

Taxation of gains from deriva-
tives controls, **22:39**

Wall Street transparency and
accountability, **22:23**

Effective date, **22:2**

Enforcement power of SEC, **22:28**

Executive compensation, **22:31**

Expenses

Financial Stability Oversight
Council, **22:4**

Office of Financial Research,
22:4

Federal Deposit Insurance Corporation

Assessment base, definition,
22:9

Bureau of Consumer Financial
Protection, **22:3**, **22:8**,
22:9, **22:34**

Deposit insurance, assessments
for, **22:9**

Exceptions, **22:9**

Financial Stability Oversight
Council, **22:3**

Increase in Deposit Insurance
Fund, **22:9**

Moratorium on deposit insur-
ance approval by FDIC,
22:21

Office of Minority and Women
Inclusion, **22:9**

Office of Thrift Supervision
elimination, **22:8**, **22:9**

Orderly liquidation of failing
financial institutions, **22:6**,
22:7

Transfer of powers to, **22:8**,
22:9

**DODD-FRANK WALL STREET
REFORM AND CONSUMER
PROTECTION ACT
—Cont’d**

Federal Deposit Insurance
Corporation—Cont’d
Wall Street transparency and
accountability, **22:23**
Federal Housing Finance Agency.
director’s membership on
Financial Stability Oversight
Council, **22:3**
Federal Insurance Office, **7:4,**
22:19
Federal Reserve
Assessment base, definition,
22:9
Consumer Financial Protection
Bureau, **22:9**
Deposit insurance, assessments
for, **22:9**
Elimination of Office of Thrift
Supervision, **22:8**
Exceptions, **22:9**
Financial stability, supervision
by Federal Reserve Board,
22:3
Financial Stability Oversight
Council, membership, **22:3**
Increase in Deposit Insurance
Fund, **22:9**
Office of Minority and Women
Inclusion, **22:9**
Orderly liquidation of failing
financial institutions,
Federal Reserve Board
determination, **22:7**
Payment, clearing and settle-
ment supervision, support
of Federal Reserve, **22:27**
Requirements, **22:35**
Transfer of powers to, **22:8,**
22:9
Fiduciaries
Compliance risks, **18:4**
Fiduciary standards, **22:28**

**DODD-FRANK WALL STREET
REFORM AND CONSUMER
PROTECTION ACT
—Cont’d**

Fiduciaries—Cont’d
Laws and regulations, **1:17**
Financial market utilities of
systemic importance, **22:26**
Financial stability
Additional restrictions, **22:5**
Assessment on bank holding
companies, **22:4**
Collection information, **22:3**
Contingent capital issuance
restrictions, **22:5**
Debt to equity ratio restrictions,
22:5
Domestic financial regulatory
proposals, monitoring,
22:3
Examination of nonbank
financial holding company
by Federal Reserve Board,
22:5
Expenses of Financial Stability
Oversight Council, **22:4**
Expenses of Office of Financial
Research, **22:4**
Facilitate information sharing,
22:3
Federal Reserve Board supervi-
sion, **22:3**
Financial Research Office, **22:4**
Financial services marketplace,
monitoring, **22:3**
Financial Stability Oversight
Council, **22:3**
Gaps in regulation, identifica-
tion, **22:3**
Holding companies, **22:3**
Intermediate holding company
formation, **22:3**
International financial regula-
tory proposals, monitoring,
22:3

INDEX

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT —Cont'd

Financial stability—Cont'd
New or heightened standards to
minimize risks, **22:3**
Nonbank financial company
supervision, **22:3**
Office of Financial Research,
22:4
Risk committees, **22:5**
Short term debt restrictions,
22:5
Stress tests, **22:5**
Supervisory priorities, recom-
mendations, **22:3**
Financial Stability Oversight
Council, **22:3**
Gains from derivatives controls,
taxation, **22:39**
Golden parachutes, **22:31**
Hedge fund investments and
advisers
Accredited investors, **22:17**
Bank and savings association
holding companies and
depository institutions,
22:22
CFTC commodity trading
adviser, **22:15**
Custody of client assets, **22:16**
Definition of accredited inves-
tors, **22:17**
Exemptions from SEC registra-
tion, **22:11 to 22:15**
Family offices, **22:15**
Foreign private advisers, **22:14**
Government Accountability
Office, **22:18**
Private adviser exemption,
22:11
Registration as investment
adviser, **22:10**
Regulation, **22:10 to 22:18**

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT —Cont'd

Hedge fund investments and
advisers—Cont'd
Smaller private fund advisers,
22:12
State registration, **22:10**
Studies and reports, **22:18**
Venture capital fund advisers,
22:13
Holding companies. Bank and
savings association holding
companies and depository
institutions, above
Independence of compensation
committees, **22:31**
Insurance
Federal Insurance Office, **22:19**
International insurance matters,
22:20
National Association of Insur-
ance Commissioners,
22:20
State insurance issues and risks,
22:19
State regulation of insurance,
22:20
Terrorism insurance program,
22:19
International insurance matters,
22:20
Investment Advisers Act of 1940
Amendment, **5:1**
Exemptions from registration,
5:8
Mid-size adviser registration,
5:11
Investor advisory committee,
22:28
Investor protections and improve-
ments to securities regulation
Antimanipulation provisions,
22:33
Arbitration clauses, **22:28**

**DODD-FRANK WALL STREET
REFORM AND CONSUMER
PROTECTION ACT
—Cont'd**

Investor protections and improvements to securities regulation
—Cont'd

- Brokers and dealers, **22:28**
- Collateral bars against regulated persons, **22:28**
- Corporate governance and internal controls, **22:31**
- Credit rating agencies, **22:29**
- Enforcement power of SEC, **22:28**
- Executive compensation, **22:31**
- Fiduciary standards, **22:28**
- General regulatory enhancements, **22:28**
- Golden parachutes, **22:31**
- Independence of compensation committees, **22:31**
- Investor advisory committee, **22:28**
- Municipal securities and advisers, **22:32**
- Nationally Recognized Statistical Rating Organizations, **22:29**
- Notice to missing security holders, **22:28**
- Office of Credit Ratings, **22:29**
- Office of Investor Advocate, **22:28**
- Proxy statements and access rules, **22:31**
- Public Company Accounting Oversight Board, **22:33**
- Securities Investor Protection Corporation, **22:28**
- Securitization, **22:30**
- Self-regulatory organizations, **22:28**
- Separation of functions of NRSRO, **22:29**

**DODD-FRANK WALL STREET
REFORM AND CONSUMER
PROTECTION ACT
—Cont'd**

Investor protections and improvements to securities regulation
—Cont'd

- Short sales, **22:28**
- Small private issuers, independent audit of internal controls, **22:33**
- Standards of credit worthiness, **22:29**
- Subpoena power of SEC, **22:28**
- Whistleblowers, **22:28**
- Limited financial resources, access for low and moderate income individuals, **22:36**
- Low income individuals, access for, **22:36**
- Mid-sized advisers, **5:11**
- Missing security holders, **22:28**
- Mixed swaps, **22:23**
- Moderate income individuals, access for, **22:36**
- Mortgage originators and mortgage lenders, **22:38**
- Municipal securities and advisers, **22:32**
- National Association of Insurance Commissioners, **22:20**
- Nationally Recognized Statistical Rating Organizations, **22:29**
- Office of Credit Ratings, **22:29**
- Office of Financial Research, **22:4**
- Office of Investor Advocate, **22:28**
- Office of Minority and Women Inclusion, **22:9**
- Office of Thrift Supervision, elimination, **22:8**
- Orderly liquidation of failing financial institutions
 - Appeal of determination, **22:7**
 - Authority of FDIC, **22:6**
 - Bankruptcy alternatives, **22:6**

INDEX

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

—Cont'd

Orderly liquidation of failing
financial institutions—Cont'd
Breach of fiduciary duties, **22:7**
FDIC as liquidating receiver,
22:6
Federal Reserve Board determi-
nation, **22:7**
International aspects of proce-
dure, **22:7**
Liquidating receiver, **22:6**
Officers and directors, legal
actions involving, **22:7**
Procedures, **22:7**
Securities Investor Protection
Act, **22:7**
Pay it Back Act, **22:37**
Payment, clearing and settlement
supervision
Generally, **22:25**
Definitions, **22:26**
Federal Reserve support, **22:27**
Financial market utilities of
systemic importance,
22:26
Risk management, generally,
22:25
Proprietary trading, **22:22**
Proxy statements and access rules,
22:31
Public Company Accounting
Oversight Board, **22:33**
Registration
Exemptions, **5:8**
Foreign fund adviser, **5:8**
Mid-sized advisers, **5:11**
Private fund adviser, **5:8**
Venture capital fund, **5:8**
Savings associations. Bank and
savings association holding
companies and depository
institutions, above

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

—Cont'd

Secretary of Treasury, chairman of
Financial Stability Oversight
Council, **22:3**
Securities and Exchange Commis-
sion
Enforcement powers, **22:28**
Financial Stability Oversight
Council, **22:3**
Securities Investor Protection Act,
22:7
Securities Investor Protection
Corporation, **22:28**
Securitization, **22:30**
Seed investments, **22:22**
Self-regulatory organizations,
22:28
Short sales, **22:28**
Small private issuers, independent
audit of internal controls,
22:33
Standards of credit worthiness,
22:29
State insurance issues and risks,
22:19
State regulation of insurance,
22:20
Subpoena power of SEC, **22:28**
Swaps markets, **22:23, 22:24**
Taxation of gains from derivatives
controls, **22:39**
Terrorism insurance program,
22:19
Transactions with affiliates, **22:21**
United States Treasury Depart-
ment study, **22:1**
Wall Street transparency and
accountability
CFTC regulation of
nonsecurity-based swaps,
22:23
Clearance of swaps, **22:23**

**DODD-FRANK WALL STREET
REFORM AND CONSUMER
PROTECTION ACT
—Cont'd**

Wall Street transparency and
accountability—Cont'd
Definitions, **22:24**
Execution of swap transactions,
22:23
Mixed swaps, **22:23**
Regulation of swaps markets,
22:23
Reporting on swap transactions,
22:23
Security-based swaps, **22:23**
Swaps markets, **22:23, 22:24**
Types of swaps defined and
distinguished, **22:24**
Whistleblowers, **18:15, 22:28**

DRAFTING

Special needs trusts, **11:66**

DRAFTS

Cash overdrafts, common and col-
lective trust funds, **16:9**
Trust department issuance, **4:7**

DUTY OF LOYALTY

Corporate directors, officers and
controlling shareholders
Executive compensation, **2:16**
Fiduciary relationships and
duties, **2:14 to 2:19**
Self-dealing, **2:15**
Fiduciaries. See Fiduciaries
Indenture trustees, **12:7**

**EDGE AND AGREEMENT
CORPORATIONS**

International transactions, **19:2**
Permissible activities, **19:4**

8 ULA §§ 1-101 ET SEQ.

Uniform Probate Code, selections,
App 4A

**ELECTRONIC DATA
GATHERING, ANALYSIS
AND RETRIEVAL SYSTEM
(EDGAR)**

Electronic filings, **21:20**

ELIGIBILITY

DETERMINATIONS

Special needs trusts, **11:61**

EMBEZZLEMENT

Board of directors, **18:10**
Crime Control Act of 1990, **18:10**
Criminal penalties, **18:10**

EMPLOYEE BENEFIT PLANS

See also Employee Retirement
Income Security Act of 1974
(ERISA)
Adviser employment, **13:4**
Amendment of plan, **13:4**
Annuity contracts issued by insur-
ance companies, **13:5**
Bank collective investment funds
and parties in interest (PTE
80-51), **13:41**
Beneficial ownership, insider
transactions, **21:21**
Bonding of fiduciaries, **13:53**
Contributions, reversion to
employer, **13:5**
Courts
Assets held outside jurisdiction
of United States district
courts, **14:34**
Parties, **13:49**
Scope of review, **13:14**
Standard of review, **13:24**
Defined benefit plans
Definition, **13:2**
Employer securities or real
property limitation, **13:29**
Defined contribution plans
Definition, **13:2**
Employer securities or real
property limitation, **13:29**

INDEX

EMPLOYEE BENEFIT PLANS

—Cont'd

- Definitions of fiduciaries, **13:7 to 13:20**
- Denial of benefits, scope of review, **13:14**
- Diversification
 - Duties of fiduciary, **13:23**
 - Exceptions, **14:32**
 - Insurance companies, **7:26**
 - Investment responsibilities, **14:32**
- DOL regulations, **13:60**
- Employee stock ownership plans (ESOPs), **13:6**
- Environmental liability, **20:2**
- Escheat of assets, **13:3**
- Exemptions from trust requirement, **13:5**
- Fiduciaries
 - Bonding, **13:53**
 - Definitions, **13:7 to 13:20**
 - Duties, **13:21 to 13:24**
 - Insurance companies, **7:25, 13:15**
 - Liability, **3:15, 3:16**
 - Material nonpublic information, **13:20**
 - Mirror voting of unallocated shares, **3:16**
 - Responsibilities, **13:2, 13:4**
 - Standards of conduct, **13:21 to 13:24**
- Funding policy, **13:4**
- Individual retirement accounts (IRAs), **13:5**
- Insurance companies
 - Annuity products, **13:5, 13:35**
 - Diversification, **7:26**
 - Employee Retirement Income Security Act of 1974, **7:23**
 - Exclusive benefit rule, **7:26**
 - Fiduciaries, **13:15, 13:52, 14:36**
 - Fiduciary responsibilities, **7:26**

EMPLOYEE BENEFIT PLANS

—Cont'd

- Insurance companies—Cont'd
 - Plan document compliance, **7:26**
 - Prudent man rule, **7:26**
- Insurance policy assets, **13:5**
- Interest-free loans between plans and parties in interest (PTE 80-26), **13:40**
- Investment advisers, **5:7**
- Investment managers
 - Appointment, **13:4, 13:5**
 - Directed trustee, duties of, **13:20, 15:20**
- Fiduciaries, **13:18**
- Proxy voting, **13:26**
- Trustee as fiduciary, **13:19**
- Keogh plans
 - Establishment of trust, **13:5**
 - Securities Act of 1933 registration, **15:4**
- Lending of securities (PTE 81-6), **13:42**
- Mirror voting of unallocated shares, **3:16**
- Multi-employer pension plan, reversion of assets to employer, **13:5**
- Mutual funds, plan assets, **13:3**
- Named fiduciaries, **13:4**
- Optional plan provisions, **13:4**
- Pension benefit plan
 - Definition, **13:2**
 - Fiduciary responsibility requirements, **13:2**
- Plan assets, **13:3**
- Plan document
 - Employee stock ownership plans (ESOPs), **13:6**
 - Establishment of plan, **13:4**
- Plan establishment, **13:4**
- Plan termination, allocation of assets, **13:5**

EMPLOYEE BENEFIT PLANS

—Cont'd

Prohibited transactions, **7:27, 13:28 to 13:49**
 Proxy voting, **13:26**
 Purchase and sale of foreign currencies (PTE 94-20), **13:46**
 Qualified professional asset managers (PTE 84-14), **13:44**
 Short-term investments (PTE 81-8), **13:43**
 Tax exempt organizations, **13:5**
 Trustees, appointment, **13:5**
 Trust establishment, **13:5**
 Unfunded “top hat” plans, **13:2**
 Welfare benefit plans, **13:2**

EMPLOYEE BENEFIT TRUST SERVICES

Bankruptcy and insolvency
 Spendthrift clauses, ERISA trusts, **13:5**
 Blackout periods, **13:27, 13:54**
 Employee benefit plans, investment managers
 Directed trustee, duties of, **13:20, 15:20**
 Trustee as fiduciary, **13:19**
 ERISA. See Employee Retirement Income Security Act of 1974 (ERISA)
 Exclusive benefit rule. See Exclusive Benefit Rule
 National Securities Markets Improvement Act, investment advisors, **13:18**
 Retirement plan fiduciaries, responsibilities of, **13:27, 13:54**
 12b-1 fees, **13:28, 13:48**

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

Accountants, **13:16**
 Actuaries, **13:16**

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)—Cont'd

Adviser employment, **13:4**
 Amendment of plan, **13:4**
 Annuity contracts issued by insurance companies, **13:5, 13:35**
 Asset allocation arrangements, **13:47**
 Assets held outside jurisdiction of United States district courts, **14:34**
 Attorneys, **13:16**
 Bank collective investment funds and parties in interest (PTE 80-51), **13:41**
 Bankruptcy, spendthrift clauses, **13:5**
 Banks' roles, **13:1**
 Common and collective trust funds
 Participant directed investments, **14:36**
 Prohibited transaction exemption, **16:23**
 Transaction exemption, **13:37**
 Conflicts of interest
 Fiduciaries, **13:28**
 Prohibited transactions, **3:15**
 Consultants, **13:51**
 Contributions, **13:5**
 Convicted persons, **13:51**
 Co-trustees, **13:25**
 Coverage, **13:2**
 Defined benefit plans, **13:2**
 Defined contribution plans, **13:2**
 Definitions
 Consultant, **13:51**
 Defined benefit plans, **13:2**
 Defined contribution plans, **13:2**
 Discretionary control over plan assets and management, **13:10**
 Employee stock ownership plans (ESOPs), **13:6**

INDEX

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)—Cont'd

Definitions—Cont'd
Fiduciary, **13:7 to 13:20, 14:35, 14:38**
Individual account plan/defined contribution plan, **13:2**
Insurer, **13:3**
Investment advice, **14:38**
Investment advisors, **13:11**
Marketable obligation, **13:29**
Named fiduciary, **13:9**
Party in interest, **13:28**
Pension benefit plan, **13:2**
Plan administrators, **13:12**
Qualifying employer real property, **13:29**
Qualifying employer security, **13:29**
Reasonable compensation, **13:32**
State law, **7:24**
Welfare benefit plan, **13:2**
Diversification
Duties of fiduciaries, **13:23**
Exceptions, **14:32**
Insurance companies, **7:26**
Prudent man standard, **14:32**
DOL regulations, **13:60**
Eligibility of fiduciaries to serve, **13:51**
Employee stock ownership plans (ESOPs), **13:6**
Employers, **13:14**
Enron, **13:27, 13:54**
Exceptions, **13:2**
Exclusive benefit rule, **13:21, 14:30**
Exemptions
Common and collective trust funds, **16:23**
Trust requirement, **13:5**
Federal preemption
Escheat laws, **3:10**

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)—Cont'd

Federal preemption—Cont'd
Fiduciary liability, **3:9, 3:10, 3:15**
Insurance, **7:23, 7:24**
Federal regulation, **7:23 to 7:27**
Fiduciaries
Accountants, **13:16**
Actuaries, **13:16**
Allocation of duties, **13:25**
Attorneys, **13:16**
Bonding, **13:53**
Breach by co-fiduciary, **13:50**
Breach of fiduciary duties, **13:49**
Committees, **13:13**
Compensation, **13:28**
Compliance with plan documents, **13:24**
Conflicts of interest, **3:15, 13:28**
Consideration for transaction involving plan assets, **13:28**
Contents of notice, **13:58**
Corporate officers, **13:13, 13:14**
Definition, **13:7 to 13:20, 14:35, 14:38**
Discretionary control over plan assets and management, **13:10**
Diversification, **13:23, 14:32**
DOL regulations, **13:60**
Duties, **13:21 to 13:24**
Eligibility, **13:51**
Employers, **13:13, 13:14**
Exclusive benefit rule, **13:21**
Exculpatory provisions, **13:52**
Fees, **13:59**
Insurance, **13:52**
Insurance companies, **7:25, 13:15, 14:36**
Investment advisors, **13:11**

**EMPLOYEE RETIREMENT
INCOME SECURITY ACT
OF 1974 (ERISA)—Cont'd**

Fiduciaries—Cont'd
 Investment managers, **13:18**
 Investment options, responsibilities, **13:56 to 13:60**
 Laws and regulations governing, **1:1, 1:11, 7:25**
 Liability, **3:15**
 Material nonpublic information, **13:20**
 Named fiduciary, **13:8, 13:9**
 Notice, **13:58**
 Overview, **1:11**
 Personal liability, **13:49**
 Plan administrators, **13:12**
 Plan sponsors serving as plan administrators, **13:17**
 Proxy voting, **13:26**
 Prudent man rule, **13:22**
 Qualified default investment alternatives, **13:57**
 Removal, **13:49**
 Responsibilities, **13:4**
 Responsibility requirements, **13:2**
 Standards of conduct, **13:21 to 13:24**
 Taft-Hartley trustees, **13:13**
 Third party service providers, **13:13**
 Trustees, **3:15, 13:13, 13:19, 13:20**
 Unions, **13:13, 13:14**
 Funding policy, **13:4**
 Governing documents, **14:33**
 Indicia of ownership, **14:34**
 Individual account plan/defined contribution plan, **13:2**
 Individual retirement accounts (IRAs), **13:5**
 In-house asset managers (PTE 96-23), **13:45**

**EMPLOYEE RETIREMENT
INCOME SECURITY ACT
OF 1974 (ERISA)—Cont'd**

Insurance companies
 Diversification, **7:26**
 Exclusive benefit rule, **7:26**
 Federal preemption, **7:23, 7:24**
 Fiduciaries, **7:25**
 Fiduciary responsibilities, **7:26**
 Laws and regulations governing, **7:23**
 Plan document compliance, **7:26**
 Policy assets, **13:5**
 Pooled accounts, **14:36**
 Prohibited transaction exemption, **13:35**
 Prudent man rule, **7:26**
 Roles, **13:1**
 Interest-free loans between plans and parties in interest (PTE 80-26), **13:40**
 Investment advice, definition, **14:35**
 Investment managers
 Appointment, **13:4, 13:5**
 Fiduciaries, **13:18**
 Proxy voting, **13:26**
 Investment options
 Contents of notice, **13:58**
 DOL regulations, **13:60**
 Fees, **13:59**
 Notice, **13:58**
 Qualified default investment alternatives, **13:57**
 Responsibilities of fiduciaries, generally, **13:56 to 13:60**
 Investment requirements
 Generally, **14:29**
 Assets held outside jurisdiction of United States district courts, **14:34**
 Diversification, **14:32**
 Duty of loyalty, **14:30**
 Exclusive benefit rule, **14:30**

INDEX

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)—Cont'd

Investment requirements—Cont'd
Fiduciary fees, **14:30**
Governing documents, **14:33**
Indicia of ownership, **14:34**
Investment Company Act of
1940 study, **14:37**
Participant directed invest-
ments, **14:35 to 14:38**
Participant education versus
investment advice, **14:38**
Plan expenses, **14:29**
Pooled investment vehicles,
14:36
Prudent man rule, **14:31**
Responsibilities, **14:29 to 14:34**
Section 404(c) safe harbor,
14:35
Use of pooled investment
vehicles, **14:36**
Keogh plans
Establishment of trust, **13:5**
Securities Act of 1933 registra-
tion, **15:4**
Key Prohibited Transaction
Exemptions, **App 3B**
Kickbacks, **13:28**
Lending of securities (PTE 81-6),
13:42
Liability of fiduciaries
Bonding, **13:53**
Breach by co-fiduciary, **13:50**
Breach of fiduciary duties,
13:49
Exculpatory provisions, **13:52**
Insurance, **13:52**
Penalties, **13:49**
Personal, **3:15, 13:49**
Successor fiduciaries, **13:49**
Loan of securities to parties in
interest, **13:28**
Marketable obligations, **13:29**

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)—Cont'd

Multi-employer pension plan,
reversion of assets to
employer, **13:5**
Mutual funds
Federal securities laws differ-
ences, **14:36**
Plan assets, **13:3**
Prohibited transaction exemp-
tion, **17:33**
Self-dealing, **17:31**
Named fiduciaries, **13:4**
Necessary services, **13:32**
Optional plan provisions, **13:4**
Overview, **1:11**
Participant directed investments
Common and collective trust
funds, **14:36**
Insurance company pooled
accounts, **14:36**
Mutual funds, **14:36**
Participant education, **14:38**
Pooled investment vehicles,
14:36
Safe harbor, **14:35**
Securities Exchange Commis-
sion study, **14:37**
Party in interest, **13:28**
Pension benefit plans, **13:2**
Plan assets, **13:3**
Plan documents
Compliance, **13:24**
Employee stock ownership
plans (ESOPs), **13:6**
Establishment of plan, **13:4**
Plan establishment, **13:4**
Plan sponsors serving as plan
administrators, **13:17**
Plan termination, allocation of
assets, **13:5**
Pooled investment vehicles, **17:31**
Prohibited transactions
Generally, **13:28**

**EMPLOYEE RETIREMENT
INCOME SECURITY ACT
OF 1974 (ERISA)—Cont'd**

Prohibited transactions—Cont'd
Administrative exemptions,
13:38 to 13:46
Asset allocation arrangements,
13:47
Employer real property, **13:29**
Employer securities, **13:29**
Excise taxes, **13:49**
Exemptions
Generally, **13:30**
Bank ancillary services,
13:36
Bank collective investment
funds and parties in
interest (PTE 80-51),
13:41
Bank deposits, **13:34**
Common and collective trust
funds, **13:37**
Employee stock ownership
plan loans, **13:33**
In-house asset managers
(PTE 96-23), **13:45**
Insurance products, **13:35**
Interest-free loans between
plans and parties in
interest (PTE 80-26),
13:40
Investment in open end
mutual funds (PTE
77-4), **13:39**
Lending of securities (PTE
81-6), **13:42**
Necessary services, **13:32**
Participant loans, **13:31**
Purchase and sale of foreign
currencies (PTE 94-20),
13:46
Qualified professional asset
managers (PTE 84-14),
13:44
Short-term investments (PTE
81-8), **13:43**

**EMPLOYEE RETIREMENT
INCOME SECURITY ACT
OF 1974 (ERISA)—Cont'd**

Prohibited transactions—Cont'd
In-house asset managers (PTE
96-23), **13:45**
Insurance company regulation,
7:27
Kickbacks, **13:28**
Loan or credit extension
between plan and party in
interest, **13:28**
Motive, **13:28**
Sale, lease or exchange of prop-
erty between plan and
party in interest, **13:28**
Self-dealing, **13:28**
Services between plan and party
in interest, **13:28**
Statutory exemptions, **13:31 to
13:37**
Tax on, 26 U.S.C.A. § 4975,
App 3C
Transfer of assets to party in
interest, **13:28**
Prudent man rule, **13:22, 14:31**
Purchase and sale of foreign cur-
rencies (PTE 94-20), **13:46**
Qualified professional asset
managers (PTE 84-14), **13:44**
Qualifying employer real property,
13:29
Qualifying employer security,
13:29
Retirement plan fiduciaries,
responsibilities of, **13:27,
13:54**
Safe harbor, **14:35**
Sale, lease or exchange of prop-
erty between plan and party
in interest, **13:28**
Self-dealing
Liability, **3:15**
Mutual funds, **17:31**
Prohibited transactions, **13:28**

INDEX

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)—Cont'd

Services between plan and party in
interest, **13:28**
Short-term investments (PTE
81-8), **13:43**
Tax exempt organizations, **13:5**
Text of Title I, **App 3A**
Title I (29 USCS §§ 1001-1191c),
App 3A
Transfer of assets to party in inter-
est, **13:28**
Trustees, appointment, **13:5**
Trust establishment, **13:5**
Unfunded “top hat” plans, **13:2**
Unions, **13:14**
Welfare benefit plan, **13:2**

EMPLOYER STOCK OWNERSHIP PLANS (ESOPS)

Benefit distribution, **13:6**
Definitions, **13:6 to 13:20**
Discretionary control over plan
assets and management,
13:10
Exemptions, **13:6**
Fiduciary liability, **3:16**
Investment advisors, **13:11**
Leveraged ESOP, **13:6**
Loan or credit extension between
plan and party in interest,
13:33
Named fiduciary, **13:8, 13:9**
Participant voting, **13:6**
Plan administrators, **13:12**
Plan documents, **13:6**
Prohibited transaction exemption,
13:6
Proxy voting, **13:6**
Requirements, **13:6**
Valuation of securities, **13:6,**
13:20

ENHANCED DUE DILIGENCE

Bank secrecy act, **10:3**

ENRON

Employee Retirement Income
Security Act of 1974
(ERISA), **13:27, 13:54**

ENVIRONMENTAL LIABILITY

Account review, **20:13**
Asset Conservation, Lender
Liability and Deposit Insur-
ance Protection Act, **3:30**
Liability of fiduciaries, **20:12**
Auction activities, **20:6**
Audits, **20:13**
Bank trust departments, **20:2**
Case law, **20:4 to 20:7**
Cleanup funds, **20:1**
Comprehensive Environmental
Response, Compensation and
Liability Act
Generally, **20:1**
Effect on CERCLA, **20:12**
Innocent trustees, **3:30**
Joint and several liability, **20:2**
Operators, **20:1**
Owners, **20:1**
Personal liability, **20:8**
Responsible parties, **20:1**
Strict liability, **20:2**
Superfund, **20:1**
Corporate trustees, **20:3, 20:8**
Defenses
Acts of God, **20:9**
Acts of war, **20:9**
Innocent purchaser, **3:30, 20:8,**
20:9
Property received by inheri-
tance or bequest, **20:8,**
20:9
Security interest, **20:10**
Third-party acts or omissions,
20:8, 20:9
Definitions
Fiduciary, **20:12**

ENVIRONMENTAL LIABILITY

—Cont'd

Definitions—Cont'd
 Operators, **20:3**
 Owner, **20:3**
 Employee benefit plans, **20:2**
 Environmental Protection Agency, **20:11**
 Estates, **20:13**
 Fiduciaries, **3:30, 20:1 to 20:13**
 Financial management participation, **20:6**
 Foreclosure
 Purchase to protect security interest, **20:5**
 Trust property, **20:2**
 Governing instrument language, **20:13**
 Indemnification, **20:8**
 Independent real estate manager, **20:2**
 Indicia of ownership, **20:7**
 Innocent purchaser, **3:30, 20:8, 20:9, 20:13**
 Innocent trustees, **3:30**
 Insurance coverage, **20:13**
 Joint and several liability, **20:2**
 Lenders
 Corporate trustees, **20:3 to 20:7**
 EPA rule, **20:11**
 Minimizing risk, **20:13**
 Operators
 Generally, **20:1**
 Bank trust departments, **20:2**
 Definition, **20:3**
 Financial management participation, **20:6**
 Participation in operation of business, **20:4**
 Owners
 Generally, **20:1**
 Bank trust departments, **20:2**
 Definition, **20:3**
 Foreclosure on trust property, **20:8**

ENVIRONMENTAL LIABILITY

—Cont'd

Owners—Cont'd
 Purchasers of foreclosure properties, **20:5**
 Secured creditor's exemption, **20:7**
 Participation in operation of business, **20:4**
 Payment
 Noncollateralized assets, **20:2**
 Superfund, **20:1**
 Personal liability, **3:30, 20:8, 20:11**
 Policy establishment, **20:13**
 Property received by inheritance or bequest, **20:8, 20:9**
 Real estate committees, **20:13**
 Secured creditor's exemption, **20:7**
 Secured lender liability, **20:11**
 Security interest defense, **20:10**
 EPA rule, **20:11**

ENVIRONMENTAL PROTECTION AGENCY

See Comprehensive Environmental Response, Compensation and Liability Act

ESCHEAT OF ASSETS

Employee benefit plans, **13:3**

ESCROW AGENT

Fiduciaries, **12:18**

ESTATE PLANNING

Liability involving, **3:7**

ESTATES

Environmental liability, **20:2**
 Escheat practices, **3:9**
 Fiduciary liability, **3:7**
 Jurisdiction, **11:2**
 Notice, **3:8**

INDEX

ETHICS

- Compliance programs, avoidance of liability, **18:44**
- Personal securities transactions, **5:12**

EXCLUSIVE BENEFIT RULE

- Apportionment of costs solely benefiting one participant, **13:21**
- Domestic relations order, expenses, **13:21**
- Employee Retirement Income Security Act of 1974 (ERISA)
 - Fiduciaries, **13:21, 14:30**
 - Insurance companies, **7:26**
- Fiduciaries, **13:21, 14:30**
- Insurance companies, **7:26**
- Investment requirements, **14:30**

EXECUTION OF SECURITIES TRANSACTIONS

- Fiduciaries, failure to obtain best execution, **3:29**

EXECUTIVE COMPENSATION

- Dodd-Frank Wall Street Reform and Consumer Protection Act, **22:31**
- Duty of loyalty, corporate directors, officers and controlling shareholders, **2:16**

EXPENSES

- Dodd-Frank Act. See Dodd-Frank Wall Street Reform and Consumer Protection Act
- Fiduciaries. See Fiduciaries

FAIR AND ACCURATE TRANSACTION ACT OF 2003

- Fraudulent access to customer information, **8:8**

FAIR CREDIT REPORTING ACT

- Fiduciaries, **1:13**

FAIR CREDIT REPORTING

ACT—Cont'd

- Fiduciaries, compliance risks, **18:4**
- Protection of consumer credit information, **8:8**

FEDERAL AVIATION ACT

- Fiduciaries, **1:1**

FEDERAL BUREAU OF INVESTIGATION

- Recovery of lost, stolen or counterfeit securities report, **21:12**

FEDERAL COMMUNICATIONS COMMISSION

- Fiduciary reports, FCC Form 323, **21:31, App 6T**
- Ownership report, **21:31**

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

- Annual examination, **18:6**
- Annual report of trust assets, **21:2**
- Audits, **18:7**
- Board of directors
 - Annual examination, **18:6**
 - Duties, **18:1, 18:5 to 18:7**
 - Independent audit committees, **18:7**
- Collateralization of trust funds held in excess of insurance coverage, **4:17**
- Discount brokerage, **17:25**
- Dodd-Frank Act. See Dodd-Frank Wall Street Reform and Consumer Protection Act
- Federal Deposit Insurance Corporation Improvement Act, **18:6**
- Independent audit committees, **18:7**
- International transactions, **19:2**
- Managerial compensation, **18:7**

FEDERAL DEPOSIT

INSURANCE

CORPORATION (FDIC)

—Cont'd

- Mutual funds, **17:25**
- State bank regulatory agency, **4:1**

FEDERAL PREEMPTION

- Banks' multi-state fiduciary operations, **4:14**
- Employee benefit trust services, **13:3, 13:19**
- Employee Retirement Income Security Act of 1974 (ERISA), **3:9, 3:10**
- Escheat laws, **3:10**
- Fiduciary liability, **3:15**
- Insurance, **7:24**
- Fair Credit Reporting Act, **8:8**
- Gramm-Leach Bliley Act, **8:1**
- Insurance
 - Antitrust laws, **7:21**
 - Employee Retirement Income Security Act of 1974 (ERISA), **7:24**
 - Unfair competition, **7:12**
- Investment advisors and investment companies, **1:9, 5:33**
- National Securities Markets Improvement Act, **1:9, 5:33**
- Operational liability of fiduciaries, **3:9**
- Regulation 9, **4:14**
- Unfair competition, bank insurance, **7:12**

FEDERAL RESERVE ACT

- Edge and Agreement Corporations, **19:4**
- Edge Corporations, **19:2**
- International transactions, **19:2**

FEDERAL RESERVE BOARD

- Annual reports
 - International fiduciary activities, **21:5**
 - Trust assets, **21:2**

FEDERAL RESERVE BOARD

—Cont'd

- Dodd-Frank Act. See Dodd-Frank Wall Street Reform and Consumer Protection Act
- Mutual funds, guidelines, **17:30**
- Regulation H, **15:14**
- Regulation Y, **17:23**
- State bank regulatory agency, **4:1**
- Swap transactions, **15:14**

FEES AND CHARGES

- Administrators, mutual funds, **17:6**
- Advertising, **5:22**
- Arbitration, **6:30**
- Asset allocation programs, **15:9**
- Audits, **16:5, 16:9**
- Common and collective trust funds
 - Admission and withdrawal fees, **16:8**
- Agents, **16:5**
- Audits, **16:5, 16:9**
- Financial reports, **16:10**
- Fund management, **16:5**
- Late charges on notes or mortgages, **16:10**
- Management fees, **16:13**
- Management of fund, **16:5**
- Mortgage services, **16:5**
- OCC summary, **16:5**
- Outside investment advisers, **16:5**
- Plan amendment, **16:14**
- Pricing services, **16:5**
- Property sale charges to withdrawing participants, **16:5**
- Real estate commissions, **16:14**
- Sweep fees, **16:13**
- Valuation of assets, **16:5**
- Custodians, mutual funds, **17:10**
- Employee benefit trust services, 12b-1 fees, **13:28, 13:48**

INDEX

FEES AND CHARGES—Cont'd

- Executive compensation, **2:16**
- Fee concessions, **4:22**
- Fiduciaries. *See* Fiduciaries
- Financial reports, **16:10**
- Fund management, **16:5**
- Investment advisers
 - Investment Advisers Act of 1940, **5:25**
 - Mutual funds, **17:4**
 - Performance fee agreements, **5:22, 5:25**
 - Splitting fees with nonadviser, **5:15**
- Investment Advisers Act of 1940
 - Performance fees, **5:25**
 - Prepaid fees, pro rata refund, **5:25**
 - Referral fees for solicitors, **5:26**
- Investment management, **14:30**
- Legal expenses of officers and directors, **18:12**
- Managerial compensation, **18:7**
- Mutual funds
 - Administrators, **17:6**
 - Custodians, **17:10**
 - Investment advisers, **17:4**
 - Sales personnel, **17:30**
 - Transfer agents, **17:11**
- Performance
 - Advertising, **5:22**
 - Fees, **5:25**
- Plan amendment, common and collective trust funds, **16:14**
- Real estate commissions, common and collective trust funds, **16:14**
- Reasonableness, **3:12, 4:22**
- Referral fees, **4:22**
- Sales personnel, mutual funds, **17:30**
- Sweep fees
 - Authorization, **4:17**
 - Common and collective trust funds, **16:13**

FEES AND CHARGES—Cont'd

- Sweep fees—Cont'd
 - Common trust funds, **16:13**
 - Liability, **3:12**
 - Prohibited ERISA transaction, **4:17**
- Transfer agents, mutual funds, **17:11**
- Valuation of assets, common and collective trust funds, **16:5**
- Wrap fees, **15:9**

FIDUCIARIES

- See also* Corporate Trusts;
Employee Benefit Plans;
Employee Retirement Income Security Act of 1974 (ERISA)
- Accountants, **2:8**
- Accounting, **1:14, 11:22**
- Accounts, documentation, **4:13**
- Adjustment powers, income and principal, **11:28**
- Agents
 - Attorneys-in-fact, **2:6**
 - Relationships and duties, **2:2**
- Annual report of international fiduciary activities, **21:4, 21:5**
- Appointment, powers of, **11:5**
- Asset protection trusts administration, **3:34**
- Attorney-client privilege, **3:32**
- Attorneys, **2:7**
- Attorneys-in-fact, **2:6**
- Auditor independence
 - Sarbanes-Oxley Act of 2002, **1:14**
 - Securities Exchange Act of 1934, **2:8**
- Authority to act, **11:6 et seq.**
- Bankruptcy trustees, **2:9, 7:13**
- Banks
 - See also* other entries throughout this topic
 - Environmental liability, **20:2**

FIDUCIARIES—Cont'd

Banks—Cont'd
 Holding shares of fiduciary bank's own stock, **3:5**
 Lender and fiduciary conflict of interest, **3:4**
 Regulation 9, **1:2**
 Regulation 12, **1:3**
 Trustee and creditor conflict of interest, **3:4**
 Breach of trust
 Liability, **11:44**
 Brokers and dealers, **6:20**
 Claim enforcement, **11:30**
 Class actions, **3:11**
 Commission resources and authority, Sarbanes-Oxley Act of 2002, **1:14, 9:6**
 Common and collective trust funds, **3:12, 14:36**
 Communication with parties in interest, **3:8**
 Compensation, **4:22, 11:42**
 Compliance risks, **18:4**
 Conflicts of interest
 Generally, **3:2**
 Bank acting as lender and fiduciary, **3:4**
 Bank as trustee and creditor, **3:4**
 Breach of duty of loyalty, **3:2, 3:3**
 Competition with beneficiaries, **3:2**
 Dealings with closely held corporations, **3:3**
 Discretion, **3:2**
 Guidelines for avoidance, **3:1**
 Holding shares of fiduciary bank's own stock, **3:5**
 Investment of income cash, **3:6**
 Personal profit, **3:2**
 Remainderman as trustee, **3:3**
 Sarbanes-Oxley Act of 2002, **1:14, 9:5**
 Self-dealing, **3:2**

FIDUCIARIES—Cont'd

Consent of beneficiaries
 Self-dealing by fiduciary, **4:19**
 Conservators, **2:5**
 Controlling shareholders
 Business judgment rule, **2:12**
 Corporate opportunity doctrine, **2:17**
 Duty of care, **2:11, 2:13**
 Duty of loyalty, **2:14**
 Liability to minority shareholders, **2:19**
 Relationships and responsibilities, **2:10 to 2:19**
 Sale of controlling interest, **2:18, 2:19**
 Self-dealing, **2:15**
 State statutory modifications, **2:13**
 Conversion of assets, **3:25**
 Corporate directors, officers and controlling shareholders
 Business judgment rule, **2:12**
 Corporate opportunity doctrine, **2:17**
 Duty of care, **2:11, 2:13**
 Duty of loyalty, **2:14 to 2:19**
 Executive compensation, **2:16**
 Relationships and duties, generally, **2:10**
 Sale of controlling interest, **2:18**
 State statutory modifications, **2:13**
 Corporate fiduciaries
 Authority to act, **11:7, 11:8**
 Delegation of powers by board of directors, **4:13**
 Duty of loyalty, **12:7**
 Environmental liability, **20:1 to 20:13**
 Hold shares of trustee's own stock, **11:17**
 Indenture trustees, **12:1, 12:5 to 12:15**

INDEX

FIDUCIARIES—Cont'd

- Corporate fiduciaries—Cont'd
 - Trust Indenture Act of 1939, **12:2 to 12:15**
- Corporate opportunity doctrine, **2:17**
- Corporate responsibility,
 - Sarbanes-Oxley Act of 2002, **1:14, 9:3**
- Corporate trustees, liability as, **3:33**
- Crime Control Act, **1:15**
- Defend actions, **11:30**
- Definition, **2:1, 4:11**
- Delegation of powers, **11:16**
 - Life insurance duties, **11:39**
- Deposit of funds
 - Personal trust services, **11:20**
- Deposit of securities, **4:20**
- Disclosure
 - Agricultural Foreign Investment Disclosure Act, **1:1**
 - Brokers and dealers. See Brokers and Dealers
 - Financial disclosures, Sarbanes-Oxley Act of 2002, **1:14, 9:4**
 - Investment advisers. See Investment Advisers
 - Self-dealing, **4:19**
- Diversification
 - ERISA investment responsibilities, **14:32**
 - Insurance companies, **7:26**
 - Trustees, failure to diversify, **3:13**
- Dodd-Frank Wall Street Reform and Consumer Protection Act, **1:17**
- Duties
 - Accountants to clients and third parties, **2:8**
 - Accounting, **11:22**
 - Agent to principal, **2:2**

FIDUCIARIES—Cont'd

- Duties—Cont'd
 - Assets, secure and keep control of, **11:24**
 - Attorneys-in-fact, **2:6**
 - Attorneys to clients and courts, **2:7**
 - Claim enforcement, **11:30**
 - Communication with parties in interest, **3:8**
 - Controlling shareholders to minority shareholders, **2:19**
 - Corporate directors, officers and controlling shareholders corporations and stockholders, **2:10 to 2:19**
 - Defend actions, **11:30**
 - Executor or administrator, **2:4**
 - Exercise reasonable care and skill, **11:23**
 - Furnish information, **11:22**
 - Grantors of power of attorney, **2:6**
 - Guardians to wards, **2:5**
 - Impartiality with beneficiaries, **11:32**
 - Income, payment to beneficiary, **11:31**
 - Loyalty. Duty of loyalty, below
 - Personal representatives, **2:4**
 - Personal Trust Services, below
 - Preservation of trust property, **11:25**
 - Separation of trust property from other property, **11:21**
 - Trustees in bankruptcy to creditors, **2:9**
 - Trustees to beneficiaries, **2:3**
- Duty of loyalty
 - Corporate directors, officers and controlling shareholders, **2:14 to 2:19**
 - Corporate trust services, **12:7**

FIDUCIARIES—Cont'd

- Duty of loyalty—Cont'd
 - ERISA investment responsibilities, **14:30**
 - Executive compensation, **2:16**
 - Liability for breach of duty of loyalty, **3:2, 3:3**
 - Personal trust services, **11:18**
- Employee Retirement Income Security Act of 1974 (ERISA)
 - Assets held outside jurisdiction of United States district courts, **14:34**
 - Diversification, **14:32**
 - Duty of loyalty, **14:30**
 - Exclusive benefit rule, **14:30**
 - Fiduciary fees, **14:30**
 - Governing documents, **14:33**
 - Indicia of ownership, **14:34**
 - Investment of ERISA assets, **14:31**
 - Liability, **3:15**
 - Overview, **1:11**
 - Participant directed investments, **14:35 to 14:38**
 - Plan expenses, **14:30**
 - Prudent man rule, **14:31**
 - Responsibilities, **14:29 to 14:34**
 - Trustees, **3:15**
- Employer stock ownership plans (ESOPs), **3:16**
- Enhanced financial disclosures, Sarbanes-Oxley Act of 2002, **9:4**
- Environmental liability, **3:30, 20:1 to 20:13**
- Escheat practices, **3:9**
- Escrow agent, **12:18, 12:19**
- Estates, **11:2, 20:2**
- Exchanging life insurance policies, **11:40**
- Exclusive benefit rule, **14:30**
- Execution, failure to obtain best, **3:29**

FIDUCIARIES—Cont'd

- Executive compensation, **2:16**
- Executor or administrator, **2:4**
- Exercise powers of shareholders, **11:15**
- Expenses
 - Defense of fee challenge, **3:12**
 - Personal trust services, **11:10**
- Failure to communicate, **3:8**
- Fair Credit Reporting Act, **1:13**
- False advertising, **3:27**
- Fees
 - Banks' fiduciary activities, **4:22, 4:28**
 - ERISA investment responsibilities, **14:30**
 - Liability, **3:12**
 - Recovery, defense of fee challenge, **3:12**
- Financial disclosures, Sarbanes-Oxley Act of 2002, **1:14, 9:4**
- Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA), **1:15**
- Fraud accountability, Sarbanes-Oxley Act of 2002, **1:14, 9:8, 9:11**
- Gift of trust property, **11:13**
- Glass-Steagall Act, **1:4, 1:5**
- Governing documents
 - ERISA investment responsibilities, **14:33**
 - Investments in fiduciary accounts, **4:18**
- Gramm-Leach-Bliley Act, **1:16**
- Grantors of power of attorney, **2:6**
- Guardians, **2:5**
- Holding shares of fiduciary bank's own stock, **3:5**
- Hold life insurance duties, **11:33 to 11:40**
- Hold shares
 - Fiduciary bank's own stock, **3:5**
 - Trustee's own stock, **11:17**

INDEX

FIDUCIARIES—Cont'd

- Impartiality with beneficiaries, **11:32**
- Income, payment to beneficiary, **11:31**
- Income and principal, allocation of, **11:43**
- Incur expenses, **11:10**
- Insurance company pooled accounts, **14:36**
- Insurance policies
 - Life insurance, below
- International Money Laundering Abatement and Anti-Terrorist Financing Act, **1:12, 6:32**
- Investment
 - Derivatives, **4:18**
 - Failure to diversify, **3:13**
 - Fiduciary accounts, **4:18**
 - Income cash, **3:6**
 - Liability, **3:13**
- Investment Advisers Act of 1940, **1:4, 1:9**
- Investment Company Act of 1940, **1:4, 1:8**
- Jurisdiction
 - Generally, **11:1**
 - Estates, **11:2**
 - Personal property, **11:4**
 - Powers of appointment, **11:5**
 - Real property, **11:3**
 - Trusts, **11:2**
- Laws and regulations governing
 - Agricultural Foreign Investment Disclosure Act, **1:1**
 - Atomic Energy Act, **1:1**
 - Commodity Exchange Act, **1:1**
 - Communications Act of 1934, **1:1**
 - Crime Control Act, **1:15**
 - Dodd-Frank Wall Street Reform and Consumer Protection Act, **1:17**
 - Employee Retirement Income Security Act of 1974

FIDUCIARIES—Cont'd

- Laws and regulations governing—Cont'd
 - (ERISA), **1:1, 1:11**
 - Federal Aviation Act, **1:1**
 - Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA), **1:15**
 - Foreign Dredge Act, **1:1**
 - Foreign Investment in Real Property Tax Act, **1:1**
 - Glass-Steagall Act, **1:1, 1:4**
 - Gramm-Leach-Bliley Act, **1:16**
 - Internal Revenue Code, **1:1**
 - Interstate Commerce Act, **1:1**
 - Investment Advisers Act of 1940, **1:1, 1:4, 1:9**
 - Investment Company Act of 1940, **1:1, 1:4, 1:8**
 - Merchant Marine Act, **1:1**
 - Public Utility Holding Company Act of 1935, **1:1**
 - Regulation 9, **1:1, 1:2**
 - Regulation 12, **1:3**
 - Sarbanes-Oxley Act of 2002, **1:14**
 - Securities Act of 1933, **1:1, 1:4, 1:6**
 - Securities Exchange Act of 1934, **1:1, 1:4, 1:7**
 - Shipping Act, **1:1**
 - Trust Indenture Act of 1939, **1:4, 1:10**
 - USA Patriot Act, **1:12**
- Lease of land, **11:12**
- Liability
 - Accountants, **2:8**
 - Agent exceeding authority, **2:2**
 - Asset protection trusts
 - administration, **3:34**
 - Avoidance, **18:29 to 18:45**
 - Bank examination reports, **3:14**
 - Breach of duty of loyalty, **3:2, 3:3**

FIDUCIARIES—Cont'd

Liability—Cont'd
 Breach of trust, **11:44**
 Business judgment rule, **2:12**
 Class actions, **3:11**
 Conflicts of interest, **3:2 to 3:6**
 Controlling shareholders to minority shareholders, **2:19**
 Conversion of assets, **3:25**
 Corporate directors, officers and controlling shareholders, **2:11 to 2:13**
 Corporate opportunity doctrine, **2:17**
 Corporate trustees, liability as, **3:33**
 Employee Retirement Income Security Act of 1974 (ERISA), **3:15**
 Employer stock ownership plans (ESOPs), **3:16**
 Environmental liability, **3:30**
 Escheat practices, **3:9**
 Escrow agent, **12:19**
 Estate planning, **3:7**
 Execution, failure to obtain best, **3:29**
 Executor or administrator, **2:4**
 Expanded exposure, **3:1**
 Failure to communicate, **3:8**
 Failure to maintain records, **3:24**
 Failure to supervise, **3:23**
 False advertising, **3:26 to 3:28**
 Fee-based services, **3:12**
 Grantors of power of attorney, **2:6**
 Guardians, **2:5**
 Guidelines for avoidance, **3:1**
 Idle cash, **4:17**
 Investment activities, **3:13**
 Life insurance administration, **3:17 to 3:20**
 Life settlements, **3:21**

FIDUCIARIES—Cont'd

Liability—Cont'd
 Misleading performance, **3:28**
 Multiple party accounts, **11:41**
 Officers and directors, **3:15, 3:16**
 Operational exposure, **3:9**
 Personal, **3:31**
 Personal representatives, **2:4**
 Sale of controlling interest, **2:18**
 Securities laws violations, **3:22 to 3:29**
 Self-dealing, **3:2**
 Trade allocations, improper, **3:26**
 Trustees, **2:3**
 Trustees in bankruptcy to creditors, **2:9**
 Unclaimed property, **3:10**
 Life insurance
 Generally, **11:33 to 11:40**
 Case law, **11:37**
 Delegation, **11:39**
 Duties, **3:17 to 3:20, 3:31**
 Exchanging policies, **3:20, 11:40**
 Liability, **3:17 to 3:20**
 Policy performance, **3:18**
 Prudent Investor Rule, **11:35**
 Regulation 9, **11:36**
 Reliance of agent selling policy, **11:38**
 Selection of vendor, **3:19**
 Terms of governing instrument, **11:34**
 Life settlements, **3:21**
 Loans, **4:19**
 Misleading performance, **3:28**
 Money laundering, **1:12, 6:32**
 Mortgage property, **11:14**
 Multiple party accounts, **11:41**
 Multistate fiduciary operations, **4:14**
 Municipal bond underwriting syndicates, **4:19**

INDEX

FIDUCIARIES—Cont'd

- Mutual funds, **14:36**
- NASA Anti-Money Laundering Compliance Program Rule, **6:32**
- National Securities Markets Improvement Act of 1996, **1:4, 1:8, 1:9**
- Nonresident fiduciaries
 - Selected state statutes governing, **App 9A**
 - Types of nonresident fiduciary laws, **App 9B**
- Officers and directors
 - Fees, **4:28**
 - Liability, **3:15, 3:16**
- Operational exposure, **3:9**
- Outsourcing services, **4:11**
- Participant directed investments
 - Common and collective trust funds, **14:36**
 - ERISA investment requirements, **14:35 to 14:38**
 - Insurance company pooled accounts, **14:36**
 - Mutual funds, **14:36**
 - Participant education, **14:38**
 - Pooled investment vehicles, **14:36**
 - Safe harbor, **14:35**
 - Securities Exchange Commission study, **14:37**
- Performance, misleading, **3:28**
- Personal liability, **3:31**
- Personal representatives, **2:4**
- Personal trust services
 - Generally, **11:1 et seq.**
 - Authority to act, **11:6 to 11:8**
 - Duties
 - Generally, **11:18 to 11:41**
 - Adjust, power to, **11:28**
 - Assets, secure and keep control of, **11:24**
 - Deal impartially with beneficiaries, **11:32**

FIDUCIARIES—Cont'd

- Personal trust services—Cont'd
 - Duties—Cont'd
 - Defend actions, enforce claims and, **11:30**
 - Delegation, life insurance policies held in trust, **11:39**
 - Deposits, placement in bank's own banking department, **11:20**
 - Enforce claims and defend actions, **11:30**
 - Exchanging policies, life insurance policies held in trust, **11:40**
 - Governing instrument, terms governing, life insurance policies held in trust, **11:34**
 - Income, payment to beneficiary, **11:31**
 - Information, render accounts and furnish, **11:22**
 - Keep property separate, **11:21**
 - Life insurance policies held in trust, **11:33 to 11:40**
 - Loyalty, **11:18**
 - Make funds productive, **11:19**
 - Multiple party accounts, **11:41**
 - Preserve trust property, **11:25**
 - Prudent Investor Rule, life insurance policies held in trust, **11:35**
 - Reasonable care and skill, **11:23**
 - Regulation 9, life insurance policies held in trust, **11:36**
 - Reliance of agent selling policy, life insurance policies held in trust, **11:38**

FIDUCIARIES—Cont'd

Personal trust services—Cont'd
 Duties—Cont'd
 Render accounts and furnish information, **11:22**
 Skill, reasonable care and, **11:23**
 Spendthrift trusts, **11:26**
 Uniform Principal and Income Act, **11:27**
 Unitrust, conversion to, **11:29**
 Jurisdiction, **11:1 to 11:5**
 Powers, **11:9 to 11:17**
 Special needs trusts, **11:59 to 11:66**
 Uniform Trust Code, **11:46 to 11:58**
 Plan expenses, **14:30**
 Pooled investment vehicles, **14:36**
 Power of attorney, **3:35**
 Power of attorney, refusal to honor, **11:45**
 Powers
 Generally, **11:9 to 11:17**
 Delegation, **11:16**
 Exercise powers of shareholders, **11:15**
 Gift of trust property, **11:13**
 Hold shares of trustee's own stock, **11:17**
 Incur expenses, **11:10**
 Lease land, **11:12**
 Mortgage property, **11:14**
 Regulation 9, **1:2**
 Sell property, **11:11**
 Thriffs, **4:27 to 4:29**
 Powers of appointment, **11:5**
 Preservation of trust property, **11:25**
 Principal, allocation of income and, **11:43**
 Protection of customers' information, **8:9**

FIDUCIARIES—Cont'd

Prudent Investor Rule
 Departures from Restatement Second, Trusts, **14:21 to 14:27**
 Prudent investor standard
 Restatement (Third) of Trusts, **14:17 to 14:28**
 Prudent man standard, history and development, **14:9 to 14:16**
 Uniform prudent investor rule, **14:1 to 14:8**
 Pubic Company Accounting Oversight Board, Sarbanes-Oxley Act of 2002, **1:14, 9:1**
 Purchase or retention of bank's own securities, **4:18**
 Receivership, **4:23**
 Red flag rules, **1:13**
 Regulation
 National Bank Act, **4:2 to 4:9**
 National banks, **4:1**
 Overview, **4:1**
 Reporting. Regulatory reporting, below
 State banks, **4:1**
 Regulation 9
 Life insurance, **11:36**
 Summary, **1:2**
 Regulation 12, **1:3**
 Regulatory reporting
 See also Reports, below
 Annual reports, **21:2, 21:4, 21:5**
 Corporate trust activities report under Trust Indenture Act, **21:8**
 Miscellaneous reports, **21:29 to 21:38**
 Securities Exchange Commission, **21:14 to 21:16**
 Securities Information Center, **21:10 to 21:13**
 Special report on fiduciary activities, **21:6, 21:7**

INDEX

FIDUCIARIES—Cont'd

- Regulatory reporting—Cont'd
 - Transfer agency reports, **21:25 to 21:28**
- Relationships
 - Generally, **2:1**
 - Accountants, **2:8**
 - Agency, **2:2**
 - Attorneys, **2:7**
 - Attorneys-in-fact, **2:6**
 - Conservators, **2:5**
 - Controlling shareholders, **2:19**
 - Corporate directors, officers and controlling shareholders, **2:10**
 - Executor or administrator, **2:4**
 - Grantors of power of attorney, **2:6**
 - Guardians, **2:5**
 - Personal representatives, **2:4**
 - Trustees, **2:3**
 - Trustees in bankruptcy, **2:9**
- Removal, trustees, **3:36**
- Reports
 - Annual report of trust assets, **App 6A**
 - FCC Form 323, **App 6T**
 - Federal Communications Commission Form 323, **21:31**
 - Maritime Administration Form MA-579, **App 6S**
 - Report of Assets and Liabilities of US Branches and Agencies of Foreign Banks, **App 6C**
 - SEC Form 3, **App 6K**
 - SEC Form 4, **App 6L**
 - SEC Form 5, **App 6M**
 - SEC Form 144, **App 6J**
 - SEC Form 13F, **App 6G**
 - SEC Form T-1, **App 6O**
 - SEC Form TA-1, **App 6P**
 - SEC Form TA-2, **App 6Q**
 - SEC Form TA-W, **App 6R**
 - SEC Form U-343-1, **App 6U**

FIDUCIARIES—Cont'd

- Reports—Cont'd
 - SEC Rule 13-H, **App 6N**
 - SEC Schedule 13D, **App 6H**
 - SEC Schedule 13G, **App 6I**
 - SIC Agreement Form for Indirect and Direct Inquiries, **App 6F**
 - SIC Form X-17F-1A, **App 6E**
 - SIC Registration Form, Lost and Stolen Securities Program, **App 6D**
 - Special report of fiduciary activities, **App 6B**
- Safe harbor
 - Investment of ERISA assets, **14:31**
 - Participant directed investments, **14:35**
- Sale of controlling interest, **2:18**
- Sales controlling interest
 - Property, **11:11**
 - Trust property to interested parties, **4:19**
- Sarbanes-Oxley Act of 2002, **1:14**
- Savings associations
 - Part 563e community reinvestment, **4:29**
 - Part 550 fiduciary powers, **4:28**
- Securities Act of 1933, **1:4, 1:6**
- Securities Exchange Act of 1934, **1:4, 1:7, 2:8, 15:18**
- Securities laws violations
 - Generally, **3:22**
 - Conversion of assets, **3:25**
 - Execution, failure to obtain best, **3:29**
 - Failure to maintain records, **3:24**
 - Failure to supervise, **3:23**
 - False advertising, **3:27**
 - Misleading performance, **3:28**
 - Trade allocations, improper, **3:26**

FIDUCIARIES—Cont'd

Self-dealing, **2:15**
 Banks, **4:19**
 Compensation, **4:22**
 Corporate opportunity doctrine, **2:17**
 Custody of investment funds, **4:21**
 Deposit of securities, **4:20**
 Disclosure, **4:19**
 Duty of loyalty, **2:15**
 Liability, **3:2**
 Loans, **4:19**
 Municipal bond underwriting syndicates, **4:19**
 Purchase or retention of bank's own securities, **4:18**
 Regulation 9, **4:19 to 4:22**
 Sale of trust property, **4:19**
 Savings associations, **4:28**
 Social investments, **14:33**
 Special needs trusts. See Special Needs Trusts
 Spendthrift trusts, **11:26**
 State statutory modifications, **2:13**
 Studies and reports, Sarbanes-Oxley Act of 2002, **1:14, 9:7**
 Surrender of fiduciary powers, **4:24**
 Suspicious activity reporting rule for broker-dealers, **6:32**
 Tax returns, Sarbanes-Oxley Act of 2002, **1:14, 9:10**
 Termination of activities, **4:28**
 Terrorist funding, **1:12**
 Third parties, relationship and responsibilities of accountants, **2:8**
 Thrifts, fiduciary powers, **4:27**
 Trade allocations, improper, **3:26**
 Transfer agents, **4:26**
 Trustees, **2:3**
 Bankruptcy, **2:9, 7:13**
 Employee Retirement Income Security Act of 1974

FIDUCIARIES—Cont'd

Trustees, **2:3—Cont'd**
 (ERISA), **3:15**
 Removal, **3:36**
 Trust income, **11:43**
 Trust Indenture Act of 1939, **1:4, 1:10**
 Trusts
 Gift of trust property, **11:13**
 Jurisdiction, **11:2**
 Personal trust services, generally, **11:1 et seq.**
 Trustee compensation, **11:42**
 Unclaimed property, **3:10**
 Uniform Principal and Income Act, **11:27**
 Uniform prudent investor rule
 History and development, **14:1**
 Restatement Third, Trusts, **14:1**
 Uniform Prudent Investor Act (UPIA), **14:1**
 Uniform Trust Code. See Uniform Trust Code
 Unitrust, conversion to, **11:29**
 USA Patriot Act
 Bank secrecy, **1:12**
 Broker-dealer regulation, **6:32**
 Laws and regulations governing, **1:12**
 Overview, **1:12**
 White collar crime penalty enhancements, Sarbanes-Oxley Act of 2002, **1:14, 9:9**
15 U.S.C.A. §§ 80a-TO-80a-64
 Investment Company Act of 1940, **App 1D**
15 U.S.C.A. §§ 78a TO 78kk
 Securities Exchange Act of 1933, **App 1B**
15 U.S.C.A. §§ 80b TO 1-80b-21
 Investment Advisers Act of 1940, **App 1C**

INDEX

15 USCS §§ 1011-1015

McCarran-Ferguson Act, **App 1G**

15 USCS §§ 77aaa TO 77bbbb

Trust Indenture Act of 1939, **App 1E**

FINANCIAL INFORMATION ANTI-FRAUD ACT OF 1999

Customer privacy, **8:8**

FINANCIAL INSTITUTION REFORM, RECOVERY AND ENFORCEMENT ACT (FIRREA)

Board of directors

Freezing assets, **18:11**

Liability, **18:9**

Restraining transfer of personal
assets, **18:11**

Civil money penalties, **18:9**

Criminal penalties, procedural
safeguards, **18:10**

Federal preemption, **1:15**

Fiduciaries

Federal preemption, **1:15**

Laws and regulations govern-
ing, **1:15**

Overview, **1:15**

Freezing assets, **18:11**

Overview, **1:15**

Restraining transfer of personal
assets, **18:11**

FINANCIAL MODERNIZATION ACT OF 1999

Definitions

Consumer, **8:2**

Financial institution, **8:2**

Nonaffiliated third parties, **8:2**

Fiduciaries

Compliance risks, **18:4**

Laws and regulations govern-
ing, **1:16**

Overview, **1:16**

FINANCIAL MODERNIZATION ACT OF 1999—Cont'd

Financial information privacy
protections

Generally, **8:1**

Consumer opt out provision,
8:5

Definitions, **8:2**

False or fraudulent acts, **8:7**

Prohibited disclosures, **8:4**

Requirements for proper
disclosure, **8:3**

Service or product exception,
8:6

Gramm-Leach-Bliley Act. See
entries throughout this topic

Overview, **1:16**

Registration of bank securities
activities, **4:30 to 4:33**

FINANCIAL STABILITY

Dodd-Frank Act. See Dodd-Frank
Wall Street Reform and
Consumer Protection Act

FINANCIAL STABILITY OVERSIGHT COUNCIL

Dodd-Frank Wall Street Reform
and Consumer Protection
Act, **22:3**

FOREIGN ACTIVITIES

See International Transactions

FOREIGN DREDGE ACT

Fiduciaries, **1:1**

FOREIGN FUND ADVISER

Dodd Frank Act, exemption from
registration exemption, **5:8**

FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA)

Fiduciaries, **1:1**

Reports, **21:35**

FORMS

Annual Statement of Changes in Beneficial Ownership (SEC Form 5), **21:22**
 Corporate trusts
 IRS Form 1099B, **12:16**
 Redeemed bonds, **12:16**
 Statement of Eligibility Under the Trust Indenture Act of 1939 of a Corporation Designated to Act as Trustee (SEC Form T-1), **21:8**
 Disclosures, Registration Form N-1A, **15:15**
 Farm Service Agency Form ASCS-153, **21:36**
 FCC Form 323, **App 6T**
 Federal Communications Commission Form 323, **21:31**
 Form 5500, **App 5C**
 Form CRS, **App 5E**
 Identification Requirements for Large Traders (SEC Form 13h-1, republished), **21:23**
 Information Required of Institutional Investment Managers (SEC Form 13F), **21:17, 21:18**
 Initial offerings, **19:9**
 Initial Statement of Beneficial Ownership of Securities (SEC Form 3), **21:22**
 Insider transactions, **21:22**
 Investment Advisers Act of 1940
 Registration, **5:11**
 Registration Form N-1A, **15:15**
 SEC Form ADV, **4:32, 5:11, 5:20, 15:15**
 SEC Form ADV Part 1A, **5:11**
 SEC Form ADV Part II, **5:20**
 Investment Company Act of 1940, **15:15**
 IRS Form 1099B, **12:16**
 Lost and stolen securities, **21:12**

FORMS—Cont'd

Notice of Proposed Sale of Securities (SEC Form 144), **21:19**
 Ownership, **21:38**
 Redeemed bonds, **12:16**
 Registration as a Transfer Agent and for Amendment to Registration (SEC Form TA-1), **21:25**
 Registration Form BE-14, **21:38**
 Registration Form F-6, **19:9**
 Registration Form N-1A, **15:15**
 Reports
 Amendments, **6:14, 21:25**
 Annual Statement of Changes in Beneficial Ownership (SEC Form 5), **21:22**
 Farm Service Agency Form ASCS-153, **21:36**
 Form for Reporting Activities of Transfer Agents (SEC Form TA-2), **21:26**
 Information Required of Institutional Investment Managers (SEC Form 13F), **21:17, 21:18**
 Initial Statement of Beneficial Ownership of Securities (SEC Form 3), **21:22**
 Insider transactions, **21:22**
 Maritime Administration Form MA-580, **21:30**
 Missing/Lost/Stolen/Counterfeit Securities Report (SEC Form X-17F-1A), **21:12**
 Notice of Proposed Sale of Securities (SEC Form 144), **21:19**
 Registration as a Transfer Agent and for Amendment to Registration (SEC Form TA-1), **21:25**
 Registration Form BE-14, **21:38**
 Statement of Changes in Beneficial Ownership (SEC Form 4), **21:22**

INDEX

FORMS—Cont'd

Reports—Cont'd

Statement of Eligibility Under the Trust Indenture Act of 1939 of a Corporation Designated to Act as Trustee (SEC Form T-1), corporate Trusts, **21:8**

Revisions to Form ADV related to adopted Rule Release IA-4509, **App 5D**

Rule Release IA-4509, revisions to Form ADV related to adopted, **App 5D**

Sample forms

Form 5500, **App 5C**

Revisions to Form ADV related to adopted Rule Release IA-4509, **App 5D**

SEC Form ADV, **App 5A**

SEC Form BD, **App 5B**

SEC Form ADV, **4:32, 5:11, 5:20, 15:15, App 5A**

SEC Form ADV Part 1A, **5:11**

SEC Form BD, **6:13, 6:14, App 5B**

Securities Act of 1933, **19:9**

Securities Exchange Commission, **21:17 to 21:19**

Securities Information Center, **21:12**

Statement of Changes in Beneficial Ownership (SEC Form 4), **21:22**

Transfer agents, **21:14 to 21:26**

Uniform Application for Broker-Dealer Registration Form BD, **6:13, 6:14, App 5B**

FRAUD

Board of directors, **18:10**

Brokers and dealers

Boiler room operations, **6:21**

Churning, **6:25**

Fiduciary theory, **6:20**

Margin rules, **6:26**

FRAUD—Cont'd

Brokers and dealers—Cont'd

Market manipulation, **6:23**

Markup, failure to reveal, **6:19**

Scalping, **6:22**

Shingle theory, **6:19**

Unauthorized trading, **6:24**

Crime Control Act of 1990, **18:10**

Criminal penalties, **18:10**

Insider Trading and Securities

Fraud Enforcement Act of 1988 (ITSFEA), **6:28, 15:24**

Investment Advisers Act of 1940, **5:11, 5:15**

Jurisdiction

Foreign activities, **19:10**

Securities Exchange Act of 1934, **19:10**

Liability, fraudulent practices, **3:31**

Sarbanes-Oxley Act of 2002, accountability under, **1:14, 9:8, 9:11**

Securities Act of 1933, **19:10**

GLASS-STEAGALL ACT

Bank prohibitions, **17:7**

Bank restrictions in securities activities, **17:17**

Closed-end investment company services by affiliates, **15:5**

Commercial paper as security, **15:6**

Commingling agencies, **15:2**

Common and collective trust funds, **15:4, 15:7**

Discount brokerage activities, **15:3**

Fiduciaries, **1:1, 1:4, 1:5**

IRA funds, **15:7**

Mortgage pass-through certificates, **15:8**

Mutual funds, **15:1, 17:17**

Overview, **1:5, 15:1**

Private placement of commercial paper, **15:6**

GLASS-STEAGALL ACT

—Cont'd

Securitization of assets, **15:8**
Underwriting, private placement
of commercial paper, **15:6**

GOOD FAITH MISTAKES

Common and collective trust
funds, **16:16**

GOVERNING LAW

Uniform Trust Code, **11:50**

GOVERNMENTAL PLANS

Common and collective trust
funds, **16:24**

**GOVERNMENT SECURITIES
ACT**

Registration of government securi-
ties, **6:17**

GRAMM-LEACH-BLILEY ACT

See Financial Modernization Act
of 1999

**HAGUE CONVENTION ON
TRUSTS**

International transactions, **19:5**

HAZARDOUS WASTES

See Comprehensive
Environmental Response,
Compensation and Liability
Act

HEDGE FUNDS

Dodd-Frank Act. See Dodd-Frank
Wall Street Reform and
Consumer Protection Act

HIGH RISK CUSTOMERS

Bank secrecy act, **10:3**

HOLDING COMPANIES

Bank holding company. See Bank
Holding Company Act of
1956

Dodd-Frank Act. See Dodd-Frank
Wall Street Reform and

HOLDING COMPANIES

—Cont'd

Consumer Protection Act
Public Utility Holding Company
Act of 1935, **1:1, 21:32**

INDEMNIFICATION

Civil money penalties, **18:12**
Environmental liability, **20:8**
Escrow agents, **12:18**
Officers and directors
Breach of due care, **2:13**
Civil money penalties, **18:12**

**INDIVIDUAL RETIREMENT
ACCOUNT (IRA)**

Common and collective trust
funds, **16:27**
Glass-Steagall Act, **15:7**

**INSIDER SHORT-SWING
PROFITS**

Securities Exchange Act of 1934,
15:25

**INSIDER TRADING AND
SECURITIES FRAUD
ENFORCEMENT ACT OF
1988 (ITSFEA)**

Chinese walls, **6:28**
Damages, **15:24**

INSPECTIONS

Securities exchange commission,
18:45

**INSURANCE AND INSURANCE
COMPANIES**

Accreditation, statements and fil-
ings, **7:8**

Annual statements, **7:13**

Annuities

Annual statement of financial
condition, **15:13**

Contracts issued by insurance
companies, **13:5**

Employee benefit plans, **13:5,**
13:35

INDEX

INSURANCE AND INSURANCE COMPANIES—Cont'd

- Annuities—Cont'd
 - Flexible premium deferred annuity, **7:36**
 - Good faith, **15:13**
 - Insurance business versus insurance contracts, **15:13**
 - Insurance companies, **15:11**
 - Joint and survivor, **7:38**
 - Life insurance products, **7:35**
 - Penalty statutes, **15:13**
 - Securities license, **7:28**
 - Single premium deferred annuity, **7:37**
 - State refusal to license, **15:12**
 - Variable, **7:39**
- Background, **7:2, 7:3**
- Bank brokerage activities, **15:10**
- Banks as sellers
 - Generally, **15:11**
 - State refusal to license, **15:12**
- Brokerage activities of banks, **15:10**
- Brokers and dealers, **6:10**
- Business of insurance, definition, **7:14, 7:24**
- Cash value, whole life, **7:30**
- Chapter 7 bankruptcy, **7:13**
- Definition, business of insurance, **7:24**
- Deposit administration contract, **7:41**
- Dodd-Frank Act. See Dodd-Frank Wall Street Reform and Consumer Protection Act
- Employee benefit plans. See Employee Benefit Plans
- Employee Retirement Income Security Act of 1974 (ERISA)
 - Annuity products, **13:5, 13:35**
 - Diversification, **7:26**
 - DOL Regulations, **13:60**
 - Exclusive benefit rule, **7:26**

INSURANCE AND INSURANCE COMPANIES—Cont'd

- Employee Retirement Income Security Act of 1974 (ERISA)—Cont'd
 - Federal preemption, **7:23, 7:24**
 - Fiduciaries, **7:25, 13:52, 14:36**
 - Fiduciary responsibilities, **7:26**
 - Laws governing, **7:23**
 - Liability of fiduciaries, **13:52**
 - Participant directed investments, **14:36**
 - Plan document compliance, **7:26**
 - Policy assets, **13:5**
 - Pooled accounts, **14:36**
 - Prohibited transaction exemption, **13:35**
 - Prudent man rule, **7:26**
 - Roles, **13:1**
- Endowment contracts, **7:32**
- Environmental liability, **20:13**
- Exclusive benefit rule, **7:26**
- Face amount payment
 - Endowment contracts, **7:32**
 - Term life, **7:31**
 - Whole life, **7:30**
- FDIC. See Federal Deposit Insurance Corporation (FDIC)
- Federal regulation, **7:4, 7:20**
 - Antitrust laws, **7:21**
 - Employee Retirement Income Security Act of 1974 (ERISA), **7:23 to 7:27**
 - Taxation, **7:22**
- Fiduciaries
 - Dutyhold life insurance, **11:33 to 11:40**
 - Employee Retirement Income Security Act of 1974 (ERISA), **7:25**
 - Position, **7:1, 7:2**
- Financial requirements
 - Accreditation, **7:7, 7:8**
 - Annual statements, **7:6, 7:13**

**INSURANCE AND INSURANCE
COMPANIES—Cont'd**

Financial requirements—Cont'd
 Risk based capital, **7:8**
 Financial statements, **7:17**
 Flexible premium deferred annuity, **7:36**
 General pension accounts, **7:40**
 Good faith, **15:13**
 Group insurance, **7:34**
 Guaranteed investment contracts, **7:43**
 Historical perspective, **7:2, 7:3**
 Immediate participation guarantee, **7:42**
 Insolvent insurers
 Distribution of assets, **7:13**
 Insurance Regulatory Information System (IRIS), **7:17**
 Insurance company pooled accounts, **14:36**
 Insurance Regulatory Information System (IRIS), **7:17**
 Investment Advisers Act of 1940, **7:28**
 Investment Company Act of 1940, **7:28, 14:36**
 Joint and survivor annuities, **7:38**
 Licensing, **7:14, 7:15**
 Life
 Generally, **7:29**
 Administration by fiduciaries, **3:17 to 3:20**
 Annuities, **7:35**
 Endowment contracts, **7:32**
 Exchanging policies, **3:20, 11:40**
 Group insurance, **7:34**
 Liability of fiduciary, **3:17 to 3:20, 3:31**
 Policy performance, **3:18**
 Selection of vendor, **3:19**
 Term life, **7:31**
 Universal life, **7:33**
 Whole life, **7:30**

**INSURANCE AND INSURANCE
COMPANIES—Cont'd**

Marketing securities, **6:10**
 McCarran-Ferguson Act, **7:4**
 Business of insurance, **7:24**
 Unfair competition, **7:12**
 NAIC. See National Association of Insurance Commissioners (NAIC)
 National Bank Act, **15:11, 15:12**
 Officers and directors, **18:12**
 Onsite field examinations, **7:18**
 Payment of proceeds, **7:13**
 Pension products
 Deposit administration contract, **7:41**
 General accounts, **7:40**
 Guaranteed investment contracts, **7:43**
 Immediate participation guarantee, **7:42**
 Separate accounts, **7:40**
 Policies, **7:19**
 Preemption. See Federal Preemption
 Premiums
 Term life, **7:31**
 Whole life, **7:30**
 Prudent Investor Rule, **11:35**
 Prudent man rule, **7:26**
 Rate regulation
 Discrimination, **7:11**
 Schedules, **7:16**
 State regulation, **7:10**
 Registration
 Brokers and dealers, **6:10**
 Securities Act of 1933, **7:28**
 Regulation 9, **11:36**
 Reinsurance, **7:8**
 Reserve liability, **7:8**
 Risk based capital, **7:8**
 Securities Act of 1933
 Company pooled accounts, **14:36**

INDEX

INSURANCE AND INSURANCE COMPANIES—Cont'd

- Securities Act of 1933—Cont'd
 - Registration, **7:28**
 - Regulation, **7:28**
- Securities Exchange Act of 1934, **6:10**
- Securities Exchange Commission regulation, **7:28**
- Securities license, **7:28**
- Separate accounts, **7:40**
- Service of process agent, **7:14**
- Sherman Antitrust Act, **7:21**
- Single premium deferred annuity, **7:37**
- State insurance departments
 - Financial statement analysis, **7:17**
 - Licensing, **7:14, 7:15**
 - Onsite field examinations, **7:18**
 - Policy review, **7:19**
 - Powers, **7:14**
 - Rates, **7:16**
 - Refusal to license bank insurance sales, **15:12**
- State regulation
 - Overview, **7:9**
 - Rates, **7:10, 7:11**
 - Statutes, **7:13**
 - Unfair competition, **7:12**
- Taxation, **7:22**
- Term life, **7:31**
- Unfair competition, **7:12**
- Universal life, **7:33**
- Value and valuation
 - Cash value, whole life, **7:30**
 - Finance standards, **7:8**
- Variable annuities, **7:28, 7:39**
- Whole life, **7:30**

INTEREST AND DIVIDEND TAX COMPLIANCE ACT OF 1983

- Backup withholding, **12:16**

INTEREST AND DIVIDEND TAX COMPLIANCE ACT OF 1983—Cont'd

- Taxpayer identification number, **12:16**

INTERNAL AUDIT PROGRAM

- Compliance, **18:13**

INTERNATIONAL MONEY LAUNDERING ABATEMENT AND ANTI-TERRORIST FINANCING ACT

- Broker-dealer regulation, **6:32**
- Fiduciaries, **1:12, 6:32**

INTERNATIONAL TRANSACTIONS

- ADRs, **19:9**
- Annual report of international fiduciary activities, **21:4**
 - Components, **21:5**
- Antifraud provisions, **19:10**
- Bank holding companies
 - Annual report of international fiduciary activities, **21:4, 21:5**
 - Securities activities, **19:4**
- Bank Holding Company Act of 1956, **19:2, 19:3**
- Bank Secrecy Act, **19:6**
- Broker-dealer registration, **19:7**
- Cayman Islands, **19:6**
- “Closely related to banking”
 - Activities deemed, **19:3**
 - Statutory framework, **19:2**
- Comprehensive Crime Control Act of 1984, **19:6**
- Crime Control Act of 1990, **19:6**
- Domestic banks, securities activities, **19:4**
- Edge Corporations, **19:2**
- Exemptions from registration, **19:9**

INTERNATIONAL

TRANSACTIONS—Cont'd

Export trading company acquisition, **19:2**
 Federal Deposit Insurance Corporation (FDIC), **19:2**
 Federal Reserve Act, **19:2**
 Financial activities conducted abroad, **19:2**
 Foreign business records, **19:6**
 Foreign exchange, **19:1, 19:3**
 Governing statutes, **19:2**
 Hague Convention on Trusts, **19:5**
 Illegal funds to foreign accounts, **19:6**
 Institutional investors, **19:9**
 Investment Advisers Act of 1940, **19:8**
 Issuer safe harbor, **19:9**
 Money Laundering Act, **19:6**
 National bank branches
 Foreign country location, **19:2**
 Securities activities, **19:4**
 Nontrust countries, **19:5**
 Offshore trusts, **19:6**
 PORTAL communication system, **19:9**
 Registration of foreign security shares, **19:9**
 Regulation D, **19:9**
 Regulation K, **19:4**
 Regulation S, **19:9**
 Regulation Y, **19:3**
 Resale safe harbor, **19:9**
 Rule 144A, **19:9**
 Securities activities, **19:4**
 Broker-dealer registration, **19:7**
 Foreign issues traded domestically, **19:9**
 Securities Act of 1933, **19:9**
 Securities Exchange Act of 1934, **19:10**
 State nonmember banks, **19:2**
 Statistical forecasting, **19:3**
 Stock in foreign banks, **19:2**

INTERNATIONAL

TRANSACTIONS—Cont'd

Summons, foreign bank officers and employees, **19:6**
 Swaps, **19:1, 19:3**
 Taxation, offshore trusts, **19:6**

INTERNET SUBMISSION

Annual reports, **21:13**
 Investment advisers, web site daytrading, **5:15**

INTERSTATE COMMERCE ACT

Fiduciaries, **1:1**

INVESTIGATIONS

Federal Bureau of Investigation reports, recovery of lost, stolen or counterfeit securities, **21:12**
 Preparation for Department of Labor investigation, **App 8A**

INVESTMENT ADVISERS

See also Investment Advisers Act of 1940
 Advertising
 Definition, **5:21**
 Performance, **5:22**
 Prohibitions, **5:23**
 Advice or analysis concerning securities, **5:5**
 Agreement, contents, **17:5**
 Allocation of trades, **5:15**
 Annual reports, **5:11**
 Bank Secrecy Act, **10:6**
 Brochure rule, **5:20**
 Churning, **5:15**
 Civil penalties, **5:31**
 Compensation, **5:3, 17:5**
 Conflicts of interest, **17:5, 17:29**
 Contract
 Assignment, **5:24**
 Fees, **5:25**
 Partnership change, **5:24**
 Performance fees, **5:25**

INDEX

INVESTMENT ADVISERS

—Cont'd

- Contract—Cont'd
 - Prepaid fees, pro rata refund, **5:25**
 - Referral fees, **5:26**
 - Waiver of compliance with Investment Advisers Act of 1940, **5:24**
- Criminal penalties, **5:32**
- Definitions
 - Advice or analysis concerning securities, **5:5**
 - In the business, **5:4**
 - Investment advisers, **5:2**
 - Investment advisory contract, **5:24**
 - Securities, **5:6**
- Disciplinary action
 - Cease and desist order, **5:30**
 - Civil penalties, **5:31**
 - Criminal penalties, **5:32**
 - Penalties, **5:28**
 - Restricting adviser activity, **5:29**
- Disciplinary disclosures, **5:19**
- Disclosures
 - Brochure rule, **5:20**
 - Disciplinary, **5:19**
 - Financial, **5:18**
 - Records of statements, **5:27**
 - Referral fees for solicitors, **5:26**
 - SEC Form ADV, **5:20**
 - SEC Form ADV Part II, **5:20**
- Duties
 - Fiduciary, **5:9**
 - Mutual funds, **17:5**
- Exclusions, **5:7**
- Fees
 - Mutual funds, **17:4**
 - Splitting with nonadviser, **5:15**
- Fiduciary duties, **5:9, 5:10**
- Financial disclosures, **5:18**

INVESTMENT ADVISERS

—Cont'd

- Forms
 - SEC Form ADV, **4:32, 5:11**
 - SEC Form ADV Part 1A, **5:11**
 - SEC Form ADV Part II, **5:20**
- Fraudulent conduct, **5:15**
- Insider trading, **5:17**
- In the business, definition, **5:4**
- Investment advisory contract, definition, **5:24**
- Mutual funds
 - Agreement, **17:5**
 - Compensation, **17:5**
 - Conflicts of interest, **17:5, 17:29**
 - Duties, **17:5**
 - Fees, **17:4**
 - Registration, **17:5**
 - Self-dealing, **17:5**
 - Services, **17:5**
 - Sub-advisers, **17:5**
- National Association of Securities Dealers, Inc. (NASD) examination, **5:9**
- Performance fee agreements, **5:22, 5:25**
- Possession of client assets, **5:16**
- Prohibited transactions
 - Generally, **5:13**
 - Fraudulent conduct, **5:15**
 - Insider trading, **5:17**
 - Misstatements or omissions, **5:14**
 - Possession of client assets, **5:16**
 - Web site daytrading, false claims, **5:15**
- Qualifications, **5:9**
- Records, requirements, **5:27**
- Referral fees for solicitors, **5:26**
- Registration, **17:5**
 - Application, **5:11**
 - Exemptions, **5:8**
 - Misstatements or omissions, **5:14**

INVESTMENT ADVISERS

—Cont'd

Registration, **17:5**—Cont'd
 SEC Form ADV, **5:11**
 SEC Form ADV Part 1A, **5:11**
 Securities Exchange Act of 1934, **6:7**
 Updating information, **5:11**
 Withdrawal, **5:11**
 Registration exclusions, **5:7**
 Reports, misstatements or omissions, **5:14**
 Scalping, **5:15**
 Securities, definition, **5:6**
 Securities Exchange Act of 1934, **6:7**
 Self-dealing, **17:5**
 Services, **17:5**
 Splitting fees with nonadviser, **5:15**
 State statutes, **5:1**
 Qualifications, **5:9**
 Sub-advisers, **17:5**
 Supervision, **5:10**
 Web site daytrading, false claims, **5:15**

INVESTMENT ADVISERS ACT OF 1940

See also Investment Advisers
 Advertising
 Definition, **5:21**
 Performance, **5:22**
 Prohibitions, **5:23**
 Advice or analysis concerning securities, definition, **5:5**
 Allocation of trades, **5:15**
 Antifraud provisions
 Applicability, **5:15**
 Exempt investment advisers, **5:8**
 Brochure rule, **5:20**
 Civil penalties, **5:31**
 Compensation
 Definitions, **5:3**

INVESTMENT ADVISERS ACT OF 1940—Cont'd

Compensation—Cont'd
 Mutual funds, **17:5**
 Criminal penalties, **5:32**
 Damages, **5:31**
 Definitions
 Advertising, **5:21**
 Advice or analysis concerning securities, **5:5**
 Compensation, **5:3**
 In the business, **5:4**
 Investment adviser, **5:2, 14:38**
 Investment advisory contract, **5:24**
 Securities, **5:6**
 Disciplinary action
 Cease and desist order, **5:30**
 Civil penalties, **5:31**
 Criminal penalties, **5:32**
 Disclosures, **5:19**
 Penalties, **5:28**
 Restricting adviser activity, **5:29**
 Disclosures
 Brochure rule, **5:20**
 Disciplinary, **5:19**
 Financial, **5:18**
 Records of statements, **5:27**
 Referral fees for solicitors, **5:26**
 SEC Form ADV, **5:20**
 SEC Form ADV Part II, **5:20**
 Soft dollars, **15:15**
 Dodd-Frank Act
 Amendment of Advisers Act, **5:1**
 Exemptions from registration, **5:8**
 Mid-size adviser registration, **5:11**
 Exemption from registration, **5:8**
 Federal preemption of state law, **1:9, 5:33**

INDEX

INVESTMENT ADVISERS ACT OF 1940—Cont'd

- Fees and charges
 - Performance fees, **5:22, 5:25**
 - Prepaid fees, pro rata refund, **5:25**
 - Referral fees for solicitors, **5:26**
- Fiduciaries
 - Compliance risks, **18:4**
 - Duties, **5:9, 5:10**
 - Laws and regulations governing, **1:1, 1:4, 1:9**
 - 15 U.S.C.A. §§ 80b-1 to 80b-21, **App 1C**
- Financial disclosures, **5:18**
- Financial planners, registration exemption, **14:38**
- Forms
 - Registration, **5:11**
 - Registration Form N-1A, **15:15**
 - SEC Form ADV, **4:32, 5:11, 5:20, 15:15**
 - SEC Form ADV Part 1A, **5:11**
 - SEC Form ADV Part II, **5:20**
- Fraudulent conduct, **5:15, 5:19**
- Insider trading, **5:17**
- Insurance contracts, **7:28**
- International transactions, use of mail or interstate Commerce, **19:8**
- In the business, definition, **5:4**
- Investment advisers
 - Compensation, **5:3**
 - Definitions, **5:2, 14:38, 17:15**
 - Exclusions, **5:7**
 - Qualifications, **5:9**
 - Registration, **17:15**
- Investment advisory contract
 - Assignment, **5:24**
 - Definition, **5:24**
 - Fees, **5:25**
 - Performance fees, **5:25**
 - Prepaid fees, pro rata refund, **5:25**
 - Referral fees for solicitors, **5:26**

INVESTMENT ADVISERS ACT OF 1940—Cont'd

- Investment advisory contract
 - Cont'd
 - Waiver of compliance with Act, **5:24**
- Mutual funds
 - Investment adviser, definition, **17:15**
 - Registration, **17:15, 17:16**
 - Regulation, **17:15**
- National Securities Markets Improvement Act, **1:9, 5:33**
- Overview, **1:9**
- Pension consultants, **14:38**
- Possession of client assets, **5:16**
- Private right of action, **5:31**
- Prohibited transactions
 - Generally, **5:13**
 - Allocation of trades, **5:15**
 - Fraudulent conduct, **5:15**
 - Insider trading, **5:17**
 - Misstatements or omissions, **5:14**
 - Possession of client assets, **5:16**
 - Web site daytrading, false claims, **5:15**
- Recordkeeping requirements, **5:27**
- Referral fees for solicitors, **5:26**
- Registration
 - Generally, **5:1**
 - Application, **5:11**
 - Exemptions, **5:8, 14:38**
 - Laws and regulations governing, **1:8**
 - Misstatements or omissions, **5:14**
 - SEC Form ADV, **5:11**
 - SEC Form ADV Part 1A, **5:11**
 - Updating information, **5:11**
 - Withdrawal, **5:11**
- Registration, bank departments or divisions, **4:31**
- Reports, misstatements or omissions, **5:14**

**INVESTMENT ADVISERS ACT
OF 1940—Cont'd**

Scalping, **6:22**
 Securities, definition, **5:6**
 Supervision duty of fiduciaries,
5:10
 Text of Act, **App 1C**
 Variable annuities, **7:28**
 Waiver of compliance by invest-
 ment adviser, **5:24**
 Web site daytrading, false claims,
5:15

**INVESTMENT AND TRADE IN
SERVICES ACT**

Reports, **21:38**

INVESTMENT COMPANIES

See also Investment Advisers Act
 of 1940; Investment
 Company Act of 1940
 Advisory contract, **17:4**
 Affiliated persons, **17:16, 17:29**
 Classes, **17:1**
 Closed-end
 Bank as investment adviser,
 15:5
 Mutual funds, **17:1**
 Commission, **17:20**
 Definition, **17:1**
 Diversified, **7:26, 17:1**
 Face-amount certificate
 companies, **17:1**
 Fidelity bond, **17:4**
 Fundamental policies, **17:16**
 Independent public accountants,
17:4
 Investment Company Act of 1940,
17:16
 Management companies, **17:1**
 Mutual funds
 Definition, **17:1**
 Registration, **17:16**
 Nondiversified, **17:1**
 Open-end, **17:1**
 Commission, **17:20**

**INVESTMENT COMPANIES
—Cont'd**

Open-end, **17:1**—Cont'd
 ERISA prohibited transaction
 exemption, **13:39**
 Registration, **17:16**
 Rule 12b-1, **17:28**
 Sales load, **17:20**
 Registration, **17:16**
 Sales load, **17:20**
 Underwriting contracts, **17:4**
 Unit investment trusts, **17:1**

**INVESTMENT COMPANY ACT
OF 1940**

Advisory contracts, **17:4**
 Affiliated persons, **17:16, 17:29**
 Asset allocation programs, **15:9**
 Chinese walls, **6:28**
 Common and collective trust fund
 exemption, **15:4**
 Compliance programs, **18:4**
 Disclosures, **15:15**
 Fidelity bond, **17:4**
 Fiduciaries, **1:1, 1:4, 1:8**
 15 U.S.C.A. §§ 80a-1 to 80a-64,
App 1D
 Forms, **15:15**
 Fundamental policies, **17:16**
 Independent public accountants,
17:4
 Insurance companies, **7:28**
 Insurance company pooled
 accounts, **14:36**
 Insurance contracts, **7:28**
 Investment advisers, **17:5**
 Investment companies, **17:4**
 Mutual funds, **14:36, 17:16, 17:29**
 National Securities Markets
 Improvement Act, **1:8, 17:16**
 Overview, **1:8**
 Registration, **1:8, 17:16**
 Rule 17g-1, fidelity bond, **17:4**
 Securities Exchange Commission
 study, **14:37**

INDEX

INVESTMENT COMPANY ACT OF 1940—Cont'd

Soft dollars, **15:15**
Text of Act, **App 1D**
Trade allocation, **3:9**
Underwriting contracts, **17:4**
Variable annuities, **7:28**

INVESTOR PROTECTIONS

Dodd-Frank Act. See Dodd-Frank
Wall Street Reform and
Consumer Protection Act

JURISDICTION

Assets held outside jurisdiction of
United States district courts,
14:34
Estates, **11:2**
Fiduciaries, **11:1**
Fraud, **19:10**
National banks, **4:1**
Personal property, **11:4**
Real property, **11:3**
Securities Exchange Act of 1934,
19:10
Trusts, **11:2**
Uniform Trust Code, **11:49**

KNOW YOUR CUSTOMER

Bank Secrecy Act, **10:1**

LENDING

Generally, **3:4**

LIFE INSURANCE

Generally, **7:29**
Administration by fiduciaries,
3:17 to 3:20
Annuities, **7:35**
Endowment contracts, **7:32**
Exchanging policies, **3:20, 11:40**
Group insurance, **7:34**
Liability of fiduciary, **3:17 to**
3:20, 3:31
Policy performance, **3:18**
Selection of vendor, **3:19**
Term life, **7:31**

LIFE INSURANCE—Cont'd

Universal life, **7:33**
Whole life, **7:30**

LIFE SETTLEMENTS

Fiduciary liability, **3:21**

LIQUIDATION OF FAILING FINANCIAL INSTITUTIONS

Dodd-Frank Act. See Dodd-Frank
Wall Street Reform and
Consumer Protection Act

LOANS

Common and collective trust
funds, **16:12, 16:17**
Conflicts of interest, bank acting
as lender and fiduciary, **3:4**
Dodd-Frank Wall Street Reform
and Consumer Protection
Act, mortgage lenders, **22:38**
Employee benefit plans
Employee stock ownership plan
loans, **13:33**
Interest-free loans between
plans and parties in interest
(PTE 80-26), **13:40**
Participant loans, **13:31**
Environmental liability. See
Environmental Liability
Fiduciaries, **4:19**
National Bank Act, **4:8, 4:9**
Officers and directors, **4:9**
Regulation 9, **4:19**
Security, participation in common
and collective trust fund,
16:12
Self-dealing, **4:19**
Trust funds, **4:9**

MATERIAL NONPUBLIC INFORMATION

Duties and responsibilities, **13:20**

McCARRAN-FERGUSON ACT

Business of insurance, **7:24**
Text of Act, **App 1G**

McCARRAN-FERGUSON ACT

—Cont'd

Unfair competition, **7:12**

MERCHANT MARINE ACT

Fiduciaries, **1:1**

MID-SIZED ADVISERS

Dodd-Frank Act registration, **5:11**

MINERAL LANDS LEASING ACT

Reports, **21:37**

MINI-FUNDS

Common and collective trust funds, **16:18**

MODEL BUSINESS CORPORATIONS ACT

Self-dealing, **2:15**

MODEL RULES OF PROFESSIONAL CONDUCT

Attorneys, **2:7**

MONEY LAUNDERING

See also International Money Laundering Abatement and Anti-Terrorist Financing Act
Anti-money laundering program, USA Patriot Act, **10:1, 10:5, 10:6**

Bank Secrecy Act, **10:4**

Fiduciaries, **1:12, 6:32**

Foreign fiduciary activities, **19:6**

Offshore trusts, **19:6**

Summons, foreign bank officers and employees, **19:6**

USA Patriot Act, **10:1, 10:5, 10:6**

MONEY LAUNDERING ACT

International transactions, **19:6**

Summons, foreign bank officers and employees, **19:6**

MONEY MARKET FUNDS

Securities Exchange Act of 1934, **15:19**

MORTGAGES

Common and collective trust funds

Late charges, **16:10**

Service fees, **16:5**

Dodd-Frank Wall Street Reform and Consumer Protection Act, **22:38**

Fiduciary powers, **11:14**

Glass-Steagall Act, **15:8**

Mortgage pass-through certificates, **15:8**

Trusts

Trust Indenture Act, **12:1**

MULTIPLE PARTY ACCOUNTS

Fiduciary liability, **11:41**

MUNICIPAL BONDS

See Bonds; Corporate Trusts

MUNICIPAL SECURITIES RULEMAKING BOARD

Municipal bonds, **12:22**

MUTUAL FUNDS

Abuses, SEC responses, **17:34**

Administrators

Advertising, **17:13**

Disclosures, **17:30**

Duties, **17:6**

Fees, **17:6**

Affiliated persons

Exemptions, **17:29**

Officers, **17:9**

Unlawful activities, **17:29**

Arrangements

Affiliate transactions, **17:29**

Bank compliance programs, **17:35**

Bank pooled investment funds, **17:31 to 17:33**

Bank sales practices, **17:30**

INDEX

MUTUAL FUNDS—Cont'd

- Arrangements—Cont'd
 - Collective trust funds, **17:33**
 - Common trust funds, **17:32**
 - Fees, **17:28**
 - Proprietary and private label funds, **17:27**
 - Series funds, **17:26**
- Asset-based sales charges, **17:28**
- Attorneys, **17:35**
- Auditors, **17:12**
- Bank compliance programs, **17:35**
- Bank Holding Company Act of 1956, **17:23**
- Bank pooled investment funds, conversion
 - Generally, **17:31**
 - Common trust funds, **17:32**
- Bank restrictions in securities activities, **17:17**
- Board of directors, **17:4**
- Broker-dealer registration, **17:14**
- Business trusts, **17:2**
- Commission, **17:20**
- Commodity Futures Trading Commission, **17:21**
- Common and collective trust funds
 - Bank collective investment funds and parties in interest (80-51), **13:41**
 - Conversion, **17:31 to 17:33**
 - Employee Retirement Income Security Act (ERISA) prohibited Transactions, **13:37, 17:33**
 - ERISA prohibited transaction exemption, **13:37**
 - Participant directed investments, **14:36**
 - Self-dealing, **17:32**
 - Taxation upon conversion, **17:32**
- Compliance programs, **17:35**
- Conflicts of interest, **17:5, 17:29**

MUTUAL FUNDS—Cont'd

- Contingent deferred sales load, **17:28**
- Corporations, **17:2**
- Custodian
 - Bank holding companies, **17:23**
 - Structure of organization, **17:10**
- Delaware business trusts, **17:2**
- Director/trustee, **17:4**
- Disclosures, **17:30**
- Discount brokerage, **17:25**
- Distributor, **17:7**
- Employee Retirement Income Security Act of 1974 (ERISA)
 - Common and collective trust funds, prohibited transaction exemptions, **17:33**
 - Federal securities laws differences, **14:36**
 - Investment in open end funds (PTE 77-4), **13:39**
 - Participant directed investments, **14:36**
 - Plan assets, **13:3**
 - Self-dealing, **17:31**
- Employees
 - Structure of organization, **17:3**
 - Training, **17:30**
- Expenses, **17:28**
- Federal Deposit Insurance Corporation (FDIC), **17:25**
- Federal Reserve Board
 - Guidelines, **17:30**
 - Regulators, **17:23**
- Fees and charges
 - Administrators, **17:6**
 - Custodians, **17:10**
 - Fee arrangements, **17:28**
 - Investment advisers, **17:4**
 - Sales personnel, **17:30**
 - Transfer agents, **17:11**
- Fiduciary duties, **17:2**
- Front-end sales load, **17:28**
- Fund counsel, **17:12**

MUTUAL FUNDS—Cont'd

- Futures contracts, **17:21**
- Glass-Steagall Act, **17:17**
- Independent public accountants
 - Selection, **17:4**
 - Structure of organization, **17:12**
- Initial shareholders, **17:8**
- Interagency statement, **17:30**
- Interested persons
 - Officers, **17:9**
 - Structure of organization, **17:4**
- Internal Revenue Code, **17:18**
- Internal Revenue Service, **17:22**
- Investment advisers
 - Agreement, **17:5**
 - Compensation, **17:5**
 - Conflicts of interest, **17:5, 17:29**
 - Definition, **17:15**
 - Duties, **17:5**
 - Fees, **17:4**
 - Prospectus contents, **17:5**
 - Registration, **4:31, 4:32, 17:5**
 - Self-dealing, **17:5**
 - Services, **17:5**
 - Sub-advisers, **17:5**
- Investment Advisers Act of 1940
 - Investment adviser, definition, **17:15**
 - Registration, **17:15, 17:16**
 - Regulation, **17:15**
- Investment companies
 - Definition, **17:1**
 - Registration, **17:16**
- Investment Company Act of 1940, **14:36, 17:16, 17:29**
- Investment product names, **17:30**
- Limitation of trustees' liability, **17:2**
- Limited partnerships, **17:2**
- Management, **17:3**
- Massachusetts business trusts, **17:2**

MUTUAL FUNDS—Cont'd

- National Association of Securities Dealers, Inc. (NASD)
 - No-load funds, **17:28**
 - Regulators, **17:20**
- No-load funds, **17:28**
- Nonbank affiliates restrictions, **17:23**
- Office of the Comptroller of the Currency (OCC), **17:24, 17:30**
- Officers, **17:9**
- Organization, **17:2**
- Pass-through entities, **17:18**
- Policies and procedures, **17:30**
- Promotion, **17:13**
- Proprietary and private label funds, **17:27**
- Prospectus
 - Contents, **17:5**
 - Disclosures, **17:13**
- Proxy solicitations, **17:14**
- Registration, **17:13, 17:15**
- Regulation, **17:15**
- Regulation 9, **17:31**
- Regulation Y, **17:23**
- Regulators
 - Commodity Futures Trading Commission, **17:21**
 - Comptroller of the Currency, **17:24**
 - Federal Deposit Insurance Corporation (FDIC), **17:25**
 - Federal Reserve Board, **17:23**
 - Internal Revenue Service, **17:22**
 - National Association of Securities Dealers, Inc. (NASD), **17:20**
 - Securities Exchange Commission, **17:19**
- Regulatory scheme
 - Glass-Steagall Act, **17:17**
 - Internal Revenue Code, **17:18**
 - Investment Advisers Act of 1940, **17:15**

INDEX

MUTUAL FUNDS—Cont'd

- Regulatory scheme—Cont'd
 - Investment Company Act of 1940, **17:16**
 - Securities Act of 1933, **17:13**
 - Securities Exchange Act of 1934, **17:14**
- Rule 12b-1, **17:28**
- Sales load
 - Regulators, **17:20**
 - Types, **17:28**
- Sales personnel, **17:30**
- Securities Act of 1933, **17:13**
- Securities Exchange Act of 1934, **17:14**
- Securities Exchange Commission, **17:19**
- Self-dealing
 - Common and collective trust funds, **17:32**
 - Employee Retirement Income Security Act (ERISA), **17:31**
- Series funds, **17:26**
- Service fees, **17:28**
- Structure
 - Administrator, **17:6**
 - Auditors, **17:12**
 - Custodian, **17:10**
 - Director/trustee, **17:4**
 - Distributor, **17:7**
 - Fund counsel, **17:12**
 - Independent public accountants, **17:12**
 - Initial shareholders, **17:8**
 - Investment adviser, **17:5**
 - Officers, **17:9**
 - Organization, generally, **17:3**
 - Transfer agents, **17:11**
 - Underwriter, **17:7**
- Sub-advisers, **17:5**
- Supervision, **17:4**
- Sweep arrangements, **17:17**

MUTUAL FUNDS—Cont'd

- Taxation
 - Bank pooled investment funds, conversion, **17:32**
 - Regulators, **17:22**
- Third party arrangements, **17:30**
- Transfer agents
 - Bank holding companies, **17:23**
 - Structure of organization, **17:11**
- 12b-1 fees, **13:28, 13:48**
- Underwriter, **17:7**
- Valuation of fund, administrators, **17:6**

NASD ANTI-MONEY LAUNDERING COMPLIANCE PROGRAM RULE

- Fiduciaries, **6:32**

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (NAIC)

- Accreditation, **7:7, 7:8**
- Annual statement, **7:6**
- Financial information provided to states, **7:6**
- Purpose, **7:5**
- Regulation of insurance companies, **7:5**
- Regulatory authority, **7:7**
- Reinsurance, **7:8**
- Risk based capital, **7:8**
- Securities Valuation Office, **7:8**

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC. (NASD)

- Arbitration, **6:30**
- Brokers and dealers, **6:18**
- Commission, **17:20**
- Conflict with Securities Exchange Commission rules, **17:20**
- Examinations, **6:14**
- Investment advisers examination, **5:9**

**NATIONAL ASSOCIATION OF
SECURITIES DEALERS,
INC. (NASD)—Cont'd**

Know-your-customer rules, **6:18, 15:14**
Margin transactions, **6:26**
Mutual funds
 No-load funds, **17:28**
 Regulators, **17:20**
No-load funds, **17:28**
PORTAL communication system, **19:9**
Regulatory structure, **6:1**
Rules of fair practice, **17:20**
Sales load, **17:20**
Securities Exchange Act of 1934, **6:1**
Securities Exchange Commission rules conflict, **17:20**
Solicitation, **12:17**

NATIONAL BANK ACT

Comptroller of the Currency, authority, **4:2**
Custody of investments, **4:21**
Deposit of securities with state authorities, **4:4**
Fiduciaries, regulation, **4:2 to 4:9**
Fiduciary accounts, prohibition from issuing checks on, **4:7**
Financial holding companies, **15:1**
Funds awaiting investment or distribution
 Loans, **4:8**
 Policies and procedures, **4:17**
Insurance sales by banks
 Generally, **15:11**
 State refusal to license, **15:12**
Loans of trust funds, **4:8, 4:9**
National banks, jurisdiction, **4:1**
Oath or affidavit of fiduciary, person empowered to sign, **4:4**
Regulation 9
 Collateralization of trust funds, **4:8**

NATIONAL BANK ACT—Cont'd

Regulation 9—Cont'd
 Funds awaiting investment or distribution, **4:17**
Revocation of trust powers, **4:5**
Segregation of fiduciary assets, **4:6**
State banks, access to OCC reports, **4:6**
Trust powers
 Factors, **4:3**
 Merger of state and national bank, **4:3**
 Revocation of trust powers, **4:5**
 Surrender of fiduciary powers, **4:4**

**NATIONAL SECURITIES
MARKETS
IMPROVEMENT ACT OF
1996**

Broker dealers, **6:31**
Federal preemption, **1:9, 5:33**
Fiduciaries
 Laws and regulations governing, **1:4, 1:8, 1:9**
Investment advisors, **1:9, 5:33, 13:18**
Investment companies, **1:8, 17:16**
Preemption of state regulation, **1:9, 5:33**

**NATIONAL UNIFORM
FIDUCIARY STANDARDS**

Regulation 9, **4:14**

NETWORKING

Securities Exchange Act of 1934, **15:17**

**NEW YORK STOCK
EXCHANGE (NYSE)**

Arbitration, **6:30**
Know your customer rule, **6:1, 6:18**
Rules, **6:1**

INDEX

NONRESIDENT FIDUCIARIES

Selected state statutes governing,
App 9A

Types of nonresident fiduciary
laws, **App 9B**

NON-U.S. PERSONS

Regulation S, **15:21**

Securities Exchange Act of 1934,
15:21

NOTICE REQUIREMENTS

Uniform Trust Code, **11:52**

OBRA 93

See Payback and Pooled Special
Needs Trust (OBRA 93)

OFFICE OF FINANCIAL RESEARCH

Dodd-Frank Wall Street Reform
and Consumer Protection
Act, **22:4**

OFFICE OF FOREIGN ASSETS CONTROL

Compliance officer, designation
of, **10:2**

Education and training, continu-
ing, **10:2**

Independent testing, **10:2**

Internal controls, policies, and
procedures, **10:2**

Penalties, **10:2**

Reporting requirements, **10:2**

Risk-based assessment of custom-
ers, **10:2**

Sanctions, economic and trade,
10:2

Specially Designated Nationals
and Blocked Persons list,
10:2

OFFICE OF THE COMPTROLLER OF THE CURRENCY (OCC)

Account review, **4:13**

OFFICE OF THE

COMPTROLLER OF THE CURRENCY (OCC)—Cont'd

Advisory or honorary directors,
4:22

Affiliated brokerage transactions,
4:19

Annual reports

International fiduciary activi-
ties, **21:4**

Trust assets, **21:2**

Asset review, **4:14**

Audit manager qualifications,
18:13

Brokerage placement practices,
4:12

Collateralization of trust funds,
4:8, 4:17

Common and collective trust
funds

Expenses, **16:5**

Plan documents, **16:4**

Valuation, **16:7**

Compliance programs. See
Compliance Programs

Consolidation or merger of two or
more national banks, **4:25**

Definitions

Fiduciary, **4:11**

Investment authority, **4:11**

Managing agent, **4:11**

Regulation 9, **4:11**

Dodd-Frank Act. See Dodd-Frank
Wall Street Reform and
Consumer Protection Act

Electronic data processing system
records, **4:16**

Financial incentives from invest-
ment management firms, **4:19**

Funds awaiting investment or dis-
tribution

Sweep of uninvested cash bal-
ances, **4:17**

Inactive status of bank's trust
powers, **4:5**

REGULATION INVEST MGMT & FIDUCIARY SERV

OFFICE OF THE

**COMPTROLLER OF THE
CURRENCY (OCC)—Cont'd**

Investment discretion or authority
over fiduciary assets, account
review, **4:13**
Investment securities, definition,
1:5
Loans of trust funds, **4:9**
Municipal bond underwriting
syndicates, **4:19**
Mutual funds, **17:24**
National banks
Regulatory framework, **4:1**
Trust charters, **4:2**
National Uniform Fiduciary Stan-
dards, **4:14, 4:28**
Notice, intent to revoke national
bank's trust powers, **4:5**
Real estate asset review, **4:14**
Referral fees, **4:22**
Regulation 9
Acceptance of fiduciary
accounts, **4:13**
Account review, **4:13, 4:15**
Administration of fiduciary
powers, **4:12 to 4:26**
Annual reviews, **4:13**
Asset review, **4:14**
Bonding requirements, **4:12**
Books and accounts, **4:15, 4:16**
Brokerage placement practices,
4:12
Collateralization of trust funds,
4:8
Common and collective trust
funds, **4:25**
Consolidation or merger of two
or more national banks,
4:25
Definitions, **4:11**
Fiduciaries, generally, **1:1, 1:2**
Fiduciary compensation, **4:22**
Investment discretion or author-
ity over fiduciary assets,
4:13

OFFICE OF THE

**COMPTROLLER OF THE
CURRENCY (OCC)—Cont'd**

Regulation 9—Cont'd
Investment of funds held as
fiduciary, **4:18**
Legal counsel, **4:12**
Loans, **4:19**
Material nonpublic information,
4:12
Miscellaneous provisions, **4:25**
National Uniform Fiduciary
Standards, **4:14**
Overview, **4:10**
Proposed amendments to
national bank multi-state
trust operations, **4:28**
Review of fiduciary assets, **4:13**
Sale of trust property to
interested parties, **4:19**
Self-dealing, **4:19**
Regulation 12, **1:3**
Regulatory power, **4:2**
Reports
Special report on fiduciary
activities, **21:6, 21:7**
State bank access, **4:6**
Revocation of trust powers, **4:5**
Securities brokerage services,
17:24
Surrender of fiduciary powers, **4:4**
Sweep of demand deposit
accounts, **4:7**
Trust charters, **4:2**
Factors, **4:3**
Inactive status, **4:5**
Merger of state and national
bank, **4:3**
Revocation of trust powers, **4:5**
Surrender of fiduciary powers,
4:4

**OFFICE OF THRIFT
SUPERVISION**

Annual report of trust assets, **21:2**

INDEX

OFFICE OF THRIFT

SUPERVISION—Cont'd

Elimination under Dodd-Frank
Wall Street Reform and
Consumer Protection Act,
22:8

Fiduciary powers of thrifts, **4:27**

Saving associations regulatory
agency, **4:1**

State-chartered associations, **4:28**

OFFICERS AND DIRECTORS

See also Board of Directors

Conflicts of interest, **18:13**

Controlling shareholders,
indemnification, **2:13**

Indemnification

Audit and compliance, **18:12**

Breach of due care, **2:13**

Insurance, **18:12**

Legal expenses, **18:12**

Liability

Indemnification, **18:12**

Personal, **18:12**

Prevention, **18:29 to 18:32**

Loans from trust funds, **4:9**

Personal liability, **18:12**

Section 16 liability, **15:25**

Securities Exchange Act of 1934,
15:25

OPERATIONAL LIABILITY

Generally, **3:9**

OPTIONS

Know-your-customer rules, **15:14**

Options Disclosure Document,
15:14

PATRIOT ACT

See USA Patriot Act

PAYBACK AND POOLED SPECIAL NEEDS TRUST (OBRA 93)

General requirements, **11:63**

Trusts unavailable under, **11:62**

PAY IT BACK ACT

Dodd-Frank Wall Street Reform
and Consumer Protection
Act, **22:37**

PAYMENT

Dodd-Frank Act. See Dodd-Frank
Wall Street Reform and
Consumer Protection Act

PERFORMANCE

Liability of fiduciaries for
misleading performance,
3:28

PERSONAL PROPERTY

Jurisdiction, **11:4**

PERSONAL SECURITIES TRANSACTIONS

Ethics, **5:12**

POWER OF ATTORNEY

Fiduciaries, **3:35**

Personal trust services, **11:45**

PRIOR APPROVAL

Common and collective trust
funds, **16:21**

PRIVACY

See also Financial Modernization
Act of 1999; Records;
Reports

Consumer Credit Protection Act,
8:8

Consumer opt out provision, **8:5**

Disclosures

False or fraudulent acts, **8:7**

Prohibitions, **8:4**

Requirements, **8:3**

Service or product exemption,
8:6

Fair and Accurate Transaction Act
of 2003, **8:8**

Fair Credit Reporting Act, **8:8**

Financial Information Anti-Fraud
Act of 1999, **8:8**

PRIVACY—Cont'd

Nonpublic customer personal information, **8:1**

PRIVATE FUND ADVISER

Dodd Frank Act, exemption from registration exemption, **5:8**

PRIVILEGE

Bank examination reports, **3:14**

PROPORTIONATE INTERESTS

Common and collective trust funds, **16:6**

PRUDENT INVESTOR RULE

Administration, **14:2**

Beta ratings, **14:18**

Delegation, **14:5, 14:8**

Delegation standard, **14:6**

Diversification

Prudent investor standard, **14:23**

Prudent man standard, **14:3, 14:4, 14:14**

Uniform prudent investor rule, **14:3, 14:4**

History and development

Prudent man standard, **14:9 to 14:16**

Uniform Prudent Investor Act (UPIA), **14:1**

Investment policy statement, **14:7**

Market risk, **14:18, 14:19**

National Uniform Fiduciary Standards, **14:14**

Restatement (Second) of Trusts

Acts of agents, **14:15**

Caution requirement, **14:13**

ComparisonRestatement (Third) of Trusts, **14:21 to 14:27**

Criticisms, **14:16**

Diversification, **14:14**

Skill requirement, **14:12**

Trustee's liability, **14:15, 14:16**

Restatement (Third) of Trusts

Generally, **14:20**

PRUDENT INVESTOR RULE

—Cont'd

Restatement (Third) of Trusts

—Cont'd

Beta ratings, **14:18**

Circumstances of the trust, **14:21**

Cost control, **14:27**

Delegation of powers, **14:25**

Departures from Restatement (Second) of Trusts, **14:21 to 14:27**

Diversification, **14:23**

Impartiality, **14:24**

Investments at inception, **14:26**

Market risk, **14:18**

Modern portfolio theory

Generally, **14:17**

Effect of risk on model, **14:19**

Portfolio risks, **14:18, 14:19**

Portfolio risks, **14:18, 14:19**

Prudent investor rule, **14:20 to 14:28**

Systemic risk, **14:18**

Total portfolio emphasis, **14:22**

Trust purpose, **14:21**

Uniform Prudent Investor Act, **14:1**

Unique risk, **14:18, 14:19**

Trust purpose, **14:21**

Uniform prudent investor rule

Delegation, **14:5**

Delegation results, **14:8**

Delegation standard, **14:6**

Diversification, **14:3**

Diversification standards, **14:4**

Investment policy statement, **14:7**

Prudent administration, **14:2**

Results from delegation, **14:8**

Uniform Prudent Investor Act (UPIA), **14:1**

Unique risk, **14:18, 14:19**

INDEX

PRUDENT INVESTOR STANDARD

- Modern portfolio theory
 - Generally, **14:17**
 - Effect of risks on model, **14:19**
 - Portfolio risks, **14:18, 14:19**
- Prudent Investor Rule
 - Generally, **14:20**
 - Beta ratings, **14:18**
 - Circumstances of the trust,
14:21
 - Cost control, **14:27**
 - Delegation of powers, **14:25**
 - Departures from Restatement
(Second) of Trusts, **14:21
to 14:27**
 - Diversifications, **14:23**
 - Impartiality, **14:24**
 - Investments at inception, **14:26**
 - Purpose of the trust, **14:21**
 - Summary, **14:28**
 - Total portfolio emphasis, **14:22**
- Restatement (Third) of Trusts
 - Modern portfolio theory, **14:17
to 14:19**
 - Prudent investor rule, **14:20 to
14:28**

PRUDENT MAN RULE

- Breaches, **3:13**
- Employee Retirement Income
Security Act of 1974
(ERISA)
 - Fiduciaries, **13:22**
 - Insurance companies, **7:26**
 - Investment requirements, **14:31**
- Fiduciaries, compliance risks,
18:4
- Insurance companies, **7:26**
- Prudent Investor Rule
 - Fiduciaries, compliance risks,
18:4
 - Life insurance, **11:35**

PRUDENT MAN STANDARD

- History and development
 - Generally, **14:9**
 - Elements of standard, **14:11 to
14:14**
 - Liability of trustee, **14:15,
14:16**
 - Restatement (Second) trusts
investment standards,
14:10
 - Trusts investment standards,
14:10
- National Uniform Fiduciary Stan-
dards, **14:14**
- Restatement (Second) Trusts
investment standards
 - Care requirement, **14:11**
 - Caution requirement, **14:13**
 - Diversification, **14:14**
 - Elements, **14:11 to 14:14**
 - Skill requirement, **14:12**
- Trustee's liability
 - Acts of agents, **14:15**
 - Criticisms, **14:16**
 - Shortcomings, **14:16**

PUBLIC BENEFITS

- Special needs trusts, **11:60**

PUBLIC COMPANY

ACCOUNTING OVERSIGHT BOARD

- Sarbanes-Oxley Act of 2002, **1:14,
9:1**

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

- Fiduciaries, **1:1**
- Reports, **21:32**

REAL PROPERTY

- Appraisals, **4:14**
- Employee benefit plans, qualifying
employer real property, **13:29**
- Foreign Investment in Real Prop-
erty Tax Act, **1:1, 21:35**
- Jurisdiction, **11:3**

REAL PROPERTY—Cont'd

Real estate asset review, **4:14**

RECEIVERSHIP

FDIC as liquidating receiver,
orderly liquidation of failing
financial institutions, **22:6**

Fiduciaries, **4:23**

RECORDS

See also Privacy

Bonds, **12:17**

Brokers and dealers, **6:13**

Corporate trusts, **12:16**

Crime Control Act of 1990, **19:6**

Disclosure statement, **5:27**

Electronic data processing
systems, **4:16**

Fiduciary accounts, **4:16**

Fiduciary duty, **3:24**

Fiduciary liability for failure to
maintain, **3:24**

Foreign business, **19:6**

Investment Advisers Act of 1940,
5:27

Pending litigation, **4:16**

Performance advertising, **5:22**

Retention period, **5:27**

Savings associations, **4:28**

SEC inspections, **18:45**

Securities Exchange Act of 1934,
6:13

Securities Exchange Commission,
5:27

RED FLAG RULES

Fiduciaries, **1:13**

REGISTRATION

Common and collective trust
funds, **16:26, 16:27**

Dodd-Frank Act exemptions, **5:8**

Failure to register as investment
adviser, **3:22**

REGULATION 9

Attorneys, retention of counsel,
4:12

Audits

Board of directors responsibil-
ity, **18:13**

Trust departments, **4:16**

Board of directors

Administration of fiduciary
powers, **4:12 to 4:26**

Audits, **18:13**

Fiduciary compensation
approval, **4:22**

Laws and regulations govern-
ing, **1:2**

Brokers and dealers, **4:12**

Common and collective trust
funds, **4:25**

Compliance programs, **18:4**

Federal preemption, **4:14**

Fiduciaries

Life insurance, **11:36**

Summary, **1:2**

Insurance and insurance
companies, **11:36**

Life insurance, **11:36**

Loans, **4:19**

Mutual funds, **17:31**

National Bank Act

Collateralization of trust funds,
4:8

Funds awaiting investment or
distribution, **4:17**

National Uniform Fiduciary Stan-
dards, **4:14**

OCC. See Office of the Comptrol-
ler of the Currency (OCC)

Self-dealing

Generally, **4:19**

Collective investment funds,
4:25

Custody of investment funds,
4:21

Deposit of securities, **4:20**

Fiduciary compensation, **4:22**

INDEX

REGULATION 9—Cont'd

- Self-dealing—Cont'd
 - Investment adviser registration, **4:32**
 - Laws and regulations governing fiduciaries, **1:2**
 - Registration of bank securities, **4:32**
 - Surrender of fiduciary powers, **4:24**
 - Thriffs, Part 563e community reinvestment, **4:29**
- Text of Regulation, **App 2A**
- Text of Revised Regulation 9, **App 2A.5**
- 12 CFR § 9, **App 2A**

REGULATION 12

- Laws and regulations governing fiduciaries, **1:3**
- Text of Regulation, **App 2C**
- 12 CFR § 12, **App 2C**

REGULATION D

- Registration of foreign security shares, **19:9**

REGULATION K

- Edge and agreement corporations, **19:4**
- International transactions, **19:4**
- Securities transactions by bank branches in foreign countries, **19:4**

REGULATION R

- Securities Exchange Act of 1934, **15:16**

REGULATION S

- Non-U.S. persons and broker-dealers, **15:21**
- Registration of foreign security shares, **19:9**

REGULATION T

- Extension of credit by broker dealers, **6:29**

REGULATION T—Cont'd

- National Security Markets Improvement Act, **6:31**

REGULATION Y

- Bank Holding Company Act of 1956
 - Bank as investment adviser to closed-end company, **15:5**
 - Federal Reserve Board, **17:23**
 - International transactions, **19:3**
- International transactions, **19:3**
- Mutual funds, **17:23**

REGULATIONS

- Department of Labor, employee benefit plans, **13:60**
- Precedents and Opinions, **App 2B**
- Regulation 9 (12 CFR § 9), **App 2A**
- Regulation 12 (12 CFR § 12), **App 2C**
- Regulation 9. See Regulation 9
- Regulation D, registration of foreign security shares, **19:9**
- Regulation K, securities transactions by bank branches in foreign countries, **19:4**
- Regulation R, Securities Exchange Act of 1934, **15:16**
- Regulation S, **15:21, 19:9**
- Regulation T, **6:29, 6:31**
- Regulation Y. See Regulation Y
- Revised Regulation 9 (12 CFR § 9.1), **App 2A.5**

RELATIONSHIP OF COOPERATION-AGENCY ENFORCEMENT DECISIONS

- Securities exchange commission, **18:45**

RELIANCE

- Corporate trusts, reliance on representations of others, **12:15**

RELIANCE—Cont'd

Customer identification program of another financial institution, **10:2**

REPORTS

See also Privacy

Agricultural Foreign Investment Disclosure Act, **21:36**

Amendments

Beneficial ownership schedule, **21:15**

Registration as a Transfer Agent and for Amendment to Registration (SEC Form TA-1), **21:25**

Schedule 13D, **21:15**

Schedule 13G, **21:16**

Uniform Application for Broker-Dealer Registration Form BD, registration as broker-dealer, **6:14**

Annual reports

Assets and Liabilities of US Branches and Agencies of Foreign Banks, **App 6C**

Corporate trusts, **21:2**

Disclosure, **12:9, 12:10**

Federal Deposit Insurance Corporation (FDIC), **21:2**

Federal Reserve Board, **21:2, 21:5**

Fiduciaries, **21:2, 21:4, 21:5, App 6A, App 6C**

Indenture trustees, **12:9**

International fiduciary activities, **21:4, 21:5**

Investment advisers, **5:11**

Trust assets, **21:2, App 6A**

Trust Indenture Act of 1939, **12:9, 12:10**

Audit report review, **4:16**

Banks

Bank's own deposits, **21:7**

Examinations, discovery, **3:14**

REPORTS—Cont'd

Board of directors, audit report review, **4:16**

Brokers and dealers

Registration amendments, **6:14**

Research, **6:15**

Bureau of Economic Analysis, **21:38**

Civil Aeronautics Board, **21:29**

Common and collective trust funds, financial reports, **16:10, 16:11**

Communication Act of 1934, **21:34**

Compliance programs, **18:21, 18:26**

Concurrent ownership of carriers, **21:34**

Corporate trusts

Annual reports, **21:2**

Disclosure, **12:9, 12:10**

Qualification to serve as trustee statement, **21:8**

Statement of Eligibility Under the Trust Indenture Act of 1939 of a Corporation Designated to Act as Trustee (SEC Form T-1), **21:8, App 6O**

Trust Indenture Act of 1939, **21:8**

Counterfeit securities, **21:12**

Department of Transportation, Maritime Administration, **21:30**

Discovery, bank examination reports, **3:14**

Expense analysis, **21:7**

Federal Bureau of Investigation, **21:12**

Federal Communications Commission, **21:31, App 6T**

Federal Deposit Insurance Corporation (FDIC), **21:2**

Federal Reserve Board, **21:2, 21:5**

INDEX

REPORTS—Cont'd

Fiduciaries

Annual report of trust assets,

App 6A

FCC Form 323, **App 6T**

Maritime Administration Form

MA-579, **App 6S**

Report of Assets and Liabilities
of US Branches and Agen-
cies of Foreign Banks,

App 6C

SEC Form 3, **App 6K**

SEC Form 4, **App 6L**

SEC Form 5, **App 6M**

SEC Form 144, **App 6J**

SEC Form 13F, **App 6G**

SEC Form T-1, **App 6O**

SEC Form TA-1, **App 6P**

SEC Form TA-2, **App 6Q**

SEC Form TA-W, **App 6R**

SEC Form U-343-1, **App 6U**

SEC Rule 13-H, **App 6N**

SEC Schedule 13D, **App 6H**

SEC Schedule 13G, **App 6I**

SIC Agreement Form for
Indirect and Direct Inquir-
ies, **App 6F**

SIC Form X-17F-1A, **App 6E**

SIC Registration Form, Lost
and Stolen Securities
Program, **App 6D**

Special report of fiduciary
activities, **App 6B**

Financial, common and collective
trust funds, **16:10**

Foreign investments

Direct investment in the United
States, **21:38**

Foreign Investment in Real
Property Tax Act
(FIRPTA), **21:35**

Interest in agricultural land,
21:36

Ownership of interest in mineral
or oil leases, **21:37**

REPORTS—Cont'd

Foreign trust tax compliance, **21:9**

Forms

Amendments, **6:14, 21:25**

Annual Statement of Changes in
Beneficial Ownership
(SEC Form 5), **21:22, App
6M**

Farm Service Agency Form
ASCS-153, **21:36**

FCC Form 323, **App 6T**

Federal Communications Com-
mission Form 323, **21:31**

Form for Reporting Activities of
Transfer Agents (SEC
Form TA-2), **21:26, App
6Q**

Information Required of
Institutional Investment
Managers (SEC Form
13F), **21:17, 21:18, App
6G**

Initial Statement of Beneficial
Ownership of Securities
(SEC Form 3), **21:22, App
6K**

Insider transactions, **21:22**

Lost and stolen securities
program, SIC Registration
Form, **App 6D**

Maritime Administration Form
MA-579, **App 6S**

Maritime Administration Form
MA-580, **21:30**

Missing/List/Stolen/Counterfeit
Securities Report (SIC
Form X-17F-1A), **21:12**

Notice of Proposed Sale of
Securities (SEC Form
144), **21:19**

Registration as a Transfer Agent
and for Amendment to
Registration (SEC Form
TA-1), **21:25**

Registration Form BE-14, **21:38**

SEC Form 3, **21:22, App 6K**

REPORTS—Cont'd

Forms—Cont'd

SEC Form 4, **App 6L**
 SEC Form 5, **App 6M**
 SEC Form 144, **App 6J**
 SEC Form 13F, **App 6G**
 SEC Form T-1, **App 6O**
 SEC Form TA-1, **App 6P**
 SEC Form TA-2, **App 6Q**
 SEC Form TA-W, **App 6R**
 SEC Form U-343-1, **App 6U**
 SEC Rule 13-H, **App 6N**
 SEC Schedule 13D, **App 6H**
 SEC Schedule 13G, **App 6I**
 SIC Agreement Form for
 Indirect and Direct Inquir-
 ies, **App 6F**
 SIC Form X-17F-1A, **App 6E**
 Statement of Changes in Bene-
 ficial Ownership (SEC
 Form 4), **21:22, App 6L**
 Statement of Eligibility Under
 the Trust Indenture Act of
 1939 of a Corporation
 Designated to Act as
 Trustee (SEC Form T-1),
21:8, App 6O
 Insider transactions, **21:21**
 Forms, **21:22**
 International fiduciary activities,
21:4, 21:5
 Investment Advisers Act of 1940,
 misstatements or omissions,
5:14
 Investment and Trade in Services
 Act, **21:38**
 Investment managers with invest-
 ment discretion, **21:17, 21:18**
 Lost and stolen securities
 Missing/List/Stolen/Counterfeit
 Securities Report (SIC
 Form X-17F-1A), **21:12**
 Program, **21:10**
 Mineral Lands Leasing Act, **21:37**
 National Bank Act, **4:6**

REPORTS—Cont'd

Noncompliance with registered
 transfer agency turnaround
 requirements, **21:28**
 Office of the Comptroller of the
 Currency (OCC)
 International fiduciary activi-
 ties, **21:4**
 Special report on fiduciary
 activities, **21:6, 21:7**
 State bank access to reports,
21:2
 Trust assets, **21:2**
 Ownership
 Agricultural Foreign Investment
 Disclosure Act, **21:36**
 Civil Aeronautics Board, **21:29**
 Communication Act of 1934,
21:34
 Concurrent ownership of carri-
 ers, **21:34**
 Department of Transportation,
 Maritime Administration,
21:30
 Federal Communications Com-
 mission, **21:31**
 Foreign interest in agricultural
 land, **21:36**
 Foreign Investment in Real
 Property Tax Act
 (FIRPTA), **21:35**
 Investment and Trade in Ser-
 vices Act, **21:38**
 Mineral Lands Leasing Act,
21:37
 Public Utility Holding
 Company Act of 1935,
21:32
 Registration Form BE-14, **21:38**
 Sale by foreign person of
 United States property
 interest, **21:35**
 Small Business Investment Act,
21:33
 Product lines, **21:7**

INDEX

REPORTS—Cont'd

- Public Utility Holding Company Act of 1935, **21:32**
- Qualification to serve as trustee statement, **21:8**
- Recovery of lost, stolen or counterfeit securities, **21:12**
- Registration as direct or indirect inquirer, **21:11**
- Sales
 - By foreign person of United States property interest, **21:35**
 - Restricted or control stock, **21:19**
- Sarbanes-Oxley Act of 2002, **1:14, 9:7**
- Securities Act of 1933, **6:15**
- Securities Exchange Act of 1934, **1:7**
 - Beneficial ownership report, **21:22**
 - Insider transactions, **21:21**
 - Large trader accounts and transactions, **21:23**
- Securities Exchange Commission
 - Beneficial ownership disclosure, **21:14 to 21:16**
 - Electronic filings, **21:20**
 - Information Required of Institutional Investment Managers (SEC Form 13F), **21:17, 21:18, App 6G**
 - Noncompliance with registered transfer agency turnaround requirements, **21:28**
 - Notice of Proposed Sale of Securities (SEC Form 144), **21:19, App 6J**
 - Sale of restricted or control stock, **21:19**
 - Schedule 13D, **21:14, 21:15, App 6H**
 - Schedule 13G, **21:14, 21:16, App 6I**

REPORTS—Cont'd

- Securities Information Center
 - Indirect inquirers, **21:12, 21:13**
 - Inquiries, **21:13**
 - Lost and stolen securities program, **21:10**
 - Missing/List/Stolen/Counterfeit Securities Report (SIC Form X-17F-1A), **21:12, App 6E**
 - Recovery of lost, stolen or counterfeit securities, **21:12**
 - Registration, **21:11**
 - SIC Agreement Form for Indirect and Direct Inquiries, **App 6F**
- Small Business Investment Act, **21:33**
- Special report on fiduciary activities, **21:6, 21:7**
- Transfer agents
 - Form for Reporting Activities of Transfer Agents (SEC Form TA-2), **21:26, App 6Q**
 - Noncompliance with registered transfer agency turnaround requirements, **21:28**
 - Notice of Withdrawal from Registration as Transfer Agent (SEC Form TA-W), **21:27, App 6R**
 - Registration as a Transfer Agent and for Amendment to Registration (SEC Form TA-1), **21:25, App 6P**
 - Volume and nature of activities, **21:26**
 - Withdrawal from registration, **21:27**
- Trust Indenture Act of 1939
 - Annual reports, **12:9, 12:10**
 - Corporate trusts, **21:8**

REPRESENTATIONS

Corporate trusts, reliance on representations of others, **12:15**

RETAIL SERVICES

Bank retail services, **App 7B**

REVISED REGULATION 9

12 CFR § 9.1, **App 2A.5**

REVOCABLE TRUST

Uniform Trust Code, **11:55**

RISK MANAGEMENT PROGRAMS

See Compliance Programs

RULE 144

Securities Act of 1933, **15:23**, **App 6J**

RULE 145

Securities Act of 1933, **15:23**

RULE 148

Securities Act of 1933, **15:23**

RULE 144A

Registration of foreign security shares, **19:9**
Securities Act of 1933, exemption, **15:23**

RULE 10b-5

Churning, **5:15**
Municipal bonds and securities, **12:22**
Penalties, **6:27**
Securities Exchange Act of 1934, **15:24**

RULE 12b-1

Investment company assets to finance share distribution
Interested directors, **17:4**
Mutual funds, **17:28**

RULE 17g-1

Fidelity bond, **17:4**

SAFE HARBOR

Employee Retirement Income Security Act of 1974 (ERISA), **14:35**
Fiduciaries, **14:31, 14:35**
International transactions, **19:9**
Securities Act of 1933 safe harbor provisions, **15:23**
Securities Exchange Act of 1934 safe harbor provisions, **4:12, 15:15**

SAFEKEEPING

Securities Exchange Act of 1934, **15:20**

SANCTIONS

Bank Secrecy Act, enforcement of anti-money laundering programs, **10:4**
Economic and trade, Office of Foreign Assets Control, **10:2**

SARBANES-OXLEY ACT OF 2002

Auditor independence, **9:2**
Commission resources and authority, **9:6**
Conflicts of interest, **9:5**
Corporate responsibility, **9:3**
Enhanced financial disclosures, **9:4**
Fiduciaries, **1:14**
Laws and regulations governing, **1:14**
Overview, **1:14**
Financial disclosures, **1:14, 9:4**
Fraud accountability, **9:8, 9:11**
Overview, **1:14**
Public Company Accounting Oversight Board, **9:1**
Retirement plan fiduciaries, **13:27, 13:54**
Studies and reports, **9:7**
Tax returns, **9:10**
White collar crime penalty enhancements, **9:9**

INDEX

SAVINGS ASSOCIATIONS

- Community Reinvestment Act, **4:29**
- Dodd-Frank Act. See Dodd-Frank Wall Street Reform and Consumer Protection Act
- Office of Thrift Supervision, **4:27**
- Part 550 fiduciary powers, **4:28**

SECURITIES

- Deposit, bank's fiduciary activities, **4:20**

SECURITIES ACT OF 1933

- Advertising, mutual funds, **17:13**
- Affiliate relationships, **15:23**
- Annuity products, **7:28**
- Bankruptcy, securities for resale, **15:23**
- Chinese walls, **6:28**
- Conversion and stock distributions, **15:23**
- Damages, disclosure, **14:36**
- Definitions
 - Control securities, **15:23**
 - Distribution, **6:15**
 - Restricted securities, **15:23**
 - Sellers, **6:15**
- Disclosure
 - Damages, **14:36**
 - Liability of inaccurate disclosures, **6:15**
 - Mutual funds, prospectus disclosures, **17:13**
- Distribution, definitions, **6:15**
- Due diligence, **6:15**
- Employee benefit plans, registration of Keogh plans, **15:4**
- Exempt transactions, **1:6**
- Fiduciaries, **1:1, 1:4, 1:6**
- 15 U.S.C.A. §§ 77a-77aa, **App 1A**
- Fraud, **6:15**
- Initial offerings, Registration Form F-6, **19:9**
- Initial transactions, **19:9**
- Insider information, **15:24**

SECURITIES ACT OF 1933

—Cont'd

- Insurance
 - Company pooled accounts, **14:36**
 - Registration, **7:28**
- Liability
 - Due diligence defense, **6:15**
 - Inaccurate disclosures, **6:15**
 - Market manipulation, **6:23**
- Market manipulation, **6:23**
- Municipal bonds
 - Corporate trust services, **12:20**
 - Uniform Securities Act, **12:22**
- Mutual funds, **14:36**
- Overview, **1:6**
- Private right of action, **6:15**
- Promotion, mutual funds, **17:13**
- Prospectus disclosures, mutual funds, **17:13**
- Registration
 - Annuity contracts, **7:28**
 - Business combination security acquisitions, **15:23**
 - Conversion and stock distributions, **15:23**
 - Due diligence defense, **6:15**
 - Endowment contracts, **7:28**
 - Foreign security shares, **19:9**
 - Insurance contracts, **7:28**
 - Keogh plans, **15:4**
 - Mutual funds, **17:13**
 - Notice of Proposed Sale of Securities (SEC Form 144), **21:19**
 - Restricted securities exemption, **21:19**
 - Rule 144A exemption, **21:19**
- Registration exemptions
 - Generally, **1:6, 15:23**
 - Insurance company pooled accounts, **14:36**
 - Municipal bonds, **12:20**
 - Municipal securities' offerings, **6:16**

SECURITIES ACT OF 1933

—Cont'd

Registration Form F-6, **19:9**
 Reports, **6:15**
 Resale restrictions, **15:23**
 Research reports, **6:15**
 Restricted securities, definition,
 15:23
 Rule 144, **15:23**
 Rule 145, **15:23**
 Rule 148, **15:23**
 Rule 151, **7:28**
 Rule 144A exemption, **15:23**
 Safe harbor provisions, **15:23**
 Section 4 (1 1/2) exemption, **15:23**
 Sellers, definition, **6:15**
 Text of Act, **App 1A**
 Underwriters, **6:15, 15:23**
 Uniform Securities Act, **12:22**

**SECURITIES EXCHANGE ACT
OF 1934**

Generally, **15:14**
 Accommodation for other types of
 accounts, **15:20**
 Administrators and recordkeepers,
 15:20
 Advertisements and sales
 literature, **15:20**
 Advertising restrictions, **15:20**
 Antifraud
 Generally, **1:7**
 Banks, **15:3**
 Derivative products, **15:14**
 International transactions, **19:10**
 Application for registration, Form
 BD, **6:13, 6:14, App 5B**
 Associated persons of issuer, **6:5**
 Bank fee limitations, **15:20**
 Banks, **6:11**
 Beneficial ownership, insider
 transactions, **21:21**
 Broker-dealer registration
 Banks, **15:3**
 International transactions, **19:7**

**SECURITIES EXCHANGE ACT
OF 1934—Cont'd**

Broker-dealer registration
 —Cont'd
 Mutual funds, **17:14**
 Broker-dealers
 Registration, bank affiliates,
 4:33
 Regulation S transactions,
 15:21
 Broker execution requirement,
 15:20
 Carrying broker provisions, **15:20**
 Chinese walls
 Insider information, **15:24**
 Multiservice brokerage firms,
 6:28
 Cooperative apartment houses
 shares, **6:12**
 Custody and safekeeping, **15:20**
 Custody exemption, **15:20**
 Definitions
 Broker, **6:2**
 Dealer, **6:2**
 Research, **15:15**
 Security, **6:2**
 Derivative products, **15:14**
 Disclosure, **1:7, 6:26**
 Employee benefit plans, securities
 of company for, **15:22**
 Employee compensation restric-
 tions, **15:20**
 Engaged in the business, **6:4**
 Examinations, **6:14**
 Fiduciaries, **1:1, 1:4, 2:8, 15:18**
 Overview, **1:7**
 15 U.S.C.A. §§ 78a-78kk, **App 1B**
 Financial consultants, **6:8**
 Finders, **6:6**
 Fingerprinting, **6:13**
 Foreign broker-dealers, **6:12**
 Forms
 Identification Requirements for
 Large Traders (SEC Form
 13h-1, republished), **21:23**

INDEX

SECURITIES EXCHANGE ACT OF 1934—Cont'd

- Forms—Cont'd
 - Initial beneficial ownership report, **21:22**
- Fraud, jurisdiction, **19:10**
- Fund securities transactions, **15:22**
- Government securities, registration, **6:17**
- Indenture trustees, reliance on certificates or opinions, **12:11**
- Insider information, **6:27, 15:24**
- Insider short-swing profits, **15:25**
- Insurance agencies marketing securities, **6:10**
- International transactions
 - Antifraud provisions, **19:10**
 - Broker-dealer registration, **19:7**
- Interstate commerce, definition, **19:9**
- Intrastate business, **6:12**
- Investment advice, **15:20**
- Investment advisers, registration, **6:7**
- Jurisdiction, **19:10**
- Large trader accounts and transactions, reports, **21:23**
- Liability
 - Market manipulation, **6:23**
 - Scalping, **6:22**
 - Unauthorized trading, **6:24**
- Mandatory membership in NASD, **6:13**
- Margin rules, **6:26**
- Market manipulation, **6:23**
- Minimum net capital, **6:13**
- Ministerial service providers, **6:9**
- Misappropriation of information, **15:24**
- Money market funds, **15:19**
- Municipal bonds, **12:22**
- Mutual funds, **17:14**
- National Association of Securities Dealers, Inc. (NASD)
 - Mandatory membership, **6:13**

SECURITIES EXCHANGE ACT OF 1934—Cont'd

- National Association of Securities Dealers, Inc. (NASD)
 - Cont'd
 - Regulation, **6:1**
- Networking, **15:17**
- Non-custodial securities lending transactions, **15:22**
- Nonresident broker-dealers, **6:14**
- Non-U.S. persons, Regulation S transactions, **15:21**
- Officers, directors and beneficial owners, **15:25**
- Order-taking for custody accounts, **15:20**
- Other exemptions, **15:22**
- Overview, **1:7**
- Private right of action, **12:11**
- Proxy solicitations, **17:14**
- Recordkeepers and administrators, **15:20**
- Records, **6:13**
- Registration
 - Amendments, **6:14**
 - Associated persons of issuer, **6:5**
 - Bankers' acceptances, **6:3**
 - Banks, **6:11**
 - Bank securities activities, **4:30**
 - Broker-dealers, bank affiliates, **4:33**
 - Commercial bills, **6:3**
 - Commercial paper transactions, **6:3**
 - Consequences, **6:13**
 - Cooperative apartment houses shares, **6:12**
 - Denial, **6:14**
 - Engaged in the business, **6:4**
 - Exemptions, **6:3, 6:12**
 - Financial consultants, **6:8**
 - Finders, **6:6**
 - Fingerprinting, **6:13**
 - Foreign broker-dealers, **6:12**

SECURITIES EXCHANGE ACT

OF 1934—Cont'd

Registration—Cont'd

Foreign security shares, **19:9**

Form contents, **6:14**

Government securities, **6:17**

Insurance agencies marketing securities, **6:10**

Intrastate business, **6:12**

Investment advisers, **6:7**

Mandatory membership in NASD, **6:13**

Minimum net capital, **6:13**

Ministerial service providers, **6:9**

Municipal bonds, **12:22**

Process, **6:14**

Records, **6:13**

Securities triggering, **6:3**

Successors, **6:14**

Uniform Application for Broker-Dealer Registration Form BD, **6:13, 6:14, App 5B**

Regulation R, **15:16**

Regulation S transactions, **15:21**

Reports

Fiduciary laws and regulations, **1:7**

Identification Requirements for Large Traders (SEC Form 13h-1, repropoed), **21:23**

Insider transactions, **21:21**

Large trader accounts and transactions, **21:23**

Research, **1:7, 15:15**

Rule 10b-5

Churning, **5:15**

Insider information, **15:24**

Municipal securities applicability, **12:22**

Penalties, **6:27**

Rule 12g3-2(b), **19:9**

Rule 13h-1, **21:23**

SECURITIES EXCHANGE ACT

OF 1934—Cont'd

Safe harbor provisions

Disclosures, **15:15**

Soft dollars, **4:12, 15:15**

Safekeeping and custody, **15:20**

Scalping, **6:22**

Section 16, **15:25**

Service of process, **6:14**

Soft dollars, **4:12, 15:15**

Subcustodians, **15:20**

Swaps, **15:14**

Sweep accounts, **15:19**

Temporary insider, **15:24**

Text of Act, **App 1B**

Trusts, **15:18**

Unauthorized trading, **6:24**

Variable insurance products transactions, **15:22**

SECURITIES EXCHANGE COMMISSION

Advertising, **5:21, 5:22**

Authority, **1:7**

Beneficial ownership disclosure

Regulatory reporting requirements, **21:14**

Schedule 13D, **21:15, App 6H**

Schedule 13G, **21:16, App 6I**

Broker-dealer customer identification rule, **10:2**

Clover Capital Management, Inc. no-action letter, **5:22**

Disciplinary action

Cease and desist order, **5:30**

Civil penalties, **5:31**

Criminal penalties, **5:32**

Disclosure. Beneficial ownership disclosure, above

Electronic filings, **21:20**

Employee Retirement Income

Security Act of 1974

(ERISA), **14:37**

Examination of books and records, **5:27**

INDEX

SECURITIES EXCHANGE COMMISSION—Cont'd

Fiduciary reports

SEC Form 3, **App 6K**
SEC Form 4, **App 6L**
SEC Form 5, **App 6M**
SEC form 144, **App 6J**
SEC Form 13F, **App 6G**
SEC Form T-1, **App 6O**
SEC Form TA-1, **App 6P**
SEC Form TA-2, **App 6Q**
SEC Form TA-W, **App 6R**
SEC Form U-343-1, **App 6U**
SEC Rule 13-H, **App 6N**
SEC Schedule 13D, **App 6H**
SEC Schedule 13G, **App 6I**

Forms

Annual Statement of Changes in
Beneficial Ownership
(SEC Form 5), **21:20, App 6M**

Electronic filing, **21:20**

Information Required of
Institutional Investment
Managers (SEC Form
13F), **21:17, 21:18, 21:20,**
App 6G

Initial Statement of Beneficial
Ownership of Securities
(SEC Form 3), **21:20, App 6K**

Notice of Proposed Sale of
Securities (SEC Form
144), **21:19, App 6J**

Notice of Withdrawal from
Registration as Transfer
Agent (SEC Form TA-W),
21:27, App 6R

Reports, below

SEC Form 3, **21:20, App 6K**
SEC Form 4, **21:20, App 6L**
SEC Form 5, **21:20, App 6M**
SEC Form 144, **21:19, App 6J**
SEC Form 13F, **21:17, 21:18,**
21:20, App 6G

SECURITIES EXCHANGE COMMISSION—Cont'd

Forms—Cont'd

SEC Form T-1, **App 6O**
SEC Form TA-1, **App 6P**
SEC Form TA-2, **App 6Q**
SEC Form TA-W, **21:27, App 6R**
SEC Form U-343-1, **App 6U**
SEC Rule 13-H, **App 6N**
SEC Schedule 13D, **App 6H**
SEC Schedule 13G, **App 6I**
Statement of Changes in Bene-
ficial Ownership (SEC
Form 4), **21:20, App 6L**

Indenture qualification, **12:4**

Insider trading, **5:17**

Inspections, **18:45**

Insurance company regulation,
7:28

Investment Advisers Act of 1940

Advertising, **5:21**

Insider trading, **5:17**

In the business, **5:4**

Investment advisory contract,
assignment, **5:24**

Registration application, **5:11**

Investment Company Act of 1940
study, **14:37**

Investment Company Institute
no-action letter, **5:22**

Municipal securities, information
dissemination requirements,
6:16

Mutual funds

Abuses, **17:34**

Guidelines, **17:30**

Regulator, generally, **17:19**

National Association of Securities
Dealers, Inc. (NASD) rules
conflict, **17:20**

National exchanges, **6:1**

Noncompliance with registered
transfer agency turn around
requirements, **21:28**

SECURITIES EXCHANGE

COMMISSION—Cont'd

Participant directed investments study, **14:37**

Records, **5:27**

Registration

Applicability, **6:2**

Withdrawal by transfer agent, **21:27**

Reports

Beneficial ownership disclosure, **21:14 to 21:16**

Electronic filings, **21:20**

Fiduciary reports, above

Information Required of Institutional Investment Managers (SEC Form 13F), **21:17, 21:18, 21:20, App 6G**

Noncompliance with registered transfer agency turnaround requirements, **21:28**

Notice of Proposed Sale of Securities (SEC Form 144), **21:19, App 6J**

Sale of restricted or control stock, **21:19**

Schedule 13D, **21:14, 21:15, App 6H**

Schedule 13G, **21:14, 21:16, App 6I**

Rule 3A-4, **15:9**

Rule 144A, **21:19**

Rule 15c2-12, **6:16**

Sale of restricted or control stock, Notice of Proposed Sale of Securities (SEC Form 144), **21:19, App 6J**

Schedule 13D, **21:14, 21:15, 21:20, App 6H**

Schedule 13G, **21:14, 21:16, 21:20, App 6I**

Statement on the relationship of cooperation to agency enforcement decisions, **18:45**

SECURITIES EXCHANGE

COMMISSION—Cont'd

Suspicious activity reporting rule for broker dealers, **6:32**

SECURITIES INFORMATION CENTER

Fiduciary regulatory reporting, **21:10 to 21:13**

Indirect inquirers, **21:12, 21:13**

Inquiries, **21:13**

Lost and stolen securities program, **21:10, App 6D**

Missing/List/Stolen/Counterfeit Securities Report (SIC Form X-17F-1A), **21:12, App 6E**

Recovery of lost, stolen or counterfeit securities, **21:12**

Registration, **21:11**

SIC Agreement Form for Indirect and Direct Inquiries, **App 6F**

SECURITY

Participation in common and collective trust funds, **16:12**

SELF-DEALING

Audit and compliance, **18:43, 18:45**

Bank common and collective trust funds, **16:12**

Common and collective investment funds, **16:12, 17:31**

Common and collective trust funds

Employee Retirement Income Security Act of 1974 (ERISA), **17:32**

Merging funds, **16:28**

Mutual funds, common trust funds, **17:32**

Requirements, **16:12**

Conflicts of interest, **3:2**

Consent of beneficiaries, **4:19**

Corporate directors, officers and controlling shareholders

Corporate opportunity doctrine, **2:17**

INDEX

SELF-DEALING—Cont'd

- Corporate directors, officers and controlling shareholders—Cont'd
 - Duty of loyalty, **2:15**
- Disclosure, **4:19**
- Employee benefit trust services
 - Generally, **13:28**
 - Defined contribution plans, **13:55**
 - Retirement plan fiduciaries, responsibilities, **13:55**
 - 12b-1 fees, **13:28, 13:48**
- Employee Retirement Income Security Act of 1974 (ERISA)
 - Common and collective trust funds, **17:32**
 - Liability, **3:15**
 - Mutual funds, **17:31**
 - Prohibited transaction, **13:28**
- Fiduciary conflicts of interest, **3:2**
- Holding shares of fiduciary bank's own stock, **3:5**
- Investment advisers, **17:5**
- Investment Company Act of 1940, **1:8**
- Investment of income cash, **3:6**
- Lending, **3:4**
- Liability, **3:2, 3:5, 3:6, 3:15**
- Loans, **2:8**
- Model Business Corporation Act, **2:15**
- Municipal bond underwriting syndicates, **4:19**
- Mutual funds, **17:4, 17:5, 17:28, 17:32**
- Purchase or retention of bank's own securities, **4:18**
- Regulation 9
 - Generally, **4:19**
 - Collective investment funds, **4:25**
 - Custody of investment funds, **4:21**

SELF-DEALING—Cont'd

- Regulation 9—Cont'd
 - Deposit of securities, **4:20**
 - Fiduciary compensation, **4:22**
 - Investment adviser registration, **4:32**
 - Laws and regulations governing, **1:2**
 - Registration of bank securities, **4:32**
 - Surrender of fiduciary powers, **4:24**
 - Thrifts, Part 563e community reinvestment, **4:29**
- Sale of trust property, **4:19**
- Trustees in bankruptcy, **2:9**

SETTLEMENT

- Dodd-Frank Act. See Dodd-Frank Wall Street Reform and Consumer Protection Act
- Liability of fiduciaries for life settlements, **3:21**

SHERMAN ANTITRUST ACT

- Insurance companies, **7:21**

SHIPPING ACT

- Fiduciaries, **1:1**

SIC

- See Securities Information Center

SINGLE LOAN OR OBLIGATION

- Common and collective trust funds, **16:17**

SMALL ACCOUNTS

- Banks' fiduciary activities, **4:21**
- Common and collective trust funds, mini-funds, **16:18**
- Glass-Steagall Act, **15:9**

SMALL BUSINESS INVESTMENT ACT

- Reports, **21:33**

**SMALL BUSINESS JOB
PROTECTION ACT**

Foreign trust tax compliance,
19:11

**SPECIALLY DESIGNATED
NATIONALS AND
BLOCKED PERSONS LIST**

Office of Foreign Assets Control,
10:2

SPECIAL NEEDS TRUSTS

Generally, **11:59 to 11:66**

Assets and eligibility determina-
tions, **11:61**

Distribution requirements, **11:65**

Drafting, **11:66**

Eligibility determination, **11:61**

OBRA 93, trusts unavailable
under, **11:62**

Payback and pooled special needs
trust (OBRA 93)

General requirements, **11:63**

Trusts unavailable under, **11:62**

Public benefits, **11:60**

Supplemental needs trust, third-
party funding, **11:64**

Third-party funding of
supplemental needs trust,
11:64

SPENDTHRIFT TRUSTS

Fiduciaries, **11:26**

STATUTES

Agricultural Foreign Investment
Disclosure Act, **1:1, 21:36**

Asset Conservation, Lender
Liability and Deposit Insur-
ance Protection Act, **3:30,**
20:12

Atomic Energy Act, **1:1**

Bank holding company. See Bank
Holding Company Act of
1956

Bank secrecy. See Bank Secrecy
Act

STATUTES—Cont'd

CERCLA. See Comprehensive
Environmental Response,
Compensation and Liability
Act

Commodity Exchange Act, **1:1**

Communication Act of 1934, **1:1,**
21:34

Community Reinvestment Act,
4:29

Comprehensive Crime Control Act
of 1984, **19:6**

Consumer Credit Protection Act,
8:8

Consumer protection. See Dodd-
Frank Wall Street Reform
and Consumer Protection Act

Crime Control Act. See Crime
Control Act of 1990

Dodd-Frank Act. See Dodd-Frank
Wall Street Reform and
Consumer Protection Act

ERISA. See Employee Retirement
Income Security Act of 1974
(ERISA)

Fair and Accurate Transaction Act
of 2003, **8:8**

Fair Credit Reporting Act, **8:8**

Federal Aviation Act, **1:1**

Federal Reserve Act, **19:2, 19:4**

Financial Information Anti-Fraud
Act of 1999, **8:8**

Financial Modernization Act. See
Financial Modernization Act
of 1999

FIRPTA. See Foreign Investment
in Real Property Tax Act
(FIRPTA)

FIRREA. See Financial Institution
Reform, Recovery and
Enforcement Act (FIRREA)

Foreign Dredge Act, **1:1**

Glass-Steagall Act. See Glass-
Steagall Act

Government Securities Act, **6:17**

INDEX

STATUTES—Cont'd

Gramm-Leach-Bliley Act. See
Financial Modernization Act
of 1999

Insider Trading and Securities
Fraud Enforcement Act of
1988 (ITSFEA), **6:28, 15:24**

Interest and Dividend Tax Compli-
ance Act of 1983, **12:16**

Interstate Commerce Act, **1:1**

Investment Advisers Act. See
Investment Advisers Act of
1940

Investment and Trade in Services
Act, **21:38**

Investment Company Act. See
Investment Company Act of
1940

McCarran-Ferguson Act. See
McCarran-Ferguson Act

Merchant Marine Act, **1:1**

Mineral Lands Leasing Act, **21:37**

Model Business Corporations Act,
2:15

Money laundering. See
International Money
Laundering Abatement and
Anti-Terrorist Financing Act

National Bank Act. See National
Bank Act

NSMIA. See National Securities
Markets Improvement Act of
1996

Pay it Back Act, **22:37**

Public Utility Holding Company
Act of 1935, **1:1, 21:32**

Reporting suspicious activity. See
Suspicious Activity Report-
ing

Securities Act. See Securities Act
of 1933

Securities Exchange Act. See
Securities Exchange Act of
1934

Securities Investor Protection Act,
22:7

STATUTES—Cont'd

Sherman Antitrust Act, **7:21**

Shipping Act, **1:1**

Small Business Investment Act,
21:33

Small Business Job Protection
Act, **19:11**

SOX. See Sarbanes-Oxley Act of
2002

TRA of 1986, **12:23**

Trust Indenture Act. See Trust
Indenture Act of 1939

Trust Powers (12 U.S.C.S § 92a),
App 1F

Truth in Securities Act. See Secu-
rities Act of 1933

Uniform Durable Power of
Attorney Act, **2:6**

Uniform Principal and Income
Act, **11:27**

Uniform Probate Code. See
Uniform Probate Code

Uniform Prudent Investor Act of
1994, **App 4B**

Uniform Securities Act, **12:22**

USA Patriot Act. See USA Patriot
Act

Wall Street Reform Act. See
Dodd-Frank Wall Street
Reform and Consumer
Protection Act

STUDIES AND REPORTS

Sarbanes-Oxley Act of 2002, **9:7**

SUBSTITUTES

Revocable trust as will substitute,
11:55

SUPERVISION

Failure to supervise, **3:23**

Investment advisers, **5:10**

SUPPLEMENTAL NEEDS

TRUST

Third-party funding, **11:64**

**SUSPICIOUS ACTIVITY
REPORTING**

Bank Secrecy Act, **10:4**
Broker-dealer regulation, **6:32**
USA Patriot Act, **1:12**

SWAPS

Dodd-Frank Wall Street Reform
and Consumer Protection
Act, **22:23, 22:24**
Federal Reserve Board, **15:14**
International transactions, **19:1,**
19:3
Securities Exchange Act of 1934,
15:14

SWEEP ACCOUNTS

Securities Exchange Act of 1934,
15:19

TAXATION

Bank pooled investment funds,
conversion, **17:32**
Common and collective trust
funds
Conversion, **17:32**
Exemption, **16:1**
Regulation 9, **4:25**
Statutes and provisions, **16:22**
Corporate trusts, interest pay-
ments, **12:16**
Dodd-Frank Wall Street Reform
and Consumer Protection Act
Derivatives controls, taxation of
gains, **22:39**
Exemptions, **12:23**
Foreign trust tax compliance rules,
19:11, 21:9
Insurance companies, **7:22**
Interest payments, corporate
trusts, **12:16**
International transactions, offshore
trusts, **19:6**
IRS Form 1099B, **12:16**
Municipal bonds, **12:23**

TAXATION—Cont'd

Mutual funds
Bank pooled investment funds,
conversion, **17:32**
Regulators, **17:22**
Offshore trusts, **19:6**
Private activity bonds, **12:23**
Private business use, **12:23**
Redeemed bonds, Form 1099B,
12:16
Sarbanes-Oxley Act of 2002, tax
returns, **1:14, 9:10**
Underwriting income, **7:22**

TAX REFORM ACT OF 1986

Taxable municipal bonds, **12:23**

TERRORIST FUNDING

Fiduciaries, **1:12**

TERRORISTS

Bank Secrecy Act, **10:1**

THIRD-PARTY FUNDING

Supplemental needs trust, **11:64**

THRIFTS

Community Reinvestment Act,
4:29
Office of Thrift Supervision. See
Office of Thrift Supervision
Part 550 fiduciary powers, **4:28**

TRADE ALLOCATIONS

Fiduciaries, **3:26**

TRANSFER AGENTS

Fiduciaries, **4:26**

**TRANSPARENCY AND
ACCOUNTABILITY**

Dodd-Frank Act. See Dodd-Frank
Wall Street Reform and
Consumer Protection Act

TRUSTEES

See Fiduciaries
Asset Conservation, Lender
Liability and Deposit Insur-

INDEX

TRUSTEES—Cont'd

- ance Protection Act, innocent trustee liability, **3:30**
- Corporate trusts and trustees, **3:33**
- Directed trustees, duties, **3:16**
- Duties, powers and liability under Uniform Trust Code, **11:58**
- Employee Retirement Income Security Act of 1974 (ERISA), **3:15**
- Failure to diversify, **3:13**

TRUST INDENTURE ACT OF 1939

- Agency roles
 - Escrow agent, **12:18**
 - Paying agent, **12:16**
 - Transfer agent, **12:17**
- Annual reports, **12:9, 12:10**
- Bondholders, **12:10**
- Coverage, **12:3**
- Definition, paying agent, **12:16**
- Disclosure duties
 - Escrow agents, **12:20**
 - Indenture trustees, **12:9**
- Escrow agent, **12:18**
- Exempt securities, **12:3**
- Fiduciaries
 - Corporate, **12:2 to 12:15**
 - Laws and regulations governing, **1:4, 1:10**
 - Report, corporate trust activities, **21:8**
- 15 USCS §§ 77aaa-77bbb, **App 1E**
- Foreclosure, **12:12**
- Indenture qualification, **12:4**
- Indenture trustees
 - Annual reports, **12:9**
 - Conflict of interest, **12:6, 12:7**
 - Creditors, **12:7**
 - Disclosure duties, **12:9**
 - Disqualification, **12:5**
 - Eligibility, **12:5**
 - Escrow agents, **12:18**

TRUST INDENTURE ACT OF 1939—Cont'd

- Indenture trustees—Cont'd
 - Fiduciary duties, **12:11, 12:12**
 - Foreclosure, **12:12**
 - Liability, **12:13, 12:14**
 - Misleading statements, **12:13**
 - Notice of default, **12:12**
 - Obligors, **12:5**
 - Paying agent, **12:16**
 - Penalties, **12:14**
 - Postdefault duties, **12:12**
 - Predefault duties, **12:11**
 - Preferential collection of claim as creditor, **12:7, 12:8**
- Liability
 - Indenture limitations, **12:11**
 - Indenture trustees, **12:13, 12:14**
 - Penalties, **12:14**
 - Statute of limitations, **12:13**
- Misleading statements, **12:13**
- Obligors, disclosure duties, **12:10**
- Overview, **1:10**
- Paying agent, **12:16**
- Penalties, **12:14**
- Preferential collection of claim as creditor, **12:7, 12:8**
- Private right of action, **12:11**
- Purpose, **12:2**
- Reports
 - Annual, **12:9, 12:10**
 - Corporate trust activities, **21:8**
- Statute of limitations, **12:13**
- Transfer agent, **12:17**

TRUST POWERS (12 U.S.C.S § 92a)

- Generally, **App 1F**

TRUST RATING SYSTEM

- See Uniform Interagency Trust Rating System

TRUSTS

- Asset protection trust, liability for administration, **3:34**

TRUSTS—Cont'd

Common and collective trusts. See
Common and Collective
Trust Funds
Jurisdiction, **11:2**
Personal trust services, generally,
11:1 et seq.
Securities Exchange Act of 1934,
15:18
Special needs trusts. See Special
Needs Trusts
Spendthrift trusts, fiduciaries,
11:26
Uniform Trust Code. See Uniform
Trust Code

TRUTH IN SECURITIES ACT

See Securities Act of 1933

12b-1 FEES

Employee benefit trust services,
13:28, 13:48

12 CFR § 9

Regulation 9, **App 2A**

12 CFR § 9.1

Revised Regulation 9, **App 2A.5**

12 CFR § 12

Regulation 12, **App 2C**

12 U.S.C.S § 92a

Compliance programs, **18:4**
Trust Powers, **App 1F**

29 USCS §§ 1001-1191c

ERISA, text of Title I, **App 3A**

UNCLAIMED PROPERTY

Fiduciaries, liability, **3:10**

**UNIFORM DURABLE POWER
OF ATTORNEY ACT**

Agency, **2:6**

**UNIFORM FIDUCIARY
STANDARDS**

Proposed rulemaking, **4:28, 14:12**

**UNIFORM INTERAGENCY
TRUST RATING SYSTEM**

Generally, **18:42**
Avoidance of liability, **18:42**
Individual component ratings,
18:43
Major enhancements, **18:42**
Overall composite ratings, **18:42**

**UNIFORM PRINCIPAL AND
INCOME ACT**

Fiduciaries, **11:27**

UNIFORM PROBATE CODE

Interested persons, **2:4**
Selections from Code, **App 4A**

**UNIFORM PRUDENT
INVESTOR ACT OF 1994**

Generally, **App 4B**

UNIFORM SECURITIES ACT

Registration of municipal securi-
ties, **12:22**

UNIFORM TRUST CODE

Generally, **11:46 to 11:58**
Administration, situs of trust,
11:51
Amendment of trust, **11:56**
Choice of law, **11:50**
Creditors' rights, **11:54**
Duties of trustees, **11:58**
Jurisdictions, **11:49**
Liabilities of trustees, **11:58**
Mandatory rules, **11:48**
Modification of trust, **11:56**
Notice requirements, **11:52**
Office of trustee, **11:57**
Powers of trustees, **11:58**
Principal place of administration,
11:51
Purpose of Code, **11:47**
Revocable trust, **11:55**
Situs of trust, **11:51**
Termination of trust, **11:56**
Trustees, generally, **11:57, 11:58**

INDEX

UNIFORM TRUST CODE

—Cont'd

Uniform Trust Code of 2000, **App 4C**

Virtual representation, **11:53**

Will substitutes, **11:55**

Written trusts created in other jurisdictions, **11:49**

UNIFORM TRUST CODE OF 2000

Generally, **App 4C**

UNITRUST

Conversion to, **11:29**

USA PATRIOT ACT

Anti-money laundering program, **10:1, 10:5, 10:6**

Fiduciaries

Bank secrecy, **1:12**

Broker-dealer regulation, **6:32**

Compliance risks, **18:4**

VALUE AND VALUATION

Cash value, whole life insurance, **7:30**

Common and collective trust funds

Agents or pricing services, **16:5**

Assets, **16:5, 16:7**

Fees and charges, **16:5**

Predictions, **16:11**

Short-term investment funds, **16:8**

Employer stock ownership plans (ESOPs), **13:6, 13:20**

Insurance and insurance companies

Cash value, whole life, **7:30**

VALUE AND VALUATION

—Cont'd

Insurance and insurance companies—Cont'd

Finance standards, **7:8**

Mutual funds, **17:6**

National Association of Securities Dealers, Inc. (NASD), **7:8**

Office of the Comptroller of the Currency (OCC), **16:7**

Securities Valuation Office, **7:8**

Short-term investment funds, **16:8**

VENTURE CAPITAL FUND

Dodd Frank Act, exemption from registration exemption, **5:8**

VERIFICATION OF IDENTITY OF CUSTOMER

Bank Secrecy Act, **10:1, 10:2**

VIRTUAL REPRESENTATION

Uniform Trust Code, **11:53**

WALL STREET REFORM ACT

See Dodd-Frank Wall Street Reform and Consumer Protection Act

WHISTLEBLOWING

Audit and compliance programs, **18:15**

WHITE COLLAR CRIME PENALTY ENHANCEMENTS

Sarbanes-Oxley Act of 2002, **1:14, 9:9**

WILL SUBSTITUTE

Revocable trust, **11:55**