

# Index

## A

### ACCOUNTABILITY

*See* **Corporate Social Responsibility and Role of Lawyer**

### ACCOUNTING AND

#### ACCOUNTING STANDARDS

Establishing an extraterritorial presence, accounting and audits, **2:79; 2:80**

Foreign Corrupt Practices Act, **12:148**

Harmonizing, and securities regulation, **12:31 to 12:38**

Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting, **12:73**

Trends in international securities regulation, **12A:24**

### ACQUISITIONS

Foreign direct investment, **23:20**

### ACT OF STATE DOCTRINE

Antitrust law application, **13:22**

### AFRICA

International commercial arbitration, **8:157**

### ALIEN TORT CLAIMS ACT

Corporate social responsibility and role of lawyer, **1:20**

### ANGUILLA

Life insurance, **11:36**

### ANTIBOYCOTT LAWS

U.S. laws. *See* **Boycotts**

### ANTIDUMPING AND COUNTERVAILING DUTIES

Antidumping and Countervailing Duty Handbook, **App 16E**

### ANTIDUMPING AND COUNTERVAILING DUTIES —Cont'd

Department of Commerce  
Antidumping Questionnaire, **App 16F**

Regulations for Antidumping and Countervailing Proceedings (19 C.F.R. Part 351), **App 16D**

European Union Antidumping and Antisubsidy Proceedings (Reported as of 31 December 1996), **App 16C**

Survey of U.S. relief mechanisms, generally, **16:3 to 16:6**

U.S. Antidumping and Countervailing Duty Investigations, **App 16B**

### ANTIFRAUD

Extraterritorial application of anti-fraud provisions of U.S. securities laws, **12:133**

### ANTITRUST LAWS

Generally, **7:1**

China's Anti - Monopoly Law, **7:4**

Competition rules in European Union, **7:3**

Compliance, international, **7:5**

Effects test of jurisdiction

Case law, **13:3**

Consistent standard of effect, **13:6**

Jurisdictional problems, **13:3 to 13:7**

Restatement, **13:7**

Sherman Act Section 7, **13:4 to 13:7**

U.S. exporters, **13:5**

Five-step method of jurisdiction

Application of five-step rule, **13:10 to 13:14**

**ANTITRUST LAWS—Cont'd**

- Five-step method of jurisdiction
  - Cont'd
  - Balancing test and conflict of laws, **13:9**
  - Conflict of laws absent, effect of five-step rule, **13:11**
  - Conflicting substantial national interests, **13:13**
  - General rule of antitrust jurisdiction, **13:14**
  - Insubstantial interest of nation, effect of five-step rule, **13:12**
  - Jurisdictional problems, **13:8 to 13:14**
  - Proposed simplified balancing test, **13:8**
  - U.S. commerce, effect of five-step rule, **13:10**
- Foreign trade and economic injury, U.S. relief mechanisms, **16:18**
- International antitrust laws. See entries throughout this heading
- Jurisdictional problems
  - Generally, **13:1**
  - Effects test of jurisdiction, above
  - Extraterritorial discovery, **13:25**
  - Five-step method of jurisdiction, above
  - Foreign party's standing to sue, **13:2**
  - Forum non conveniens, **13:15**
  - Sovereignty defenses, below
  - Venue and personal jurisdiction, **13:24**
- Sentencing of organizations, U.S. Sentencing Commission guidelines, **App 7A**
- Sovereignty defenses
  - Generally, **13:16**
  - Act of state doctrine, **13:22**
  - Commercial exception to sovereign immunity, **13:18**
  - International law exception to sovereign immunity, **13:19**
  - Sovereign immunity, generally, **13:17 to 13:22**
  - Suits involving United States and sovereign immunity, **13:21**

**ANTITRUST LAWS—Cont'd**

- Technology licensing, international Department of Justice guidelines, **6:13**
- Transnational
  - Franchising, **5:8; 5:28; 5:39**
  - U.S. antitrust laws, **7:2**

**APPRAISAL**

- Corporate social responsibility and role of lawyer, **1:23**

**APPROVAL**

- Foreign direct investment, **23:15**

**ARAB BOYCOTT**

- Generally, **17:2 to 17:5**
- Arab boycott laws, **17:2**
- Documentation, **17:3**
- Removal from the blacklist, **17:4**
- U.S. policy, **17:5**

**ARBITRATION**

- See **International Commercial Arbitration**

**ARGENTINA**

- International
  - Commercial arbitration, **8:86**
  - Securities regulation, **12A:7**
  - Technology licensing, **6:26 to 6:28**

**ARMS EXPORT CONTROL ACT**

- Generally, **19:39**

**ASIA**

- International commercial arbitration, **8:139 et seq.**

**ATTORNEYS**

- See **Corporate Social Responsibility and Role of Lawyer**

**ATTORNEYS FEES**

- Foreign Corrupt Practices Act, **18:35**

**AUDITING PROCEDURES**

- Establishing an extraterritorial presence, accounting and audits, **2:79; 2:80**
- Harmonizing, and securities regulation, **12:31 to 12:38**
- Trends in international securities regulation, **12A:25**

## INDEX

### AUSTRALIA

- Capital markets, **12:20**
- Insider trading regulation in, **12:44**
- International securities regulation, **12A:9**
- National character of capital markets, **12:20**
- Take-over regulation, **12:50**
- Transnational franchising, pre-sale disclosure requirements, **5:18**

## B

### BAHAMAS

- Life insurance, **11:25; 11:26**

### BANKRUPTCY

- See Transnational insolvency, Foreign bankruptcies*
- Convention on International Aspects of, **App 9A**

### BANKRUPTCY ABUSE AND CONSUMER PROTECTION ACT OF 2005

- See Transnational Insolvency*

### BARBADOS

- Life insurance, **11:27; 11:28**

### BERMUDA

- Life insurance, **11:29; 11:30**

### BILATERAL INTERNATIONAL INVESTMENT TREATIES

- Foreign direct investment, **23:25 to 23:31**

### BLACKLIST

- Removal from Arab boycott, **17:4**

### BOARD OF DIRECTORS

- Choice of business entity abroad (Germany and European Union), **22:32**
- Establishing an extraterritorial presence, **2:30 et seq.**

### BOARD OF MANAGEMENT

- Choice of business entity abroad (Germany and European Union), **22:42 to 22:44**

### BOND ISSUES

- Regulation of international bond issues, **12:7**

### BORROWERS

- Public and private, international market in debt securities, **12:5**

### BOYCOTTS

- Generally, **17:1 to 17:31**
- Arab boycott
  - Generally, **17:2 to 17:5**
  - Blacklist, removal from, **17:4**
  - Boycott laws, **17:2**
  - Documentation, **17:3**
  - U.S. policy, **17:5**
- Background and summary, **17:1**
- Export Administration Act. U.S. antiboycott laws, below
- Internal Revenue Code, letters of credit, **17:27**
- Letters of credit
  - Generally, **17:27 to 17:29**
  - Application of Export Administration Regulations and Internal Revenue Code to, **17:27**
  - Prohibited clauses in, and acceptable alternatives, **17:28**
  - Sanctioned clauses in, **17:29**
  - U.S. antiboycott laws, generally, **17:27 to 17:29**
- Penalties
  - Export Administration Act, **17:22**
  - Tax Code: "International Boycott Determinations," **17:25**
- Reporting requirements
  - Export Administration Act, **17:19 to 17:21**
  - Tax Code: "International Boycott Determinations," **17:26**
- Reporting requirements for U.S. companies, **17:1**
- Summary, **17:1**
- Tax Code
  - "International Boycott Determinations"
    - agreements to comply with boycott, **17:24**
    - penalties, **17:25**
    - reporting requirements of, **17:26**

**BOYCOTTS—Cont'd**

- Tax Code—Cont'd
  - “International Boycott Determinations”—Cont'd
    - U.S. antiboycott laws, generally, **17:23 to 17:26**
  - Letters of credit, **17:27**
- U.S. antiboycott laws
  - Actus reus, enforcement actions as reported by courts, **19:44**
  - Compliance program, **17:31**
  - Enforcement actions as reported by courts, **19:57**
  - Export Administration Regulations, letters of credit, **17:27**
  - Export Control Act of 2018
    - generally, **17:7 to 17:22**
    - boycott-related requests, **17:20; 17:21**
    - discrimination, **17:10**
    - document requirements, **17:14**
    - exceptions to prohibitions, **17:12 to 17:18**
    - export requirements, **17:16**
    - furnishing information, **17:11**
    - general scope of antiboycott provisions, **17:7**
    - import requirements, **17:13**
    - local law, **17:18**
    - penalties, **17:22**
    - prohibited activities, passive and active compliance, **17:8 to 17:11**
    - refusal to do business, **17:9**
    - reporting requirements, **17:19 to 17:21**
    - unilateral and specific selection, **17:15**
    - visa requirements, **17:17**
  - Export controls and compliance, **19:36; 19:44; 19:57**
  - Historical background to, **17:6**
  - In overseas operations, examples of, **17:30**
  - International Boycott Report, **App 17A**
  - Letters of credit, above
  - Penalties, above
  - Reporting requirements, above

**BOYCOTTS—Cont'd**

- U.S. antiboycott laws—Cont'd
  - Tax Code: “International Boycott Determinations,” above

**BRAZIL**

- International
  - Commercial arbitration, **8:87**
  - Securities regulation, **12A:8**
  - Technology licensing, **6:23 to 6:28**
- Transnational franchising, pre-sale disclosure requirements, **5:15**

**BRUSSELS CONVENTION**

- Convention on Jurisdiction and Enforcement of Judgments (Brussels Convention), **3A:12; 3A:13; App 3A**

**BRUSSELS REGULATION**

- Transnational contracts, **3A:14**

**BULGARIA**

- U.S.-Bulgaria Double Taxation Treaty, **App 10H**

**C**

**CALIFORNIA**

- Life insurance, **11:15**

**CANADA**

- Insider trading regulation in, **12:43**
- International commercial arbitration, **8:84**
- Take-over regulation, **12:51**
- Transnational franchising, pre-sale disclosure requirements
  - Generally, **5:9**
  - Alberta, **5:10**
  - Ontario, **5:11**
  - Quebec, **5:12**

**CAPITAL MARKETS**

- International markets. *See* **International Capital Markets**
- National character
  - Generally, **12:11 to 12:20**
  - Australia, **12:20**
  - France, **12:15**
  - Germany, **12:14**
  - Hong Kong, **12:18**

## INDEX

### **CAPITAL MARKETS—Cont'd**

National character—Cont'd

Italy, **12:17**

Japan, **12:12**

Mexico, **12:19**

Netherlands, **12:16**

United Kingdom, **12:13**

United States, **12:11**

### **CAPITALIZATION**

Choice of business entity abroad  
(Germany and European Union)

Corporate entities, **22:20; 22:21;**  
**22:38; 22:53**

Partnership entities, **22:62; 22:72;**  
**22:80**

Withdrawal of minimum  
capitalization amount, **22:86**

### **CARIBBEAN**

International commercial arbitration,  
**8:85**

### **CAUX ROUND TABLE PRINCIPLES FOR BUSINESS**

Corporate social responsibility and  
role of lawyer, **App 1D**

### **CAYMAN ISLANDS**

Life insurance, **11:31; 11:32**

### **CERES PRINCIPLES**

Corporate social responsibility and  
role of lawyer, **App 1F**

### **CHAPTER 15**

*See Transnational Insolvency*

### **CHARITABLE PURPOSE**

*See Philanthropy (American  
Corporations Worldwide)*

### **CHINA**

Anti - Monopoly Law, **7:4**

Antitrust laws, **7:4**

International commercial arbitration,  
**8:148 to 8:150**

Transnational franchising, **5:21**

### **CHOICE OF BUSINESS ENTITY ABROAD (GERMANY AND EUROPEAN UNION)**

Generally, **22:1 to 22:92**

### **CHOICE OF BUSINESS ENTITY ABROAD (GERMANY AND EUROPEAN UNION)—Cont'd**

Benefit of European Community,  
**22:87**

Board of directors, **22:32**

Board of management, **22:42 to**  
**22:44**

Capitalization

Corporate entities, **22:20; 22:21;**  
**22:38; 22:53**

European company, **22:53**

Partnership entities, **22:62; 22:72;**  
**22:80**

Withdrawal of minimum  
capitalization amount, analy-  
sis, **22:86**

Civil law environment, **22:89**

Codes referenced, listing, **App 22A**

Commercial law, selected basic  
principles, **22:2 to 22:15**

Construction consortium, **22:66**

Contractual joint ventures, **22:66**

Contributions in kind, capitalization,  
**22:21**

Corporate actors

European company, **22:54; 22:55**

Management, **22:41**

Managing director, **22:26**

Shareholder meeting, **22:26; 22:41**

Supervisory board, **22:41**

Corporate entities

AG (corporation), legal character,  
**22:35**

Applicable law, **22:18; 22:36;**  
**22:50**

Board of directors, **22:32**

Board of management, **22:42 to**  
**22:44**

Capitalization, **22:20; 22:21;**  
**22:38; 22:53**

Common rules for one and two tier  
structure, **22:56**

Contributions in kind, capitaliza-  
tion, **22:21**

Control by quota holders over  
management, **22:30**

Corporate actors, **22:26; 22:41;**  
**22:54; 22:55**

**CHOICE OF BUSINESS ENTITY  
ABROAD (GERMANY AND  
EUROPEAN UNION)—Cont'd**

Corporate entities—Cont'd  
    Council, **22:55**  
    Facultative and mandatory  
        supervisory board, **22:31**  
    Formation, **22:19; 22:37; 22:51**  
    GmbH, limited liability company  
        (LLC), **22:16**  
    Legal character, **22:17; 22:49**  
    Legal representative, board of  
        management, **22:42**  
    Limited liability, **22:33; 22:46**  
    LLC and U.S. style board of direc-  
        tors, **22:32**  
    Management, **22:41; 22:54**  
    Managing director, **22:26; 22:27;**  
        **22:29**  
    Mandatory supervisory board,  
        **22:45**  
    Minimum capitalization, **22:20;**  
        **22:53**  
    Publication, **22:22; 22:39; 22:52**  
    Quota holder and rights among  
        quota holders, **22:23**  
    Quotas, **22:23 to 22:25; 22:30**  
    Registration, **22:22; 22:39; 22:52**  
    Rights of and between quota hold-  
        ers, **22:25**  
    Service agreements, **22:28; 22:43**  
    Shareholders  
        meeting, **22:26; 22:41; 22:54;**  
            **22:55**  
        rights, **22:40**  
    Societas Europaea (European  
        Company), **22:48**  
    Supervisory board, **22:31; 22:41;**  
        **22:45; 22:54**  
    Third parties, **22:29; 22:44**  
    Transfer of LLC quotas, **22:24**  
    Winding up, **22:34; 22:47**  
    Council  
        Corporate entities, **22:55**  
        European company, **22:55**  
    European Council Regulations and  
        Directives, listing of referenced  
        codes, **App 22A**

**CHOICE OF BUSINESS ENTITY  
ABROAD (GERMANY AND  
EUROPEAN UNION)—Cont'd**

European Economic Interest Group-  
ing (EEIG), **22:76**  
Facultative and mandatory  
supervisory board, **22:31**  
GbR (Civil Code Partnership), **22:58**  
German Codes and other language  
materials, listing of referenced  
codes, **App 22A**  
Gesellschaften des Zivilrechts (Civil  
Law Societies), **22:3**  
GmbH, limited liability company  
(llc), **22:16**  
GmbH & Co. KG (Limited Liability  
Limited Partnership) (LLLP),  
**22:83**  
Handelsregister (commercial regis-  
try), **22:14**  
Horizontal relationship, interplay  
between different German  
codes, **22:91**  
Joint representation, **22:63**  
Joint ventures, partnership entities,  
**22:66**  
Kaufleute (sophisticated persons),  
**22:11 to 22:13**  
KG (limited partnership), **22:74**  
Korperschaften (corporate entities),  
**22:5**  
Legal representative  
    Generally, **22:9; 22:10; 22:27 to**  
        **22:29; 22:42; 22:44**  
    Vis-a-vis third parties, **22:7**  
Limited liability, **22:33; 22:46**  
Listing of referenced codes, **App 22A**  
LLC and U.S. style board of direc-  
tors, **22:32**  
Management  
    Corporate actors, **22:41**  
    European company, **22:54**  
Managing director, **22:26; 22:27;**  
    **22:29**  
Mandatory supervisory board, **22:45**  
Minimum capitalization  
    Corporate entities, **22:20**  
    European company, **22:53**

## INDEX

### **CHOICE OF BUSINESS ENTITY ABROAD (GERMANY AND EUROPEAN UNION)—Cont'd**

- Minimum capitalization—Cont'd
  - Withdrawal, analysis of choice,  
**22:86**
- OHG (commercial trade partnership),  
**22:68**
- Organ / organhaftung liability  
concept, **22:6 to 22:10**
- Partnership entities
  - Applicable law, **22:60; 22:70;  
22:78**
  - Capitalization, **22:62; 22:72;  
22:80**
  - Commercial law, selected basic  
principles, **22:4**
  - Consideration of, **22:88**
  - Construction consortium, **22:66**
  - Contractual joint ventures, **22:66**
  - European Economic Interest  
Grouping (EEIG), **22:76**
  - Formation, **22:61; 22:71; 22:79**
  - GbR (Civil Code Partnership),  
**22:58**
- Joint
  - representation, **22:63**
  - ventures, **22:66**
- KG (limited partnership), **22:74**
- Legal character, **22:59; 22:69;  
22:77**
- OHG (commercial trade partner-  
ship), **22:68**
- Personal liability, **22:64**
- Professionals, **22:67**
- Publication, **22:62; 22:72; 22:80**
- Registration, **22:62; 22:72; 22:80**
- Representation vis a vis third par-  
ties, **22:63**
- Representative, **22:73; 22:81**
- Silent partnership, **22:75**
- Stille Gesellschaft (silent partner-  
ship), **22:75**
- Unlimited liability, **22:82**
- Winding up, **22:65**
- Personal liability
  - Legal representative, **22:9**
  - Partnership entities, **22:64**

### **CHOICE OF BUSINESS ENTITY ABROAD (GERMANY AND EUROPEAN UNION)—Cont'd**

- Personengesellschaften (partnership  
entities), **22:4**
- Professionals, partnership entities,  
**22:67**
- Publication
  - Corporate entities, **22:22; 22:39**
  - European company, **22:52**
  - Partnership entities, **22:62; 22:72;  
22:80**
- Quota holder and rights among quota  
holders, **22:23**
- Quotas, **22:23 to 22:25; 22:30**
- Registration
  - Corporate entities, **22:22; 22:39**
  - European company, **22:52**
  - Partnership entities, **22:62; 22:72;  
22:80**
- Relevance of legal representative  
vis-a-vis third parties, **22:8**
- Representation vis-a-vis third parties,  
**22:6 to 22:10**
- Representative
  - Legal representative, above
  - Partnership entities, **22:73; 22:81**
- Selected basic principles of com-  
mercial law, **22:2 to 22:15**
- Service agreements, **22:28; 22:43**
- Shareholders
  - Meeting
    - corporate actors, **22:26; 22:41**
    - European company, **22:54;  
22:55**
  - Rights, **22:40**
- Silent partnership, **22:75**
- Societas Europaea (European  
Company), **22:48**
- Societies, **22:3**
- Stille Gesellschaft (silent partner-  
ship), **22:75**
- Supervisory board
  - Corporate actors, **22:41; 22:54**
  - Corporate entities, **22:31**
  - European company, **22:54**
  - Mandatory, **22:31; 22:45**
- Third parties, **22:6 to 22:10; 22:29;  
22:44**

**CHOICE OF BUSINESS ENTITY  
ABROAD (GERMANY AND  
EUROPEAN UNION)—Cont'd**

- Transfer of LLC quotas, **22:24**
- Unlimited liability, **22:82**
- Vertical relationship, interplay  
between German and European  
law, **22:90**
- Winding up
  - Corporate entities, **22:34; 22:47**
  - German law, **22:15**
  - Partnership entities, **22:65**
- Withdrawal of the minimum  
capitalization amount, **22:86**

**CHOICE OF LAW CLAUSES**

- Generally, **3A:1**
- Arbitration clauses
  - Generally, **3A:8**
  - Federal court decisions, **3A:10**
  - State court decisions, **3A:10**
  - Supreme Court decisions, **3A:9**
- Contracts with choice of law and  
forum clauses, **3A:3**
- U.S. law and practice
  - Generally, **3A:2 to 3A:7**
  - Judicial decisions, **3A:6**
  - Restatement (Second) of Conflict  
of Laws, **3A:4**
  - Statutory developments, **3A:7**
  - Uniform Commercial Code, **3A:5**

**CHOOSING BUSINESS ENTITIES  
ABROAD**

- Extraterritorial presence. *See*  
**Establishing an Extraterrito-  
rial Presence**
- Germany and European Union. *See*  
**Choice of Business Entity  
Abroad (Germany and  
European Union)**

**CIVIL LAW JURISDICTION**

- Corporations, joint stock companies,  
and share companies, **2:13 et  
seq.**
- Employee incentives, **2:77**
- General and limited partnerships,  
**2:42; 2:44; 2:48; 2:51**

**CIVIL LAW JURISDICTION  
—Cont'd**

- Limited liability companies, **2:55;  
2:57; 2:59; 2:61; 2:63; 2:65;  
2:67**
- Transnational contract law,  
precontractual process
  - Generally, **4:9 to 4:13**
  - France, **4:9; 4:10**
  - Germany, **4:12; 4:13**
  - Italy, **4:11**
- Letter of intent more likely to be  
enforced as complete agree-  
ments
  - civil law countries, **4:23**
- Precontractual documents that con-  
template subsequent  
contracts, **4:10; 4:13**

**CIVIL LITIGATION**

- Convention on Jurisdiction and Rec-  
ognition and Enforcement of  
Judgments in Civil and Com-  
mercial Matters, **App 3C**
- Council of Europe Civil Law  
Convention on Corruption, **App  
18D**
- European treaties on civil procedure,  
European Union, **4A:6**
- Export violations, enforcement  
actions as reported by courts.  
*See* **U.S. Export Controls and  
Compliance**

**CLASSIFICATION OF  
CORPORATIONS**

- Taxation (U.S.), **App 10C**

**CLASSIFICATION OF  
INDIVIDUALS**

- Taxation (U.S.), **App 10B**

**CODES OF CONDUCT**

- See* **Corporate Social Responsibility  
and Role of Lawyer**
- Corporations. *See* entries throughout  
this heading
- Franchise association, **5:32**
- Social responsibility and role of  
lawyer, **1:3**
- TNC role in global economy, **1:2**

## INDEX

### **CODES OF CONDUCT—Cont'd**

Transnational corporations. *See* entries throughout this heading  
United Nations. *See* **United Nations**

### **COLORADO**

Life insurance, **11:16**

### **COMBATING EXTORTION AND BRIBERY: ICC RULES OF CONDUCT AND RECOMMENDATIONS 2005**

Foreign Corrupt Practices Act, **App  
18F**

### **COMMERCIAL ARBITRATION**

*See* **International Commercial  
Arbitration**

### **COMMON LAW COUNTRIES**

*See* **Transnational Contract Law**

### **CONCLUSION**

Summary, **12B:10**

### **CONDUCT CODES OF**

*See* **Codes of Conduct**

### **CONFIDENTIALITY**

Commercial arbitration. *See*  
**International Commercial  
Arbitration**

### **CONSTRUCTION CONSORTIUM**

Choice of business entity abroad  
(Germany and European Union),  
**22:66**

### **CONTRACTS**

EU. *See* **European Union**

International contracts. *See*  
**Transnational Contract Law**

### **CONTRACTUAL JOINT VENTURES**

Choice of business entity abroad  
(Germany and European Union),  
**22:66**

### **CONTRATTI PRELIMINARI**

Transnational contract law, **4:11**

### **CONVENTION FOR AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL INCOME WITH RESPECT TO TAXES ON INCOME [SEPTEMBER 20, 1996]**

Taxation (U.S.), **App 10F**

### **CONVENTION ON COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS**

Foreign Corrupt Practices Act, **App  
18B**

### **CONVENTION ON INTERNATIONAL ASPECTS OF BANKRUPTCY**

Recognition of foreign bankruptcies  
in transnational setting, **App 9A**

### **CONVENTION ON JURISDICTION AND ENFORCEMENT OF JUDGMENTS**

Brussels Convention, **3A:12; 3A:13;  
App 3A**

### **CONVENTION ON JURISDICTION AND THE RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS**

Transnational contracts, **App 3C**

### **CONVENTION ON THE LAW APPLICABLE TO CONTRACTUAL OBLIGATIONS**

Rome Convention, **3A:16; App 3A-B**

### **CORPORATE ACCOUNTABILITY** *See* **Corporate Social Responsibility and Role of Lawyer**

### **CORPORATE CODES OF CONDUCT**

*See* **Codes of Conduct**

### **CORPORATE SOCIAL RESPONSIBILITY AND ROLE OF LAWYER**

Generally, **1:1 to 1:24**

**CORPORATE SOCIAL  
RESPONSIBILITY AND ROLE  
OF LAWYER—Cont'd**

Alien Tort Claims Act, **1:20**  
 Appraisal of CSR, **1:23**  
 Caux round table principles for business, **App 1D**  
 CERES principles, **App 1F**  
 Codes of conduct  
     Ethical standards for companies, **1:3**  
     Industry codes, **1:3**  
     International codes, **1:3**  
     Norms on the responsibilities of transnational companies, **1:3**  
     Regional government codes, **1:3**  
 Conclusion, **1:24**  
 Conduct codes, **1:3**  
 Corporate lawyer, **1:21**  
 Definition of corporate social responsibility, **1:5**  
 Enforcement of CSR norms, **1:4**  
 “Equator Principles,” **App 1E**  
 Ethical  
     Investing by large institutions, **1:11**  
     Standards for companies, **1:3**  
 European Parliament Committee on Employment and Social Affairs, Report on corporate social responsibility, 2006, **App 1C**  
 ICC business charter for sustainable development, **App 1G**  
 Large development and extractive projects, stakeholder related risks, **1:9**  
 License to operate, social, **1:10**  
 Operating license, social, **1:10**  
 Partnership of corporate social responsibility with state action, **1:8**  
 Pluralistic approach to enforcement, **1:13**  
 Rankings, **1:19**  
 Rights sensitive branding, **1:12**  
 Rise of corporate social responsibility, **1:6**  
 Role of TNCs in global economy, **1:2**  
 Shareholder  
     Theory v. stakeholder theory, **1:7**

**CORPORATE SOCIAL  
RESPONSIBILITY AND ROLE  
OF LAWYER—Cont'd**

Stakeholder  
     Related risks, large development and extractive projects, **1:9**  
 State law, **1:17**  
 Successful initiatives  
     CSR rankings, **1:19**  
     State law, **1:17**  
     UN Guiding Principles on Business and Human Rights, **1:18**  
     UN Principles for Responsible Investment, **1:14**  
     United Nations Global Compact, **1:15**  
     U.S. federal law, **1:16**  
 UN Guiding Principles  
     Business and Human Rights, **1:18**  
     Reporting Framework, **App 1B**  
 UN Principles for Responsible Investment, **1:14**  
 United Nations  
     Global Compact, **1:15**  
     Guiding Principles on Business and Human Rights, **1:18**  
     Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, 2011, **App 1A**  
 U.S. federal law, **1:16**  
 Why TNCs should be more socially responsible, **1:22**

**COSTS**

International commercial arbitration.  
     *See* **International Commercial Arbitration**

**COUNCIL OF EUROPE CIVIL  
LAW CONVENTION ON  
CORRUPTION**

Foreign Corrupt Practices Act, **App 18D**

## INDEX

### **COUNCIL OF EUROPE CRIMINAL LAW CONVENTION ON CORRUPTION**

Foreign Corrupt Practices Act, **App 18C**

### **CROSS BORDER PUBLIC OFFERINGS OF SECURITIES**

European Union. *See* **European Union**

International disclosure standards, **App 12A-3**

## **D**

### **DAMAGES**

Quantification. *See* **Transnational Contract Law**

### **DELAWARE**

Establishing an extraterritorial presence, corporations, joint stock companies and share companies, **2:14**

### **DIPLOMATIC OFFICIALS**

Sovereign immunity, **15:5 to 15:8**

### **DISCLOSURE**

International capital markets disclosure systems

Continuous reporting, European Community disclosure directives, **12:30**

European Community disclosure directives, **12:29; 12:30**

European prospectus, **12:29**

Standards, trends in international securities regulation, **12A:23**

U.S.

continuous disclosure, **12:25**

Exchange Act registration and continuous disclosure, **12:25**

registration of securities, **12:24; 12:25**

International disclosure standards for cross-border offerings and initial listings by foreign issuers, **App 12A-3**

### **DISCLOSURE—Cont'd**

Transnational franchising

Alberta, Canada pre-sale disclosure requirements, **5:10**

Australian pre-sale disclosure requirements, **5:18**

Brazilian pre-sale disclosure requirements, **5:15**

Canadian pre-sale disclosure requirements

generally, **5:9 to 5:12**

Alberta, **5:10**

Ontario, **5:11**

Quebec, **5:12**

French pre-sale disclosure requirements, **5:13**

Japanese pre-sale disclosure requirements, **5:20**

Mexican pre-sale disclosure and registration requirements, **5:14**

Ontario, Canada pre-sale disclosure requirements, **5:11**

Quebec, Canada pre-sale disclosure requirements, **5:12**

South Korean pre-sale disclosure requirements, **5:19**

Spanish pre-sale disclosure and registration requirements, **5:16**

UNIDROIT Model Franchise Disclosure Law, **App 5A**

### **DISPUTE RESOLUTION**

Foreign direct investment, **23:41**

### **DOUBLE TAXATION**

U.S.-Bulgaria Double Taxation Treaty, **App 10H**

### **DUTY OF CARE AND LOYALTY**

Establishing an extraterritorial presence, **2:32; 2:33**

## **E**

### **EAR (EXPORT ADMINISTRATION REGULATIONS)**

*See* **U.S. Export Controls and Compliance**

**EARMARKING**

Philanthropy by American corporations worldwide, **20:21**

**EC REGULATION 44 / 2001**

Transnational contracts, **App 3B**

**ECONOMIC INJURY**

*See Foreign Trade*

**EFFECTIVELY CONNECTED INCOME (BEFORE TREATIES)**

Taxation (U.S.), **App 10D**

**EFFECTS TEST OF JURISDICTION**

Jurisdictional problems in application of antitrust laws, **13:3 to 13:7**

**EMPLOYMENT AND LABOR LAW IN THE INTERNATIONAL CONTEXT**

Generally, **21:1; 21:2**

Conclusion, **21:18**

Content, **21:1**

Establishing an extraterritorial presence, employee incentives in civil law jurisdictions, **2:77**

Establishing an extraterritorial presence, employee incentives in common law jurisdictions, **2:76**

Extraterritorial effect of U.S. employment law

Generally, **21:11 to 21:14**

Discrimination law, **21:12**

Employee benefit law and policy in expatriate context, **21:14**

Labor union law, **21:13**

Foreign employment law and practice

Generally, **21:3**

Employment contracts, **21:5**

Foreign law, **21:4**

Individual employment contracts, **21:5**

Labor unions, **21:6**

Potential issues

Generally, **21:15**

Adversarial context, **21:17**

Transactional context, **21:16**

**EMPLOYMENT AND LABOR LAW IN THE INTERNATIONAL CONTEXT—Cont'd**

Sources for researching labor and employment law in international conflict, **App 21B**

Ten-point checklist for addressing employment issues in international transactions, **App 21A**

Treaties and the International Labor Organization

EU, NAFTA, and other trade blocs, **21:7**

Friendship and commerce treaties, **21:9**

GATT, GATS, and WTO, **21:8**

International Labor Organization, **21:10**

NAFTA, **21:7**

Navigation treaties, **21:9**

WTO, GATS and GATT, **21:8**

What “international labor and employment law” is, **21:2**

**ENFORCEMENT**

CSR norms. *See Corporate Social Responsibility and Role of Lawyer*

EEC antitrust laws. *See Antitrust Laws*

European Union, judgments, **4A:8**

International commercial arbitration. *See International Commercial Arbitration*

**ENGLAND**

*See also lines beginning United Kingdom*

Transnational contract law

Precontractual documents that contemplate subsequent contracts, **4:7**

Precontractual process

letter of intent more likely to be enforced as complete agreements, **4:21**

precontractual documents that contemplate subsequent contracts, **4:7**

## INDEX

### ENGLAND—Cont'd

- Transnational contract law—Cont'd
- Precontractual process—Cont'd
- precontractual liability, **4:26**
- Quantification of damages, common law principles, **4:52**

### “EQUATOR PRINCIPLES”

- Corporate social responsibility and role of lawyer, **App 1E**

### EQUITIES

- Capital markets. *See* **Capital Markets**
- International markets, **12:21**

### ESTABLISHING AN EXTRATERRITORIAL PRESENCE

- Generally, **2:1**
- Accounting and audits, **2:79; 2:80**
- Arrangement of affairs by agreement, **2:4**
- Bifurcated management committee and supervisory board structure, **2:31**
- Board of directors, structure, **2:30 et seq.**
- Conclusions, **2:83**
- Conversions, **2:75**
- Corporations, joint stock companies, and share companies
- Generally, **2:10**
- Ability to contract, **2:15 to 2:17**
- Board of directors, structure, **2:30 et seq.**
- Choice of business entity abroad (Germany and European Union), **22:5; 22:16 to 22:56**
- Civil law jurisdiction, **2:13 et seq.**
- Common law jurisdiction, **2:12 et seq.**
- Delaware formations, **2:14**
- Dissolution, **2:25; 2:26**
- Duty of care and loyalty, **2:32; 2:33**
- Exit strategy, formation of predictable, **2:22 to 2:26**
- Flexibility of economic structure, **2:18 to 2:21**

### ESTABLISHING AN EXTRATERRITORIAL PRESENCE—Cont'd

- Corporations, joint stock companies, and share companies—Cont'd
- Limitation of liability, **2:36 to 2:38**
- Minimum capital requirements, **2:20**
- Officers, **2:34; 2:35**
- Organizational formalities, **2:11 to 2:14**
- Tax exposure, minimization of, **2:39**
- Transfers and redemptions, **2:23; 2:24**
- Dissolution, **2:25; 2:26**
- Duty of care and loyalty, efficient management structure, **2:32; 2:33**
- Employee incentives in civil law jurisdictions, **2:77**
- Employee incentives in common law jurisdictions, **2:76**
- European Union. *See* **Choice of Business Entity Abroad (Germany and the European Union)**
- Exit strategy, formation of predictable, **2:6; 2:22 to 2:26; 2:47; 2:48; 2:60; 2:61**
- Flexibility of economic structure, **2:5; 2:18 to 2:21; 2:45; 2:46; 2:58; 2:59**
- Framework for foreign business entity selection
- Generally, **2:2 to 2:9**
- Arrangement of affairs by agreement, **2:4**
- Burden of organizational formalities, **2:3**
- Exit strategy, formation of predictable, **2:6**
- Flexibility of economic structure, **2:5**
- Liability, protection of foreign entity and fiduciaries from, **2:8**
- Management structure, implementation of efficient, **2:7**

**ESTABLISHING AN  
EXTRATERRITORIAL  
PRESENCE—Cont'd**

Framework for foreign business  
entity selection—Cont'd  
Tax exposure, minimization of, **2:9**  
General and limited partnerships  
Generally, **2:40 et seq.**  
Ability to contract, **2:43; 2:44**  
Civil law jurisdiction, **2:42; 2:44;**  
**2:48; 2:51**  
Common law jurisdiction, **2:41;**  
**2:43; 2:46; 2:47; 2:50**  
Exit strategy, formation of predict-  
able, **2:47; 2:48**  
Flexibility of economic structure,  
**2:45; 2:46**  
Limitation of liability, **2:50; 2:51**  
Management structure,  
implementation of efficient,  
**2:49**  
Organizational formalities, **2:41;**  
**2:42**  
Tax exposure, minimization of,  
**2:52**  
Germany. *See* **Choice of Business  
Entity Abroad (Germany and  
the European Union)**  
Joint stock companies. Corporations,  
joint stock companies, and share  
companies, above  
Liability  
Limitation of liability, below  
Protection of foreign entity and  
fiduciaries from, **2:8**  
Limitation of liability  
Corporations, joint stock  
companies, and share  
companies, **2:36 to 2:38**  
General and limited partnerships,  
**2:50; 2:51**  
Limited liability companies, **2:64;**  
**2:65**  
Limited liability  
Limited partnerships in the US,  
**2:70**  
Partnerships  
United Kingdom, **2:71**  
United States, **2:70**

**ESTABLISHING AN  
EXTRATERRITORIAL  
PRESENCE—Cont'd**

Limited liability companies  
Ability to contract, **2:56; 2:57**  
Civil law jurisdiction, **2:55; 2:57;**  
**2:59; 2:61; 2:63; 2:65; 2:67**  
Common law jurisdiction, **2:56;**  
**2:58; 2:60; 2:62; 2:64; 2:66**  
Exit strategy, formation of predict-  
able, **2:60; 2:61**  
Flexibility of economic structure,  
**2:58; 2:59**  
Liability, limitation of, **2:64; 2:65**  
Management structure,  
implementation of efficient,  
**2:62; 2:63**  
Organizational formalities, **2:54;**  
**2:55**  
Single member entities, **2:68**  
Tax exposure, minimization of,  
**2:66; 2:67**  
Local registration of parent  
companies or branches, **2:81;**  
**2:82**  
Management structure, implementa-  
tion of efficient, **2:7; 2:27 to**  
**2:35; 2:49; 2:62; 2:63**  
Mergers, **2:74**  
Non-existence of European entities,  
**2:73**  
Officers, efficient management  
structure, **2:34; 2:35**  
Organizational formalities, **2:3; 2:11**  
**to 2:14; 2:41; 2:42; 2:54; 2:55**  
Registration of parent companies or  
branches, **2:81; 2:82**  
Securities law compliance, **2:78**  
Societe par actions simpliffee, **2:72**  
Tax exposure, minimization of, **2:9;**  
**2:39; 2:52; 2:66; 2:67**  
Transfers and redemptions, **2:23;**  
**2:24**

**ETHICAL INVESTING**

Corporate social responsibility and  
role of lawyer, **1:11**

**EUROCURRENCIES**

Role in international market in debt  
securities, **12:4**

## INDEX

### EUROPE AND EUROPEAN UNION

International securities regulation,  
**12A:5**

### EUROPEAN COUNCIL REGULATIONS AND DIRECTIVES

Listing of referenced codes, **App 22A**

### EUROPEAN ECONOMIC COMMUNITY (EEC; COMMON MARKET)

Capital flows, EC solution, **12:2**

Directive on investment companies,  
**12:58**

Disclosure directives of, and  
international securities regula-  
tion

Continuous reporting, **12:30**

International capital markets, **12:2**

Substantive law of, in transnational  
business operations

*see* **Antitrust Laws**

Transnational franchising, EEC  
antitrust regulation, **5:8**

### EUROPEAN ECONOMIC INTEREST GROUPING (EEIG)

Choice of business entity abroad  
(Germany and European Union),  
**22:76**

### EUROPEAN TREATIES ON CIVIL PROCEDURE

European Union, contract law, **4A:6**

### EUROPEAN UNION

Antitrust laws, **7:3**

Brexit

Civil Procedure, **4A:12**

EU Legislation, **4A:11**

Choice of business entity. *See* **Choice  
of Business Entity Abroad  
(Germany and the European  
Union)**

Competition rules, **7:3**

Consumer law enforcement, **4A:9**

Contract law

Generally, **4A:1 to 4A:14**

### EUROPEAN UNION—Cont'd

Contract law—Cont'd

Anticipated measures, **4A:5;**  
**4A:10**

Applicability, **4A:14**

Choice of law, **4A:7**

Civil procedure

anticipated measures, **4A:10**

enforceability of judgments,  
**4A:8**

EU legislation, **4A:6**

European treaties on civil proce-  
dure, **4A:6**

judgments, recognition and  
enforceability of, **4A:8**

jurisdiction, **4A:8**

recognition of judgments, **4A:8**

treaties on civil procedure,  
European, **4A:6**

Consumer law enforcement, **4A:9**

Directives and regulations with  
effect on contracts, **4A:3**

Enforceability of judgments, **4A:8**

EU legislation, **4A:6**

European treaties on civil proce-  
dure, **4A:6**

Judgments, recognition and  
enforceability of, **4A:8**

Jurisdiction, **4A:7; 4A:8**

Legislation, **4A:2 to 4A:5**

Principles, **4A:13**

Principles of European Contract  
Law

Part III, **App 4A-2**

Parts I and II, **App 4A-1**

Recognition of judgments, **4A:8**

Treaties on civil procedure,  
European, **4A:6**

Directives currently applicable to  
pan-E.U. public offerings

Cross-border public offerings of  
securities, regulation, **14:3 to  
14:8**

Exchange listed equity securities  
admission directive, **14:5**

interim report directive, **14:6**

listing particulars directive, **14:7**

public offerings, generally, **14:4  
to 14:7**

## EUROPEAN UNION—Cont'd

- Directives currently applicable to pan-E.U. public offerings—Cont'd
    - Offerings without exchange listings, **14:8**
    - Shortage of public offerings, possible reasons, **14:9**
    - Shortcomings of the directives, **14:9**
  - Enforceability of judgments, **4A:8**
  - EU legislation, contract law, **4A:6**
  - European treaties on civil procedure, **4A:6**
  - Judgments, recognition and enforceability of, **4A:8**
  - Jurisdiction, **4A:8**
  - Listing of referenced regulations and directives, **App 22A**
  - Proposals for harmonizing the cross-border offerings system
    - Capital markets integration, **14:11**
    - Conclusion, **14:13**
    - FESCO issuer passport proposal, **14:10**
    - Prospectus directive proposal, **14:12**
  - Recognition of judgments, **4A:8**
  - Regulation of cross-border public offerings of securities
    - Generally, **14:1 to 14:13**
    - Directives currently applicable to pan-E.U. public offerings, **14:3 to 14:8**
    - E.U. system of regulation, **14:2**
    - Proposals for harmonizing the cross-border offerings system capital markets integration, **14:11**
    - Shortage of public offerings, possible reasons, **14:9**
    - Shortcomings of the directives, **14:9**
  - Trade barriers regulation, foreign trade, **App 16G**
  - Treaties on civil procedure, European, **4A:6**
- ## EUROPEAN UNION TRADE BARRIERS REGULATION
- Foreign trade, **App 16G**

## EXCHANGES

- Transnational franchising, **5:30**

## EXEMPTIONS

- Certain non-united states nationals, Foreign Corrupt Practices Act, **18:28**
- Registration and reporting by foreign issuers under Exchange Act, **12:144**

## EXPATRIATE TAXATION

- Generally, **10A:1 to 10A:14**
- AJCA, brief history under, **10A:5**
- FITA, brief history under, **10A:3**
- Gain recognition
  - Generally, **10A:6**
  - Bequests, **10A:9**
  - Constitutionality, **10A:13**
- Covered
  - expatriate defined, **10A:7**
  - gifts, **10A:9**
- Degree of exposure for international executive, **10A:12**
- HEART Act open issues, **10A:11**
- Mark-to-market regime exceptions, **10A:8**
- Reporting requirements, **10A:10**
- Heroes Earnings Assistance and Relief Act (HEART Act), **10A:1 to 10A:14**
- HIPAA, brief history under, **10A:4**
- History, **10A:2 to 10A:5**
- Life insurance, **11:39**
- Soundness of tax policy, **10A:14**

## EXPORT ADMINISTRATION REGULATIONS (EAR)

- See* **U.S. Export Controls and Compliance**

## EXPORT CONTROL ACT OF 2018

- International boycotts, **17:7 to 17:22**
- U.S. antiboycott laws
  - Generally, **17:7 to 17:22**
  - Boycott-related requests, **17:20; 17:21**
  - Discrimination, **17:10**
  - Document requirements, **17:14**

## INDEX

### EXPORT CONTROL ACT OF 2018 —Cont'd

- U.S. antiboycott laws—Cont'd
  - Exceptions to prohibitions, **17:12 to 17:18**
- Export Administration Act
  - import requirements, **17:13**
  - local law, **17:18**
  - penalties, **17:22**
  - prohibited activities, passive and active compliance, **17:8 to 17:11**
  - refusal to do business, **17:9**
  - reporting requirements, **17:19 to 17:21**
  - unilateral and specific selection, **17:15**
  - visa requirements, **17:17**
- Export Administration Regulations
  - general scope of antiboycott provisions, **17:7**
- Export requirements, **17:16**
- Furnishing information, **17:11**

### EXPORT CONTROLS AND COMPLIANCE

- See* **U.S. Export Controls and Compliance**

### EXTRATERRITORIALITY

- Anti-fraud provisions of U.S. securities laws, application, **12:133**
- Discovery, jurisdictional problems in application of antitrust laws, **13:25**
- Presence. *See* **Establishing an Extraterritorial Presence**

## F

### FEDERAL SECURITIES LAWS

- Securities Act of 1933, **12B:2**

### FIRPTA

- See* **Taxation (U.S.)**

### FIVE STEP METHOD OF JURISDICTION

- See* **Establishing an Extraterritorial Presence**

### FIVE STEP RULES

- See* **Antitrust Laws**

### FLORIDA

- Life insurance, **11:17**

### FOREIGN BANKRUPTCIES

- Generally, **9:1 to 9:14**
- See also* **Transnational Insolvency**
- Conclusion, **9:14**
- Historical development of U.S. law regarding recognition of foreign bankruptcies, **9:1; 9:2**
- Recognition, United States law, **9:1 to 9:14**
- Statutory provisions and case law regarding recognition of foreign bankruptcies
  - Generally, **9:3 to 9:12**
  - Section 303(b)(4), **9:10**
  - Section 304
    - generally, **9:4 to 9:9**
    - cases, generally, **9:9**
    - commencement of the Section 304 case, **9:5**
    - criteria for granting relief under Section 304, **9:8**
    - form of relief, **9:7**
    - jurisdiction and venue, **9:6**
  - Section 305, **9:11**
  - Section 508, **9:12**
  - U.S. Bankruptcy Code, **9:3**
- Statutory provisions authorizing U.S. trustee to seek assistance of foreign courts in protecting foreign assets of a U.S. debtor, **9:13**

### FOREIGN CORRUPT PRACTICES ACT

- Generally, **12:148; 12:149; 18:1 to 18:47**
- Antibribery provisions, generally, **18:1 to 18:47**
- Application of FCPA, **18:4 to 18:9**
- Background of law, **18:1**
- Books, records, and internal accounting controls, **12:148**
- Business impact of FCPA, **18:2**

## FOREIGN CORRUPT PRACTICES

### ACT—Cont'd

- Business principles for countering bribery, **App 18G**
- Combating Extortion and Bribery: ICC Rules of Conduct and Recommendations 2005, **App 18F**
- Compliance
  - Generally, **18:39 to 18:47**
  - Administrative structure, **18:47**
  - Due diligence, **18:40**
  - “Red flags” in retaining foreign representatives, **18:41**
  - Sample code of conduct, **18:43**
  - Sample questionnaire, **18:44**
  - Training, **18:46**
  - Written policies and procedures for monitoring and enforcement, **18:42 to 18:44**
- Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, **App 18B**
- Corrupt payments, **12:149**
- Council of Europe: Criminal Law Convention on Corruption, **App 18C**
- Council of Europe Civil Law Convention on Corruption, **App 18D**
- Definition of “foreign official,” **18:27**
- Domestic concerns, **18:6**
- Enforcement of FCPA
  - Antibribery provisions, **18:29 to 18:47**
  - Attorneys’ fees, **18:35**
  - Compliance, **18:39 to 18:47**
  - Department of Justice opinions, **18:34**
  - Federal Sentencing Guidelines, **18:38**
  - Indemnification and reimbursement of FCPA defendant’s attorneys’ fees, **18:35**
  - Liability of corporate officers, **18:32**

## FOREIGN CORRUPT PRACTICES

### ACT—Cont'd

- Enforcement of FCPA—Cont'd
  - Liability under foreign statutes, **18:31**
  - Penalties, **18:37**
  - Prosecution under other federal statutes, **18:30**
  - Responsibilities, **18:29**
  - Sentencing, **18:37; 18:38**
  - Statute of limitations, **18:33**
  - Summary of prosecutions, **18:36**
  - Written policies and procedures, **18:42**
- Exemption of certain non-United States nationals, **18:28**
- “Foreign official,” definition, **18:27**
- Foreign persons and officials, **18:8**
- “Improper Advantage,” payments made to secure, **18:26**
- Inter-American Convention Against Corruption, **App 18E**
- “Issuers” and “domestic concerns,” **18:4**
- Jurisdiction over non-United States persons acting inside United States, **18:24**
- Jurisdiction over United States persons acting outside United States, **18:25**
- 1998 amendments, **18:22**
- OECD Convention and FCPA
  - Definition of “foreign official,” **18:27**
  - Exemption of certain non-United States nationals, **18:28**
  - Foreign official defined, **18:27**
  - “Improper advantage,” payments made to secure, **18:26**
  - Jurisdiction over non-United States persons acting inside United States, **18:24**
  - Jurisdiction over United States persons acting outside United States, **18:25**
  - 1988 amendments, **18:22**
  - 1998 amendments, **18:22**
  - Payments made to secure “improper advantage,” **18:26**

## INDEX

### FOREIGN CORRUPT PRACTICES

#### ACT—Cont'd

Parent corporations and subsidiaries, **18:9**

Payments made to secure “improper advantage,” **18:26**

Recognized public international organizations, **App 18A**

Regulated foreign concerns, **18:7**

Subsidiaries and parent corporations, **18:9**

Violation of antibribery provisions

Generally, **18:10 to 18:21**

Affirmative defenses, **18:19**

“Anything of value,” **18:13**

Charitable donations, **18:14**

Corrupt payment or offer to pay, **18:11**

Customary courtesy expenses, **18:12**

Defenses, **18:19 to 18:21**

Directing business to any person, **18:17**

Exception, **18:16**

“Foreign official,” **18:15**

“Knowing” the payment will be offered to a foreign official, party, or candidate, **18:16**

Local law defenses, **18:20**

Payment made to assist in obtaining or retaining business, **18:17**

Promotional expenses defense, **18:21**

Routine government action exception, **18:18**

### FOREIGN DEFENDANTS

Remedial sanctions imposed upon, **13:23**

### FOREIGN DIRECT INVESTMENT

Generally, **23:1**

Contractual considerations, **23:40**

Dispute resolution, **23:41**

Failure, project finance, **23:36**

Feasibility study, project finance, **23:37**

Finance

Risks, project finance, **23:35**

### FOREIGN DIRECT INVESTMENT —Cont'd

Finance—Cont'd

Structures, project finance, **23:39**

Governance issues

Home state, **23:6**

Host state, **23:5 to 23:7**

Intergovernmental organizations, **23:7**

International investment treaties

Generally, **23:24**

Bilateral, **23:25 to 23:31**

Definitions, **23:28**

Dispute resolution, **23:30**

History, **23:26**

Investing abroad, **23:31**

Substantive provisions, **23:29**

Typical structure, **23:27**

Investing abroad, **23:31**

Investment contractual considerations, **23:40**

Legal and non-legal risks, **23:3**

National security concerns, **23:13**

Other issues in FDI, **23:40**

Ownership considerations

Approval procedures, **23:15**

Limits on foreign ownership, **23:14**

Restrictions, generally, **23:12**

Screening procedures, **23:15**

Participants, project finance, **23:34**

Project finance, **23:32 to 23:39**

Failure, **23:36**

Feasibility study, **23:37**

Finance risks, **23:35**

Participants, **23:34**

Stages of development, **23:33**

Resolution of dispute, **23:41**

Restrictions

Generally, **23:8 to 23:11**

After entry, **23:10**

Considerations, **23:17**

Operational restrictions, **23:16**

Ownership considerations, **23:12**

Upon entry, **23:9**

Upon withdrawal, **23:11**

Risk mitigation, project finance, **23:38**

**FOREIGN DIRECT INVESTMENT  
—Cont'd**

- Security concerns, national, **23:13**
- Stages of development, project finance, **23:33**
- Trade-related investment measures, **23:4**
- Types of FDI
  - Choosing proper approach, **23:18 to 23:23**
  - Greenfield investments, **23:19**
  - International
    - distributorships, **23:23**
    - joint venture, **23:21**
  - Mergers and acquisitions (M&A), **23:20**
  - Transnational franchising, **23:22**

**FOREIGN INVESTMENT REAL  
PROPERTY TAX ACT**

*See Taxation (U.S.)*

**FOREIGN INVESTORS**

Taxation of. *See Taxation (U.S.)*

**FOREIGN ISSUERS**

- Foreign securities traded on NASDAQ, **12:146**
- Integrated disclosure for foreign private issuers
  - Generally, **12:136 to 12:138**
- Distinctive aspects of Form 20 (including financial statements), **12:138**
- Financial statements, **12:138**
- Form 20-F and Regulation S-K compared, **12:137**
- International disclosure standards for cross-border offerings and initial listings by foreign issuers, **App 12A-3**
- Registration and reporting by foreign issuers under Exchange Act
  - Exemptions, **12:144**
  - Form 20-F, registration and reporting, **12:145**
  - Registration and reporting on Form 20-F, **12:145**
- Regulation of foreign offering in U.S.
  - Corporate combinations and exchange offers involving

**FOREIGN ISSUERS—Cont'd**

- Regulation of foreign offering in U.S.
  - Cont'd
    - foreign issuers, **12:143**
- Exchange offers involving foreign issuers, **12:143**
- Exempt offerings, **12:142**
- Foreign
  - governmental issuers, **12:140**
  - investment companies, **12:141**
  - private issuers, **12:139**

**FOREIGN NATURAL RESOURCE  
INVESTMENT**

*See Natural Resource Investment*

**FOREIGN OFFICIAL**

- Foreign Corrupt Practices Act, **18:27**
- Immunity, **15:9**

**FOREIGN PARTY**

- Standing to sue, jurisdictional problems in application of antitrust law, **13:2**

**FOREIGN TRADE**

- Economic injury, survey of U.S. relief mechanisms
  - Generally, **16:1 to 16:19**
- Adjustment assistance, **16:9 to 16:11**
- Antidumping and countervailing duties, **16:3 to 16:6**
- Antitrust relief, **16:18**
- Communities, adjustment assistance, **16:11**
- Companies, adjustment assistance, **16:10**
- Duties, import relief, **16:8**
- Export subsidies and countervailing duties, **16:5**
- Free trade approach, historical overview, **16:2**
- Import
  - injury, relief from, **16:7 to 16:11**
  - relief, **16:8**
- Judicial review, antidumping and countervailing duties, **16:6**
- Labor, adjustment assistance, **16:9**

## INDEX

### FOREIGN TRADE—Cont'd

- Economic injury, survey of U.S. relief mechanisms—Cont'd
  - Nonpatent cases, unfair methods of competition in importations, **16:16**
  - Orderly marketing arrangements, import relief, **16:8**
  - Patent cases, unfair methods of competition in importations, **16:15**
  - Quantitative restrictions, import relief, **16:8**
  - Relief from import injury, **16:7 to 16:11**
  - Section 337, unfair methods of competition in importations, **16:13 to 16:16**
  - Tariff-rate quotas, import relief, **16:8**
  - Unfair methods of competition in importations: Section 337, **16:13 to 16:16**
  - U.S. international economic policy, **16:2**
  - U.S. rights, enforcement under trade agreements, **16:12**
- Economic injury and, a survey of U.S. relief mechanisms
  - Antidumping and Countervailing Duty Handbook, **App 16E**
  - Department of Commerce
    - Antidumping Questionnaire, **App 16F**
    - Regulations for Antidumping and Countervailing Proceedings (19 C.F.R. Part 351), **App 16D**
  - EU Trade Barriers Regulation, Overview, **App 16G**
  - European Union Antidumping and Antisubsidy Proceedings (Reported as of 31 December 1996), **App 16C**
  - Overview: EU Trade Barriers Regulation, **App 16G**
  - Third Country Trade Defense Actions Against the European Community, 2007 Overview, **App 16H**

### FOREIGN TRADE—Cont'd

- Economic injury and, a survey of U.S. relief mechanisms—Cont'd
  - Trade Agreements Act of 1979: comparison of provisions, **App 16A**
  - 2007 Overview of Third Country Trade Defense Actions Against the European Community, **App 16H**
  - U.S. Antidumping and Countervailing Duty Investigations, **App 16B**
- EU Trade Barriers Regulation, Overview, **App 16G**
- Overview: EU Trade Barriers Regulation, **App 16G**
- Third Country Trade Defense Actions Against the European Community, 2007 Overview, **App 16H**
- 2007 Overview of Third Country Trade Defense Actions Against the European Community, **App 16H**

### FORUM NON CONVENIENS

- Antitrust laws, jurisdictional problems, **13:15**

### FORUM SELECTION CLAUSES

- Contracts with choice of law and forum clauses, **3A:3**
- Enforcement
  - Generally, **3:11-3:16**
  - Changed circumstances, **3:16**
  - Denial of an effective remedy, **3:13**
  - Fraud, **3:14**
  - Gross inconvenience, **3:13**
  - Overreaching, **3:14**
  - Public policy violation, **3:15**
  - Section 1404 after Atlantic Marine, **3:12**
  - Unconscionable conduct, **3:14**
  - Unfair clause, **3:15**
  - Unjust clause, **3:15**
  - Unreasonable clause, **3:15**
- Federal court decisions, **3:6**
- Forum selection as threshold issue, **3:3**

## FORUM SELECTION CLAUSES

### —Cont'd

Franchise agreements, **3:9**

Law applicable

Generally, **3:4-3:6**

Federal court decisions, **3:6**

Model Choice of Forum Act, **3:5**

Restatement (Second) of Conflict of Laws, **3:5**

U.S. Supreme Court, **3:4**

Model Choice of Forum Act, **3:5**

Restatement (Second) of Conflict of Laws, **3:5**

Threshold issue, forum selection as, **3:2; 3:3**

Transnational contract law

E-commerce, **3:17**

U.S. law and practice

Federal court decisions, **3:6**

Forum selection as threshold issue, **3:2; 3:3**

Governing law, **3:4-3:6**

Restatement (Second) of Conflict of Laws and model choice of forum act, **3:5**

Supreme Court decisions governing law, **3:4**

Threshold issue, forum selection as, **3:2; 3:3**

U.S. Supreme Court, **3:4**

## FRANCE

Capital markets, **12:15**

Insider trader regulation in, **12:41**

International commercial arbitration, **8:113 et seq.**

Life insurance, **11:22; 11:23**

Take-over regulation, **12:52**

Transnational contract law

Civil law, **4:9; 4:10**

Formation of contracts, **4:35 to 4:37**

Precontractual liability, **4:29**

Transnational franchising, pre-sale disclosure requirements, **5:13**

## FRANCHISING

*See Transnational Franchising*

## FRAUD

Extraterritorial application of anti-fraud provisions of U.S. securities laws, **12:133**

## G

### GBR (CIVIL CODE PARTNERSHIP)

Choice of business entity abroad (Germany and European Union), **22:58**

### GENERAL AND LIMITED PARTNERSHIPS

*See Partnerships*

## GERMANY

Capital markets, **12:14**

Choice of business entity. *See Choice of Business Entity Abroad (Germany and the European Union)*

German Codes and other language materials, listing of referenced codes, **App 22A**

Insider trading regulation in, **12:42**

International commercial arbitration, **8:123 et seq.**

Proxy regulation, **12:56**

Transnational contract law

Formation of contracts, **4:41 to 4:43**

Precontractual liability, **4:31**

Precontractual process, **4:12; 4:13**

### GESELLSCHAFTEN DES ZIVILRECHTS (CIVIL LAW SOCIETIES)

Choice of business entity abroad (Germany and European Union), **22:3**

### GMBH & CO. KG (LIMITED LIABILITY LIMITED PARTNERSHIP) (LLLP)

Choice of business entity abroad (Germany and European Union), **22:83**

## INDEX

### **GMBH LIMITED LIABILITY COMPANY (LLC)**

Choice of business entity abroad  
(Germany and European Union),  
**22:16**

### **GOVERNANCE ISSUES**

Foreign direct investment  
Generally, **23:5 to 23:7**  
Home state, **23:6**  
Host state, **23:5 to 23:7**  
Intergovernmental organizations,  
**23:7**

### **GOVERNING LAW**

Choice of law. *See* **Choice of Law  
Clauses**  
Forum selection. *See* **Forum Selec-  
tion Clauses**  
International commercial arbitration.  
*See* **International Commercial  
Arbitration**  
Multilateral conventions. *See* **Multi-  
lateral Conventions and Other  
Nations' Practices on Forum  
Selection and Choice of Law**

### **GRANT MAKING BY U.S. CORPORATE FOUNDATIONS**

Philanthropy by American corpora-  
tions, **20:7 to 20:10**

### **GREENFIELD INVESTMENTS**

Foreign direct investment, **23:19**

### **GROUP OF THIRTY (CONSULTATIVE GROUP ON INTERNATIONAL ECONOMIC AND MONETARY AFFAIRS)**

International capital markets, **12:68**  
International securities regulation,  
**12A:18**

### **GULF STATES**

International commercial arbitration,  
**8:158**

## **H**

### **HAGUE CONVENTION ON CHOICE OF COURT AGREEMENTS**

Transnational contracts, **App 3D**

### **HAGUE CONVENTION ON CHOICE OF COURT AGREEMENTS (2005)**

Transnational contract law  
Generally, **3:20-3:30**  
Appraisal, **3:30**  
Enforcement, **3:23**  
Implementation, United States,  
**3:29**  
Insurance contracts, **3:27**  
Intellectual property rights, **3:25**  
International instruments, relation-  
ship, **3:28**  
Jurisdiction, **3:22**  
Preliminary questions, **3:25**  
Recognition, **3:23**  
Recommendation, **3:30**  
Reinsurance contracts, **3:27**  
Scope, **3:21**  
Selected issues, **3:24**  
Transition provisions, **3:26**

### **HAGUE CONVENTION PRINCIPLES ON CHOICE OF LAW IN INTERNATIONAL COMMERCIAL CONTRACTS**

Transnational contract law, **3A:19**;  
**App 3A-F**

### **HANDELSREGISTER (COMMERCIAL REGISTRY)**

Choice of business entity abroad  
(Germany and European Union),  
**22:14**

### **HEADS OF STATE**

Sovereign immunity, **15:2 to 15:4**

### **HEROES EARNINGS ASSISTANCE AND RELIEF ACT (HEART ACT)**

*See* **Expatriate Taxation**

### **HONG KONG**

International commercial arbitration,  
**8:140**  
International securities regulation,  
**12A:12**  
National character of capital markets,  
**12:18**

**I**

**ICC BUSINESS CHARTER FOR  
SUSTAINABLE  
DEVELOPMENT**

Corporate social responsibility and  
role of lawyer, **App 1G**

**IMMUNITY**

*See Sovereign Immunity*

**“IMPROPER ADVANTAGE”**

Foreign Corrupt Practices Act, **18:26**

**INCOME TAXATION**

Foreign investors. *See Taxation*  
(U.S.)

**INDEPENDENCE**

Letters of credit, **24:6**

**INDIA**

International commercial arbitration,  
**8:154 to 8:156**

International securities regulation,  
**12A:11**

**INDIVIDUAL FOREIGN  
INVESTORS**

Taxation of. *See Taxation* (U.S.)

**INDIVIDUALS, IMMUNITY**

*See Sovereign Immunity*

**INSIDER TRADING**

Australia, **12:44**

Canada, **12:43**

France, **12:41**

Germany, **12:42**

International capital markets, securi-  
ties regulation and, **12:39 to**  
**12:46**

Japan, **12:45**

Other countries, **12:46**

United Kingdom, **12:40**

United States, **12:39**

**INTER - AMERICAN  
CONVENTION AGAINST  
CORRUPTION**

Foreign Corrupt Practices Act, **App**  
**18E**

**INTERNATIONAL ANTITRUST  
LAWS**

*See Antitrust Laws*

**INTERNATIONAL BOYCOTTS**

*See Boycotts*

**INTERNATIONAL CAPITAL  
MARKETS**

Generally, **12:1 to 12:173**

Accounting standards

Intergovernmental Working Group  
of Experts on International  
Standards of Accounting and  
Reporting, **12:73**

International Accounting Standards  
Committee, below

Annual rates of return of stock price  
indexes in ten major countries,  
table showing, **12:173**

Anti-fraud provisions of U.S. securi-  
ties laws, extraterritorial  
application, **12:133**

Auditing practices. International  
Auditing Practices Committee,  
below

Broker-dealers. Registration require-  
ments applicable to foreign bro-  
ker-dealers, below

Capital flows, theory and reality

EC solution, **12:2**

Problem, **12:1**

Cross-border rights, tender and  
exchange offers

Generally, **12:153 to 12:162**

Cross-border rights offerings,  
**12:153**

Eligibility requirements, **12:156**

Exchange offers and business  
combinations, **12:159; 12:160**

Exemption from registration,  
**12:154; 12:159**

Form F-3, amendments to, **12:157**

International tender

exchange offers, **12:159; 12:160**

offers and Williams Act, **12:161**

Policy considerations, **12:158**

Registration, **12:155**

Related exemptions; U.K. exemp-  
tive order, **12:162**

## INDEX

### INTERNATIONAL CAPITAL MARKETS—Cont'd

- Cross-border rights, tender and exchange offers—Cont'd Williams Act, **12:161**
- Debt securities, international market in
  - Generally, **12:3 to 12:8**
  - Equity-related bonds, **12:6**
  - International bond market, **12:3**
  - Lenders: role of Eurocurrencies, **12:4**
  - Public and private borrowers, **12:5**
  - Regulation
    - international bond issues, **12:7**
    - syndicated loans, **12:8**
- Disclosure
  - Integrated disclosure for foreign private issuers, below
  - Multi-jurisdictional disclosure system of U.S., below
- Domestic and foreign listed companies on major stock exchanges, table showing, **12:170**
- EC directive on investment companies, **12:58**
- Equities, international market in, **12:21**
- Equity related bonds issuance in international markets, table showing, **12:167**
- Equity related international bond offerings, table showing, **12:166**
- Eurobond issues by currency of issue, table showing, **12:165**
- European Community, capital flows, theory and reality, **12:2**
- European Union, regulation of cross-border public offerings of securities, capital markets integration, **14:11**
- FCPA. *See* **Foreign Corrupt Practices Act**
- Federation of European Accountants, **12:72**
- Foreign bond issues in selected capital markets, table showing, **12:164**

### INTERNATIONAL CAPITAL MARKETS—Cont'd

- Foreign investment companies, regulation of foreign offering in U.S., **12:141**
- Foreign issuers. *See* **Foreign Issuers**
- Foreign securities traded on NASDAQ, **12:146**
- Form 20-F, registration and reporting by foreign issuers under Exchange Act, **12:145**
- Fragile nature of international securities regulation
  - Generally, **12:59 to 12:73**
- Federation of European Accountants, **12:72**
- General Agreement on Trade in Services, **12:65; App 12A-1**
- Group of Thirty (Consultative Group on International Economic and Monetary Affairs), **12:68**
- Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting, **12:73**
- International Councils of Securities Dealers and Self-Regulatory Organizations, **12:71**
- International Federation of Stock Exchanges, **12:69**
- International Society of Securities Administrators, **12:70**
- Organization for Economic Cooperation and Development, **12:66**
- Organization of securities commissions
  - background, **12:60**
  - information enforcement and exchange, **12:64**
  - market intermediaries regulation, **12:63**
  - multinational offerings, **12:61**
  - secondary markets regulation, **12:62**
  - substantive agenda, **12:61 to 12:64**
- United Nations Commission on Transnational Corporations, **12:67**

**INTERNATIONAL CAPITAL  
MARKETS—Cont'd**

General Agreement on Trade in Services, **12:65; App 12A-1**  
 General conditions, **12:80**  
 Group of Thirty (Consultative Group on International Economic and Monetary Affairs), **12:68**  
 Insider trading  
     Australia, **12:44**  
     Canada, **12:43**  
     France, **12:41**  
     Germany, **12:42**  
     Japan, **12:45**  
     Other countries, **12:46**  
     Securities regulation, **12:39 to 12:46**  
     United Kingdom, **12:40**  
     United States, **12:39**  
 Integrated disclosure for foreign private issuers  
     Generally, **12:136**  
     Distinctive aspects of Form 20 (including financial statements), **12:138**  
     Financial statements, **12:138**  
     Form 20-F and Regulation S-K compared, **12:137**  
 Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting, **12:73**  
 International Accounting Standards Committee  
     Background and overview, **12:32**  
     History, **12:33**  
     International accounting standards, **12:34**  
     reaction, **12:35**  
     National and international reaction, **12:35**  
     Structure, **12:33**  
 International Auditing Practices Committee  
     Generally, **12:36**  
     International auditing guidelines, **12:38**  
     Purpose, **12:37**  
     Structure, **12:37**

**INTERNATIONAL CAPITAL  
MARKETS—Cont'd**

International bond offerings dollar value, 1965 to 1988, table showing, **12:163**  
 International Councils of Securities Dealers and Self-Regulatory Organizations, **12:71**  
 International Federation of Stock Exchanges, **12:69**  
 International investment companies  
     Generally, **12:57**  
     EC directive, **12:58**  
     Registered investment companies, **12:134**  
     Regulation 3, **12:104**  
     Regulation S, **12:104**  
 International market in equities, **12:21**  
 International Organization of Securities Commissions  
     Fragile nature of international securities regulation, **12:60 to 12:64**  
     Information enforcement and exchange, **12:64**  
     Substantive agenda, **12:61 to 12:64**  
 International securities regulation  
     Generally, **12:23 to 12:56**  
     Argentina, **12A:7**  
     Australia, **12A:9**  
     Brazil, **12A:8**  
     Conclusion, **12A:28**  
     Continuous reporting, **12:30**  
     Debt securities, international market, **12:3 to 12:8**  
     EC directive on investment companies, **12:58**  
     Europe and European Union, **12A:5**  
     European Community disclosure directives, **12:29; 12:30**  
     European prospectus, **12:29**  
     Exchange Act registration and continuous disclosure, **12:25**  
     Fragile nature of international securities regulation, above

## INDEX

### INTERNATIONAL CAPITAL MARKETS—Cont'd

- International securities regulation
  - Cont'd
  - General Agreement on Trade in Services, **12A:14**
  - Group of Thirty (Consultative Group on International Economic and Monetary Affairs), **12A:18**
  - Harmonizing accounting standards and auditing procedures, **12:31 to 12:38**
  - Hong Kong, **12A:12**
  - India, **12A:11**
  - Insider trading, above
  - International Council of Securities Associations, **12A:21**
  - International investment companies
    - generally, **12:57**
    - EC directive, **12:58**
    - registered investment companies, **12:134**
    - Regulation S, **12:104**
  - International Organization of Securities Commissions, **12A:16**
  - International Securities Services Association, **12A:20**
  - Investment companies, **12:58**
  - Japan, **12A:10**
  - Organization for Economic Cooperation and Development, **12A:15**
  - Proxy regulation
    - generally, **12:54 to 12:56**
    - German alternative, **12:56**
    - other countries, **12:55**
    - United States, **12:54**
  - Purpose, **12A:1**
  - Registration of securities, **12:24**
  - Regulation S. Offshore distributions, below
  - Scope, **12A:1**
  - Securities business and firms, **12:10**
  - South Africa, **12A:6**
  - Stock exchanges of world, **12:9**
  - Takeover regulation, below

### INTERNATIONAL CAPITAL MARKETS—Cont'd

- International securities regulation
  - Cont'd
  - Theory and practice, **12A:2**
  - Trends
    - generally, **12A:22 to 12A:25**
    - cryptocurrency regulation, **12A:26**
    - international accounting standards, **12A:24**
    - international auditing practices, **12A:25**
    - international disclosure standards, **12A:23**
    - other, **12A:27**
  - United Kingdom, **12:26 to 12:28**
  - United Nations Conference on Trade and Development, **12A:17**
  - United States, **12A:4**
  - U.S. disclosure systems, **12:24; 12:25**
  - World Federation of Exchanges, **12A:19**
  - World Trade Organization, **12A:14**
- International Society of Securities Administrators, **12:70**
- International Working Group of Experts on International Standards of Accounting and Reporting, **12:73**
- Internationalization of portfolios, **12:22**
- Investment Advisers Act, extraterritorial application of, **12:147**
- Investment companies
  - Generally, **12:57**
  - EC directive, **12:58**
  - Offshore distributions and Regulation S, **12:104**
  - Registered investment companies, **12:134**
- Jurisdiction. Multi-jurisdictional disclosure system of U.S., below
- Market capitalization of world's stock markets, table showing, **12:168**

**INTERNATIONAL CAPITAL  
MARKETS—Cont'd**

Multi-jurisdictional disclosure system  
of U.S.

Generally, **12:150 to 12:152**

Common definitions, **12:152**

Mutual funds overview, table showing, **12:172**

National character of capital markets

Generally, **12:11 to 12:20**

Australia, **12:20**

France, **12:15**

Germany, **12:14**

Hong Kong, **12:18**

Italy, **12:17**

Japan, **12:12**

Mexico, **12:19**

Netherlands, **12:16**

United Kingdom, **12:13**

United States, **12:11**

Objectives and principles of securities regulation [excerpt], **App 12A-2**

Offshore distributions

Generally, **12:74 to 12:110**

Background, **12:74 to 12:78**

Convertible securities, **12:88**

Critique of Regulation S, **12:103**

Definition of a U.S. person, **12:78**

Directed selling efforts, **12:80**

Distributions pursuant to Regulation S, generally, **12:76**

General conditions, **12:79**

General statement approach, **12:77**

Interrelationship of Regulation S and tax provisions, **12:102**

Issuer-distributors safe harbors

generally, **12:81 to 12:85**

category 2: reporting issuers and debt, preferred, and asset-backed securities of non-reporting foreign issuers, **12:83**

category 3: non-reporting U.S. issuers and certain equity securities of non-reporting foreign issuers, **12:84**

**INTERNATIONAL CAPITAL  
MARKETS—Cont'd**

Offshore distributions—Cont'd

Issuer-distributors safe harbors  
—Cont'd

failure to comply with safe harbor condition or restriction, **12:85**

offering restrictions, **12:82**

Non-safe harbor approach, **12:77**

Offshore distributions and Release Number 4708, **12:75**

Offshore transactions, **12:79**

Regulation S

American depositary receipts

generally, **12:90 to 12:92**

impact of Regulation S, **12:91; 12:92**

overview of American depositary receipts, **12:90**

sales to U.S. persons during restricted period, **12:91**

substantial U.S. market interest, **12:92**

applicability to investment companies, **12:104**

related initiatives, **12:74**

Resales in U.S. or to U.S. persons generally, **12:93 to 12:95**

conceptual framework, **12:93**

Regulation S and the releases, **12:94**

testing the premise—random scenarios, **12:95**

Rule 904 safe harbor for resales

resale of securities issued in reliance on exemption, **12:87**

securities distributed pursuant to Regulation S, **12:86**

Summing up restrictions on sales in U.S. and to U.S. persons

generally, **12:96 to 12:101**

distributors, **12:97**

investors, **12:98**

legend, **12:101**

offers and sales after restricted period, **12:100**

professionals, **12:99**

## INDEX

### INTERNATIONAL CAPITAL MARKETS—Cont'd

- Offshore distributions—Cont'd
  - Warrants, **12:89**
- Offshore funds, **12:135**
- Organization for Economic Cooperation and Development, **12:66**
- Private sector pension funds,
  - overview of foreign investment, table showing, **12:171**
- Proxy regulation
  - German alternative, **12:56**
  - Other countries, **12:55**
  - Securities regulation, **12:54 to 12:56**
  - United States, **12:54**
- Registration and reporting by foreign issuers under Exchange Act
  - Exemptions, **12:144**
  - Form 20-F, registration and reporting, **12:145**
  - Registration and reporting on Form 20-F, **12:145**
- Registration requirements applicable to foreign broker-dealers
  - Generally, **12:111 to 12:118**
  - Background, **12:111**
  - Direct transactions with U.S. institutions, **12:116**
  - General principle of territoriality, **12:113**
  - Provision of research by broker-dealers, **12:115**
  - Recognition of foreign broker-dealer regulation, **12:118**
  - Sources of law, **12:112**
  - Transactions with certain persons, **12:117**
  - Unsolicited transactions, **12:114**
- Regulation of foreign offering in U.S.
  - Generally, **12:139 to 12:143**
  - Corporate combinations and exchange offers involving foreign issuers, **12:143**
  - Exchange offers involving foreign issuers, **12:143**
  - Exempt offerings, **12:142**
  - Foreign
    - governmental issuers, **12:140**

### INTERNATIONAL CAPITAL MARKETS—Cont'd

- Regulation of foreign offering in U.S.—Cont'd
  - Foreign—Cont'd
    - investment companies, **12:141**
    - private issuers, **12:139**
- Regulation S. Offshore distributions, above
- Rule 144A and the PORTAL market
  - Generally, **12:119 to 12:132**
  - Closed system, **12:127**
  - Critique, **12:132**
  - Eligible securities, **12:122**
  - Informational requirements and other conditions, **12:123**
  - Initial proposed Rule 144A, **12:120**
  - Interrelationship of Rule 144A, PORTAL, Regulation S, and Rule 144, **12:119**
  - PORTAL, a closed market for Rule 144A securities, **12:126**
  - Primary placements, **12:130**
  - Private placements after Rule 144A, **12:125**
- Qualified
  - exit transactions, **12:128**
  - institutional buyer, **12:121**
- Resales of Rule 144A securities, **12:124**
- Rule 144A disclosure and PORTAL, **12:129**
- Secondary trading, **12:131**
- Rule 904 safe harbor for resales, **12:86; 12:87**
- Securities
  - Business and securities firms, **12:10**
- Regulation
  - foreign issuers. *See* **Foreign Issuers**
  - foreign securities traded on NASDAQ, **12:146**
  - international securities regulation, above
  - Investment Advisers Act, extraterritorial application of, **12:147**

**INTERNATIONAL CAPITAL  
MARKETS—Cont'd**

*See* **United Kingdom**

Stock exchanges, **12:9**

Survey

Accounting standards and auditing  
procedures, harmonizing,  
**12:31**

International Accounting Standards  
Committee, **12:32 to 12:35**

International Auditing Practices  
Committee, **12:36 to 12:38**

Tables

Annual rates of return of stock  
price indexes in ten major  
countries, **12:173**

Domestic and foreign listed  
companies on major stock  
exchanges, **12:170**

Equity related bonds issuance in  
international markets, **12:167**

Equity related international bond  
offerings, **12:166**

Eurobond issues by currency of  
issue, **12:165**

Foreign bond issues in selected  
capital markets, **12:164**

Global mutual funds overview,  
**12:172**

International bond offerings dollar  
value, 1965 to 1988, **12:163**

Market capitalization of world's  
stock markets, **12:168**

Private sector pension funds,  
overview of foreign invest-  
ment, **12:171**

Value of international stock offer-  
ings, **12:169**

Take-over regulation

Australia, **12:50**

Canada, **12:51**

France, **12:52**

Other countries, **12:53**

United Kingdom, **12:49**

United States

federal regulation, **12:47**

state regulation, **12:48**

United Nations Commission on  
Transnational Corporations,  
**12:67**

**INTERNATIONAL CAPITAL  
MARKETS—Cont'd**

United States

Insider trading, **12:39**

Proxy regulation, **12:54**

Securities regulation, **12A:4**

Take-over regulation

federal regulation, **12:47**

state regulation, **12:48**

U.S. disclosure systems

Exchange Act registration and  
continuous disclosure, **12:25**

Registration of securities, **12:24**

Securities regulation, **12:24; 12:25**

U.S. Securities and Exchange Com-  
mission, 17 C.F.R. Parts 210,  
229, 230, 240, 244 and 249,

**App 12A-4**

Value of international stock offerings,  
table showing, **12:169**

World Trade Organization, General  
Agreement on Trade in Services,  
**App 12A-1**

**INTERNATIONAL COMMERCIAL  
ARBITRATION**

Generally, **8:1**

AAA and AAA / ICDR international  
arbitration rules

Generally, **8:27 to 8:36**

Appointment of arbitrators, **8:28**

Award, **8:35**

Confidentiality, **8:34**

Costs, **8:36**

Governing law, **8:30**

Jurisdiction, **8:27**

Key elements of, **8:27 et seq.**

Language, **8:31**

Place of arbitration, **8:29**

Proceedings, key elements, **8:27 et  
seq.**

Ad hoc v. institutional arbitration, **8:8**

Africa, **8:157**

Appointment of arbitrators

AAA and AAA / ICDR  
international arbitration rules,  
**8:28**

Arbitration Institute of Stockholm  
Chamber of Commerce (SCC)

## INDEX

### INTERNATIONAL COMMERCIAL ARBITRATION—Cont'd

- Appointment of arbitrators—Cont'd
  - and SCC rules, **8:50**
  - International Chamber of Commerce (ICC) rules, **8:17**
  - London Court of International Arbitration and LCIA rules, **8:39**
  - Russian Federation, **8:136**
  - UNCITRAL rules, **8:72**
- Arbitration
  - Agreements
    - characteristics of arbitration, **8:2**
    - England, **8:95**
    - France, **8:116**
    - Germany, **8:126**
    - Russian Federation, **8:135**
    - Switzerland, **8:105**
    - Transnational contracts, arbitration agreements, below
  - Characteristics
    - generally, **8:2 to 8:9**
    - ad hoc v. institutional arbitration, **8:8**
    - agreement to arbitrate, **8:2**
    - arbitration and litigation compared, **8:7**
    - choice of arbitrator(s), **8:5**
    - choice of rules and governing law, **8:3**
    - framework for dispute resolution, **8:3 to 8:6**
    - litigation compared, **8:7**
    - other characteristics, **8:6**
    - place of arbitration, **8:4**
    - transactions and legal issues, **8:9**
  - Institute of Stockholm Chamber of Commerce (SCC) and SCC rules
    - generally, **8:48 et seq.**
    - appointment of arbitrators, **8:50**
    - award, **8:57**
    - confidentiality, **8:56**
    - costs, **8:58**
    - governing law, **8:52**
    - jurisdiction, **8:49**
    - key elements, **8:49 et seq.**

### INTERNATIONAL COMMERCIAL ARBITRATION—Cont'd

- Arbitration—Cont'd
  - Institute of Stockholm Chamber of Commerce (SCC) and SCC rules—Cont'd
    - language, **8:53**
    - place of arbitration, **8:51**
    - proceedings, key elements, **8:49 et seq.**
  - Legislation
    - Brazil, **8:87**
    - England, **8:93**
    - France, **8:114**
    - Germany, **8:124**
    - Hong Kong, **8:141**
    - Russian Federation, **8:136**
    - Singapore, **8:145**
    - Switzerland, **8:103**
  - Litigation compared, **8:7**
  - Proceedings
    - England, **8:98**
    - France, **8:120**
    - Germany, **8:129**
    - Russian Federation, **8:136**
    - Switzerland, **8:108**
  - Rules and institutions
    - generally, **8:13 et seq.**
    - AAA and AAA / ICDR
      - international arbitration rules, **8:27 to 8:36**
    - Arbitration Institute of Stockholm Chamber of Commerce (SCC) and SCC rules, **8:48 et seq.**
    - function of rules and arbitration institutions, **8:13**
    - International Chamber of Commerce (ICC) and ICC rules, **8:15 et seq.**
    - London Court of International Arbitration and LCIA rules, **8:37 et seq.**
    - UNCITRAL rules, **8:70 et seq.**
  - Arbitrators
    - Appointment of arbitrators, above
    - Choice of, **8:5**
  - Asia and Oceania
    - Generally, **8:139 et seq.**

**INTERNATIONAL COMMERCIAL  
ARBITRATION—Cont'd**

Asia and Oceania—Cont'd

Hong Kong, **8:140**

India, **8:154 to 8:156**

Japan, **8:151 to 8:153**

Peoples Republic of China, **8:148 to 8:150**

Singapore, **8:144 to 8:147**

Award

AAA and AAA / ICDR  
international arbitration rules,  
**8:35**

Arbitration Institute of Stockholm  
Chamber of Commerce (SCC)  
and SCC rules, **8:57**

Chamber of Commerce and  
Industry of the Russian  
Federation and ICAC rules,  
**8:138**

England, **8:100**

France, **8:121; 8:122**

Germany, **8:131; 8:132**

International Chamber of Com-  
merce (ICC) rules, **8:24**

London Court of International  
Arbitration and LCIA rules,  
**8:46**

Russian Federation, **8:137**

Switzerland, **8:110**

UNCITRAL rules, **8:79**

Brazil

Arbitration legislation, **8:87**

Central and Eastern Europe

Hungary below

Russian Federation, below

Choice of arbitrator(s), **8:5**

Choice of rules, characteristics of  
arbitration, **8:3**

Confidentiality

AAA and AAA / ICDR  
international arbitration rules,  
**8:34**

Arbitration Institute of Stockholm  
Chamber of Commerce (SCC)  
and SCC rules, **8:56**

Chamber of Commerce and  
Industry of the Russian

**INTERNATIONAL COMMERCIAL  
ARBITRATION—Cont'd**

Confidentiality—Cont'd

Federation and ICAC rules,  
**8:138**

International Chamber of Com-  
merce (ICC) rules, **8:23**

London Court of International  
Arbitration and LCIA rules,  
**8:45**

UNCITRAL rules, **8:78**

Costs

AAA and AAA / ICDR  
international arbitration rules,  
**8:36**

Arbitration Institute of Stockholm  
Chamber of Commerce (SCC)  
and SCC rules, **8:58**

Chamber of Commerce and  
Industry of the Russian  
Federation and ICAC rules,  
**8:138**

International Chamber of Com-  
merce (ICC) rules, **8:25**

London Court of International  
Arbitration and LCIA rules,  
**8:47**

UNCITRAL rules, **8:80**

Courts

Russian Federation, **8:135**

Enforcement of award

Generally, **8:10**

Brazil, **8:88**

England, **8:101**

France, **8:122**

Germany, **8:132**

Russian Federation, **8:137**

Switzerland, **8:111**

England, **8:96**

Generally, **8:92 et seq.**

Arbitration agreement, **8:95**

Arbitration legislation, **8:93**

Arbitration proceedings, **8:98**

Arbitrators, **8:96**

Award, **8:100**

Enforcement of award, **8:101**

Finality of award, **8:100**

Governing law, **8:97**

Interim measures, **8:99**

## INDEX

### INTERNATIONAL COMMERCIAL ARBITRATION—Cont'd

- England, **8:96**—Cont'd
  - Jurisdiction, **8:94**
- Finality of award
  - England, **8:100**
  - France, **8:122**
  - Germany, **8:131**
  - Russian Federation, **8:137**
  - Switzerland, **8:110**
- Framework for dispute resolution,  
**8:3 to 8:6**
- France, **8:117**
  - Generally, **8:113 et seq.**
  - Arbitration agreement, **8:116**
  - Arbitration legislation, **8:114**
  - Arbitration proceedings, **8:120**
  - Arbitrators, **8:117**
  - Award, **8:122**
  - Enforcement of award, **8:122**
  - Finality of award, **8:122**
  - Governing law, **8:118**
  - Interim measures, **8:120**
  - Jurisdiction, **8:115**
- Germany, **8:127**
  - Generally, **8:123 et seq.**
  - Arbitral institutions, **8:133**
  - Arbitration agreement, **8:126**
  - Arbitration legislation, **8:124**
  - Arbitration proceedings, **8:129**
  - Arbitrators, **8:127**
  - Award, **8:131; 8:132**
  - Enforcement of award, **8:132**
  - Finality of award, **8:131**
  - Governing law, **8:128**
  - Interim measures, **8:130**
  - Jurisdiction, **8:125**
- Governing law
  - AAA and AAA / ICDR
    - international arbitration rules,  
**8:30**
  - Generally, **8:3**
  - Arbitration Institute of Stockholm  
Chamber of Commerce (SCC)  
and SCC rules, **8:52**
  - Central and Eastern Europe, **8:134  
et seq.**
  - Characteristics of arbitration, **8:3**

### INTERNATIONAL COMMERCIAL ARBITRATION—Cont'd

- Governing law—Cont'd
  - England, **8:97**
  - France, **8:118**
  - Germany, **8:128**
  - Hungary, **8:134**
  - International Chamber of Com-  
merce (ICC) rules, **8:19**
  - London Court of International  
Arbitration and LCIA rules,  
**8:41**
  - Russian Federation, **8:135**
  - Switzerland, **8:107**
  - UNCITRAL rules, **8:74**
- Gulf States, **8:158**
- Hong Kong, arbitration legislation,  
**8:141**
- Hungary, **8:134**
- Interim measures
  - England, **8:99**
  - France, **8:120**
  - Germany, **8:130**
  - Russian Federation, **8:136**
  - Switzerland, **8:109**
- International Chamber of Commerce  
(ICC) rules
  - Generally, **8:15 et seq.**
  - Appointment of arbitrators, **8:17**
  - Award, **8:24**
  - Confidentiality, **8:23**
  - Costs, **8:25**
  - Governing law, **8:19**
  - Jurisdiction, **8:16**
  - Key elements of, **8:16 et seq.**
  - Language, **8:20**
  - Place of arbitration, **8:18**
  - Proceedings, key elements, **8:16 et  
seq.**
- Jurisdiction
  - AAA and AAA / ICDR
    - international arbitration rules,  
**8:27**
  - Antitrust laws, problems in  
application, waiver of  
sovereign immunity, **13:20**
  - Arbitration Institute of Stockholm  
Chamber of Commerce (SCC)  
and SCC rules, **8:49**

**INTERNATIONAL COMMERCIAL  
ARBITRATION—Cont'd**

Jurisdiction—Cont'd

Chamber of Commerce and  
Industry of the Russian  
Federation and ICAC rules,  
**8:135**

England, **8:94**

France, **8:115**

Germany, **8:125**

Hungary, **8:134**

International Chamber of Com-  
merce (ICC) rules, **8:16**

London Court of International  
Arbitration and LCIA rules,  
**8:38**

Russian Federation, **8:135**

Switzerland, **8:104**

UNCITRAL rules, **8:71**

Key elements

AAA and AAA / ICDR  
international arbitration rules,  
**8:27 et seq.**

Arbitration Institute of Stockholm  
Chamber of Commerce (SCC)  
and SCC rules, **8:49 et seq.**

International Chamber of Com-  
merce (ICC) rules, **8:16 et  
seq.**

London Court of International  
Arbitration and LCIA rules,  
**8:38 et seq.**

UNCITRAL rules, **8:71 et seq.**

Language

AAA and AAA / ICDR  
international arbitration rules,  
**8:31**

Arbitration Institute of Stockholm  
Chamber of Commerce (SCC)  
and SCC rules, **8:53**

Chamber of Commerce and  
Industry of the Russian  
Federation and ICAC rules,  
**8:138**

International Chamber of Com-  
merce (ICC) rules, **8:20**

London Court of International  
Arbitration and LCIA rules,  
**8:42**

UNCITRAL rules, **8:75**

**INTERNATIONAL COMMERCIAL  
ARBITRATION—Cont'd**

Litigation compared, **8:7**

London Court of International  
Arbitration and LCIA rules

Generally, **8:37 et seq.**

Appointment of arbitrators, **8:39**

Award, **8:46**

Confidentiality, **8:45**

Costs, **8:47**

Governing law, **8:41**

Jurisdiction, **8:38**

Key elements of LCIA rules, **8:38  
et seq.**

Language, **8:42**

Place of arbitration, **8:40**

Proceedings, key elements, **8:38 et  
seq.**

Middle East, **8:159**

National legislation

Generally, **8:82 et seq.**

Argentina, **8:86**

Asia and Oceania, **8:139 et seq.**

Brazil, **8:87**

Canada, **8:84**

Central and Eastern Europe, **8:134**

England, **8:92 et seq.**

France, **8:113 et seq.**

Germany, **8:123 et seq.**

Hong Kong, **8:140; 8:141**

Hungary, **8:134**

India, **8:154 to 8:156**

Japan, **8:151 to 8:153**

Mexico, **8:90**

Peoples Republic of China, **8:148  
to 8:150**

Russian Federation, **8:135 et seq.**

Singapore, **8:144 to 8:147**

Switzerland, **8:102 et seq.**

United States, **8:83**

Western Europe, **8:91 et seq.**

Western Hemisphere, **8:83 et seq.**

Place of arbitration

AAA and AAA / ICDR  
international arbitration rules,  
**8:29**

Arbitration Institute of Stockholm  
Chamber of Commerce (SCC)

## INDEX

### INTERNATIONAL COMMERCIAL ARBITRATION—Cont'd

- Place of arbitration—Cont'd
  - and SCC rules, **8:51**
- Chamber of Commerce and Industry of the Russian Federation and ICAC rules, **8:138**
- Characteristics of arbitration, **8:4**
- International Chamber of Commerce (ICC) rules, **8:18**
- London Court of International Arbitration and LCIA rules, **8:40**
- UNCITRAL rules, **8:73**
- Proceedings, key elements
  - AAA and AAA / ICDR international arbitration rules, **8:27**
  - Arbitration Institute of Stockholm Chamber of Commerce (SCC) and SCC rules, **8:49 et seq.**
  - Chamber of Commerce and Industry of the Russian Federation and ICAC rules, **8:138**
  - International Chamber of Commerce (ICC) rules, **8:16 et seq.**
  - London Court of International Arbitration and LCIA rules, **8:38 et seq.**
  - UNCITRAL rules, **8:76**
- Russian Federation
  - Generally, **8:135 et seq.**
  - Arbitration agreement, **8:135**
  - Arbitration legislation, **8:136**
  - Arbitration proceedings, **8:136**
  - Award, **8:137**
  - Enforcement of arbitral award, **8:137**
  - Finality of arbitral award, **8:137**
  - Governing law, **8:135**
  - Jurisdiction, **8:135**
  - Role of courts, **8:135**
- Singapore
  - Arbitration legislation, **8:145**
- Switzerland, **8:106**
  - Generally, **8:102 et seq.**

### INTERNATIONAL COMMERCIAL ARBITRATION—Cont'd

- Switzerland, **8:106**—Cont'd
  - Arbitral institutions, **8:112**
  - Arbitration agreement, **8:105**
  - Arbitration legislation, **8:103**
  - Arbitration proceedings, **8:108**
  - Arbitrators, **8:106**
  - Award, **8:110**
  - Enforcement of award, **8:111**
  - Finality of the award, **8:110**
  - Governing law, **8:107**
  - Interim measures, **8:109**
  - Jurisdiction, **8:104**
- Transactions and legal issues, **8:9**
- Transnational contracts, arbitration agreements
  - Generally, **3:7-3:9**
  - Changed circumstances and contract adaptation, **4:69**
  - Choice of law clauses, **3A:8 to 3A:10**
  - Federal court decisions, **3A:10**
  - Franchise agreements, **3:9**
  - Scope, **3:8**
  - State court decisions, **3A:10**
  - Supreme Court decisions
    - choice of law clauses, **3A:9**
- UNCITRAL rules
  - Generally, **8:70 et seq.**
  - Appointment of arbitrators, **8:72**
  - Award, **8:79**
  - Confidentiality, **8:78**
  - Costs, **8:80**
  - Governing law, **8:74**
  - Jurisdiction, **8:71**
  - Key elements, **8:71 et seq.**
  - Language, **8:75**
  - Place of arbitration, **8:73**
  - Proceedings, key elements, **8:76**
- Western Europe
  - Generally, **8:91 et seq.**
  - England, above
  - France, above
  - Germany, above
  - Netherlands, above
  - Switzerland, above

**INTERNATIONAL COMMERCIAL  
ARBITRATION—Cont'd**

Western Hemisphere  
Generally, **8:83 et seq.**  
Argentina, **8:86**  
Brazil, **8:87**  
Canada, **8:84**  
Caribbean, **8:85**  
Latin America, **8:85 et seq.**  
Mexico, **8:90**  
United States, **8:83**

**INTERNATIONAL CONTRACTS  
AND CONTRACT LAW**

*See Transnational Contract Law*

**INTERNATIONAL CREDIT  
TRANSFERS**

UNCITRAL Model Law on  
International Credit Transfers,  
**App 12A**

**INTERNATIONAL  
DISTRIBUTORSHIPS**

Foreign direct investment, **23:23**

**INTERNATIONAL EMPLOYMENT  
AND LABOR LAW**

*See Transnational Employment  
and Labor Law*

**INTERNATIONAL EXECUTIVES**

Expatriate taxation. *See Expatriate  
Taxation*

**INTERNATIONAL LAW  
COMMISSION**

Report, criminal prosecution, state  
officials, sovereign immunity,  
**15:13**

**INTERNATIONAL SECURITIES  
REGULATION**

Establishing an extraterritorial pres-  
ence, securities law compliance,  
**2:78**  
European Economic Community  
(EEC; Common Market)  
disclosure directives  
Continuous reporting, **12:30**  
European prospectus, **12:29**

**INTERNATIONAL SECURITIES  
REGULATION—Cont'd**

European Union. *See European  
Union*

International capital markets. *See  
International Capital Markets*

**INTERNATIONAL TECHNOLOGY  
LICENSING**

Generally, **6:1 to 6:6**

Benefits and risks of international  
technology licensing

Generally, **6:3 to 6:6**

Licensee's, **6:5; 6:6**

Licensor's, **6:3; 6:4**

Definition of international technology  
licensing, **6:1**

EU regulation and legislation. U.S.  
and EU regulation and legisla-  
tion, below

International conventions and  
organizations affecting technol-  
ogy licensing, **6:36**

Role and purpose of international  
technology licensing, **6:2**

Sample agreement, **App 6A**

Types and subject matter of  
Generally, **6:7 to 6:11**

Know-how licenses, **6:8**

Management assistance, **6:10**

Patent licenses, **6:7**

Service mark licenses, **6:9**

Technical assistance, management  
assistance, and training, **6:10**

Trademark / service mark licenses,  
**6:9**

Training, **6:10**

Turnkey operations, **6:11**

U.S. and EU regulation and legisla-  
tion

Regulation in Argentina  
generally, **6:26 to 6:28**

exchange controls, **6:27**

taxation, **6:28**

technology transfer legislation  
and registration, **6:26**

Regulation in Brazil

generally, **6:23 to 6:25**

exchange controls, **6:24**

## INDEX

### INTERNATIONAL TECHNOLOGY LICENSING—Cont'd

- U.S. and EU regulation and legisla-  
tion—Cont'd
  - Regulation in Brazil—Cont'd
    - taxation, **6:25**
    - technology transfer legislation  
and registration, **6:23**
  - Regulation in European Union
    - generally, **6:16 to 6:19**
    - EU and UK competition law,  
**6:16**
    - European national intellectual  
property and competition  
law, **6:18**
    - national technology transfer  
laws in Europe, **6:17**
    - withholding taxes, **6:19**
  - Regulation in India
    - generally, **6:33 to 6:35**
    - exchange controls, **6:34**
    - taxation, **6:35**
    - technology transfer legislation  
and registration, **6:33**
  - Regulation in Korea
    - generally, **6:29 to 6:32**
    - competition law, **6:31**
    - exchange controls, **6:30**
    - taxation, **6:32**
    - technology transfer legislation  
and registration, **6:29**
  - Regulation in Mexico
    - generally, **6:20 to 6:22**
    - exchange controls, **6:21**
    - taxation, **6:22**
    - technology transfer legislation  
and registration, **6:20**
  - Regulation in U.S.
    - antitrust law and Department of  
Justice guidelines, **6:13**
    - export control law, **6:15**
    - patent misuse, **6:14**
- Taxes
  - regulation in Argentina, **6:28**
  - regulation in Brazil, **6:25**
  - regulation in India, **6:35**
  - regulation in Korea, **6:32**
  - regulation in Mexico, **6:21**

### INTERNATIONAL TECHNOLOGY LICENSING—Cont'd

- U.S. and EU regulation and legisla-  
tion—Cont'd
  - Taxes—Cont'd
    - withholding taxes in European  
Union, **6:19**
  - U.S., EU and UK regulation and  
legislation
    - Generally, **6:12 to 6:36**
    - Legal issues, **6:12**

### INVESTMENT ADVISERS ACT OF 1940

- Functions of the Investment Advisers  
Act of 1940, **12B:6**

### INVESTMENT COMPANIES

- EC directive on investment  
companies, **12:58**
- International capital markets, **12:57;**  
**12:58**
- Offshore distributions, applicability  
of Regulation S, **12:104**
- Registered investment companies,  
**12:134**

### INVESTMENT COMPANY ACT OF 1940

- Summary, **12B:7**

### IRS GUIDANCE ON PROTECTED CELL COMPANIES

- Life insurance, **11:21**

### ISLE OF MAN

- Life insurance, **11:33; 11:34**

### ITALY

- Capital markets, **12:17**
- Transnational contract law
  - Formation of contracts, **4:38 to**  
**4:40**
  - Precontractual  
liability, **4:30**
  - process, **4:11**

## J

### JAPAN

- Capital markets, **12:12**
- Insider trading, **12:45**

**JAPAN—Cont'd**

- International commercial arbitration, **8:151 to 8:153**
- International securities regulation, **12A:10**
- Transnational franchising, pre-sale disclosure requirements, **5:20**

**JOINT STOCK COMPANIES**

- See* **Establishing an Extraterritorial Presence**

**JOINT VENTURES**

- Choice of business entity abroad (Germany and European Union), **22:66**
- Foreign direct investment, **23:21**

**JUDGMENTS**

- Convention on Jurisdiction and Enforcement of Judgments (Brussels Convention), **3A:12; 3A:13; App 3A**
- Convention on Jurisdiction and Recognition and Enforcement of Judgments in Civil and Commercial Matters, **App 3C**
- Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, **App 3C**
- European Union
  - Contract law, recognition and enforceability of judgments, **4A:8**
  - Recognition and enforceability, **4A:8**

**JUDICIAL DECISIONS**

- Transnational contracts, Brussels Convention, **3A:13**

**JUDICIAL REVIEW**

- Foreign trade and economic injury, antidumping and countervailing duties, **16:6**
- Transnational contract forum selection clauses
  - Governing law, U.S. law and practice, **3:4-3:6**

**JURISDICTION**

- American nationals and non-nationals FCPA. *See* **Foreign Corrupt Practices Act**
- MJDS. *see* **Multijurisdictional Disclosure System of U.S.**
- European Union, contract law, **4A:8**
- Foreign states, jurisdictional immunities of, **App 15A**
- International and community law. *See* **Antitrust Laws**
- Life insurance, **11:24**
- Problems of, in application of antitrust laws. *See* **Antitrust Law**
- Regarding foreign bankruptcy proceedings. *See* **Foreign Bankruptcies**
- Transnational and community law. *See* **Antitrust Laws**

**K**

**KAUFLEUTE (SOPHISTICATED PERSONS)**

- Choice of business entity abroad (Germany and European Union), **22:11 to 22:13**

**KG (LIMITED PARTNERSHIP)**

- Choice of business entity abroad (Germany and European Union), **22:74**

**KNOW - HOW LICENSES**

- International technology licensing, **6:8**

**KORPERSCHAFTEN (CORPORATE ENTITIES)**

- Choice of business entity abroad (Germany and European Union), **22:5**

**L**

**LABOR AND EMPLOYMENT LAW IN THE TRANSNATIONAL CONTEXT**

- Generally, **21:1; 21:2**
- Conclusion, **21:18**

## INDEX

### LABOR AND EMPLOYMENT LAW IN THE TRANSNATIONAL CONTEXT—Cont'd

Extraterritorial effect of U.S. employ-  
ment law

Generally, **21:11 to 21:14**

Discrimination law, **21:12**

Employee benefit law and policy in  
expatriate context, **21:14**

Labor union law, **21:13**

Foreign employment law and practice

Generally, **21:3**

Employment contracts, **21:5**

Foreign law, **21:4**

Individual employment contracts,  
**21:5**

Labor unions, **21:6**

International Labor Organization

Treaties and the International  
Labor Organization, **21:10**

Potential issues

Generally, **21:15**

Adversarial context, **21:17**

Transactional context, **21:16**

Sources for researching labor and  
employment law in international  
conflict, **App 21B**

Ten-point checklist for addressing  
employment issues in  
international transactions, **App  
21A**

Treaties and the International Labor  
Organization

EU, NAFTA, and other trade blocs,  
**21:7**

Friendship and commerce treaties,  
**21:9**

GATT, GATS, and WTO, **21:8**

International Labor Organization,  
**21:10**

NAFTA, **21:7**

Navigation treaties, **21:9**

WTO, GATS and GATT, **21:8**

What “international labor and  
employment law” is, **21:2**

### LARGE INSTITUTIONS

Corporate social responsibility and  
role of lawyer, ethical investing,  
**1:11**

### LATIN AMERICA

Arbitration institutions, **8:89**

International commercial arbitration,  
**8:85 et seq.**

### LAW OF NATIONS

*See also* **Corporate Social  
Responsibility and Role of  
Lawyer**

### LEGAL REPRESENTATIVES

Choice of business entity abroad  
(Germany and European Union),  
**22:27 to 22:29; 22:42; 22:44**

### LEGAL RESTRAINTS ON TECHNOLOGY TRANSFER

*See* **Technology Transfer**

### LENDERS

Debt securities, international market  
in, **12:4**

International market in debt securi-  
ties, **12:4**

### LETTERS OF CREDIT

Generally, **24:1 to 24:11**

Clean, **24:8**

Commercial, **24:9**

Documentary, **24:8**

Independence, **24:6**

International boycotts

Export Administration Regula-  
tions, **17:27**

Internal Revenue Code, **17:27**

Permissible clauses, **17:29**

Prohibited clauses and acceptable  
alternatives, **17:28**

Introduction, **24:1**

Irrevocable, **24:10**

Laws governing, **24:3**

Revocable, **24:10**

Standby, **24:9**

Strict compliance, **24:7**

Transactions, **24:2**

Transfer, **24:11**

Uniform Commercial Code (UCC),  
**24:5**

Uniform Customs and Practice for  
Documentary Credits (UPC),  
**24:4**

## LETTERS OF INTENT

*See* **Transnational Contract Law**

## LICENSING

CSR, means to obtain social license to operate, **1:10**

Technology licensing. *See*

**International Technology Licensing**

U.S. export controls and compliance, **19:3**

## LIFE INSURANCE

Generally, **11:1 to 11:40**

Anguilla, insurer regulation, **11:36**

Bahamas

Creditor protection, **11:26**

Insurer regulation, **11:25**

Barbados

Creditor protection, **11:28**

Insurer regulation, **11:27**

Bermuda

Creditor protection, **11:30**

Insurer regulation, **11:29**

California, **11:15**

Cayman Islands

Creditor protection, **11:32**

Insurer regulation, **11:31**

Colorado, **11:16**

Creditor protection

Bahamas, **11:26**

Barbados, **11:28**

Bermuda, **11:30**

Cayman Islands, **11:32**

France, **11:23**

Isle of Man, **11:34**

Switzerland, **11:37**

European Union, **11:7**

Expatriation tax, **11:39**

FATCA legislation, **11:14**

FBAR proposals, **11:14**

Finalization of new regulations, **11:20**

Florida, **11:17**

France

Creditor protection, **11:23**

Insurer regulation, **11:22**

Fundamentals, **11:10**

General issues, **11:19**

## LIFE INSURANCE—Cont'd

HEART act, expatriation tax rules, **11:39**

History, **11:2**

Insurer regulation

Anguilla, **11:36**

Bahamas, **11:25**

Barbados, **11:27**

Bermuda, **11:29**

Cayman Islands, **11:31**

European Union, **11:7**

France, **11:22**

Isle of Man, **11:33**

National markets, **11:6; 11:7**

Nongovernmental organizations (NGOs), **11:5**

Regulatory regimes, **11:4**

Switzerland, **11:35**

United States, **11:6**

Isle of Man

Creditor protection, **11:34**

Insurer regulation, **11:33**

Jurisdictions, **11:10 to 11:37**

Money laundering, **11:9**

New York, **11:18**

Non-governmental organizations, **11:5**

Offshore jurisdictions, **11:24**

Protected cell companies, IRS Guidance, **11:21**

Securities regulation, **11:8**

Subsequent IRS guidance, **11:38**

Switzerland

Creditor protection, **11:37**

Insurer regulation, **11:35**

Taxation (U.S.)

Clarification of expatriation tax rules of HEART Act, **11:39**

Protected cell companies, IRS guidance, **11:21**

Securities regulation, **11:8**

Subsequent IRS guidance, **11:38**

United Kingdom, **11:12**

United States

Fundamentals of life insurance, **11:13**

Insurer regulation, **11:6**

## INDEX

### **LIFE INSURANCE—Cont'd**

- United States—Cont'd
  - Jurisdictions survey, **11:15 to 11:21**
  - Taxation. See Taxation (U.S.), above

### **LIMITED LIABILITIES**

- Choice of business entity abroad (Germany and European Union), **22:33; 22:46**
- Establishing an extraterritorial presence
  - Corporations, joint stock companies, and share companies, **2:36 to 2:38**
  - General and limited partnerships, **2:50; 2:51**
  - Limited liability companies, **2:64; 2:65**
  - Protection of foreign entity and fiduciaries from, **2:8**

### **LIMITED LIABILITY COMPANIES**

- Choice of business entity abroad (Germany and European Union), **22:5; 22:32**
- See also **Establishing an Extraterritorial Presence**

### **LIMITED LIABILITY LIMITED PARTNERSHIPS IN US**

- Establishing an extraterritorial presence, **2:70**

### **LIMITED LIABILITY PARTNERSHIPS IN UK**

- Establishing an extraterritorial presence, **2:71**

### **LIMITED LIABILITY PARTNERSHIPS IN US**

- Establishing an extraterritorial presence, **2:70**

### **LIMITED PARTNERSHIPS** *See Partnerships*

## **M**

### **MERGERS**

- Establishing an extraterritorial presence, **2:74**

### **MERGERS—Cont'd**

- Foreign direct investment, **23:20**

### **MEXICO**

- Capital markets, **12:19**
- International commercial arbitration, **8:90**
- International technology licensing, **6:20 to 6:22**
- Transnational franchising, pre-sale disclosure and registration requirements, **5:14**

### **MIDDLE EAST**

- International commercial arbitration, **8:159**

### **MONOPOLIZATION**

- China's Anti - Monopoly Law, **7:4**

### **MULTILATERAL CONVENTIONS AND OTHER NATIONS' PRACTICES ON FORUM SELECTION AND CHOICE OF LAW**

- Generally, **3A:11**
- Brussels Convention, **3A:12; 3A:13; App 3A**
- Brussels Regulation, **3A:14**
- Conclusion, **3A:22**
- Hague Convention Principles on Choice of Law in International Commercial Contracts, **3A:19; App 3A-F**
- Judicial decisions, Brussels Convention, **3A:13**
- Other Conventions, **3A:20**
- Rome Convention, **3A:16**
- Rome Regulation, **3A:17**
- Selected other countries, **3A:21**
- Transnational contracts
  - Brussels Convention, **3A:12; 3A:13**
  - Brussels Regulation, **3A:14**
  - Hague Convention Principles on Choice of Law in International Commercial Contracts, **3A:19; App 3A-F**
  - Judicial decisions, Brussels Convention, **3A:13**
  - Rome Regulation, **3A:17**

**MULTILATERAL CONVENTIONS  
AND OTHER NATIONS'  
PRACTICES ON FORUM  
SELECTION AND CHOICE OF  
LAW—Cont'd**

United Nations Convention on  
Contracts for the International  
Sale of Goods, **3A:18; App  
3A-D**

**MULTINATIONAL ENTERPRISES  
(MNES)**

Codes of conduct. *See* **Codes of  
Conduct**

**N**

**NATIONAL SECURITY  
CONCERNS**

Foreign direct investment, **23:13**

**NETHERLANDS**

Capital markets, **12:16**

**NEW YORK**

Life insurance, **11:18**

**1984 TAX ACT**

Foreign tax provisions. *See* **Taxation  
(U.S.)**

**1998 AMENDMENTS, FOREIGN  
CORRUPT PRACTICES ACT**

OECD Convention and FCPA, **18:22**

**O**

**OCEANIA**

International commercial arbitration,  
**8:139 et seq.**

**OECD CONVENTION AND FCPA**

*See* **Foreign Corrupt Practices Act**

**OFFSHORE DISTRIBUTIONS**

Generally, **12:74 to 12:110**

**OFFSHORE FUNDS**

International capital markets, **12:135**

**OHG (COMMERCIAL TRADE  
PARTNERSHIP)**

Choice of business entity abroad  
(Germany and European Union),  
**22:68**

**ORGAN / ORGANHAFTUNG  
LIABILITY**

Choice of business entity abroad  
(Germany and European Union),  
**22:6 to 22:10**

**ORGANISATION FOR  
ECONOMIC COOPERATION  
AND DEVELOPMENT (OECD)**

OECD Convention and FCPA. *See*  
**Foreign Corrupt Practices Act**

**ORGANIZATION OF AMERICAN  
STATES FIFTH INTER -  
AMERICAN SPECIALIZED  
CONFERENCE ON PRIVATE  
INTERNATIONAL LAW:  
INTER - AMERICAN  
CONVENTION ON THE LAW  
APPLICABLE TO  
INTERNATIONAL  
CONTRACTS [DONE AT  
MEXICO CITY, MARCH 17,  
1994]**

Transnational contracts, **App 3A-C**

**OWNERSHIP CONSIDERATIONS**

Foreign direct investment, **23:12 et  
seq.**

**P**

**PARTNERSHIPS**

Choice of business entity abroad  
(Germany and European Union).  
*See* **Choice of Business Entity  
Abroad (Germany and European  
Union)**

Extraterritorial presence. *See*  
**Establishing an Extraterrito-  
rial Presence**

**PATENTS**

Foreign trade and economic injury,  
U.S. relief mechanisms, **16:15**  
International technology licensing,  
**6:7; 6:14**

**PAYMENTS MADE TO SECURE  
“IMPROPER ADVANTAGE”**

Foreign Corrupt Practices Act, **18:26**

## INDEX

### PENALTIES

- Boycotts. *See* **Boycotts**
- Extraterritorial presence. *See*  
**Establishing an Extraterritorial Presence**

### PEOPLES' REPUBLIC OF CHINA

- China. *See* **China**

### PERSONENGESELLSCHAFTEN (PARTNERSHIP ENTITIES)

- Choice of business entity abroad  
(Germany and European Union),  
**22:4**

### PHILANTHROPY (AMERICAN CORPORATIONS WORLDWIDE)

- Generally, **20:1 to 20:24**
- Cash gift from foreign branch or  
affiliate of U.S. parent to over-  
seas charitable or governmental  
agency, **20:4**
- Cash grant from U.S. corporate  
foundation to foreign charity,  
**20:6**
- Charitable purpose  
501(c)(3) and 501(c)(3)  
equivalents as overseas  
grantee, **20:16**
- Governmental unit as overseas  
grantee, **20:13**
- Other overseas grantee organiza-  
tions, **20:19**
- Overseas grant making by U.S.  
corporate foundations, **20:9**
- Choices for corporate overseas giv-  
ing, **20:2 to 20:6**
- Contributions to be used in foreign  
country, **App 20A**
- Earmarking, **20:21**
- Expenditure responsibility  
501(c)(3) and 501(c)(3)  
equivalents as overseas  
grantee, **20:17**
- Governmental unit as overseas  
grantee, **20:14**
- Other overseas grantee organiza-  
tions, **20:20**
- Overseas grant making by U.S.  
corporate foundations, **20:10**

### PHILANTHROPY (AMERICAN CORPORATIONS WORLDWIDE)—Cont'd

- Gift to U.S. charity for use overseas,  
**20:3**
- In-kind goods or services to benefit  
foreign charity, **20:5**
- IRS sample agreement, **App 20B**
- Overseas grant making by U.S.  
corporate foundations  
Generally, **20:7**
- Charitable purpose, **20:9**
- Expenditures, **20:8; 20:10**
- Responsibility for expenditures,  
**20:10**
- Taxable expenditures, **20:8**
- Overseas grantee categories  
Generally, **20:11 to 20:20**
- Charitable purpose  
501(c)(3) and 501(c)(3)  
equivalents, **20:16**
- governmental unit, **20:13**
- other organizations, **20:19**
- Expenditure responsibility  
501(c)(3) and 501(c)(3)  
equivalents, **20:17**
- governmental unit, **20:14**
- other organizations, **20:20**
- 501(c)(3) and 501(c)(3)  
equivalents, **20:15 to 20:17**
- Governmental units, **20:12 to**  
**20:14**
- Other organizations, **20:18 to**  
**20:20**
- Program-related investments, **20:22**
- Public relations, **20:23**
- Related considerations, **20:21 to**  
**20:23**
- Sample grant application, **App 20C**

### PORTFOLIOS

- Internationalization of, **12:22**

### PRECONTRATTI

- Transnational contract law, **4:11**

### PROFESSIONALS

- Choice of business entity abroad  
(Germany and European Union),  
**22:67**

**PROGRAM RELATED INVESTMENTS**

Philanthropy by American corporations worldwide, **20:22**

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL ON THE LAW APPLICABLE TO CONTRACTUAL OBLIGATIONS (ROME I)**

Transnational contracts, **App 3A-E**

**PROTECTED CELL COMPANIES**

Life insurance, **11:21**

**PROXY REGULATION**

International capital markets, securities regulation  
 Generally, **12:54 to 12:56**  
 German alternative, **12:56**  
 Other countries, **12:55**  
 U.S., **12:54**

**PUBLIC POLICY**

Forum selection clauses, enforcement, **3:15**

**PUBLIC RELATIONS**

Philanthropy by American corporations worldwide, **20:23**

**PUBLIC UTILITY HOLDING COMPANY ACT OF 1935**

Generally, **12B:4 to 12B:10**

**Q**

**QUOTAS**

Choice of business entity abroad (Germany and European Union), **22:23 to 22:25; 22:30**

**R**

**RECOGNITION OF JUDGMENTS**

European Union, **4A:8**

**RECORDS**

Foreign Corrupt Practices Act, **12:148**

**REGISTRATION**

Choice of business entity abroad (Germany and European Union), **22:22; 22:39; 22:52; 22:62; 22:72; 22:80**

Establishing an extraterritorial presence, registration of parent companies or branches, **2:81; 2:82**

Securities Act registration. *See* **Capital Markets**

Transnational franchising

Mexican pre-sale disclosure and registration requirements, **5:14**

Russian registration requirements, **5:17**

Spanish pre-sale disclosure and registration requirements, **5:16**

**REGULATION S**

Generally, **12:105**

Applicability of, **12:109**

Bases of jurisdiction to prescribe and limitations, **12:108**

Offshore distributions

American depositary receipts generally, **12:90 to 12:92**  
 impact of Regulation S, **12:91; 12:92**

overview of American depositary receipts, **12:90**

sales to U.S. persons during restricted period, **12:91**

substantial U.S. market interest, **12:92**

Critique of Regulation S, **12:103**

Definition of a U.S. person, **12:78**

Distributions pursuant to Regulation S, generally, **12:76**

General

conditions, **12:79**

statement approach, **12:77**

Interrelationship of Regulation S and tax provisions, **12:102**

Investment companies, applicability, **12:104**

Offshore transactions, **12:79**

Related initiatives, **12:74**

## INDEX

### REGULATION S—Cont'd

- Offshore distributions—Cont'd
  - Release Number 4708, **12:75**
  - Resales in U.S. or to U.S. persons generally, **12:93 to 12:95**
  - Regulation S and the releases, **12:94**
  - testing the premise—random scenarios, **12:95**
- Summing up restrictions on sales in U.S. and to U.S. persons, **12:96 to 12:101**
- Prescriptive jurisdiction, **12:107**
- Relationship to the federal securities code, **12:110**
- Rule 144A and PORTAL market, interrelationship, **12:119**
- Selected terms and concepts, **12:106**

### REMEDIES

- Economic injury in foreign trade, survey of U.S. relief mechanisms *See* **Foreign Trade**
- Sanctions imposed upon foreign defendants, **13:23**

### REPORTING

- Taxation (U.S.), reporting, nonbusiness income, **10:34**
- UN Guiding Principles Reporting Framework, **App 1B**

### RESOLUTION OF DISPUTE

- Foreign direct investment, **23:41**

### RESOURCES INVESTMENT

- See* **Natural Resource Investment**

### RESTRAINT OF TRADE

- See* **Antitrust Laws**

### RESTRICTIONS

- See* **Foreign Direct Investment**

### RIGHTS SENSITIVE BRANDING

- Corporate social responsibility and role of lawyer, **1:12**

### ROME CONVENTION

- Convention on the Law Applicable to Contractual Obligations, **App 3A-B**

### ROME CONVENTION—Cont'd

- Convention on the Law Applicable to Contractual Obligations (Rome Convention), **3A:16**

### ROME REGULATION

- Transnational contracts, **3A:17**

### RUSSIA

- Russian Federation. *See* **International Commercial Arbitration**
- Transnational
  - Franchising, registration requirements, **5:17**
  - Insolvency, **9A:20**
- Vneshprombank insolvency case, **9A:20**

## S

### SAMPLE CHOICE OF LAW AND CHOICE OF FORUM CLAUSE

- Transnational contracts, **App 3A-A**

### SCREENING

- Foreign direct investment, **23:15**

### SECURITIES EXCHANGE ACT OF 1934

- Overview, **12B:3**

### SECURITIES FIRMS

- World securities business and firms, **12:10**

### SECURITIES INDUSTRY SELF-REGULATORY ORGANIZATIONS

- Role of the securities industry self-regulatory organizations, **12B:8**

### SECURITIES REGULATION

- Capital markets. *See* **Capital Markets**
- Establishing an extraterritorial presence, securities law compliance, **2:78**
- European Union. *See* **European Union**
- Life insurance, **11:8**
- Transnational character of U.S. securities law. *See* **International**

**SECURITIES REGULATION**

—Cont'd

Capital Markets

**SECURITY CONCERNS**

Foreign direct investment, **23:13**

**SERVICE AGREEMENTS**

Choice of business entity abroad  
(Germany and European Union),  
**22:28; 22:43**

**SHARE COMPANIES**

*See* Establishing an Extraterritorial  
Presence

**SHAREHOLDER MEETING**

Choice of business entity abroad  
(Germany and European Union),  
**22:26; 22:41; 22:54; 22:55**

**SHAREHOLDER THEORY**

Corporate social responsibility and  
role of lawyer, **1:7**

**SILENT PARTNERSHIP**

Choice of business entity abroad  
(Germany and European Union),  
**22:75**

**SIMPLIFIED BALANCING TEST**

Generally, **13:8**

**SINGAPORE**

International commercial arbitration,  
**8:144 to 8:147**

**SINGLE ENTERPRISE THEORY**

*See* Antitrust Laws

**SOCIAL RESPONSIBILITY**

*See* Corporate Social Responsibility  
and Role of Lawyer

**SOCIETAS EUROPEAE  
(EUROPEAN COMPANY)**

Choice of business entity abroad  
(Germany and European Union),  
**22:48**

**SOCIETE PAR ACTIONS  
SIMPLIFIEE**

Establishing an extraterritorial pres-  
ence, **2:72**

**SOCIETIES**

Choice of business entity abroad  
(Germany and European Union),  
**22:3**

**SOPHISTICATION**

Choice of business entity abroad  
(Germany and European Union),  
**22:11; 22:12**  
European law, sophisticated person,  
**22:11; 22:13**  
Germany, choice of business entity  
abroad, **22:11; 22:12**

**SOUTH AFRICA**

International securities regulation,  
**12A:6**

**SOUTH KOREA**

Transnational franchising, pre-sale  
disclosure requirements, **5:19**

**SOVEREIGN IMMUNITY**

Antitrust law application  
Generally, **13:17 to 13:22**  
Arbitration, waiver, **13:20**  
Commercial exception, **13:18**  
International law exception, **13:19**  
Suits involving United States,  
**13:21**

Conclusion, **15:14**

Individuals

Generally, **15:1 to 15:14**  
Acts beyond official capacity of  
state official, **15:11**  
Acts within official capacity of  
state official, **15:10**

Consular officials, **15:7**

Defining official capacity of state  
official, **15:12**

Diplomatic officials, **15:5 to 15:8**

Foreign officials, **15:9**

Head of state, **15:2 to 15:4**

International

organizations, diplomatic  
officials, **15:8**

perspective on heads of state,  
**15:4**

International Law Commission's  
report, criminal prosecution,  
state officials, **15:13**

## INDEX

### **SOVEREIGN IMMUNITY—Cont'd**

- Individuals—Cont'd
  - Jurisdictional immunities of foreign states, **App 15A**
  - State officials, **15:10 to 15:12**
  - U.S. practice for heads of state, **15:3**
  - Vienna Consular Convention, consular officials, **15:7**
  - Vienna Diplomatic Convention, diplomatic officials, **15:6**
- Jurisdictional problems in application of antitrust laws
  - Generally, **13:16; 13:17**
  - Act of state doctrine, **13:22**
  - Arbitration, waiver, **13:20**
  - Commercial exception, **13:18**
  - International law exception, **13:19**
  - Suits involving United States, **13:21**

### **SPAIN**

- Transnational franchising, pre-sale disclosure and registration requirements, **5:16**

### **STAKEHOLDERS**

- Risks, large development and extractive projects, **1:9**
- Theory, corporate social responsibility and role of lawyer, **1:7**

### **STANDING TO SUE**

- Jurisdictional problems in application of antitrust laws, **13:2**

### **STATE ACTION**

- Corporate social responsibility and role of lawyer, **1:8**

### **STATE LAW**

- Corporate social responsibility and role of lawyer, **1:17**

### **STATE SECURITIES**

#### **LAWS-8220BLUE SKY**

#### **LAWS8221**

- Blue sky law history and application, **12B:9**

### **STILLE GESELLSCHAFT (SILENT PARTNERSHIP)**

- Choice of business entity abroad (Germany and European Union), **22:75**

### **STOCK EXCHANGES**

- Generally, **12:9**
- International Federation, **12:69**

### **SWITZERLAND**

- International commercial arbitration, **8:102 et seq.**
- Life insurance, **11:35; 11:37**

### **SYNDICATED LOANS**

- Regulation in international capital market, **12:7**

## **T**

### **TAKEOVER REGULATION, INTERNATIONAL CAPITAL MARKETS**

- Generally, **12:47 to 12:53**
- Australia, **12:50**
- Canada, **12:51**
- Federal regulation, **12:47**
- France, **12:52**
- Other countries, **12:53**
- United Kingdom, **12:49**
- United States
  - Generally, **12:47**
  - State regulation, **12:48**

### **TAX CODE**

- See* **Taxation (U.S.)**

### **TAXATION (U.S.)**

- Generally, **10:1 to 10:87**
- Allocation and apportionment of deductions, **10:39**
- Boycotts. Transnational boycott determinations under U.S. Tax Code, below
- Branch level tax, **10:41**
- Branch profits tax, **10:40**
- Business income
  - Generally, **10:35 to 10:43**
  - Allocation and apportionment of deductions, **10:39**
  - Branch level tax, **10:41**
  - Branch profits tax, **10:40**
  - Effectively connected income, **10:37**
- Foreign partners and partnerships, **10:42**

**TAXATION (U.S.)—Cont'd**

- Business income—Cont'd
  - Services income, **10:43**
  - Treaty rules, **10:38**
  - U.S. trade or business, **10:36**
- Classification of taxpayers
  - Corporations, **10:7; App 10C**
  - Domestic and foreign entities, **10:7 to 10:9; App 10C**
  - Individuals, **10:2 to 10:6; App 10B**
- Convention for Avoidance of Double Taxation and the Prevention of Fiscal Income with Respect to Taxes on Income [September 20, 1996], **App 10F**
- Corporations, classification of taxpayers, **10:7; App 10C**
- Dispositions (FIRPTA)
  - Generally, **10:49 to 10:67**
  - Corporate distributions, **10:60 to 10:62**
  - Direct interests in U.S. real property
    - generally, **10:50**
    - special rules, **10:51**
  - Domestic corporation distributions, **10:61**
  - Foreign corporation distributions, **10:62**
- Interests
  - pass-through entities, **10:58**
  - U.S. real property holding corporations
    - generally, **10:52 to 10:57**
    - exceptions, **10:54 to 10:57**
    - general test for USRPHC status, **10:53**
    - interests solely as creditor exception, **10:54**
    - publicly traded stock exception, **10:55**
    - stock in domestically controlled REIT, **10:57**
    - taxable sale of all U.S. real property exception, **10:56**
- IRC § 897(i) election, **10:59**
- Nonrecognition transactions, **10:63**

**TAXATION (U.S.)—Cont'd**

- Dispositions (FIRPTA)—Cont'd
  - Withholding and compliance
    - generally, **10:64 to 10:67**
    - compliance, **10:67**
    - entity withholding rules, **10:66**
    - rules, **10:66**
- Domestic and foreign entities
  - Classification of taxpayers, **10:7 to 10:9; App 10C**
  - Corporations
    - generally, **10:7**
    - classification of taxpayers, **App 10C**
  - Partnerships, **10:8**
  - Trusts, **10:9**
- Effectively connected income, **10:37; App 10D**
- Expatriate taxation
  - Generally, **10A:1 to 10A:14**
  - AJCA, brief history under, **10A:5**
  - FITA, brief history under, **10A:3**
- Gain recognition
  - generally, **10A:6**
  - bequests, **10A:9**
  - constitutionality, **10A:13**
  - covered expatriate defined, **10A:7**
  - covered gifts, **10A:9**
  - degree of exposure for international executive, **10A:12**
  - HEART Act open issues, **10A:11**
  - mark-to-market regime exceptions, **10A:8**
  - reporting requirements, **10A:10**
- Heroes Earnings Assistance and Relief Act (HEART Act), **10A:1 to 10A:14**
- HIPAA, brief history under, **10A:4**
- History, **10A:2 to 10A:5**
- Life insurance, **11:39**
- Soundness of tax policy, **10A:14**
- Financing U.S. operations
  - Generally, **10:68 to 10:75**
- Earnings strippings, foreign parent / U.S. subsidiary, **10:71**

## INDEX

### TAXATION (U.S.)—Cont'd

- Financing U.S. operations—Cont'd
  - Foreign parent / U.S. subsidiary, **10:69 to 10:73**
  - Reporting, **10:75**
  - Transfer pricing, foreign parent / U.S. subsidiary, **10:70**
  - Treaties and treaty shopping, foreign parent / U.S. subsidiary, **10:73**
  - U.S. branch of foreign corporations, **10:74**
  - Withholding taxes, foreign parent / U.S. subsidiary, **10:72**
- Foreign investment in U.S. real estate
  - Generally, **10:44 to 10:67**
  - Direct foreign ownership and net election, **10:46**
  - Dispositions (FIRPTA), above
  - Operations, generally, **10:45 to 10:48**
  - Pass-through entities, **10:48**
  - U.S. corporate ownership, **10:47**
- Foreign persons, U.S. income taxation, **App 10A**
- Income subject to FDAP withholding
  - Generally, **10:11 to 10:29**
  - Address presumption rule, dividends, **10:20**
  - Bank deposit interest exception, **10:14**
  - Business income exception, **10:29**
  - Capital gains, **10:23**
  - Dividends, **10:17 to 10:20**
  - Earnings and profits requirement, dividends, **10:18**
  - 80 / 20 company exception, **10:15**
  - Equity swaps and other notional principal contracts, **10:27**
  - Financial derivatives, **10:24 to 10:27**
  - Forwards, futures, and options, **10:26**
  - Insurance premiums, **10:28**
  - Interest, **10:12 to 10:16**
  - Original issue discount, **10:16**
  - Portfolio interest exception, **10:13**
  - Rents, **10:21**
  - Royalties, **10:22**

### TAXATION (U.S.)—Cont'd

- Income subject to FDAP withholding—Cont'd
  - Securities lending, **10:25**
  - Source of income, **10:11**
  - Stock dividends, **10:19**
- Individuals
  - Classification of taxpayers, **10:2 to 10:6; App 10B**
  - Entering and leaving the U.S., **10:4**
  - Special rules for spouses, **10:5**
  - Treaty rules, **10:3**
  - U.S. estate and gift tax considerations, **10:6**
- Internal Revenue Service, life insurance
  - Clarification of expatriation tax rules of HEART Act, **11:39**
  - Guidance on protected cell companies, **11:21**
  - Subsequent IRS guidance, **11:38**
- Nonbusiness income
  - Generally, **10:10 to 10:34**
  - Income subject to FDAP withholding, above
  - Partnerships, withholding procedures, **10:33**
  - Reporting, withholding procedures, **10:34**
  - Treaty relief, **10:30**
  - Trusts, withholding procedures, **10:33**
  - Withholding agents, **10:31**
  - Withholding procedures, **10:32 to 10:34**
- Overseas grant making by U.S. corporate foundations, **20:8**
- Partnerships
  - Business income
    - foreign partners and partnerships, **10:42**
  - Classification of taxpayers, **10:8**
  - Nonbusiness Income
    - withholding procedures, **10:33**
  - Philanthropy, overseas grant making by U.S. corporate foundations, **20:8**
  - Reporting, nonbusiness income, **10:34**

**TAXATION (U.S.)—Cont'd**

- Services income, **10:43**
- Tax treaties
  - Generally, **10:76 to 10:78**
  - Background, **10:77**
  - Benefits of treaties, **10:79 to 10:83; 10:87**
  - Capital gains as benefit of treaty, **10:82**
  - Competent authority and mutual agreement procedures, **10:85**
  - Exchange of information and administrative assistance, **10:84**
  - FDAP income as benefit of treaty, **10:81**
  - Nondiscrimination in treaty administration, **10:86**
  - Permanent establishments and business profits as treaty benefits, **10:80**
  - Purposes of U.S. tax treaties, **10:76**
  - Scope of treaties, **10:78**
  - Treaty administration, **10:84 to 10:86**
  - Treaty shopping and limitation of benefits, **10:87**
  - U.S. real estate income, treaty benefits, **10:83**
- Transnational boycott determinations under U.S. Tax Code
  - Generally, **17:23 to 17:26**
  - Agreements to comply with boycott, **17:24**
  - Penalties, **17:25**
  - Reporting requirements, **17:26**
- Transnational franchising, **5:31**
- Treaty rules, business income, **10:38**
- Trusts
  - Classification of taxpayers, **10:9**
  - Nonbusiness Income, withholding procedures, **10:33**
- U.S. income taxation of foreign persons, **App 10A**
- U.S. Model Income Tax Convention, **App 10G**
- U.S. subsidiary v. branch, **App 10E**
- U.S. trade or business, business income, **10:36**

**TAXATION (U.S.)—Cont'd**

- U.S.-Bulgaria Double Taxation Treaty, **App 10H**

**TECHNOLOGIES, EXPORTS OF**

- Covered by EAR, **19:5 to 19:10**

**TECHNOLOGY LICENSING**

- See International Technology Licensing*

**TECHNOLOGY TRANSFER LAWS**

- Transnational franchising, **5:27**

**“TERMS OF ART”**

- See Transnational Insolvency*

**THIRD COUNTRY TRADE**

**DEFENSE ACTIONS AGAINST THE EUROPEAN COMMUNITY, 2007 OVERVIEW**

- Foreign trade, **App 16H**

**THIRD PARTY**

**REPRESENTATION**

- Choice of business entity abroad (Germany and European Union), **22:6 to 22:10**

**TRADE RELATED INVESTMENT MEASURES**

- Foreign direct investment, **23:4**

**TRADEMARK LAWS**

- Transnational franchising, **5:29**

**TRADEMARKS**

- International technology licensing, **6:9**

**TRANSFER OF TECHNOLOGY**

- Transnational franchising, technology transfer laws, **5:27**

**TRANSNATIONAL ANTITRUST LAWS**

- See Antitrust Laws*

**TRANSNATIONAL BOYCOTTS**

- See Boycotts*

**TRANSNATIONAL CAPITAL MARKETS**

- See International Capital Markets*

## INDEX

### TRANSNATIONAL COMMERCIAL ARBITRATION

*See* **International Commercial  
Arbitration**

### TRANSNATIONAL CONTRACT LAW

Generally, **4:1**

Arbitration agreements

Generally, **3:7-3:9**

Franchise agreements, **3:9**

Scope, **3:8**

Arbitration agreements. *See*

**International Commercial  
Arbitration**

Bankruptcy, **3:10**

Breach of contract and entitlement to  
damages

Generally, **4:46**

Civil law concepts regarding  
entitlement to damages, **4:48**

Common law concepts regarding  
entitlement to damages, **4:47**

Practice of international business  
contracts, **4:49**

Brussels Convention (Convention on  
Jurisdiction and Enforcement of  
Judgments), **3A:12; 3A:13; App  
3A**

Brussels' mandatory presumption,  
**3:19**

Brussels recast, **3A:15**

Brussels Regulation, **3A:14**

Changed circumstances and contract  
adaptation

Generally, **4:59**

Adaptation clauses in international  
business contracts

generally, **4:60 to 4:62**

adjusting the contract to  
unforeseen changes of cir-  
cumstances, clauses for,  
**4:62**

original economic value of the  
parties' obligations, clauses  
for maintaining, **4:61**

Changed circumstances in treaty  
law: "Rebus Sic Stanibus"  
clause, **4:64**

Conclusion, **4:70**

### TRANSNATIONAL CONTRACT LAW—Cont'd

Changed circumstances and contract  
adaptation—Cont'd

Contract adaptation in municipal  
law, **4:63**

Contract adaptation in the lex  
mercatoria

generally, **4:65 to 4:68**

hardship clauses, effect of, **4:68**

hardship clauses, events trigger-  
ing application of, **4:66**

obligations of parties, impact of  
events, **4:66**

International arbitration case law,  
**4:69**

Law merchant, contract adaptation,  
**4:65 to 4:68**

Municipal law, contract adaptation,  
**4:63**

Treaty law, changed circumstances,  
"Rebus Sic Stanibus" clause,  
**4:64**

Choice of law. *See* **Choice of Law  
Clauses**

Commercial arbitration. *See*  
**International Commercial  
Arbitration**

Convention on Jurisdiction and  
Enforcement of Judgments  
(Brussels Convention), **3A:13;**  
**App 3A**

Convention on Jurisdiction and the  
Recognition and Enforcement of  
Judgments in Civil and Com-  
mercial Matters, **App 3C**

Convention on the Law Applicable to  
Contractual Obligations (Rome  
Convention), **3A:16**

Convention on the Law Applicable to  
Contractual Obligations (The  
Rome Convention), **App 3A-B**

Damages. *See* Quantification of dam-  
ages, below

EC Regulation 44 / 2001, **App 3B**

Foreign direct investment, **23:40**

Formation of contracts, **4:3**

Civil law countries, **4:35 to 4:43**

Common law countries  
generally, **4:32 to 4:34**

**TRANSNATIONAL CONTRACT  
LAW—Cont'd**

- Formation of contracts, **4:3**—Cont'd
  - Evolutionary trend in common and civil law, **4:44**
- UNIDROIT principles, **4:45**
- Forum selection clauses
  - Choice of law, generally, **3:1; 3A:1**
- E-commerce, **3:17**
- Enforcement
  - generally, **3:11-3:16**
  - changed circumstances, **3:16**
  - denial of an effective remedy, **3:13**
  - fraud, **3:14**
  - gross inconvenience, **3:13**
  - overreaching, **3:14**
  - public policy violation, **3:15**
  - Section 1404 after Atlantic Marine, **3:12**
  - unconscionable conduct, **3:14**
  - unfair clause, **3:15**
  - unjust clause, **3:15**
  - unreasonable clause, **3:15**
- Federal court decisions, **3:6**
- Franchise agreements, **3:9**
- Hague Convention on Choice of Court Agreements (2005)
  - generally, **3:20-3:30**
  - appraisal, **3:30**
  - enforcement, **3:23**
  - implementation, United States, **3:29**
  - insurance contracts, **3:27**
  - intellectual property rights, **3:25**
  - international instruments, relationship, **3:28**
  - jurisdiction, **3:22**
  - preliminary questions, **3:25**
  - recognition, **3:23**
  - recommendation, **3:30**
  - reinsurance contracts, **3:27**
  - scope, **3:21**
  - selected issues, **3:24**
  - transition provisions, **3:26**
- Law applicable
  - generally, **3:4-3:6**
  - federal court decisions, **3:6**

**TRANSNATIONAL CONTRACT  
LAW—Cont'd**

- Forum selection clauses—Cont'd
  - Law applicable—Cont'd
    - Model Choice of Forum Act, **3:5**
    - Restatement (Second) of Conflict of Laws, **3:5**
    - U.S. Supreme Court, **3:4**
  - See* **Forum Selection Clauses**
- Threshold issue, **3:2; 3:3**
- Hague Convention on Choice of Court Agreements (2005), **App 3D**
  - Generally, **3:20-3:30**
  - Appraisal, **3:30**
  - Enforcement, **3:23**
  - Implementation, United States, **3:29**
  - Insurance contracts, **3:27**
  - Intellectual property rights, **3:25**
  - International instruments, relationship, **3:28**
  - Jurisdiction, **3:22**
  - Preliminary questions, **3:25**
  - Recognition, **3:23**
  - Recommendation, **3:30**
  - Reinsurance contracts, **3:27**
  - Scope, **3:21**
  - Selected issues, **3:24**
  - Transition provisions, **3:26**
- Hague Convention Principles on Choice of Law in International Commercial Contracts, **3A:19; App 3A-F**
- Judicial decisions, Brussels Convention, **3A:13**
- Mitigation of damages, **4:58**
- Multilateral conventions. *See* **Multilateral Conventions and Other Nations' Practices on Forum Selection and Choice of Law**
- Organization of American States
  - Fifth Inter-American Specialized Conference on Private International Law: Inter-American Convention on the Law Applicable to International Contracts [Done at Mexico City, March 17, 1994], **App 3A-C**

## INDEX

### TRANSNATIONAL CONTRACT LAW—Cont'd

- Precontractual process
  - Generally, **4:2**
  - Civil law countries
    - generally, **4:9 to 4:13**
    - France, **4:9; 4:10**
    - Germany, **4:12; 4:13**
    - Italy, **4:11**
  - precontractual documents that contemplate subsequent contracts, **4:10; 4:13**
- Common law countries
  - generally, **4:4 to 4:8**
  - party negation of contractual obligation, **4:5**
  - precontractual agreements, **4:4**
  - precontractual documents that contemplate subsequent contracts
    - generally, **4:6 to 4:8**
    - England, **4:7**
    - United States, **4:8**
- Contratti preliminari, **4:11**
- Letter of intent more likely to be enforced as complete agreements
  - generally, **4:21 to 4:24**
  - civil law countries, **4:23**
  - commencement of performance, authorize or permit, **4:24**
  - common law countries, **4:21; 4:22**
  - England, **4:21**
  - United States, **4:22**
- Letters of intent, enforceable
  - generally, **4:3; 4:14**
  - acceptances, **4:16**
  - complete contracts, **4:18**
  - contracts to negotiate, **4:20**
  - enforceable parts, **4:19**
  - offers, **4:15**
  - precontractual agreements, **4:17**
- Precontractual liability
  - generally, **4:25 to 4:31**
  - acceptance
    - common law countries, **4:34**
    - France, **4:37**

### TRANSNATIONAL CONTRACT LAW—Cont'd

- Precontractual process—Cont'd
- Precontractual liability—Cont'd
  - acceptance—Cont'd
    - Germany, **4:43**
    - Italy, **4:40**
  - civil law countries
    - generally, **4:28 to 4:31**
    - formation of contracts, **4:35 to 4:43**
    - France, **4:35 to 4:37**
    - Germany, **4:41 to 4:43**
    - Italy, **4:38 to 4:40**
  - common law countries
    - generally, **4:32 to 4:34**
    - acceptance, **4:34**
    - England, **4:26**
    - offer, **4:33**
    - United States, **4:27**
  - England, **4:26**
  - France, **4:29**
  - Germany, **4:31**
  - Italy, **4:30**
- offer
  - common law countries, **4:33**
  - France, **4:36**
  - Germany, **4:42**
  - Italy, **4:39**
  - United States, **4:27**
- Precontratti, **4:11**
- Proposal for a Regulation of the European Parliament and the Council on the law applicable to contractual obligations (Rome I), **App 3A-E**
- Quantification of damages
  - Generally, **4:50**
  - Civil law principles, **4:54**
  - Common law principles
    - generally, **4:51 to 4:53**
    - English law, **4:52**
    - United States law, **4:53**
  - “Consequential damages”
    - practice of international business contracts, **4:56**

**TRANSNATIONAL CONTRACT  
LAW—Cont’d**

- Quantification of damages—Cont’d
  - Practice of international business contracts
    - generally, **4:55 to 4:58**
    - “consequential damages,” **4:56**
    - currency fluctuations, **4:57**
    - interest fluctuations, **4:57**
    - mitigation, **4:58**
- Rome Convention (Convention on the Law Applicable to Contractual Obligations), **3A:16; App 3A-B**
- Rome Regulation, **3A:17**
- Sample choice of law and choice of forum clause, **App 3A-A**
- Threshold issue, forum selection as, **3:2; 3:3**
- UNIDROIT Principles for International Commercial Contracts, **App 4A**
- United Nations Convention on Contracts for the International Sale of Goods, **3A:18; App 3A-D**

**TRANSNATIONAL  
CORPORATIONS (TNC)**

- See* **Codes of Conduct; Corporate Social Responsibility and Role of Lawyer** ; see also other entries throughout this index

**TRANSNATIONAL CREDIT  
TRANSFERS**

- UNCITRAL Model Law on International Credit Transfers, **App 12A**

**TRANSNATIONAL  
DISTRIBUTORSHIPS**

- Foreign direct investment, **23:23**

**TRANSNATIONAL  
EMPLOYMENT AND LABOR  
LAW**

- Generally, **21:1; 21:2**
- Conclusion, **21:18**
- Content, **21:1**

**TRANSNATIONAL  
EMPLOYMENT AND LABOR  
LAW—Cont’d**

- Extraterritorial effect of U.S. employment law
  - Generally, **21:11 to 21:14**
- Discrimination law, **21:12**
- Employee benefit law and policy in expatriate context, **21:14**
- Labor union law, **21:13**
- Foreign employment law and practice
  - Generally, **21:3**
  - Employment contracts, **21:5**
  - Foreign law, **21:4**
  - Individual employment contracts, **21:5**
  - Labor unions, **21:6**
- Potential issues
  - Generally, **21:15**
  - Adversarial context, **21:17**
  - Transactional context, **21:16**
- Sources for researching labor and employment law in international conflict, **App 21B**
- Ten-point checklist for addressing employment issues in international transactions, **App 21A**
- Treaties and the International Labor organization
  - EU, NAFTA, and other trade blocs, **21:7**
  - Friendship and commerce treaties, **21:9**
  - GATT, GATS, and WTO, **21:8**
  - International Labor Organization, **21:10**
  - NAFTA, **21:7**
  - Navigation treaties, **21:9**
  - WTO, GATS and GATT, **21:8**
- What “international labor and employment law” is, **21:2**

**TRANSNATIONAL EXECUTIVES**  
Expatriate taxation. *See* **Expatriate Taxation**

**TRANSNATIONAL FRANCHISING**

- Generally, **5:1; 5:2**

## INDEX

### TRANSNATIONAL FRANCHISING —Cont'd

- Anti-trust laws and provisions, **5:8; 5:28; 5:39**
- Area development agreements, **5:35**
- Codes of conduct, **5:32**
- Contract law, foreign governmental regulation of franchising, **5:23; 5:24**
- Direct franchising, **5:34**
- Disclosure. *See* **Disclosure**
- Dispute settlement provisions, **5:38**
- Exchange control laws, **5:30**
- Foreign direct investment, **23:22**
- Foreign governmental regulation of franchising
  - Generally, **5:3; 5:7**
  - Agency and distributorship laws, **5:25**
  - Alberta, Canada pre-sale disclosure requirements, **5:10**
  - Anti-trust laws, **5:28**
  - Australian pre-sale disclosure requirements, **5:18**
  - Brazilian pre-sale disclosure requirements, **5:15**
  - Canadian pre-sale disclosure requirements
    - generally, **5:9 to 5:12**
    - Alberta, **5:10**
    - Ontario, **5:11**
    - Quebec, **5:12**
  - China's franchise measures, **5:21**
  - Contract law, **5:23; 5:24**
  - EEC antitrust regulation, **5:8**
  - Exchange control laws, **5:30**
  - Foreign investment laws, **5:26**
  - French pre-sale disclosure requirements, **5:13**
  - Japanese pre-sale disclosure requirements, **5:20**
  - Legislative limitations on contract terms, **5:24**
  - Mexican pre-sale disclosure and registration requirements, **5:14**
  - Ontario, Canada pre-sale disclosure requirements, **5:11**

### TRANSNATIONAL FRANCHISING —Cont'd

- Foreign governmental regulation of franchising—Cont'd
- Other foreign laws affecting franchising, **5:22 to 5:31**
- Quebec, Canada pre-sale disclosure requirements, **5:12**
- Russian registration requirements, **5:17**
- South Korean pre-sale disclosure requirements, **5:19**
- Spanish pre-sale disclosure and registration requirements, **5:16**
- Tax laws, **5:31**
- Technology transfer laws, **5:27**
- Trademark laws, **5:29**
- Language, **5:40**
- Master franchise agreements, **5:36**
- Payments, **5:41**
- Registration. *See* **Registration**
- Spain, **5:16**
- Structuring an transnational franchise network
  - Generally, **5:33**
  - Area development agreements, **5:35**
  - Direct franchising, **5:34**
  - Master franchise agreements, **5:36**
- Tax laws, **5:31**
- Technology transfer laws, **5:27**
- Trademark laws, **5:29**
- Transnational franchise agreements
  - Generally, **5:37**
  - Antitrust provisions, **5:39**
  - Dispute settlement provisions, **5:38**
  - Language, **5:40**
  - Payments, **5:41**
- UNIDROIT Model Franchise Disclosure Law, **App 5A**
- U.S. laws affecting franchising
  - Generally, **5:3; 5:4**
  - Federal regulation, **5:5**
  - State regulation, **5:6**
- Why franchise internationally?, **5:2**

## TRANSNATIONAL INSOLVENCY

Generally, **9A:1 to 9A:21**

*See also* **Foreign Bankruptcies**

Chapter 15

Implementation, **9A:13 et seq.**

Purpose, **9A:2**

“Terms of art,” below

Convention on International Aspects  
of Bankruptcy, **App 9A**

Facilitating inbound and outbound  
foreign proceedings, **9A:13**

Fostering of communication,  
cooperation and diplomacy,  
**9A:16**

Implementation, Bankruptcy Abuse  
and Consumer Protection Act of  
2005, **9A:13**

Protecting creditors and other  
interested parties, **9A:19**

Recognizing a foreign proceeding,  
**9A:14**

Russian bank case, application of  
Chapter 15, **9A:20**

Simplified and streamlined  
procedures for recognition,  
**9A:17; 9A:18**

“Terms of art,” Bankruptcy Abuse  
and Consumer Protection Act of  
2005

Generally, **9A:3 to 9A:12**

Center of main interests, **9A:9**

Debtor, **9A:4**

Establishment, **9A:11**

Foreign

court, **9A:5**

main proceeding, **9A:8**

non-main proceeding, **9A:10**

proceeding, **9A:6**

representative, **9A:7**

Recognition, **9A:12**

## TRANSNATIONAL SECURITIES REGULATION

Establishing an extraterritorial pres-  
ence, securities law compliance,  
**2:78**

European Economic Community  
(EEC; Common Market)  
disclosure directives

Continuous reporting, **12:30**

## TRANSNATIONAL SECURITIES REGULATION—Cont’d

European Economic Community  
(EEC; Common Market)

disclosure directives—Cont’d

European prospectus, **12:29**

European Union. *See* **European  
Union**

International capital markets. *See*  
**International Capital Markets**

## TRANSNATIONAL TECHNOLOGY LICENSING

*See* **International Technology  
Licensing**

## TREATIES

European treaties on civil procedure,  
**4A:6**

Foreign direct investment,  
international investment treaties,  
**23:24 to 23:31**

U.S. taxation of foreign investors,  
business income, **10:38**

## TRUST INDENTURE ACT OF 1939

Overview, **12B:5**

## 2005 HAGUE CONVENTION ON CHOICE OF COURT AGREEMENTS

Transnational contracts, **App 3D**

## 2007 OVERVIEW OF THIRD COUNTRY TRADE DEFENSE ACTIONS AGAINST THE EUROPEAN COMMUNITY

Foreign trade and economic injury,  
**App 16H**

## U

## UNIDROIT MODEL FRANCHISE DISCLOSURE LAW

Transnational franchising, **App 5A**

## UNIDROIT PRINCIPLES

Generally, **4:45; App 4A**

Formation of contracts, generally,  
**4:45**

## UNIFORM COMMERCIAL CODE

Letters of credit, **24:5**

## INDEX

### UNIFORM COMMERCIAL CODE —Cont'd

Transnational contracts, choice of  
law clauses, **3A:5**

### UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS

Letters of credit, (UPC), **24:4**

### UNITED KINGDOM

Capital markets

Generally, **12:26 to 12:28**

Flotation of securities, **12:27**

Insider trading, **12:40**

National character of capital  
markets, **12:13**

1986 FSA regulation of prospectus  
and particulars, **12:28**

Role of the stock exchange, **12:26**

Securities regulation, **12:26 to  
12:28**

Take-over regulation, **12:49**

Insider trading regulation in, **12:40**

Limited liability partnerships in the  
UK, **2:71**

Take-over regulation, **12:49**

### UNITED NATIONS

Commission on Transnational  
Corporations, **12:67**

Conference on Trade and Develop-  
ment, **12A:17**

Convention on Contracts for the  
International Sale of Goods,  
**3A:18; App 3A-D**

Corporate social responsibility and  
role of lawyer

UN Guiding Principles on Busi-  
ness and Human Rights, **1:18**

United Nations Global Compact,  
**1:15**

United Nations Guiding Principles  
on Business and Human  
Rights, **1:18**

United Nations Principles for  
Responsible Investment, **1:14**

Guiding Principles on Business and  
Human Rights, **1:18**

Guiding Principles Reporting  
Framework, **App 1B**

### UNITED NATIONS—Cont'd

International commercial arbitration,  
UNCITRAL rules

Generally, **8:70 et seq.**

Appointment of arbitrators, **8:72**

Award, **8:79**

Confidentiality, **8:78**

Costs, **8:80**

Governing law, **8:74**

Jurisdiction, **8:71**

Key elements, **8:71 et seq.**

Language, **8:75**

Place of arbitration, **8:73**

Proceedings, key elements, **8:76**

Reporting Framework, Guiding  
Principles, **App 1B**

UNCITRAL Model Law on  
International Credit Transfers,  
**App 12A**

UNCITRAL rules

Arbitration rules and arbitration  
institutions, **8:70 et seq.**

Model Law on International Credit  
Transfers, **App 12A**

United Nations Global Compact,  
**1:15**

United Nations Principles for  
Responsible Investment, **1:14**

### UNITED STATES FEDERAL AND STATE SECURITIES LAWS

Generally, **12B:1 to 12B:10**

### UNLIMITED LIABILITY

Choice of business entity abroad  
(Germany and European Union),  
**22:82**

### U.S. CAPITAL MARKETS

National character, **12:11**

### U.S. EXPORT CONTROLS AND COMPLIANCE

Generally, **19:1 to 19:61**

Compliance programs

600 series, creation, **19:19**

Anti-boycott regulations, **19:36**

Controlled destinations, **19:13**

Country-specific controls, **19:14**

Customer screening, **19:12**

**U.S. EXPORT CONTROLS AND COMPLIANCE—Cont'd**

- Compliance programs—Cont'd
  - Denied persons list, **19:27**
  - Export document requirements, **19:32; 19:33**
  - Licensing procedures, **19:28; 19:29**
  - Licensing requirements / prohibitions and exceptions, **19:23 to 19:26**
  - Problem management protocol, **19:31**
  - Product classification, **19:17; 19:18**
  - Recordkeeping, **19:34; 19:35**
  - Red flag screening, **19:15; 19:16**
  - Retaining elements of existing programs, **19:11 to 19:36**
  - Scope of EAR, **19:21; 19:22**
  - Special licensing, **19:30**
  - “Specially designed,” **19:20**
- Enforcement
  - Actions in court. Enforcement actions as reported by courts, below
    - Arms Export Control Act, **19:39**
    - Export Administration Act, **19:38**
    - General considerations, **19:37**
  - Enforcement actions as reported by courts
    - Generally, **19:41 to 19:59**
  - Actus reus
    - generally, **19:42 to 19:45**
    - anti-boycott, **19:44**
    - EAR, violating the, **19:42**
    - false information provided to U.S. government, **19:43**
    - how defendants get caught, **19:45**
  - EAR, constitutional challenges in court
    - generally, **19:47 to 19:54**
    - abuse of discretion, **19:48; 19:53**
    - double jeopardy, **19:52**
    - expiry of EAA under which defendant is charged, **19:51**
    - finances for violations, **19:48**

**U.S. EXPORT CONTROLS AND COMPLIANCE—Cont'd**

- Enforcement actions as reported by courts—Cont'd
  - EAR, constitutional challenges in court—Cont'd
    - First Amendment, **19:54**
    - free speech, **19:54**
    - search and seizure, successful challenges of EAA convictions, **19:47**
    - Secretary of Commerce, abuse of discretion, **19:53**
    - unsuccessful challenges of EAA convictions, **19:49 to 19:54**
    - void for vagueness of the EAA, **19:50**
  - EAR, violation
    - actus reus, **19:42**
    - knowing violation, **19:46**
    - mens rea element, **19:46**
  - Export violations in civil litigation
    - anti-boycott, **19:57**
    - criminal investigations by DOC, use in civil cases, **19:55**
    - forfeiture, **19:58**
    - injunctions, **19:56**
    - reforms, **19:60**
    - RICO, **19:59**
    - takings, **19:58**
  - Genesis of export violations, **19:42 to 19:45**
- Export Administration Regulations (EAR)
  - Constitutional challenges in court. Enforcement actions as reported by courts, above
  - Letters of credit, **17:27**
  - Violation. Enforcement actions as reported by courts, above
- Licensing requirements, **19:3; 19:4**
- Overview of export controls, **19:2**
- Technologies, exports of, covered by EAR and other regulations
  - Generally, **19:5**
  - BIS's inadvertent invitation for noncompliance, **19:6**
- EARS, compliance programs in general, **19:9**

## INDEX

### **U.S. EXPORT CONTROLS AND COMPLIANCE—Cont'd**

Technologies, exports of, covered by  
EAR and other regulations  
—Cont'd

Embargoes, **19:7**

Policy statement requirements,  
**19:10**

PTO, special licensing ability of,  
**19:8**

Sanctions and embargoes, **19:7**

Special licensing ability of U.S.  
Patent and Trademark Office,  
**19:8**

Treasury Department sanctions and  
embargoes, **19:7**

Voluntary self-disclosure, **19:40**

### **U.S. FEDERAL LAW**

Corporate social responsibility and  
role of lawyer, **1:16**

### **U.S. MODEL INCOME TAX CONVENTION**

Taxation (U.S.), **App 10G**

### **U.S. MULTI JURISDICTIONAL DISCLOSURE SYSTEM**

Generally, **12:150 to 12:152**

Common definitions, **12:152**

### **U.S. SECURITIES AND EXCHANGE COMMISSION**

Text of 17 C.F.R. Parts 210, 229, 230,  
240, 244 and 249, **App 12A-4**

### **U.S. SUBSIDIARY v. BRANCH**

Taxation (U.S.), **App 10E**

### **U.S - BULGARIA DOUBLE TAXATION TREATY**

Taxation (U.S.), **App 10H**

### **U.S SENTENCING COMMISSION**

2014 guidelines manual, sentencing  
of organizations, **App 7A**

## V

### **VENUE**

Foreign bankruptcies, **9:6**

Jurisdictional problems in application  
of antitrust law, **13:24**

### **VIENNA CONSULAR CONVENTION**

Immunity of consular officials, **15:7**

### **VIENNA DIPLOMATIC CONVENTION**

Immunity of sovereign individuals,  
diplomatic officials, **15:6**

### **VNESHPROMBANK**

Russian bank case, insolvency, **9A:20**

## W

### **WINDING UP**

Choice of business entity abroad  
(Germany and European Union),  
**22:15; 22:34; 22:47; 22:65**

### **WORKING GROUPS**

Accounting and accounting stan-  
dards, **12:73**

International capital markets, Group  
of Thirty, **12:68; 12A:18**

### **WORLD TRADE ORGANIZATION**

General Agreement on Trade in Ser-  
vices, **12A:14**

