

Index

ACQUISITIONS

See **Mergers and Consolidations** (this index)

ACTIONS

Section 16(b) actions. See **Recovery of Profits** (this index)

Section 16(c) actions, **4:1**

ADMINISTRATORS

See **Estates** (this index)

AGAINST THE BOX SELLING

See **Short Sales** (this index)

AGENCY

Authority to make joint disclosure filings, **2:147**

Beneficial ownership distinguished, **2:84**

Purchase and sale requirement of § 16(b) actions, application to agents' transactions, **3:10**

Tipping by insiders, **3:1**

ARBITRAGE ACTIVITIES

Generally, **6:1**

Memorandum explaining § 16 to insiders, **App. A**

Organization of § 16 generally, **1:1**

ASSET SALES

See **Mergers and Consolidations** (this index)

ASSIGNMENTS OF CLAIMS

Section 16(b) actions for recovery of profits, **3:36**

ATTORNEYS' FEES

Champerty, **3:51**

Issuers, § 16 actions against, **2:108**

Section 16(a) actions, **2:1**

Section 16(b) actions. See **Recovery of Profits** (this index)

Section 16(c) actions, **4:1**

AUTHORITY

See **Agency** (this index)

AWARDS

Recovery of profit action exemptions, **3:75**

BANKS

Beneficial ownership determinations, **2:5**

Investment advisory fees, pecuniary interest determinations as to, **2:30**

Pecuniary interest determinations as to investment advisory fees, **2:30**

Pecuniary interest determinations as to trust interests, **2:35**

BANKS—Cont'd

10 percent ownership determinations, **2:5**

BENEFICIAL OWNERSHIP

See also **Rule 13d-3** (this index)

Generally, **2:2 et seq.**

Acquiring, holding, voting or disposing of equity securities of an issuer, **2:21**

Admissions, **2:83**

Against-the box sales, **2:76**

Agency distinguished, **2:84**

Agents

entity acting through, **2:7**

purchasing too many shares, **2:7**

Aggregation of holdings, **2:9**

Aggregation of ownership, **2:6, 2:79**

Amendments to § 16 prior to enactment, **2:1**

Annual change disclosures. See **Disclosure Forms** (this index)

Annuities, **2:154**

Banks, exception of from 10 percent ownership determinations, **2:5**

Bare record ownership, **2:3**

Blocker, **2:5**

Broker-dealers

generally, **2:10 to 2:14**

Brokers, exception of from 10 percent ownership determinations, **2:5**

Cap, **2:5**

Cash funding for SVP shell, **2:155**

Change disclosures. See **Disclosure Forms** (this index)

Changes in, reporting, **2:99 et seq., 2:152 et seq., 2:182**

Changes not amounting to purchase or sale, **1:1**

Class of equity security defined, **2:86**

Commonly controlled entities, **2:7**

Company defined, **2:88**

Consolidations, **2:72**

Corporations, portfolio securities

generally, **2:47**

pre-1991 law, **2:66**

Corporations, stocks owned by, **2:5**

Dealers, exception of from 10 percent ownership determinations, **2:5**

Debentures defined, **2:85**

Definition

generally, **2:2, 2:6, 2:89, 3:36**

group, **2:16**

lay explanation, **App. A**

BENEFICIAL OWNERSHIP—Cont'd

Definition—Cont'd
 Rule 14d-1, **2:6**
 Rule 16a-1, **2:170**
 Section 13(d), **2:6**
 Deputized directors, **2:88, 2:147**
 Derivative securities
 definition, **2:85**
 exemptions, **2:85**
 exercise of, **2:46**
 Director defined, **2:88**
 Direct or indirect ownership, **2:3**
 Disclaimers, **2:5, 2:6, 2:15, 2:146**
 Disclosure. See **Disclosure Forms** (this index)
 Disinterested third parties, **2:154**
 Dodd-Frank Wall Street Reform Protection Act, **2:6**
 Economic benefit tests, **2:3**
 Employee benefit plans, exception of from 10 percent ownership determinations, **2:5**
 Endowment funds, exception of from 10 percent ownership determinations, **2:5**
 Equity securities of an issuer, acquiring, holding, voting or disposing of, **2:21**
 Equity security defined, **2:85**
 Evasive acts as evidence, **2:5, 2:6**
 Exchangeable securities defined, **2:85**
 Executive officer defined, **2:89**
 Exemptions
 generally, **2:48 et seq.**
 baskets of stocks approved for trading, **2:52**
 changes in, reporting requirements, **2:152, 2:182**
 derivative securities, **2:85**
 indexes of stocks approved for trading, **2:52**
 investment company portfolio securities, **2:51**
 portfolio securities, **2:50, 2:51**
 public utility holding company portfolio securities, **2:50**
 purchase or sale vs. change in beneficial ownership, **2:154, 2:155**
 remainder interests in trusts, **2:49**
 trust remainder interests, **2:49**
 Expansiveness of definition of, **2:3**
 Fact and law questions, **2:78**
 Family members, **2:7, 2:57**
 Formation, proof of, **2:22**
 Gift or estate tax, **2:154**
 GRAT, purchase or sale vs. change in beneficial ownership, **2:153 et seq., 2:154**
 Green Shoe options defined, **2:85**
 Group defined, **2:16**
 Group ownership
 generally, **2:5, 2:16 to 2:25, 2:77, 2:79**
 acquiring, holding, voting or disposing of equity securities of an issuer, **2:21**

BENEFICIAL OWNERSHIP—Cont'd

Group ownership—Cont'd
 acquisition of shares by group members, **2:24**
 advisee and advisor, **2:20**
 agreements not to tender, **2:20**
 allocation of purchased securities among accounts, **2:20**
 buying through common agent, **2:20**
 common agent, buying through, **2:20**
 common control, **2:20**
 demand registration rights, **2:20**
 director, nomination of, **2:20**
 dissolution of, **2:19**
 drag along rights, **2:20**
 formation
 generally, **2:18, 2:22, 2:23**
 advisors, **2:23**
 convertable nonvoting securities, **2:23**
 date of reported formation, **2:23**
 disavowal, **2:23**
 disclaimers, **2:23**
 disclosure absent a group, **2:23**
 five percent of less ownership, **2:23**
 investment advisors, **2:23**
 investment power, **2:23**
 issuer, group prompted by, **2:23**
 issuer not a group member, **2:23**
 issuer's management, **2:23**
 persons owning no securities, **2:23**
 pleading group formation, **2:23**
 proof of, **2:22**
 real-world risks of membership, **2:23**
 Schedule 13D, **2:23**
 Schedule 13G, **2:23**
 voting power, **2:23**
 formed, group, **2:18**
 future shareholders agreement, **2:20**
 institutional investors, **2:20**
 investment power, agreements relating to, **2:20**
 issuer, agreements with, **2:20**
 joint tender offerors, **2:20**
 lender-borrower relationship, **2:20**
 limited partnerships, **2:20**
 lock-up agreements, **2:20**
 merger partner, stockholders of, **2:20**
 option agreements, **2:20**
 parallel investments, **2:20**
 piggyback registration rights, **2:20**
 poison pill (stockholders' rights plan), **2:20**
 preemptive rights, **2:20**
 registration rights agreement, **2:20**
 right of first refusal, **2:20**
 rights offerings, major shareholders opposition to, **2:20**
 Schedule 13D, **2:23, 2:25**

BENEFICIAL OWNERSHIP—Cont'd

- Group ownership—Cont'd
 - Schedule 13G, **2:23, 2:25**
 - shareholders agreement, **2:20**
 - spouses, **2:20**
 - state law, **2:20**
 - statutes and rules, applicable, **2:17**
 - stockholders, **2:20**
 - substance over form, **2:20**
 - SWAP, **2:20**
 - tag along rights, **2:20**
 - voting power, agreements relating to, **2:20**
- Held defined, **2:5**
- Insider trading, **2:156**
- Insurance companies, exception of from 10 percent ownership determinations, **2:5**
- Intent to acquire more than 5 percent, **2:7**
- Investment companies
 - exception of from 10 percent ownership determinations, **2:5**
 - holdings, **2:5**
- Investment control, **2:154**
- Investment power, **2:7, 2:23**
- Investment power as test, **2:6**
- Issuer defined, **2:85, 2:90**
- Joint and several liabilities of multiple owners, **2:80**
- Joint ownership
 - generally, **2:77**
- Legal title distinguished, **2:3**
- Legislative history, **2:3**
- Lending securities, **2:71**
- Liberal construction, **2:7**
- Liquidation of target company stock, **2:155**
- LLCs, purchase or sale vs. change in beneficial ownership, **2:153, 2:156**
- Lock-up agreements, **2:7**
- Management structure, **2:156**
- Matched transfers, **2:82**
- Matching trades defined, **2:85**
- Mergers, **2:72**
- Multi-party ownership
 - generally, **2:77**
- National securities exchange, members of, **2:6**
- 1991-1996 law, **App. C**
- 1996-2002 law, **App. D**
- Not-wholly owned SVP, **2:155**
- Officer defined, **2:89**
- Option defined, **2:85**
- Ordinary course of business, **2:6**
- Overallotment options defined, **2:85**
- Partnership, stocks owned by, **2:5**
- Pecuniary interest determinations
 - generally, **2:26 et seq.**

BENEFICIAL OWNERSHIP—Cont'd

- Pecuniary interest determinations—Cont'd
 - see also **Pecuniary Interest Determinations** (this index)
 - purchase or sale vs. change in beneficial ownership, **2:154 et seq.**
 - Sections 16(a) and 16(b), relationship between, **2:26**
- Pension plans, exception of from 10 percent ownership determinations, **2:5**
- Percentage ownership determination proposals in Congress, **2:1**
- Person defined, **2:87**
- Phantom stock awards defined, **2:85**
- Pledges, **2:5**
- Pledges, **2:6**
- Pledging securities, **2:70**
- Portfolio securities, **2:47**
- Power to vote stock, **2:27**
- Pre-1991 law
 - generally, **2:55 et seq.**
 - consolidations, **2:72**
 - corporations, portfolio securities, **2:66**
 - derivative securities, **2:69**
 - economic benefit rule, **2:55**
 - estate holdings, **2:68**
 - family members, **2:57**
 - gifts, **2:74**
 - lending securities, **2:71**
 - mergers, **2:72**
 - officer defined, **2:89**
 - partnership holdings, **2:65**
 - pension and retirement plans, **2:67**
 - pledging securities, **2:70**
 - record ownership, **2:55**
 - recovery of profits, **2:75**
 - remainder interests in trusts, **2:60**
 - SEC rules, **App. B**
 - specific fact patterns of ownership, **2:56 et seq.**
 - street name, securities held in, **2:55**
 - 10 percent ownership determinations, **2:4**
 - trusts, **2:58 et seq.**
 - underwriters, exemption of, **2:73**
 - when beneficial ownership acquired, **2:55**
- Present law
 - officer defined, **2:89**
 - pecuniary interest determinations, **2:27 et seq.**
 - SEC rules, **App. G**
 - 10 percent ownership defined, **2:87**
 - 10 percent ownership determinations, **2:5**
- Proof of formation, **2:22**
- Public utility holding companies, shares held by, **2:5**
- Purchase and sale, change of beneficial ownership compared, **2:152 et seq., 3:6, 3:8**
- Purchase defined, **2:85**

BENEFICIAL OWNERSHIP—Cont'd

Record ownership, **2:7**
 generally, **2:3**
 pre-1991 law, **2:55**
 Recovery of profits, **2:75**
 Registration defined, **2:85**
 Relating to, definition of term, **2:85**
 Remainder interests in trusts
 generally, **2:42, 2:49**
 pre-1991 law, **2:60**
 Reporting requirements, **2:2**
 Reports of. See **Disclosure Forms** (this index)
 Rule 10b-5 liabilities, **2:5**
 Rule 13d-1, **2:16**
 Rule of three, **2:156**
 “Rule of Three,” **2:7**
 Sale and purchase transactions, **2:152 et seq., 3:6**
 Sale defined, **2:85**
 SEC rules
 present rules, **App. G**
 2002-2005, **App. E**
 2005-2008, **App. F**
 Section 13(d) test, **2:5, 2:6, 2:7**
 Section 13G, **2:7**
 Section 13(o), **2:6**
 Section 16(b) pecuniary interest, **2:7**
 Sections 16(a) and (b), scopes of definitions in, **1:1**
 Security defined, **2:85**
 Short sales, **2:76**
 Spouses, joint ownership by, **2:77**
 Standardized option defined, **2:85**
 Statements of. See **Disclosure Forms** (this index)
 Before and during status filings, **2:101**
 Stock appreciation rights defined, **2:85**
 Street name, securities held in, **2:55**
 SVPs, change of beneficial ownership compared to purchase or sale, **2:155**
 SVPs (and investing in vehicle), change of beneficial ownership compared to purchase or sale, **2:153**
 Tag along rights, **2:7, 2:20**
 Target company stock SVP funding, **2:155**
 10 percent ownership determinations
 generally, **2:1 et seq.**
 banks, **2:5**
 brokers, **2:5**
 change of beneficial ownership compared to purchase or sale, **2:154 et seq.**
 corporation, stocks owned by, **2:5**
 dealers, **2:5**
 definition, **2:87**
 employee benefit plans, **2:5**
 endowment funds, **2:5**
 evasive acts as evidence, **2:5**

BENEFICIAL OWNERSHIP—Cont'd

10 percent ownership determinations—Cont'd
 exceptions, **2:5**
 exemptions, **2:48 et seq.**
 group, stocks held by, **2:5**
 held defined, **2:5**
 insurance companies, **2:5**
 investment advisory fees, **2:30**
 investment companies, **2:5**
 investment company holdings, **2:5**
 market value computation, **2:30**
 multiple transactions, sham treatment of, **3:8**
 partnership, stocks owned by, **2:5**
Pecuniary Interest Determinations (this index)
 pecuniary interest test, **2:5**
 pension plans, **2:5**
 pledgees, **2:5**
 pre-1991 law, **2:4**
 present law, **2:5**
 public utility holding companies, **2:5**
 sale and purchase transactions, **3:6**
 Section 13(d) test, **2:5**
 support agreements in a merger, **2:5, 3:14**
 time of trade, **3:6**
 trust, stocks owned by, **2:5**
 trust interests, **2:34, 2:41**
 underwriters, **2:5**
 voting rights as test, **2:5**
 Third party transactions, **2:155, 2:156**
 Transfers between beneficial owners, **2:81**
 Trust ownership, **2:2**
 Trust remainder interests
 generally, **2:42, 2:49**
 pre-1991 law, **2:60**
 Trusts
 generally, **2:5**
 pre-1991 law, **2:58 et seq.**
 Underwriters, **2:5, 2:6**
 Vested beneficial trust interests, pecuniary interest determinations as to, **2:59**
 Veto power, **2:7**
 Voting and voting rights, **2:6, 2:7**
 Voting rights as test, **2:5, 2:6, 2:7**
 Voting trusts, **2:7**
 When beneficial ownership acquired, **2:55**
 When issued securities defined, **2:85**
 Wholly owned SVP, **2:155**

BONUS STOCK

See also **Awards** (this index)

BROKER-DEALERS

Beneficial ownership determinations, **2:5**
 Market making activity exemptions, **5:1**

BROKER-DEALERS—Cont'd

- Odd-lot dealers
 - generally, **2:174**
 - definition, **2:109**
 - reporting requirement exemptions, **2:109, 2:162**
- Rule 16a-5
 - pre-1991 law, **2:162**
 - present law, **2:174**
- Rule 13d-3, **2:10 to 2:14**
- 10 percent ownership determinations, **2:5**

BURDEN OF PROOF

- See **Recovery of Profits** (this index)

BUSINESS TRUSTS

- See **Trusts** (this index)

CALL EQUIVALENT POSITION

- Definition, **3:16**

CALL OPTIONS

- See also **Options** (this index)
- Definition, **3:16**
- Exercising
 - reporting requirements, **2:111**
- Matching trades, **3:20**
- Pecuniary interest determinations, **2:69**
- Purchase and sale element of § 16(b) actions, applicability to, **3:16**
- Short sales, treatment as, **4:1**

CAPACITY TO SUE

- Section 16(b) actions for recovery of profits, **3:36**

CHEAP STOCK

- Definition, **3:16**

CHILDREN

- See **Families and Family Interests** (this index)

CIVIL ACTIONS

- Section 16(b) actions. See **Recovery of Profits** (this index)
- Section 16(c) actions, **4:1**

CIVIL PENALTIES

- Section 16(a) violations, **2:1**

CLASS OF EQUITY SECURITY

- Definition, **2:86**

COMPANY

- See also **Corporations** (this index); **Issuers** (this index)
- Definition, **2:88**

COMPLAINTS

- See **Recovery of Profits** (this index)

COMPROMISE

- Section 16(b) actions, **3:50**

CONSERVATORSHIPS

- Guardians, filing duties, **2:103, 2:104**
- Reporting requirement exemptions, **2:161**

CONSOLIDATIONS

- See **Mergers and Consolidations** (this index)

CONSTITUTIONALITY

- Section 16(b), **3:11**

CONSTRUCTION AND INTERPRETATION OF STATUTES

- Section 16(a), **2:1**
- Section 16(b), **3:4**

CONTROLLING PERSONS

- Generally, **2:88**

CONTROLLING STOCKHOLDERS

- See **Principal Stockholders** (this index)

CONVERTIBLE SECURITIES

- See also **Derivative Securities** (this index)
- Definition, **2:46**
- Pecuniary interest determinations, **2:69**
- Profit calculations in pre-1991 Rule 16b-6(c)(2) recovery actions, **3:31**

CORPORATIONS

- See also **Issuers** (this index); **Mergers and Consolidations** (this index)
- Beneficial ownership of stocks owned by, **2:5**
- Deputized director, treatment as for purposes of § 16, **2:88, 2:147**
- Parent and subsidiary disclosure form filings, **2:147**
- Section 16(b) liability of corporation controlled by insider, **3:25**

COSTS

- See **Recovery of Profits** (this index)

COUNTERCLAIMS

- See **Recovery of Profits** (this index)

CRIMINAL PROSECUTIONS

- Reporting requirement violations, **2:1**

DEALERS AND BROKERS

- Short sale regulations, applicable to, **4:1**

DEATH OF PARTY

- Section 16(b) actions for recovery of profits, **3:36, 3:46**

DEBENTURES

- Definition, **2:85**

DEBT EXCEPTION

- Generally, **3:33**

DEFENSES

- See **Recovery of Profits** (this index)

DEFERRALS

See **Reporting Requirements** (this index)

DEFINITIONS

Affiliate, **3:73**
 Arbitrage, **6:1**
 Beneficial owner, **3:36, App. A**
 Beneficial ownership
 generally, **2:2, 2:3, 2:27**
 Rule 16a-1, **2:170**
 Call equivalent position, **3:16**
 Call option, **3:16**
 Cheap stock, **3:16**
 Class of equity security, **2:86**
 Company, **2:88**
 Convertible securities, **2:46**
 Debentures, **2:85**
 Deputized director, **2:88**
 Derivative securities
 generally, **2:46, 2:85, 3:16**
 memorandum to officers and directors, **App. A**
 Rule 16a-1, **2:170**
 Different characteristics of derivative securities,
 3:31
 Director, **2:88, App. A**
 Discretionary transactions, **3:73, 3:77**
 Distribution, **2:176**
 Equity security, **2:85**
 Estoppel, **3:86**
 Excess benefit plans, **3:73**
 Executive officer, **2:89**
 Exempted security, **2:85**
 Green Shoe options, **2:85**
 Holiday, **2:97**
 Immediate family
 generally, **2:28, 2:59**
 Rule 16a-1, **2:170**
 Issuer, **2:85, 2:90, 3:36**
 Market maker, **5:1**
 Matching trades, **2:85**
 Material inside information, **3:12**
 Non-employee directors, **3:73**
 Odd-lot dealers, **2:109**
 Officer, **2:89, App. A**
 Options, **2:46, 2:85**
 Orthodox transactions, **3:9**
 Overallotment options, **2:85**
 Owner of securities
 generally, **3:36**
 Rule 16a-1, **2:170**
 Ownership, **4:1**
 Pecuniary interest
 present law, **2:27**
 Phantom stock awards, **2:85**
 Policy-making functions, **App. A**

DEFINITIONS—Cont'd

Portfolio securities
 generally, **2:29**
 Rule 16a-1, **2:170**
 Primary market, **5:1**
 Profits, **3:22**
 Purchase, **2:85, 3:8**
 Put option, **3:16**
 Qualified plans, **3:73**
 Registration, **2:85**
 Right to purchase stock, **3:16**
 Sale, **2:85, 3:8**
 Sale against the box, **4:1**
 Secondary market, **5:1**
 Security, **2:85, 3:36**
 Share in profits, **2:27**
 Short sales, **4:1**
 Short swing profits, **3:1**
 Standardized options, **2:85**
 Statutory definitions, construction of, **3:8**
 Stock appreciation rights, **2:46, 2:85**
 Stock purchase plans, **3:73**
 Substantial portion, **2:55**
 10 percent ownership, **2:87**
 Unorthodox transactions, **3:9**
 Warrants, **2:46**
 When issued securities, **2:85**

DEMAND ON ISSUER

See **Recovery of Profits** (this index)

DEPUTIZED DIRECTORS

Generally, **2:88**
 Filings, **2:147**
 Tipping by, **3:1**

DERIVATIVE ACTIONS

Section 16(b) actions compared, **3:1, 3:35**

DERIVATIVE SECURITIES

Cancellations of derivative positions, reporting
 requirements, **2:111**
 Conversion price
 generally, **2:130, 2:132**
 Definition
 generally, **2:46, 2:85, 3:16**
 memorandum for officers and directors, **App. A**
 Rule 16a-1, **2:170**
 Different characteristics, **3:31**
 Dispositions, reporting requirement exemptions,
 2:111
 Equity swaps
 generally, **2:131**
 Section 16(b) actions, **3:11**
 Exclusions from § 16, **2:85**
 Exerciseability, **2:111**

DERIVATIVE SECURITIES—Cont'd

- Exercise prices
 - reporting of, **2:130, 2:132**
- Exercise vs grant of security-related right, **3:16**
- Form 3
 - tables, derivative securities owned
 - 1991-2002, **2:130**
 - 2003, **2:140**
- Form 4
 - tables, derivative securities owned
 - 1991-2002, **2:132**
 - 2003, **2:142**
- Matching trades, **3:20**
- 1991-96 rules, **2:169**
- Pecuniary interest determinations
 - pre-1991 law, **2:69**
 - present law, **2:46**
- Present law, **2:173**
- Profit calculations in pre-1991 Rule 16b-6(c)(2)
 - recovery actions, **3:31**
- Reporting requirement exemptions, **2:111**
- Rule 16a-4, **2:173**
- 2003 rules, **2:140**
- Valuation problems, **3:31**

DIRECT OR INDIRECT OWNERSHIP

- Generally, **2:3**
- See also **Beneficial Ownership** (this index)

DIRECTORS

- Advisory directors, **2:88**
- Amendments to § 16(a) prior to enactment, **2:1**
- Arbitrage activities, regulation of, **6:1**
- Against the box selling
 - generally, **4:1**
 - see also **Short Sales** (this index)
- Business trust, trustee of, **2:88**
- Controlling persons compared, **2:88**
- Definition, **2:88, App. A**
- Deputized director, **2:88, 2:147**
- Emeritus directors, **2:88**
- Exemptions from § 16(b) recovery of profit
 - actions, **3:69 et seq.**
- Fiduciary duties, violations of, **1:1**
- Honorary directors, **2:88**
- Inception of status, **3:7**
- Investment Company Act definition of insiders, **1:1**
- Investor as, **2:88**
- Memorandum explaining § 16, **App. A**
- Non-employee directors
 - generally, **3:73**
 - approval of exempt transactions, **3:80**
- Sections 16(a) and (b), scopes of definitions in, **1:1**
- Sham resignations, **3:4**

DIRECTORS—Cont'd

- Short sales
 - generally, **4:1**
 - see also **Short Sales** (this index)
- Before and during status filings, **2:101**
- 10 percent ownership by, **2:1**
- Termination of status, **3:7**
- Trading by
 - generally, **3:6**
 - see also **Recovery of Profits** (this index)
- When reporting required, **2:99**

DISCLOSURE FORMS

- Generally, **2:1 et seq., 2:102 et seq., 2:121 et seq.**
- See also **Reporting Requirements** (this index)
- Acknowledgments by SEC of receipt, **2:120**
- Admissions of beneficial ownership in, **2:83**
- During and after status filings, **2:99, 2:100**
- Amendments to filings, **2:123**
- Annual changes of beneficial ownership. Form 5, below
- Annual filings, **2:95**
- Authority to make on joint filings, **2:147**
- Changes in beneficial ownership, reporting
 - generally, **2:152, 2:182**
- Computer generated forms, **2:120**
- Conservatorships, deferrals of filings on, **2:103, 2:104**
- Copies, **2:120**
- Dates, **2:128**
- Deferred filings, **2:102 et seq.**
- Deferred reporting
 - generally, **2:102**
- Delinquencies
 - generally, **2:150**
- Delivery to SEC, **2:96**
- Designated signatures on joint filings, **2:147**
- Disclaimers of beneficial ownership, **2:5, 2:146, 2:160**
- Earlier unreported transactions, catching up on
 - Form 5, **2:136**
- EDGAR electronic filing, **2:96, 2:120**
- Estates
 - deferrals of filings on, **2:103, 2:104**
- Estoppel by filing, **3:8**
- Exchanges, filing with, **2:119**
- Executors, filing duties, **2:103, 2:104**
- Exemptions
 - generally, **2:95**
- Exempt options, loss of exemption, **2:135**
- Exempt transactions
 - generally, **2:107 et seq.**
- Exit boxes, **2:99, 2:128, 2:138**
- Extensions of time for filing, **2:98**
- False filings, remedies for, **2:1**

DISCLOSURE FORMS—Cont'dFiling, **2:119 et seq.**Forms 1 and 2, **2:149**

Form 3

generally, **2:136, App. H**admissions of beneficial ownership, **2:83**conversion prices of derivative securities,
2:130date of inception of insider status, **2:124**

derivative securities

generally, **2:111**

table of

1991-1996, **2:130**1996-2002, **2:140**direct and indirect interests, indicating, **2:27**disclaimers of beneficial ownership, **2:146**estoppel by filing, **3:8**exercise prices of derivative securities, **2:130**Form 4 filing times compared, **2:93**general information requirements, **2:128,**
2:138indirectly owned securities, **2:130**multiple filing exemptions, **2:172**

nonderivative securities owned, table of

1991-2002, **2:129**2003, **2:139**options, **2:124**organization of disclosure forms generally, **2:1**pre-1991 law, **2:91, 2:123, 2:124**proportionate interests in indirectly owned
securities, **2:130**Rule 16a-3 requirements, **2:172**

SEC form

1991-2002 law, **App. H**2002-2003 version, **App. I**2003-2023 version, **App. J**present form, **App. K**securities beneficially owned, table of, **2:123**securities subject to disclosure requirements,
2:26self-serving statements in, **2:83**time for filing, **2:1**

2003

derivative securities, table, **2:140**nonderivative securities, table, **2:139**when to file, **2:92**

Form 4

generally, **2:136, App. H, App. I**admissions of beneficial ownership, **2:83**

call options

exercises, **2:111**conversion prices of derivative securities,
2:132

derivatives

generally, **2:111****DISCLOSURE FORMS—Cont'd**

Form 4—Cont'd

derivatives—Cont'd

table of

1991-2002, **2:132**2003, **2:142**direct and indirect interests, indicating, **2:27**disclaimers of beneficial ownership, **2:146**equity swaps, **2:131**exercise prices of derivative securities, **2:132**exit boxes, **2:99, 2:128, 2:138**Form 3 filing times compared, **2:93**Form 5 transactions, **2:135, 2:136**general information requirement, **2:138**general information requirements, **2:128**issuer exemption, **2:108**monthly filings, **2:93, 2:94**1991-96 rules, **2:132**1996 changes, **2:95**

nonderivative securities owned, table of

1991-1996, **2:131**2003, **2:141**

options

generally, **2:126**organization of disclosure forms generally, **2:1**pre-1991 law, **2:91, 2:125, 2:126**

put options

exercises, **2:111**

Rule 16a-3

generally, **2:172**history of form, **2:172**scope of disclosures, **2:95**

SEC form

1996-2002 law, **App. H**2002-2003 version, **App. I**2003-2023 version, **App. J**present form, **App. K**securities beneficially owned, table of, **2:125**securities subject to disclosure requirements,
2:26self-serving statements in, **2:83**time for filing, **2:1**

2003

derivative securities, table, **2:142**nonderivative securities, table, **2:141**wash sales, **2:93**when to file, **2:93, 2:94, 2:99**

Form 5

generally, **2:95, 2:136, App. H, App. I**admissions of beneficial ownership, **2:83**annual filings, **2:95**comments, **2:135**creation of, **2:91**

derivatives

generally, **2:111**

DISCLOSURE FORMS—Cont'd

- Form 5—Cont'd
 - derivatives—Cont'd
 - table of
 - 1996-2002, **2:134**
 - 2003, **2:144**
 - direct and indirect interests, indicating, **2:27**
 - disclaimers of beneficial ownership, **2:146**
 - earlier unreported transactions, **2:136**
 - exempt options, loss of exemption, **2:135**
 - exit boxes, **2:99, 2:128, 2:138**
 - explanations, **2:135**
 - first filing requirements, **2:95**
 - Form 4 reporting of Form 5 transactions, **2:135, 2:136**
 - general information requirements, **2:128**
 - history of form, **2:172**
 - 1991-96 rules, **2:132, 2:135**
 - 1996 changes, **2:95**
 - nonderivative securities owned, table of
 - 1991-2002, **2:133**
 - 2003, **2:143**
 - organization of disclosure forms generally, **2:1**
 - Rule 16a-3, **2:172**
 - safe harbor, **2:1**
 - scope of disclosures, **2:95**
 - SEC form
 - 1996-2002 law, **App. H**
 - 2002-2003 version, **App. I**
 - 2003-2023 version, **App. J**
 - present form, **App. K**
 - Section 16(b) exempt transactions, **2:136**
 - securities subject to disclosure requirements, **2:26**
 - self-serving statements in, **2:83**
 - small acquisitions, **2:136**
 - 10 percent owners subject to filing requirements, **2:147**
 - time for filing, **2:1**
 - 2003
 - derivative securities, table, **2:144**
 - nonderivative securities, table, **2:143**
 - 2003 rules, **2:145**
 - unregistered securities, **2:134**
 - when to file, **2:95**
 - who must file, **2:136**
- Form 6, **2:149**
- Form 8-K, **2:1**
- Form 10-K
 - insider ownership information disclosures, **2:1**
 - issuers' representations on, **2:1**
- Formal requirements, **2:120**
- General information, **2:138**
- Gifts
 - deferrals of filings on, **2:105, 2:106**

DISCLOSURE FORMS—Cont'd

- Good faith reliance on pre-1991 law, **2:157**
- Group filings, **2:120**
- Group owners, filings by, **2:147**
- Guardians
 - filing duties, **2:103, 2:104**
- Holidays, disclosures due on, **2:97**
- Indirectly owned securities, **2:130**
- Initial statement of beneficial ownership. Form 3, below
- Insider status, **2:128**
- Inspection rights, **2:1**
- Investment Company Act filing requirements, **2:120**
- Issuer, filing with, **2:119**
- Joint owners, filings by, **2:147**
- Limitation of § 2(b) actions, tolling for filing delinquencies, **2:151, 3:52**
- Mailing of forms, **2:96**
- Monthly filings, **2:93, 2:94**
- 1991-96 rules, **2:132**
- Nonderivative securities owned
 - Form 3, **2:129**
 - Form 4, **2:131**
 - Form 5, **2:133**
- Numbering of forms, **2:149**
- Options
 - Form 3, **2:124**
 - Form 4, **2:126**
- Organization of disclosure forms generally, **2:1**
- Parent and subsidiary filings, **2:147**
- Partnership filings
 - generally, **2:147**
 - pre-1991 law, **2:121**
 - present law, **2:128**
- Place of filing, **2:119**
- Pre-1991 law
 - generally, **2:122 et seq.**
 - amendments to filings, **2:123**
 - disclaimers of beneficial ownership, **2:146**
 - Form 3, **2:123**
 - Form 4, **2:125**
 - group owners, filings by, **2:147**
 - joint owners, filings by, **2:147**
 - options beneficially owned, table of, **2:124, 2:126**
 - partnership filings, **2:121**
 - Rule 16a-1, **2:158**
 - securities beneficially owned, table of, **2:123, 2:125**
 - unregistered securities, **2:125**
- Proportionate interests in indirectly owned securities, **2:130**
- Public access to, **2:1**
- Public Utility Holding Company Act filing requirements, **2:120**

DISCLOSURE FORMS—Cont'd

- Purchases, reporting generally, **2:152**
- Reconciliation of holdings from year to year, requirements as to, **2:95**
- Remedies for nondisclosure, **2:150**
- Rule 16a-1, **2:158**
- Rule 16a-3
 - present law, **2:172**
- Sales, reporting generally, **2:152**
- Schedule 13D, **2:1, 2:5, 2:15**
- Schedule 13G, **2:1, 2:5, 2:15**
- Scope of filing requirements, **2:147**
- Scope of required disclosures, **2:95**
- SEC, receipt of disclosure forms by, **2:96**
- Securities subject to disclosure requirements, **2:26**
- Self-serving statements in, **2:83**
- Signatures
 - generally, **2:120**
 - joint filings, **2:147**
- Small transactions, deferrals of filings on, **2:105, 2:106**
- Social security numbers, **2:128**
- Before and during status filings, **2:101**
- Stock exchanges, filing with, **2:119**
- Subscriptions, **2:1**
- 10-day filing period, **2:92**
- 10 percent owners subject to filing requirements, **2:147**
- Trading symbols, issuers, **2:128**
- Trust and trust beneficiary filings, **2:147**
- Trust filings
 - generally, **2:148**
- Unreported transactions, catching up on Form 5, **2:136**
- Wash sales, **2:93**
- When to file
 - Form 3, **2:92**
 - Form 4, **2:93, 2:94, 2:99**
 - Form 5, **2:95**
 - sales against the box, **2:93**
- Where to file, **2:119**
- Who must file, **2:147**

DISCRETIONARY TRANSACTIONS

- See also **Recovery of Profits** (this index)
- Definition, **3:73, 3:77**

DISGORGEMENT

- See **Recovery of Profits** (this index)

DISTRIBUTIONS

- Exemption from reporting requirements, **2:176**

DIVIDENDS

- Changes in dividend rate, inside information as to, **3:26**
- Pecuniary interest determinations, dividends vs sale profits, **2:27, 2:31**
- Profit calculations in § 16(b) actions, **3:26**
- Reinvestment plans
 - pre-1991 law, **2:168**
 - reporting requirement exemptions, **2:113 et seq., 2:168**
 - Rule 16a-11, **2:168**
- Stock. See **Stock Dividends** (this index)

DODD-FRANK WALL STREET REFORM PROTECTION ACT

- Beneficial ownership, **2:6**

DUTY TO REPORT

- See **Reporting Requirements** (this index)

EDGAR

- Electronic filing of disclosure forms via, **2:96, 2:120**

EMPLOYEE BENEFIT PLANS

- Beneficial ownership determinations, **2:5**
- Buyouts of employee stock options as purchase and sale subject to § 16(b) liability, **3:16**
- Discretionary transactions, **3:77**
- ERISA restrictions, **3:71**
- IRC restrictions, **3:71**
- 1991-96 rules, **2:169**
- Purchase and sale element of § 16(b), application to, **3:16**
- Recovery of profit exemptions, **3:70**
- 10 percent ownership determinations, **2:5**

ENDOWMENT FUNDS

- Beneficial ownership determinations, **2:5**
- 10 percent ownership determinations, **2:5**

EQUITABLE DEFENSES

- See **Recovery of Profits** (this index)

EQUITY SECURITIES

- Definition, **2:85**

ERISA

- Employee benefit plans restrictions, **3:71**

ESTATES

- See also **Inheritances** (this index)
- Executors' disclosure form filing duties, **2:103, 2:104**
- Pecuniary interest determinations as to holdings of, **2:68**
- Pre-1991 law, **2:68**
- Purchase and sale requirement of § 16(b) actions, application to transfers by will, **3:10**
- Reporting requirement exemptions, **2:161**

ESTOPPEL

See also **Recovery of Profits** (this index)
Definition, **3:86**

EXCESS BENEFIT PLANS

Definition, **3:73**

EXCHANGE ACT

See **Securities Exchange Act of 1934** (this index)

EXCHANGES

See **Stock Exchanges** (this index)

EXECUTIVE OFFICERS

See **Officers** (this index)

EXECUTORS

See **Estates** (this index)

EXEMPTED SECURITIES

Definition, **2:85**

EXPENSES

Section 16(b) actions for recovery of profits, **3:47**

EXPIRATION OF RIGHTS

Purchase and sale element of § 16(b), applicability to, **3:17**

FALSE SEC FILINGS

Remedies for, **2:1**

FAMILIES AND FAMILY INTERESTS

Adoptive relations, **2:170**
Divorced spouses, **2:57**
Gifts within family, **3:10**
Grandparents, **2:28**
Immediate family defined, **2:59, 2:170**
Indirect pecuniary interest determinations, **2:28**
Joint ownership by spouses as beneficial ownership, **2:77**
Nonfamily members residing in same household, **2:28**
Pecuniary interest determinations
pre-1991 law, **2:57**
presumptions, **2:28**
trust interests, **2:59**
Pecuniary interest held indirectly through, **2:27**
QDROs, exemption from reporting requirements, **2:116, 2:181**
Recovery of family member's profits, **3:25**
Rule 16a-1, **2:170**
Trading between insiders, **3:10**
Trusts
pecuniary interest determinations, **2:59**

FILING REQUIREMENTS

See **Disclosure Forms** (this index); **Reporting Requirements** (this index)

FOREIGN SECURITIES

Exempted, **2:85**

FORMS

See **Disclosure Forms** (this index)

401(K) PLANS

See **Pension and Retirement Plans** (this index)

FRAUD

Person trading with insider, rights of, **3:1**
Pleading, **3:42**
Rule 10b-5
beneficial ownership of stocks traded by others, **2:5**
implied rights of actions, **2:1**
material inside information, access to, **3:12**
purchase and sale defined, **2:85**
rescission remedies, **3:22**
Section 16(b) liability compared, **3:1, 3:22**
venue of actions, **3:40**
SEC filings, false, **2:1**

FUNDS

Profit recovery from properly managed, **2:5**

GENERAL PARTNERS

See **Partnerships** (this index)

GIFTS

See also **Awards** (this index)
Pecuniary interest determinations
generally, **2:27**
pre-1991 law, **2:74**
Purchase and sale requirement of § 16(b) actions, **3:10**

GRANTS

See **Awards** (this index)

GREEN SHOE OPTIONS

Definition, **2:85**

GROUP FILINGS

Generally, **2:120**

GUARDIANS

See **Conservatorships** (this index)

HOLDERS

See **Principal Stockholders** (this index)

HOLIDAYS

Disclosure filings due on, **2:97**

HYBRID DERIVATIVE SECURITIES

Generally, **3:13, 3:16**

IMMEDIATE FAMILY

See also **Families and Family Interests** (this index)
Definition, **2:59**

IMPLIED RIGHTS OF ACTION

Section 16(a) actions, **2:1**

INDEMNIFICATION

Generally, **3:22**

INDIRECT OR DIRECT OWNERSHIP

Generally, **2:3**

See also **Beneficial Ownership** (this index)

INHERITANCES

See also **Estates** (this index)

INJUNCTIONS

Reporting requirements, SEC enforcement of, **2:1**

INSIDER STATUS

See also **Directors** (this index); **Officers** (this index); **Principal Stockholders** (this index)

Access to inside information, determining, **3:12**

Date of inception of insider status, **2:124**

Indemnification of insiders, **3:22**

Material inside information, definition of, **3:12**

Memorandum explaining § 16, **App. A**

Odd-lot dealers, **2:109, 2:162**

State law, **3:38**

Subsections 16(a) and 16(b), application together, **1:1, 2:26**

Trading by insiders

see also **Recovery of Profits** (this index)

agents, purchases by, **3:10**

directors and officers, **3:7**

insider-insider transactions, **3:10**

multiple transactions, sham treatment of, **3:8**

principal shareholders, **3:6**

INSURANCE COMPANIES

Beneficial ownership determinations, **2:5**

Investment advisory fees, pecuniary interest determinations as to, **2:30**

Pecuniary interest determinations as to investment advisory fees, **2:30**

10 percent ownership determinations, **2:5**

INTEREST

Pecuniary interest determinations, interest payments vs sale profits, **2:27**

INTERPRETATION OF STATUTES

Section 16(a), **2:1**

Section 16(b), **3:4**

INTERVENTION

See **Recovery of Profits** (this index)

INVESTMENT ADVISORY FEES

Pecuniary interest determinations, **2:30**

INVESTMENT COMPANIES

Beneficial ownership determinations, **2:5**

INVESTMENT COMPANIES—Cont'd

Portfolio securities exempt from beneficial ownership rules, **2:51**

Pre-1991 law, **2:64**

10 percent ownership determinations, **2:5**

Trust holdings, **2:64**

INVESTMENT COMPANY ACT

Affiliated persons defined, **1:1**

Beneficial ownership of shares held by investment companies, **2:5**

Disclosure forms, filing requirements, **2:120**

Insider trading provisions, **1:1**

10 percent ownership determinations, **2:5, 2:147**

INVESTMENT POWER

Rule 13d-3, **2:7, 2:20**

ISSUERS

See also **Corporations** (this index)

Canadian issuers, reporting requirement exemptions, **2:179**

Counterclaims by in § 16(b) actions, **3:44**

Definition, **2:85, 2:90, 3:36**

Disclosure forms, filing with, **2:119**

Parent companies, **2:90**

Reporting requirement exemptions, **2:108**

Reporting violations, deemed knowledge of, **2:1**

Sixty-day demands letters to in § 16(b) actions for recovery of profits, **3:37**

Subsidiary companies, **2:90**

Transactions with as satisfying purchase and sale requirement of § 16(b) actions, **3:10**

Two-issuer matching trades in mergers of issuers, **3:20**

JURISDICTION

See **Recovery of Profits** (this index)

JURY TRIAL RIGHTS

See **Recovery of Profits** (this index)

LARGE STOCKHOLDERS

See **Principal Stockholders** (this index)

LEGISLATIVE HISTORY

Section 16(a), **2:1, 2:3**

Section 16(b), **3:2**

Section 16(c), **4:1**

Section 16(e), **6:1**

LENDING SECURITIES

Pecuniary interest determinations, **2:71**

LIMITATION OF ACTIONS

See **Statutes of Limitations** (this index)

LIMITED PARTNERSHIPS

See **Partnerships** (this index)

LIQUIDATING DIVIDENDS

Profit calculations in § 16(b) recovery actions, **3:32**

LIVING TRUSTS

See also **Trusts** (this index)

MAJOR STOCKHOLDERS

See **Principal Stockholders** (this index)

MANAGERS

See **Officers** (this index)

MARKET MAKING ACTIVITIES

Generally, **5:1**

Organization of § 16 generally, **1:1**

MATCHING TRADES

Generally, **3:20**

See also **Recovery of Profits** (this index)

Definition, **2:85**

Profit calculations in pre-1991 Rule 16b-6(c)(2) recovery actions, **3:31**

MATERIAL INSIDE INFORMATION

Definition, **3:12**

MERGERS AND CONSOLIDATIONS

85 percent test for § 16(b) exemptions, **3:84**

Liquidating dividends, profit calculations, **3:32**

Lockup options and access to inside information, **2:75**

Matching trades involving acquired issuers, **3:20**

Pecuniary interest determinations, **2:72**

Purchase and sale element of § 16(b) actions, applicability to, **3:9, 3:14**

Recapitalizations as subject to purchase and sale element of § 16(b), **3:17**

Section 16(b) liability exemptions, **3:84**

Spin-off distributions as subject to purchase and sale element of § 16(b), **3:17**

Standing to bring action for recovery of profits, **3:20, 3:36**

Statutory exchanges of stock, **3:14**

Support agreements in a merger, **2:5, 3:14**

Two-issuer matching trades cases, **3:20**

Voluntariness and § 16(b) liability, **3:14**

MISREPRESENTATIONS

See **Fraud** (this index)

1933 ACT

See **Securities Act of 1933** (this index)

1934 ACT

See **Securities Exchange Act of 1934** (this index)

NON-EMPLOYEE DIRECTORS

Definition, **3:73**

ODD-LOT DEALERS

See also **Broker-Dealers** (this index)

Definition, **2:109**

Short sale regulations applicable to, **4:1**

OFFICERS

Amendments to § 16(a) prior to enactment, **2:1**

Arbitrage activities, regulation of, **6:1**

Against the box selling

generally, **4:1**

see also **Short Sales** (this index)

Definition, **2:89, App. A**

Executive officers, **2:89**

Exemptions from § 16(b) recovery of profit actions, **3:69 et seq.**

Fiduciary duties, violations of, **1:1**

Inception of status, **3:7**

Investment Company Act definition of insiders, **1:1**

Investor as, **2:88**

Memorandum explaining § 16, **App. A**

Policy-making functions, **2:89, App. A**

Presumption of officer status, **2:89**

Public Utility Holding Company Act definition, **1:1**

Sections 16(a) and (b), scopes of definitions in, **1:1**

Sham resignations, **3:4**

Short sales

generally, **4:1**

see also **Short Sales** (this index)

Before and during status filings, **2:101**

10 percent ownership by, **2:1**

Termination of status, **3:7**

Title vs substance, **2:89**

Trading by

generally, **3:6**

see also **Recovery of Profits** (this index)

When reporting required, **2:99**

OPPORTUNITY TO PROFIT

Pecuniary interest determinations, **2:27**

OPTIONS

See also **Derivative Securities** (this index)

Cancellation, **3:16**

Definition, **2:46, 2:85**

Exempt options, loss of exemption, **2:135**

Exercise

grant of security-related right compared, **3:16**

Expiration, **3:16**

Extinguishing, **3:16**

Fair market price valuations, **3:30**

Form 3 disclosures

generally, **2:124**

Form 4 disclosures

generally, **2:126**

OPTIONS—Cont'd

- Lockup options, **2:75**
- Matching trades, **3:20**
- Out-of-the-money options, § 16(b) exemptions for, **3:83**
- Pecuniary interest determinations
 - generally, **2:69**
 - unexercised options, **2:75**
- Pre-1991 law, **2:163**
- Profit calculations in pre-1991 Rule 16b-6(c)(1) and Rule 16b-6(d) recovery actions, **3:30**
- Purchase and sale element of § 16(b) actions, applicability to, **3:9, 3:16**
- Put option exercise, reporting requirements, **2:111**
- Puts. See **Put Options** (this index)
- Reporting requirements
 - exemptions, **2:110**
 - pre-1991 law, **2:163**
- Right to purchase stock, **3:16**
- Sham grants, **3:16**
- Spreads, straddles, strips, and straps, **2:124**
- Standardized options
 - definition, **2:85**
 - reporting requirement exemptions, **2:110**
- Transferable and nontransferable, **2:110**
- Unexercised options, **2:75**
- Varying exercise prices, **2:124**

ORTHODOX TRANSACTIONS

- See **Recovery of Profits** (this index)

OUTSIDE DIRECTORS

- Non-employee director defined, **3:73**

OVERALLOTMENT OPTIONS

- Definition, **2:85**

OVERSUBSCRIPTION PRIVILEGE

- Purchase and sale element of § 16(b), applicability to, **3:17**

OWNER OF SECURITIES

- Definition, **2:170, 3:36**

OWNERSHIP

- See also **Beneficial Ownership** (this index)
- Definition, **4:1**

PARENT COMPANIES

- See also **Subsidiary Companies** (this index)
- Issuer status, **2:90**
- Recapitalizations as subject to purchase and sale element of § 16(b), **3:17**

PARENTS

- See **Families and Family Interests** (this index)

PARKING OF SECURITIES

- Pecuniary interest determinations, **2:27**

PARTIES

- See **Recovery of Profits** (this index)

PARTNERSHIPS

- Beneficial ownership of stocks owned by, **2:5**
- Deputized director, treatment as for purposes of § 16, **2:88, 2:147**
- Disclosure form filings, **2:147**
- General partners
 - pecuniary interest determinations, **2:29**
- Limited partnerships, **2:29**
- Pecuniary interest determinations
 - general partners, **2:29**
 - portfolio holdings, **2:65**
- Pecuniary interest held indirectly through, **2:27**
- Reporting requirements
 - pre-1991 law, **2:121**
 - present law, **2:128**
- Section 16(b) liability, **3:25**

PECUNIARY INTEREST DETERMINATIONS

- Generally, **2:26 et seq.**
- See also **Beneficial Ownership** (this index)
- Aggregation of ownership, **2:6, 2:79**
- Arrangement, indirect ownership through, **2:27**
- Beneficial ownership, **2:5**
- Calls, **2:69**
- Consolidations, **2:72**
- Contract, indirect ownership through, **2:27**
- Convertible securities, **2:69**
- Corporation's portfolio securities
 - generally, **2:47**
 - pre-1991 law, **2:66**
- Definitions, **2:27**
- Derivative securities, exercise of
 - pre-1991 law, **2:69**
 - present law, **2:46**
- Dichotomy between present and pre-1991 law, **2:26**
- Direct or indirect ownership, **2:27**
- Dividends vs sale profits, **2:27, 2:31**
- Economic benefit rule, **2:55**
- ERISA benefit plans, **2:40**
- Estate holdings, **2:68**
- Exemptions from beneficial ownership
 - generally, **2:48 et seq.**
 - baskets of stocks approved for trading, **2:52**
 - indexes of stocks approved for trading, **2:52**
 - investment company portfolio securities, **2:51**
 - portfolio securities, **2:50, 2:51**
 - public utility holding company portfolio securities, **2:50**
 - remainder interests in trusts, **2:49**
 - trust remainder interests, **2:49**
- Family members
 - indirect interests, **2:28**

PECUNIARY INTEREST DETERMINATIONS

—Cont'd

Family members—Cont'd
 pre-1991 law, **2:57**
 General partners, **2:29**
 Gift disposition control, **2:27**
 Gifts, **2:74**
 Group ownership, **2:79**
 Indirect interests
 generally, **2:28 et seq.**
 advisory fees, **2:30**
 dividends vs sale profits, **2:31**
 family members, **2:28**
 investment advisory fees, **2:30**
 partnership-owned securities, **2:29**
 portfolio securities, **2:29**
 present law, **2:28 et seq.**
 trust interests, **2:32 et seq.**
 Interest payments vs sale profits, **2:27**
 Investment advisory fees, **2:30**
 Lending securities, **2:71**
 Mergers, **2:72**
 1991-1996 law
 SEC rules, **App. C**
 trust interests, **2:39 et seq.**
 1996-2002 law, SEC rules, **App. D**
 Opportunity to profit, **2:27**
 Options
 generally, **2:69**
 unexercised options, **2:75**
 Parking arrangements, **2:27**
 Partners, **2:29**
 Partnership, interest held through, **2:27**
 Pension and retirement plans, **2:67**
 Pledging securities, **2:70**
 Portfolio securities, **2:29, 2:47**
 Power to vote, **2:27**
 Pre-1991 law
 generally, **2:55 et seq.**
 business trusts, treatment of, **2:53**
 calls, **2:69**
 consolidations, **2:72**
 convertible securities, **2:69**
 corporations, portfolio securities, **2:66**
 derivative securities, **2:69**
 dichotomy between present and pre-1991 law, **2:26**
 economic benefit rule, **2:55**
 estate holdings, **2:68**
 family member, ownership by, **2:57**
 gifts, **2:74**
 lending securities, **2:71**
 mergers, **2:72**
 omitted pre-1991 rules, **2:53**
 omitted provisions, **2:44**

PECUNIARY INTEREST DETERMINATIONS

—Cont'd

Pre-1991 law—Cont'd
 options, **2:69**
 partnership holdings, **2:65**
 pension and retirement plans, **2:67**
 pension and retirement plans, treatment of, **2:54**
 pledging securities, **2:70**
 presumptions, **2:28**
 puts, **2:69**
 remainder interests in trusts, **2:60**
 specific fact patterns of ownership, **2:56 et seq.**
 trust interests
 generally, **2:32, 2:58 et seq.**
 approval rights of beneficiaries, **2:61**
 business trusts, **2:64**
 family interests, **2:59**
 investment company holdings, **2:64**
 one report rule, **2:63**
 pension and retirement plan holdings, **2:64**
 present law compared, **2:32, 2:44**
 public utility holding company holdings, **2:64**
 remainder interests, **2:60**
 reporting requirements, **2:62**
 small interests, **2:61**
 three types of trust interests, **2:58**
 vested beneficial interests, **2:59**
 trusts, omitted provisions, **2:44**
 underwriters, exemption of, **2:73**
 warrants, **2:69**
 Present law
 generally, **2:27 et seq.**
 arrangement, indirect ownership through, **2:27**
 contract, indirect ownership through, **2:27**
 definition, **2:27**
 derivative securities, exercise of, **2:46**
 dichotomy between present and pre-1991 law, **2:26**
 direct or indirect ownership, **2:27**
 dividends vs sale profits, **2:27, 2:31**
 exemptions from beneficial ownership, **2:48 et seq.**
 general partners, as to partnership-owned securities, **2:29**
 gift disposition control, **2:27**
 indirect interests, **2:28 et seq.**
 interest payments vs sale profits, **2:27**
 investment advisory fees, **2:30**
 omitted pre-1991 rules, **2:53**
 opportunity to profit, **2:27**
 parking arrangements, **2:27**
 partners, as to partnership-owned securities, **2:29**
 partnership, interest held through, **2:27**

PECUNIARY INTEREST DETERMINATIONS**—Cont'd**

Present law—Cont'd
 power to vote, **2:27**
 presumptions, **2:28**
 relationship, indirect ownership through, **2:27**
 sale vs dividend or interest payments, **2:27**
 SEC rules, **App. G**
 share in profits defined, **2:27**
 spouse, interest held through, **2:27**
 trust interests, **2:32 et seq.**
 understanding, indirect ownership through, **2:27**
 vesting powers, **2:27**

Presumptions
 family member interests, **2:28**
 present law, **2:28**

Puts, **2:69**

Relationship, indirect ownership through, **2:27**

Remainder interests in trusts, **2:60**

Sale vs dividend or interest payments, **2:27**

SEC rules
 present rules, **App. G**
 2002-2005, **App. E**
 2005-2008, **App. F**

Share in profits defined, **2:27**

Spouse, interest held through, **2:27**

Trust interests
 generally, **2:32 et seq.**
 approval rights of beneficiaries, **2:61**
 banks, **2:35**
 beneficial ownership determinations, **2:36**
 beneficiaries' reports, **2:37**
 against the box sales by trusts, **2:38, 2:43**
 business trusts, **2:44, 2:53**
 civil liabilities of reporting trusts, **2:38**
 classes of reporters, **2:37**
 ERISA benefit plans, **2:40**
 insider trustees, **2:45**
 institutional trustees, **2:35**
 mixed trusts, **2:44**
 1989 proposed rule, **2:39 et seq.**
 1991-1996 law, **2:39 et seq.**
 1996 rule changes, **2:45**
 omitted pre-1991 rules, **2:44**
 organization of Rule 16a-8, **2:33**
 pension and retirement funds, **2:44, 2:54**
 pre-1991 law, above
 present law, **2:32 et seq.**
 remainder interests, **2:42, 2:49**
 reporting by trustees and beneficiaries, **2:45**
 Schedule 13G filers, **2:35**
 settlor-directed trades, **2:37**
 settlor vs trust reporting obligations, **2:41**
 short sales by trusts, **2:38**

PECUNIARY INTEREST DETERMINATIONS**—Cont'd**

Trust interests—Cont'd
 short-swing obligations, **2:41, 2:43**
 10 percent owner reporting and short-swing obligations, **2:41**
 10 percent owners, **2:34**
 three classes of reporters, **2:37**
 three types of trust interests, **2:58**
 transaction reporting requirements, **2:41**
 trusts vs trustees, **2:34**
 vested beneficial interests, **2:59**

Understanding, indirect ownership through, **2:27**

Underwriters, exemption of, **2:73**

Vesting powers, **2:27**

Warrants, **2:69**

PENSION AND RETIREMENT PLANS

Beneficial ownership determinations, **2:5**

Pecuniary interest determinations
 generally, **2:44, 2:54**
 pre-1991 law, **2:67**

10 percent ownership determinations, **2:5**

Trust holdings, **2:64**

PERSONAL REPRESENTATIVES

See **Estates** (this index)

PHANTOM STOCK

Definition, **2:85**

PLEADINGS

See **Recovery of Profits** (this index)

PLEDGES OF STOCK

Beneficial ownership determinations, **2:5, 2:6**

Pecuniary interest determinations, **2:70**

Purchase and sale requirement of § 16(b) actions, **3:10**

POLICY-MAKING FUNCTIONS

Definition, **App. A**

PORTFOLIO SECURITIES

Beneficial ownership
 generally, **2:47**
 exemptions, **2:50, 2:51**

Definitions
 generally, **2:29**
 Rule 16a-1, **2:170**

Pecuniary interest determinations, **2:47**

PRINCIPAL STOCKHOLDERS

Banks, exception of from 10 percent ownership determinations, **2:5**

Beneficial ownership
 generally, **2:2 et seq.**
 see also **Beneficial Ownership** (this index)

PRINCIPAL STOCKHOLDERS—Cont'd

- Against the box selling
 - generally, **4:1**
 - see also **Short Sales** (this index)
- Brokers, exception of from 10 percent ownership determinations, **2:5**
- Consolidations, **2:72**
- Corporation, stocks owned by, **2:5**
- Dealers, exception of from 10 percent ownership determinations, **2:5**
- Employee benefit plans, exception of from 10 percent ownership determinations, **2:5**
- Endowment funds, exception of from 10 percent ownership determinations, **2:5**
- Evasive acts as evidence of beneficial ownership, **2:5**
- Fiduciary duties, violations of, **1:1**
- Group, beneficial ownership of stocks held by, **2:5**
- Held defined, **2:5**
- Insurance companies, **2:5**
- Investment companies, **2:5**
- Investment Company Act definition of insiders, **1:1**
- Lending securities, **2:71**
- Memorandum explaining § 16, **App. A**
- Mergers, **2:72**
- 1991-1996 law, **App. C**
- 1996-2002 law, **App. D**
- Partnership, stocks owned by, **2:5**
- Pecuniary interest determinations
 - generally, **2:26 et seq.**
 - see also **Pecuniary Interest Determinations** (this index)
 - Sections 16(a) and 16(b), relationship between, **2:26**
- Pension plans, exception of from 10 percent ownership determinations, **2:5**
- Percentage calculations, **2:159**
- Pledgees, **2:5**
- Pledging securities, **2:70**
- Pre-1991 law
 - generally, **2:55 et seq.**
 - consolidations, **2:72**
 - corporations, portfolio securities, **2:66**
 - derivative securities, **2:69**
 - economic benefit rule, **2:55**
 - estate holdings, **2:68**
 - family member, ownership by, **2:57**
 - gifts, **2:74**
 - lending securities, **2:71**
 - mergers, **2:72**
 - partnership holdings, **2:65**
 - pension and retirement plans, **2:67**
 - pledging securities, **2:70**
 - remainder interests in trusts, **2:60**

PRINCIPAL STOCKHOLDERS—Cont'd

- Pre-1991 law—Cont'd
 - Rule 16a-2, **2:159**
 - SEC rules, **App. B**
 - specific fact patterns of ownership, **2:56 et seq.**
 - 10 percent ownership determinations, **2:4**
 - trusts, **2:58 et seq.**
 - underwriters, exemption of, **2:73**
- Present law
 - pecuniary interest determinations, **2:27 et seq.**
 - SEC rules, **App. G**
 - 10 percent ownership determinations, **2:5**
- Public utility holding companies, shares held by, **2:5**
- Rule 16a-2, **2:159**
- SEC rules
 - present rules, **App. G**
 - 2002-2005, **App. E**
 - 2005-2008, **App. F**
- Section 13(d) test of ownership, **2:5**
- Short sales
 - generally, **4:1**
 - see also **Short Sales** (this index)
- 10 percent ownership determinations
 - generally, **2:1 et seq.**
 - see also **Pecuniary Interest Determinations** (this index)
 - banks, **2:5**
 - brokers, **2:5**
 - corporation, stocks owned by, **2:5**
 - dealers, **2:5**
 - definition, **2:87**
 - employee benefit plans, **2:5**
 - endowment funds, **2:5**
 - evasive acts as evidence, **2:5**
 - exceptions, **2:5**
 - exemptions, **2:48 et seq.**
 - group, stocks held by, **2:5**
 - held defined, **2:5**
 - insurance companies, **2:5**
 - investment advisory fees, **2:30**
 - investment companies, **2:5**
 - investment company holdings, **2:5**
 - market value computation, **2:30**
 - partnership, stocks owned by, **2:5**
 - pecuniary interest test, **2:5**
 - pension plans, **2:5**
 - pledgees, **2:5**
 - pre-1991 law, **2:4**
 - present law, **2:5**
 - public utility holding companies, **2:5**
 - Section 13(d) test, **2:5, 2:6**
 - swaps, **2:5**
 - trust, stocks owned by, **2:5**
 - trust interests, **2:34, 2:41**

PRINCIPAL STOCKHOLDERS—Cont'd

- 10 percent ownership determinations—Cont'd
 - underwriters, **2:5**
 - voting rights as test, **2:5**
- Trading by
 - generally, **3:6**
 - see also **Recovery of Profits** (this index)
- Trusts
 - generally, **2:5**
 - pre-1991 law, **2:58 et seq.**
- Underwriters, **2:5**
- Voting rights as test of ownership, **2:5**
- When reporting required, **2:100**
- Who must file disclosure statements, **2:147**

PRIVATE ACTIONS

- Section 16(b) actions. See **Recovery of Profits** (this index)
- Section 16(c) actions, **4:1**

PRIVATE SECURITIES LITIGATION REFORM ACT

- Generally, **3:36**

PROFITS

- Definition, **3:22**
- Recovery of. See **Recovery of Profits** (this index)
- Short-swing sales, **3:22 et seq.**

PROOF

- See **Recovery of Profits** (this index)

PRO RATA STOCK RIGHTS

- Reporting requirement exemptions, **2:178**

PROXY STATEMENTS

- Delinquent filers, disclosure requirements, **2:150**
- Insider ownership information disclosures, **2:1**

PUBLIC UTILITY HOLDING COMPANIES

- Portfolio securities exempt from beneficial ownership rules, **2:50**
- Trust holdings, **2:64**

PUBLIC UTILITY HOLDING COMPANY ACT

- Beneficial ownership of shares held by public utility holding companies, **2:5**
- Disclosure forms, filing requirements, **2:120**
- Insider trading provisions, **1:1**
- Officers defined, **1:1**
- Recovery of short-swing profits, **3:57, 3:66**
- 10 percent ownership determinations, **2:5**
- 10 percent owners subject to disclosure filing requirements, **2:147**

PUNITIVE DAMAGES

- Generally, **3:22**

PURCHASE

- See also **Purchase and Sale** (this index)

PURCHASE—Cont'd

- Change in beneficial ownership compared, **2:152 et seq.**
- Definition, **2:85, 3:8**
- Exercise vs grant of security-related right, **3:16**
- Insiders' purchase and sale liabilities. **Purchase and Sale** (this index)
- Nonrecourse secured loan, purchase by, **3:16**
- Sale. **Purchase and Sale** (this index)

PURCHASE AND SALE

- Generally, **3:8 et seq.**
- Acquisition contests for control, **3:15**
- Acquisitions from issuer, exemptions for, **3:75**
- Actual access to inside information as factor, **3:12**
- Agency, **3:10**
- Appreciation rights as incident of ownership, **3:10**
- Approval of transactions by regulatory authority, **3:66**
- Avoidance of liability, purposeful, **3:8**
- Beneficial ownership, change of beneficial ownership compared, **2:152 et seq., 3:6, 3:8**
- Burden of proof as to unorthodox transactions, **3:12**
- Buyouts of employee stock options, **3:16**
- Call options, **3:16**
- Can a transaction be a purchase or a sale: the transfer question, **3:10**
- Cancellation of option, **3:16**
- Can one decision result in both a purchase and a sale?, **3:10**
- Cash-for-stock orthodox transactions, **3:11**
- Change of beneficial ownership compared, **2:152 et seq., 3:6, 3:8**
- Consideration, **3:10**
- Construction of § 16(b), **3:4**
- Contests for control, **3:15**
- Contract vs transaction, **3:8**
- Conversions
 - generally, **3:13**
 - as both purchase and sale, **3:10, 3:13**
 - rights as incident of ownership, **3:10**
 - stock, **3:9**
- Convertible debt instruments, **3:10**
- Date of sale determinations, **3:30**
- Debt exception, **3:33**
- Debt instruments, **3:10**
- Deemed transactions, **3:12**
- Definitions
 - generally, **2:85, 3:8**
 - unorthodox and orthodox transactions, **3:9**
- Director status and, **3:7**
- Dispositions to issuer, exempt, **3:76**
- Dividends, stock, **3:10**

PURCHASE AND SALE—Cont'd

- Employee benefit plans, **3:16**
- Equal treatment of all shareholders, distributions resulting in, **3:17**
- Equity swaps, **3:11**
- Exchange of a security for some form of consideration, **3:10**
- Exercise vs grant of security-related right, **3:16**
- Expiration of
 - option, **3:16**
 - rights, **3:17**
- Five criteria analysis, **3:10**
- Future sales contracts, time calculations, **3:19**
- Gifts, **3:10**
- Incidents of ownership test, **3:10**
- Insiders
 - purchase and sale liabilities of insiders generally, **3:8 et seq.**
 - see also **Recovery of Profits** (this index)
 - transactions between, **3:10**
- Installment sales
 - generally, **3:11**
 - time calculations, **3:19**
- Introduction, **3:8**
- Involuntary transfers, **3:12**
- Issuers, transactions with, **3:10**
- Matching trades. **Recovery of Profits** (this index)
- Mergers and related transactions, **3:9, 3:14**
- Multiple transactions
 - sham treatment of, **3:8**
 - time calculations, **3:19**
- 1933 Act
 - exempted transactions, **3:10**
 - 1933 and 1934 Acts, definitions in, **3:10**
- No consideration paid, **3:10**
- Nonemployees, **3:16**
- Nonrecourse secured loan, purchase by, **3:16**
- No share changes hands, **3:10**
- Objective view of orthodox transactions, **3:10**
- Officer status and, **3:7**
- On what market is the trade?, **3:10**
- Options and warrants, **3:9, 3:16**
- Orthodox transactions
 - generally, **3:11**
 - unorthodox transactions, below
- Other general principals affecting whether a purchase or a sale exists, **3:10**
- Oversubscription privilege, **3:17**
- Passage of title, **3:8**
- Pledges, **3:10**
- Possibility of speculative abuse as factor, **3:12**
- Pragmatic test, **3:12**
- Pragmatic view of unorthodox transactions, **3:10**
- Prepaid variable forward contracts, **3:10**
- Put options, **3:16**

PURCHASE AND SALE—Cont'd

- Questions, **3:10**
- Recapitalizations, **3:17**
- Reclassifications of stock, **3:9**
- Recovery of Profits. See specific entries throughout this topic
- Redemptions, **3:17, 3:58**
- Rescission, **3:18**
- Rights, dealings in, **3:9**
- Safe harbor for SARs and employee stock options, **3:16**
- Sale and purchase timing, **3:6**
- Sham transactions
 - generally, **3:8**
 - construction of § 16(b) to prevent, **3:4**
 - grants of options, **3:16**
- Simultaneous, **3:16**
- Six-month period. **Recovery of Profits** (this index)
- Splits, stock, **3:10**
- State law rights of ownership, **3:10**
- Stock appreciation rights
 - generally, **3:16**
 - exercise of, **3:10**
- Subjective test, **3:12**
- Subscription rights, **3:64**
- Substance vs form, analysis of transaction based on, **3:8**
- Support agreements in a merger, **2:5, 3:14**
- Tender offers, **3:10**
- Tests of transactions, **3:8**
- Time calculations, **3:8, 3:19**
- Time of trade, **3:6**
- Transactions
 - with another insider, **3:10**
 - with the issuer, **3:10**
 - vs contract, **3:8**
- Transfers
 - construed to be, **3:8**
 - at death, **3:10**
 - less than all incidents of ownership, **3:10**
 - question, **3:10**
 - same name certificate not needed, **3:10**
- Two-issuer cases, **3:20**
- Type of permissible consideration, **3:10**
- Underwriters, transactions by, **3:10**
- Unorthodox transactions
 - generally, **3:12 et seq.**
 - orthodox transactions, and, **3:9**
- Unregistered and registered stocks, **3:20**
- Value exchanged, **3:10**
- Venue events, **3:40**
- Voluntariness of transfer, **3:12**
- Voting rights as incident of ownership, **3:10**
- Warrants, **3:9, 3:16**

PURCHASE AND SALE—Cont'd

When does purchase or sale occur?, **3:19**
 Will, transfers by, **3:10**

PUT OPTIONS

See also **Options** (this index)
 Definition, **3:16**
 Matching trades, **3:20**
 Pecuniary interest determinations, **2:69**
 Purchase and sale element of § 16(b) actions, applicability to, **3:16**

QUALIFIED INSTITUTIONAL INVESTOR

Generally, **2:5**

QUALIFIED PLANS

Definition, **3:73**

REALIZED PROFIT

See **Recovery of Profits** (this index)

RECAPITALIZATIONS

Purchase and sale element of § 16(b), applicability to, **3:17**

RECEIVERSHIPS

Reporting requirement exemptions, **2:161**

RECORD OWNERSHIP OF SECURITIES

Pre-1991 law, **2:55**

RECOVERY OF PROFITS

Generally, **3:1 et seq.**
 Acquisitions from issuer, exemptions for, **3:75**
 Acquisition transactions, exemptions for, **3:84**
 Actual inside information, proof of, **3:1**
 Alternative sanctions, **3:4**
 Ambiguities, recovery in favor of liability, **3:6**
 Apportionment of liability, **3:22**
 Arbitrage activities, **6:1**
 Asset sale transactions, exemptions for, **3:84**
 Assignments of claims, **3:36**
 Attorneys' fees
 generally, **3:51**
 issuers' payments of insiders' fees, **3:51**
 profit calculations, expense deductions, **3:22, 3:27**
 settlements, **3:50**
 Avoidance of liability, purposeful, **3:8**
 Award exemptions, **3:75**
 Bad faith litigation, **3:36**
 Bad faith of insider and interest recoveries, **3:28**
 Beneficial ownership changes not amounting to purchase or sale, **1:1**
 Beneficial ownership determinations, **2:75**
 Beneficial owners subject to § 16(b)
 generally, **2:2 et seq.**
 see also **Beneficial Ownership** (this index)
 definition, **3:36**

RECOVERY OF PROFITS—Cont'd

Burden of proof. Proof, below
 Call equivalent position exemptions, **3:83**
 Capacity, **3:36**
 Cause of action based on violation of § 16(a), **2:1**
 Champerty, **3:51**
 Common law actions, **3:1**
 Complaints, **3:42**
 Compromise, **3:50**
 Constitutionality of § 16(b), **3:1**
 Construction of § 16(b), **3:4**
 Conversion as both purchase and sale, **3:10, 3:13**
 Convertible securities, profit calculations, **3:31**
 Costs, **3:47**
 Counterclaims, **3:44**
 Criminal prosecutions, **3:1**
 Crude rule of thumb liability, **3:1, 3:5**
 Death of party, **3:36, 3:46**
 Death transfer exemptions, **3:82**
 Debt exception acquisitions, **3:33**
 Declaratory judgment actions by insiders, **3:35**
 Defenses
 generally, **3:86**
 approval of transactions by regulatory authority, **3:66**
 burden of proof, **3:48**
 equitable defenses, **3:86**
 estoppel, **3:86**
 exemptive vs prescriptive nature of SEC rules, **3:53, 3:65**
 laches, **3:86**
 limitation of actions, below
 ratification, **3:86**
 waiver, **3:86**
 Demand on issuer, **3:37**
 Deposit agreement exemptions, **3:85**
 Derivative actions compared, **3:1, 3:35**
 Derivative securities
 exemptions for, **3:83**
 profit calculations, **3:31**
 Directors and officers
 exemptions, directors, **3:69 et seq.**
 trading by, **3:7**
 Disclosure forms, public access to, **2:1**
 Discretionary issuer transactions, applicability of Rule 16b-3 exemptions to, **3:77**
 Discretionary transaction exemptions, **3:73**
 Dispositions to issuer, exempt, **3:76**
 Diversity jurisdiction, **3:36**
 Elements of action, **3:1**
 Employee benefit plan exemptions, **3:70**
 Equitable defenses, **3:86**
 Estoppel, **3:86**
 Evidence. Proof, below
 Excess benefit plan exemptions, **3:73**

RECOVERY OF PROFITS—Cont'd

Exemptions
generally, **3:69 et seq.**
acquisitions from issuer, **3:75**
acquisition transactions, **3:84**
approval of transactions by regulatory authority, **3:66**
arbitrage activities, **6:1**
asset sale transactions, **3:84**
awards, **3:75**
call equivalent positions, **3:83**
death transfers, **3:82**
Defenses, above
deposit agreements, **3:85**
derivative securities, **3:83**
discretionary issuer transactions, **3:77**
dispositions to issuer, **3:76**
eligible derivative securities, **3:78**
employee benefit plans, **3:70**
general exemption, **3:72**
gifts, **3:82**
grants, **3:75**
issuer redemptions, **3:81**
issuer transactions, general exemption, **3:72**
market making activities, **5:1**
merger transactions, **3:84**
non-employee director approval of exempt transactions, **3:80**
out-of-the-money options, **3:83**
power of SEC to create, **3:1**
pre-1991 law, **3:53 et seq.**
present law, **3:65 et seq.**
put equivalent positions, **3:83**
reporting requirements for exempt transactions, **3:79**
Rule 16b-3, **3:69 et seq.**
Rule 16b-4, **3:81**
Rule 16b-5, **3:82**
Rule 16b-6, **3:83**
Rule 16b-7, **3:84**
Rule 16b-8, **3:85**
tax-condition plans, **3:74**
voting trust agreements, **3:85**
Exemptive vs prescriptive nature of SEC rules, **3:53, 3:65**
Expenses, **3:47**
Family member's profits, **3:25**
Fault, **3:5**
Federal question jurisdiction, **3:36**
Frivolous defenses of insider and interest recoveries, **3:28**
Gift exemptions, **3:82**
Good faith of insider, **3:5**
Grant exemptions, **3:75**
Group beneficial owners, **2:79**

RECOVERY OF PROFITS—Cont'd

Hardship cases, **3:2**
Indemnification of insiders, **3:22**
Indispensable parties, **3:43**
Intent, **3:5**
Interest recoveries, **3:28**
Interstate Commerce Commission exchange transactions, **3:63**
Intervention, **3:45**
Investment Company Act provisions, **1:1**
Issuer redemptions, exemptions, **3:81**
Issuers' and stockholders' actions compared, **3:35**
Issuer transactions
generally, **3:75**
discretionary transactions, **3:77**
general exemption, **3:72**
Joint and several beneficial owners, **2:80**
Joint and several liability, **3:22**
Jurisdiction
ownership questions, **3:36**
personal, **3:39**
subject matter, **3:38**
Jury trial rights, **3:49**
Knowledge of inside information, **3:5**
Laches, **3:86**
Legislative history of § 16(b)
generally, **3:2**
purchase-and-sale element, **3:8**
Liability, apportionment of, **3:22**
Limitation of actions
generally, **3:52**
laches, **3:86**
multiple transaction price calculations, **3:23**
purchase and sale time calculations, **3:19**
sixty-day demands, effect on period, **3:37**
tolling
generally, **3:4**
reporting requirement changes, **2:151, 3:52**
Liquidating dividends, profit calculations, **3:32**
Long position, profit calculations, **3:30**
Market making activities, exempt, **5:1**
Matched transfers by a beneficial owner, **2:82**
Matching trades
generally, **3:20**
beneficial owner, matched transfers by, **2:82**
certificates, matching, **3:24**
definition, **2:85**
option purchases and sales, **3:16**
profit calculations, **3:23**
unregistered and registered stocks, **3:20**
Mechanical nature of § 16(b) liability, **3:1**
Merger transactions, exemptions for, **3:84**
Multiple beneficial owners, **2:77**
1991-1996 law, **App. C**
1996-2002 law, **App. D**

RECOVERY OF PROFITS—Cont'd

- Non-employee directors, **3:73**
- Objective nature of proof, **3:5**
- Officer exemptions, **3:69 et seq.**
- Officers. Directors and officers, above
- Options, profit calculations, **3:30**
- Organization of § 16 generally, **1:1**
- Out-of-the-money options, exemptions for, **3:83**
- Owner of securities defined, **3:36**
- Parties
 - generally, **3:22**
 - common law actions, **3:1**
 - death of party, **3:36, 3:46**
 - indispensable parties, **3:43**
 - intervention, **3:45**
 - issuers, **3:43**
 - liability, **3:22**
 - person trading with insider, rights of, **3:1**
 - stockholders, **3:1**
 - survival of claims, **3:36, 3:46**
- Pecuniary interest determinations
 - generally, **2:26 et seq.**
 - see also **Pecuniary Interest Determinations**
(this index)
- Penal nature of action, **3:46**
- Personal jurisdiction, **3:39**
- Pleadings, **3:42**
- Pre-1991 law
 - generally, **3:53 et seq.**
 - conversion as both purchase and sale, **3:10, 3:13**
 - date of sale determinations, **3:30**
 - director status, **3:7**
 - exemptive vs prescriptive nature of SEC rules, **3:53**
 - gift as purchase and sale, **3:10**
- Interstate Commerce Commission exchange transactions, **3:63**
- limitation of actions, **3:52**
- officer status, **3:7**
- options and purchase and sale requirement, **3:16**
- options profit calculations, **3:30**
- Rule 16b-1, **3:54**
- Rule 16b-2, **3:55**
- Rule 16b-3, **3:56**
- Rule 16b-4, **3:57**
- Rule 16b-5, **3:58**
- Rule 16b-6, **3:59**
- Rule 16b-7, **3:60**
- Rule 16b-8, **3:61**
- Rule 16b-9, **3:13, 3:62**
- Rule 16b-10, **3:63**
- Rule 16b-11, **3:64**
- SEC rules, **App. B**

RECOVERY OF PROFITS—Cont'd

- Pre-1991 law—Cont'd
 - subscription rights, **3:64**
 - time of trade determinations, **3:6**
- Present law
 - generally, **3:65 et seq.**
 - approval of transactions by regulatory authority, **3:66**
 - director status, **3:7**
 - exemptive vs prescriptive nature of SEC rules, **3:65**
 - limitation of actions, **3:52**
 - options and purchase and sale requirement, **3:16**
 - options profit calculations, **3:30**
 - pecuniary interest determinations, **2:27 et seq.**
 - Rule 16b-1, **3:66**
 - Rule 16b-3, **3:16, 3:69 et seq.**
 - Rule 16b-4, **3:81**
 - Rule 16b-5, **3:82**
 - Rule 16b-6, **3:83**
 - Rule 16b-7, **3:84**
 - Rule 16b-8, **3:85**
 - text of rules, **App. G**
- Private Securities Litigation Reform Act, **3:36**
- Procedure
 - generally, **3:34 et seq.**
 - assignments of claims, **3:36**
 - attorneys' fees, **3:51**
 - bad faith litigation, **3:36**
 - burden of proof, **3:48**
 - capacity, **3:36**
 - complaints, **3:42**
 - compromise, **3:50**
 - costs, **3:47**
 - counterclaims, **3:44**
 - court approval of settlements, **3:50**
 - death of party, **3:36, 3:46**
 - declaratory judgment actions by insiders, **3:35**
 - demand on issuer, **3:37**
 - derivative and § 16(b) actions compared, **3:35**
 - diversity jurisdiction, **3:36**
 - expenses, **3:47**
 - federal question jurisdiction, **3:36**
 - indispensable parties, **3:43**
 - intervention, **3:45**
 - issuers' and stockholders' actions compared, **3:35**
 - jurisdiction
 - ownership questions, **3:36**
 - personal, **3:39**
 - subject matter, **3:38**
 - jury trial rights, **3:49**
 - limitation of actions, **3:52**
 - parties, **3:43**

RECOVERY OF PROFITS—Cont'd

Procedure—Cont'd
 pleadings, **3:42**
 Private Securities Litigation Reform Act, **3:36**
 security for expenses, **3:47**
 service of process, **3:41**
 settlement, **3:50**
 sixty-day demands, **3:37**
 standing, **3:20, 3:36**
 survival of claims, **3:36, 3:46**
 venue, **3:40**

Profit calculations
 generally, **3:22 et seq.**
 accrued interest payments, deductibility, **3:27**
 administrative overhead costs, deductibility, **3:27**
 assigned value, **3:22**
 attorneys' fees as deductible expense, **3:22, 3:27**
 brokers' fees, deductibility, **3:27**
 burden of proof, **3:22**
 certificates, matching, **3:24**
 consideration other than cash, **3:22**
 convertible securities, **3:31**
 credits, **3:22, 3:27**
 debenture accrued interest payments, deductibility, **3:27**
 debt exception, **3:33**
 derivative securities, **3:31**
 dividends
 generally, **3:26**
 stock splits, **3:22**
 equitable considerations, **3:28**
 expenses, **3:22, 3:27**
 family member's profits, **3:25**
 interest, **3:28**
 liquidating dividends, **3:32**
 loan costs, deductibility, **3:27**
 long position, **3:30**
 losses on some transactions, **3:23**
 market value, **3:22**
 matching multiple purchases and sales, **3:23**
 maximization of profits from multiple transactions, **3:23**
 multiple transactions, **3:23**
 options, **3:30**
 overhead costs, deductibility, **3:27**
 purchase and sale time calculations, **3:19**
 realized by insider, **3:25**
 reimbursements, **3:27**
 Rule 16b-6 valuation of derivatives, **3:31**
 special rules, **3:29, 3:29 et seq.**
 stock appreciation rights, **3:30**
 stock options, **3:30**
 taxes, deductibility, **3:27**

RECOVERY OF PROFITS—Cont'd

Profit calculations—Cont'd
 voting trust fees, deductibility, **3:27**
 warrants, **3:30**

Proof
 generally, **3:48**
 actual inside information, **3:1**
 burden of proof
 generally, **3:48**
 unorthodox transactions, **3:12**
 limitation of actions defense, burden of proving, **3:52**
 objective nature of, **3:5**
 profit calculations, burden of proving, **3:22**

Public Utility Holding Company Act, **1:1, 3:57, 3:66**

Punitive damages, **3:22**

Purchase and Sale (this index)

Purpose of § 16(b), **3:1, 3:3**

Put equivalent position exemptions, **3:83**

Qualified plan exemptions, **3:73**

Ratification of transactions, **3:86**

Realized profit. Profit calculations, above

Redemptions, **3:58**

Reliance on expert advice, **3:5**

Remedial nature of § 16(b), **3:4**

Remedial nature of action, **3:46**

Reporting requirements for exempt transactions, **3:79**

Reporting requirement violations, causes of action based on, **2:1**

Rescinded transactions, **3:18**

Rescission remedies, **3:22**

Rule 16b-1
 pre-1991 law, **3:54**
 present law, **3:66**

Rule 16b-2
 1991-1996 version, **3:67**
 pre-1991 law, **3:55**

Rule 16b-3
 administrative history, **3:70**
 discretionary issuer transactions, **3:77**
 memorandum to insiders, **App. A**
 1991-1996 version, **3:68**
 pre-1991 law, **3:56**
 present law, **3:16, 3:69 et seq.**

Rule 16b-4
 pre-1991 law, **3:57**
 present law, **3:81**

Rule 16b-5
 pre-1991 law, **3:58**
 present law, **3:82**

Rule 16b-6
 different characteristics of derivative securities, **3:31**

RECOVERY OF PROFITS—Cont'd

Rule 16b-6—Cont'd
 pre-1991 law, **3:59**
 present law, **3:83**

Rule 16b-7
 pre-1991 law, **3:60**
 present law, **3:84**

Rule 16b-8
 pre-1991 law, **3:61**
 present law, **3:85**

Rule 16b-9, **3:13, 3:62**

Rule 16b-10, **3:63**

Rule 16b-11, **3:64**

Rule 10b-5 liability compared, **3:1, 3:22**

Rule of thumb liability, **3:1, 3:5**

Sale and purchase. **Purchase and Sale** (this index)

Scope of action, **3:4**

SEC, recovery by, **3:1**

SEC rules
 present rules, **App. G**
 2002-2005, **App. E**
 2005-2008, **App. F**

Security for expenses, **3:47**

Service of process, **3:41**

Settlements of actions, **3:50**

Sham transactions
 generally, **3:8**
 construction of § 16(b) to prevent, **3:4**
 grants of options, **3:16**

Short-swing profits
 generally, **3:1**
 see also Six-month period, below

Six-month period
 generally, **3:21**
 certificates, matching, **3:24**
 dividend record dates, **3:26**
 matching certificates, **3:24**
 multiple transactions exceeding, **3:23**
 option profit calculations, **3:30**
 short swing profits, **3:1**

Sixty-day demands
 generally, **3:37**
 attorneys' fees awards, **3:51**

Standing
 generally, **3:36**
 mergers and consolidations, **3:20, 3:36**

State court actions, **3:38**

Statutes of limitation. Limitation of actions, above

Stock appreciation rights, profit calculations, **3:30**

Stockholders, actions by, **3:1**

Stock options, profit calculations, **3:30**

Stock purchase plan exemptions, **3:73**

RECOVERY OF PROFITS—Cont'd

Strict liability nature of action, **3:5**

Subject matter jurisdiction, **3:38**

Subscription rights, **3:64**

Subsections 16(a) and 16(b), relationship between, **1:1, 2:26, 2:75**

Substance vs form, construction favoring, **3:4**

Survival of claims, **3:36, 3:46**

Tax aspects, **3:1**

Tax-condition plan exemptions, **3:74**

10 percent ownership defined, **2:87**

Time calculations
 generally, **3:19**
 six-month period, **3:21**

Time of trade, **3:6**

Tipping by insiders, **3:1**

Trading by insiders
 agents, purchases by, **3:10**
 directors and officers, **3:7**
 insider-insider transactions, **3:10**
 multiple transactions, sham treatment of, **3:8**
 principal shareholders, **3:6**

Transfers between beneficial owners, **2:81**

Unwary insiders, application of liability to, **3:1**

Use of insider information, **3:5**

Valuation. Profit calculations, above

Venue, **3:40**

Voting trust agreement exemptions, **3:85**

Waiver, **3:86**

Warrants, profit calculations, **3:30**

What securities are subject to § 16(b) liability, **2:27**

Willfulness of insider and interest recoveries, **3:28**

REDEMPTIONS

Purchase and sale element of § 16(b), applicability to, **3:17**

REGISTRATION

Definition, **2:85**

REMAINDER INTERESTS

See **Trusts** (this index)

REMEDIES

Section 16(b) actions. See **Recovery of Profits** (this index)

Section 16(c) actions, **4:1**

REPORTING REQUIREMENTS

Generally, **2:1 et seq., 2:91 et seq.**

See also **Disclosure Forms** (this index)

Amendments to § 16(a) prior to enactment, **2:1**

Amendments to filings, **2:123**

Annual filings, **2:95**

Arbitrage activities, **6:1**

REPORTING REQUIREMENTS—Cont'd

Before- and after-insider status reporting, **2:99 et seq.**
 Beneficial ownership
 generally, **2:2 et seq.**
 see also **Beneficial Ownership** (this index)
 changes in beneficial ownership, reporting, **2:152 et seq., 2:182**
 changes not amounting to purchase or sale, **1:1**
 exemption for formal changes in, **2:117**
 Beneficiaries' reports as to trust interests, **2:37**
 Call option exercise exemptions, **2:111**
 Canadian issuer exemptions, **2:179**
 Cancellations of derivative positions, **2:111**
 Cause of action based on violation of § 16(a), **2:1**
 Changes in beneficial ownership, reporting, **2:152 et seq., 2:182**
 Civil penalties for § 16(a) violations, **2:1**
 Classes of reporters for pecuniary interest determinations as to trust interests, **2:37**
 Construction of § 16(a), **2:1**
 Criminal prosecution § 16(a) violations, **2:1**
 Date of inception of insider status, **2:124**
 Deferrals, **2:102 et seq.**
 Definitions, **2:170**
 Delinquent filers, disclosures of, **2:1**
 Derivative securities exemptions, **2:111**
 Disclaimers of beneficial ownership, **2:5, 2:146, 2:160**
 Disclosure forms. See **Disclosure Forms** (this index)
 Dividend and interest reinvestment plans, **2:180**
 Dividend reinvestment plans, exemption for, **2:113 et seq., 2:168**
 Dividends, stock
 exemptions, **2:178**
 Rule 16a-9, **2:112**
 Domestic relations order exemptions, **2:116, 2:181**
 Duty to report, **2:91 et seq.**
 Exemptions
 generally, **2:95, 2:107 et seq., 2:161**
 arbitrage activities, **6:1**
 beneficial ownership, formal changes in, **2:117**
 call option exercises, **2:111**
 Canadian issuers, **2:179**
 derivative securities, **2:111**
 distributions, **2:176**
 dividend reinvestment plans, **2:113 et seq., 2:168**
 dividends, stock, **2:112, 2:178**
 domestic relations orders, **2:116, 2:181**
 formal changes in beneficial ownership, **2:117**
 issuer transactions, **2:108**
 odd-lot dealers, **2:109, 2:162**
 options, **2:110**

REPORTING REQUIREMENTS—Cont'd

Exemptions—Cont'd
 pre-1991 law, **2:167**
 present law
 dividends, stock, **2:178**
 pro rata rights, **2:178**
 stock splits, **2:178**
 pro rata rights, **2:178**
 put option exercises, **2:111**
 QDROs, **2:116, 2:181**
 reinvestment plans, **2:113 et seq., 2:168**
 Rule 16a-7, **2:176**
 Rule 16a-9, **2:112**
 stock splits, **2:112, 2:178**
 underwriting offerings, **2:176**
 voting trust changes, **2:117**
 Exempt options, loss of exemption, **2:135**
 Extensions of time for filing disclosure forms, **2:98**
 Formal changes in beneficial ownership, exemptions for, **2:117**
 Forms. See **Disclosure Forms** (this index)
 Good faith reliance on pre-1991 law, **2:157**
 GRAT, reporting changes in beneficial ownership, **2:153, 2:154**
 Holidays, disclosures due on, **2:97**
 Inception of duty to report, **2:99 et seq.**
 Insider trading, reporting changes in beneficial ownership, **2:156**
 Interest reinvestment plans, **2:180**
 Investment Company Act requirements, **1:1**
 Issuers' deemed knowledge of delinquent filers, **2:1**
 Issuer transaction exemptions, **2:108**
 Limitation of § 2(b) actions, tolling, **2:151, 3:52**
 LLCs, reporting changes in beneficial ownership, **2:153, 2:156**
 Monthly filings, **2:94**
 1964 amendment, **2:1**
 1991-96 rules, **2:169**
 1991-1996 law, **App. C**
 1996-2002 law, **App. D**
 Noncompliance problems, **2:1**
 Odd-lot dealers, exemptions, **2:109, 2:162**
 Option transactions, **2:110**
 Organization of § 16 generally, **1:1**
 Pecuniary interest determinations
 generally, **2:26 et seq.**
 see also **Pecuniary Interest Determinations** (this index)
 trust interest classes of reporters, **2:37**
 Portfolio securities, **2:47**
 Pre-1991 law
 generally, **2:157 et seq.**
 dividend reinvestment plans
 generally, **2:114**

REPORTING REQUIREMENTS—Cont'd

Pre-1991 law—Cont'd

- dividend reinvestment plans—Cont'd
 - exemption for, **2:113 et seq., 2:168**
- exemptions, **2:167**
- forms, **2:91**
- good faith reliance on, **2:157**
- NA series of rules, **2:157**
- partnership filings, **2:121**
- purpose of 1991 revision, **2:169**
- purpose of changes, **2:95**
- reinvestment plans, exemption for, **2:113 et seq., 2:168**
- retroactivity of rules, **2:169**
- Rule 16a-1, **2:158**
- Rule 16a-2, **2:159**
- Rule 16a-3, **2:160**
- Rule 16a-4, **2:161**
- Rule 16a-5, **2:162**
- Rule 16a-6, **2:163**
- Rule 16a-7, **2:164**
- Rule 16a-8, **2:165**
- Rule 16a-9, **2:166**
- Rule 16a-10, **2:167**
- Rule 16a-11, **2:168**
- small transactions, **2:166**
- text of rules, **App. B**
- trusts, **2:165**
- unregistered securities, **2:125**
- when to file, **2:92**

Present law

- generally, **2:169 et seq.**
- changes in beneficial ownership, reporting, **2:182**
- correlation table between old and new rules, **2:169**
- dividend reinvestment plans, **2:115**
- dividends, stock, **2:178**
- 1991-96 rules, **2:169**
- partnership filings, **2:128**
- pecuniary interest determinations, **2:27 et seq.**
- pro rata rights, **2:178**
- purpose of 1991 revision, **2:169**
- QDRO exemption, **2:181**
- retroactivity of rules, **2:169**
- Rule 16a-1, **2:170**
- Rule 16a-2, **2:171**
- Rule 16a-3, **2:172**
- Rule 16a-4, **2:173**
- Rule 16a-5, **2:174**
- Rule 16a-6, **2:175**
- Rule 16a-7, **2:176**
- Rule 16a-8, **2:177**
- Rule 16a-9, **2:178**
- Rule 16a-10, **2:179**

REPORTING REQUIREMENTS—Cont'd

Present law—Cont'd

- Rule 16a-11, **2:180**
- Rule 16a-12, **2:181**
- Rule 16a-13, **2:182**
- small transactions, **2:175**
- stock splits, **2:178**
- substantive changes in 1991 rules, **2:169**
- text of rules, **App. G**
- transition period from old to new rules, **2:169**
- transition rules, **2:169**
- trusts, **2:177**
- Private actions to enforce, **2:1**
- Pro rata rights, **2:178**
- Public review of disclosure forms, **2:1**
- Public Utility Holding Company Act requirements, **1:1**
- Purchases, reporting
 - change in beneficial ownership contrasted, **2:152 et seq.**
 - GRAT, **2:153, 2:154**
 - LLCs, **2:153, 2:156**
 - SVPs, **2:153, 2:155**
- Purpose of requirements, **2:1**
- Put option exercise exemptions, **2:111**
- QDRO exemption, **2:116, 2:181**
- Reinvestment plans
 - generally, **2:180**
 - pre-1991 law, **2:113 et seq., 2:168**
- Remedies for nondisclosure, **2:150**
- Rules
 - pre-1991 law, **2:157 et seq.**
 - present law, **2:169 et seq.**
 - retroactivity of rules, **2:169**
 - Rule 16a-1
 - pre-1991 law, **2:158**
 - present law, **2:170**
 - Rule 16a-2
 - pre-1991 law, **2:159**
 - present law, **2:171**
 - Rule 16a-3
 - pre-1991 law, **2:160**
 - present law, **2:172**
 - Rule 16a-4
 - pre-1991 law, **2:161**
 - present law, **2:173**
 - Rule 16a-5
 - pre-1991 law, **2:162**
 - present law, **2:174**
 - Rule 16a-6
 - pre-1991 law, **2:163**
 - present law, **2:175**
 - Rule 16a-7
 - pre-1991 law, **2:164**
 - present law, **2:176**

REPORTING REQUIREMENTS—Cont'd

- Rules—Cont'd
 - Rule 16a-8
 - pre-1991 law, **2:165**
 - present law, **2:177**
 - Rule 16a-9
 - exemptions, **2:112**
 - pre-1991 law, **2:166**
 - present law, **2:178**
 - Rule 16a-10
 - pre-1991 law, **2:167**
 - present law, **2:179**
 - Rule 16a-11
 - pre-1991 law, **2:168**
 - present law, **2:180**
 - Rule 16a-12, **2:181**
 - Rule 16a-13, **2:182**
- Safe harbor for portfolio securities, **2:47**
- Sales, reporting
 - change in beneficial ownership contrasted, **2:152 et seq.**
 - GRAT, **2:153, 2:154**
 - LLCs, **2:153, 2:156**
 - SVPs, **2:153, 2:155**
- Scope of required disclosures, **2:95**
- SEC enforcement, **2:1**
- SEC rules
 - present rules, **App. G**
 - 2002-2005, **App. E**
 - 2005-2008, **App. F**
- Section 12(g) securities, **3:2**
- Small transactions
 - pre-1991 law, **2:166**
 - present law, **2:175**
- Stock splits, **2:112, 2:178**
- Subscriptions to disclosure data, **2:1**
- Subsections 16(b) and 16(a), relationship between, **1:1, 2:26, 2:75**
- SVPs (and investing in vehicle), reporting changes in beneficial ownership, **2:153, 2:155**
- 10-day filing period, **2:92**
- 10% owner, reporting changes in beneficial ownership, **2:154 et seq.**
- 10 percent ownership defined, **2:87**
- Termination of duty to report, **2:99 et seq.**
- Three classes of reporters for pecuniary interest determinations as to trust interests, **2:37**
- Trustees and trust beneficiaries, **2:45**
- Trusts
 - one report rule, **2:63**
 - pre-1991 law, **2:62, 2:165**
 - present law, **2:177**
- Underwriting offering exemptions, **2:176**
- Voting trust change exemptions, **2:117**

REPORTING REQUIREMENTS—Cont'd

- Wash sales, **2:93**
- When to file, **2:92 et seq.**

RESCINDED TRANSACTIONS

- Purchase and sale element of § 16(b), applicability to, **3:18**

RETURN OF PROFITS

- See **Recovery of Profits** (this index)

RIGHT TO PURCHASE STOCK

- See also **Options** (this index)
- Definition, **3:16**
- Purchase and sale element of § 16(b) actions, applicability to, **3:9**

RISK ARBITRAGE

- Generally, **6:1**

RULE 10b-5

- See **Fraud** (this index)

RULE 13d-1

- Beneficial ownership, **2:16**

RULE 13d-3

- See also **Beneficial Ownership** (this index)
- Acquire, rights to, **2:10 to 2:14**
- Agents
 - entity acting through, **2:7**
 - purchasing too many shares, **2:7**
- Aggregation of holdings, **2:9**
- Beneficial ownership determinations, **2:6, 2:7**
- Broker-dealers, **2:10 to 2:14**
- Burden of proof, plaintiff's, **2:7**
- Cash-settled total-return swaps, **2:7**
- Clearly erroneous standard, **2:7**
- Commonly controlled entities, **2:7**
- Contractual control of voting or selling shares, **2:7**
- Contractual relinquishment of voting (or selling) power, **2:7**
- Discretionary account, **2:7**
- Drag along rights, **2:7**
- Evading reporting, **2:8**
- Factual questions, **2:7**
- Family members, **2:7**
- "Groups," interaction with, **2:7**
- Holdings, aggregation of, **2:9**
- Intent to acquire more than 5 percent, **2:7**
- Interaction with "groups," **2:7**
- Investment power, **2:7**
- Liberal construction, **2:7**
- Lock-up agreements, **2:7**
- Majority vote, **2:7**
- Pledges, **2:10 to 2:14**
- Power of attorney, **2:7**
- Preponderance of the evidence, **2:7**

RULE 13d-3—Cont'd

Pre-Rule 13d-3 cases, **2:7**
 Questions of fact, **2:7**
 Record ownership, **2:7**
 Reporting, evasion of, **2:8**
 Right of first offer, **2:7**
 Right of first refusal, **2:7**
 Rights to acquire, **2:10 to 2:14**
 Right to buy upon the occurrence of specified event, **2:7**
 “Rule of Three,” **2:7**
 Section 13G beneficial ownership, **2:7**
 Section 16(b) pecuniary interest, **2:7**
 Shares, entity owning its own, **2:7**
 Short put options, **2:7**
 Specified event, right to buy upon the occurrence of, **2:7**
 Substance governs over form, **2:7**
 Support agreements by stockholder of acquired company, **2:7**
 Tag along rights, **2:7**
 Third parties, agreements to vote (or sell) as directed by, **2:7**
 Underwriters, **2:10 to 2:14**
 Veto power, **2:7**
 Voting and voting rights, **2:6, 2:7, 2:20**
 Voting trusts, **2:7**

RULE 13d-4

Beneficial ownership, disclaimer of, **2:6, 2:15**

RULE 14d-1

Beneficial ownership, **2:6**

RULE 16a-1

Definitions, **2:170**
 Derivative securities, **2:170**
 Disclosure forms, **2:158**
Reporting Requirements (this index)

RULE 16a-2

Disclosure Forms (this index)
 Principal stockholders, **2:159**
Reporting Requirements (this index)

RULE 16a-3

Disclosure Forms (this index)
Reporting Requirements (this index)

RULE 16a-4

Derivative securities, **2:173**
Disclosure Forms (this index)
Reporting Requirements (this index)

RULE 16a-5

Reporting Requirements (this index)

RULE 16a-6

Reporting Requirements (this index)

RULE 16a-7

Reporting Requirements (this index)

RULE 16a-8

Reporting Requirements (this index)

RULE 16a-9

Reporting Requirements (this index)
 Stock dividends, **2:112**
 Stock splits, **2:112**

RULE 16a-10

Reporting Requirements (this index)

RULE 16a-11

Reporting Requirements (this index)

RULE 16a-12

Reporting requirements, **2:181**

RULE 16a-13

Reporting requirements, **2:182**

SALE

Change in beneficial ownership compared, **2:152 et seq.**
 Definition, **2:85, 3:8**
 Exercise vs grant of security-related right, **3:16**
 1933 and 1934 Acts, definitions in, **3:10**
Purchase and Sale (this index)
 Time calculations, **4:1**

SALES AGAINST THE BOX

See **Short Sales** (this index)

SCHEDULES

See **Disclosure Forms** (this index)

SECTION 16

See **Securities Exchange Act of 1934** (this index)

SECURITIES

Definition, **2:85**

SECURITIES ACT OF 1933

Construction, **3:8**
 Express and implied remedies, **3:5**
 Private civil actions for violations generally, **2:1**
 Punitive damages, **3:22**
 Rescission remedies, **3:22**

SECURITIES AND EXCHANGE COMMISSION (SEC)

Administrative remedies of, **2:1**
 Authority statement filings, **2:147**
 Civil penalties for § 16(a) violations, **2:1**
 Criminal prosecutions
 generally, **3:1**
 Section 16(a) violations, **2:1**
 Delinquent § 16(a) filers, disclosures of, **2:1**
 Disclosure forms, adoption of, **2:1**

SECURITIES AND EXCHANGE

COMMISSION (SEC)—Cont'd

- Duty to disclose to
 - generally, **2:91 et seq.**
 - see also **Reporting Requirements** (this index)
- Exemptions, power to create, **3:1**
- Exemptive vs prescriptive rules, **3:53, 3:65**
- False filings, remedies for, **2:1**
- 1991-1996 rules, **App. C**
- 1996-2002 rules, **App. D**
- Numbering of disclosure forms, **2:149**
- Pre-1991 rules, **App. B**
- Present rules, **App. G**
- Receipt of disclosure forms by, **2:96**
- Reporting requirements, enforcement of, **2:1**
- Rule-making authority
 - generally, **2:91, 2:157**
 - retroactivity of rules, **2:169**
- Rules
 - pre-1991, **App. B**
 - 1991-1996, **App. C**
 - 1996-2002, **App. D**
 - 2002-2005, **App. E**
 - 2005-2008, **App. F**
 - present rules, **App. G**
- Short-swing profit recovery by, **3:1**

SECURITIES EXCHANGE ACT OF 1934

- Construction
 - definitions, **3:8**
 - Section 16(a), **2:1**
 - Section 16(b), **3:4**
- Express and implied remedies, **3:5**
- Legislative history
 - generally, **1:1**
 - beneficial ownership requirements, **2:3**
- Section 16(b)
 - generally, **3:2**
 - purchase-and-sale element, **3:8**
- Section 16(c), **4:1**
- Origins of, **1:1**
- Personal jurisdiction, **3:39**
- Private civil actions for violations generally, **2:1**
- Purpose of
 - generally, **1:1**
 - Section 16(b), **3:3**
- Sale, 1933 Act vs 1934 Act definitions, **3:10**
- Section 2, **3:35**
- Section 10(b), **3:3**
- Section 13(d), **2:5**
- Section 16
 - enactment, **1:1**
 - memorandum explaining, **App. A**
 - organization, **1:1**
 - pre-registration applicability, **2:85**

SECURITIES EXCHANGE ACT OF 1934

—Cont'd

- Section 16—Cont'd
 - purpose, **3:3**
- Section 16(a). See **Reporting Requirements** (this index)
- Section 16(b). See **Recovery of Profits** (this index)
- Section 16(c). See **Short Sales** (this index)
- Section 16(d). See **Market Making Activities** (this index)
- Section 16(e). See **Arbitrage Activities** (this index)
- Section 27 violations, **3:1**
- Service of process, **3:41**
- Subject matter jurisdiction, **3:38**
- Venue, **3:1, 3:40**

SECURITY

- Definition, **3:36**

SECURITY FOR EXPENSES

- Section 16(b) actions for recovery of profits, **3:47**

SERVICE OF PROCESS

- Section 16(b) actions for recovery of profits, **3:41**

SETTLEMENTS

- Section 16(b) actions for recovery of profits, **3:50**

SHAM TRANSACTIONS

- Construction of § 16(b) to prevent, **3:4**

SHARE IN PROFITS

- Definition, **2:27**

SHORT SALES

- Generally, **4:1**
- Arbitrage activities exemptions, **6:1**
- Beneficial owners subject to § 16(c)
 - generally, **2:2 et seq., 2:76**
 - see also **Beneficial Ownership** (this index)
- Call options, **4:1**
- Market making activities, exempt, **5:1**
- Memorandum explaining § 16 to insiders, **App. A**
- Organization of § 16 generally, **1:1**
- Put options
 - generally, **3:16**
- Trusts, pecuniary interest determinations as to, **2:38, 2:43**

SHORT-SWING PROFITS

- See **Recovery of Profits** (this index)

SIXTY-DAY DEMANDS

- Section 16(b) actions for recovery of profits, **3:37**

SPIN-OFF DISTRIBUTIONS

- Generally, **2:113, 2:178**

SPLITS, STOCK

See **Stock Splits** (this index)

SPOUSES

See **Families and Family Interests** (this index)

STANDING

See **Recovery of Profits** (this index)

STATE LAW

Limitations periods, application to securities law violations, **2:1**

Ownership determinations, **3:10**

Section 16 equivalents, **3:38**

STATUTES OF LIMITATIONS

See also **Recovery of Profits** (this index)

Disclosure failures, civil actions based on, **2:1**

Implied rights of action, **2:1**

Section 16(a) actions, **2:1**

Section 16(c) actions, **4:1**

State limitations periods, application to securities law violations, **2:1**

STOCK APPRECIATION RIGHTS (SAR)

See also **Derivative Securities** (this index)

Definition, **2:46, 2:85**

Profit calculations in pre-1991 Rule 16b-6(c)(1) and Rule 16b-6(d) recovery actions, **3:30**

Purchase and sale element of § 16(b), application to, **3:16**

Purchase and sale requirement of § 16(b) actions, **3:10**

STOCK DIVIDENDS

See also **Dividends** (this index)

Purchase and sale requirement of § 16(b) actions, **3:10**

Reporting requirement exemptions, **2:178**

Reporting requirements, **2:112**

Rule 16a-9, **2:112**

STOCK EXCHANGES

See also **Broker-Dealers** (this index)

Disclosure forms

availability at, **2:1**

filings with, **2:119**

Primary markets, **5:1**

Secondary markets, **5:1**

Short sale regulations, **4:1**

STOCKHOLDERS

See also **Principal Stockholders** (this index)

Fiduciary duties, violations of, **1:1**

Recovery of profits actions by, **3:1**

STOCK OPTIONS

See **Options** (this index)

STOCK PURCHASE PLANS

Definition, **3:73**

STOCK SPLITS

Purchase and sale requirement of § 16(b) actions, **3:10**

Reporting requirement exemptions, **2:112**

Rule 16a-9, **2:112**

STREET NAME

Beneficial ownership of securities held in, **2:55**

SUBSCRIPTION RIGHTS

Generally, **3:64**

SUBSCRIPTIONS TO DISCLOSURE DATA

Generally, **2:1**

SUBSIDIARY COMPANIES

See also **Parent Companies** (this index)

Issuer status, **2:90**

Recapitalizations as subject to purchase and sale element of § 16(b), **3:17**

SUBSTANTIAL PORTION

Definition, **2:55**

SURVIVAL OF CLAIMS

Section 16(b) actions for recovery of profits, **3:36, 3:46**

SWAPS

Description of, **2:5**

Equity swaps

generally, **2:131**

Section 16(b) actions, **3:11**

Legislative history, **2:1, 3:2**

Purchase and sale, **3:9, 3:11**

Reporting

generally, **2:2, 2:5, 2:91, 2:172**

Form 4, **2:132, 2:142**

Form 5, **2:133 to 2:135, 2:144**

10% ownership test, **2:5**

TAX CONSIDERATIONS

Section 16(b) recovery of profits, **3:1**

TEN PERCENT OWNERSHIP

See **Principal Stockholders** (this index)

TIME FOR FILING REPORTS

See **Disclosure Forms** (this index)

TIPPING BY INSIDERS

Generally, **3:1**

TITLE

See **Beneficial Ownership** (this index)

TRADING

Insiders' purchase and sale liabilities

generally, **3:8 et seq.**

see also **Recovery of Profits** (this index)

TRUSTS

- See also **Beneficial Ownership** (this index)
- Approval rights of beneficiaries, **2:61**
- Beneficial ownership of stocks owned by, **2:5, 2:6**
- Beneficial ownership through, **2:2**
- Against the box sales by trusts, **2:38, 2:43**
- Business trusts
 - director status of trustee, **2:88**
 - pecuniary interest determinations as to, **2:44, 2:53**
 - pre-1991 law, **2:64**
- Deputized director, treatment as for purposes of § 16, **2:88, 2:147**
- Disclosure forms
 - generally, **2:148**
- Disclosure forms, trust and trust beneficiary filings, **2:147**
- ERISA benefit plans, pecuniary interest determinations as to, **2:40**
- Family trusts, pecuniary interest determinations as to, **2:59**
- Insider status memorandum, **App. A**
- Insider trustees
 - generally, **2:45**
- Investment company holdings, **2:64**
- Mixed trusts, pecuniary interest determinations, **2:44**
- One report rule, **2:63**
- Pecuniary interest determinations as to trust interests. **Pecuniary Interest Determinations** (this index)
- Pension and retirement funds
 - pecuniary interest determinations, **2:44, 2:54**
 - pre-1991 law, **2:64**
- Pre-1991 law
 - one report rule, **2:63**
 - reporting requirements, **2:62**
- Public utility holding company holdings, **2:64**
- Remainder interests
 - pecuniary interest determinations as to
 - generally, **2:42, 2:49**
 - pre-1991 law, **2:60**
 - pre-1991 law, **2:60**
 - reporting requirements, **2:177**
- Reporting by trustees and beneficiaries, **2:45**
- Reporting requirements
 - pre-1991 law, **2:62, 2:165**
 - remainder interests, **2:177**
- Section 16(b) liability of trust controlled by insider, **3:25**
- Settlor-directed trades, **2:37**
- Short sales by trusts, **2:38**
- Small interests, **2:61**
- Three types of trust interests for pecuniary interest determinations, **2:58**

TRUSTS—Cont'd

- Trusts' vs trustees' pecuniary interest determinations, **2:34**
- Vested beneficial interests, pecuniary interest determinations as to, **2:59**
- Voting. See **Voting Trusts** (this index)

UNDERWRITERS

- Generally, **2:176**
- Beneficial ownership, **2:5, 2:6**
- Offerings, reporting requirements exemptions, **2:176**
- Pecuniary interest exemptions, **2:73**
- Pre-1991 law, **2:73**
- Purchase and sale requirement of § 16(b) actions, application to, **3:10**
- Reporting requirements exemptions, **2:176**
- Rule 13d-3, **2:10 to 2:14**
- Short sale regulations, applicable to, **4:1**

UNORTHODOX TRANSACTIONS

- See **Recovery of Profits** (this index)

VENUE

- Section 16(b) actions, **3:40**

VESTING

- Pecuniary interest determinations, **2:27**

VOTING AND VOTING RIGHTS

- See also **Rule 13d-3** (this index)
- See also **Voting Trusts** (this index)
- Beneficial ownership determinations
 - generally, **2:5, 2:6, 2:20**
 - power to vote stock and, **2:27**
 - Rule 13d-3, **2:6, 2:7**
- Pecuniary interest determinations, **2:27**
- Section 16(b) purchase and sale element, voting rights as incident of ownership, **3:10**

VOTING TRUSTS

- Recovery of profits actions, voting trust agreement exemptions, **3:85**

WAIVER

- See also **Recovery of Profits** (this index)

WARDS

- See **Conservatorships** (this index)

WARRANTS

- See also **Derivative Securities** (this index)
- Definition, **2:46**
- Pecuniary interest determinations, **2:69**
- Profit calculations in pre-1991 Rule 16b-6(c)(1) and Rule 16b-6(d) recovery actions, **3:30**
- Purchase and sale element of § 16(b) actions, applicability to, **3:9, 3:16**

WHEN ISSUED SECURITIES

- Definition, **2:85**