
INDEX

A

Abnormal returns, 253–256

Accountants, 15, 16, 482

Accounting

and corporate governance, 482

goodwill, 589

manipulation and incentive to
merge, 44, 45

scandals, 479, 480, 486

treatment for M&As, 588, 589

Acquisition premiums. *See* Premiums

Agency costs, 485–489, 492, 505, 506

Alphabet stock, 439

Antitakeover defenses, 58, 171, 233

active, 197–233

change in control of board of
directors, 83

employee stock ownership plans, 392,
393, 396, 397

management entrenchment hypothesis
versus stockholder interests
hypothesis, 172, 173

preventative, 173–196

Antitakeover legislation, 58, 92–98, 116

Antitrust law, 100, 116

antitrust conflict as takeover
defense, 226

Celler-Kefauver Act, 40, 41, 103, 116

Clayton Act, 36, 37, 40, 41, 97,
101–103, 116

enforcement, 32–34, 36, 37, 40–42, 46,
107–113, 418, 419

Europe, 114, 115

Federal Trade Commission Act, 102,
103

government opposition to proposed
acquisition, 105, 106

Hart-Scott-Rodino Act. *See*

Hart-Scott-Rodino Antitrust

Improvements Act

international mergers, 107

litigation as antitakeover defense, 227

premerger review, 104, 105

Sherman Act, 32, 33, 36, 37, 100–102,
116

state laws, 97, 116

21st Century Acquisition Reform and
Improvement Act of 2000, 104

Approval procedures for mergers, 21, 22

Arbitrage, 16–18, 57, 180, 239, 261–263,
560, 575

Articles for merger or consolidation, 21

Asia

bankruptcies, 449, 450

divestiture trends, 405–407

executive compensation,
486

and fifth merger wave, 63

golden shares, 192

leveraged buyouts, 295, 329

privatization of state-owned
enterprises, 65, 66

spinoffs, 416, 417

takeover regulation, 88–90

trends in M&As, 6, 8, 9

Asset acquisition, 23, 592, 594, 595

Asset-backed securities (ABSs), 374, 375,
377

Asset-based (secured) lending, 307,
309–315, 328

Asset selloffs, 25, 225–227

Assumption of liabilities, 25, 213,
216–219, 226, 322, 420, 421, 467

Attorneys, 15, 16, 22, 99,
247

Auction process, 92, 98, 116, 180, 183,
207, 211–213, 229, 231, 233, 243,
245, 247, 299, 300, 304, 317, 373,
419, 429, 563, 566

Audits, 577, 578

Automobile industry, vertical
integration, 156, 157

B

Back-end plans, 178

Backward integration, 154

Banking industry, 4, 6, 61, 129–132, 362

Bankruptcy, 443, 477, 478

acquisition opportunities, 467, 468

business failure, 443–446

and corporate control, 470, 471

distressed securities, investing

in, 471–477

ESOP as alternative to, 382, 383

filing for, 443, 454–456

fraud related, 451, 452

fraudulent transfers, 470

Japan, 449, 450

laws, 452, 453

and leveraged buyouts (LBOs), 316,
325–328, 445, 448, 470

liquidations (Chapter 7), 437, 443,
452–454, 471

and litigation liabilities, 471, 472

petition, 454

prepackaged, 462–465, 477

reorganization (Chapter 11), 443, 444,
448, 453–467, 470–472, 474–478

risk of and debt-coinsurance, 133, 134

and roll-up acquisitions, 153

sharks (vultures), 475–477

tax consequences, 464, 478

trends, 446–452

workouts, 444, 464–466, 478

Base equity price, 12

Bear hugs, 234, 237–240, 281

Best price rule, 83

Beta, 543

Black-Scholes option pricing model, 549,
550

Blank check preferred stock, 179, 208,
233

Board of directors

and agency costs, 485, 492, 493

and approval of M&As, 503, 504

bright line standards, 497,

498

compensation issues, 480, 488, 489,

492, 493, 497, 498, 501

control of after tender offer, 83

and corporate performance,

502, 503, 507

elections, 263, 264

independence, 256, 257, 494–498, 508,
517, 518

interlocking, 488, 492–495, 518

merger approval procedures, 21, 22

and need for formal valuation, 531–533

perks, 492, 493

personal interests and M&As, 485, 506

proxy contests for seats on, 268

size of, 488, 494, 498, 499, 501

staggered terms, 185, 186, 233

Board out clauses, 186, 187

Boesky, Ivan, 57, 99, 261

Bondholders, wealth transfer effects,
322–324

Book value, 534, 535, 576, 579

Bootstrap effect, 46, 572–574

Breakup fees, 211, 212

Bridge loans, 360, 361

Brokerage firm purchase exception, 106

Business combination provision, state
antitakeover laws, 95, 96, 116

Business failure, 443–446

Business judgment rule, 22, 91, 92, 98,
194, 223, 224, 233, 531, 532

Bustups, 437, 438

Buyers, 429

C

Capital structure

changes, 197, 213–225, 233, 458, 459,
461, 462, 473, 474

leveraged buyouts (LBOs), 314, 315

- Cash flow leveraged buyout. *See* Leveraged buyouts (LBOs)
- Cash flows, 536, 539–541, 545, 548–551, 558, 559, 575, 576, 583, 584–587.
See also Discounted cash flow (DCF)
- Cash-out statutes, 95, 116
- Cash repurchase tender offers, 25
- Cash transactions, 14, 331–335, 566, 567, 583
- Casual pass, 237
- Celler-Kefauver Act, 40, 41, 103, 116
- Central America, 6, 10, 11, 63, 65, 66
- Certificate of merger or consolidation, 21
- Chewable pills, 180
- Chief executive officer compensation. *See* Executive compensation
- China, 6, 89, 90
- Chinese Paper, 355
- Chinese wall, 17
- Clayton Act, 36, 37, 40, 41, 97, 101–103, 116
- Closed-end investment companies, 25
- Closely-held businesses, 25, 550, 576–583
- Club deals, 343, 344
- Coinsurance, 133, 134, 140, 141
- Collective bargaining agreements, 24
- Committee on Foreign Investment in the United States (CFIUS), 84
- Common stock, cost of, 543, 544
- Comparable multiple analysis, 533, 541, 550–553, 583
- Concentration ratios, 109
- Conflicts of interest, 22, 299–301
- Conglomerate mergers, 13, 37, 40, 46, 47
- Consolidation, 12, 61–63, 152–154
- Consolidators, 62
- Consumer surplus, 147, 148
- Continuing value (CV), 536, 537, 583
- Contracts, 519, 520
- Control rights and strategic alliances, 527
- Control share provision, state antitakeover laws, 95, 116
- Convergence of interests hypothesis, 172
- Convertible securities, 45, 46, 106, 208, 420
- Corporate charter amendments, 184–192, 233, 266
- Corporate governance, 479–518. *See also* Management
and accounting profession, 479, 481, 482
and accounting scandals, 479–481, 486
agency costs, 485–489, 492, 493, 505
board of directors. *See* Board of directors
corporate democracy, 483, 485
disciplinary takeovers, 498, 499, 502, 503
executive compensation. *See* Executive compensation
insiders, 494, 495, 499, 502
and merger strategy, 503–518
and mergers of equals, 509
and Sarbanes-Oxley Act. *See* Sarbanes-Oxley Act
- Corporate raiders, 57, 67, 68, 237, 239.
See also Icahn, Carl; Pickens, T. Boone
- Corporate restructuring, 225–227, 233, 442
defined, 18
divestitures. *See* Divestitures
equity carve-outs. *See* Equity carve-outs
exchange offers, 402
generally, 18, 19
and joint ventures, 525
spinoffs. *See* Spinoffs
splitoffs, 401
splitups, 401, 402
- Cost of capital, 135, 166, 542
- Cost of debt, 542, 543
- Cost restructuring, 18, 19
- Creditors
and bankruptcy, 454–466, 470, 471, 477, 478
and leveraged buyouts, 311, 325–328

Creeping acquisitions, 106, 242
 Currency valuation, 59, 121, 335

D

De facto mergers, 24
 Dead hand provisions, 179
 Deadweight loss, 147–149
 Deal structures, 24
 Debt, assumption of, 217–219, 420, 421
 Debt coinsurance, 133, 134
 Debt financing, 334, 335
 Delaware, 12, 23, 34, 88, 89, 91, 92, 95, 96, 179–181, 185, 196, 199, 203, 204
 Depositories, 247, 267, 268
 Deregulation, 6, 56, 59, 61, 129–132, 151, 358
 Disclosures, 20, 21, 51, 70–72, 75–78, 86, 206, 222, 227, 228, 236, 258, 259, 322, 481–483, 578
 Discount rate, 533, 535, 537, 541, 542, 545–555, 583, 584–587
 Discounted cash flow (DCF), 535, 536, 538–542, 547–550, 583–587
 Discounts, 142, 143, 556, 560, 566, 579–583
 Diseconomies of scale, 127, 128
 Dissenting shareholders rights, 23
 Distressed securities, 471–477
 Distribution channels, 164, 166, 521, 528
 Diversification, 40–43, 136–145, 504, 505
 Divestitures, 18, 109, 382, 401–415, 438
 Dividends
 on ESOP shares, 385
 liquidating, 25
 and poison pills, 178, 179
 preferred stock, 178
 recapitalizations, 346, 347
 and share repurchases, 201
 superdividends, 213, 233
 Domestic market flowback, 575
 Downsizing, 18, 19, 421, 442. *See also*
 Spinoffs
 Drexel Burnham Lambert, 57, 99, 100, 250, 356–363, 365, 375, 376
 Dual capitalization, 189–191, 233

E

Earnings before taxes, interest, taxes, depreciation and amortization (EBITDA), 444, 535, 539, 550–553, 584, 586, 587
 Earnings per share (EPS), 188, 302, 389, 550, 568–575, 583
 Economies of scale, 36, 62, 126–129, 134, 135, 152, 165
 Economies of scope, 129, 165
 EDGAR (Electronic Data Gathering and Retrieval), 72
 Efficiency gains, 303, 304, 317, 320
 Eight Factor Test, 80–82, 240, 241
 Emerging markets, 66
 Employee stock ownership plans (ESOPs), 378, 397, 398
 as antitakeover defense, 392, 393, 396, 397
 balance sheet effects, 389
 as bankruptcy alternative, 382, 383
 buyouts, 381, 382
 and cash flow, 383, 384
 contributions to, 381
 and corporate performance, 390–392
 divestitures, 382
 dividend payments, 385
 eligibility requirements, 384
 and employee morale, 386, 387, 390–392
 employee risk, 387, 388
 fiduciary responsibilities, 392
 growth of, 378–380
 leveraged, 379–382, 384, 388–390, 394–396
 and leveraged buyouts, 378, 381, 394–396
 and management buyouts, 397
 public stock offering compared, 385, 386
 put options, 384
 reasons for, 380, 381
 and recapitalization, 214
 securities laws, 388

- and share issuance, 220, 221
 - shareholder approval for, 383
 - shareholder wealth, effect on, 393, 394
 - as source of capital, 383
 - and spinoffs, 421
 - stock contribution, valuation of, 384
 - tax benefits, 388, 389
 - types of, 380
 - unleveraged, 381
 - voting rights, 383, 390
 - and Williams Act requirements, 75
 - Enterprise value, 12, 539
 - Equity carve-outs, 18, 19, 401–403, 434–437, 442
 - Equity financing, 43, 44, 331–335, 339
 - Equity kicker, 308
 - Equity restructuring, 189–191
 - Escape clauses, 79, 186, 187
 - Europe
 - bridge loans, 360, 361
 - divestiture trends, 405–407
 - executive compensation, 486–488
 - and fifth merger wave, 63
 - fraud-related bankruptcies, 451, 452
 - golden shares, 192
 - leveraged buyouts, 291–295, 329
 - merger and acquisition trends, 3–7
 - privatization of state-owned enterprises, 65, 66
 - protectionism, 67
 - spinoffs, 416–418
 - takeover regulation, 85–88
 - takeover tactics and shareholder concentration, 205, 206
 - tender offer regulation, 248
 - European Union (EU)
 - merger regulation, 114
 - takeover regulation, 86, 87
 - Evergreen agreement, 194
 - Exchange offer, 402
 - Exchange ratio, 14, 567–575
 - Executive compensation, 162, 163, 192–196, 486–491, 493, 498, 501–505, 508, 509
- F**
- Fair price provision, 94, 116, 188, 189, 233, 248, 249
 - Fairness opinions, 21, 22, 532, 533
 - Fallen Angels, 355
 - Family businesses, 39. *See also*
 - Closely-held businesses
 - Federal Trade Commission Act, 102, 116
 - Federal Trade Commission (FTC), 102, 103, 106
 - Fees
 - hedge funds, 355
 - investment banks and bankers, 15, 16, 22, 57, 58
 - private equity firms, 347
 - termination, 211, 212, 599, 600
 - topping fees, 211, 212
 - Fiduciary duties, 91, 159, 194, 199, 211, 220, 232, 233, 236, 299, 300, 303, 321, 324, 392, 480, 485, 486, 490, 492, 502, 506, 509
 - Financial characteristics of targets, 575, 576
 - Financial printers as insiders, 99
 - Financial restructuring, 19
 - Financial statements, 560, 577, 578
 - Financial synergy, 124, 125, 133–136
 - Financing, 14, 375–377
 - cash versus stock, 331–334
 - debt financing, 334, 335
 - equity financing, 43, 44
 - generally, 14, 330
 - hedge funds, 348–355
 - institutional investors, effect of, 339, 340
 - international deals, 335
 - junk bonds. *See* Junk bonds
 - leveraged buyouts, 309–316
 - payment method, effects of, 335–340
 - private equity market, 340–348, 352–355

Financing, (*continued*)

- securitization, 374, 375, 377
 - seller financing and spinoffs, 420
 - shareholder wealth effects, 335–340
 - stapled, 373, 374
 - 5% test (merger guidelines), 112
 - 5% threshold (Williams Act), 72, 75, 82, 116, 187, 236, 245, 258, 259, 267
 - Flip-in poison pills, 177, 178, 233
 - Flip-over poison pills, 173–176, 178, 233
 - Flipping companies, 342
 - Form 8K, 70
 - Form S-1, 70
 - Form S-4, 70
 - Forward integration, 154, 155
 - Forward triangular mergers, 24
 - Forwarding agent, 247
 - 401(k) plans, 380
 - Franchises, 375
 - Fraud
 - and bankruptcy, 451, 452, 470
 - and misrepresentation of earnings, 559, 560
 - Free cash flows, 536, 539–541, 547, 548, 584
 - Freezeouts, 23
 - Front end-loaded tender offers, 248
- G**
- General Utilities Doctrine, 595
 - Glamour firms, 253, 562
 - Go-go years, 44
 - Going private, 17, 18, 225, 226, 285, 295, 301, 302, 305, 315–317, 320, 322–326, 329
 - Golden handcuffs, 195
 - Golden parachutes, 192–196, 599
 - Golden shares, 192
 - Goodwill, 589
 - Governance. *See* Corporate governance
 - Greenmail, 57, 191, 197, 198–203, 223, 233, 239, 259, 600
 - Growth as motive for M&As, 14, 117–123, 165

H

- Hart-Scott-Rodino Antitrust Improvements Act, 83, 103–107, 116, 244
- Hedge funds, 180, 198, 202, 345, 348–355, 370–372, 376, 377
- Herfindahl-Hirschman (HH) Index, 110–112
- High-yield bonds. *See* Junk bonds
- Highly Confident Letters, 359
- Holding companies, 26–28, 39
- Holdouts, 23, 261
- Hong Kong, 6
- Horizontal integration, 145–154, 165
- Horizontal mergers, 13, 30, 36, 41
- Hostile takeovers, 19, 46–61, 234, 236–240. *See also* Tender offers
- Hubris hypothesis, 157–162, 166, 562
- Hurdle rate, 410, 545

I

- Icahn, Carl, 53, 96, 198, 199, 202, 237–239, 265, 266, 270, 320, 350, 351, 359, 392
- Income reporting, 577, 578
- Initial public offerings (IPOs), 342, 385, 386, 436
 - special purchase acquisition vehicles (SPACs), 27, 28
- Inside information, 17, 261
- Insider trading, regulation of, 98–100
- Insiders and corporate governance, 494, 495, 499, 502
- Institutional investors, 14, 18, 75, 167, 173, 184, 205, 242, 264–266, 315, 323, 328, 339, 340, 344, 345, 348, 357, 358, 364, 376, 556
- Interest, 316, 541, 547, 597
- Internal transfer price, 155
- International mergers and acquisitions, 58, 61, 63–68, 107, 120–123, 335, 546, 547, 575
- International securities laws, 85–90
- Investment banks and bankers
 - arbitrage departments, 17

- Chinese wall, 17
- fairness opinions, 22
- fees, 15, 16, 22, 57, 58
- as insiders, 99
- and junk bonds, 360
- leveraged buyouts, 299, 308, 312, 313
- and merger waves, 39, 43, 57, 58, 62
- role of, 15, 16
- tender offers, 246
- Investment companies, 25
- Investment Company Act of 1940, 25, 351
- Investment exception to Hart-Scott-Rodino Act, 106
- J**
- Joint ventures, 519–527, 530
- Junior subordinated debt, 309, 313
- Junk bonds, 17, 57, 58, 60, 67, 68, 330, 331, 355–361, 363–366, 369–373, 376, 377
 - collapse of market, 17, 59, 99, 100, 250, 263, 281, 287, 361–369, 377, 446, 448
 - and leveraged buyouts (LBOs), 287, 314, 322–325
- Just say no defense, 230, 231
- Justice Department, 107–113
- L**
- LBO. *See* Leveraged buyouts (LBOs)
- Leading industry position, 136, 137
- Lerner Index, 147
- Letter of Transmittal, 82
- Letter stock, 439
- Leverage ratios, 576
- Leveraged buyouts (LBOs), 68, 225, 226, 285, 328, 329
 - asset-based (secured) lending, 307, 309–315, 328
 - and bankruptcy, 316, 325–328, 445, 448, 470
 - capital structure, 314, 315
 - cash-flow (unsecured LBOs), 307, 308, 310, 313
 - and costs of being public company, 295–297
 - defined, 17
 - divisional, 317, 318, 320, 321
 - and ESOPs, 378, 381, 394–396
 - financing, 309–316
 - and fourth merger wave, 58, 286, 287, 297, 306, 315, 316, 322, 323
 - gains, sources of, 302–308
 - globalization, 291–295
 - going private. *See* Going private
 - and investment banks, 299, 308, 312, 313
 - and junk bonds, 287, 314, 322–325
 - and LESOPs, 382
 - management buyout, 285, 297–304, 313, 317, 322
 - performance, 318–321
 - and private equity funds, 315, 340
 - recapitalization compared, 215, 216, 308
 - regulation and disclosure, 322
 - reverse, 319–321
 - risk, 306, 308, 309, 314–316, 324, 325
 - shareholder returns, 317–319
 - tax consequences, 306, 307, 599
 - trends, 286–290
 - wealth transfer effects, 322–324
 - as white knights, 322
- Leveraged employee stock ownership plans (LESOPs), 379–382, 384, 388–390, 394–396
- Leveraged loans, 369–373, 377
- Leveraged recapitalizations, 215, 216, 308
- Lipton, Martin, 174, 230
- Liquidating dividends, 25
- Liquidation, 226, 227, 437, 443, 452–454, 471, 535
- Liquidity, 152, 360, 376, 444, 557, 558, 576, 596

- Litigation
 as antitakeover defense, 227–229, 233
 liabilities and bankruptcy, 471, 472
 takeover battles, 197
- Lockup transactions, 209–211, 226
- M**
- Management
 and agency costs, 485–489, 492, 505
 compensation, 489, 490, 504, 506–509
 perks, 486, 492, 493
 proposals, proxy contests, 268
 and tender offers, 245, 246
- Management buyouts (MBOs), 17, 58, 285, 297–304, 313, 317, 322, 382, 397, 598
- Management entrenchment
 hypothesis, 172, 173
- Managerialism, 159
- Market concentration, 42, 109
- Market power, 146, 147, 149–152
- Market share, 109
- Marketability of stock, 533, 557–559, 579–581
- Master limited partnerships, 440, 441
- Material adverse change clause, 20
- Megamergers, 30, 54–56, 60, 68
- Merger defined, 12
- Merger waves
 causes of, 29, 30
 fifth wave, 3, 4, 59–66, 234, 287, 297, 302, 329, 377, 418, 547
 first wave, 30–36, 67
 fourth wave, 3, 15, 16, 39, 53–59, 67, 234, 263, 264, 286, 287, 297, 306, 315, 316, 322, 323, 350, 351, 363–366, 369, 377, 434, 443, 446, 448
 international, 63
 and leveraged buyouts, 17, 18
 and merger premiums, 562, 563
 1940's, 39, 40
 1970's, 47–53
 second wave, 36–39, 67
 third wave, 17, 40–47, 67
- Mergers of equals, 509, 562–565
- Mergerstat, 12
- Mezzanine layer financing, 313, 314
- Milken, Michael, 99, 100, 355, 356, 358, 359, 375
- Minority discount, 580–582
- Minority shareholder freezeouts, 23
- Money purchase plans, 380
- Monopolies, 30, 36, 37, 101, 145–147, 149–152, 165
- Morris Trust, 595, 596
- Motives for mergers and acquisitions
 distribution channels, 164, 166
 diversification, 136–145
 generally, 14
 growth, 117–123, 165
 horizontal integration, 145–154
 hubris hypothesis, 157–161
 management improvement, 163, 166
 research and development improvement, 164–166
 synergy, 124–136
 tax benefits, 165
 vertical integration, 154–157
- Mutual funds, 25, 347, 348, 353
- N**
- NASDAQ, 85, 558
- National Association of Securities Dealers (NASD), 21, 75, 78, 351, 558
- National security, threats to, 84, 85
- Negotiations, 19–21, 341
- Net acquisition value (NAV), 124
- Net present value, 535, 536
- New York Stock Exchange (NYSE), 85, 494, 497, 557
- No action letter, 269
- No hand provisions, 180
- No-shop provisions, 212, 213
- Note purchase rights plans, 178

O

Offer to Purchase, 82
 Oligopoly, 36, 146, 149
 Open-end investment companies, 25
 Open market purchases, 241, 242,
 258–261
 Operating synergy, 124–133
 Option exception to Hart-Scott-Rodino
 Act, 106
 Over-the-counter (OTC) market, 557, 558

P

Pac-Man defense, 197, 229, 230, 232, 233
 Partial tender offers, 79, 249, 250
 Paying agent, 82
 Payment, methods of, 335–340. *See also*
 Financing
 Payment-in-kind (PIK) securities, 360
 Pension funds, 180, 184. *See also*
 Institutional investors
 Pickens, T. Boone, 53, 91, 207, 223, 224,
 229, 239, 363
 Poison pills, 88, 173–184, 216, 233, 393
 Poison puts, 184, 325
 Portfolio management, 137, 138
 Preferred stock, 174, 175, 179, 208, 543
 Premiums
 acquisition, 132, 133, 563
 cash offers, 375
 control premium, 555–557, 563, 565,
 566, 581
 and director independence, 256, 257
 equals, mergers of, 563–565
 going private, 301, 302, 305
 historical trends, 562
 poison pills, effect of, 182, 183
 risk, 544, 545, 547, 558, 583
 and role of arbitrageurs, 560
 and stock market activity, 562, 563
 strategic mergers, 563
 and synergy, 132, 133
 Press releases, 76, 80
 Price-earnings ratio (P/E), 43, 44, 46, 64,
 285, 301, 302, 317, 550, 553, 554,
 564, 569–574, 576, 579, 580, 583

Price elasticity, 112
 Price-fixing, 37
 Private companies. *See* Closely-held
 businesses
 Private equity firms, 17, 18, 347, 374–376
 Private equity funds
 and hedge funds, 352–355
 leveraged buyouts (LBOs), 315, 340
 Private equity market, 330, 340–348
 Privatization of state-owned
 enterprises, 65, 66, 68
 Producer surplus, 147, 148
 Profit sharing plans, 380
 Proxy fights, 191, 234, 235, 261, 263–282
 Proxy solicitations, 21, 85
 Proxy voting, 265–268
 Public Utility Holding Company Act
 (PUHCA), 38, 84
 Pure plays, 411
 Put options, 184, 384
 Pyramid holding companies, 39

R

Rabbi trusts, 194
 Real estate investment trusts (REITs), 596
 Recapitalization, 197, 215, 216, 233, 308,
 311, 346, 347
 Regulation M-A, 75
 Regulatory framework, 69, 522, 523
 Reincorporation, 196, 233
 Reorganization in bankruptcy. *See*
 Bankruptcy
 Research and development
 (R&D), 164–166, 319, 521, 524, 526
 Reverse leveraged buyouts
 (LBOs), 319–321
 Reverse mergers, 25, 26
 Reverse subsidiary merger, 12
 Reverse triangular mergers, 24
 Revlon duties, 91, 92, 98, 115, 116, 231
 Risk
 arbitrage, 17, 560, 575
 of bankruptcy, 133, 134
 beta measure, 543

Risk (*continued*)

- business risk, 315
 - and choice of discount rate, 541
 - and discount rate, 541, 542, 545–547
 - and ESOPs, 387, 388
 - event risk, 324, 325
 - interest rate, 316, 541
 - international acquisitions, 546, 547
 - junk bonds, 363–366
 - lack of liquidity, 558
 - leveraged buyouts. *See* Leveraged buyouts (LBOs)
 - premium. *See* Premiums
 - stock versus cash transactions, 567
- Roll-out, 440
- Roll-up acquisitions, 62, 152–154
- Russia, tender offer rules, 88

S

- Sarbanes-Oxley Act, 295, 371, 377, 451, 481, 482, 517
- Saturday-night special, 51
- Scorched earth defense, 218
- Securities Act of 1933, 71
- Securities and Exchange Commission (SEC)
- audit requirements, 577, 578
 - bright line standards for directors, 497, 498
 - EDGAR database, 72
 - Form 8K, 70
 - Form S-1, 70
 - Form S-4, 70
 - hedge fund regulation, 351, 352
 - no action letters, 269
 - proxy contests, regulation of, 268, 269
 - proxy statements, 69
 - and regulation of public utilities, 38
 - Rule 14a-6, proxy materials, 85
 - Rule 10b-5, insider trading, 98, 99
 - Rule 10b-13, purchases outside of tender offer, 83
 - Rule 14d-6, oversubscribed partial tender offer, 79
 - Rule 14d-7, withdrawal rights, 79
 - Rule 14d-9, 223
 - Rule 14d-10, type of consideration, 83
 - Rule 13e-1, self-tenders, 223
 - Rule 13e-3, repurchases in going private transactions, 322
 - Schedule 14A, 21, 85, 268, 269
 - Schedule 13D, 72, 76
 - Schedule 14D-9, 77, 78, 223
 - Schedule 13E-3, 322
 - Schedule 13G, 75
 - Schedule TO, 75–77, 116, 241, 242, 245, 259, 322
 - stock-financed transactions, registration requirements, 567
- Securities Exchange Act of 1934, 70, 84, 116, 223, 268, 269, 351
- Securities transactions, 14, 244
- Securitization financing, 374, 375, 377
- Self-tender offer, 222–224
- Selloffs, 18, 403, 421–431, 439, 440, 442, 525. *See also* Divestitures; Equity carve-outs; Spinoffs
- Shadow pill, 180
- Share repurchases, 201, 221–223. *See also* Greenmail
- Shareholder activism, 270
- Shareholder appraisal rights, 23
- Shareholder approval, 21, 22, 25
- Shareholder interests hypothesis, 172
- Shareholder wealth
- conglomerates, effect of, 142
 - and corporate control, 506–509, 517
 - diversification, effect of, 42, 43, 141, 142
 - dual capitalizations, effect of, 190, 191
 - employee stock ownership plans, effect of, 393, 394
 - fair price provisions, effect of, 188, 189
 - fifth merger wave, effect of, 63–65, 68
 - golden parachutes, effect of, 193
 - greenmail, effect of, 200, 201
 - international mergers, effect of, 122
 - joint ventures, effect of, 523–525, 528, 530

- leveraged buyouts, 317, 318, 322–324
 - litigation, effect of, 228, 229
 - methods of payment, effect
 - of, 335–340, 376
 - poison pills, effect of, 180–184
 - proxy fights, effect of, 275, 277, 283
 - recapitalization plans, effect of, 217
 - reincorporation, effect of, 196
 - selloffs, effect of, 421–429
 - standstill agreements, effect of, 203, 204
 - state antitakeover laws, effect of, 97
 - strategic alliances, effect of, 528–530
 - supermajority provisions, effect of, 187, 188
 - tender offers, effect of, 253–258
 - two-tiered tender offers, effect of, 248, 249
 - and valuation effects of M&As, 540, 560–562, 567, 583
 - voluntary liquidations, effect of, 438
 - white knight bids, effect of, 206, 207
 - Shark repellents, 173, 325
 - Shelf registration rule, 219
 - Shell corporations, 23–26, 258
 - Sherman Act, 32, 33, 36, 37, 100–102, 116
 - Short-form mergers, 22, 23
 - Silver parachutes, 194
 - Slow hand provisions, 179, 180
 - Smith v. Van Gorkom*, 22, 531–533
 - South America, 6, 10–11, 63, 65, 66
 - Special purchase acquisition vehicles (SPACs), 27, 28
 - Spinoffs, 18, 401–403, 413–421, 424, 425, 431, 437, 442
 - Splitoffs, 401
 - Splitups, 401, 402
 - Standstill agreements, 197, 203–205, 224, 233
 - Stapled financing, 373, 374
 - State law
 - antitakeover legislation, 58, 95, 96, 116
 - antitrust law, 97, 116
 - blue sky laws, 244
 - and ESOPs, 388
 - mergers and acquisitions, 21
 - State of incorporation, changing, 196, 233
 - Statutory mergers defined, 12
 - Stock exchanges
 - de-listing target after takeover, 84
 - NASDAQ, 85, 558
 - New York Stock Exchange, 85, 482, 494, 497, 557
 - regulations, 85
 - Schedule 14D-9, 77, 78
 - Stock-for-stock exchanges, 335, 565–575, 583, 584, 591–594
 - Stock held in street names, 267, 268
 - Stock market crashes, 39
 - Stockholders' meeting, 266
 - Strategic alliances, 519–522, 525–530
 - Strategic mergers, 60, 68, 98
 - Street sweeps, 258–262
 - Stub, 213
 - Subordinated debt, 309, 313, 314
 - Subsidiary mergers defined, 12
 - Successor liability, 24
 - Supermajority provisions, 186–188, 258
 - Synergy, 14, 117, 124–136, 409, 410, 421
- T**
- Takeovers, 12, 35, 58, 197. *See also*
 - Hostile takeovers
 - Tax consequences, 588
 - after-tax debt rate, 542, 543
 - asset basis step-up, 594, 595
 - General Utilities Doctrine, 595
 - golden parachutes, 599
 - greenmail payments, 202, 600
 - leveraged buyouts, 306, 307, 599
 - leveraged employee stock ownership plans, 388, 389
 - loss carryforward, 592–594
 - management buyouts, 598
 - master limited partnerships, 440, 441
 - and merger decision, 596–598
 - Morris Trust, 595, 596
 - prepackaged bankruptcy, 464

- Tax consequences, (*continued*)
 real estate investment trusts
 (REITs), 596
 spinoffs, 419, 420
 stock and cash transactions, 592
 stock-for-stock exchange, 591–594
 stock versus cash transactions, 566,
 567, 592
 tax-free exchanges, 165
 tax-free reorganizations, 589–591,
 594
- Tax issues
 changes in tax laws, 595,
 596
 income reporting, 577, 578
 tax benefits as motive for M&As, 165,
 166
 valuation of closely-held business, 578,
 579
- Tender offers, 69, 79–85, 234, 235,
 240–258, 260, 261, 278, 279, 281.
See also Williams Act
- Termination fees, 211, 212, 599, 600
- Three-piece suitor, 250
- Time-Warner-Paramount, 98
- Tobin's q , 142, 172
- Toe-hold share accumulations, 236,
 237
- Topping fees, 211, 212
- Tracking stocks, 439, 440
- Trading patterns, 173
- Trends in financing, 330–377
- Trends in mergers and acquisitions, 3–11,
 286–290, 403–407, 416–418
- Triangular deal structure, 24
- Trust funds doctrine, 24
- Trusts
 and first merger wave, 33, 34
 Morris Trust, 595, 596
 rabbi trusts, 194
 real estate investment trusts
 (REITs), 596
 utility trusts, 38
- Two-tiered tender offers, 248, 249
- Types of mergers, 13
- U**
- Unocal standard, 91, 223, 224
- V**
- Valuation
 analysis, 20
 and antitakeover defenses, 533, 534
 and arbitrage, 560
 and Black-Scholes option pricing
 model, 549, 550
 book value, 534
 closely-held businesses, 533, 541, 550,
 576–583
 comparable multiples, 538, 541,
 550–553, 583
 continuing value, 536, 537
 and control premiums. *See* Premiums
 cost of capital, 542
 cost of common stock, 543, 544
 cost of debt, 542, 543
 cost of preferred stock, 543
 data reliability, 559, 560
 discount rate, 545–547
 discounted cash flow method, 535, 536,
 538, 539, 541, 542, 547–550,
 583–585
 effects of M&As, 560, 561
 enterprise value, 539
 exchange ratio, 567–575
 experts, role of, 15, 16
 fraudulent misrepresentation, 559, 560
 free cash flows, 539–541
 glamour firms versus value
 companies, 562
 hurdle rate, 545
 and interest rates, 547
 and liability of board of
 directors, 531–533
 liquidation value, 535
 and marketability of stock, 557–559
 methods, 533
 net present value, 535, 536
 outliers, 551

- P/E multiples, 546, 553, 554, 579, 580, 583
- and real options, 548–550
- Smith v. Van Gorkom*, 531–533
- stock contributed to ESOP, 384
- stock-for-stock exchanges, 565–575
- sum-of-the-parts breakup analysis, 585–587
- of target's equity, 539, 551, 553, 555
- Venture capital, 340
- Vertical integration, 37, 154–157, 165, 166
- Vertical mergers defined, 13
- Voting plans, 178
- Voting process, 265–268
- Voting rights, ESOP shares, 383, 390
- W**
- Warrants, 106, 308, 313, 314, 420
- Welfare loss, 147–149
- Wellman v. Dickinson*, 80–82, 240, 241
- White knights, 197, 205–209, 212, 214, 243, 258, 259, 322
- White squires, 197, 208–213, 220, 222
- Wholly owned subsidiaries, 26
- Williams Act, 46, 69–84, 116, 240, 242–244, 246, 259
- Winner's curse hypothesis, 161–163, 166
- Withdrawal rights, 79
- Workforce restructuring, 18
- WorldCom, 479, 480, 510–517

