

Contents

Preface	xvii
CHAPTER 1	
Regulation	1
Securities and the Public Interest	1
Meaning of “Security”	3
Debt, Equity, and Option Securities	4
Debt Securities	4
Equity Securities	4
Option Securities	5
Securities Transactions	6
Institutional and Functional Regulation	7
Institutional Regulation	7
Functional Regulation	8
International Regulation	9
Exclusions and Exemptions	9
Securities Exclusions and Exemptions	12
Accredited Investors and Qualified Institutional Buyers	12
Other Exclusions and Exemptions	13
Structure of Securities Laws	14
Primary-Market and Secondary-Market Laws	14
Securities-Registration and Markets-Regulation Laws	16
Other Securities Laws	16
Investment-Management Law	16
Securities-Account Insurance Law	17
Securities-Regulation Agency Law	18
Regulatory Objectives	19
Investor Protection	19
Fair and Orderly Markets	19
Control of Systemic Risk	20
Competition	21
Disclosure and Transparency	21
Disclosure of Information	21
Transparency of Markets	23
Regulation and Supervision	24

Regulation	24
Supervision	26
Control	27
Consolidated Supervision	28
Penalties for Securities-Law Violations	28
Registration	29
Registration of Securities	30
Securities Registration and Reporting by Issuers	31
Public Primary Markets	31
Public Secondary Markets	32
Government Securities	34
Registration of Entities and Persons	34
Issuers of Securities	35
Governance Standards	36
Internal Controls	37
Periodic and Event-Driven Reporting	38
Solicitation of Proxies	38
Self-Regulatory Organizations	39
Registered Self-Regulatory Organizations	41
Broker-Dealer Association SROs	41
Exchange SROs	42
Settlement-Facility SROs	43
Special-Purpose Self-Regulatory Organizations	44
Regulation of Registered Entities and Persons	44
Auditors	45
Broker-Dealer Associations	46
Brokers and Dealers	47
Credit-Rating Companies	49
Exchanges	51
Investment Advisers	53
Investment Companies	54
Securities-Information Processors	56
Settlement Facilities	57
Transfer Agents	59
Obligations of Registered Entities	60
CHAPTER 2	
Regulation of Nonregistered Entities and Persons	62
Introduction	62
Attorneys	62
Issuers of Securities	63
Disclosures by Beneficial Owners of Securities	63
Short-Term Trading Profits	64
Solicitation of Proxies	64
Disclosures of Large Positions in Securities	65

Insider Trading	65
Private Litigation	67
Borrowers and Lenders of Money in Margin Transactions	67
Nonsecurities Laws	68
Property Rights	68
Accountancy Law	69
Arbitration Law	69
Banking Law	70
Bankruptcy Law	71
Commercial Law	71
Commodity-Transactions Law	72
Company, Corporation, and Partnership Laws	73
Competition Law	74
Insurance Law	74
Retirement-Savings Law	75
Tax Law	75
Treasury Law	76

CHAPTER 3

Accounting and Auditing **78**

Introduction	78
Accounting	78
Accounting Principles	79
Accounting Policies	80
Mark-to-Market Accounting	80
Auditing	81
Auditing Standards	82
Independence of Auditors	83
Financial Statements	83
Illegal Activities	84
Objectives-Oriented Rules for Accounting and Auditing	84
Audit Committees	85
Accounting Capital and Regulatory Capital	86
Accountancy Law	87

CHAPTER 4

Introduction to Notes **88**

Public Laws	88
United States Code	89
Code of Federal Regulations	90
Supreme Court Decisions	91
Federal Register	91
SEC Releases	92
Prefixes for SEC Releases	94
Selected Releases by the Securities and Exchange Commission	94

SEC Release 34-16900, 17 JUN 80, 45 FR 41920, 23 JUN 80	94
SEC Release 34-20221, 23 SEP 83, 48 FR 45167, 3 OCT 83	94
SEC Releases 33-7375, 34-38067, and IC-22412, 20 DEC 96, 62 FR 519, 3 JAN 97	95
SEC Release 34-39829, 6 APR 98, 63 FR 17943, 13 APR 98	95
SEC Releases 33-7607, 34-40633, and IC-23520, 3 NOV 98, 63 FR 67331, 4 DEC 98	95
SEC Release 33-7760, 22 OCT 99, 64 FR 61443, 10 NOV 99	95
SEC Releases 33-7801 and 34-42430, 16 FEB 00, 65 FR 8896, 23 FEB 00	95
SEC Release 34-44989, 25 OCT 01, 66 FR 55220, 1 NOV 01	95
SEC Release 34-48545, 25 SEP 03, 68 FR 56656, 1 OCT 03	96
SEC Release 34-51524, 12 APR 05, Administrative Proceeding 3-11892, <i>In the Matter of the New York Stock Exchange Inc.</i>	96
SEC Release 34-51808, 9 JUN 05, 70 FR 37495, 37545, and 37595, 29 JUN 05 (corrected by Release 34-51808A, 28 DEC 05, 71 FR 232, 4 JAN 06)	96
Selected Public Laws	96
PL 63-43 (1913)	96
PL 73-22 (1933)	96
PL 73-66 (1933)	97
PL 73-291 (1934)	97
PL 74-305 (1935)	97
PL 75-719 (1938)	97
PL 76-253 (1939)	97
PL 76-768 (1940)	98
PL 81-797 (1950)	98
PL 84-511 (1956)	98
PL 88-467 (1964)	98
PL 90-439 (1968)	98
PL 91-598 (1970)	98
PL 93-406 (1974)	99
PL 94-29 (1975)	99
PL 95-213 (1977)	99
PL 95-630 (1978)	99
PL 98-376 (1984)	100
PL 99-571 (1986)	100
PL 100-418 (1988)	100
PL 100-704 (1988)	100
PL 101-429 (1990)	101
PL 101-432 (1990)	101
PL 101-550 (1990)	101
PL 102-242 (1991)	101
PL 103-202 (1993)	102
PL 103-389 (1994)	102
PL 104-67 (1995)	102
PL 104-290 (1996)	102

PL 105-353 (1998)	103
PL 105-366 (1998)	103
PL 106-102 (1999)	103
PL 106-554 (2000)	103
PL 107-123 (2002)	103
PL 107-204 (2002)	104
PL 109-8 (2005)	104
PL 109-291 (2006)	104
PL 109-390 (2006)	104
PL 110-289 (2008)	104
PL 110-343 (2008)	104
PL 111-21 (2009)	105
PL 111-203 (2010)	105
Selected United States Code Titles	105
Selected United States Code Sections	105
Selected Code of Federal Regulations Titles	106
Selected Code of Federal Regulations Parts	106
Structure of U.S. Code and Code of Federal Regulations Sections	107
Sections of Public Laws	107
Official Sections of Codified Securities Laws	107
Nonofficial Sections of Codified Securities Laws	108
Subsections of Securities Laws	108
Securities Regulations	108
Subsections of Securities Regulations	109
Selected Banking Regulations	109
Regulation E “Electronic Fund Transfers” (12 CFR Part 205)	109
Regulation EE “Netting Eligibility for Financial Institutions” (12 CFR Part 231)	109
Regulation J “Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers through Fedwire” (12 CFR Part 210)	109
Regulation T “Credit by Brokers and Dealers” (12 CFR Part 220)	109
Regulation U “Credit by Banks or Persons other than Brokers or Dealers for the Purpose of Purchasing or Carrying Margin Stocks” (12 CFR Part 221)	110
Regulation X “Borrowers of Securities Credit” (12 CFR Part 224)	110
Department of the Treasury, Uniform Offering Circular, “Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds” (31 CFR Part 356)	110
State Securities Laws	110
Uniform Commercial Code	111

CHAPTER 5**Notes****112**

Note 1: Federal Securities Laws

112

Note 2: Securities and the Public Interest

113

Note 3: Ethics Rules for Commissioners and Employees of the SEC	113
Note 4: Capital Formation and the Capital Market	114
Note 5: Legal Definition of the Word “Security”	114
Note 6: Commercial-law Definition of the Word “Security”	114
Note 7: Securities-law Definition of the Word “Security”	115
Note 8: Swap-related Definitions	115
Note 9: Investment Contract	116
Note 10: Regulation of Transactions	117
Note 11: Regulation of Transactions in Exempt Securities	118
Note 12: Principles of Organization	118
Note 13: Equal Regulation	119
Note 14: The Evolution of Functional Regulation	119
Note 15: Transition to Functional Regulation	121
Note 16: International Agreements	122
Note 17: Delegation of Exemptive Authority	122
Note 18: Exemptive Orders and No-action Letters	123
Note 19: Other Delegation of Exemptive Authority	123
Note 20: Exclusion of Securities from the Scope of the Law	123
Note 21: Exemption of Securities from Registration	123
Note 22: Accredited Investors	123
Note 23: Qualified Institutional Buyers	124
Note 24: Qualified Investors, Purchasers, and Clients	124
Note 25: Federal Securities Law	125
Note 26: State Securities Law	125
Note 27: Primary-market Law	126
Note 28: Secondary-market Law	127
Note 29: Investment-management Law: Investment Companies	128
Note 30: Investment-management Law: Investment Advisers	128
Note 31: Purpose of Securities-account Insurance	129
Note 32: Securities-account Insurance Law	129
Note 33: Exclusions and Exemptions from Membership in SIPC	130
Note 34: Reports Relating to Securities-account Insurance	130
Note 35: Private Securities-account Insurance	130
Note 36: What Securities-account Insurance Is Not	131
Note 37: Private Insurance for Debt-security Issues	132
Note 38: Securities-regulation Agency Law	133
Note 39: Paying the Operating Expenses Incurred by the SEC	134
Note 40: Examinations of the SEC	134
Note 41: Regulatory Objectives	135
Note 42: International Regulatory Objectives	135
Note 43: Investor Protection as a Regulatory Objective	136
Note 44: Protection of Customer-owned Assets Controlled by Broker-dealers	137
Note 45: Protection of Customer-owned Assets Controlled by Investment Advisers	137

Note 46: Madoff Fraud	138
Note 47: Stanford Fraud	140
Note 48: FINRA Report on the Madoff and Stanford Frauds	142
Note 49: Protection of Investment-company Assets	142
Note 50: Protection of Assets Controlled by Settlement Facilities	142
Note 51: Fair and Orderly Markets as a Regulatory Objective	142
Note 52: Systemic Risk in the Settlement of Transactions	143
Note 53: Systemic Risk in Financing the Ownership of Securities	144
Note 54: Consequences of Systemic-risk Losses	145
Note 55: Credit-market Turmoil and Securities Broker-dealers	146
Note 56: Competition as a Regulatory Objective	147
Note 57: Competition Should Guide the Regulation of Markets	148
Note 58: Plain-language Standard for Disclosures	149
Note 59: Related-party Transactions	149
Note 60: Disclosures which Do Not Set Standards	149
Note 61: Transparency of Debt-securities Markets	150
Note 62: Securities-law Delegation of Authority to Regulate	151
Note 63: SEC Authority to Regulate	152
Note 64: International Standards for Regulation	152
Note 65: Supervision and Record Keeping	153
Note 66: Supervision and Access	153
Note 67: Supervision and Subpoenas	154
Note 68: Supervision and Violations of the Law	154
Note 69: The Failure of the SEC to Initiate a Timely Investigation of Complaints	155
Note 70: Securities-law Sections Relating to Control	155
Note 71: Securities Regulations Relating to Control	156
Note 72: Consolidated Supervision	157
Note 73: Civil and Criminal Penalties Prescribed by the Securities Law	158
Note 74: Distribution of Money-amount Penalties as Restitution	158
Note 75: Money-amount Penalties and Publicly Owned Companies	159
Note 76: Registration of Securities	160
Note 77: Registration of Securities for Primary-market Transactions	161
Note 78: Unlawful Representations in Primary-market Transactions	161
Note 79: Registration of Securities for Secondary-market Transactions	161
Note 80: Total Assets and Owners of Record	162
Note 81: Secondary-market Reporting	162
Note 82: Unlawful Representations in Secondary-market Transactions	163
Note 83: SEC Reports on the Integration of Disclosures	163
Note 84: SEC Rules for the Purpose of Integrating Disclosures	164
Note 85: Government Securities	164
Note 86: Government Securities Primary-market Exemptions	164
Note 87: Government Securities Secondary-market Exemptions	165
Note 88: Government-securities Brokers and Dealers	165
Note 89: Municipal-securities Brokers and Dealers	167

Note 90: Registration of Entities and Persons	168
Note 91: Issuers of Securities	168
Note 92: Governance Standards	168
Note 93: Exchanges Do Not Always Enforce Their Listing Rules	169
Note 94: Required Disclosures by Publicly Owned Companies	169
Note 95: COSO Internal-controls Framework	170
Note 96: Internal Controls	171
Note 97: Periodic and Other Reporting by Publicly Owned Companies	172
Note 98: Solicitation of Proxies	173
Note 99: General Reports on SROs	173
Note 100: Regulation of SROs	174
Note 101: Exchange Violations of the Securities Law and Exchange Rules	175
Note 102: Violations of Exchanges Rules by Members	178
Note 103: Review of Rules that Apply to SROs	179
Note 104: Supervision of Broker-dealers by SROs	179
Note 105: Registration and Regulation of SROs	180
Note 106: Broker-dealer Association SROs	182
Note 107: Exchange SROs	183
Note 108: Settlement-Facility SROs	183
Note 109: Auditors' SRO	184
Note 110: Auditors' SRO: Costs, Benefits, and Unintended Consequences	185
Note 111: Auditors' SRO: Legal Challenge	186
Note 112: Municipal-securities Broker-dealer SRO	186
Note 113: Securities-account Insurance SRO	187
Note 114: Public Accounting Entities and Auditors	188
Note 115: Registration and Regulation of Public Accounting Entities	188
Note 116: Registration and Regulation of Broker-dealer Associations	190
Note 117: Reporting by Broker-dealer Associations	191
Note 118: Registration and Regulation of Brokers and Dealers	191
Note 119: Securities Account	192
Note 120: Alternative Trading Systems	192
Note 121: Broker-dealer Capital	193
Note 122: Reporting by Broker-dealers	193
Note 123: Large-position and Large-transaction Reports	194
Note 124: Additional Reporting Obligations of Broker-dealers	195
Note 125: Registration of Persons Associated with Broker-dealers	195
Note 126: General Reports on Credit-rating Companies	196
Note 127: Nationally Recognized Statistical-rating Organization	197
Note 128: Regulation of Credit-rating Companies	198
Note 129: Registration of Credit-rating Companies	199
Note 130: Reporting by NRSROs	199
Note 131: New Rules Proposed for NRSROs	200
Note 132: Review of the SEC's Regulation of Credit-rating Companies	200
Note 133: The Financial Regulation Act of 2010	201
Note 134: Registration and Regulation of Exchanges	201

Note 135: Listing Rules for Securities Issued by an Exchange or an Affiliate	202
Note 136: Unlisted Trading Privileges	203
Note 137: Reporting by Exchanges	204
Note 138: Registration and Regulation of Investment Advisers	204
Note 139: Investment-adviser Law Amendments 1996	205
Note 140: Reports on Broker-dealers and Investment Advisers	206
Note 141: Investment-adviser Code of Ethics	206
Note 142: Registration of Advisers to Private Investment Funds	207
Note 143: Amendments to Investment-adviser Regulations 2004	207
Note 144: Reporting by Investment Advisers	207
Note 145: Large-position Reporting	208
Note 146: Investment-adviser Law Amendments 2010	208
Note 147: Investment Advisor Ratings	209
Note 148: Registration and Regulation of Investment Companies	209
Note 149: Investment Companies Called Hedge Funds	210
Note 150: Long-Term Capital Management	210
Note 151: Investment Companies' Boards of Directors	211
Note 152: Investment-company Code of Ethics	212
Note 153: Late Trading and Market Timing	212
Note 154: Reporting by Investment Companies	213
Note 155: Investment-company Law Amendments 2010	213
Note 156: Registration and Regulation of Securities-information Processors	213
Note 157: Exclusive Securities-information Processors	214
Note 158: Other Securities-information Sources	214
Note 159: Market-information Fees	214
Note 160: Reporting by Securities-information Processors	215
Note 161: Registration and Regulation of Settlement Facilities	215
Note 162: Standards for Settlement Facilities	216
Note 163: Commercial Law Applies to Settlement Facilities	216
Note 164: Reporting by Settlement Facilities	217
Note 165: Securities-law Amendments 2010	217
Note 166: Registration and Regulation of Transfer Agents	218
Note 167: Commercial Law Applies to Transfer Agents	219
Note 168: Reporting by Transfer Agents	219
Note 169: Obligations of Registered Entities	219
Note 170: Attorneys	219
Note 171: Disclosures by More-than-5% Beneficial Owners	220
Note 172: Disclosures by Directors, Officers, and More-than-10% Beneficial Owners	221
Note 173: Short-term Trading Profits	221
Note 174: Solicitation of Proxies	222
Note 175: Large-position and Large-transaction Disclosures	222
Note 176: Large-position Disclosures for Treasury Securities	223

Note 177: Insider and Outsider Trading	224
Note 178: International Insider and Outsider Trading	225
Note 179: Prevention of Insider Trading	225
Note 180: Regulation F-D (Fair Disclosure)	226
Note 181: Private Litigation	226
Note 182: Margin Transactions	227
Note 183: Federal and State Laws	228
Note 184: Property Rights	228
Note 185: State Accountancy Law	229
Note 186: Federal Arbitration Law	230
Note 187: Securities-industry Arbitration Reports	231
Note 188: Administration of Securities Arbitration	231
Note 189: State Arbitration Law	232
Note 190: Federal Banking Law	232
Note 191: Bank-deposit Insurance	233
Note 192: Interbank Deliveries and Payments	233
Note 193: Interbank Risk Management	234
Note 194: State Banking Law	234
Note 195: Federal Bankruptcy Law	234
Note 196: A Bankrupt's Assets and Liabilities in Different Countries	235
Note 197: Commercial Law	236
Note 198: Uniform Commercial Code	236
Note 199: International Commercial Law	237
Note 200: Federal Commodity-transactions Law	237
Note 201: Security-futures Products	239
Note 202: Company, Corporation, and Partnership Laws of the States	240
Note 203: Competition Law	240
Note 204: Applications of the Competition Law	241
Note 205: Violations of the Competition Law by Members of a Securities Exchange	242
Note 206: Violations of the Competition Law by Securities Exchanges	242
Note 207: Competition in Markets for Financial Information	243
Note 208: Insurance Law	243
Note 209: State Insurance Guarantors	244
Note 210: Retirement-savings Law	244
Note 211: Tax Law	245
Note 212: Treasury Law	245
Note 213: Treasury Regulations	246
Note 214: Registration of Government-securities Brokers and Dealers	246
Note 215: GAO Reports on Accounting and Auditing	247
Note 216: Other Reports on Accounting and Auditing	248
Note 217: Securities-law Amendments	249
Note 218: Generally Accepted Accounting Principles	249
Note 219: The Source of Generally Accepted Accounting Principles	250
Note 220: Interpretations Relating to Financial Reporting	251
Note 221: International Accounting Principles	251

Note 222: Domestic Application of International Accounting Principles	252
Note 223: What is “Convergence” of Domestic and International Accounting Principles?	253
Note 224: Mark-to-market Generally Accepted Accounting Principles	254
Note 225: Mark-to-market Accounting	254
Note 226: SEC Report on Mark-to-market Accounting	254
Note 227: Generally Accepted Auditing Standards	256
Note 228: The Source of Generally Accepted Auditing Standards	257
Note 229: Audits of Financial Statements Prepared by Issuers	257
Note 230: Audits of Financial Statements Prepared by Registered Entities	258
Note 231: Independent Accountants Perform Audits	258
Note 232: Arthur Andersen LLP	259
Note 233: Recommendations Relating to Auditors and the Audit Function	259
Note 234: International Auditing Standards	260
Note 235: Domestic Applications of International Auditing Standards	260
Note 236: Judicial Support for Auditor Independence	261
Note 237: Amendments to Auditor-independence Rules	261
Note 238: SEC Regulations Relating to Financial Statements	262
Note 239: Financial Statements Prepared by the Issuers of Securities	262
Note 240: Financial Statements Prepared by Broker-dealers	263
Note 241: Financial Statements Prepared by Other Registered Entities	263
Note 242: Illegal Activities	264
Note 243: Penalties Relating to Illegal Activities	265
Note 244: Objectives-oriented Accounting Rules	266
Note 245: Objectives-oriented Auditing Rules	267
Note 246: Audit Committees	268
Note 247: Reporting Broker-dealer Regulatory Capital	269
Note 248: Calculating Broker-dealer Net Capital	269
Note 249: Internal Audit	270

CHAPTER 6	
Selected Sections from the Financial Regulation Act of 2010	271
Introduction	271
Major Section Headings of the Financial Regulation Act	271
Selected Sections of the Financial Regulation Act	272
Reports Required by the Financial Regulation Act	273

CHAPTER 7	
Sections of Codified Securities Laws	276
Introduction	276
Securities Act (15 USC Sections 77a and following)	277
Trust Indenture Act (15 USC Sections 77aaa and following)	278

Securities Exchange Act (15 USC Sections 78a and following)	279
Securities Investor Protection Act (15 USC Sections 78aaa and following)	281
Investment Company Act (15 USC Sections 80a-1 and following)	281
Investment Advisers Act (15 USC Sections 80b-1 and following)	283
Public Company Accounting Reform and Corporate Responsibility	284

CHAPTER 8

Organizations

286

Introduction	286
Executive Branch of Government	286
The President	286
Department of the Treasury	287
President's Working Group	287
Legislative Branch of Government	287
Judicial Branch of Government	288
Agencies of Government	289
Federal Reserve System	289
Federal Deposit Insurance Corporation	289
Securities and Exchange Commission	290
Self-Regulatory Organizations	290
Accounting Principles and Auditing Standards	290
Financial Accounting Standards Board	291
Public Company Accounting Oversight Board	291
Industry and Professional Associations	291
American Bar Association	292
American Institute of Certified Public Accountants	292
American Law Institute	292
International Swaps and Derivatives Association	292
Investment Adviser Association	293
Investment Company Institute	293
Securities Industry and Financial Markets Association	293
Business Roundtable	294
Chamber of Commerce of the United States	294
State-Related Organizations	294
National Association of State Boards of Accountancy	294
National Conference of Commissioners on Uniform State Laws	295
National Association of Insurance Commissioners	295
International Organizations	295
Central Banks of the Group of Ten Countries	295
International Organization of Securities Commissions	296
Group of Thirty	296
Hague Conference on Private International Law	296
International Accounting Standards Board	297
International Association of Insurance Supervisors	297
International Auditing and Assurance Standards Board	297

International Council of Securities Associations	297
The Joint Forum	297
North American Securities Administrators Association	298
Advisory Committees and Informal Groups	298
APPENDIX A	
References	301
APPENDIX B	
Web Sites by Name	315
APPENDIX C	
Web Sites by Function	324
Glossary	334
About the Author	361
Index	363