

Index

References are to sections.

A

Accredited Investor

Definition, 1.47, 6.41
Definition of purchaser, excluded from, 1.56
Disclosure to, 1.51
Rule 506 exemption, applicability of, 1.56
Wisconsin securities registration exemption, 2.11

Administrative Procedure and Review Act, Wisconsin, 2.47

Administrative Rules

Wisconsin Securities Law, 2.4

Advertising, Securities

See also Prospectus
Federal securities regulations, 1.30
—prefiling period, 1.27
—Regulation A, under, 1.67–.68
—Regulation D securities exemption, offerings under, 1.52, 1.58
—tombstone advertisement, 1.29, 1.171
Wisconsin Securities Law, 2.8, 2.36

Advisers, Investment

See Investment Advisers and Investment Adviser Representatives

Agents, Securities

See also Broker-Dealers, Securities, Licensing of; Wisconsin Securities Law
Securities Act of 1933, Section 12, seller under, 1.123
Service of process, 2.46, 6.34

Arbitration

Securities disputes, 2.42

Articles of Incorporation, Amendments to

Merger, effect of, 4.31

Asset Purchase, of Small Business, 5.3

Reasons to structure acquisition as, 5.5
Stock sale compared, 5.3

Asset Sales Outside the Ordinary Course of Business

Approval of sale, 4.18, 4.20–.21
Dissenters' rights. *See* Dissenters' Rights
Generally, 4.5
Outside ordinary course of business, defining, 4.7
Substantially all corporate assets, determination as to sale of, 4.6

Attorney Fees

Dissenters to merger, interest exchange, or asset transfer, action by, 4.49

B**Bad Actor**, 1.61, 1.76, 6.29, 6.46**Bankruptcy Code, Chapter 11**

Proxy solicitations governed by, 1.171

Basis Step-Up, 5.3, 5.5**BCS***See* Business Combination Statute**Beneficial Owners**

Reporting by, Exchange Act of 1934, 1.143–144

Benefits Plans*See* Compensatory Benefit Plans**Blue Sky Laws***See* Wisconsin Securities Law**Broker-Dealers, Securities***See also* Secondary Distributions and Market TradingLicensing of. *See* Wisconsin Securities Law

Registration, exemption for crowdfunding intermediary, 6.37, 6.45–46

Securities Act of 1933

—prospectus delivery requirement, 1.30

—Section 12, seller under, 1.123

Securities and Exchange Commission (SEC)

—over-the-counter sales, 1.98

—registration with, 1.5

—regulation by, 1.5

—Rule 144 exemption, sales pursuant to, 1.98, 1.101

—Rule 144A exemption. *See* Rule 144A Exemption from Private Placements with Institutional Investors

Service of process, consent to, 2.46

Burden of Proof

Exempt securities, 1.43

Hearings, issues at, 2.48

Business Combination*See also* Business Combination Statute; Fair Price Statute

Business Combination Statute definition, 3.5

Fair Price Statute definition, 3.12

Proxy solicitations, 1.171

Business Combination Statute (BCS), 3.1

Definitions, primary, 3.4–7

Overview, 3.3

Restrictions on business combinations, 3.8

Buying a Small Business*See* Small Business, Buying and Selling**C****CEO***See* Chief Executive Officer**CFO***See* Chief Financial Officer**Certified Investor**

Definition, 6.41

Chief Executive Officer (CEO)

Sarbanes-Oxley Act (SOX)
 —Section 302 certification, 1.141
 —Section 906 certification, 1.142

Chief Financial Officer (CFO)

Sarbanes-Oxley Act (SOX)
 —Section 302 certifications, 1.141
 —Section 906 certification, 1.142

Civil Liabilities

See Liability

Common Enterprise, Investment in, 2.5**Common Law**

Securities actions, 2.42

Compensatory Benefit Plans

See also Retirement Plans
 Securities issued pursuant to, SEC registration exception for
 —delivery requirements, 1.81
 —generally, 1.78
 —offering requirements, 1.80
 —resales, 1.82

Confidentiality Agreement

Small business, buying and selling, 5.7

Contracts, Review of

Small business, buying and selling
 —current contracts, 5.11
 —employment contracts, 5.8

Control Share Acquisition

Statute, 3.1, 3.16

Conversion, Plan of

Dissenters' rights. *See* Dissenters' Rights

Corporate Takeover

See Takeover Laws

Criminal Penalties

See also Fraud
 Wisconsin Securities Law, 2.41

Cross-Species Mergers, 4.1**Crowdfunding, ch. 6**

Cancellation, 6.28, 6.37
 Definition, 2.10
 Disclosures, 6.16, 6.24–.26, 6.37
 Equity- vs. rewards-based, 6.2–.5
 Equity-based, 6.5
 Federal exemption
 —Jumpstart Our Business Startups Act (JOBS Act), 2.10, 6.1, 6.14, 6.20, 6.30
 —SEC rules, 6.1, 6.10–.34
 Federal preemption, 6.9–.12
 Filing
 —federal process, 6.26–.30
 —state exemption, 6.37
 Fraud-related protections, 6.21
 Funding portals
 —federal, 6.19–.26
 —state, 2.11, 6.43–.47
 Intermediary. *See also* Funding portals, under this heading
 —definition, 6.13
 Internet, 6.12, 6.15
 Internet-portal intermediary. *See* Funding portals and Intermediary, under this heading
 Internet site operator. *See* Funding portals, under this heading
 Interstate vs. intrastate offerings, 6.9
 Monetary limits
 —federal, 6.14, 6.17
 —state, 6.39–.41

Platform, definition, 6.15
 Registration and reporting
 —federal, 6.16, 6.34
 —state, 6.37–.38, 6.42
 Rewards-based, 6.4
 SEC rules. *See* Federal exemption,
 under this heading
 Shares, transfer restrictions, 6.23
 Wisconsin exemption
 —generally, 2.10–.11, 6.35–.48
 —100+ offerings, 6.48
 Wisconsin regulation
 —intrastate offering, 6.8

D**Damages**

Securities Act of 1933
 —Section 11, 1.115
 —Section 12(a)(1), 1.119
 —Section 12(a)(2), limiting
 liability, 1.122
 Wisconsin Securities Law
 —private right of action, 2.42

De Facto Merger

Successor liability in, 5.3

Dealers, Security

See Broker-Dealers, Securities

Debt

Mergers, entity owners' liability in,
 4.31

Debt Securities, Registering, 1.6**Defenses**

Securities Act of 1933 securities
 registration
 —Regulation A exemption, good-
 faith compliance defense, 1.75

—Regulation D, Rule 508,
 exemption, good-faith
 compliance defense, 1.58
 —Section 11, 1.116

**Department of Financial
Institutions, Wisconsin**

See also Division of Securities
 Articles of merger or interest
 exchange, filing of, 4.27
 Crowdfunding, 6.5

Directors

Exchange Act of 1934, Section 16,
 reporting, 1.142
 Shareholder votes in contested
 elections, 1.178

Disclosure, Public

See also Insiders; Reporting
 Requirements, Continuous
 (Exchange Act of 1934);
 Reports, Wisconsin Securities
 Law; Sarbanes-Oxley Act of
 2002; Securities Registration,
 Securities Act of 1933;
 Securities Registration,
 Exchange Act of 1934
 Crowdfunding, intermediaries, 6.20
 Disclose or abstain rule, 1.150
 Regulation FD requirements. *See*
 Regulation FD

Dissenters' Rights

Exceptions to, 4.35
 Fair value, payment of, 4.36
 Procedural requirements
 —after-acquired shares, 4.46
 —court action, 4.46, 4.48
 —court costs and attorney fees,
 4.49
 —dissenters' notice, 4.41
 —duty to demand payment, 4.42

- failure to take action, 4.45
- fair value, payment of, 4.44
- notice of intent to assert rights, 4.40
- notice of rights, 4.39
- number of shares, 4.38
- shareholder’s challenge to corporate fair value estimate, 4.47
- uncertificated shares transfer restrictions, 4.43, 4.45
- Transactions giving rise to, 4.34, 5.4

Division of Securities, 2.1

See also Wisconsin Securities Law

Administration of law, authority for, 2.34

Administrative assessments imposed by, 2.43

Administrative files and opinions, 2.45

Administrative rules, forms, and orders, 2.4

Crowdfunding exemption, notice filing, 6.37

Hearings, 2.44

—burden of proof, 2.48

—procedures, 2.47

Injunctions, 2.40

Investigations and subpoenas, 2.39

Service of process, 2.46

Takeover offers, registration of, 3.19, 3.23

Target company ownership information, filing of, 3.24

Due Diligence

Small business, buying and selling.
See Small Business, Buying and Selling

E

Electronic Data Gathering, Analysis, and Retrieval System (EDGAR), 1.179, 6.27–.30

Employee Retirement Income Security Act of 1974 (ERISA), 5.4

Regulation D securities exemption, 1.47

Employment Issues

See also Retirement Plans

Small business purchase

—due diligence, 5.8

—stock purchase, 5.4

Entity Purchase of Business, 5.3

Equity Securities

Definition of, 1.127

Registration of. *See* Securities

Registration, Exchange Act of 1934

ERISA

See Employee Retirement Income Security Act of 1974

Exemptions from Securities Registration

Overview, 1.36

Regulation A. *See* Regulation A Securities Registration Exemption

Regulation D. *See* Regulation D Securities Registration Exemption

Rule 701

—delivery requirements, 1.81

—generally, 1.78

- issuer requirements, 1.79
- offering limitations, 1.80
- resales, 1.82
- Safe-harbor provisions
- intrastate offerings and Rule 147, 1.40
- Regulation A, Rule 251(c), exemptions, 1.64
- Regulation D, Rule 502(a), exemptions, 1.49
- Securities exemptions, 1.37
- Transaction exemptions
- burden of proof, 1.43
- generally, 1.39
- integration of sales or offers, 1.44, 1.50, 1.64
- intrastate offerings and Rule 147, 1.40
- private placements, 1.41
- Section 4(a)(5) exemption, 1.42
- Wisconsin Securities Law
- exempt securities, 2.10
- exempt securities transactions, 2.11
- securities exemption proceedings, 2.12

F**Fair Price Statute**, 3.1

- Definitions, Primary, 3.11–14
- Overview, 3.10
- Required shareholder vote, 3.15

Fair Value

- After-acquired shares, 4.46
- Business assets, basis of, 5.3
- Court action to determine, 4.46, 4.48
- court costs and attorney fees, 4.49
- Dissenter, payment to, 4.44
- Shareholder’s challenge to, 4.47

Federal Arbitration Act, 2.42**Federal Industry National Regulatory Association (FINRA)**, 2.22, 6.21, 6.23, 6.34**Federal Securities Regulations**Crowdfunding. *See* CrowdfundingDefinition of security. *See*

Securities, Definition

Exemptions from registration. *See*

Exemptions from Securities

Registration

Liability

—1933 Act. *See* Liability Under Securities Act of 1933—Exchange Act. *See* Liability Under Exchange Act of 1934Proxy regulation. *See* Proxy Regulation

Registering securities

—1933 Act. *See* Securities Registration, Securities Act of 1933—Exchange Act. *See* Securities Registration, Exchange Act of 1934Regulation FD. *See* Regulation FD

Regulatory framework

—Exchange Act of 1934, 1.3, 1.5

—Investment Advisers Act of 1940, 1.3, 1.8

—Investment Company Act of 1940, 1.3, 1.7

—overview, 1.3

—Sarbanes-Oxley Act (SOX), 1.141, 1.142

—Securities Act of 1933, 1.3, 1.4

—Securities Investor Protection Act of 1970, 1.3, 1.9

—Trust Indenture Act of 1939, 1.3, 1.6

Reports. *See* Reports

Sarbanes-Oxley Act. *See* Sarbanes-Oxley Act of 2002

Secondary distributions and market trading. *See* Secondary Distributions and Market Trading

**Financial Institutions,
Department of**

See Department of Financial Institutions, Wisconsin

Financials

Small business purchase, review before, 5.9

Foreign Jurisdiction

Interest exchange, 4.3, 4.27

Merger, 4.2, 4.27

Forms

Exchange Act of 1934 reports

—Form 8-K filing requirements, 1.134–138

—Form 10-K filing requirements, 1.132

—Form 10-Q (quarterly report) filing requirements, 1.133

Securities Act of 1933

—Form 1-A offering statement, 1.67–69, 1.73

—Form 1-K, 1.73

—Form 1-SA, 1.73

—Form 1-U, 1.73

—Form 1-Z, 1.72

—Form 2-A, 1.71

—Form D, Regulation D

registration exemption, 1.54

—registration of securities, 1.24, 1.33

Target company ownership information, filing of, 3.24

Wisconsin Securities Law, 2.4

Forward-Looking Statements,
1.124

Fraud

Crowdfunding protections, 6.21

Exchange Act of 1934

—antifraud provisions, 1.137

—Rule 10b-5, liability under, 1.147

Securities Act of 1933

—antifraud provisions, 1.4, 1.36, 1.51

—liability under Section 12(a)(2), 1.121–123

Wisconsin Securities Law

—advisory activities, 2.31

—any person, 2.30

—going private transactions, 2.32

—investment adviser

representatives, 2.27

—registration statement, stop order for, 2.8

Friendly Takeovers, 3.1

See also Takeover Laws

Funding Portals

See Crowdfunding, Funding portals

**Fungible Securities, Exclusion
from Rule 144A Exemption
of, 1.109**

G

Going Private Transactions, 2.32

**Goodwill, Taxation Issues, 5.4,
5.5**

Greenmail Transactions, 3.17

H

Hearings

Wisconsin Securities Law, 2.44
 —burden of proof, 2.48
 —procedures, 2.47

Hostile Takeovers, 3.1

See also Takeover Laws

Howey Test, Four-Factor

Application
 —general partnerships, 1.18
 —limited liability company, 1.20
 —limited partnerships, 1.19
 Generally, 1.13
 In common enterprise, 1.14
 Efforts of others, solely from, 1.16
 Profits, expectation of, 1.15

I

Injunctions

Wisconsin Securities Law, 2.40

Insiders

Disclose or abstain rule, 1.150
 Misappropriation theory, 1.152
 Quasi-insiders, disclosure by, 1.151

Institutional Investors, Rule

144A Exemption

See Rule 144A Exemption from
 Private Placements with
 Institutional Investors

Insurance

Small business purchase, review
 before, 5.10

Interest Exchange, 4.3

Articles of interest exchange, filing
 of
 —generally, 4.27

—required information, 4.28
 Dissenters' rights. *See* Dissenters'
 rights
 Effective time of, 4.29
 Effects of, 4.32
 Foreign jurisdiction, compliance
 with laws of, 4.3
 Overview, 4.1
 Plan
 —approval by shareholders of,
 4.17, 4.19–21
 —generally, 4.9
 —optional information, 4.15
 —required information, 4.14

Interested Stockholder

Defined, 3.6
 Restrictions, business
 combinations, 3.8

Internet

See Crowdfunding, Internet

Internet Site Operator

See Crowdfunding, Funding portals

Investigations

Division of Securities, by, 2.39
 Merger, effect of, 4.31

Investment Advisers Act of 1940,

1.3, 1.8, 1.11, 2.22

**Investment Advisers and
 Investment Adviser
 Representatives**

Federal regulation. *See* Investment
 Advisers Act of 1940
 Fraud, 2.31
 Licensing, Wisconsin. *See*
 Wisconsin Securities Law
 Service of process, consent to, 2.46

Investment Company Act of 1940, 1.3, 1.7, 1.11**Investment Contracts**

Definition, 2.5

Howey test. *See* *Howey* Test, Four-Factor**Issuer Certifications, Reports***See* Reporting Requirements, Continuous (Exchange Act of 1934)**J****Joint Liability**

Securities actions, 2.42

Judicial Review

Wisconsin Securities Law, 2.44

Jurisdiction, Foreign*See* Foreign Jurisdiction**L****Labor Issues**Small business purchase. *See* Employment Issues**Letter of Intent**

Small business, buying and selling, 5.7

—no-shop clause, 5.7

LiabilityFederal securities regulations. *See* Liability Under Exchange Act of 1934; Liability Under Securities Act of 1933

Mergers, parties to, 4.31

Successor liability, business buyer, 5.3, 5.4

—employer pension plan, 5.4

—insurance claims, 5.10

Wisconsin Securities Law, 2.42

Liability Under Exchange Act of 1934

Disclose or abstain rule, 1.150

Exempted securities, 1.149

Misappropriation theory, 1.152

Quasi-insiders, 1.151

Rule 10b-5

—generally, 1.147

—misappropriation theory, 1.152

—scienter, 1.148

—scope of, 1.149

Liability Under Securities Act of 1933

Forward-looking information, 1.124

Prospectus delivery requirement, 1.30

Section 11

—defenses, 1.116

—overview, 1.114

Section 12

—causes of action, 1.118–1.122

—determining seller, 1.123

Licensing Issues

Business purchase, 5.20

Licensing ProceduresBroker-dealers, agents, investment advisers, investment adviser representatives. *See* Wisconsin Securities Law**Limitation Period***See* Statute of Limitation**Limited Liability Company, 2.5***Howey* test, application of, 1.20

Limited Partnerships, 2.5
Howey test, application of, 1.19

M

Market Maker

Rule 144 exemption, 1.101

Market Trading

See Secondary Distributions and
 Market Trading

Mere Continuation Theory, 5.3

Mergers

, 3.5

See also Business Combination
 Statute

Articles of merger, filing

—generally, 4.27

—required information, 4.28

Cross-species, 4.1

De facto exception, 5.3

Dissenters' rights. *See* Dissenters'
 Rights

Effective time of, 4.29

Effects of, 4.31

Foreign business entity, 4.2, 4.27

Optional information, 4.12

Overview, 4.1–2

Plan

—generally, 4.9

—required information, 4.11

—shareholder approval, 4.17,
 4.19–21

Proxy solicitations, 1.171

Subsidiary and parent merger,
 4.22–24

Successor liability, buyer, 5.3

Tax-free reorganization, 4.1

**Misappropriation Theory,
 Insider Trading**, 1.152

Motorola, Inc.

Regulation FD violation
 investigation, 1.160

N

**National Securities Markets
 Improvement Act of 1996
 (NSMIA)**, 2.7

No-Shop Clause, 5.7

Notes

Classified as securities, family
 resemblance test, 1.21

Notice

Dissenters' rights

—dissenters' notice to all
 shareholders, 4.41

—intent to assert notice, 4.40

—notice of rights to all
 shareholders, 4.39

Securities and Exchange
 Commission (SEC)

—Form D, Regulation D
 registration exemption, 1.54

—Rule 144 exemption, notice of
 intent to sell securities under,
 1.102

—Rule 144A exemption,
 notification to buyers under,
 1.108

Shareholder, notice of
 subsidiary/parent merger, 4.23

Shareholders' meeting, advance
 notice of, 3.31

—sale of assets, merger, or interest
 exchange, approval of, 4.20

Wisconsin Securities Law

—administrative assessments, 2.43

—broker-dealers, reporting
 requirements for, 2.19

- exemption, denial or revocation of, 2.12
- hearings, 2.44
- material event affecting, 2.8
- misleading filings, 2.37
- service of process, 2.46
- unlawful representations, 2.38

NSMIA

See National Securities Markets Improvement Act of 1996

O**Obligations**

Mergers, entity owner liability in, 4.31

Offer, Takeover

See Takeover Offer

Offer of Securities (Offer to Sell)

See also Advertising, Securities; Prospectus; Underwriter of Securities Offering

Federal law

- debt securities, 1.6
- oral offer, 1.27–.28, 1.68, 1.121, 1.124
- registration before. See Securities Registration, Securities Act of 1933
- Regulation A, 1.65–.75
- remote seller (seller’s seller), 1.123
- Securities Act of 1933, 1.4
- Seller, determining who is, 1.117
- underwriter, selection of, 1.27
- written offer, 1.27–.29, 1.68, 1.124

Wisconsin law. See Wisconsin Securities Law

Offering Document, Security, 2.7

See also Prospectus

Office Depot

Regulation FD violation enforcement, 1.162

Officers

See also Chief Executive Officer (CEO); Chief Financial Officer (CFO)

Definition, Exchange Act of 1934, 1.142

Exchange Act of 1934, Section 16, reporting, 1.142

Orders, Wisconsin Securities**Law, 2.4**

Administrative assessment, 2.43

Exempt securities, 2.10

—denial or revocation of exemption, 2.12

Hearings after, 2.44

Registration statement

—stop order, 2.8

—summary order against, 2.8

Summary order

—hearing request, 2.44

—registration statement, against, 2.8

Over-the-Counter Securities,

1.98, 1.127

P**Partnerships**

General partnership

—*Howey* test application to, 1.18

—securities differentiated from interest in, 2.5

Limited. See Limited Partnerships

Securities registration, liability of partners for in material misstatement or omission in, 1.114

Pension Plans

See Retirement Plans

Permits

Business purchase, 5.20
Zoning, 5.16

Proceedings

Merger, effect of, 4.31

Property Transfer

Mergers, 4.31

Prospectus, 1.4

Abbreviated or preliminary, 1.29
Definition, 1.29
Fraud in public offering, liability for, 1.121–.123
Section 10(a)/definitive, 1.30
Summary, 1.30

Proxy Regulation

Annual report to shareholders, 1.175
Exempt solicitations, 1.171
Filing requirements, 1.174
—preliminary proxy filing, 1.174
Form of proxy, 1.173
Overview, 1.169
Proxy statement, 1.172
Shareholder votes in contested director elections, 1.178
Solicitation
—before furnishing proxy statement, 1.175
—definition, 1.168

Public Offering

See Offer of Securities (Offer to Sell)

Purchase

Of securities. *See* Federal Securities Regulations; Wisconsin Securities Law
Of small business. *See* Small Business, Buying and Selling

Purchaser of Securities

Definition, Regulation D, Rule 501, 1.47
35-purchaser limit, Rule 506 exemption, 1.56

Q

Qualified Institutional Buyers (QIBs)

Definition, 1.107
Exempt transactions
—Rule 144A exemption. *See* Rule 144A Exemption from Private Placements with Institutional Investors
—Wisconsin Securities Law, 2.11

Quasi-Insiders, Disclosure by, 1.151

Quiet Period, Securities Offering, 1.30

R

Raytheon Company

Regulation FD violation enforcement, 1.159

Real Estate

Small business purchase due diligence
—leased real estate, 5.11, 5.13
—owned real estate, 5.14
—zoning permits, 5.15–.18

Transfer fees, small business purchase, 5.4

Registration, Securities

See Securities Registration, Exchange Act of 1934; Securities Registration, Securities Act of 1933

Regulation A Securities

Registration Exemption

Aggregate offering price limitations, 1.62
 Disqualification or suspension from use of, grounds for, 1.76
 Good-faith compliance defense, 1.75
 Integration of sales or offers, 1.64
 Investment limitation, 1.63
 Issuer eligibility, 1.61
 Overview, 1.60
 Reporting requirements, 1.70–.74
 Time periods, registration procedure
 —generally, 1.66
 —postqualification period, 1.69
 —prefiling period and ability to “test the waters,” 1.67
 —waiting period, 1.68

Regulation Crowdfunding

Form C, 1.87, 6.18, 6.33
 Generally, 1.84, 6.1
 Investor requirements, 1.86
 Offering limitation, 1.85, 6.17
 —Wisconsin limits, 6.40–41
 Reporting requirements, 1.88

Regulation D Securities

Registration Exemption

Definitions, 1.47
 Disqualification from use of, 1.54
 Form D, filing of, 1.54
 Overview, 1.46
 Rule 502: general conditions
 —disclosure requirements, 1.51

—generally, 1.49
 —integration of sales, 1.50
 —resale limitations, 1.53
 —solicitation prohibitions, 1.52
 Rule 503: filing requirements, 1.54
 Rule 504 exemption, 1.55
 Rule 506 exemption, 1.56
 Rule 507: disqualifying persons, 1.57
 Rule 508: good-faith compliance defense, 1.58

Regulation FD

Enforcement
 —generally, 1.156
 —American Commercial Lines, Inc., 1.161
 —AT&T, 1.163
 —Motorola, Inc., 1.160
 —Office Depot, 1.162
 —Raytheon Company, 1.159
 —Secure Computing Corporation, 1.157
 —Siebel Systems, Inc., 1.158
 Form 8-K filing requirements, 1.136
 Overview, 1.154

Reporting Requirements, Continuous (Exchange Act of 1934)

Accelerated filers, 1.131
 Acquisitions and dispositions, 1.139
 Beneficial owners, reporting by, 1.143–.144
 Form 8-K filing requirements
 —accelerated filing deadline, 1.136
 —eligibility for short form registration, relief for, 1.138
 —late filing, limited safe harbor from antifraud liability for, 1.137
 —overview, 1.135
 —Regulation FD deadlines, 1.136

—reliance on Rule 144, relief for, 1.138
—reportable events, 1.135
Form 10-K (annual report) filing requirements, 1.132
—Section 302 certifications, 1.141
—Section 906 certifications, 1.142
Form 10-Q (quarterly report) filing requirements, 1.133
—Section 302 certifications, 1.141
—Section 906 certifications, 1.142
Generally, 1.130
Issuer certifications
—Section 302 certifications, 1.141
—Section 906 certifications, 1.142
Large accelerated filers, 1.131
Liability for. *See* Liability Under Exchange Act of 1934
Section 16 reporting, 1.142
Smaller reporting company, 1.131

Reports

Federal securities regulations
—annual report to shareholders, 1.175
—continuous. *See* Reporting Requirements, Continuous (Exchange Act of 1934)
—equity securities, Section 16 reporting of, 1.142
—Securities and Exchange Commission, reports to. *See* Securities and Exchange Commission
Wisconsin Securities Law
—broker-dealer reporting requirements, 2.25
—filing procedure, 2.45
—misleading filings, 2.37
—sales reports, 2.8

Resales, Securities

See Secondary Distributions and Market Trading

Resident Domestic Corporation

See also Business Combination Statute; Fair Price Statute
Business Combination Statute definition, 3.7
Fair Price Statute definition, 3.14

Restricted Securities, Rule 144 Sales of

See Secondary Distributions and Market Trading

Retirement Plans

See also Employee Retirement Income Security Act of 1974
Securities issued pursuant to, registration exception for
—delivery requirements, 1.81
—generally, 1.78
—offering requirements, 1.80
—resales, 1.82
Small business purchase, 5.4, 5.8

Revised Uniform Limited Partnership Act, 1.19

Rule 144 Exemption for Resales (Safe Harbor)

Affiliate of issuer, definition of, 1.97
Bona fide intention to sell, 1.103
Current public information on issuer, availability of, 1.98
Holding period, restricted securities, 1.99
Limitation on amount of securities sold, 1.100
Manner of sale, 1.101
Notice of intent to sell, 1.102
Overview, 1.96
Restricted sale, definition of, 1.97

**Rule 144A Exemption from
Private Placements with
Institutional Investors**

Exclusion of fungible securities,
1.109
Nonreporting issuers, provision of
information by, 1.110
Notification to buyers, 1.108
Overview, 1.106
Qualified institutional buyers,
definition of, 1.107

S

Safe Harbor

Exemptions from securities
registration. *See* Exemptions
from Securities Registration
Forward-looking statements, 1.124
Resales, Rule 144 exemption for.
See Rule 144 Exemption for
Resales (Safe Harbor)

Sales of Securities

See Federal Securities Regulations;
Offer of Securities (Offer to
Sell); Wisconsin Securities Law

**Sarbanes-Oxley Act of 2002
(SOX)**

Corporate and criminal fraud
accountability. *See* Fraud
Section 302 certifications, 1.141
Section 906 certifications, 1.142

SEC

See Securities and Exchange
Commission

**Secondary Distributions and
Market Trading**

See also Underwriter of Securities
Offering
Intrastate sales, 1.40

Rule 144 exemption for resales
(safe harbor). *See* Rule 144
Exemption for Resales (Safe
Harbor)

Rule 144A exemption. *See* Rule
144A Exemption from Private
Placements with Institutional
Investors

Section 4(a)(1-1/2) exemption for
secondary private placements,
1.111

Secure Computing Corporation

Regulation FD violation
enforcement, 1.157

Securities

See also Federal Securities
Regulations; Wisconsin
Securities Law
Definition, 2.5, 6.5
—covered securities, 6.7
—equity securities, 1.127
—family resemblance test, 1.21
—fungible securities, 1.109
—investment contracts. *See* *Howey*
Test, Four-Factor; Investment
Contracts
—restricted securities, 1.97
—statutory, 1.11
Equity securities
—definition, 1.127
—registration of. *See* Securities
Registration, Exchange Act of
1934
Notes classified as, family
resemblance test, 1.21
Offer to sell. *See* Offer of
Securities (Offer to Sell)
Over-the-counter, 1.98, 1.127
Registration. *See* Securities
Registration, Securities Act of
1933
Restricted securities
—definition, 1.97

- Rule 144 sales of. *See* Secondary Distributions and Market Trading
- Securities, Division of**
See Division of Securities
- Securities Act of 1933**, 1.3, 1.4
Liability under. *See* Liability Under Securities Act of 1933
Proxy solicitations, exempt, 1.171
Securities registration. *See* Securities Registration, Securities Act of 1933
Security defined, 1.11
- Securities and Exchange Commission (SEC)**
Creation of, 1.5
Investment advisers
—registration, 1.8
—remedial sanctions, 1.8
Investment company requirements, 1.7
Proxy materials, filing of, 1.174
Registration of securities. *See* Securities Registration, Exchange Act of 1934; Securities Registration, Securities Act of 1933
Reports to. *See also* Reporting Requirements, Continuous (Exchange Act of 1934)
—annual report to shareholders, filing of, 1.175
—resales, Rule 144 exemption for, 1.98
- Securities Exchange Act of 1934**, 1.5
Exempted securities subject to Rule 10b-5, 1.149
Liability under. *See* Liability Under Exchange Act of 1934
Proxy regulation. *See* Proxy Regulation
- Registration under. *See* Securities Registration, Exchange Act of 1934
- Reports
—annual report to shareholders, 1.175
—continuous reporting requirements. *See* Reporting Requirements, Continuous (Exchange Act of 1934)
- Security, definition of, 1.11, 1.127
- Securities Firms**
See also Investment Company Act of 1940
Liquidation of, 1.9
- Securities Investor Protection Act of 1970**, 1.3, 1.9
- Securities Investor Protection Corporation**, 1.9
- Securities Registration, Exchange Act of 1934**
Deregistration, 1.128
Integrated disclosure framework, 1.33
Liability for. *See* Liability Under Exchange Act of 1934
Over-the-counter securities, 1.127
Prefiling period, 1.27
Voluntary registration, 1.127
Who must (and can) register, 1.127
- Securities Registration, Securities Act of 1933**
Exemptions from registration. *See* Exemptions from Securities Registration
Expertised portion of registration, 1.116
Forward-looking statements, safe harbor for, 1.124
Integrated disclosure framework, 1.33

Liability
 —fraud in public offering, 1.121–
 .123
 —material misstatement or
 omission, 1.114–.116
 —unregistered security, person
 offering or selling, 1.119, 1.123
 Procedures, 1.23
 Required disclosures, 1.24
 Shelf registration, 1.30
 Time periods, Section 5
 —generally, 1.26
 —posteffective period, 1.30
 —prefiling period, 1.27
 —quiet period, 1.30
 —waiting period, 1.29
 Underwriter selection, 1.27

Securities Registration,

Wisconsin Securities Law

Background, 2.7
 Coordination, registration under,
 2.7
 Exemptions
 —exempt securities, 2.10
 —exempt securities transactions,
 2.11
 —securities exemption
 proceedings, 2.12
 Offering document, 2.7
 Qualification, registration under,
 2.7
 Registration generally, 2.8
 Stop order, issuance of, 2.8
 Withdrawal of registration
 statement, 2.8

Selling Small Business

See Small Business, Buying and
 Selling

Service of Process

Crowdfunding, nonresident funding
 portal use of domestic agent,
 6.34
 Wisconsin Securities Law, 2.46

Shares

See Stock

Shelf Registration, Securities,
 1.30

Siebel Systems, Inc.

Regulation FD violation
 enforcement, 1.158

Significant Shareholder

See also Fair Price Statute
 Business combination, shareholder
 vote required for, 3.15
 Definition, 3.13

**Small Business, Buying and
 Selling**

Confidentiality agreement, 5.7
 Dissenters' rights, 5.4
 Due diligence
 —business documents review, 5.11
 —employment and personnel
 analysis, 5.8
 —financials review, 5.9
 —generally, 5.7
 —insurance review, 5.10
 —occupancy issues, 5.12–.17
 —tax review, 5.9
 Form of purchase, 5.2–.5
 Labor and employment issues, 5.4,
 5.8
 Letter of intent, 5.7
 —no-shop clause, 5.7
 Licensing issues, 5.20
 Overview, 5.1
 Public records review, 5.18
 Tax issues
 —basis step-up, 5.3, 5.5
 —cost basis, obtaining, 5.3
 —general utilities doctrine, 5.4
 —goodwill, 5.5
 —prior depreciation (last in, first
 out), 5.4
 —registrations, transfer of, 5.20
 —sales tax, 5.4, 5.5

- stock purchase, 5.4
- tax returns, due diligence review of, 5.9

Solicitation

- Of proxies. *See* Proxy Regulation
- Securities offering. *See*
 - Advertising, Securities;
 - Prospectus

SOX

- See* Sarbanes-Oxley Act of 2002

Statute of Limitation

- Securities Act of 1933
 - Section 11, 1.114
 - Section 12(a)(1), 1.119
 - Section 12(a)(2), 1.121
- Wisconsin Securities Law, 2.40, 2.42

Stock

- See also* Federal Securities Regulations; Wisconsin Securities Law
- Small business, stock/entity sale of
 - asset sale vs. entity sale, 5.3
 - reasons to structure sale as, 5.4
- Wisconsin takeover laws
 - advance notice of shareholders' meetings, required, 3.31
 - blank check capital stock, authorization of, 3.29
 - interested stockholder, 3.6, 3.8
 - sale, exchange, or transfer of, as business combination, 3.5, 3.12. *See also* Fair Price Statute
 - shareholder approval required for greenmail acquisition, 3.17
 - significant shareholder, 3.13
 - supermajority voting by shareholders for fundamental changes, 3.30
 - voting power of shares, limits on, 3.16

Subpoenas

- Division of Securities, by, 2.39

Summary Orders

- See* Orders, Wisconsin Securities Law

T

Takeover Disclosure Statute

- Articles and bylaws, protection in
 - advance notice of shareholders' meetings, required, 3.31
 - blank check capital stock, authorization of, 3.29
 - generally, 3.27
 - staggered or classified boards, 3.28
 - supermajority voting for fundamental changes, 3.30
- Definitions, primary, 3.20–.22
- Generally, 3.19
- Registration of takeover offers, 3.19, 3.23

Takeover Laws

- See also* Business Combination Statute; Fair Price Statute
- Anti-takeover protection, adoption of, 3.27–.32
- Control Share Acquisition Statute, 3.16
- Corporate takeover disclosure statute. *See* Takeover Disclosure Statute
- Greenmail transactions, 3.17
- Overview, 3.1
- Ownership information, filing of, 3.24

Takeover Offer

- Definition, 3.21
- Registration, 3.19, 3.23

Target Company

Definition, 3.22
 Ownership information, filing of,
 3.24
 Takeover offers
 —definition, 3.21
 —registration of, 3.19, 3.23

Tax Issues

Small business, buying and selling.
See Small Business, Buying and
 Selling

Tax Reform Act of 1986, 5.4**Tax-Free Reorganization, 4.1****Time Periods, Section 5**

See Securities Registration,
 Securities Act of 1933

Tombstone Advertisement

Proxy solicitation, exempt, 1.171
 Securities, 1.29

**Trust Indenture Act of 1939, 1.3,
1.6****U****Underwriter of Securities
Offering**

Definition, 1.91
 Liability, for registration statement
 material misstatement or
 omission, 1.114
 Methods to become underwriter
 —generally, 1.91
 —offering or selling in connection
 with distribution of security,
 1.93
 —participating, directly or
 indirectly, in such an
 undertaking, 1.94

—participating, directly or
 indirectly, in underwriting of
 such an undertaking, 1.94
 —purchasing from issuer with view
 to distribution, 1.92
 Selection of lead underwriter, 1.27

**Uniform Securities Act of 2002,
2.1, 2.3****Uniform Securities Law,
Wisconsin**

See Wisconsin Securities Law

W**WBCL**

See Wisconsin Business
 Corporation Law

**Website and social media
disclosures, 1.62–.65****Wisconsin Administrative
Procedure and Review Act,
2.47****Wisconsin Business Corporation
Law (WBCL), 3.1**

See also Business Combination
 Statute; Fair Price Statute;
 Takeover Laws
 Anti-takeover provisions, 3.27–.32
 Control Share Acquisition Statute,
 3.16
 Greenmail transactions, 3.17

Wisconsin Securities Law

Administrative rules, forms, and
 orders, 2.4
 Crowdfunding. *See* Crowdfunding
 Exemptions from registration. *See*
 Exemptions from Securities
 Registration

- Fraudulent practices. *See* Fraud
- General provisions
- administration, 2.34
 - administrative assessments, 2.43
 - administrative files and opinions, 2.45
 - administrative procedures, 2.47
 - advertising, 2.36
 - burden of proof, 2.48
 - civil liabilities, 2.42
 - criminal penalties, 2.41
 - fees and expenses, 2.35
 - hearings, 2.44
 - injunctions, 2.40
 - investigations, 2.39
 - judicial review, 2.44
 - misleading filings, 2.37
 - service of process, 2.46
 - subpoenas, 2.39
 - unlawful representations, 2.38
- Licensing procedures, broker-dealers, agents, investment advisers, investment adviser representatives
- administrative authority to set standards and impose conditions, 2.23
 - denial, suspension, and revocation of licenses, 2.28
 - exemptions from licensing, 2.15–.21
 - general prohibition on acting without a license or exemption, 2.14
 - licensing and notice filing procedures, 2.22
 - post-registration requirements, 2.24
 - prohibited business practices, 2.27
 - reporting requirements, 2.25. *See* also Reports
 - rules of conduct, 2.26
 - service of process, consent to, 2.46
 - unlawful representations, 2.38
- Overview, 2.1
- Registration of securities. *See* Securities Registration, Wisconsin Securities Law
- Scope of law, 2.2
- Security, defined, 2.5
- Statutory policy, 2.3

Z

Zoning Permits

- Grandfathered uses or nonconforming issues, 5.17
- Public records, review of, 5.18
- Special use permits/uses permitted as matter of right *vs.* permissive uses, 5.16