

Table of Contents

VOLUME 1

About the Author	vii
Table of Chapters	ix
Introduction	xlvi

PART I INTRODUCTION TO HEDGE FUNDS

Chapter 1 From Innovation to Industry

§ 1:1	The Birth and Growth of Hedge Funds.....	1-1
Chart 1-1	Estimated Annual Growth of Assets: Hedge Fund Industry 1990—Q2 2025	1-6
§ 1:2	A Variety of Alternatives—Hedge Fund Strategies.....	1-7
§ 1:2.1	Hedged Equities	1-7
§ 1:2.2	Global Opportunistic	1-8
§ 1:2.3	Arbitrage.....	1-9
§ 1:2.4	Event Driven.....	1-14
Chart 1-2	Estimated Sub-Strategy Composition by Assets Under Management Q2 2025	1-16
§ 1:3	Defining the Hedge Fund; the Three A's: Alternative, Absolute, and Alpha.....	1-17
§ 1:4	Reasons for Growth.....	1-21
§ 1:4.1	Demand and Supply	1-21
§ 1:4.2	Lower Barriers to Entry	1-23
§ 1:5	Industry Convergence.....	1-25

Chapter 2 Form Over Substance: Hedge Fund Structures

§ 2:1	Hedge Fund Design—The Jones Blueprint.....	2-2
§ 2:2	Common Characteristics.....	2-3
§ 2:2.1	Centralized Management.....	2-3
§ 2:2.2	Co-Investment.....	2-3
§ 2:2.3	Performance-Based Compensation.....	2-3
§ 2:2.4	Limited Liquidity	2-4

§ 2:3	Domestic Hedge Funds.....	2-4
§ 2:3.1	Limited Liability	2-5
§ 2:3.2	Tax Efficiency.....	2-6
§ 2:3.3	Flexible Terms.....	2-8
[A]	Management Fees	2-8
[B]	Expense Pass-Throughs.....	2-8
[C]	Performance-Based Allocations	2-9
[C][1]	High Water Marks	2-11
[C][2]	Hurdles	2-12
[C][3]	Regulatory Considerations	2-13
[D]	Liquidity	2-15
[D][1]	Portfolio Characteristics	2-15
[D][2]	Publicly Traded Partnership Status	2-15
[D][3]	Liquidity Management Tools	2-18
[D][3][a]	Lock-Ups.....	2-18
[D][3][b]	Gates.....	2-19
[D][3][c]	Settlement Terms	2-19
[E]	Multiple Classes/Flexible Terms	2-19
[E][1]	Side Pockets.....	2-20
[E][2]	New Issues	2-21
[F]	Side Letters	2-21
§ 2:4	Offshore Hedge Funds	2-23
§ 2:4.1	Non-U.S. Investors	2-24
§ 2:4.2	U.S. Tax-Exempt Investors.....	2-25
§ 2:4.3	U.S. Taxable Investors	2-27
[A]	Passive Foreign Investment Company.....	2-27
[B]	Controlled Foreign Corporation	2-28
§ 2:4.4	Selecting an Offshore Entity and Jurisdiction.....	2-29
Chart 2-1	Estimated Fund Domicile Registration:	
	Year End 2021	2-30
§ 2:4.5	Offshore Fund Terms	2-31
[A]	Partnership Approach Within a Corporate	
	Structure.....	2-32
[B]	Equalization.....	2-32
§ 2:5	Complex Fund Structures	2-33
§ 2:5.1	Parallel Funds.....	2-34
Chart 2-2	Parallel Fund Structure.....	2-35
§ 2:5.2	Master-Feeder Structure.....	2-36
Chart 2-3	Master-Feeder Structure	2-37
§ 2:5.3	Mini-Master Fund.....	2-38
Chart 2-4	Mini-Master Parallel Fund Structure	2-40
Chart 2-5	Mini-Master Master-Feeder Structure	2-41
§ 2:6	Managed Accounts	2-42
Chart 2-6	Managed Account Structures	2-43

Chapter 3 Rationale for Regulation

§ 3:1	Introduction	3-1
§ 3:2	Theoretical Underpinnings.....	3-1
§ 3:3	Market Integrity	3-2
§ 3:4	Investor Protection	3-11
§ 3:5	Self-Regulation.....	3-16

PART II RAISING CAPITAL

Chapter 4 Private Placement

§ 4:1	General Considerations	4-2
§ 4:2	Domestic Capital Raising	4-3
§ 4:2.1	Private Placements.....	4-3
§ 4:2.2	Regulation D.....	4-5
[A]	Accredited Investors.....	4-5
[A][1]	Natural Person's Net Worth—Exclusion of Primary Residence.....	4-10
[A][2]	Accredited Investor—Periodic Reviews	4-11
[B]	Non-Accredited Investors	4-11
[B][1]	Purchaser Representative.....	4-12
[B][2]	Counting Non-Accredited Investors	4-13
[C]	Disclosure Requirements	4-14
[D]	Manner of the Offering	4-19
[D][1]	Prohibition of General Solicitation or General Advertising.....	4-19
[D][2]	Accredited Investor-Only Exception	4-24
[D][2][a]	Verifying Accredited Investor Status	4-25
[D][2][a][i]	Principles-Based Method of Verifying Accredited Investor Status	4-25
[D][2][a][ii]	Non-Exclusive Methods of Verifying Accredited Investor Status of Natural Persons	4-27
[D][2][a][iii]	Minimum Investment Amounts	4-29
[D][2][b]	Reasonable Belief.....	4-30
[D][2][c]	Interplay with Other Offering Requirements	4-31
[E]	Limits on Resales.....	4-33
[F]	Disqualified Offerings	4-34
[G]	Post-Sale Filing	4-42

[H]	Integration	4-48
[H][1]	General Principle of Integration	4-49
[H][1][a]	Exempt Offering Prohibiting General Solicitation	4-50
[H][1][b]	Concurrent Exempt Offerings That Each Allow General Solicitation	4-51
[H][2]	Safe Harbors	4-51
§ 4:3	State Law Preemption	4-54
§ 4:4	Offshore Capital Raising	4-57
§ 4:4.1	Regulation S	4-57
[A]	Offshore Transactions	4-58
[B]	Directed Selling Efforts	4-59
[C]	Issuer Safe Harbor Categories	4-61
[C][1]	Category 1	4-62
[C][2]	Category 2	4-63
[C][3]	Category 3	4-63
[C][3][a]	Offering Restrictions	4-63
[C][3][b]	Transfer Restrictions	4-66
§ 4:4.2	Simultaneous Onshore and Offshore Capital Raising	4-67

Chapter 5 Commodity Pools

§ 5:1	Commodity Pools	5-1
§ 5:2	Disclosure Document	5-3
§ 5:3	Reporting and Record-Keeping	5-11
§ 5:4	Exemptions from Disclosure, Reporting, and Record-Keeping Requirements	5-14
§ 5:4.1	Regulation 4.12(b)	5-14
§ 5:4.2	Regulation 4.7	5-15
[A]	Qualified Eligible Persons	5-17
[A][1]	QEPs Who Need Not Satisfy Portfolio Requirements	5-17
[A][2]	QEPs Who Must Satisfy Portfolio Requirements	5-20
[A][3]	Portfolio Requirements	5-22
§ 5:4.3	Offshore Commodity Pools	5-23
§ 5:4.4	Electronic Filing	5-26

Chapter 6 Marketing the Manager

§ 6:1	Marketing.....	6-3
§ 6:1.1	Investment Advisers	6-3
[A]	Advertisement: First Prong—Communications Other Than Compensated Testimony and Endorsements	6-5
[A][1]	Direct or Indirect Communication.....	6-6
[A][2]	Third-Party Information.....	6-6
[A][2][a]	Adoption and Entanglement.....	6-6
[A][2][b]	Social Media.....	6-7
[A][3]	One-on-One Communications	6-8
[A][4]	Offers of Investment Advisory Services with Regard to Securities	6-10
[A][5]	Exclusions	6-10
[B]	Advertisement: Second Prong—Compensated Testimonials and Endorsements	6-11
[B][1]	Compensation.....	6-13
[B][2]	Exclusions	6-13
[B][3]	Disclosures.....	6-13
[B][3][a]	Clear and Prominent Disclosure	6-14
[B][3][b]	Disclosure of Material Terms of Compensation.....	6-15
[B][3][c]	Disclosure of Conflicts of Interest.....	6-16
[B][4]	Adviser Oversight and Compliance	6-16
[B][5]	Disqualifications	6-17
[B][5][a]	Ineligible Persons	6-17
[B][5][b]	Disqualifying Commission Action	6-19
[B][5][c]	Disqualifying Event.....	6-19
[B][5][d]	Reasonable Care.....	6-20
[B][5][e]	Exemptions	6-21
[B][5][e][i]	Affiliated Persons.....	6-21
[B][5][e][ii]	De Minimis Compensation.....	6-22
[B][5][e][iii]	Registered Broker-Dealers	6-22
[B][5][e][iv]	Covered Persons Under Rule 506(d)	6-22
[C]	Investors in Private Funds.....	6-23
[D]	General Prohibitions.....	6-24
[D][1]	Untrue Statements or Omissions.....	6-25
[D][2]	Unsubstantiated Material Statements of Fact	6-25
[D][3]	Untrue or Misleading Implications or Inferences.....	6-26
[D][4]	Failure to Provide Fair and Balanced Treatment.....	6-27

[D][5]	Anti-Cherry-Picking—Specific Investments	6-28
[D][6]	Anti-Cherry-Picking—Performance Results.....	6-30
[D][7]	Otherwise Materially Misleading	6-31
[E]	Third-Party Ratings	6-31
§ 6:1.2	CPOs and CTAs	6-32
[A]	Advertising	6-32
[B]	Promotional Material.....	6-34
§ 6:2	Performance	6-37
§ 6:2.1	Investment Advisers	6-38
[A]	Recordkeeping.....	6-38
[B]	Performance.....	6-39
[B][1]	Net Performance and Gross Performance.....	6-39
[B][1][a]	Net Performance	6-39
[B][1][b]	Use of Model Fees	6-40
[B][1][c]	Gross Performance.....	6-41
[B][1][d]	Time Periods	6-42
[B][1][e]	Presentation of Performance.....	6-43
[B][1][f]	SEC Approval Representations	6-44
[B][2]	Related Portfolios and Related Performance.....	6-44
[B][2][a]	Related Portfolio.....	6-44
[B][2][b]	Related Performance.....	6-45
[B][2][c]	Presentation of Related Performance	6-46
[B][3]	Extracted Performance.....	6-46
[B][4]	Hypothetical Performance	6-49
[B][4][a]	Model Performance	6-49
[B][4][b]	Backtested Performance	6-52
[B][4][c]	Targeted or Projected Performance.....	6-52
[B][4][d]	Exclusions from Hypothetical Performance	6-52
[B][4][e]	Presentation of Hypothetical Performance.....	6-53
[B][4][e][i]	Policies and Procedures	6-54
[B][4][e][ii]	Criteria and Assumptions	6-55
[B][4][e][iii]	Risk Information	6-55
[B][4][e][iv]	Enforcement.....	6-56
[B][5]	Portability of Predecessor Performance	6-57
[B][5][a]	Primarily Responsible.....	6-58
[B][5][b]	Sufficiently Similar Accounts	6-58
[B][5][c]	Managed in a Substantially Similar Manner	6-58
[B][5][d]	Relevant Disclosures	6-59
[B][5][e]	Records.....	6-59
[C]	Portfolio or Investment-Related Characteristics	6-59
[D]	Compliance	6-62
[E]	Common Advertising Violations.....	6-62

Table of Contents

§ 6:2.2	CPOs and CTAs	6-66
[A]	Performance.....	6-66
[B]	Proprietary Trading Results	6-71
[C]	Hypothetical Results.....	6-71
[D]	Extracted Performance	6-76
[E]	Ratings and Rankings by Outside Sources	6-76
[F]	Internet-Based Forums and Electronic Communications	6-77
[G]	Supervisory Requirements	6-78
[H]	Recordkeeping.....	6-78
§ 6:2.3	Global Investment Performance Standards	6-78
[A]	Overview	6-78
[B]	Fundamentals of Compliance	6-80
[C]	Input Data Calculation Methodology	6-82
[C][1]	Carve-Outs.....	6-83
[C][2]	Portability of Track Records	6-83
[D]	Composite and Pooled Fund Maintenance.....	6-84
[E]	Composite/Pooled Fund Time/Money-Weighted Return Reports.....	6-85
[F]	Advertising	6-85
[G]	GIPS and the Marketing Rule	6-87
§ 6:3	Use of the Internet	6-89
§ 6:3.1	Internet.....	6-89
§ 6:3.2	Social Media	6-97

Chapter 7 Marketers

§ 7:1	Broker-Dealer Status.....	7-1
§ 7:2	State Broker-Dealer Regulations	7-7
§ 7:3	FINRA Considerations	7-8
§ 7:3.1	Disclosure Standards	7-8
§ 7:3.2	Obligation to Conduct Reasonable Investigations	7-10
§ 7:3.3	Filing of Offering Documents	7-11
§ 7:4	Solicitors.....	7-13
§ 7:4.1	Promoters	7-13
[A]	Marketing Rule Considerations	7-14
[B]	Other Regulatory Considerations.....	7-18
§ 7:4.2	Pay to Play	7-20
§ 7:4.3	Lobbying.....	7-29
§ 7:4.4	Foreign Corrupt Practices Act	7-30
§ 7:5	Capital Introduction Services	7-34

Chapter 8 Anti-Money Laundering Regulations

§ 8:1	Anti-Money Laundering Overview.....	8-2
§ 8:2	Investment Advisers and the BSA.....	8-6
§ 8:2.1	Investment Adviser Status	8-6
[A]	Covered Investment Advisers	8-6
[B]	RIA Exemptions.....	8-6
[C]	Foreign Located Investment Advisers.....	8-7
[D]	State-Registered Investment Advisers	8-10
[E]	Family Offices.....	8-10
§ 8:2.2	Advisory Services	8-11
§ 8:2.3	Dually Registered or Affiliated Advisers	8-12
§ 8:2.4	Delegation of AML/CFT Requirements.....	8-12
§ 8:3	AML Program Elements	8-13
§ 8:3.1	Developing Internal Policies, Procedures, and Controls.....	8-15
§ 8:3.2	Independent Testing.....	8-16
§ 8:3.3	AML Officer.....	8-16
§ 8:3.4	Employee Training	8-18
§ 8:4	Customer Due Diligence Rule	8-18
§ 8:4.1	Customer Identification Rule.....	8-19
[A]	Identification and Verification Procedures.....	8-20
[A][1]	Required Customer Information	8-21
[A][2]	Customer Verification	8-22
[A][2][a]	Customer Verification Through Documents	8-23
[A][2][b]	Customer Verification Through Non-Documentary Methods	8-23
[A][2][c]	Additional Verification for Certain Customers.....	8-24
[A][2][d]	Lack of Verification	8-25
[B]	Recordkeeping.....	8-25
[C]	Comparison with Government Lists.....	8-26
[C][1]	Designated Lists	8-26
[C][2]	OFAC List	8-26
[D]	Customer Notice	8-28
[E]	Reliance on Another Financial Institution	8-28
§ 8:4.2	Customer Due Diligence Rule	8-29
[A]	Special Measures	8-29
§ 8:4.3	Customer Risk Profile.....	8-30
§ 8:4.4	Ongoing Monitoring to Identify Suspicious Transactions and Update Customer Information	8-34
§ 8:4.5	Special Standards of Diligence	8-35
[A]	Correspondent Accounts and Private Bank Accounts.....	8-35

Table of Contents

§ 8:5	Suspicious Activity Reports.....	8-38
§ 8:5.1	By, At, or Through Standard	8-39
§ 8:5.2	Knows, Suspects or Has Reason to Suspect.....	8-39
§ 8:5.3	Suspicious Activities	8-40
§ 8:5.4	SAR Obligations of Foreign-Located Investment Advisers	8-42
§ 8:5.5	SAR Filing and Notification Procedures	8-42
§ 8:5.6	Records Retention.....	8-43
§ 8:5.7	SAR Sharing and Confidentiality	8-44
§ 8:5.8	Limitation of Liability	8-44
§ 8:6	CTR Filings	8-45
§ 8:7	Recordkeeping and Travel Rules	8-45
§ 8:8	Information Sharing	8-47
§ 8:9	Other BSA Requirements.....	8-48
§ 8:10	FinCEN and SEC Examination Authority	8-49
§ 8:11	Beneficial Ownership Reporting.....	8-49
§ 8:11.1	Reporting Companies	8-50
§ 8:11.2	BOI Reports	8-50
[A]	Reporting Company Information.....	8-50
[B]	Beneficial Owner Information	8-51
[C]	Beneficial Ownership Exemptions	8-51
[D]	FinCEN Identifier	8-52
§ 8:11.3	Beneficial Owner.....	8-52
§ 8:11.4	Exemptions.....	8-55

Chapter 9 Privacy Regulations

§ 9:1	Gramm-Leach-Bliley Act	9-1
§ 9:1.1	Financial Privacy Rule.....	9-2
§ 9:1.2	Safeguards Rule.....	9-7
§ 9:2	ISP Regulations.....	9-8
§ 9:2.1	FTC Regulations.....	9-8
§ 9:2.2	SEC Regulations	9-13
[A]	Incident Response Program.....	9-15
[A][1]	Assessment	9-15
[A][2]	Containment and Control.....	9-16
[A][3]	Notice to Affected Individuals	9-16
[A][3][a]	Substantial Harm or Inconvenience	9-19
[A][3][b]	Permitted Delays in Providing Notice	9-19
[A][3][c]	Notice Contents and Format.....	9-20
[B]	Service Providers.....	9-21
[C]	Books and Records	9-21
§ 9:2.3	CFTC Regulations	9-22

§ 9:3	Data Disposal Rules	9-25
§ 9:4	Identity Theft Red Flags Rules	9-27
§ 9:4.1	Financial Institutions.....	9-27
§ 9:4.2	Creditors.....	9-28
§ 9:4.3	Covered Account.....	9-29
§ 9:4.4	Elements of Red Flags Program	9-29
§ 9:5	State Privacy Regulation	9-32
§ 9:6	Cybersecurity.....	9-34
§ 9:6.1	SEC Guidance and Enforcement.....	9-34
§ 9:6.2	NFA Guidance	9-46

PART III

FUND REGULATION

Chapter 10 Regulation of Private Investment Companies

§ 10:1	Avoiding Investment Company Status	10-1
§ 10:2	Section 3(c)(1) Funds	10-3
§ 10:2.1	The 100-Beneficial-Owner Requirement.....	10-4
§ 10:2.2	Knowledgeable Employees.....	10-5
§ 10:2.3	Involuntary Transferees	10-8
§ 10:2.4	Look-Through Rule.....	10-9
§ 10:2.5	Private Placement Requirement	10-11
§ 10:3	Section 3(c)(7) Funds	10-11
§ 10:3.1	Qualified Purchasers.....	10-12
§ 10:3.2	Knowledgeable Employees.....	10-14
§ 10:3.3	Involuntary Transferees	10-14
§ 10:3.4	Investments	10-14
§ 10:3.5	The Private Placement Requirement.....	10-17
§ 10:3.6	Numerical Limits on Section 3(c)(7) Funds.....	10-18
[A]	Securities Exchange Act Reporting	10-18
[B]	Publicly Traded Partnerships.....	10-19
[C]	Plan Asset Regulations.....	10-20
§ 10:4	The Interplay of Sections 3(c)(1) and 3(c)(7)	10-20
§ 10:4.1	Conversion	10-21
§ 10:4.2	Integration	10-21
§ 10:5	Combined Domestic and Offshore Fund Structures.....	10-22
§ 10:6	Commodity Pools	10-24

Chapter 11 Regulation of Registered Investment Companies

§ 11:1	Reasons for Registering	11-1
§ 11:2	Types of Registered Funds	11-5
§ 11:3	Raising Capital	11-7
§ 11:4	Tax Structures.....	11-8
§ 11:5	Fund Governance and Administration.....	11-10
§ 11:6	Fund Disclosures	11-13
§ 11:7	Investor Liquidity	11-16
§ 11:7.1	Closed-End Funds	11-16
[A]	Tender Offer Funds	11-16
[B]	Interval Funds.....	11-17
§ 11:7.2	Open-End Funds	11-18
§ 11:8	Portfolio Management	11-23
§ 11:8.1	Investment Objectives	11-23
§ 11:8.2	Affiliated Transactions	11-24
§ 11:8.3	Leverage.....	11-26
§ 11:9	Valuation	11-34
§ 11:10	Investment Company Ownership Limitations.....	11-44

PART IV THE HEDGE FUND MANAGER

Chapter 12 Investment Adviser Registration

§ 12:1	Introduction	12-2
§ 12:2	Bifurcated Regulation.....	12-3
§ 12:2.1	Eligibility for Federal Registration	12-5
[A]	Assets Under Management.....	12-5
[B]	Mid-Sized Advisers	12-7
[C]	Switching Between Federal and State Registration.....	12-8
§ 12:2.2	Eligibility for State Registration.....	12-9
§ 12:2.3	Exemption from Federal Registration	12-10
[A]	Private Adviser Exemption.....	12-10
[B]	Private Fund Exemptions	12-11
[B][1]	The Private Fund.....	12-11
[B][2]	Private Fund Adviser Exemption	12-12
[B][2][a]	U.S. Advisers.....	12-12
[B][2][b]	Non-U.S. Advisers.....	12-13
[B][2][c]	Private Fund Assets	12-14
[B][3]	Venture Capital Funds.....	12-15
[B][3][a]	Qualifying Investments	12-15

[B][3][b]	Limitation on Leverage.....	12-18
[B][3][c]	Redemption Rights.....	12-18
[B][3][d]	Venture Capital Strategy Representation	12-18
[B][3][e]	Private Fund Status	12-19
[B][3][f]	Grandfathered Funds.....	12-19
[B][4]	Exempt Reporting Advisers.....	12-19
Chart 12-1	Registration Chart	12-23
[C]	Other Exemptions.....	12-23
[C][1]	Intra-State Exemption	12-23
[C][2]	CTA Exemption	12-24
[C][3]	Family Office.....	12-24
[C][3][a]	Family Clients.....	12-26
[C][3][b]	Family Member.....	12-26
[C][3][c]	Key Employees	12-27
[C][3][d]	Ownership and Control.....	12-28
[C][3][e]	Grandfather Provision	12-28
[C][4]	Broker-Dealer Exclusion	12-28
§ 12:2.4	Exemption from State Registration	12-31
§ 12:2.5	Jurisdictional Reach of Advisory Regulations	12-32
[A]	State Oversight	12-32
[B]	Federal Anti-Fraud Rule	12-32
§ 12:3	Offshore Managers	12-35
§ 12:3.1	Foreign Private Advisers	12-36
[A]	Clients.....	12-37
[B]	Private Fund Investors	12-38
[C]	In the United States.....	12-39
[D]	Assets Under Management.....	12-40
[E]	Holding Out	12-40
[F]	Adviser Lite.....	12-41
§ 12:3.2	Affiliation with Domestic Managers	12-42
§ 12:4	Registration Process.....	12-46
§ 12:4.1	Form ADV Part 1	12-46
§ 12:4.2	Form ADV Part 2—Brochure.....	12-47
§ 12:4.3	Managed Accounts.....	12-55
§ 12:4.4	Umbrella Registrations	12-57
§ 12:4.5	Form ADV Part 3—Client Relationship Summary	12-59

Chapter 13 Compliance

§ 13:1	Compliance Obligations	13-2
§ 13:1.1	Fiduciary Duty.....	13-2
§ 13:1.2	Substantive Prohibitions and Requirements.....	13-13
§ 13:1.3	The Private Funds Rule and the Limits of SEC Regulation.....	13-15

Table of Contents

§ 13:2	Compliance Policies	13-17
§ 13:3	Chief Compliance Officer	13-20
§ 13:4	Code of Ethics	13-26
§ 13:5	Supervision.....	13-31
§ 13:6	Whistleblowers	13-32
§ 13:6.1	Definition of Whistleblower.....	13-34
§ 13:6.2	Payment of Award.....	13-36
[A]	Voluntary Provision of Information	13-36
[B]	Original Information	13-37
[C]	Information That Leads to a Successful Enforcement	13-40
[D]	SEC Action	13-40
§ 13:6.3	Size of Award	13-41
§ 13:6.4	Related Actions.....	13-41
§ 13:6.5	Interplay Between Whistleblower Regime and Compliance Policies and Procedures	13-45
§ 13:7	Contractual Requirements.....	13-46
§ 13:7.1	Compensation	13-46
§ 13:7.2	Assignments of Advisory Contracts	13-46
§ 13:7.3	Notification of Partnership Changes	13-47
§ 13:7.4	Hedge Clauses	13-47
§ 13:7.5	Termination Penalties	13-49
§ 13:8	Proxy Voting	13-50
§ 13:8.1	Proxy Voting Rule.....	13-50
§ 13:8.2	Proxy Advisory Firms.....	13-55
§ 13:9	Business Continuity	13-59
§ 13:9.1	Business Continuity Planning.....	13-59
§ 13:9.2	Transition Planning	13-63
§ 13:9.3	SEC Business Continuity Regulations.....	13-63
[A]	Business Continuity Plan Contents	13-64
[B]	Annual Review.....	13-67
[C]	Recordkeeping.....	13-67
§ 13:9.4	Other Regulatory Considerations.....	13-68
[A]	State Advisers	13-68
[B]	NFA Members	13-68
§ 13:10	SEC Examinations.....	13-69
§ 13:10.1	National Exam Program.....	13-69
§ 13:10.2	Exam Process	13-72
§ 13:10.3	Areas of Focus.....	13-75
§ 13:10.4	Handling an SEC Examination	13-76
§ 13:11	State Examinations.....	13-77

Chapter 14 Books and Records

§ 14:1	General Requirements	14-2
§ 14:1.1	Registered Investment Adviser	14-2
§ 14:1.2	CPO and CTA.....	14-7
[A]	Regulation 1.31.....	14-7
[B]	Registered CPO.....	14-8
[C]	Registered CTA.....	14-11
§ 14:1.3	Exempt CPO and CTA.....	14-12
§ 14:2	Electronic Records and Communications	14-13
§ 14:3	Systemic Risk Information	14-19
§ 14:3.1	Records and Reports.....	14-19
§ 14:3.2	Form PF	14-20
[A]	Form PF Filers	14-22
[A][1]	Hedge Funds.....	14-22
[A][2]	Large Private Fund Advisers.....	14-24
[A][2][a]	Regulatory Assets Under Management.....	14-24
[A][2][b]	Aggregation of Assets Under Management	14-25
[A][2][b][i]	Parallel Managed Accounts.....	14-25
[A][2][b][ii]	Related Persons	14-25
[A][3]	Qualifying Hedge Fund.....	14-26
[A][4]	Exempt Reporting Advisers.....	14-28
[B]	Frequency of Reporting	14-28
[C]	Information Required on Form PF	14-29
[C][1]	Section 1	14-29
[C][2]	Section 2	14-33
[C][3]	Section 5	14-36
[C][3][a]	Extraordinary Investment Losses	14-37
[C][3][b]	Margin, Collateral or Equivalent Increases.....	14-38
[C][3][c]	Fund Margin Default or Inability to Meet Margin Call.....	14-39
[C][3][d]	Counterparty Defaults	14-39
[C][3][e]	Prime Broker Relationship Terminated or Materially Restricted	14-40
[C][3][f]	Disruptions of Operations.....	14-41
[C][3][g]	Large Withdrawal/Redemption Requests, Inability to Satisfy Redemptions or Suspension of Redemptions.....	14-42
[D]	Forms CPO-PQR and CTA-PR	14-43
[D][1]	Form CPO-PQR	14-44
[D][2]	Form CTA-PR	14-45
§ 14:3.3	Confidentiality of Records and Reports	14-45

Chapter 15 Custody

§ 15:1	Custody Rule	15-1
§ 15:2	Custody Defined.....	15-2
§ 15:3	Qualified Custodian	15-3
§ 15:4	Notices and Account Statements	15-3
§ 15:5	Surprise Examinations and Annual Audit Exception	15-5
§ 15:6	Internal Control Report	15-7
§ 15:7	Privately Offered Securities.....	15-9
§ 15:8	Special Purpose Vehicles	15-10
§ 15:9	Custody-Related Compliance Policies and Procedures	15-12
§ 15:10	Section 223.....	15-13

Chapter 16 Performance Fees

§ 16:1	Securities Law Considerations	16-1
§ 16:2	Tax Considerations	16-4
§ 16:2.1	Section 1061	16-5
§ 16:2.2	Section 409A	16-8
§ 16:2.3	Section 457A	16-11

Chapter 17 State Advisory Regulation

§ 17:1	Introduction	17-1
§ 17:2	Registration	17-2
§ 17:2.1	The Adviser	17-2
§ 17:2.2	<i>De Minimis</i> Exception.....	17-2
§ 17:2.3	Adviser Representatives	17-2
§ 17:2.4	Regulation of the Adviser	17-3
§ 17:2.5	Relief from Multiple State Regulation	17-3
§ 17:2.6	SEC Oversight	17-3

Chapter 18 Commodity Pool Operators and Commodity Trading Advisers

§ 18:1	Commodity Pool Operator.....	18-2
§ 18:2	Commodity Trading Adviser.....	18-3
§ 18:3	Registration	18-3
§ 18:4	Exclusions and Exemptions from Registration.....	18-6
§ 18:4.1	Regulation 4.5 Exclusion from the Definition of Commodity Pool Operator.....	18-6
[A]	Regulation 4.5.....	18-6

[B]	Harmonization with Investment Company Act.....	18-10
[B][1]	Disclosure Requirements.....	18-10
[B][1][a]	Delivery of Disclosure Document	18-10
[B][1][b]	Updating of Disclosure Document	18-11
[B][1][c]	Filing and Review of Disclosure Document	18-11
[B][1][d]	RIC Structures	18-11
[B][2]	Disclosures.....	18-12
[B][2][a]	Risk Statements and Legends.....	18-12
[B][2][b]	Risk Disclosure	18-12
[B][2][c]	Break-Even Analysis.....	18-13
[B][2][d]	Past Performance Disclosure	18-13
[B][2][e]	Fee Disclosure	18-14
[B][3]	Financial Reporting	18-14
§ 18:4.2	Exemptions from Registration As a Commodity Pool Operator	18-14
[A]	Regulation 4.13(a)(1) No Compensation Exemption	18-14
[B]	Regulation 4.13(a)(2) Small Operator Exemption	18-15
[C]	Regulation 4.13(a)(3) Limited Futures Trading Exemption	18-16
[D]	Family Office	18-19
[E]	Statutory Disqualification.....	18-20
§ 18:4.3	Exemptions from Registration As a Commodity Trading Adviser	18-21
[A]	Regulations 4.14(a)(4) and (a)(5) CPO Exemptions.....	18-21
[B]	Regulation 4.14(a)(8) Registered Investment Adviser Exemption.....	18-22
[C]	Regulation 4.14(a)(10) Private CTA Exemption.....	18-23
[D]	Family Office	18-24
§ 18:4.4	Offshore Commodity Pools.....	18-25
§ 18:4.5	Exemption Notice Filings.....	18-29
§ 18:5	Compliance Obligations	18-29
§ 18:5.1	Supervision and Self-Audit.....	18-30
§ 18:5.2	Internal Controls System.....	18-33
§ 18:5.3	Use of Third-Party Service Providers.....	18-36
§ 18:5.4	Notice of CPO Material Adverse Event	18-38
§ 18:5.5	Recordkeeping.....	18-40
§ 18:5.6	Reporting	18-41
[A]	Reports to Pool Participants	18-41
[B]	Quarterly Reporting to NFA.....	18-42
§ 18:5.7	Doing Business with Non-Members	18-43
§ 18:5.8	Ethics Training.....	18-44

Table of Contents

§ 18:5.9	Business Continuity	18-44
§ 18:5.10	Sharing of Profits	18-45
§ 18:5.11	Prohibition on Loans	18-45
§ 18:6	NFA Audits.....	18-47

PART V INVESTOR CONSIDERATIONS

Chapter 19 Pensions

§ 19:1	Introduction	19-2
§ 19:2	Benefit Plan Investors	19-2
§ 19:3	The Plan Asset Regulations	19-4
§ 19:4	Fiduciary Status	19-9
§ 19:4.1	Definition of Fiduciary.....	19-9
§ 19:4.2	Fiduciary Duties	19-12
[A]	Duty of Loyalty	19-12
[A][1]	Proxy Voting	19-12
[A][2]	Multiple Plans	19-14
[B]	Prudent Man Rule.....	19-15
[C]	Diversification	19-17
[D]	Adherence to Plan Documents	19-17
§ 19:4.3	Party in Interest/Prohibited Transactions	19-17
[A]	Parties in Interest.....	19-17
[B]	Prohibited Transactions	19-18
§ 19:4.4	Liabilities and Indemnification	19-20
§ 19:4.5	Operational Considerations	19-21
[A]	Custody	19-21
[B]	Bonding	19-24
[C]	Reporting	19-24
[C][1]	Section 408(b)(2) Disclosures	19-24
[C][2]	Form 5500 Annual Reports	19-29
[C][3]	Form LM-10	19-32
§ 19:4.6	Operating As an ERISA Fiduciary	19-33
[A]	Investment Manager.....	19-33
[A][1]	Investment Manager Status.....	19-33
[A][2]	QPAM Exemption	19-34
[A][2][a]	Definition of a QPAM	19-35
[A][2][b]	Investment Fund	19-37
[A][2][c]	General Exemption	19-37
[A][2][d]	Reporting Reliance on the QPAM Exemption.....	19-40
[A][2][e]	Recordkeeping	19-41

[A][2][f]	Ineligibility Due to a Criminal Conviction or Prohibited Misconduct	19-41
[A][2][f][i]	Criminal Conviction	19-42
[A][2][f][ii]	Prohibited Misconduct	19-43
[A][2][f][iii]	Notice of Prohibited Misconduct	19-44
[A][2][f][iv]	Transition Period	19-45
[A][3]	Service Provider Exemption	19-47
[A][4]	Performance Compensation	19-48
§ 19:5	Defined Contribution Plans.....	19-50
§ 19:6	Government Plans.....	19-53

Chapter 20 Banks

§ 20:1	Control Rules and Affiliate Restrictions.....	20-3
§ 20:1.1	Bank Holding Company Act	20-3
[A]	Non-Banking Authority	20-3
[B]	Control	20-5
Figure 20-1	Summary of Tiered Presumptions	20-9
§ 20:1.2	Bank Affiliate Transactions	20-12
§ 20:2	Volcker Rule.....	20-13
§ 20:2.1	Hedge Fund Ownership and Sponsorship.....	20-15
[A]	Banking Entity	20-15
[B]	Covered Fund	20-16
[B][1]	Section 3(c)(1) and Section 3(c)(7) Funds	20-17
[B][2]	Commodity Pool	20-18
[B][3]	Foreign Covered Fund.....	20-18
[B][4]	Exclusions from Covered Fund Status	20-19
[C]	Acting As Principal	20-23
[D]	Ownership Interest	20-24
[E]	Sponsor.....	20-27
§ 20:2.2	Organizing and Offering a Covered Fund	20-27
§ 20:2.3	Ownership Limitations	20-30
[A]	Per-Fund Limitation.....	20-32
[B]	Aggregate Funds Limitation	20-34
[C]	Attribution of Ownership Interests	20-35
[C][1]	Parallel Investments	20-36
[C][2]	Bank Directors and Employees	20-38
[C][3]	Registered and Public Funds	20-39
§ 20:2.4	Affiliated Transactions	20-39
§ 20:2.5	Foreign Banks	20-41
[A]	Qualifying Foreign Excluded Funds	20-41
[B]	SOTUS Exemption	20-43
§ 20:2.6	Limitations on Sponsorship and Ownership	20-47
§ 20:2.7	Volcker Rule Compliance	20-49

Table of Contents

§ 20:3	U.S. Bank Capital Rules	20-52
§ 20:3.1	Volcker Rule Capital Provisions	20-53
§ 20:3.2	Basel Capital Rules	20-54
§ 20:3.3	U.S. Basel Rules	20-56
[A]	Capital Ratio Implications	20-57
[A][1]	Financial Institution Exposure	20-58
[A][1][a]	Financial Institution	20-60
[A][1][b]	Deductions Related to Investments in the Bank's Own Securities.....	20-61
[A][1][c]	Investments in Unconsolidated Financial Institution by Advanced Approaches Banking Organizations	20-62
[A][1][c][i]	Non-Significant Investments—10% Threshold Deduction Approach	20-63
[A][1][c][ii]	Significant Investments—Not in the Form of Common Stock	20-63
[A][1][c][iii]	Significant Investments—10%/15% Threshold Deduction Approach	20-63
[A][1][d]	Non-Advanced Approaches Banking Organizations—25% Threshold Deduction Approach.....	20-64
[A][1][e]	Corresponding Deduction Approach	20-64
[A][1][f]	Indirect Exposures.....	20-64
[A][2]	Risk Weighting of Asset.....	20-65
[A][2][a]	Traditional Securitization	20-65
[A][2][b]	Leveraged Hedge Fund/600% Risk Weight	20-65
[A][2][c]	Investment Funds/Look-Through Approaches.....	20-66
Figure 20-2	Simple Risk-Weight Approach.....	20-66
[A][2][c][i]	Full Look-Through Approach.....	20-67
[A][2][c][ii]	Simplified Modified Look-Through Approach	20-68
[A][2][c][iii]	Alternative Modified Look-Through Approach	20-68
[A][2][d]	Coordination with Numerator Considerations	20-68
[A][2][e]	Basel Final Policy Framework	20-69
[A][2][e][i]	Look-Through Approach.....	20-69
[A][2][e][ii]	Mandate-Based Approach	20-70
[A][2][e][iii]	Fall Back Approach.....	20-70
[A][2][e][iv]	Leverage Adjustment	20-70
[A][3]	Other Implications of Basel III	20-71

Chapter 21 Insurance Companies

§ 21:1	Investment Authority	21-2
§ 21:1.1	General Account and Separate Accounts.....	21-2
§ 21:1.2	Investments of the General Account.....	21-3
§ 21:2	Insurance Holding Company Systems Act.....	21-4
§ 21:3	Financial Statement Reporting and Risk-Based Capital.....	21-5
§ 21:4	Volcker Rule.....	21-8
§ 21:5	Insurance Related Products.....	21-9
§ 21:5.1	Variable Insurance Products	21-9
[A]	Variable Life Insurance and Annuity Products.....	21-10
[A][1]	Insurance and Annuities	21-10
[A][2]	Inside Buildup	21-11
[A][3]	Private Placement.....	21-12
[B]	Tax Requirements	21-12
[B][1]	Definition of Life Insurance and Annuity.....	21-12
[B][2]	Variable Contracts	21-14
[B][3]	Diversification.....	21-15
[B][3][a]	Look Through Rules.....	21-17
[B][3][a][i]	Insurance Dedicated Funds	21-17
[B][3][b]	Public Access.....	21-18
[B][4]	Investor Control Doctrine	21-19
[B][4][a]	Investor Control Prong.....	21-20
[B][4][b]	Public Availability Prong	21-21
[B][4][b][i]	IDF.....	21-22
[B][4][b][ii]	Separately Managed Accounts	21-22
[C]	Institutional Investors	21-26
§ 21:5.2	Reinsurance	21-27
[A]	Total Return Reinsurance.....	21-27
[B]	Tax Considerations	21-29
[B][1]	Effectively Connected Income	21-29
[B][2]	Passive Foreign Investment Company	21-30
[B][3]	Insurance Company Exception.....	21-31
[B][3][a]	Active Conduct of an Insurance Business.....	21-32
[B][3][b]	QIC Status	21-34
[B][3][b][i]	Insurance Company Status	21-34
[B][3][b][ii]	25 Percent Test.....	21-35
[B][3][b][iii]	Alternative Facts and Circumstances Test....	21-36
[B][4]	Controlled Foreign Corporations	21-36

Chapter 22 Registered Investment Companies

§ 22:1	Affiliated Transactions	22-1
§ 22:2	Public Disclosure	22-2

VOLUME 2

Table of Chapters	v
--------------------------------	---

PART VI
MARKET PARTICIPATION AND PORTFOLIO
MANAGEMENT

Chapter 23 Broker-Dealer Status and Relationships

§ 23:1	Introduction	23-2
§ 23:2	Broker-Dealer Status	23-2
§ 23:2.1	Federal Definitions of Broker and Dealer	23-3
§ 23:2.2	State Definitions of Broker-Dealer	23-6
§ 23:3	New Issues	23-7
§ 23:3.1	Rule 5130	23-7
[A]	Definition of “New Issue”	23-8
[B]	Restricted Persons	23-9
[B][1]	Portfolio Manager	23-10
[B][2]	Family Investment Vehicle	23-11
[C]	Exemptions from the New Issue Prohibition	23-12
[C][1]	De Minimis Exemption	23-13
[C][2]	Investment Companies	23-13
[D]	Carve-Outs	23-14
[E]	Compliance	23-15
§ 23:3.2	Rule 5131	23-16
§ 23:4	Best Execution	23-19
§ 23:5	Soft Dollars	23-27
§ 23:5.1	Goods or Services Provided by the Broker	23-29
§ 23:5.2	Investment Discretion	23-30
§ 23:5.3	Good-Faith Determination	23-31
§ 23:5.4	Brokerage and Research Services	23-31
[A]	Research	23-32
[B]	Brokerage	23-33

[C]	Mixed-Use Items	23-34
[D]	Lawful and Appropriate Assistance	23-35
§ 23:5.5	Operating Outside the Safe Harbor	23-36

Chapter 24 Disclosures of Market Participation

§ 24:1	Introduction	24-3
§ 24:2	Sections 13(d) and 13(g)	24-3
§ 24:2.1	Section 13(d)	24-3
§ 24:2.2	Section 13(g)	24-5
§ 24:2.3	Beneficial Ownership	24-9
§ 24:2.4	Derivatives and Section 13(o)	24-12
§ 24:2.5	Group Status	24-17
§ 24:3	Section 13(f)	24-25
§ 24:3.1	Institutional Investment Manager	24-25
§ 24:3.2	Investment Discretion	24-26
§ 24:3.3	Section 13(f) Securities	24-26
§ 24:3.4	Form 13F Filings	24-27
[A]	Timing of Filings	24-27
[B]	Reported Information	24-28
[C]	Reporting of Shared Investment Discretion	24-28
[D]	Confidential Treatment	24-29
§ 24:3.5	Enforcement	24-30
§ 24:4	Form PX and Say on Pay	24-30
§ 24:4.1	Managers Subject to Form N-PX	24-32
[A]	Section 13F Filers	24-32
[B]	Managers' Exercise of Voting Power	24-32
§ 24:4.2	Securities Covered	24-33
§ 24:4.3	Loaned Shares	24-33
§ 24:4.4	Transitional Rules for Institutional Managers	24-34
§ 24:4.5	Joint Reporting	24-35
§ 24:4.6	Managers with Non-Voting Policy	24-36
§ 24:5	Section 13(h)	24-36
§ 24:6	Section 16	24-42
§ 24:6.1	Beneficial Ownership	24-43
[A]	First Definition—Beneficial Ownership	24-43
[A][1]	Aggregation of Shareholdings/Group Status	24-44
[A][1][a]	RIA Exemption	24-45
[A][1][b]	Control Person Exemption	24-47
[A][1][c]	Group Status	24-47
[B]	Second Definition—Beneficial Ownership/ Pecuniary Interest	24-51
§ 24:6.2	Short Swing Profits	24-52
§ 24:6.3	Conversion Caps	24-54

Table of Contents

§ 24:7	Short Position and Stock Lending Reporting.....	24-55
§ 24:7.1	Institutional Investment Manager	24-56
§ 24:7.2	Reporting Threshold	24-57
[A]	Threshold A.....	24-57
[B]	Threshold B	24-58
[C]	Covered Securities	24-59
§ 24:7.3	Form SHO Reporting	24-60
[A]	Form SHO	24-60
[B]	Amending SHO	24-64
[C]	Preventing Duplicative Reporting	24-64
[D]	Data Verification.....	24-64
[E]	Confidentiality and Aggregate Reporting.....	24-65
§ 24:7.4	Securities Loan Reporting	24-65
§ 24:8	Hart-Scott-Rodino Act	24-69
§ 24:9	State Anti-Takeover Statutes.....	24-77
§ 24:10	CFTC Reporting	24-79
§ 24:10.1	Large Trader Reporting.....	24-79
§ 24:10.2	Speculative Position Limits.....	24-80
[A]	Referenced Contracts	24-80
[B]	Futures Exchange Limits.....	24-82
[C]	Position Limits	24-83
[C][1]	Applicable Months	24-83
[C][2]	Contract Netting.....	24-83
[C][3]	Position Limit Levels.....	24-83
Chart 24-1	Appendix E to Part 150—Speculative Position Limit Levels.....	24-84
[D]	Exemptions.....	24-86
[D][1]	Bona Fide Hedging	24-86
[D][2]	Spread Exemption	24-87
[D][3]	Financial Distress Exemption.....	24-88
[E]	Aggregation.....	24-88
[E][1]	Positions to Be Aggregated.....	24-88
[E][2]	Exemptions from Aggregation	24-89
[E][2][a]	Pool Participant Exemption	24-89
[E][2][b]	Owned-Entity Exemption.....	24-90
[E][2][c]	Exemption for Independent Account Controllers	24-91
[E][2][d]	Exemption for Information Sharing Restriction.....	24-92
[E][2][e]	Notice Filing for Exemptions.....	24-93
§ 24:11	Cross-Border Investment Reporting.....	24-94
§ 24:11.1	Direct Investments and Portfolio Investments....	24-94
§ 24:11.2	BEA Reporters.....	24-95
§ 24:11.3	TIC Reporters	24-97

§ 24:11.4	BEA Reports.....	24-97
[A]	Surveys of U.S. Direct Investments Abroad	24-97
[B]	Surveys of Foreign Direct Investments in the United States	24-100
§ 24:11.5	TIC Reports	24-103

Chapter 25 Systemic Risk Regulation

§ 25:1	Introduction	25-1
§ 25:2	Financial Stability Oversight Council	25-2
§ 25:3	Nonbank Financial Company	25-3
§ 25:3.1	Determination of Supervision of Certain Nonbank Financial Companies.....	25-6
§ 25:3.2	Analytic Framework and Final Guidance	25-9
[A]	Analytic Framework.....	25-10
[B]	Final Guidance	25-13
[B][1]	Stage 1	25-13
[B][2]	Stage 2.....	25-14
[B][3]	Annual Reevaluations of Nonbank Financial Company Determinations.....	25-16
§ 25:3.3	Prudential Regulation	25-16
§ 25:3.4	Reporting	25-21
§ 25:3.5	Orderly Liquidation	25-24

Chapter 26 Derivatives Markets Participants

§ 26:1	Introduction	26-4
§ 26:2	Regulatory Jurisdiction over Swaps	26-4
§ 26:2.1	Definition of Swap	26-5
§ 26:2.2	Definition of Security-Based Swap	26-6
§ 26:2.3	Definition of Mixed Swap	26-6
§ 26:2.4	Security-Based Swap Agreement	26-7
§ 26:2.5	Swap and Security-Based Swap Exclusions.....	26-8
§ 26:3	Clearing and Exchange Trading.....	26-10
§ 26:3.1	Clearing.....	26-10
Chart 26-1	Clearing Entities in the U.S. Financial System	26-12
§ 26:3.2	Exchange Trading.....	26-15
§ 26:3.3	Eligible Contract Participant	26-18
§ 26:4	Swap Dealers and Major Swap Participants	26-19
§ 26:4.1	Definition of “Swap Dealer” and “Security-Based Swap Dealer”	26-19
§ 26:4.2	Swap Dealers	26-22
[A]	Holding Out and Commonly Known As a Swap Dealer.....	26-22

Table of Contents

[B]	Market Making.....	26-23
[C]	Ordinary Course of Business	26-24
[D]	Hedging Exclusion	26-25
§ 26:4.3	Security-Based Swap Dealer	26-25
§ 26:4.4	De Minimis Exception.....	26-26
§ 26:4.5	Definition of “Major Swap Participant” and “Major Security-Based Swap Participant”	26-28
§ 26:4.6	Registration.....	26-36
§ 26:4.7	Regulatory Capital and Margin	26-43
[A]	Swap Dealer and Major Swap Participant.....	26-43
[A][1]	Capital Requirements.....	26-43
[A][2]	Margin Requirements.....	26-48
[A][2][a]	Initial Margin.....	26-51
[A][2][b]	Variation Margin	26-56
[A][3]	Segregation	26-57
[B]	Security-Based Swap Dealer and Major Security-Based Swap Participant	26-59
[B][1]	Security-Based Swap Dealer Capital Requirements	26-59
[B][1][a]	Standardized Haircuts	26-60
[B][1][b]	Models	26-61
[B][1][c]	Margin Related Deductions	26-62
[B][1][d]	Minimum Net Capital	26-63
[B][1][d][i]	Risk Management	26-64
[B][2]	Major Security-Based Swap Participant Capital Requirements.....	26-65
[B][3]	Margin Requirements.....	26-65
[B][3][a]	Security-Based Swap Dealer.....	26-65
[B][3][b]	Major Security-Based Swap Participant.....	26-69
[B][3][b][i]	Segregation	26-69
[B][3][b][ii]	Alternative Compliance Mechanism	26-71
§ 26:4.8	Recordkeeping and Reporting.....	26-72
[A]	Swap Dealer and Major Swap Participant Recordkeeping.....	26-72
[A][1]	Swap Data Recordkeeping and Reporting Requirements	26-74
[A][2]	Swap Data Real-Time Public Reporting	26-80
[A][3]	Swap Data Validation and Verification.....	26-83
[B]	Security-Based Swap Dealers and Major Security-Based Swap Participants	26-84
[B][1]	Recordkeeping	26-85
[B][2]	Reporting.....	26-88
[B][3]	Notification.....	26-90
[B][4]	Securities Count.....	26-91

[B][5]	Limited Alternative Compliance Mechanisms.....	26-91
[B][6]	Security-Based Swap Data Real-Time Public Reporting.....	26-93
§ 26:4.9	Compliance Duties.....	26-99
[A]	Swap Dealer and Major Swap Participant.....	26-100
[A][1]	Risk Management	26-100
[A][2]	Monitoring of Position Limits	26-103
[A][3]	Diligent Supervision.....	26-103
[A][4]	Business Continuity and Disaster Recovery	26-103
[A][5]	Disclosure and Ability to Obtain Information.....	26-104
[A][6]	Antitrust Considerations.....	26-104
[B]	Diligent Supervision of Security-Based Swap Dealers and Major Security-Based Swap Participants.....	26-105
[C]	Chief Compliance Officer	26-107
[C][1]	Swap Dealers and Major Swap Participants.....	26-107
[C][2]	Security-Based Swap Dealers and Major Security-Based Swap Participants.....	26-111
§ 26:4.10	Business Conduct Standards.....	26-114
[A]	Anti-Fraud and Anti-Manipulation Regulations	26-115
[A][1]	Swaps	26-115
[A][2]	Security-Based Swaps	26-119
[A][2][a]	Rule 9j-1.....	26-120
[B]	Verification of Counterparty Eligibility.....	26-123
[B][1]	Swap Dealers and Major Swap Participants.....	26-123
[B][2]	Security-Based Swap Dealers and Major Security-Based Swap Participants.....	26-124
[B][2][a]	Verification.....	26-124
[B][2][b]	Know Your Counterparty.....	26-125
[C]	Disclosure of Material Risks, Characteristics, Material Incentives, and Conflicts of Interest Regarding a Swap or Security-Based Swap	26-125
[C][1]	Swaps	26-125
[C][2]	Security-Based Swaps	26-127
[D]	Daily Mark	26-128
[D][1]	Swaps	26-128
[D][2]	Security-Based Swaps	26-129
[E]	Clearing.....	26-130
[E][1]	Swaps	26-130
[E][2]	Security-Based Swaps	26-131
[F]	Communications—Fair Dealing	26-131
[F][1]	Swaps	26-131
[F][2]	Security-Based Swaps	26-132

Table of Contents

[G]	Recommendations to Counterparties—	
	Institutional Suitability.....	26-133
[G][1]	Swaps	26-133
[G][2]	Security-Based Swaps	26-135
[H]	Swap Documentation Standards	26-136
[H][1]	Swaps	26-136
[H][2]	Security-Based Swaps	26-137
[I]	Portfolio Confirmation, Reconciliation, and	
	Compression	26-141
[I][1]	Portfolio Confirmation	26-142
[I][1][a]	Swaps	26-142
[I][1][b]	Security-Based Swaps	26-143
[I][2]	Portfolio Reconciliation	26-144
[I][2][a]	Swaps	26-144
[I][2][b]	Security-Based Swaps	26-146
[I][3]	Portfolio Compression.....	26-149
[I][3][a]	Swaps	26-149
[I][3][b]	Security-Based Swaps	26-149
[J]	Conflicts of Interest	26-151
§ 26:4.11	Special Obligations of Swap Dealers and	
	Security-Based Swap Dealers Regarding	
	Special Entities	26-152
[A]	Swap Dealers Acting As Advisors to Special	
	Entities	26-154
[B]	Security-Based Swap Dealers Acting As	
	Advisors to Special Entities	26-156
§ 26:4.12	Acting As Counterparties to Special Entities.....	26-159
[A]	Swap Dealers and Major Swap Participants	
	Acting As Counterparties to Special Entities.....	26-159
[B]	Security-Based Swap Dealers and Major	
	Security-Based Swap Participants Acting As	
	Counterparties to Special Entities	26-162
§ 26:5	Hedge Funds As Counterparties	26-164
§ 26:5.1	Documentation.....	26-164
§ 26:5.2	Margin	26-165
§ 26:5.3	Reporting and Recordkeeping.....	26-166

Chapter 27 Trading

§ 27:1	Introduction	27-2
§ 27:2	Trading Transaction Exemption	27-2
§ 27:2.1	Rule 144	27-3
§ 27:2.2	Rule 144A.....	27-10
§ 27:3	Short Sales.....	27-12
§ 27:3.1	Brief History of the Short Sale Price Test.....	27-13

§ 27:3.2	Short Sale Price Test.....	27-16
[A]	Price Test Terminology.....	27-17
[B]	Price Test	27-18
[C]	Covered Securities	27-19
[D]	Pricing Increment	27-20
[E]	Circuit Breaker	27-21
[F]	Trading Center Policies and Procedures	27-22
[G]	Short Exempt Transactions	27-23
[H]	Exemptive Procedures	27-24
[I]	Overseas Transactions	27-25
§ 27:3.3	Determining Short Status	27-25
§ 27:3.4	Naked Short Selling	27-29
[A]	Locate Requirement	27-30
[B]	Anti-Fraud Rule 10b-21	27-31
[C]	Close-Out Requirement.....	27-33
§ 27:3.5	Section 16(c)	27-35
§ 27:3.6	Rule 105	27-35
§ 27:4	Insider Trading	27-40
§ 27:4.1	Insider Trading Under the Securities Laws.....	27-40
[A]	Elements of Insider Trading.....	27-41
[B]	Tippers and Tippees.....	27-45
[C]	Misappropriation Theory.....	27-47
§ 27:4.2	Regulation FD.....	27-50
§ 27:4.3	Section 204A—Insider Trading Policies	27-50
§ 27:4.4	Insider Trading Under the CEA	27-54
§ 27:5	Manipulation.....	27-55
§ 27:5.1	Securities Law Manipulation	27-55
§ 27:5.2	Manipulation Under the CEA.....	27-58
§ 27:6	Trade Errors.....	27-62

Chapter 28 Portfolio Management

§ 28:1	Introduction	28-2
§ 28:2	Principal Trades and Agency Cross Trades	28-2
§ 28:2.1	Section 206(3).....	28-2
[A]	Disclosure and Consent.....	28-3
[B]	Timing of Disclosure and Consent	28-5
[C]	Compliance Considerations.....	28-5
§ 28:2.2	25% Ownership Interest Principal Transaction Exclusion	28-8
§ 28:2.3	No Compensation Agency Transaction Exclusion	28-9
§ 28:2.4	Rule 206(3)-2 Agency Transaction Safe Harbor	28-10

Table of Contents

§ 28:2.5	Cross Trading Under ERISA.....	28-11
§ 28:2.6	Principal and Cross Trades Under the Investment Company Act.....	28-13
§ 28:3	Trade Aggregation and Allocation	28-14
§ 28:4	Portfolio Valuation	28-18
§ 28:5	Leverage.....	28-25
§ 28:5.1	Leverage in Portfolio Management.....	28-25
§ 28:5.2	Sources of Leverage	28-27
[A]	Prime Brokerage.....	28-27
[A][1]	Regulation T	28-28
[A][1][a]	Initial Margin.....	28-28
[A][1][b]	Maintenance Margin.....	28-31
[A][2]	Portfolio Margining	28-32
[B]	Repurchase Agreements.....	28-34
[B][1]	Overview	28-34
[B][2]	The Repurchase Market	28-35
[B][3]	Repurchase Reporting.....	28-37
[B][3][a]	Covered Reporters	28-37
[B][3][b]	Scope of Transactions	28-40
[B][3][c]	Required Information and Reporting	28-40
[C]	Short Selling and Securities Lending.....	28-44
[D]	Options.....	28-46
[E]	Futures.....	28-46
[F]	Swaps	28-48
§ 28:6	Liquidity Management	28-50

PART VII HEDGE FUND-RELATED PRODUCTS

Chapter 29 Structured Products

§ 29:1	Introduction	29-1
§ 29:2	Pass-Through Structures.....	29-2
§ 29:3	Principal Protected Notes	29-3
§ 29:3.1	Constant Proportion Principal Insurance	29-3
§ 29:3.2	Embedded Option Structure.....	29-6
§ 29:4	Collateralized Fund Obligations.....	29-6
§ 29:5	Portable Alpha	29-11
§ 29:6	Investable Hedge Fund Indices	29-15

Chapter 30 Hedge Fund Seeding

§ 30:1	Introduction	30-2
§ 30:2	Seeding Rationale	30-3
§ 30:2.1	Hedge Fund Manager	30-3
[A]	Reaching Critical Mass	30-3
[B]	Stability	30-3
[C]	Focus	30-4
[D]	Credibility.....	30-4
[E]	Institutional Quality.....	30-4
§ 30:2.2	Hedge Fund Seeder.....	30-5
[A]	Early Stage Returns.....	30-5
[B]	Longer Term Economics	30-5
[C]	Future Investment Opportunities	30-5
[D]	Customized Terms.....	30-5
§ 30:3	Preliminary Considerations	30-6
§ 30:3.1	Evaluating the Parties	30-6
§ 30:3.2	Structuring Considerations	30-7
[A]	Equity Ownership	30-7
[B]	Revenue Sharing	30-7
[C]	Deal Structure Considerations.....	30-8
§ 30:4	Capital Commitment	30-8
§ 30:5	Ancillary Services	30-9
§ 30:6	Seed Economics	30-10
§ 30:6.1	Management Fees	30-10
§ 30:6.2	Performance Fees and Allocations.....	30-10
§ 30:7	Fee Discounts	30-11
§ 30:8	Investment Capacity Rights.....	30-11
§ 30:9	Most Favored Nation Status	30-11
§ 30:10	Operational and Approval Rights.....	30-12
§ 30:11	Termination.....	30-12

Chapter 31 ESG Investing

§ 31:1	Introduction	31-1
§ 31:2	Defining ESG.....	31-4
§ 31:2.1	Environmental Factors	31-5
§ 31:2.2	Social Factors	31-6
§ 31:2.3	Governance Factors	31-7
§ 31:3	Methodologies	31-8
§ 31:3.1	Screening	31-8
§ 31:3.2	Integration	31-9

Table of Contents

§ 31:3.3	Impact	31-10
§ 31:3.4	Engagement	31-11
§ 31:4	Measuring and Reporting.....	31-12
§ 31:5	ESG and Hedge Fund Strategies.....	31-17
§ 31:6	ESG and Hedge Fund Managers.....	31-17
§ 31:7	Legal and Regulatory Considerations	31-20
§ 31:7.1	Fiduciary Duty	31-22
§ 31:7.2	Compliance Policy	31-25
§ 31:7.3	Disclosure.....	31-29
[A]	Offering Memorandum.....	31-31
[B]	Form ADV Part 2A.....	31-32
[C]	Marketing Materials	31-34
[D]	Fund Name.....	31-36
§ 31:7.4	Engagement	31-41
[A]	Beneficial Ownership Reporting.....	31-41
[B]	Proxy Voting	31-42
§ 31:8	Pensions	31-44
§ 31:8.1	ERISA and ESG.....	31-44
§ 31:8.2	State Pension Funds.....	31-48

Appendix A Statutes and Regulations App. A-1

Appendix A1	Securities Act of 1933—Selected Provisions	App. A1-1
Appendix A2	Rules Under the Securities Act of 1933—Selected Rules.....	App. A2-1
Appendix A3	Securities Exchange Act of 1934—Selected Provisions.....	App. A3-1
Appendix A4	Rules Under the Securities Exchange Act of 1934—Selected Provisions	App. A4-1
Appendix A5	Investment Advisers Act of 1940—Selected Provisions.....	App. A5-1
Appendix A6	Rules Under the Investment Advisers Act of 1940—Selected Rules.....	App. A6-1
Appendix A7	Investment Company Act of 1940—Selected Provisions.....	App. A7-1
Appendix A8	Rules Under the Investment Company Act of 1940—Selected Rules.....	App. A8-1
Appendix A9	Employee Retirement Income Security Act of 1974—Selected Provisions, Regulations and Class Exemptions	App. A9-1
Appendix A10	Hart-Scott-Rodino Antitrust Improvements Act of 1976—Selected Provisions.....	App. A10-1

HEDGE FUND REGULATION

Appendix A11	Commodity Exchange Act— Selected Rules	App. A11-1
Appendix A12	The Volcker Rule.....	App. A12-1
Appendix A13	Volcker Rule Regulations.....	App. A13-1
Index		I-1