

# Contents

Preface and Acknowledgements .....	vii
<b>1. Corporate Governance in Context .....</b>	<b>1</b>
Ownership, Control, and the “Agency” Issue .....	5
<b>2. Corporate Governance’s Many Sources .....</b>	<b>7</b>
1. Introduction .....	7
2. Sources of Governance Rules .....	9
3. Exchange Listing Requirements.....	16
4. Internal Corporate Policies and Committee Charters.....	17
5. Best Practices and Proxy Advisor Policies .....	23
6. Conclusion.....	26
<b>3. Independence.....</b>	<b>27</b>
1. Introduction .....	27
2. Independence Factors .....	30
3. Other Independence Issues.....	38
4. “Gatekeepers”.....	43
5. Conclusion.....	46

<b>4. Fiduciary Duties and Director Liability .....</b>	<b>47</b>
1. Introduction .....	47
2. Fiduciary Duties of Directors.....	50
3. Indemnification and D&O Insurance .....	68
4. Conclusion.....	70
<b>5. Shareholders.....</b>	<b>73</b>
1. Introduction .....	73
2. Voting Rights of Shareholders .....	79
3. Proxy Statements.....	82
4. Director Elections and Majority Voting.....	83
5. Director Nominations by Shareholders .....	85
6. Compensatory Plans .....	89
7. Advisory Vote on Compensation (“Say-on-Pay”)..	89
8. Proxy Advisory Services .....	92
9. Shareholder Proposals .....	93
10. Communications with Shareholders .....	96
<b>6. Audit Committee.....</b>	<b>99</b>
1. Introduction .....	99
2. Who Can Be on the Audit Committee? .....	100
3. What Must the Audit Committee Do? .....	104
4. Conclusion.....	117
<b>7. Compensation Committee .....</b>	<b>119</b>
1. Introduction .....	119
2. Independence of Committee Members and Advisers.....	123
3. Establishing Compensation .....	130
4. Other Disclosures in Form 8-K.....	134
<b>8. Nominating Committee.....</b>	<b>135</b>
1. Introduction .....	135
2. Who Can Be on the Nominating Committee? .....	139
3. What Must a Nominating Committee Do? .....	139
4. Charter.....	142
5. Developing a Nominating Process .....	143
6. Evaluations of Candidates.....	144
7. CEO Succession .....	146

8.	Board and Committee Evaluations.....	146
9.	Conclusion.....	149
<b>9.</b>	<b>Other Committees and Board Operations.....</b>	<b>151</b>
1.	Introduction .....	151
2.	Risk Committee.....	152
3.	Special Litigation Committees .....	154
4.	Special Committees for Investigations or Related Party Transactions.....	156
5.	Qualified Legal Compliance Committee .....	158
6.	Other Board Operations .....	160
7.	Conclusion.....	163
<b>10.</b>	<b>Securities Trading Obligations of Independent Directors.....</b>	<b>165</b>
1.	Introduction .....	165
2.	Rule 10b-5.....	167
3.	Conducting Sales.....	176
4.	Conclusion.....	184
<b>Summary / Model Presentation Materials .....</b>		<b>185</b>
<b>Index.....</b>		<b>237</b>
<b>About the Author .....</b>		<b>251</b>