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SECURITIES

A GLOSSARY OF TERMS

AUGUST 2013

Foreword

Anyone trying to understand securities, M&A, and other business law terms is probably grappling with the bewildering number of esoteric terms that bankers and government regulators are using to explain it.

What is a reverse stock split? What is classified as a “PIPE” transaction?

The good news is you don’t need to be chairman of the Federal Reserve to make sense of these terms; just use this guide, put together by the Business Law Solutions Experts at Thomson Reuters.

Securities

A Glossary of Terms

Agent

The person acting on behalf of a principal.

AMEX

The third-largest exchange by trading volume in the United States. The AMEX is located in New York City and handles about 10 percent of all securities traded in the U.S.

Annual Report

A report required by statute to be filed annually with a public agency.

Arbitration

A procedure for an objective determination of a dispute

Backdating

Dating any document by a date earlier than the one on which the document was originally drawn up. Under most circumstances, backdating is seen as fraudulent and illegal, although there are some situations in which backdating can be used in a legal and beneficial way, such as backdating a claim for a passed period.

Balance Sheet

A financial statement showing assets, liabilities, and shareholder equity.

Bankruptcy

The state of a person or firm to repay debts. If the bankrupt entity is a firm, the ownership of the firm's assets is transferred from the stockholders to the bondholders. Shareholders are the last people to get paid if a company goes bankrupt, and secure creditors always get first rights to the proceeds from liquidation. Common bankruptcy-related corporate documentation includes bankruptcy court filings; credit, loan or financing agreements; plans of reorganization; plans of liquidation; and settlement agreements.

Bid Price

The price a buyer is willing to pay for a security. This is one part of the bid, with the other being the bid size, which details the amount of shares the investor is willing to purchase at the bid price. The opposite of the bid price is the ask price, which is the price a seller is seeking for his or her shares.

Blackout Period

1. A term that refers to a temporary period in which access is limited or denied.
2. A period of around 60 days, during which employees of a company with a retirement or investment plan cannot modify their plans. Notice must be given to employees in advance of a pending blackout.

Blue Sky Requirements

Laws of a state regulating the purchase and sale of stock in a business entity.

Board of Directors

Elected by shareholders, the board manages or oversees the management of the business and maintains "fiduciary duties" to shareholders.

Bond

A debt investment by which an investor loans money to an entity (company or government) that borrows the funds for a defined period of time at a specified interest rate. The indebted entity issues investors a certificate, or bond, that states the interest rate (coupon rate) that will be paid and the date when the loaned funds will be returned (maturity date). Interest on bonds is usually paid every six months (semiannually). The main types of bonds are the corporate bond, the municipal bond, the Treasury bond, the Treasury note, the Treasury bill, and the zero-coupon bond.

Breakup Fee

In bankruptcy-related asset sales, a breakup fee is a fee paid by the debtor to a prospective purchaser to compensate the purchaser for the expenses incurred during the bidding process in the event that the purchaser is not the highest bidder. The debtor must seek court approval for these breakup fees. The debtor usually seeks such approval prior to the sale because the purchaser does not want to proceed without some assurance that it will be protected during the bidding process.

Broker Dealer

A person or firm in the business of buying and selling securities operating as a broker or a dealer depending on the transaction.

Business Corporation

An artificial person or legal entity created under the law of the state to conduct business.

Business Organization

Structure and documentation establishing the existence of a corporation. Related documentation includes articles of incorporation, bylaws, corporate governance, and charter documentation, as well as joint-venture and partnership documentation.

Buyback

The buying back of outstanding shares (repurchase) by a company in order to reduce the number of shares on the market. Companies will buy back shares either to increase the value of shares still available (reducing supply) or to eliminate any threats by shareholders who may be looking for a controlling stake.

Buyout

The purchase of a company or a controlling interest of a corporation's shares.

Bylaws

Regulations and rules that are spelled out and adopted by an association or organization for its governance. The board of directors can amend the bylaws.

Capital Markets

Markets where capital, such as stocks and bonds, are traded. Common corporate filings associated with capital markets are indentures, purchase or sale agreements, registration rights, subscription agreements, underwriting agreements, forms of certificates, and designations.

Capital Surplus

An account in which a corporation records funds received from sales of stock in excess of par value, and to which funds received from sales of no-par-value shares are allocated; the amount of consideration paid for stock without par value or in excess of its par value.

Capitalization of Earnings

A transfer of surplus to stated capital.

Certificates

Instruments representing the ownership of shares of stock in a corporation.

Chapter 10

Named after the U.S. Bankruptcy Code 10, Chapter 10 discusses how a company can file for court protection. Under Chapter provisions, a company is subjected to reorganization.

Chapter 11

Named after the U.S. Bankruptcy Code 11, Chapter 11 is a form of bankruptcy that involves reorganization of a debtor's business affairs and assets. It is generally filed by corporations that need time to restructure their debts. Chapter 11 gives the debtor a fresh start, subject to the debtor's fulfillment of its obligations under its plan of reorganization.

Chapter 11 of The Bankruptcy Act

The company may seek to "reorganize" on the grounds that its ongoing business will be profitable once certain debt claims are addressed.

Chapter 13

A U.S. bankruptcy proceeding in which the debtor undertakes a reorganization of his/her finances under the supervision and approval of the courts. The reorganization must involve the debtor's submitting and following through with a plan to repay outstanding creditors within three to five years. In most circumstances, the repayment plan must provide a substantial payback to creditors – at least equal to what they would receive under other forms of bankruptcy – and it must, if needed, use 100 percent of the debtor's income for repayment.

Chapter 7

A “liquidation” in which assets are sold off and proceeds are distributed.

Charter

A legal document that provides for the creation of a corporate entity. A corporation’s charter is issued by either a federal or a regional government and effectively creates a legal entity out of the business, which existed only as a partnership, sole proprietorship, or similar business before incorporating. Also referred to as “articles of incorporation.”

Chief Executive Officer (CEO)

This is the senior manager who is responsible for overseeing the activities of an entire company. The CEO usually also holds a position on the board of directors or the title of president.

Chief Financial Officer (CFO)

A manager who is responsible for overseeing the financial activities of an entire company. This includes signing checks, monitoring cash flow, and financial planning.

Chief Information Officer (CIO)

A company executive who is responsible for the management, implementation, and usability of information and computer technologies. The CIO analyzes how these technologies can benefit the company or improve an existing business process, and then integrates them into a system to realize that benefit or improvement.

Chief Operating Officer (COO)

The senior manager who is responsible for managing the company’s day-to-day operations and reporting them to the CEO.

Chinese Wall

The ethical (not physical) barrier between different divisions of a financial (or other) institution to avoid conflict of interest. A Chinese Wall is said to exist, for example, between the corporate-advisory area and the brokering department to separate those giving corporate advice on takeovers from those advising clients about buying shares. The “wall” is thrown up to prevent leaks of internal corporate information, which may influence the advice given to clients making investments and allow staff to take advantage of facts that are not yet known to the general public.

Circular Holdings

A parent corporation that owns a majority of stock in a subsidiary and the subsidiary owns a majority of stock in the parent corporation.

Class A Shares

A classification of common stock that may be accompanied by more or fewer voting rights than Class B shares. Although Class A shares are often thought to carry more voting rights than Class B shares, this is not always the case. Some companies will often try to disguise the disadvantages associated with owning shares with fewer voting rights by naming those shares “Class A,” and those with more voting rights “Class B.”

Class Action

An action where an individual represents a group in a court claim. The judgment from the suit is for all the members of the group (class). This is often done when shareholders launch a lawsuit, mainly because it would be too expensive for each individual shareholder to launch their own suit.

Class B Shares

A classification of common stock that may be accompanied by more or fewer voting rights than Class A shares. Although Class A shares are often thought to carry more voting rights than Class B shares, this is not always the case. Some companies will often try to disguise the disadvantages associated with owning shares with fewer voting rights by naming those shares "Class A," and those with more voting rights "Class B."

Classified Board

A structure for a board of directors in which a portion of the directors serve for different term lengths, depending on their particular classification. Under a classified system, directors serve terms usually lasting between one and eight years; longer terms are often awarded to more senior board positions (e.g., chairman of the corporate governance committee). Classified boards are often referred to as "staggered boards," although staggered boards and classified boards have somewhat different structures. Staggered boards need not be classified, but classified boards are inherently staggered.

Clawback

1. Previously given monies or benefits that are taken back due to specially arising circumstances.
2. A retraction of stock prices or of the market in general.

Clean Balance Sheet

Refers to a company whose balance sheet has very little or no debt.

Close Corporation

A corporation owned by a small group of shareholders, whose shares are not traded on an exchange.

Closed-End Investment

When an investment company issues a fixed number of shares in an actively managed portfolio of securities. The shares are traded in the market just like common stock.

Closely Held Shares

The shares held by individuals closely related to a company.

Collateralized Bond Obligation (CBO)

An investment-grade bond backed by a pool of junk bonds. Junk bonds are typically not investment grade, but because they pool several types of credit-quality bonds together, they offer enough diversification to be "investment grade."

Collateralized Debt Obligation (CDO)

An investment-grade security backed by a pool of bonds, loans, and other assets. CDOs do not specialize in one type of debt, but are often non-mortgage loans or bonds.

Commission

An amount paid to an employee based upon the completion of a transaction made on behalf of the employers.

Common Stock

The ownership interests in a corporation with equal rights to voting, distributions, and liquidation of assets. Gives holder the right to vote for directors (usually one vote per share) and the right to receive dividends (cash payouts – one dollar per share), which may be paid out from funds available after claims of debt holders and preferred shareholders are satisfied.

Compensation

Amounts paid to employees for services.

Compensation Discussion & Analysis (CD&A)

Disclosure requirements that provide narrative discussion of compensation policies and decisions of publicly traded issuers. Issuers are also required to describe their processes and procedures for the consideration and determination of executive-level compensation.

Concurrent Selling Shareholder Offer

Some deals may have an additional or alternate prospectus attached at the end of the main prospectus, which deals with a concurrent offer by the shareholders that is separate from the main offer. The prospectus covers of these deals will often describe the main deal followed by another paragraph describing the additional offer by shareholders. The additional offer does not make a deal that appears to be primarily a piggyback; it is a separate prospectus.

Consolidation

A combination of two or more corporations into a new corporation, whereby the new corporation survives the transaction and the others cease to exist.

Control Shares

A sufficient number of shares in a corporation to control voting decisions by the shareholders.

Conversion of Stock

The right of a holder of one class of stock to convert the currently owned shares to another class of stock.

Convertible Shares

Shares that may be converted from one class of stock to another.

Convertible Subordinated Note

A short-term debt security (note) that can be changed into common stock (convertible) and ranks below other loans (subordinate).

Corporate Communications

Any form of press release or transcripts made by a corporate entity.

Corporate Governance

The relationship between all the stakeholders in a company. This includes the shareholders, directors, and management of a company, as defined by the corporate charter, bylaws, formal policies, and rules of law.

Corporate Powers

The powers of a corporation, as authorized by the statute under which it is organized.

Corporate Purposes

The business objectives of a corporation.

Corporate Shell

A corporation that has disposed of substantially all of its assets.

Corporate Structural Changes

Transactions that have significant impact on the structure or existence of the corporation.

Coupon

The interest rate stated on a bond when it's issued. The coupon is typically paid semiannually. This is also referred to as the "coupon rate" or "coupon percent rate."

Credit Agreement

A legal contract in which a bank arranges to loan a customer a certain amount of money for a specified amount of time. The credit agreement outlines all the rules and regulations associated with the contract. This includes the interest that must be paid on the loan.

Debt

Obligation to repay a fixed sum (principal) by a fixed time (date of maturity). It has priority over equity, meaning that debt obligations must be current before dividends can be paid on common or preferred stock; in the event of bankruptcy, debt claims should generally be satisfied before common stockholders receive value.

Debt Restructuring

A method used by companies with outstanding debt obligations to alter the terms of the debt agreements in order to achieve some advantage.

Debt Securities

A loan to a business entity.

Debtor In Possession (DIP)

A company that continues to operate while under the Chapter 11 bankruptcy process.

Default

1. The failure to promptly pay interest or principal when due.
2. The failure to perform on a future contract as required by an exchange.

Deferred Dissolution

A dissolution of a partnership delayed for 90 days following a partner's withdrawal from the partnership.

De-Merger

Corporate strategy to sell off subsidiaries or divisions of a company.

Demutualization

The process of converting a mutual insurance company (which is owned by its policyholders) to a stock insurance company (which is owned by outside shareholders), as a means of increasing the insurer's capital by allowing the insurer to issue shares.

Derivative Action

A suit brought by an owner of a business on behalf of the business.

Diluted Shares

Shares sold at a price higher than the most recent price charged for shares.

Dilution

A reduction in earnings per share of common stock that occurs through the issuance of additional shares or the conversion of convertible securities.

Director

A person elected to manage and direct the affairs of the corporation.

Disclosure

The act of releasing all relevant information pertaining to a company that may influence an investment decision. In order to be listed on major U.S. stock exchanges, companies must follow all of the Securities and Exchange Commission's disclosure requirements and regulations.

Discount

A market price lower than the principal amount that is repayable on a bond.

Dissolution

This describes a company that is ceasing business and is dissolving itself by merging with an affiliated entity. An outside company is not involved in the merger.

Dividend

Income distributions to shareholders.

Domestic Corporation

A corporation organized under the laws of the state in which it is operating.

Double Taxation

The taxation of a corporation's income at the corporate level and also at the shareholder level, when distributions of the income are made to the shareholders.

Earnings Release

Companies will often forecast or report earnings for a given time period in the form of a press release. Company press releases are customarily filed as part of an 8-K, or attached as an exhibit.

EBITDA

An indicator of a company's financial performance, which is calculated as follows: EBITDA equals revenue minus expenses (excluding tax, interest, depreciation, and amortization).

EBITDA can be used to analyze and compare profitability between companies and industries, because it eliminates the effects of financing and accounting decisions. However, this is a non-GAAP measure that allows a greater amount of discretion as to what is (and is not) included in the calculation. This also means that companies often change the items included in their EBITDA calculation from one reporting period to the next.

EDGAR (Electronic Gathering, Analysis, And Retrieval)

The electronic-filing system created by the Securities and Exchange Commission (SEC) for the purpose of increasing the efficiency of and accessibility to corporate filings. This system is used by all publicly traded companies when submitting required documents to the SEC. Corporate documents are time-sensitive, and the creation of EDGAR has greatly decreased the time it takes for corporate documents to become publicly available.

Effective Date

The date, declared by the Securities and Exchange Commission (SEC), on which share-trading may begin. This usually refers to the date that shares become available for sale in an initial public offering (IPO).

Emergency Powers

The power of a corporation to act in an emergency.

Employment Agreement / Contract

An agreement between an employer and an employee.

Employment Retirement Income Security Act (ERISA)

A federal law regulating employment benefits.

Engagement Letter

A letter that indicates that a specified entity (usually a financial advisor or investment bank) has been engaged by a company to act as the company's financial advisor or that the entity is offering specified consulting advice in connection with marketing, public or private offers, mergers and acquisitions, or other mutually agreed-upon areas.

Equity

Common stock or preferred stock.

Equity Purchase

Filer purchases significant stake in a target. Commonly found on 8-Ks.

ESOP

A qualified, defined-contribution employee-benefit (ERISA) plan designed to invest primarily in the stock of the sponsoring employer. ESOPs are "qualified" in the sense that the ESOP-sponsoring company, the selling shareholder, and participants receive various tax benefits. ESOPs are often used as a corporate finance strategy and are also used to align the interests of a company's employees with those of the company's shareholders.

Fair-Market Value

The value of a share of stock based upon a transaction between a willing buyer and a willing seller.

Fairness Opinion

The professional opinion of an investment bank, provided for a fee, regarding the fairness of a price offered in connection with a merger, combination, asset sale/purchase, or other significant financial transaction. Fairness opinions are usually attached to Form S-4, proxies (DEF*), and information statements (10-12), 14D-1, 14D-9, 13E-3.

FASB

See Financial Accounting Standards Board.

FDIC

Federal Deposit Insurance Corporation, which guarantees deposits of \$100,000 or less against bank insolvency.

Fiduciaries

Persons who have a duty to act primarily for another's benefit in matters connected with the operation of the corporation.

Fiduciary Duty

An obligation owed by a person in a position of trust or confidence to another.

FIFO Accounting Method

This string pulls disclosure by issuers stating that they have utilized the "First-In, First-Out" (FIFO) accounting method, which is commonly applied to inventory. Inventory is to be sold in the chronological order in which it was purchased by the issuer. Inventory costs flow from the oldest purchases forward.

Filing Transmittal Letter

Letter of correspondence from the filer to the SEC. Although these letters are not public filings, many are accidentally released.

Final Prospectus

A legal document stating the price of a newly issued security, its delivery date, and other facts that are important to investors.

Financial Accounting Standards Board (FASB)

A seven-member independent board consisting of accounting professionals who establish and communicate standards of financial accounting and reporting in the United States. FASB standards, known as generally accepted accounting principles (GAAP), govern the preparation of corporate financial reports and are recognized as authoritative by the Securities and Exchange Commission.

Fiscal Year End

The completion of a one-year, or twelve-month, accounting period. The reason that a company's fiscal year often differs from the calendar year, and does not close on December 31, is due to the nature of the company's needs. For example, retailers tend to close their books at the end of January due to the large amount of December sales. If the fiscal year end is too close to a heavy selling season, the company will have extremely limited time constraints in producing its annual financial statements, having to count inventories, etc.

Foreign Corporation

A corporation formed under the laws of a state other than the one in which it is operating.

Foreign Limited Partnership

A limited partnership organized in another state.

Foreign Professional Corporation

A professional corporation formed in a state other than the one in which it is operating.

Forfeiture Clause

Provisions eliminating benefits or compensation upon certain conditions.

Form 144

A form that must be filed with the SEC when an executive officer, director, or affiliate of a company places an order to see that company's stock. Also known as Rule 144.

Franchise Tax

A tax imposed for the right to maintain an entity or a franchise.

Friendly Takeover

Target company's management and board are willing to enter into the transaction.

GAAP

Generally Accepted Accounting Principles. See Financial Accounting Standards Board, above.

GAAS

See Generally Accepted Accounting Standards, below.

General Agent

A person continuously employed to conduct a series of transactions for a principal.

General Partnership

An association of two or more persons who operate as co-owners in a business for profit.

Generally Accepted Accounting Standards (GAAS)

A set of systematic guidelines used by auditors when conducting audits of companies' finances, ensuring the accuracy, consistency, and verifiability of auditors' actions and reports.

Going Public

The process of selling formerly privately held shares to new investors for the first time. Otherwise known as an initial public offering (IPO).

Golden Parachute Provision

Provision for the continuation of compensation and benefits after termination of employment.

Guaranteed Bond

A type of bond in which the interest and principal on the bond are guaranteed to be paid by a firm other than the issuer of the bond.

Gun-Jumping

1. The illegal practice of soliciting orders to buy a new issue before registration of the initial public offering (IPO) has been approved by the Securities and Exchange Commission (SEC).
2. Trading securities on the basis of information that has not yet been disclosed to the public.

Hedge Fund

An aggressively managed portfolio of investments that uses advanced investment strategies – such as leverage, and long, short, and derivative positions – in both domestic and international markets, with the goal of generating high returns (either in an absolute sense or over a specified market benchmark).

Legally, hedge funds are most often set up as private investment partnerships that are open to a limited number of investors and require a very large initial minimum investment. Investments in hedge funds are illiquid, as they often require investors to keep their money in the fund for a minimum period of at least one year.

Hostile Takeover

A person taking over the operations of corporation using statutory rules against the will of the corporation and its shareholders.

IFRS

See International Financial Reporting Standards, below.

Impaired Assets

An asset with a market value that is worth less than its book value.

Implied Covenant of Good Faith and Fair Dealing

An implied obligation to exercise legal rights honestly and equitably.

Indemnity

Contractual agreement made between different parties to compensate for any damages or losses. Most commonly used in the wording of insurance policies, the company will indemnify the policyholder for any losses for which they are insured.

Indenture

An agreement between a corporation, a trustee, and investors concerning the right and obligations of a bond.

Inherent Authority

Authority of an agent to perform tasks typically performed by that type of agent.

Initial Decision

To select the state of incorporation, which, for small corporations, is usually the state where business operations are located, but for large corporations can depend on other factors, such as convenience of corporate law statutes, quality and speed of state judiciary in resolving disputes, and rate of franchise tax.

Initial Public Offering (IPO)

The first time a company sells securities to the public.

Insider

Any person who has knowledge of, or access to, valuable nonpublic information about a corporation. Examples of an insider are the directors and officers of a company. The stockholders who own more than 10 percent of equity in a company are also insiders.

Insider Information

Material information about a company's activities that has not been disclosed to the public. It is illegal for anyone with access to insider information to make trades based upon that information.

Insider Trading

The buying or selling of a security by someone who has access to material nonpublic information about the security. Insider trading can be illegal or legal depending on when the insider makes the trade. It is illegal when the material information is still nonpublic – trading while having special knowledge is unfair to other potential investors who don't have access to such knowledge. Illegal insider trading, therefore, includes tipping others when you have any sort of nonpublic information. Directors are not the only ones who have the potential to be convicted of insider trading. People such as brokers and even family members can be guilty.

Insider trading is legal once the material information has been made public, at which time the insider has no direct advantage over other investors. The SEC, however, still requires all insiders to report all of their transactions. So, as insiders have an insight into the workings of their company, it may be wise for an investor to look at these reports to see how insiders are legally trading their stock.

Insolvency

When a company can no longer meet its debt obligations with another firm or institution.

Insolvent

The inability to pay debts as they come, due to the usual course of business.

Insurance Funding

The purchase of insurance policies to pay obligations created by certain events under a buyout agreement.

Internal Audit

An audit performed by a person (or persons) employed by the firm being audited. Internal audits have quickly become an important aspect of corporate governance, due mainly to the Sarbanes-Oxley Act of 2002.

Internal Controls

Methods put in place by a company to ensure the integrity of financial and accounting information, meet operational and profitability targets, and transmit management policies throughout the organization. New standards established by the Sarbanes-Oxley Act of 2002 required tightening of issuers' internal controls so as to attempt to create an environment that ensures the timely release of accurate financial statements.

International Financial Reporting Standards (IFRS)

A set of international accounting standards stating how particular types of transactions and other events should be reported in financial statements. International Financial Reporting Standards are issued by the International Accounting Standards Board.

International Financial Reporting Standards are sometimes confused with International Accounting Standards (IAS), which are the older standards that IFRS replaced. (International Accounting Standards were issued from 1973 to 2000.)

International Securities Identification Number (ISIN)

A code that uniquely identifies a specific securities issue. The organization that allocates ISINs in any particular country is the country's respective National Numbering Agency (NNA).

Investment Advisor

1. A person making investment recommendations in return for a flat fee, or percentage of assets managed, known as a commission.
2. For mutual fund companies, it is the individual who has the day-to-day responsibility of investing and monitoring the cash and securities within a fund's portfolio in order to achieve the fund's objectives. Also referred to as a "financial advisor."

Investment Advisor Act of 1940

The federal law enforced and interpreted by the Securities and Exchange Commission (SEC) that governs investment advisors.

Investment Company

A corporation or trust engaged in the business of investing the pooled capital of shareholders in the financial instruments of other companies. This is most often done through either a closed-end fund or an open-end fund (also referred to as a "mutual fund"). In the U.S., most investment companies are registered with and regulated by the Securities and Exchange Commission under the Investment Company Act of 1940.

Investment Company Act of 1940

Created in 1940 through an act of Congress, this piece of legislation clearly defines the responsibilities and limitations placed upon fund companies that offer investment products to the public.

Investment Letter

An investment letter is a letter of intent associated with the private placement of new securities between the buyer and the issuer. Under provisions of Rule 144, the purchaser of such securities may resell them to the public once certain conditions are met.

Irrevocable Proxies

An authorization for another to vote on behalf of a shareholder that may not be revoked.

ISIN

See International Securities Identification Number, above.

Issued Shares

The shares of a corporation sold to shareholders.

Issuer

All those who signed the registration statement (usually the issuer's principal officers), every director, experts who helped to prepare the registration statement, and the underwriter.

Leverage

Refers to the ratio between debt and equity in the company's capital structure.

Leveraged Buyout

An acquisition financed mostly with debt.

Limited Liability

The concept by which corporate debts are limited to recover from corporate assets, including capital contributed by shareholders.

Limited Liability Company

A new form now permitted under some state laws that permits an entity to operate like a partnership (members share management, flow-through of gains and losses for tax purposes), but provides a limited amount of liability for company members.

Limited Partnership

A partnership in which there is at least one "general partner," who has unlimited liability, and several "limited partners," who contribute money, share in profits, are essentially passive in the management of the business and have limited liability.

Liquidation

The process of collecting all corporate assets, completing or terminating unexecuted contracts, paying creditors and expenses, and distributing the remaining assets to the shareholders.

Management Discussion and Analysis

A section of a company's annual report in which management discusses numerous aspects of the company, both past and present.

Management Buyout

A leveraged acquisition in which the target's current management, rather than a new company, ends up owning the target.

Market Risk

The day-to-day potential for an investor to experience losses from fluctuations in securities prices. This risk cannot be diversified away. Also referred to as "systematic risk."

Maturity Date

The date on which the principal amount of a note, draft, acceptance bond, or other debt instrument becomes due and is repaid to the investor and interest payments stop. It is also the termination or due date on which an installment loan must be paid in full.

MD&A

See Management Discussion and Analysis, above.

Merge

Two or more entities combined by the transfer of property of all to one of them, which continues its existence, with the other(s) being terminated.

Merger

Boards of both the acquirer and the target enter into a merger agreement, the most important provision of which prescribes the payment (or “consideration”) that target shareholders will receive for their stock, whether it is cash or securities of the acquirer (stock or debt).

Micro Cap Stock

Companies having a market capitalization between \$50 million and \$300 million.

Net Assets

The amount by which total assets exceed total liabilities.

Net Distributable Profit

The amount of revenue to be distributed after deducting specified expenses and reserves for business purposes.

Net Worth

The shareholders' equity.

No-Action Letter

Where the SEC staff assures a party that, based upon a stipulated set of facts, it will recommend that no enforcement action be taken by the SEC.

Nondisclosure Agreement

Provisions in an employment agreement preventing the disclosure or use of proprietary and confidential information.

Offering Price

The price at which publicly issued securities are made available for purchase by the investment bank underwriting the issue. A security's offering price includes the underwriter's fee and any management fees applicable to the issue.

Officers

Officers actually manage the business and are formally designated by the board. Often the officers, particularly the chief executive officer, exert influence over the board, including the composition of the board.

Option Price

The price at which stock may be purchased under a stock option.

Option to Purchase

An agreed right to purchase shares in a corporation, the exercise of which is at the election of the holder.

Options Backdating

The process of granting an option that is dated prior to the date that the company granted that option. In this way, the exercise price of the granted option can be set at a lower price than that of the company's stock at the granting date. This process makes the granted option in-the-money and of value to the holder. This process occurred when companies were only required to report the issuance of stock options to the SEC within two months of the grant date. Companies would simply wait for a period in which the company's stock price fell to a low and then moved higher within a two-month period. The company would then grant the option but date it at or near its lowest point. This is the granted option that would be reported to the SEC.

The act of options backdating has become much more difficult, as companies are now required to report the granting of options to the SEC within two business days. This adjustment to the filing window came with the Sarbanes-Oxley legislation.

Partition

The right of a tenant in common to divide and sever his or her proportionate interest in property.

Partnership

A business association of two or more persons who agree to share gains and losses and control of the business.

Piercing the Corporate Veil

A judicial theory used to ignore the separate entity of the corporation and hold individual shareholders liable.

Piggyback Registration

When an underwriter allows existing holdings of a company's shares to be sold in conjunction with an offering of new public shares.

Pink Sheets

A daily publication compiled by the national quotation bureau, with bid and ask prices of over-the-counter stocks, including the market makers who trade them. Unlike companies on a stock exchange, companies quoted on the pink-sheets system do not need to meet minimum requirements or file with the SEC. Pink sheets also refers to OTC trading.

PIPE

See Private Investment in Public Equity, below.

Poison Pills

A form of security that, when triggered, substantially reduces the value of the acquirer's stock in the target. Provisions in the stock structure of a corporation that allow existing shareholders to have superior rights.

Preemptive Rights

The shareholder's rights to purchase a proportionate share of newly issued stock.

Preferred Stock

An ownership interest in a corporation with a preference to voting, distributions, or liquidations of assets. The holder is given the right to receive a fixed level of dividends so long as the claims of debt-holders are previously satisfied.

Premium

A market price higher than the principal amount repayable on a loan.

Principal

The person empowering an agent to act on his or her behalf.

Private Investment In Public Equity (PIPE)

A private investment firm's mutual funds, or other qualified investors' purchase of stock in a company, which are discounted to the current market value per share for the purpose of raising capital. There are two main types of PIPEs – traditional and structured. A traditional PIPE is one in which stock, either common or preferred, is issued at a set price to raise capital for the issuer. A structured PIPE, on the other hand, issues convertible debt (common or preferred shares).

Private Offering

As specified in section 4(2) of the Securities Act and various "safe harbor" exemptions established by the SEC in "Regulation D," a private offering is deemed "private" if sales are made only to accredited investors.

Pro Forma

A Latin term meaning "for the sake of form." In the investing world, it describes a method of calculating financial results in order to emphasize either current or projected figures. Pro forma financial statements could be designed to reflect a proposed change, such as a merger or acquisition, or to emphasize certain figures when a company issues an earnings announcement to the public.

Investors should heed caution when reading a company's pro-forma financial statements as the figures may not comply with generally accepted accounting principles (GAAP). In some cases, the pro-forma figures may differ greatly from those derived from GAAP.

Proxy

A written authorization from a shareholder to another to vote the shareholder's shares at a meeting.

Proxy Statement

Must be filed prior to the annual meeting; this statement contains significant information about the background of director nominees, executive compensation, potential conflicts of interest between directors and the corporation, the adoption of anti-takeover provisions, as well as shareholder proposals.

Quarter

A three-month period on a financial calendar that acts as a basis for the reporting of earnings and the paying of dividends. Quarters are important because all public companies must report their results on a quarterly basis.

You'll hear the following abbreviations: Q1, or January, February, and March; Q2, or April, May, and June; Q3, or July, August, and September; and Q4, or October, November, and December.

Quorum

The minimum number of shares required to be represented at a meeting to conduct business.

Real Estate Investment Trust (REIT)

A security that sells like a stock on the major exchanges and invests in real estate directly, either through properties or mortgages. REITs receive special tax considerations and typically offer investors high yields, as well as a highly liquid method of investing in real estate.

Equity REITs invest in and own properties, and are thus responsible for the equity or value of their real estate assets. Their revenues come principally from their properties' rents.

Mortgage REITs deal in investment and ownership of property mortgages. These REITs loan money for mortgages to owners of real estate or purchase existing mortgages or mortgage-backed securities. Their revenues are generated primarily by the interest that they earn on the mortgage loans.

Hybrid REITs combine the investment strategies of equity REITs and mortgage REITs by investing in both properties and mortgages.

Record Date

A date set within a defined statutory period for determining shareholders entitled to notice of, and voting rights at, a meeting.

Red Herring

A preliminary registration statement that must be filed with the SEC describing a new issue of stock and the prospects of the issuing company.

Registered Agent

A person who officially acts on behalf of the corporation to receive official notices.

Registrar

A person who records and signs certificates for securities.

Registration of Corporate Name

The act of registering a corporate name for a defined period with a public official.

Regulation Fair Disclosure (FD)

The regulation fair disclosure rule reads as follows: "Whenever an issuer, or any person acting on its behalf, discloses any material nonpublic information regarding that issuer or its securities to [certain enumerated persons], the issuer shall make public disclosure of that information ... simultaneously, in the case of an intentional disclosure; and ... promptly, in the case of a non-intentional disclosure."

REIT

See Real Estate Investment Trust, above.

Reorganization

An extraordinary corporate transaction that may occur without tax consequences under definitions in Internal Revenue Code.

Retained Earnings

Accumulated profits of a corporation.

Revenue Act of 1978

A federal law regulating discrimination in uninsured employee reimbursement plans.

Reverse Stock Split

A reduction in the number of a corporation's outstanding shares that increases the par value of its stock or its earnings per share. The market value of the total number of shares (market capitalization) remains the same.

Reverse Takeover

A type of merger used by private companies to become publicly traded without resorting to an initial public offering. Initially, the private company buys enough shares to control a publicly traded company. At this point, the private company's shareholders use their shares in the private company to exchange for shares in the public company. At this point, the private company has effectively become a publicly traded one.

Rule 10b-5

A regulation formally known as the employment of manipulative and deceptive practices that was created under the Securities Exchange Act of 1934. This rule deems it to be illegal for anybody to directly or indirectly use any measure to defraud, make false statements, omit relevant information, or otherwise conduct operations of business that would deceive another person, in relation to conducting transactions involving stock and other securities.

Rule 144

A Securities and Exchange Commission rule that sets the conditions under which restricted, unregistered, and controlled securities can be sold. These are the five conditions that must be met for these securities to be sold:

1. The prescribed holding period must be met.
2. There is an adequate amount of current information available to the public regarding the historical performance of the security.

3. The amount to be sold is less than 1 percent of the shares outstanding and accounts for less than 1 percent of the average of the previous four weeks' trading volume.
4. All of the normal trading conditions that apply to any trade have been met.
5. If a sale will involve more than 500 shares, or an amount worth more than \$10,000, the seller must file a form with the SEC before the sale.

Rule 144a

A Securities and Exchange Commission rule modifying a two-year holding period requirement on privately placed securities to permit qualified institutional buyers to trade these positions among themselves.

Rule 14a-9

Disclosure in proxy material is policed by this general anti-fraud rule, which may be the basis for private lawsuits, as well as actions by the SEC.

Safe Harbor

1. A legal provision to reduce or eliminate liability as long as good faith is demonstrated.
2. A form of shark repellent implemented by a target company acquiring a poorly regulated business, which makes the target itself appear less attractive. In effect, this gives the target company a "safe harbor."
3. An accounting method that avoids legal or tax implications.

Sarbanes-Oxley Act of 2002 (SOX)

An act passed by the U.S. Congress to protect investors from the possibility of fraudulent accounting activities by corporations. The rules and enforcement policies outlined by the "Sox Act" amend or supplement existing legislation dealing with security regulations.

The Sarbanes-Oxley Act of 2002 accomplished the following goals:

- Establishment of a public company accounting oversight board, where public companies must now be registered
- Strict auditor regulation and control by means of auditing committees and inspecting accounting firms
- Heightened corporate responsibility for any fraudulent actions taken
- Stricter disclosure in company financial statements, and ethical guidelines to which senior financial officers must adhere
- Guidelines for analyst conflicts of interest
- Authorities available to the commission and the federal court, as well as required broker and dealer qualifications
- Enforcement methods available for punishment of activities deemed criminal by the Act

Section 1244 Stock

Shares issued by a small-business corporation that qualify for ordinary loss treatment under Section 1244 of the Internal Revenue Code.

Secured Debt

A loan that is repayable either through the promise of the debtor to repay or through the sale of property securing the loan.

Secured Debt

Gives debt holders a claim on specific assets that will be paid prior to the claims of other "unsecured" creditors, in the event of bankruptcy.

Securities

A contractual-proprietary obligation between a business and an investor.

Securities Act of 1933

A federal law regulating the issuance and sale of securities.

Securities Act of 1934

A federal law regulating the disclosure of information and trading of securities.

Security

A right to recover and sell assets in the event an obligation is not paid as agreed.

Sharks

Investors who purchase shares in a corporation to cause an extraordinary corporate transaction to be approved for their personal benefit.

Short-Form Merger

A merger between a parent corporation and a subsidiary corporation in which the parent corporation owns at least 90 percent of the shares of the subsidiary.

Silent Partners

Partners without any management authority.

Small Pact Merger

A merger transaction in which the surviving corporation will not change its articles of incorporation or the shares owned by its shareholders and will not increase its outstanding stock by more than 20 percent as a result of the merger.

Sole Proprietorship

A business owned by an individual.

Stated Capital

An account in which a corporation records the par value of share of stock or to which funds received from sales of no-par-value shares are allocated.

Stated Value

The value established for no-pay stock by the board of directors of a corporation.

Statement of Partnership Authority

A filed statement identifying partners authorized to perform certain acts for the partnership and describing the extent of a partner's authority.

Stock Option / Incentive Stock Option

An option granted to an employee to buy stock that has tax benefits under federal law.

Stock Split

A division of the ownership interest of shareholders into a greater number of shares.

Stock Voting Agreement

An agreement among shareholders concerning the manner in which their shares will be voted on certain issues.

Subsidiary Corporation

A corporation whose shares are owned in whole or in part by another corporation.

Surplus

The excess of net assets over stated capital.

Surviving Corporation

The acquiring corporation in a corporate merger.

Surviving Partner

A partner that is still living after the death of a partner.

Take Down

1. The price at which underwriters obtain securities to be offered to the public.
2. The portion of securities that each investment banker will distribute in a secondary or initial public offering.

Tax Preference

Income subject to surtax under federal law.

Tenancy in Common

Ownership of property by more than one person, with each owner entitled to an undivided share of the property.

Tender Offer

An offer to purchase some or all of the shareholders' shares in a corporation. The price offered is usually at a premium to the market price.

Timetable

A schedule of tasks to be completed in preparation for a corporate meeting.

Trade Name

A name used by a business in promoting its products and services.

Trade Secrets

Proprietary and confidential business information.

Transfer Agent

A person who administers the transfers and issuance certificates for securities.

Trust Indenture Act of 1939

A federal law regulating the contents of and rights under a trust indenture.

Underwriter

A company or other entity that administers the public issuance and distribution of securities from a corporation or other issuing body. An underwriter works closely with the issuing body to determine the offering price of the securities, buys the securities from the issuer, and sells them to investors via the underwriter's distribution network.

Uniform Commercial Code (UCC)

A state statute regulating commercial transactions including the sale and transfer of goods.

Unlimited Liability

The sole proprietor's personal liability for business debts.

Unsecured Debt

A loan that is repayable only through the promise of the debtor to repay and is not secured by an underlying asset or collateral. Unsecured debt is the opposite of secured debt.

Unsecured Loan

A loan that is issued and supported only by the borrower's creditworthiness rather than by some sort of collateral.

Venture Capital

Financing for new businesses. In other words, money provided by investors to startup firms and small businesses with perceived, long-term-growth potential. This is a very important source of funding for startups that do not have access to capital markets. It typically entails a high risk for the investor, but it has the potential for above-average returns.

Voting Shares

Shares that give the stockholder the right to vote on matters of corporate policy, as well as who will compose the members of the board of directors. Different classes of shares, such as preferred stock, sometimes don't allow for voting rights.

Voting Trust

A trust agreement that separates legal and beneficial ownership of shares and authorizes a voting trustee to vote shares for the term of the trust.

Watered or Discount Shares

Par-value shares sold by a corporation for less than par value.

Well-Known Seasoned Issuer (Wksi)

Also known as a Wksi. An issuer that meets all of the following requirements at some point during a 60-day period preceding the date the issuer satisfies its obligation to update its shelf registration statement (generally the date of filing its Form 10-K or Form 20-F):

- It must be eligible to register a primary offering of its securities on Form S-3 or Form F-3.
- As of some date within 60 days of its eligibility determination date, it must have had an outstanding minimum \$700 million in worldwide market value of voting and nonvoting equity held by nonaffiliates or have issued in the last three years at least \$1 billion aggregate amount of nonconvertible securities other than common equity, in primary offerings for cash, not exchange.
- It must not be an ineligible issuer. Issuers of asset-backed securities cannot qualify as well-known seasoned issuers.

Wholly Owned Subsidiary

A subsidiary whose parent company owns 100 percent of its common stock.

Wksi

See Well Known Seasoned Issuer, above.

XbRL

A standard that was developed to improve the way in which financial data is communicated, making it easier to compile and share this data. XBRL is a type of xml (extensible markup language), which is a specification that is used for organizing and defining data. XBRL uses tags to identify each piece of financial data, which then allows it to be used programmatically by an XBRL-compatible program. Imagine that you are looking at a company's financial statements online on the company's website. Traditionally, these statements would simply be in plain text. If you wanted to put these numbers into a spreadsheet file to run analysis on the statements, you would have to either manually type or copy and paste each account and corresponding number into the spreadsheet. However, if the data on the site was available in XBRL, you could simply convert this data from the website into a spreadsheet program (usually instantaneously) that is XBRL compatible.

Due to the standardized nature of the identification tags and the language itself, financial data from one country, which has set accounting standards such as U.S. GAAP, can be easily compiled into accepted accounting standards of another country even if they are drastically different. The reporting of financial data in XBRL is not required by all companies, but because it has become prevalent, it has been suggested that it won't be long before all companies will have to report their financial data in this language.

XR

Symbol used when listing shares. Indicates that shares are being offered "ex rights," meaning without rights.

SECURITIES

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