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**10b-10** SEC Rule requiring written confirmations for securities transactions. Equivalent to FDIC Part 344.

**12b-1** SEC Rule permitting mutual funds to use a portion of the mutual fund's assets for promotional expenses. The fund must be specifically registered as 12b-1 fund and disclose the existence and amount of such charges against the fund.

**13d** SEC Rule requiring a filing by any person acquiring a direct or indirect 5% interest in a registered stock.

**13f-1** SEC Rule requiring quarterly Form 13F reports by institutions holding more than \$100 million in discretionary equities.

**13g** SEC Rule requiring an annual filing by persons holding a direct or indirect 5% interest in a registered stock for passive investment purposes.

**17f-1** SEC Rule covering lost, stolen, counterfeit and missing securities certificates, and requiring banks and transfer agents to register with the Securities Information Center.

**114** Form 114 was an old designation for the Statement of Principles of Trust Department Management.

**156** SEC Rule governing mutual fund advertising and sales literature, and prohibiting false and misleading materials.

**401(a) Plan** A savings plan in which contributions are made in after tax dollars.

**401(h) Account** A separate account of a pension plan that, under Section 401(h) of the Internal Revenue Code, may be used to fund medical benefits for retirees and dependents.

**401(h) Plan** An employee benefit that provides, through a pension or annuity plan, for the payment of benefits for sickness, accident, hospitalization and medical expenses for retirees, their spouses and dependents, subject to certain restrictions.

**401(k) Plan** A defined contribution plan established by an employer which enables employees to make pretax contributions by salary reductions structured within the format of a cash or deferred plan.

**403(b) Annuity** An annuity that provides retirement income for employees of certain tax-exempt organizations or public schools. Also known as a tax-sheltered annuity.

**403(b) Plan** A defined contribution employee benefit plan established by certain tax-exempt organizations (such as charities) and public schools for their employees. Similar to a 401(k) plan.

**457 Plan** A deferred compensation plan for employees of state and local governments. Named after the governing section of the Internal Revenue Code, a portion of their income may be deferred and is not taxable until a distribution is made.

**501(c)(9) Trust** (1) Used by employers and jointly administered welfare funds to provide group employee benefits of the following types: medical, disability, term life insurance, severance compensation, vacation benefits, recreational facilities and unemployment compensation. These trusts are governed by Section 501(c)(9) of the Internal Revenue Code. (2) A type of self-insured or self-funded plan that is a tax exempt trust. Under its terms, both employer and employee contributions are paid into the fund, with claims and expenses paid out of it. Excess funds are invested as reserves by the fund's trustees. In a tax-qualified fund, the employer's deductions are immediately deductible, the trust's investment income is tax exempt, and employee contributions are not currently taxed. See also VEBAs.

**Abatement** The reduction of a gift under a will because of insufficiency of assets to satisfy the gifts after the legal obligations of the estate (debts, taxes, charges, and claims) have been paid in full. The general rule is that all gifts of the same class shall abate proportionately, unless otherwise provided.

**ACCELERATED DEATH BENEFIT (ADB)** Provision in a life insurance policy that permits a terminally ill person get a percentage of the life insurance benefit from the life insurance company prior to death. See also Viatical Settlement.

**Accounting** (1) The record of an account showing the transactions therein. (2) The submission of such a record to the court or to the beneficiaries of a trust or estate by the fiduciary.

**Active Trust** A trust regarding which the trustee has some active duty to perform; opposed to bare, naked, or passive trust.

**Actuary, Enrolled** See Enrolled Actuary.

**ADA** Americans With Disabilities Act of 1990.

**ADB** See Accelerated Death Benefit.

**Adequate Consideration**

1. For a security with a generally recognized market value:
  - (a) the price of the security on a national securities exchange, or
  - (b) if not traded on a national securities exchange, a price not less favorable to the plan than the offering price for the security as established by current bid and asked prices quoted by persons independent of the issuer and of any party in interest;
2. for other assets, the fair market value of the asset as determined in good faith by a fiduciary.

**Adjusted Gross Estate** The value of an estate after all allowable deductions have reduced the gross estate, but before Federal estate taxes.

**Ad Litem** For the purpose of the suit.

**Administrator** An individual or a trust institution appointed by a court to settle the estate of a person who has died without leaving a valid will. If the individual appointed is a woman, she is known as an administratrix.

**Administrator Ad Litem** An administrator appointed by the court to supply a party to an action at law or in equity in which the decedent or his representative was, or is, a necessary party.

**Administrator Cum Testamento Anexo** (Administrator with the will annexed): An individual or a trust institution appointed by a court to settle the estate of a deceased person in accordance with the terms of his will when no executor has been named in the will or when the one named has failed to qualify.

**Administrator Cum Testamento Anexo De Bonis Non** (Administrator with the will annexed as to property not yet distributed): An individual or a trust institution appointed by a court to complete the settlement of the estate of a deceased person in accordance with the terms of his will when the executor or the administrator with the will annexed has failed to continue in office.

**Administrator De Bonis Non** (Administrator as to property not yet distributed): An individual or a trust institution appointed by a court to complete the settlement of the estate of a person who has died without leaving a valid will when the administrator originally appointed has failed to continue in office.

**Administrator with the will annexed** An individual or a trust institution appointed by a court to settle the estate of a deceased person in accordance with the terms of his will when no executor has been named in the will or when the one named has failed to qualify.

**Administratrix** See Administrator.

**ADR** See American Depository Receipt.

**Advance** See Overdraft.

**Agency** An account in which the title to the property constituting the agency does not pass to the trust institution but remains in the owner of the property, who is known as the principal, and in which the agent is charged with certain duties with respect to the property.

**Agent** A person who acts for another person by the latter's authority. The distinguishing characteristics of an agent are (1) that he acts on behalf and subject to the control of his principal, (2) that he does not have title to the property of his principal, and (3) that he owes the duty of obedience to his principal's orders.

**Allocation** (1) The crediting of a receipt in its entirety or the charging of a disbursement in its entirety to one account, as to the principal account or to the income account; to be distinguished from apportionment. (2) A process that determines the optimum distribution of funds among various types of assets that offer the highest probability of consistently achieving investment objectives within a given risk tolerance. The process often uses a computer model to aid in processing a myriad of data.

**Allowance** (1) The sum or sums awarded a fiduciary by a court as compensation for its services; to be distinguished from charge, commission, and fee. (2) See Widow's Allowance. (3) Waiver by a beneficiary or other interested party of certain actions performed by the fiduciary which might not conform with instrument terms, local statutes, prudent practices, etc.

**Alpha** A numerical investment measure sometimes used as a performance indicator or to aid in selection of securities. Alpha is the premium an investment would be expected to earn if the market rate of return were equal to the Treasury bill rate, e.g., a premium of zero for the market rate of return. A positive alpha indicates that you have earned on the average a premium above that expected for the level of market variability. A negative alpha indicates, on the average, a premium lower than that expected for the level of market variability. See also Beta.

**AMBAC** American Municipal Bond Assurance Corporation.

**American Depository Receipts (ADR)** American certificates issued by an approved New York bank or trust company against the original (foreign) shares with a European branch of the New York institution. These receipts facilitate the financing of foreign companies in the United States. As foreign shares are deposited abroad, the equivalent ADR's change hands, not the certificates. This eliminates the actual shipment of stock certificates between the U. S. and foreign countries.

**American Option** An option that can be exercised any time during an exercise period.

**Amortization** With respect to bonds purchased at a premium, the process by which a part of the income is set aside as received to reduce gradually the amount by which the cost of the bond exceeds its face value.

**Ancillary** Subordinate or auxiliary to something or someone else; used in such terms as ancillary administration, ancillary administrator, and ancillary guardian.

**Annuity** (1) A contract that provides an income for a specified period of time or for life; (2) the periodic payments provided under an annuity contract, (3) the specified monthly or periodic payment to a pensioner.

**Annuity Certain** A contract that provides an income for a specified number of years, regardless of life or death. If an annuitant dies, the beneficiary will receive payments for the remaining number of specified years. Also called period certain, term certain or dollar temporary annuity.

**Annuity Contract** A contract in which an insurance company unconditionally undertakes a legal obligation to provide specified pension benefits to specific individuals in return for a fixed fee or premium. An annuity contract is irrevocable and involves the transfer of significant risk from the employer to the insurance company. Also called allocated contracts.

**Apportionment** The division or distribution of a receipt or a disbursement of property between or among two or more accounts, as between principal and income; to be distinguished from allocation.

**Approved List** A list, statutory or otherwise, which contains the authorized investments that a fiduciary may acquire.

**Arbitrage** A technique employed to take advantage of price differences in separate markets. This is accomplished by purchasing in one market for immediate sale at a better price in another market. Such transactions may be executed in the same type or similar types of securities.

**Assent** Written agreement with or approval of actions of a fiduciary which have already taken place.

**Assurance** (1) A pledge or guaranty of performance or protection from loss. Generally, prohibited for banks to give such a surety or indemnification. (2) A Canadian and British term for insurance.

**At-The-Money Option** An option whose exercise price equals the spot price of the underlying instrument.

**Attorney In Fact** A person who, acting as agent, is given written authorization by another person to transact business for him out of court; to be distinguished from attorney at law. See also Power of Attorney.

**Authentication** Applied to bonds, the signing, by the trustee, of a certificate on a bond for the purpose of identifying it as being issued under a certain indenture, thus validating the bond.

**Back End Load** A sales charge due upon the sale, transfer or disposition of securities (usually mutual funds), partnership interests, annuities and life insurance.

**Bankers Acceptance** An irrevocable obligation of an issuing bank and the borrower whereby both are liable for payment. Used in domestic and international commerce to finance the shipment and storage of goods or to facilitate dollar exchanges with foreign banks. Bankers acceptances are issued in a wide variety of principal amounts. Maturities can be up to 180 days, but usually are for 30-60-90 days.

**Bank Investment Certificate** See BIC.

**Basis** In futures and forwards, the difference between a futures contract price for an item and the current spot price of the same item.

**Basis Convergence** In futures and forwards, the phenomenon where the market value of a futures contract approaches the spot price for the underlying item as the delivery date nears.

**Basis Swap** A variable-for-variable interest rate swap.

**Beneficiary** (1) The person for whose benefit a trust is created. (2) The person to whom the amount of an insurance policy or annuity is payable.

**Bequeath** To give personal property by will; to be distinguished from devise.

**Bequest** A gift of personal property by will; a legacy.

**Best Execution** The principal whereby a trust department has a duty to obtain the most favorable possible performance of securities purchases and sales. This is generally done through the selection of a broker for a particular transaction. Given the size and type of the transaction, its complexity and where it is traded, the most favorable mix of at least the following factors must be obtained:

1. most favorable price,
2. lowest commission or equivalent,
3. prompt and accurate execution of orders,
4. prompt and accurate confirmation of orders,
5. prompt and accurate delivery of securities or proceeds.

A broker's special abilities, access to, or knowledge of a particular type of investment or transaction could also impact on best execution.

**Beta** A numerical investment measure sometimes used as a performance indicator or to aid in selection of securities. Beta measures market sensitivity: the extent to which a portfolio fluctuates with the market as represented by the S&P 500. Beta is calculated by measuring the sensitivity of a fund's portfolio to market patterns. It is a statistical estimate of the average change in a fund's rate of return corresponding to a one percent change in the market. An investment with a Beta of 1 matched the market; a beta of 1.1 indicates 10% better performance than the market in up markets, 10% worse in down markets. See also Alpha.

**BIC** A "BIC" is a bank investment certificate. This is a large certificate of deposit sold to institutional investors, such as employee benefit plans. There is a facts-and circumstances test as to whether FDIC insurance covers the instrument; if so, the first \$100,000 of the BIC is insured by FDIC, and pass-through deposit insurance coverage may also apply. A BIC is the deposit industry's equivalent of a "GIC". See also "GIC", "Bullets", and "Windows".

**Bid/Ask Spread** The difference between the quoted bid (broker will buy stock) and the quoted ask or offer (broker will sell a stock).

**Bifurcation** The separation of gains and losses on investment transactions involving foreign currencies. For instance, the amount of profit attributable to the increase in the price of a German stock on the Frankfurt DAX Stock Exchange, as opposed to the amount of profit attributable to the change in the Deutsche Mark versus the dollar. Important for provisions of IRS Code 988.

**Blackout Period** Any period of more than 3 consecutive business days during which the ability of not fewer than 50 percent of the participants or beneficiaries under all individual account plans maintained by the issuer to purchase, sell, or otherwise acquire or transfer an interest in any plan is temporarily suspended by the issuer or by a fiduciary of the plan.

**Blue Sky Laws** State securities laws that attempt to ensure that the terms of securities offerings are fair, just and equitable and meet minimum standards of quality. Generally, certain information must be filed with a state's securities regulator before the security can be offered for sale within the state.

**Bond Anticipation Note** Short-term notes sold in anticipation of a bond issue and retired with the proceeds from the sale of the bonds.

**Bond Power** A form of assignment executed by the owner of registered bonds which contains an irrevocable appointment of an attorney in fact to make the actual transfer on the books of the corporation.

**Breach of Trust** Violation of a duty of a trustee to a beneficiary.

**Bullet** A term used with BIC's and GIC's when a lump sum of money is invested at a fixed interest rate, and repaid at maturity. Interest may be compounded or paid out periodically.

**Cafeteria Plan** An approach to offering health benefits to employees where the employee may select which benefits, and how much coverage within a type of benefit, they elect to have. Such plans enable employees to tailor benefits coverage to their own situation. Some plans require a common core of benefits. Sometimes, employee contributions are permitted for additional coverage. Also known as Flexible Benefit Plans and Flexible Compensation.

**Callable** A bond issue, all of part of which may be redeemed ("called") by the issuer prior to maturity. Specific terms in the bond indenture ensure that the bonds may not be called prior to the call date(s). Call provisions in the indenture also set the price at which the bond may be called; to compensate for this privilege, a price above par is usually paid.

**Call Option** Option to buy shares of a certain stock within a given period of time at a specific price fixed in the contract.

**Cap** An option contract that protects the holder from a rise in interest rates or some other underlying index beyond a certain point.

**Cash Balance Plans** a defined benefit plan which defines benefits in terms of a stated "account balance," as opposed to a specific monthly benefit for life under traditional defined benefit pension plans. In this type of plan, employers credit a participant's account each year with a "pay credit" (typically based on a percentage of compensation) plus an "interest credit" (either a fixed rate, or a rate which is linked to an index, such as the one year treasury bill rate). When a participant retires under a cash balance plan, he or she is entitled to the balance of his or her vested benefit (similar to a defined contribution plan), which may be taken

as an annuity or in a lump sum. This is opposed to retirements under traditional defined benefit pension plans, where retirees are entitled to lifetime monthly annuities based upon years of service and pay.

**Cash Equivalents** Short-term investments held in lieu of cash and readily converted into cash within a short time-span (i.e. Certificates of Deposit, commercial paper, Treasury bills, etc.).

**Cede and Company** The name of the nominee partnership for securities held at Depository Trust Company, New York.

**Cemetery Trust** A trust which has as its purpose the upkeep of a grave, burial plot, or cemetery.

**Cesop (Tax)** Credit ESOP.

**Cestui Que Trust** (plural, cestuis que trust) A person for whose benefit a trust is created; a beneficiary.

**Charge** The price fixed or demanded by a trust institution for service; compensation which a trust institution has a legal right to fix (in the form of either a commission of a fee), in contrast to an allowance which is granted by a court. See also Allowance, Commission, and Fee.

**Chesop** Charity ESOP.

**Chinese Wall** A policy barrier between the trust department and the rest of the bank designed to stop the flow of non-public information for the purpose of preventing use by the trust department of any material inside information, which may come into the possession of other bank departments, in making investment decisions.

**CIF** See Collective Investment Fund.

**Clifford Trust** See Short-Term Trust.

**Cliff Vesting** Full (100%) vesting after X years of service. Benefits must be 100% vested after not more than 5 years of service, except in collectively bargained plans, where the maximum period is 10 years.

**Closed End Mutual Fund** A mutual fund which is limited in the number of shares outstanding. The shares are traded on a securities exchange or the over-the-counter market. The value is determined by bid and asked prices in the open market.

**COBRA** The Consolidated Budget Reconciliation Act of 1985.

**CODA** Cash or Deferred Arrangements. A term associated with certain employee benefit plans where the employee is given a choice of receiving an employer contribution in cash or having it deferred under a plan and/or the choice of making his or her own contribution to the plan from before-tax income. Most CODA's are either cash or deferred profit sharing plans or thrift and savings plans.

**Codicil** An amendment or supplement to a will executed with all the formalities of the will itself.

**Collar** An upper and lower limit on the coupon of a floating rate note. The issuer pays a premium for the collar.

**Collateral Heir** A person not in the direct line of the decedent from whom he inherits real property, as, for example, a nephew of the decedent who receives a share of his uncle's estate.

**Collective Investment Fund** A pooled fund, operated by a bank or trust company in conformity with Section 9.18 of OCC Regulation 9 or Revenue Ruling 81-100, for investment of the assets of separate trust accounts.

**Commercial Paper** Negotiable, short-term, unsecured promissory notes issued in bearer form on a discount or coupon basis by a corporation to raise working capital, for up to 270 days term. A direct obligation of the issuer, it is sold in multiples of \$25,000 and is rated by Standard & Poor's (A-1, A-2, and A-3) and Moody's (Prime 1, Prime 2, and Prime 3). Interest is paid at maturity. Payment is required in Federal Funds on settlement date (usually at the buyer's option) and payment is required by Federal Funds on the maturity at the issuer's bank. The principal types are Prime Finance Paper issued by sales finance companies and certain

large bank holding companies, Prime Industrial Paper issued by leading industrial companies, and Finance Paper of less-than-prime quality. For Prime Finance Paper, investors may specify both the issue and maturity dates. For Prime Industrial Paper, only those maturities listed on the market are available.

**Commission** A percentage of the principal or of the income or of both which a fiduciary receives as compensation for its services; to be distinguished from allowance, charge, and fee.

**Committee for incompetent** An individual or a trust institution appointed by a court to care for the property or the person (or both) of an incompetent; similar to a guardian, conservator, or curator.

**Common Law** The legal system prevailing in the English-speaking countries - that is, the United States of American and the British Commonwealth of Nations. It originated in England and its form of development was different from that of Roman (civil) law. Compare Civil Law.

**Common Trust Fund** A fund maintained by a bank or a trust company exclusively for the collective investment and reinvestment of money contributed to the fund by the bank or trust company in its capacity as trustee, executor, administrator, or guardian and in conformity with the rules and regulations of the Comptroller of the Currency pertaining to the collective investment of trust funds by national banks, as well as with the statutes and regulations (if any) of the several states.

**Community Property** Property in which a husband and wife have each an undivided one-half interest by reason of their marital status; recognized in all civil law countries and in certain states of the Southwest and Pacific Coast area of the United States.

**Compliance Risk** The risk ~~of that~~ non compliance with laws and regulations can lead to financial loss ~~and/or damage to the institution's reputation.~~

**Compound Option** One type of option contract. It is an option, such as a put on a call, a call on a put, a put on a put, or a call on a call.

**Conservator** (1) Generally, an individual or a trust institution appointed by a court to care for property. (2) Specifically, an individual or a trust institution appointed by a court to care for and manage the property of an incompetent person, in the same way as a guardian cares for an manages the property of a minor.

**Contingent Liability** (1) For FDIC Trust Examinations: an estimate by the examiner of the gross possible liability of the institution resulting from the purchase of nonconforming investments for trust accounts, unwarranted retention of nonconforming assets, self-dealing, questionable practices and procedures, or other acts of omission or commission which appear not to comply with the terms of governing trust instruments or provisions of law and on which an accounting may be subject to objection by appropriate parties. Until appropriate consents, waivers or releases of liability are obtained from interested parties or nonliability is determined by a court of competent jurisdiction, the liabilities are regarded as "contingent." (2) A liability which is dependent upon certain events occurring before it becomes an active liability.

**Contractual Derivative** These investment instruments represent a one-of-a-kind arrangement between two parties and include swaps, floors, collars, and swaptions. They are not standardized contracts nor do they trade on a regulated exchange. While they offer enticing return potential, some carry high degrees of both market risk and income risk. Because they are not standardized or exchange traded, they are subject to valuation risk (the potential for inaccurate pricing) and liquidity risk (the potential that it cannot be sold at a reasonable price). See also Derivatives.

**Conversion** (1) In law, wrongful appropriation to one's own use of the property of another. (2) In equity, the change of property from one form to that of another (as from real property to personal property, or the reverse) which is considered to have taken place even though no actual exchange has been effected.

**Corporate Depositary** A trust institution serving as the depositary of funds or other property. See also Depositary, and Depositary.

**Corporate Fiduciary** A trust institution serving in a fiduciary capacity, such as executor, administrator, trustee, or guardian.

**Corporate Trust** A trust created by a corporation, typical of which is a trust to secure a bond issue.



**Corpus (Body)** The principal or capital of an estate, as distinguished from the income.

**Counterparty** A principal party to a transaction, other than an intermediary. When looked at from the buyer's viewpoint, the seller is the counterparty and vice versa.

**Court Account** Accounts which require court accountings and approval in their normal conduct. Probate, guardianship, conservatorship, and testamentary trust accounts are the most common.

**Covered Call** A type of stock option in which a trust account sells to a third party the right (the option) to purchase a specific stock (the call) at a specific price until a specific expiration date. Possession of the stock by the trust account (covered) is the final element for a covered call option. It is different from a naked call option, in which the trust account does not own the stock.

**Covered Put** A type of option on an instrument or commodity in which the writer has a short position.

**Credit Risk** Credit risk is the possibility of loss due to a counterparty's or an issuer's default or inability to meet contractual payment terms. Default exposes the holder of the instrument to the cost of replacing the instrument under present market conditions. The amount of credit risk equals the replacement cost (also known as current exposure) of an identical instrument. The replacement cost is established by assessing the instrument's current market value rather than its value at its inception.

**Crown Loan** Refers to an interest-free or below-market-rate term or demand loan, viewed by the IRS as a taxable gift to the borrower. Name stems from the *L. Crown* case at the U.S. Court of Appeals for the Seventh Circuit [84-1 USTC]. Current precedent is Supreme Court case involving E.C. Dickman [84-1 USTC]. Refer to Section 7872 of the Internal Revenue Code and also to Revenue Procedure 86-46 (826-85), IR 85-86, and Announcement 85-132.

**Crummey Trust** A type of unfunded insurance trust. The trust acts as owner of a life insurance policy. The trust receives the donor's cash payments on a periodic basis, from which the beneficiary of the trust has a specified period to make a cash withdrawal. If this is not done, the cash paid by the donor is used to pay the premiums due on the life insurance policy. The IRS has ruled that such an arrangement represents a gift of present value interest has been made by the donor. Since it is a gift of present value, the donor may contribute up to \$10,000 (\$20,000 if two donors, such as husband and wife contribute) per year in premium payments and enjoy the gift tax exclusion. When the donor dies, the life insurance policy in the trust is effectively removed from the donor's estate.

**Curator** An individual or a trust institution appointed by a court to care for the property of a minor or an incompetent person. In some states a curator is essentially the same as a temporary administrator or a temporary guardian.

**Currency Coupon Swap** A variation of a currency swap in which one party's interest payments are variable-rate. Essentially a combination of a currency swap and an interest rate swap.

**Currency Swap** A swap contract in which two counterparties agree to exchange principal and interest denominated in different currencies based on an agreed-upon currency exchange rate.

**Cusip** Acronym for Committee on Uniform Security Identification Procedures. Standardized numbering system begun in 1968 for identifying individual issues of equity and debt securities in the United States and Canada to facilitate compatible automated processing by multiple organizations (banks, brokers, etc.). Not all issues meet the criteria for issuance of a CUSIP number. System operated by the CUSIP Service Bureau, a part of the Standard and Poor's Corporation. See also FINS.

**Custody Account** An agency account concerning which the main duties of the custodian (agent) are to keep safe and preserve the property and to perform ministerial acts with respect to the property as directed by the principal. The agent has no investment or managerial responsibilities. To be distinguished from managing agency account and safekeeping account.

**Cy-Pres Doctrine** Cy-pres means "as nearly as may be." The doctrine, applied in English and Scots law and in some of the states of the United States, that, where a testator or settlor make a gift to or for a charitable object that cannot be carried out to the letter, the court will direct that the gift will be made as nearly as possible, in its judgment, in conformity with the intention of the donor.



**Daily Settlement** In futures and forwards, the process where futures participants are charged for their losses or credited for their gains at the end of each trading day.

**Debenture** A general debt obligation backed only by the integrity and net worth of the issuer. An obligation that is not secured by a specific lien on property, as an unsecured note of a corporation.

**Deed** A written instrument, signed, sealed, and delivered according to applicable law, containing some transfer, bargain, or contract with respect to property. The common term for an instrument transferring the ownership of property.

**Deed of Trust** A sealed instrument in writing duly executed and delivered, conveying or transferring property to a trustee. This is usually real property.

**Default** With regard to a bond or promissory note, the failure to make a payment either of principal or interest as or when due.

**Defective Trust** A trust designed that income taxes are paid outside of the trust by the grantor. The most commonly used provision allows the grantor the power to substitute property he or she owns for equally valued trust property.

**Defeasement** A type of municipal debt financing which enables the issuing government entity to reduce the amount of interest it pays on existing outstanding bonds. As an example, an entity that has high-rate outstanding bonds issues new debt at a lower rate. The proceeds are used to buy Treasuries, which pay enough interest to pay the interest on the old outstanding bonds. The Treasuries can be sold when the old bonds reach their call date, providing a source of funds to retire the old debt. The net effect is the government entity pays less on a current basis.

**Deferred Payment Swap** A swap that requires payments to be made at a later date than the date at which the payments are determined.

**Defined Benefit Plan** A pension plan which guarantees the payment of a specified benefit at retirement age and provides annual contributions equal to an actuarially determined amount sufficient to produce the specified benefit.

**Defined Contribution Plan** A pension plan which provides for an individual account for each participant and for benefits based upon the amount contributed to the participant's account including any income, expenses, gains, or losses. See also Individual Account Plan, Money Purchase Plans, Profit Sharing Plans, Target Plans, and Employee Stock Ownership Plans (ESOP's).

**DEFRA** Deficit Reduction Act of 1984. One part of this act was the Tax Reform Act of 1984. Another part was the Spending Reduction Act of 1984.

**Depletion** The consumption or exhaustion of wasting property - such as, royalties, patent rights, mines, oil and gas wells, quarries, timberlands, and other things that are consumed or worn out in the sing.

**Deposit Administration Contract** A funding contract with an insurance company in which an unallocated account is kept for active participants. Annuities are purchased for employees when they retire.

**Depository** One who receives a deposit of money, securities, instruments, or other property; to be distinguished from depository, which is the place of deposit.

**Depository** A place where something is deposited, such as a safe deposit vault.  
See Securities Depository.

**Derivative** A financial contract whose value is designed to track the return on stocks, bonds, currencies, or some other benchmark. Generally, derivatives fall into two broad categories: forward-type contracts and option-type contracts. They may be traded on exchanges or traded privately. See also Contractual Derivatives, Security Based Derivatives, and Synthetic Derivatives.

**Determination Letter** A letter issued by the District office of the Internal Revenue Service which states whether a plan meets the qualification requirements under the Internal Revenue Code. Requesting an IRS Determination Letter is not an IRS requirement and is optional with the plan sponsor.

**Devise** A gift of real property by will; to be distinguished from bequest.

**Devisee** A person to whom a devise is given.

**Direct Heir** A person in the direct line of ascent or descent of the decedent; as, father, mother, son, daughter.

**Directed Trust** One under which a trustee has less than full managerial authority because another party or parties has the power to control some of the trustee's actions. Normally, this involves the investments of an employee benefit plan. Often, this direction is provided by an outside investment manager, a "named fiduciary", or the individual participant.

**Disbursement** Money paid out in discharge of a debt or an expense; to be distinguished from distribution.

**Disqualified Person** Term defined in Section 4975(e)(2) of the Internal Revenue Code that is roughly equivalent to ERISA's *party in interest*, but also includes highly compensated employees. See Party in Interest.

**Distribution** The apportionment of personal property (or its proceeds) among those entitled to receive the property according to the applicable statute of distribution or under the terms of the will or trust agreement; to be distinguished from disbursement.

**DOL** Department of Labor.

**Domicile** The place which a person regards as his permanent home and principal establishment; the place to which, whenever he is absent, he has the intention of returning. A person's domicile may or may not be the same as his residence at a given time. See also Residence.

**Donor** One who makes a gift.

**DTC** Depository Trust Company, New York City. A noninsured limited-purpose state chartered trust company which is a member of the Federal Reserve System. Securities certificates belonging to a variety of financial institutions (banks, trust companies, broker-dealers, mutual funds, etc.) are kept at DTC, with transfers between "depositors" accomplished by bookkeeping entry. This greatly reduces the volume of physical transfers which must be made within the securities industry.

**DRP** Dividend Reinvestment Plan.

**Duration** A numerical measure of the price change of a bond due to a change in its yield to maturity. Duration summarizes the various characteristics that cause bond prices to fluctuate in response to interest rate changes. The lower the duration number, the less change that can be expected in a bond's price.

**Education IRA** is not a retirement arrangement. It is a trust or custodial account established for the purpose of paying "qualified higher education expenses" of the designated beneficiary at an "eligible educational institution." Up to \$500 per year can be contributed to an Education IRA. Contributions to the IRA are taxable. Investments grow tax free until distributed. If withdrawals are less than the beneficiary's "qualified higher education expenses," the withdrawals are tax free. Any portion of a withdrawal that is greater than the beneficiary's educational expenses is taxable to the beneficiary.

**Eleemosynary** Pertaining or devoted to legal charity; as an eleemosynary institution.

**Embedded Derivatives** Derivatives that are part of another financial instrument. For example, a callable bond consists of the bond and a call option. The call option is the embedded derivative.

**Employee Benefit Security Administration** This office was formerly known as the Pension and Welfare Benefits Administration, PWBA, and is a part of the U. S. Department of Labor.

**Employee Benefit Plan** A plan established or maintained by an employer or employee organization, or both, for the purpose of providing employees a certain benefit, such as pension profit-sharing, stock bonus, thrift medical, sickness, accident, or disability benefits.

**Employee Stock Ownership Plan** An employee benefit account in which employees may become stockholders of the employer. These plans are qualified under the Internal Revenue Code and are not subject to the 10% ERISA limits on holdings of employer stock. Typically, an employer's contributions to an ESOP are used to purchase existing or new shares of the employer's stock, thus providing a means for the employer to raise new capital while, at the same time, getting a tax deduction for the annual contributions. When such purchases are from insiders, the IRS has special requirements concerning the valuation of the stock's price. Often, ESOP's involve borrowing funds by the ESOP with which to purchase employer stock; such plans are termed "leveraged" ESOP's. When speaking of the trust account, ESOP's are sometimes called ESOT's: Employee Stock Ownership Trusts. See also CESOP, CHESOP, PAYSOP, and TRASOP.

**En Ventre Sa Mere** "In mother's womb" - a child conceived but not yet born.

**Enrolled Actuary** A person who performs actuarial services for an employee benefit plan which is subject to ERISA and who is enrolled with the federal Joint Board for Enrolling Actuaries. ERISA plans may use only Enrolled Actuaries to perform services for the plan.

**ERISA** An acronym for the Employee Retirement Income Security Act of 1974 which set up federal minimum standards for employee benefit plans, including standards regulating the conduct of plan fiduciaries and trustees. The Act also established an insurance program designed to guarantee workers receipt of pension benefits if their defined benefit pension plan should terminate.

**ERTA** Economic Recovery Tax Act of 1981. Expanded IRA and Keogh plan availability. Covered specific areas of employee compensation, including incentive stock options, deductible voluntary employee contributions, tax credit ESOP's, and withdrawal provisions in savings/thrift plans.

**Escheat** The reversion of property to the state (in the United States) in case there are no devisees, legatees, heirs, or next of kin; originally applicable only to real property but now applicable to all kinds of property.

**Escrow** Money, securities, instruments, or other property or evidences of property deposited by two or more persons with a third person, to be delivered on a certain contingency or on the happening of a certain event. The subject matter of the transaction (the money, securities, instruments, or other property) is the escrow; the terms upon which it is deposited with the third person constitute the escrow agreement; and the third person is termed the escrow agent.

**Escrow Agent** See Escrow.

**ESOP** See Employee Stock Ownership Plan.

**ESOT** See Employee Stock Ownership Plan (Trust).

**Estate** (1) The right, title, or interest which a person has in any property; to be distinguished from the property itself, which is the subject matter of the interest. (2) The property of a decedent.

**Estate Tax** A tax imposed on a decedent's estate as such and not on the distributive shares of the estate or on the right to receive the shares; to be distinguished from an inheritance tax.

**Estimated Loss** For FDIC Trust Examinations: an estimate by the examiner of the amount of loss which appears certain to be sustained by the institution as a result of its fiduciary activities.

**ETI** Acronym used by the Labor Department in ERISA Interpretive Bulletin (IB) 94-1 for Economically Targeted Investment. See Social Investing.

**Eurobond** A bond denominated in U.S. dollars (or another currency) and sold to investors outside the country whose currency is used. An example might be a bond denominated in German Deutsche Mark but issued by a Dutch company and sold to Swiss investors.

**Eurodollar Certificate of Deposit** A certificate of deposit issued by banks outside the U.S., primarily in Europe, with interest and principal paid in dollars. Such CDs usually have minimum denominations of \$100,000 and short-term maturities of less than two years. Interest rates are usually pegged to LIBOR.

**European Option** An option that can only be exercised on the expiration date.

**Event of Default** The non-occurrence or non-performance of something called for in a bond indenture. Examples of events of default are: (1) nonpayment of interest, (2) nonpayment of principal, (3) failure to make payments into a sinking fund, (4) filing of bankruptcy or reorganization, (5) nonpayment of a prior lien obligation, (6) failure to perform any obligation called for in the indenture (such as provide financial statements, insurance, proof of tax payments, etc.).

**Excess Benefit Plan** A non-qualified plan maintained by an employer solely for the purpose of providing benefits for certain employees in excess of those which, because of Internal Revenue Code limitations on contributions and benefits, can be provided by the employer's qualified plan.

**Exculpatory Provision** A provision in a will or trust instrument relieving or attempting to relieve an executor or trustee from liability for breach of trust; sometimes called an immunity provision.

**Executor** An individual or a trust institution nominated in a will and appointed by a court to settle the estate of the testator. If a woman, she is an executrix.

**Executor De Bonis Non** The individual or corporation named in the will to take over and complete the settlement of an estate in those cases in which the original executor, for one reason or another, has failed or been unable to do so. Unless the testator himself names such a successor executor, the court appoints an administrator de bonis non.

**Executrix** See Executor.

**Exercise Period** The period of time during which an option may be exercised.

**Expiration Date** The last day an option can be exercised.

**Express Trust** A trust stated orally or in writing, with the terms of the trust definitely prescribed; to be distinguished from a resulting trust and a constructive trust.

**Family Incentive Trust** Twist on an irrevocable family trust. Assets enter the trust in the normal fashion. However, there is specific language as to how funds may be taken out of the trust. The purpose of the trust is to provide an incentive for the beneficiary to lead a productive life. The trusts also contain a safety-net so a beneficiary will not become destitute. Examples of what distribution provisions include are (1) Matching earnings dollar for dollar, (2) Paying a parent for staying home with the children, (3) Paying an amount for completing a higher education, and (4) Starting a new business.

**FAS** Financial Accounting Standard. Authoritative accounting pronouncement on handling different specific accounting situations. Issued by FASB.

**FAS 87** Statement issued by FASB covering employer accounting for pensions.

**FAS 106** Statement issued by FASB requiring employers to record on their balance sheets the future financial liability they incur by promising health benefits to retirees.

**FASB** Financial Accounting Standards Board. Non-governmental authority for establishing accounting standards in the United States.

**Fee** (1) Fixed amount which a trust institution receives as compensation for its services; to be distinguished from allowance, charge, and commission. (2) An estate of inheritance in real property, sometimes referred to as an estate in fee or fee simple estate.

**Fee Simple** An estate of inheritance without limitation to any particular class of heirs and with no restrictions upon alienation; sometimes known as fee simple absolute; the largest interest or estate in real property a person may own.

**Fiduciary** An individual or a trust institution charged with the duty of acting for the benefit of another party as to matters coming within the scope of the relationship between them. The relationship between a guardian and his ward, an agent and his principal, an attorney and his client, one partner and another partner, a trustee and a beneficiary, each is an example of fiduciary relationship. See also ERISA Section 3(21)(A).

**FINS** Acronym for Financial Industry Number Standard. Standardized numbering system for identifying individual institutions (brokers, banks, transfer agents) in the securities industry in the United States and Canada to facilitate compatible automated processing in multiple organizations. FINS Numbers issued by Depository Trust Company, New York City. See also CUSIP.

**Fiscal Agent** (1) An agent for a corporation to handle specified matters relating to taxes in connection with an issue of bonds. (2) An agent for a national, state, or municipal government or government body to pay its bonds and coupons or to perform certain other duties related to financial matters.

**Flexible Benefit Plan/Flexible Compensation** See Cafeteria Plan.

**Flexible Spending Accounts or Arrangements** Employee benefit which gives employees a choice between taxable cash and nontaxable compensation in the form of payment or reimbursement of eligible, tax-favored benefits. FSAs can be funded through salary reduction, employer contributions, or a combination of the two. Employees can purchase additional benefits, pay health insurance deductibles, and copayments, or pay for child care benefits with FSAs.

**Floater** A floating rate instrument that pays interest at a rate that adjusts periodically, relative to a spread over a specific benchmark or index.

**Floor** An option contract that protects the holder against a decline in interest rates or some other underlying below a certain point.

**Form Adv** Form used to apply for registration as an investment advisor or to amend a registration. It consists of two parts. Part I contains general and personal information about the applicant. Part II contains information relating to the nature of the applicant's business, including basic operations, services offered, fees charged, types of clients advised, educational and business backgrounds of associates and other business activities of the applicant.

**Forward Contract** A cash market transaction in which two parties agree to the purchase and sale of a commodity at some future time under such conditions as the two agree. In contrast to futures contracts, the terms of forward contracts are not standardized. A forward contract is not transferable and usually can be cancelled only with the consent of the other party, which often must be obtained for consideration and under penalty. Forward contracts are not traded in federally designated contract markets.

**Forward-Start Swaps** An agreement that includes a deferred start date before the swaps' interest payments are exchanged.  
**Fourth Market** The trading of securities directly from one institutional investor to another without the services of a brokerage firm.

**Fractional Share Bequest** A bequest of property, often made in connection with the establishment of a marital deduction trust, that is expressed in terms of a proportion of the assets involved rather than in terms of a specific dollar amount.

**Freddie Mac** Trade name for the Federal Home Loan Mortgage Corporation.

**Front-End Receipt Swaps** Also known as off-market swaps. A swap in which one party receives an amount equal to the present value of a future fixed rate swap payment now rather than at the respective periodic payment dates.

**Front Running** A practice where an investment manager purchases securities for his/her own personal interest prior to an anticipated purchase of the same securities by the accounts for which he/she acts as investment manager.

**Funded Insurance Trust** An insurance trust in which, in addition to life insurance policies, cash and securities have been placed in trust to provide sufficient income for the payment of premiums and other charges on or assessments against the insurance policies.

**Futures Contract** A transferable agreement to make or take delivery of standardized minimum quality grades, during a specific month, under terms and conditions established by a federally designated contract market upon which trading is conducted.

**General Account** An undivided fund maintained by an insurance company that commingles plan assets with other assets of the insurance company for investment purposes. Funds held by an insurance company that are not maintained in a *separate* account are in its *general* account.

**General Obligation (GO) Bond** A type of municipal bond that is backed by the full faith, credit and taxing power of the issuer for payment of interest and principal. Its sale finances public improvements. It is repaid by taxes.

**General Partner** A person who usually is actively engaged in the trade or business of the partnership and has unlimited personal liability in the partnership.

**General Partnership** A form of business whose partners include only general partners. Profits, losses and deductions are passed through to the individual partners involved in the business.

**Generally Accepted Accounting Principles (GAAP)** Uniform minimum standards of and guidelines to financial accounting and reporting, which govern the form and content of financial statements. GAAP encompass principles necessary to define accepted accounting practice at a particular time and include detailed procedures as well as broad guidelines.

**Generation-Skipping Tax** A tax imposed on any testamentary generation-skipping transfer, with the intention that this tax be substantially equal to the transfer tax which would have been payable if the property had actually been transferred outright to each generation.

**Generation-Skipping Trust** Any trust having beneficiaries who belong to two or more generations younger than the grantor.

**GIC** A "GIC" is a guaranteed investment contract, normally offered by insurance companies. It is similar to a financial institution's certificate of deposit in that it provides a guaranteed rate of return over a specified period. GIC's are normally used by institutional investors, such as employee benefit plans. GIC's are dependent upon the financial soundness of the issuing insurance company for their repayment. See also "BIC", "SLIC", "Synthetic GIC", "Bullets", and "Windows".

**Gift Causa Mortis** A gift of personal property made by a person in expectation of death, completed by actual delivery of the property, and effective only if the donor dies; to be distinguished from gift inter vivos.

**Gift Tax** A tax imposed by the Federal Government since 1932 and by some states on transfers of property by gift during the donor's lifetime. Gifts, under this law, may include irrevocable living trusts.

**Ginnie Mae** Colloquial for Government National Mortgage Association.

**Going Concern Value** A valuation approach used by appraisers. It implies that a company is actively and profitably in business and, therefore, should be valued on that basis rather than on the liquidation of its assets.

**Government National Mortgage Association (GNMA)** A wholly-owned government corporation within the Department of Housing and Urban Development (HUD). Also known colloquially as Ginnie Mae.

**Governmental Plan** An employee benefit plan established or maintained by the employees of the U.S. government or any state or political subdivision thereof or by any agency or instrumentality of the foregoing.

**Grantor** A person who transfers property by deed or who grants property rights by means of a trust instrument or some other document. See also Settlor.

**Grantor Trust** For purposes of the income taxation of trusts and estates, a trust in which the grantor or a third party, because of certain rights to income or principal or certain power over the disposition of income and principal, is treated as the owner of the trust and taxed on the income thereof. Consequently, a grantor trust is not treated as a separate entity for income tax purposes.



**GRIT** Acronym for a grantor retained income trust, which is an irrevocable trust to which a residence is transferred for a term of years, with the grantor retaining the use of the residence for that term. At the end of the term, the residence becomes the property of the remainder beneficiary. The present value of the retained interest is not taxed for transfer tax purposes. The present value of the retained interest is the sum of:

1. the value of an income interest for the specified term, and
2. the present value of the contingent right to receive the value if the grantor dies during the specified term.

**Guaranteed Investment Contract** See "GIC".

**Guardian** An individual or a trust institution appointed by a court to care for the property or the person (or both) of a minor or an incompetent person. When the guardian's duties are limited to the property, he is known as a guardian of the property; when they are limited to the person, he is known as a guardian of the person; when they apply both to property and to the person, he is known merely as a guardian. In some states the term committee, conservator, curator, or tutor is used to designate one who performs substantially the same duties as those of a guardian.

**Guardian Ad Litem** A person appointed by a court to represent and defend a minor or an incompetent person in connection with court proceedings; sometimes called a special guardian.

**Hard Dollars** Goods or services purchased with cash are said to be purchased with "hard" dollars. Purchases made with brokerage commissions are said to be made with "soft" dollars.

**Health Stock Ownership Plan (HSOP)** Combination of an employee stock ownership plan (ESOP) and a 401(h) account. HSOPs allow the sponsor to provide for retiree medical benefits for its current employees without having to accrue such future liabilities currently for financial accounting purposes.

**Hedging** The temporary purchase and sale of a contract calling for future delivery of a specific quantity of a particular commodity at an agreed-upon price to offset a present (or anticipated) position in the cash market. An operation intended to protect against loss in another operation.

**Heir** A person who inherits real property; to be distinguished from next of kin and from distributee. An heir of the body is an heir in the direct line of the decedent. A son, for example, is the heir of the body of his father or mother. See also Collateral Heir; Direct Heir; Next of Kin.

**Hereditament** Any kind of property that is capable of being inherited. If the property is visible and tangible, it is a corporeal hereditament; if it is not, it is an incorporeal hereditament -- for example, a right to rent or a promise to pay money.

**HH Bonds** Effective August 31, 2004. Series HH bonds are no longer offered. HH bonds issued prior to that date pay a fixed rate of interest based on market rates at the time of issuance. Interest is paid semi-annually and the bonds have a maturity of 20 years after date of issuance.

**Highly Compensated Employee (HCE)** Any employee who, during the current or preceding plan year: (1) owned more than 5% of the company; or (2) received more than \$80,000 (indexed) in annual compensation, and was in the top 20% of employees ranked on the basis of annual compensation, under Section 414(q) of the IRC; or, (3) was an officer of the company earning more than the defined benefit limit under Section 415 of the IRC. Discrimination in favor of this group is prohibited. For 2005, highly compensated employees are those earning \$95,000 or more.

**Highly Compensated Individual** For purposes of IRC § 105(h), (1) one of the five highest paid officers, (2) a 10% owner or (3) an employee who is among the highest 25% of all employees (other than the 10% owners who are not participants).

**Highly Compensation Participant** Under IRC § 125(e), an officer, a more-than-5% shareholder, a highly compensated employee, or a spouse or dependent of one of the former.

**Holographic Will** A will entirely in the handwriting of the testator.

**Hours Worked** Standard hours worked in a year is 2,080 (52 weeks x 40 hours per week).

**HR 10 Plan** See Keogh Plan.

**HSOP** See Health Stock Ownership Plan.

**Hurdle Rate** A minimum standard rate of return for acceptability as an investment.

**Hybrid Pension Plan** A qualified retirement plan that has characteristics typical of both defined benefit and defined contribution plans.

**Immunization** The design of a bond portfolio to achieve a target level of return in the face of changing reinvestment rates and price levels. It is the combining of short- and long-term bonds in the same portfolio to produce a predictable rate of return regardless of movements in interest rates.

**Income** The return from property, such as rent, interest, dividends, profits, and royalties; opposed to principal or capital.

**Income Beneficiary** The beneficiary of a trust who is entitled to receive the income from it.

**Incorporeal Hereditament** See Hereditament.

**Indemnity** Protection or exemption from loss or damage.

**Indenture** (1) A mutual agreement in writing between or among two or more parties whereof usually each party has a counterpart or duplicate; originally so called because the parts were indented by a notched cut or line so that the two parts could be fitted together. (2) A legal document prepared in connection with a bond issue describing the terms of the issue, such as a security, maturity date, interest rate, and remedies in case of default.

**Index Amortizing Swaps** Swaps that operate as basic swaps for an initial period, after which time the notional principal balance is amortized or extended based on a schedule linked to interest rate changes or some other index during the interim period.

**Index Fund** A collective investment fund or common trust fund which is composed of securities which are intended to duplicate the returns of a designated securities index, such as the Standard & Poor's 500 stock index. Not all of the securities which make up the designated index need to be in an index fund.

**Individual Account Plan** A defined contribution plan that allows participants to choose, from a broad range of investment options, how their own accounts will be invested. See also Defined Contributions Plan and Money Purchase Plan.

**Individual Retirement Account (IRA)** A retirement savings program for individuals to which yearly tax deductible contributions up to a specified limit can be made. The amounts contributed are not taxed until withdrawal. Withdrawal is not permitted, without penalty, until the individual reaches age 59 1/2.

**Infant** A person not of legal age, which at common law was 21 years but which in some states has been changed by statute; the same as a minor.

**Inheritance Tax** A tax on the right to receive property by inheritance; to be distinguished from an estate tax.

**Initial Margin** In futures and forwards, the amount of cash that must be deposited with a broker when a futures position is initiated.

**Initial Public Offering (IPO)** The original sale of a company's securities to the public.

**In-Kind Transfer** A distribution of property (e.g., stock, bond, partnership, etc.) from a trust or estate other than in cash. Noncash contributions to a trust or estate are also "in-kind" transfers.

**Insurance Guaranty Fund** A fund maintained by a state guaranty association which pay claims of insolvent insurance companies. The fund is financed by contributions from insurance companies.

**Insurance Trust** A trust composed partly or wholly of life insurance policy contracts.

**Insured Pension Plans** Retirement and other employee benefit plans the source of the benefits of which is life insurance paid for wholly or partially by the employer.

**Inter-Account Transaction** Transactions in which a trust department sells assets directly from one account to another, bypassing a non-affiliated third party broker. This form of transaction should be permissible under local law and the governing instrument, and it should be covered by written policy. Fiduciaries engaging in this type of activity place themselves in an onerous conflict of interest position. They must be capable of demonstrating to each party to the transaction that it simultaneously sold an asset at the highest fair market value, and purchased it at the lowest fair market value. Generally, management should be cautioned against engaging in these transactions.

**Interest Assumption** The expected rate of investment return on a plan's assets. It includes interest on debt securities, dividends on equity securities, rentals on real estate, and gains or losses on fund investments.

**Interest Rate Futures** A transferable agreement to make or take delivery of a fixed income security at a specific time, under terms and conditions established by the federally designated market upon which futures trading is conducted.

**Interest Rate Risk** One of the three types of investment risk. When interest rates rise, the market value of fixed income contracts (such as bonds) declines. Similarly, when interest rates decline, the market value of fixed income contracts increases. Interest rate risk is the risk associated with these fluctuations. See also Credit Risk and Market Risk.

**Internal Revenue Code (IRC)** This is the basic federal tax law.

**Inter Vivos** Between living persons.

**Inter Vivos Trust** A trust created during the settlor's lifetime; the same as a living trust; to be distinguished from trust under will or testamentary trust.

**Intestacy** The condition resulting from a person's dying without leaving a valid will.

**Intestate** (Adjective): (1) Without having made and left a valid will. (2) Not devised or bequeathed; not disposed of by will. (Noun): A person who dies intestate.

**In The Money Option** A call option whose exercise price is lower than the spot price of the underlying or a put option whose exercise price is greater than the spot price of the underlying instrument.

**Intrinsic Value** The value of an option were it to be exercised. Only in-the-money options have intrinsic value.

**Inverse Floater** A floating rate instrument that adjusts inversely with changes in the benchmark index.

**Investment Adviser** A person who advises the public concerning the purchase or sale of securities. Such persons must generally register with the Securities and Exchange Commission under the Investment Advisers Act of 1940. Effective May 12, 2001, there is no longer a unilateral exemption afforded to banks. However, banks will continue to be exempt provided that investment advisory services is only made available to individuals and those other than mutual funds. The category of other includes private equity issues and unregistered mutual funds.

**Investment Advisor Agent** An agency account in which the trust department provides investment recommendations on various types of assets, without actually having custody or safekeeping of those assets.

**Investment Management Agent** An agency account in which the trust department contracts to analyze and review the various assets, to make recommendations for changes in existing investments, and to make recommendations for new investments. The department also performs safekeeping and custodial functions for the assets of the account.

**Investment Company** Legal term for a mutual fund. The Investment Company Act of 1940 provides the framework for SEC regulatory authority over mutual fund operations.

**Investment Powers** The powers of a fiduciary regarding the investments in the account.

**IO (Interest Only)** The holder of this derivative instrument receives interest payments from a specific regular interest class or from a piece of the collateral. The holder receives no interest payments.

**IPO** See Initial Public Offering.

**IRA** See Individual Retirement Account.

**IRC** Internal Revenue Code. This is the basic federal tax law.

**Irrevocable Trust** A trust which by its terms (1) cannot be revoked by the settlor or (2) can be terminated by him only with the consent of someone who has an adverse interest in the trust -- that is, someone to whose interest it would be for the trust not to be terminated, such as a beneficiary; to be distinguished from a revocable trust with consented approval.

**ISN** A securities identification numbering system similar to CUSIP but used in some countries outside the United States.

**Issue** All persons who have descended from a common ancestor; a broader term than children.

**Item** A Registered Transfer Agent term defined in SEC Rule 17Ad-1(a)(1), as follows: (i) A certificate or certificates of the same issue of securities covered by one ticket (or, if there is no ticket, presented by one presenter) presented for transfer, or an instruction to a transfer agent which holds securities registered in the name of the presenter to transfer or to make available all or a portion of those securities; (ii) Each line on a "deposit shipment control list" or a "withdrawal shipment control list"; or (iii) In the case of an outside registrar, each certificate to be countersigned.

**Joint and Several Liability** Used when compensation for liability may be obtained from one or more parties either individually or jointly, whichever may be most advantageous. Example: Partners are responsible for their own and other partners' actions.

**Joint and Survivor Annuity** A contract that provides income periodically during the longer lifetime of two persons. The benefit amount may be adjusted to account for the extended life expectancy of the couple, and the benefit amount may decrease when one or the other dies. The contingent annuitant is usually the spouse.

**Joint Tenancy** The holding of property by two or more persons in such a manner that, upon the death of one joint owner, the survivor or survivors take the entire property; to be distinguished from tenancy in common and tenancy by the entirety.

**Junk Bonds** Bonds that are issued by organizations which often are encountering financial setbacks. A junk bond may be issued as a low quality security, or its issuer may encounter setbacks so that a quality bond is reduced to junk level. They offer high interest and high risk. Assurance of interest and principal payments in the future is limited; repayment often depends on asset sales rather than the ongoing profitability of the business. Junk bonds are often issued in conjunction with takeovers, leveraged buyouts and restructurings.

**KEOGH Plan** A retirement plan for self-employed persons and their employees to which yearly tax deductible contributions up to a specified limit can be made, if the plan meets certain requirements of the Internal Revenue Code.

**KSOP** 401(k) Employee Stock Ownership Plan.

**Laches** Neglect to do a thing at the proper time; such as undue delay in asserting a right or asking for a privilege.

**Land Trust** An unincorporated association for holding real property by putting the title in one or more trustees for the benefit of the members whose interests are evidenced by land-trust certificates. In general terms, it is a trust created to effectuate a real estate ownership relationship in which the trustee holds legal and equitable title to the property subject to the provisions of a trust agreement setting out the rights of the beneficiaries whose interests in the trust are declared to be personal property.

**Last Will and Testament** A legally enforceable declaration of a person's wishes regarding matters to be attended to after his death and not operative until his death; usually but not always relating to property; revocable (or amendable by means of a codicil) up to the time of his death or loss of mental capacity to make a valid will. Originally, "will" related to real property; "testament", to personal property; but at the present time, "will" is equally applicable to real and personal property.

**Legacy** A gift of personal property by will; the same as a bequest. A person receiving such a gift is called a legatee.

**Legal Common Trust Fund** A common trust fund invested wholly in property that is legal for the investment of trust funds in the state in which the common trust is being administered. The term is employed most often in or with respect to common trust funds in states that have a statutory or court-approved list of authorized investments for trustees where the terms of the trust do not provide otherwise.

**Legal Investment** An investment that conforms to the requirements of the statutes. A term used principally with reference to investments by trustees and other fiduciaries and by savings banks; often abbreviated to "legals"; to be distinguished from an authorized investment.

**Legal List** A list of securities legal for fiduciary investments, as compiled and promulgated by a state agency (such as the state banking department) for the use and guidance of fiduciaries, lawyers, trustees, savings banks. Used infrequently now, as most states have adopted either the Prudent Man or Prudent Investor Rules.

**Legatee** See Legacy.

**Letter of Attorney** A written instrument which evidences the authority of an agent who is known as an attorney-in-fact.

**Letters of Administration** A certificate of authority to settle a particular estate issued to an administrator by the appointing court; to be distinguished from letters testamentary.

**Letters of Conservatorship** A certificate of authority issued by the court to an individual or corporate fiduciary to serve as conservator of the property of a person; corresponds with letters of guardianship.

**Letter Ruling** A private ruling issued by the IRS in response to a request from a taxpayer about the tax consequences of a proposed or completed transaction. Private letter rulings are not considered to be precedents for use by taxpayers other than the one who requested the ruling, but they do give an indication of the current IRS attitude towards the transaction in question.

**Letters Testamentary** A certificate of authority to settle a particular estate issued by the appointing court to the executor named in the will; to be distinguished from letters of administration.

**Leveraged Buyout** The purchase of assets or stock of a privately owned company, a public company, or a subsidiary thereof, in which the acquirer uses a significant amount of debt and very little (or no) capital. This is accomplished primarily by utilizing the purchased assets for collateral and the acquired earnings stream to amortize the debt.

**Leveraged ESOP** An employee stock ownership plan (ESOP) in which money is borrowed by the ESOP trust for the purpose of buying stock of the employer. The stock is normally held as security by the lender and is released for allocation to participant accounts as the loan is paid off.

**LIBOR** London InterBank Offered Rate (of interest).

**Life Beneficiary** The beneficiary of a trust usually for the term of his own life, but it may be for the life of some other person.

**Life Estate** Either an estate for the life of the life tenant alone or an estate for the life or lives of some other person or persons. If the estate is for the life of a person other than the life tenant, it is known as an estate pour autre vie.

**Life Insurance Trust** See Insurance Trust.

**Life Interest** The estate or interest that a person has in property that will endure only during his own or someone else's lifetime.

**Limit Order** An order to buy or sell a stock but only at a specific price or better. It allows the individual initiating the trade to set a ceiling on the purchase price they are willing to pay and a floor on the sales price they are willing to accept.. However, because of the limits the trade is not always executed.

**Listed Stock** The stock of a company that is traded on a recognized securities exchange. The various stock exchanges have different standards for listings. The New York Stock Exchange, for instance, includes national interest in the company, at least 1 million shares publicly held by at least 2,000 round lot shareholders, \$16 million in market value, more than \$2.5 million pre-tax income in the most recent year, and \$2 million in pre-tax income in each of the preceding two years.

**Lives in Being** Lives in existence at a given time. See Rule Against Perpetuities.

**Living Trust** A trust that becomes operative during the lifetime of the settlor; opposed to a trust under will. The same as an inter vivos trust.

**Living Will** A document that allows a person to state in advance his/her wishes regarding the use or removal of life-sustaining or death-delaying procedures in the event of illness or injury.

**Load** A sales charge paid when purchasing or selling mutual fund shares. A "front end" load is assessed when money is initially invested. A "back end" load is assessed when shares are sold or funds withdrawn, and may be levied as a percentage of the withdrawn amount or at a flat rate. Back end loads may also be known as a redemption or exit fee. Loads may also be charged when dividends are reinvested.

**Lookback Option** One type of an option contract which confers the retroactive right to buy a given financial instrument at its minimum price, or sell at its maximum price, during a specific "lookback" period.

**Lump Sum Distribution** With respect to pension plans, the distribution of an individual's benefits in the form of one payment rather than in equal installments over a specified period of time or the individual's lifetime. The Internal Revenue Code imposes certain requirements in order for the distribution to qualify for special tax treatment.

**LUST** Acronym for leaking underground storage tank. Covered by Recourse Conservation and Recovery Act (RCRA).

**Maintenance Margin** In futures and forwards, the level to which a margin account may fall before the holder of the contract is required to bring the balance back up to the initial margin level.

**Managing Agency Accounts** An agency account concerning which the agent has managerial duties and responsibilities appropriate to the kind of property and in conformity with the terms of the agency; to be distinguished from a safekeeping or custody account.

**Marital Deduction** The portion of a decedent's estate that may be given to the surviving wife or husband without its becoming subject to the Federal estate tax levied against the decedent's estate; a term that came into general use under the Internal Revenue Act of 1954.

**Market Order** An order to buy or sell shares at the prevailing market price. This type of order will always be complete. The individual initiating the purchase or sale has no control over the price, hence the name market.

**Marketability** The degree of investment or speculative interest that underlies any security; the ease with which it can be sold. Synonymous with "saleability."

**Market Maker** A dealer that stands prepared to buy or sell at the bid and offer prices that it quotes. The market is maintained when the dealer continues to quote bids and offerings over a period of time. See also Specialist.

**Market Risk** One of three types of investment risk. Deals with the day-to-day fluctuations at which a security can be bought or sold. See also Interest Rate Risk and Credit Risk.

**Massachusetts Rule** A term frequently applied to a rule for the investment of trust funds enunciated by the Supreme Judicial Court of Massachusetts in 1830; now commonly referred to as the prudent man rule. See Prudent Man Rule.



**Master-Feeder Mutual Fund** A two-tiered mutual fund arrangement in which one or more mutual funds (the feeder funds) invest solely in the securities of another mutual fund (the master fund). Master-feeder funds are authorized, without prior SEC approval, under SEC Rule 18f-3. A multiple-class fund is different from a multiple-class mutual fund.

**Master Plan** A defined benefit or defined contribution employee benefit plan that has been prepared by a sponsoring organization and provides a single trust account in which all adopting employers must invest their plan contributions; the sponsoring organization must have the plan approved by the Internal Revenue Service. See also Prototype Plan.

**Master Trust** An arrangement designating the custodianship and accounting for all employee benefit assets of a corporation or a controlled group of corporations to a single trustee, facilitating uniform administration of the assets of multiple plans and multiple investment managers.

**Material Information** Anything of material fact that could affect an investor's decision to buy a certain security.

**Matched Swap** An interest rate swap in which an asset or liability of the counterparty has interest payment terms similar to those of the swap.

**MBIA** Municipal Bond Insurance Association.

**MEWA** A Multiple Employer Welfare Arrangement. A means whereby small employers can pool contributions to purchase health insurance at a lower cost. Suppliers of MEWA's may offer insurance-like products, but normally are not insurance companies. These suppliers generally are not subject to state insurance regulation or reserve requirements.

**Mezzanine Financing** Use of preferred stock or convertible subordinated debentures to finance a takeover. This type of financing expands the resulting company's equity capital instead of its debt.

**MGIC** Mortgage Guaranty Insurance Corporation.

**Modern Portfolio Theory** The theoretical constructs that enable investment managers to classify, estimate and control the sources of risk and return. In popular terms, the term is applied to modern investment and portfolio theory. Refer to Appendix C, Uniform Prudent Investor Act for additional discussion.

**Money Market Instruments** Fixed income securities that mature in less than one year. Also known as cash equivalents since their marketability and characteristics provide easy liquidity. Included are U.S. government securities, negotiable certificates of deposit, commercial paper, STIF accounts, bankers acceptances and mutual funds.

**Money Purchase Plan** The basic type of a defined contribution employee benefit plan. The employer or plan sponsor's contribution to the plan is specified for each employee in terms of a flat dollar amount (\$100 per month of employment), or in terms of a percentage (10% of compensation), or on the basis of a point system. Unlike a profit sharing plan, forfeitures are not added to participants' accounts; they are used to reduce employer contributions. See also Individual Account Plan.

**Mortgage Banker** An organization that originates mortgages and then sells them to investors, usually retaining servicing rights. Income is derived from origination and servicing fees. Funding for the mortgages is usually from borrowings, which are paid off when the loan is sold.

**Mortgage Pass-Through Securities** A security consisting of a pool of residential mortgages, with monthly distribution of 100% of the interest and principal to the investor. There are both government (Freddie Mac and Ginnie Mae) and commercial versions of these instruments.

**MPPAA** Multiemployer Pension Plan Amendments Act of 1980

**Multi-Employer Plan** For purposes of ERISA, a pension plan maintained pursuant to one or more collective bargaining agreements to which more than one employer is required to contribute.

**Multiple-Class Mutual Fund** A mutual fund which has multiple classes of shares. Each class participates in the same portfolio of investments and is identical to other classes of shares except that each class has different sales charges and/or other expenses.

In some cases, there may also be a difference in the services rendered to different classes of the fund. Multiple-class funds are authorized, without prior SEC approval, under SEC Rule 18f-3. A multiple-class fund is different from a master feeder mutual fund.

**Multiple Employer Welfare Arrangement (MEWA)** See MEWA.

**Municipal Bonds** Debt issues of state and local governments, and their agencies. In general, interest paid on municipal bonds is exempt from federal income taxes and from state and local income taxes within the state of issue.

**Negligence** Failure, through omission or commission, to act as an ordinary, reasonable and prudent person would act. Consideration must be given to the particular situation, circumstances involved, and knowledge of the parties.

**Next of Kin** The person or persons in the nearest degree of blood relationship to the decedent. As the term is usually employed, those entitled by law to the personal property of a person who has died without leaving a valid will (such persons do not include the surviving spouse and wife except where specifically so provided by statute); to be distinguished from the heirs, who take the real property.

**Nominee** The partnership in whose name registered securities are held. This facilitates the making of "good" delivery of securities to brokers at the time of sale or exchange. Nominee names are usually registered with the American Society of Corporate Secretaries, to preclude the possibility of more than one nominee with the same name.

**Non Compos Mentis** (Not of sound mind): A term that includes all forms of mental unsoundness.

**Nonlegal Investment** An investment that does not conform to the requirements of the statutes; a term used principally with references to trust investments; to be distinguished from unauthorized investment.

**Notional Principal Amount** In an interest rate swap, the contractual amount on which interest payments are calculated.

**Nuncupative Will** An oral will made by a person on his deathbed or by one who is conscious of the possibility of meeting death in the near future -- as by a person in active military service. It is declared in the presence of at least two witnesses and later reduced to writing by someone other than the testator and offered for probate in the manner prescribed by statute.

**OBRA** Omnibus Budget Reconciliation Acts of 1986, 1987, 1988 and 1989. OBRA 1989 partially repealed the interest exclusion on ESOP loans, provided Labor Department civil money penalties for fiduciary violations, and created a tax penalty for overstatement of pension liabilities in determining deductibility.

**OCC** Office of the Comptroller of the Currency.

**Off-Market Swaps** See Front-end receipt swaps.

**Open End Mutual Funds** These funds issue shares to investors continuously and stand ready to repurchase them at any time based on Net Asset Value. Both load and no-load funds are included.

**Operating (Transactional) Risk** The possibility that inadequate internal controls or procedures, human error, system failure or fraud can cause loss.

**Optimization** The process of selecting a securities portfolio that minimizes risk for a given level of risk. An example would be an aim that a portfolio have no more than 5% of its value in a single stock and/or that the current yield be at least 4%. Optimization includes expected return, variances of expected return, and covariance of return with every other security under consideration.

**Option** A contract for which the buyer pays a fee in exchange for the right, but not the obligation, to buy or sell, a fixed amount of a given financial instrument at a set price within a specified time. Options are considered a type of "price insurance" because they protect buyers from adverse swings in the price of the underlying asset. The buyer can never lose more than the price paid for the option, but the seller's losses are potentially unlimited. See also Call Option, Compound Option, Lookback Option, and Put Option.

**Optionee** Buyer of the option. The person who received an option on property.

**Optioner** Seller of the option. The person who gives an option on his/her property.

**Option Overriding** A type of options management where an options manager writes options on stocks managed by another manager. The goal is to provide an incremental return to the equity portfolio without interfering with the equity manager.

**Option Premiums** The dollar amounts paid to the writer for the option. The amount is determined generally by supply and demand, duration of the contract and difference between the fluctuations, among various considerations.

**Order Flow** Practice whereby securities brokers agree to receive cash payments in exchange for routine customer orders to specific dealers for execution.

**Ordinary Care** Generally considered to be the prudent man standard, subject to the facts and circumstances of a particular case.

**Out of the Money** An option whose exercise price is above the stock's current price.

**Overdraft** The amount by which a debit or charge against an account exceeds the balance of the trust account.

**PAC (Planned Amortization Class)** A type of derivative instrument with scheduled payments over a range of prepayment speeds (PAC bands or ranges).

**Parol Evidence** (Pronounced *payroll*) Legal proof based on oral statements; with regard to a document, any evidence extrinsic to the document itself.

**Participant** An employee or former employee who is (or may become) eligible to receive a benefit of any type from an employee benefit plan. Also includes eligible beneficiaries.

**Party In Interest** A person or other entity which has control or close affinity to an employee benefit plan; an "insider". Defined by Section 3(14) of ERISA to include fiduciaries, trustees, and custodians, the plan administrator, the plan sponsor (employer and/or union), those who control 50% or more of these insiders, 10% or more stockholders of these insiders. Also covered are the outside interests of such insiders. Certain relatives of insiders are also included. See also Disqualified Person.

**Paying Agent** An agent to receive funds from an obligor to pay maturing bonds and coupons, or from a corporation for the payment of dividends.

**PAYSOP** An ESOP eligible for tax credits based on employee payroll. PAYSOP's replaced TRASOP's in 1983. The tax credits were repealed by the Tax Reform Act of 1986. See also Employee Stock Ownership Plan.

**PBGC** See Pension Benefit Guaranty Corporation.

**Pecuniary Bequest** A bequest of property, often made in connection with the establishment of a marital deduction trust, that is expressed in terms of a specific dollar amount rather than in terms of a proportion of the assets involved.

**Pennsylvania Rule** A rule that requires credit of extraordinary dividends received in trust on the basis of the source of such dividends; to income if declared from earnings of the corporation during the life of the trust, and to principal if from earnings accumulated before commencement of the trust.

**Pension Benefit Guaranty Corporation (PBGC)** Congressionally-chartered corporation responsible for guaranteeing private defined benefit pension plans. Membership in PBGC is mandatory for all such plans. If a covered plan terminates, retirees and beneficiaries are entitled to the benefit calculated under the plan (subject to certain phase-in rules for new plans to preclude abuse), up to a maximum monthly benefit payment. The maximum monthly payment is based on the year a plan terminated and was set in 1974 at \$750 per month, indexed for inflation. Plans terminating in 2004 have a maximum monthly benefit of \$3,698 or \$44,386 per year for those who have attained age 65. The guarantee is increased for those over 65 and decreased for those under 65.

**Pension Trust** A trust established by an employer (commonly a corporation) to provide benefits for incapacitated, retired, or superannuated employees, with or without contributions by the employees.  
**PEPPRA** Public Employee Pension Plan Reporting and Accountability Act.

**Per Capita** (By the head): A term used in the distribution of property; distribution to persons as individuals (per capita) and not as members of a family (per stirpes). For example, "I give my estate in equal shares to my son A and to my grandsons C, D, and E (the sons of my deceased son B) per capita". C, D, and E take as individuals (not as the sons of B), each taking the same share as A, namely, one-fourth of the estate.

**Performance-Based Fees** Investment management fees that are related to investment results, not to the size of the assets managed. Also known as incentive fees.

**Person** An individual, partnership, joint venture, corporation, mutual company, joint stock company, trust, estate, unincorporated organization, association or employee organization.

**Personal Property** All property other than real property.

**Personal Representative** A general term applicable to both executor and administrator.

**Personalty** Personal property.

**Per Stirpes** (*By the branch*): A term used in the distribution of property; distribution to persons as members of a family (per stirpes) and not as individuals (per capita). Two or more children of the same parent take per stirpes when together they take what the parent, if living, would take. For example, "I give my estate to my son A and to my grandsons C, D, and E (the sons of my deceased son B). My grandsons are to take per stirpes." C, D, and E take as the sons of B (not as individuals), each receiving one-sixth of the estate (one-third of the one-half to which B would be entitled if living), while A receives one-half of the estate. Taking per stirpes is also known as taking by right of representation.

**Pink Sheets** Quotation lists of various over-the-counter securities published daily on pink paper by the National Quotation Bureau, Inc.

**Plain Vanilla Interest Rate Swap** A single-currency swap agreement in which one counterparty agrees to pay a fixed rate of interest to the other counterparty in exchange for a variable rate of interest on a fixed notional principal amount over a specified period of time.

**Plan Administrator** See Administrator.

**Plan Sponsor** See Sponsor.

**Plan Year** The 12-month period on which employee benefit records are kept. Normally a fiscal year, but may be a calendar year.

**PO (Principal Only)** The holder of this instrument receives principal payments only and does not receive any interest. POs are offered at substantial discounts to their original principal amounts.

**Point** (1) *Bonds*: A point means 1%. Since bonds are quoted based on \$1,000 face value, it also means \$10. A bond that has increased by 3 points has gone up 3% or \$30. (2) *Stocks*: A point means \$1. If XYZ stock goes up 3 points, it has increased \$3 per share. (3) *Mortgages*: A point is 1% of the principal amount of the mortgage. For Truth in Lending/Regulation Z purposes, a point is considered part of the Finance Charge disclosure and is included when calculating the APR.

**Potential Loss** For FDIC Trust Examinations: the examiner's estimate of the portion of a contingent liability which may develop into a loss to the institution. The amount of the loss indicated is potential rather than definite and fixed, pending settlement of the accounts. Also see Contingent Liability.

**Pour-Over** A term referring to the transfer of property from an estate or trust to another estate or trust upon the happening of an event as provided in the instrument.

**Power of Attorney** A document, witnessed and acknowledged, authorizing the person named therein to act as his agent, called attorney-in-fact, for the person signing the document. If the attorney-in-fact is authorized to act for his principal in all matters, he has a general power of attorney; if he has authority to do only certain specified things, he has a **special power of attorney**. If the authority granted in the power of attorney survives the disability of the principal, the attorney in fact has a **durable power of attorney**. If the authority granted in the power of attorney commences in the future only upon the occurrence of a specific event or contingency, the power of attorney is known as a **springing power**. A power of attorney can be limited to property concerns or to health care matters. See also Bond Power; Letter of Attorney; Stock Power.

**Power of Retention** Power expressed or implied in will or trust agreement permitting the trustee to retain certain or all of the investments comprising the trust property at inception, even though they may not be of a type suitable for new investments made by the trustee.

**Precatory Words** Expressions in a will praying or requesting (but not directing) that a thing be done or not done.

**Preemptive Right** A right accorded present shareholders, before any new shareholders, to subscribe to new shares in a company at a stipulated price on or before a fixed date. See also Rights.

**Principal** (1) One who employs an agent to act for him. (2) One who is primarily liable on an obligation. (3) The property of an estate other than the income from the property; the same as capital.

**Private Foundations** In general, all charitable foundations except those deriving substantial support from the public. They fall into two categories; private operating foundations, those where substantially all of the assets and income are used to carry on its exempt function, e.g., a museum; or private nonoperating foundations, which include most family foundations.

**Private Placement** The sale of stocks, bonds, or other investments directly to an institutional investor, such as an insurance company or employee benefit plan. This precludes SEC registration requirements and may provide the purchases with (for debt issues) a higher interest rate and a customized maturity.

**Probate** (Verb): To present a will to the court for appointment of the executor or administrator c.t.a., which is the first step in the settlement of an estate.

**Probate Court** The court that has jurisdiction with respect to wills and intestacies and sometimes guardianships and adoptions; also called court of probate, surrogate's court, ordinary court, orphan's court, and prefect's court.

**Profit Sharing Plan** A defined contribution employee benefit plan established by an employer (usually a corporation) as a means of having the employees share in the profits of the enterprise.

**Prototype Plan** A standardized plan, approved and qualified as to its concept by the Internal Revenue Service, that is made available by banks, insurance companies and mutual funds for the use of employers. See also Master Plan.

**Prudent Investor Rule** The latest development in evaluating fiduciary prudence. The current (1992) model uniform act differs from the traditional Prudent Man Rule in that it indicates that: (1) no asset is automatically imprudent, but must be suitable to the needs of the beneficiaries, (2) the entire portfolio is viewed when evaluating the prudence of a fiduciary, and (3) certain actions can be delegated to other agents and fiduciaries. ERISA [§ 404(a)(1)(C)] generally follows the approach of the Prudent Investor Rule. The Uniform Prudent Investor Rule is found in Appendix C. Caution: review state statutes before applying to discretionary non ERISA trust accounts.

**Prudent Man Rule** A rule originally stated in 1830 by the Supreme Judicial Court of Massachusetts in *Harvard College v. Amory* [9 Pick. (Mass.) 446], that, in investing, all that can be required of a trustee is that he conduct himself faithfully and exercise a sound discretion and observe how men of prudence, discretion, and intelligence manage their own affairs not in regard to speculation, but in regard to the permanent disposition of their funds considering the probable income as well as the probable safety of the capital to be invested. The current (1959) model uniform rule categorizes certain types of assets as automatically imprudent, looks at each investment separately in determining prudence, and prohibits the delegation of responsibilities. Most states have adopted the Rule as a part of state fiduciary law, usually with certain different specifics from state to state. The Prudent Man Rule is found in Appendix C

**Purchase-Money Mortgage** A mortgage given by a purchaser of real property to the seller in part payment of the purchase price.

**Put Option** Option to sell shares of a particular stock within a given period of time at a specific price fixed in the contract.

**PWBA** Pension and Welfare Benefits Administration, U.S. Department of Labor. This agency is now known as the Employee Benefit Security Administration, EBSA.

**QDRO** (*Pronounced "Cue-Dro"*) Qualified Domestic Relations Order. Court order which may be issued upon a divorce, specifying a spouse's share in certain employee benefit plans. IRA's, 401(k) plans, and defined benefit pension plans are often covered by QDRO's.

**QERP** Acronym for Qualified Employee Real Property. Involves the investment of ERISA plan assets in real property leased to the plan sponsor or an affiliate thereof.  
See ERISA § 407(d)(4).

**QPAM** Qualified Professional Asset Manager. Term used in ERISA Prohibited Transaction Class Exemption (PTE) 84-14 for a bank, thrift, insurance company or registered investment adviser which meets certain minimum capital, net worth, or total managed assets thresholds.

**QTIP** Qualified Terminable Interest Property Trust. A type of personal trust which allows assets to be transferred between spouses. The grantor directs income from the assets to his/her spouse for life, but has the power to distribute the trust's assets upon the death of the spouse. Such trusts qualify for the unlimited marital deduction if the spouse should die first. A QTIP trust is often used to provide for the welfare of a spouse while keeping the assets out of the estate of another (such as a future marriage partner) if the grantor dies first.

**Qualified Domestic Relations Order** See QDRO.

**Qualified Plan or Trust** An employer's trust or plan that qualifies under the Internal Revenue Code of 1954 for the exclusive benefit of his employees or their beneficiaries in such manner and form as to entitle the payments made by the employer to the plan or trust to the deductions and income tax benefits as set forth in the Code.

**Rabbi Trust** A form of employee benefit in which an employer establishes a trust to provide non-qualified deferred compensation to certain key employees. The trust usually contains restrictions on revocation and is subject to claims of general creditors of the employer. Employer contributions are not taxable as income to the employee at the time of contribution. Any income earned prior to distribution to the employee is taxed to the employer. The term "*rabbi*" arose because the first trust of this type approved by the Internal Revenue Service involved a rabbi.

**Rabbicular Trust** A form of employee benefit which attempts to combine the rabbi trust with a secular trust. The plan originates as a rabbi trust and remains such as long as the sponsor company remains financially healthy. If certain defined situations arise, the rabbi trust becomes a secular trust. The covered employee then must pay any applicable tax, but is assured of receiving what is held in the trust, instead of being just another unsecured creditor.

**REA** Retirement Equity Act of 1984. Provided for greater pension equity for female workers and surviving spouses.

**Real Estate Investment Trust** See REIT.

**Reciprocal Trust** A trust created by one person in consideration of the creation by the beneficiary of a similar trust for him.

**Record Date** The date on which a shareholder must be listed in a company's shareholder records in order to receive a declared dividend or vote on company matters.

**Registrar** (1) In connection with stock, the agent which affixes its signature to each stock certificate issued, the object being the prevention of over-issuance. (2) In connection with bonds, the agent which maintains the records of who owns an issue of registered bonds, similar to a transfer agent.



**Regulation 9** A regulation issued by the Comptroller of the Currency under authority of Section 1(j) of the Act of September 28, 1962 [76 Stat. 668, 12 USC 92a] relating to the conduct of fiduciary business by national banks. The full title of the regulation is Regulation 9 - Fiduciary Powers of National Banks and Collective Investment Funds. Section 9.18 of the regulation, dealing with collective investment funds, applies to collective investment funds operated by state-chartered banks through Section 584 of the Internal Revenue Code, which requires compliance with Regulation 9.

**REIT** Real Estate Investment Trust. A trust which operates somewhat like a mutual fund. REITs invest in real estate loans and/or equity interests in real estate. Ninety-five percent of its income must be paid out to shareholders if the REIT is to qualify for a tax exemption.

**Remainder** A future estate or interest in property which will become an estate or interest in possession upon the termination of the prior estate or interest created at the same time and by the same instrument. For example, A conveys Black acre to B for life and upon B's death to C in fee simple. C's interest is a remainder. The term remainder over is sometimes used in such phrases as "To A for life, with remainder over to B," calling attention to the fact that there is a prior estate or interest. To be distinguished from reversion.

**Remainderman** A person or entity entitled to a future interest in a trust or estate. The rights to the property in the trust or estate are typically transferred after the interests of the prior beneficiary (such as the income beneficiary) have terminated.

**REMIC** Acronym for a real estate mortgage investment conduit. This is a passthrough type of investment vehicle created by the Tax Reform Act of 1986 to issue multi-class mortgage-backed securities. REMIC's may be organized as corporations, partnerships or trusts. Those meeting certain qualifications are not subject to double taxation. Interests in REMIC's may be senior or junior, regular (debt instruments) or residual (equity interests). REMIC's generally provide the issuer with more flexibility than a collateralized mortgage obligation (CMO), as they permit mortgage pools to be separated not only into maturity classes but also into risk classes. While CMO's usually have AAA ratings, REMIC's represent a range of risk levels.

**Reportable Event** Serious situations involving a private defined benefit employee benefit plan which require a notice to be filed with the PBGC. Events covered include loss of tax qualification, 80% or more drop in participation from the previous year, full or partial plan termination, inability to pay benefits, merger with another plan, bankruptcy of the plan sponsor, etc.

**Representative** (1) A general term designating either an executor or an administrator. (2) The person who acts or speaks for another under his authority.

**Repurchase Agreement** As applicable to trust departments, means a "loan" by a trust account to a financial institution or securities dealer. Normally, these loans are secured by U. S. Government or agency securities, bear a fixed rate, are payable at a fixed maturity, and may be subject to other terms. The regulatory agencies have generally taken the position that repurchase agreements with the fiduciary bank are a conflict of interest and self-dealing unless specifically authorized. Also sometimes called reverse repurchase agreements, repo, asset repo, RP, and buy back.

**Reputation Risk** ~~The possibility that negative publicity will expose the institution to costly litigation, financial loss, or effect its ability to establish new relationships, or to continue existing relationships.~~

**Residence** The place where one resides, whether temporarily or permanently. See also Domicile.

**Residuary Trust** A trust which is composed of the property of the testator, remaining in the estate after the payment of all taxes, debts, expenses, charges, and the satisfaction of all other gifts under the will.

**Resulting Trust** A trust which results in law from the acts of the parties, regardless of whether they intend to create a trust, as when a person disposes of property under circumstances which raise an inference that he does not intend that the person taking or holding the property shall have the beneficial interest in it; to be distinguished from an express trust and a constructive trust.

**Revenue Anticipation Note** A debt obligation issued by a state or political subdivision to be repaid from the receipt of the anticipated revenue.

**Revenue Bond** A municipal bond payable, not from general tax collections, but from revenue generated by either the operation of a public facility or from a special source of revenue.

**Reverse Repurchase Agreement** An agreement in which Party A purchases an asset (financial instrument) from Party B and agrees to sell it back to Party B for a specified price at a specified date. See Repurchase Agreement.

**Reverse Swap** A swap that has terms opposite those of another swap, therefore effectively canceling the former swap.

**Reversion** The interest in an estate remaining in the grantor after a particular interest, less than the whole estate, has been granted by the owner to another person; to be distinguished from remainder. The reversion remains in the grantor; the remainder goes to some grantee.

**Revocable Trust** A trust which may be terminated by the settlor or by another person; opposed to an irrevocable trust.

**RHO** The rate at which the price of an option changes in response to a given move in interest rates.

**Rights** A privilege granted to existing shareholders of a corporation to purchase new shares of common stock at a discount from its market price. Rights are offered under terms of a Rights Offering. The right must be exercised within a short (30-60 day) timespan. Sometimes, rights are issued under state law that requires existing shareholders be given an opportunity to maintain their proportionate share of ownership. See Preemptive Rights.

**Rollover** The procedure of repeated investment of the proceeds of short-term securities upon maturity. See Tax-Free Rollover.

**Roth IRA** was introduced in 1998. Except for some special rules which apply only to Roth IRAs, these individual retirement accounts are subject to many of the same IRS rules as are traditional IRAs. Unlike traditional IRAs, contributions are taxable, but distributions are not taxed. Also, no distributions from Roth IRAs are ever required, and IRA owners may continue to contribute to the IRA after the age of 70 ½.

**Routine** A Registered Transfer Agent term defined in SEC Rule 17Ad-1(i), as follows:

An item is "routine" if it does not:

1. require requisitioning certificates of an issue for which the transfer agent, under the terms of its agency, does not maintain a supply of certificates;
2. include a certificate as to which the transfer agent has received notice of a stop order, adverse claim, or any other restriction on transfer;
3. require any additional certificates, documentation, instructions, assignments, guarantees, endorsements, explanations, or opinions of counsel before transfer may be effected;
4. require review of supporting documentation other than assignments, endorsements or stock powers, certified corporate resolutions, signature, or other common and ordinary guarantees, or appropriate tax, or tax waivers;
5. involve a transfer in connection with a reorganization, tender offer, exchange, redemption, or liquidation,
6. include a warrant, right, or convertible security presented for transfer of record ownership within five business days before any day upon which exercise or conversion privileges lapse or change;
7. include a warrant, right, or convertible security presented for exercise or conversion; or
8. include a security of an issue which within the previous 15 business days was offered to the public, pursuant to a registration statement effective under the Securities Act of 1933, in an offering not of a continuing nature.

**RPM Trust** Remainder Purchase Marital Trust, is a special type of trust for the benefit of the grantor's spouse that is designed to qualify for the gift tax marital deduction, but will not be subject to estate tax at the spouse's death. As a result, the trust property passes to the grantor's children completely free of gift and estate tax. This can be a replacement for a GRIT or a GRAT without their inherent drawbacks. Both RPM Income and RPM Annuity Trusts provide benefits.

**Rule Against Perpetuities** A rule of common law that makes void any estate or interest in property so limited that it will not take effect or vest within a period measured by a life or lives in being at the time of the creation of the estate plus 21 years and the period of gestation. In many states the rule has been modified by statute. Sometimes it is known as the rule against remoteness of vesting.

**Safekeeping Account** An agency account concerning which the duties of the agent are to receipt for, keep safe, and deliver the property in the account on demand of the principal or his order; to be distinguished from a custody account and a managing agency account.

**Samurai Bond** A bond issued in the United States but denominated in Japanese Yen.

**SAR** Summary Annual Report for ERISA employee benefit plans.

**SARSEP** Acronym for Salary Reduction Simplified Employee Pension, a type of defined contribution employee benefit plan first authorized in 1986. Sometimes referred to as an *elective deferral arrangement*. SARSEPs are available to employers with 25 or less employees, and at least 50% of eligible employees must participate in the plan. Employees contribute a percentage of their salary, thus reducing current income. SARSEPs could be adopted by employers through 12-31-96. Beginning 1-197, SARSEPs were replaced by SIMPLE Retirement Plans, and no more new SARSEPs could be started. SARSEPs adopted prior to 1997 can be continued, however, with additional contributions made to them.

**Scalping** Trading for small gains over a short period of time, usually within a day. In some cases, this may involve taking advantage of very narrow spreads in volatile markets.

**Secular Trust** A form of employee benefit plan that operates differently from a rabbi trust. In contrast to a rabbi trust, contributions to a secular trust are taxable to the participant, but participants also have a vested interest in plan assets. While the trust is taxable, the employee is ensured of receiving the funds entrusted to the trust should the plan sponsor fail. See also Rabbi Trust and Rabbicular Trust.

**Security-Based Derivative** These investment instruments are specially tailored from other securities, such as municipal, corporate, or U.S. Government agency bonds. While they offer enticing return potential, some carry high degrees of both market risk and income risk. They range from the highly predictable to the highly unpredictable. Examples of the highly unpredictable include inverse floaters, interest-only or principal-only STRIPS. Also called Synthetic Derivatives. See also Derivatives.

**Securities Depository (Clearing Agency):** A physical location or organization where securities certificates are deposited and transferred by bookkeeping entry.

**Securities Lending** A practice where owners of securities, either directly or indirectly, lend their securities to (primarily) brokerage firms for a fee. The borrower pledges either cash, securities or a letter of credit to protect the lender. Securities are borrowed by cover fails of deliveries or short sales, provide proper denominations, and enable brokerage firms to engage in arbitrage trading activities.

**Sedol** A securities identification numbering system similar to CUSIP but used in some countries outside the United States.

**Self-Employed Retirement Plan** See Keogh Plan.

**Self-Settled Trust** A trust which is funded from assets which came from the beneficiary.

**SEP** Simplified Employee Pension (plan). Basically, an IRA (SEP-IRA) established by an employer for the benefit of each covered employee. Both the employer and employees may contribute to the SEP-IRA. Employer contributions are excluded from an employee's income.

**Separate Line of Business** See SLOB.

**SEPPAA** Single Employer Pension Plan Amendments Act of 1986.

**SERP** Supplemental Executive Retirement Plan. A non-tax-qualified pension plan that permits an employer to offer greater benefits to its highly paid employees.

**Settlement** (1) The winding up and distribution of an estate by an executor or an administrator; to be distinguished from the administration of an estate by a trustee or a guardian. (2) A property arrangement, as between a husband and wife or a parent and child, frequently involving a trust.

**Settlor** A person who creates a trust, such as a living trust, to become operative during his lifetime; also called donor, grantor, and trustor. Compare Testator.

**Short-Term Trust** Also known as a Clifford Trust. An irrevocable trust running for a period of ten years or longer, in which the income is payable to a person other than the settlor, and established under the provisions of the Revenue Act of 1954. The income from a trust of this kind is taxable to the income beneficiary and not to the settlor. The agreement may provide that on the date fixed for the termination of the trust, or on the prior death of the income beneficiary, the assets of the trust shall be returned to the settlor. The Tax Reform Act of 1986 eliminated the 10-year or Clifford trusts exception from grantor-trust taxation rules. Income from 10 year and other grantor trusts is taxed to the grantor, not the beneficiary if the trust property will revert to the grantor or the grantor's spouse. It applies to transfers in trusts after March 1, 1986.

**SICOVAM** A securities identification numbering system similar to CUSIP but used in some countries outside the United States.

**Simple** Acronym for Savings Incentive Match Plan for Employees, a type of defined contribution employee benefit plan passed by Congress in 1996 and effective beginning January 1, 1997. SIMPLE plans may be used by employers with 100 or less employees at any time during a year with no other employer-sponsored retirement plan. SIMPLE plans may take the form of an IRA or a 401(k) plan.

**Sinking Fund** An accumulation of amounts set aside periodically by municipalities or corporations, which will be sufficient to satisfy a debt, such as a bond issue, at maturity. See also Amortization.

**SIPC** Securities Investor Protection Corporation. Congressionally-chartered corporation that protects investor funds at broker-dealers. In general, when a broker-dealer registers with the SEC, it automatically becomes a member of SIPC. SIPC covers an investor's account for an aggregate of \$500,000 in cash and securities, with a maximum of \$100,000 cash coverage.

**SLIC** A guaranteed investment contract issued by a savings and loan association or similar thrift institution. See also GIC.

**SLOB** IRS term for a "separate line of business," as used in determining compliance with minimum coverage and participation requirements for employee benefit plans. The concept permits businesses that are part of a controlled group to ignore affiliates when testing for nondiscrimination in retirement and dependent care plans.

**Social Investing** Socially-sensitive investments which, when compared to normal fiduciary-quality investments, are considered to either (1) have a greater social or moral quality, or (2) create employment opportunities for plan participants. Social investing attempts to achieve the same investment quality and rate of return as other investments. Criteria for social investing may be expressed in positive and/or negative terms. Positive qualities might include firms which are seen to be pollution free, union or employee-friendly, U.S. (or locally) based, providing housing or medical services, food production, or producing safe and high-quality consumer products, etc. Negative qualities might be heavy users of energy or polluters; firms moving jobs overseas; alcohol, tobacco or weapons manufacturers, etc. At one time, a "standard" negative quality was a firm doing business in South Africa. Under some criteria, fossil and/or nuclear energy firms can be viewed either positively or negatively. See also ETIs.

**Soft Dollars** The purchase of research materials from brokerage firms and paid for by commissions (or part of the commissions) generated by securities transactions of trust accounts. Covered by Section 28(e)(1) of the Securities Exchange Act of 1934. Opposed to this is the purchase of materials by "hard dollars", which is when payment is made by the trust department itself, typically by issuing a check.

**SPD** Summary Plan Description for ERISA employee benefit plans.

**SPTDM** Statement of Principles of Trust Department Management.

**Specialist** A member of the New York Stock Exchange who has two functions: (1) Maintain an orderly market, insofar as possible, in the stocks for which he/she is registered as a specialist. This is done by buying or selling, for the specialist's own account, when there is a disparity between supply and demand. (2) Act as a broker's broker, to place "limit" orders that cannot be immediately executed by the broker. A limit order is one that says buy XYZ at \$50, but it is now selling at \$60; the specialist holds the broker's order until the price drops to \$50. There are about 350 NYSE specialists. See also Market Maker.

**Spendthrift Clause** The provision in a will or trust instrument which limits the right of the beneficiary to dispose of his interest, as by assignment, and the right of his creditors to reach it, as by attachment.

**Spillover Trust** Type of trust which by its terms is merged with or added to another trust or estate upon the happening of a certain event. See Pour-Over.

**SPIRA** Spousal IRA.

**Split** Stock term. Division of a company's stock into a greater number of shares. In the case of a four-for-one split, four new shares are issued for each old share. The opposite of a split is a *reverse split*, where a company shrinks its stock base by issuing fewer shares for each existing share.

**Sponsor** The party that establishes and maintains an employee benefit plan. This is normally the employer or an employee organization (union).

**Sprinkling Trusts** Trusts in which the income or principal is distributed among the members of a designated class in amounts and proportions as may be determined in the discretion of the trustee. Also called spray trusts.

**Step-up Swaps** A swap that contains periodic increases (or step-ups) in the fixed rate side of the swap combined with an embedded option that gives the fixed-rate payer the right to extend the swap to a predetermined maximum maturity.

**STIF** Acronym for a Short Term Investment Fund, a money-market collective investment fund.

**Stock Bonus Plan** A defined contributions employee benefit plan similar to a profit sharing plan, except that employer contributions are not necessarily dependent upon profits and benefits are in the form of employer stock.

**Stock Option** Right to purchase stock of employer, generally at a fixed price for a fixed period of time.

**Stock Power** A form of assignment executed by the owner of stock which contains an irrevocable appointment of an attorney in fact to make the actual transfer on the books of the corporation.

**Stock Purchase Trust** A trust under which a surviving stockholder of a close corporation may purchase the stock of a deceased stockholder; usually, but not necessarily, an insurance trust.

**Stock Transfer Agent** The agent of a corporation appointed for the purpose of effecting transfers of stock from one stockholder to another by the actual cancellation of the surrendered certificates and the issuance of new certificates in the name of the new stockholder. See also Transfer Agent.

**Stop Order** An order to buy or sell a stock once it reaches a certain target price.

**Stop-Limit Order** Instructs a broker to buy or sell once a stock hits the stop price but only at the limit price or better.

**Strategic Risk** The possibility that insufficient due diligence reviews or infrastructure preparations were made on the introduction of new products and services.

**Street Name** Shares of stock owned by a broker's customer but held in the name of the broker.

**Sub-Chapter S Corporation** An election available to a corporation to be treated as a partnership for income tax purposes. To be eligible to make the election, a corporation must meet certain requirements as to kind and number of shareholders, classes of stock, and sources of income.

**Subordinated Debenture** A debt obligation that has unsecured junior claims to interest and principal, which are subordinated to ordinary debentures or other debt of the issuing corporation.

**Subrogation** The substitution of one person for another with reference to a lawful claim or right and frequently referred to as the doctrine of substitution. It is a device adopted or invented by equity to compel the ultimate discharge of a debt or obligation by him who in good conscience should pay it.

**Successor Trustee** A trustee following the original or a prior trustee the appointment of whom is provided for in the trust instrument; to be distinguished from a substituted trustee.

**Surcharge** (Noun): An amount which the fiduciary is required by court decree to make good because of negligence or other failure of duty. The term is also used as a verb; as the court surcharged the trustee.

**Surety** An individual or a company that, at the request of another, usually called the principal, agrees to be responsible for the performance of some act in favor of a third person in the event that the principal fails to perform as agreed; as the surety on an administrator's or a guardian's bond.

**Swap** A forward-type contract in which two parties agree to exchange streams of payments over time according to a predetermined rule. In an **interest rate swap**, one party agrees to pay a fixed interest rate in exchange for receiving a floating interest rate from another party. An **equity index swap** may involve swapping the returns on two different stock market indices, or swapping the return on a stock index for a floating interest rate.

**Swaption** An option giving the holder the right, but not the obligation, to enter into or cancel a swap agreement at a future date.

**Synthetic Derivative** A type of security dependent on other securities. Includes inverse floaters and STRIPS. See Security-Based Derivatives.

**Synthetic Forward** An agreement to either (1) purchase a call and write a put at the same strike price and expiration date, or (2) purchase a put and write a call at the same strike price and expiration date.

**Synthetic GIC** A Guaranteed Investment Contract issued by other than an insurance company. See "GIC", "BIC", "SLIC".

**TAB** U.S. Treasury Tax Anticipation Bill. These bills generally mature a week after the corporate income tax dates and are acceptable at par on the tax date. See also Treasury Bills.

**TAC (Targeted Amortization Class)** A type of derivative that provides investors with a predefined payment schedule applicable to a single prepayment speed. Prepayments in excess of the predefined prepayment speed are allocated to companion, or support, classes and generally do not affect the TAC class. If prepayments fall below the predefined speed, however, the TAC will have slower principal repayment and its average life will extend.

**TAMRA** Technical and Miscellaneous Revenue Act of 1988.

**Target Plan** A type of employee benefit plan which combines elements of both defined contribution and defined benefit plans. Levels of contributions are established and a "target benefit" aimed for. An individual account is established for each participant. Actual benefits are based on the amount of the contributions, as affected by the individual's pro-rata share in the profits and losses of the investment portfolio.

**Tax Free Rollover** Provision whereby an individual receiving a lump sum distribution from a qualified pension or profit sharing plan can preserve the tax deferred status of these funds by a "rollover" into an IRA or another qualified plan if rolled over within sixty days of receipt.

**Tax Reduction Act of 1975** Provided special investment tax incentives for establishment of ESOP's (initially known as TRASOP's and changed to tax credit ESOP's by the Technical Corrections Act of 1979). The Tax Reform Act of 1986 repealed these credits.

**TEFRA** Tax Equity and Fiscal Responsibility Act of 1982. Among other things, this Act provides that (1) municipal bond issues had to be registered, rather than bearer, as to ownership information and (2) changed Section 72 of the Internal Revenue Code as to loans to participants of employee benefit plans.

**Tenancy By The Entirety** Tenancy by a husband and wife in such a manner that, except in concert with the other, neither husband nor wife has a disposable interest in the property during the lifetime of the other. Upon the death of either, the property goes to the survivor. To be distinguished from joint tenancy and tenancy in common.



**Tenancy In Common** The holding of property by two or more persons in such a manner that each has an undivided interest which, upon his death, passes as such to his heirs or devisees and not to the survivor or survivors; the same as an estate in common; to be distinguished from joint tenancy and tenancy by the entirety.

**Testamentary Trust** A trust established by the terms of a will.

**Testate** (Adjective): Having made and left a valid will; opposed to intestate.

**Testator** A man who has made and left a valid will at his death. Compare Settlor. See also Trustor.

**Testatrix** A woman who has made and left a valid will at her death.

**Tickler** Any record established to serve as a reminder of action to be taken on a fixed future date. It is always arranged in the order dates on which such action is to be taken.

**Time Value** The difference between the total value of an option and the option's intrinsic value.

**Top Hat Plan** An unfunded plan maintained to provide deferred compensation for a select group of management or highly compensated employees.

**Top Heavy Plan** A plan that provides more than 60% of its aggregate accrued benefits or account balances to key employees. Such plans must meet certain additional qualification rules regarding vesting and contributions.

**"Totten" Trust** Trust created by deposit of one's own money in his own name as trustee for another. Title is vested in the record owner (trustee), who during his life holds it on a revocable trust for the named beneficiary. At the death of the depositor a presumption arises that an absolute trust was created as to the balance on hand at the death of the depositor.

**Tracking Error** For stock and bond index funds, the difference between index return and the actual return of the fund.

**Tranches** (1) Risk maturity or other classes into which a multi-class security, such as a collateralized mortgage obligation (CMO) or real estate mortgage investment conduit (REMIC) is split. (2) Subunits of a large (\$10 - \$30 million) Eurodollar certificate of deposit that are marketed to smaller investors in \$10,000 denominations. These are represented by separate certificates, and have the same issue date, interest rate and maturity as the original instrument.

**Transfer Agent** A corporate agency account whose duties are to transfer stock from one owner to another. A transfer agent maintains records of shareholders, and issues stock certificates. Transfer agents which transfer stock of companies with, generally, 500 stockholders and \$1 million in assets must register with either the SEC or its banking agency (as appropriate) under Section 17A of the Securities and Exchange Act of 1934. A transfer agent for bonds usually is known as a registrar. See also Stock-Transfer Agent.

**TRASOP** An employee benefit account dealing with employee stock ownership plans which meet certain qualifications under the Tax Reduction Acts of 1975 and 1976. These Acts encouraged the use of TRASOP's by allowing a special investment credit as an incentive for establishing such a plan. The Technical Corrections Act of 1979 provided for further such incentives. The tax credits were repealed by the Tax Reform Act of 1986. See also Employee Stock Ownership Plan.

**Treasury Bills** Short-term direct obligations of the U.S. Government. Often referred to as T-Bills. They are issued with maturities of three months, six months or one year, in denominations of \$10,000 and up in multiples of \$5,000. See also TABs.

**Treasury Bonds** Long-term direct obligations of the U.S. Government issued with maturities of five to 30 years, paying interest semiannually.

**Treasury Notes** Short- to intermediate-term direct obligations of the U.S. Government issued with maturities of one to seven years, paying interest semiannually.

**TRESOP** Tax Reduction (Act) ESOP. See TRASOP.

**Triple Witching** The last trading hour on the third Friday of March, June, September and December when options and futures on stock indexes expire concurrently. Massive trades in index futures, options and underlying stocks by hedge strategists and arbitrageurs cause abnormal activity and volatility. See also Witching.

**Trust** A fiduciary relationship in which one person (the trustee) is the holder of the legal title to property (the trust property) subject to an equitable obligation (an obligation enforceable in a court of equity) to keep or use the property for the benefit of another person (the beneficiary).

**Trust Agreement** A written agreement between settlor and trustee setting forth the terms of a trust. See also Deed of Trust.

**Trust Committee** A committee of directors or officers or both of a trust institution charged with general or specific duties relating to its trust business.

**Trustee** An individual or a trust institution which holds the legal title to property for the benefit of someone else.

**Trusted Pension Plan** A pension plan in which the corporation's contributions to the plan are placed in a trust for investment and reinvestment, as distinguished from a plan in which the benefits are secured by life insurance.

**Trustor** A person who creates a trust; a broad term which includes settlor and testator.

**Trust Under Agreement** A trust evidenced by an agreement between the settlor and the trustee.

**Trust Under Deed** A trust evidenced by a deed of conveyance, as distinguished from an agreement; originally confined to real property but not frequently applied to personal property as well.

**Trust Under Will** A trust created by a valid will, to become operative only on the death of the testator; opposed to a living trust and the same as testamentary trust.

**Ultra Vires** Term applied to acts of a corporation which exceed its corporate powers.

**Undistributed Net Income (UNI)** The amount by which the distributable net income for the year exceeds the sum of any amount of income for the year required to be distributed currently, any other amounts properly paid, credited, or required to be distributed for such year, and the amount of taxes properly allocable to the undistributed portion of the distributable net income.

**Unfunded Insurance Trust** An insurance trust in which the premiums on the policies are to be paid by the insured or by some third person and not by the trustee; to be distinguished from a funded insurance trust.

**Unfunded Vested Pension Liability** In a defined benefit pension plan, the difference between the actuarially-determined value of the vested (nonforfeitable) benefits under the plan, and the market value of the plan's assets.

**Unfunded Prior Service Pension Liability** In a defined benefit pension plan, the difference between the actuarially-determined value of the projected future benefit costs (both vested and manifested) and administrative expenses, as well as the unamortized portion of prior benefit costs, under the plan, and the market value of the plan's assets.

**Unified Credit** A dollar amount allocated to each taxpayer which can be applied against the gift tax, the estate tax and, under certain circumstances, the generation skipping tax.

**Uniform Gifts To Minors Act** An act adopted by most states providing for a means of transferring property to a minor, wherein the designated custodian of the property has the legal right to act on behalf of the minor without the necessity of a guardianship.

**Unit Investment Trust** An investment vehicle registered with the SEC under the Investment Company Act of 1940 that purchases a fixed portfolio of securities. Units in the trust are sold to investors, who receive a proportionate undivided interest in the principal and income of the portfolio. The portfolio of securities remains fixed until the securities mature or, unusually, are sold.

**Unmatched Swap** An interest rate swap that the counterparty has not paired with an asset or liability with interest payment terms similar to those of the swap.

**Unwinding a Swap** Terminating a swap agreement.

**VAR** Value at Risk. An alternative approach (supposedly more sophisticated and accurate) to stress tests for measuring the risk in certain securities activities, such as derivatives. A rudimentary probability analysis, VAR measures the potential for fluctuation in securities prices. VAR is designed to show probable risk, whereas stress tests show what is possible. In the U.S., VAR calculations are usually based on the daily Risk Metrics data issued by Morgan Guaranty Trust Company over Internet. The use of VAR to measure risk is endorsed by the Group of 30; the Basel Committee of international bank supervisors is leaning towards the use of VAR.

**Variable Amount Note** Note evidencing the amount the trust department lends to a borrower from cash held in various fiduciary accounts; the amount of the loan outstanding fluctuates depending on the amount of cash on hand.

**VEBA** Acronym for Voluntary Employees' Benefit Association. A tax exempt fund that pays death, health, accident or other benefits to plan participants, their dependents and/or beneficiaries. Generally covered under Section 501(c)(9) of the Internal Revenue Code.

**Vest** (Verb): To confer an immediate, fixed right of immediate or future possession and enjoyment of property.

**Vesting** As applied to pension and profit-sharing plans, vesting is a term that indicates the attainment by a participant of a benefit right, attributable to employer contributions, that is not contingent upon his continued employment. Vesting may be total and immediate, graduated over a period of years, or may occur on completion of stated service or participation requirements.

**Viatical Settlement** (From the Latin *viaticum*, for *provisions for a journey*.) The sale or transfer (settlement) of ownership rights to a life insurance policy prior to death by an insured individual with a terminal illness. The insured person receives a percentage of the life insurance policy's proceeds, with the amount paid is based on a number of factors, such as the life expectancy of the insured person, the amount payable on death, estimated future premiums, and any commissions or other costs. Purchasers may be brokers who sell interests in the life insurance policy's proceeds to investors, with the broker taking its own commission. Once the insurance policy is sold to a broker, the insured is not responsible for paying premiums on the policy. In a 6-8-95 letter to the Texas Department of Banking, the IRS stated that IRA accounts could not "lend" funds to a "viatical trust" for other than the IRA owner, as § 408(a)(3) of the Internal Revenue Code and § 1.408-2(b)(3) of IRS Regulations prohibit investment of IRA funds in insurance contracts. Beginning 1-1-97, funds received from viatical settlements are not taxable for federal income tax purposes if the insured has a life expectancy of less than 24 months or (under special conditions) is chronically ill. See also Accelerated Death Benefit (ADB).

**Volatility** The degree of price fluctuation for a given asset, rate, or index. Usually expressed as variance or standard deviation.

**Voting Authority** The power to vote a stock. A trustee may have sole, shared, or no authority to vote stock held in trust.

**Vulture Fund** A type of limited partnership that invests in depressed properties, usually real estate, aiming to make a profit when prices recover.

**Waiver** (1) The voluntary relinquishment of a right, privilege, or advantage. (2) The document by which the relinquishment is evidenced.

**Warrant** A securities certificate which carries the privilege of buying a certain number of shares of stock at a fixed price. They are sometimes attached to securities, at other times they are issued in connection with subscription privileges to holders of stock. See Right.

**Wasting Assets** Assets which are exhausted through use or lose their value through the passage of time, such as oil wells, mining claims, and patents.

**Wearaway** a device which may be offered to employees with long company service when traditional defined benefit pension plans are converted to defined benefit cash balance plans. Wearaway provides employees the option of receiving the greater of their frozen benefit under the previous pension plan formula, or their total benefit under the new cash balance formula.

**Welfare Plans** A term defined by Section 3(1) of ERISA as employee benefit plans which provide the following types of benefits: medical, surgical, hospital care or benefits, sickness, accident, disability, death or unemployment, or vacation benefits. Also includes apprenticeship or other training programs, day care centers, scholarship funds, prepaid legal services, and similar types of benefits other than pensions.

**Will** A legally enforceable declaration of a person's wishes in writing regarding matters to be attended to after his death and inoperative until his death. A will usually, but not always, relates to the testator's property, is revocable (or amendable by means of a codicil) up to the time of his death, and is applicable to the situation which exists at the time of his death.

**Window** A term used with BIC's and GIC's for a contract where periodic deposits may be made over an agreed-upon period, usually three months to a year.

**Witching** The final trading hour, usually on the third Friday of months other than March, June, September and December, when index futures or options expire. This may lead to abnormally high levels of stock trading and volatility. See also Triple Witching.

**When Issued (WI)** Short form of "when, as, and if issued." Refers to a transaction made conditionally because a security, while authorized, has not yet been issued. New issues of stocks and bonds, stocks that have split are traded on a when issued basis. Newspaper listings often indicate such issues by a "WI."

**Whoops** Nickname for the Washington Public Power Supply System. In the late 1970's and early 1980's, WHOOPS raised billions of dollars through municipal bonds to finance construction of five nuclear power plants. WHOOPS cancelled two of the plants and defaulted on the related bonds. It was the largest municipal bond default in history.

**WPPDA** Welfare and Pension Plans Disclosure Act, also known as the Landrum Griffin Act. Pre-ERISA law now repealed and replaced by ERISA.

**WRAP** A wrap account is an account offered by a broker or investment dealer where the investor is charged an annual management fee for all services, usually based on the value of invested assets. Wrap fees are paid in lieu of commissions in such an account. Refer to Section 7, Subsection N.2 of the Trust Manual for a discussion of wrap accounts offered by a trust department.

**Writer (short)** The seller of an option (financial instrument).

**Yankee Certificate of Deposit** A certificate of deposit issued by the U.S. branch of a foreign bank.

**Z Pac** A derivatives term. Similar to a Z Tranche, but holders also receive principal if prepayments fall within a specified range.

**Z Tranche** A derivatives term for a tranche with a stated interest, but where the interest is not paid until certain other classes have been paid.