M: Business, 7e

Ferrell | Hirt | Ferrell

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BUSINESS

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Dr. Ferrell is past president of the Academy of Marketing Science. He is past president of the Academic Council of the American Marketing Association and chaired the American Marketing Association Ethics Committee. Under his leadership, the committee developed the AMA Code of Ethics and the AMA Code of Ethics for Marketing on the Internet. In addition, he is a former member of the Academy of Marketing Science Board of Governors and is a Society of Marketing Advances and Southwestern Marketing Association Fellow and an Academy of Marketing Science Distinguished Fellow. He served for nine years as the vice president of publications for the Academy of Marketing Science. In 2010, he received a Lifetime Achievement Award from the Macromarketing Society and a special award for service to doctoral students from the Southeast Doctoral Consortium. He received the Harold Berkman Lifetime Service Award from the Academy of Marketing Science and the Cutco Vector Distinguished Marketing Educator Award from the Academy of Marketing Science.

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Dr. Ferrell is the co-author of 20 books and more than 100 published articles and papers. His articles have been published in the *Journal of Marketing Research*, *Journal of Marketing*, *Journal of Business Ethics*, *Journal of Business Research*, *Journal of the Academy of Marketing Science*, *AMS Review*, and the *Journal of Public Policy & Marketing*, as well as other journals.

GEOFFREY A. HIRT

Geoffrey A. Hirt of DePaul University previously taught at Texas Christian University and Illinois State University, where he was chairman of the Department of Finance and Law. At DePaul, he was chairman of the Finance Department from 1987 to 1997 and held the title of Mesirow Financial Fellow. He developed the MBA program in Hong Kong and served as director of international initiatives for the College of Business, supervising overseas programs in Hong Kong, Prague, and Bahrain, and was awarded the Spirit of St. Vincent DePaul award for his contributions to the university. Dr. Hirt directed the Chartered Financial Analysts (CFA) study program for the Investment Analysts Society of Chicago from 1987 to 2003. He has been a visiting professor at the University of Urbino in Italy, where he still maintains a relationship with the economics department. He received his PhD in finance from the University of Illinois at Champaign-Urbana, his MBA at Miami University of Ohio, and his BA from Ohio Wesleyan University.

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Dr. Hirt is widely known for his textbook *Foundations of Financial Management*, published by McGraw-Hill/Irwin. This book, in its seventeenth edition, has been used in more than 31 countries and translated into more than 14 different languages. Additionally, Dr. Hirt is well known for his textbook *Fundamentals of Investment Management*, also published by McGraw-Hill/Irwin and now in its tenth edition. Dr. Hirt enjoys golf, swimming, music, and traveling with his wife, who is a pianist and opera coach.

LINDA FERRELL

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Her work experience as an account executive for McDonald's and Pizza Hut's advertising agencies supports her teaching of advertising, marketing strategy, marketing ethics, and marketing principles. She has published in the *Journal of Public Policy & Marketing*, *Journal of Business Research*, *Journal of the Academy of Marketing Science*, *Journal of Business Ethics*, *AMS Review*, *Journal of Academic Ethics*, *Journal of Marketing Education*, *Marketing Education Review*, *Journal of Teaching Business Ethics*, *Marketing Management Journal*, and *Case Research Journal*, and she is co-author of *Business Ethics: Ethical Decision Making and Cases* (thirteenth edition), *Management* (fourth edition), and *Business and Society* (seventh edition).

Dr. Ferrell is the past president of the Academy of Marketing Science and a past president for the Marketing Management Association. She is a member of the NASBA Center for the Public Trust Board, on the Mannatech Board of Directors, and on the college advisory board for Cutco/Vector. She is also on the Board, Executive Committee, and Academic Advisory Committee of the Direct Selling Education Foundation. She has served as an expert witness in cases related to advertising, business ethics, and consumer protection.

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M: Business, seventh edition, offers faculty and students a **focused** resource that is **exciting, applicable,** and **happening!** What sets this learning program apart from the competition? An unrivaled mixture of exciting content and resources blended with application focused text and activities, and fresh topics and examples that show students what is happening in the world of business today!

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Because it isn't tied to the revision cycle of a larger book, *M: Business* inherits no outdated or irrelevant examples or coverage. Everything in the seventh edition reflects the very latest developments in the business world—such as the COVID-19 (coronavirus) pandemic which resulted in high unemployment, stress on small businesses, and disruption in supply chains. In addition, ethics and social responsibility have become much more important as firms are being rewarded for having a social conscience and addressing unrest and conflicts in society. To ensure you always know what's happening, join the author-led Facebook group page supporting this text.

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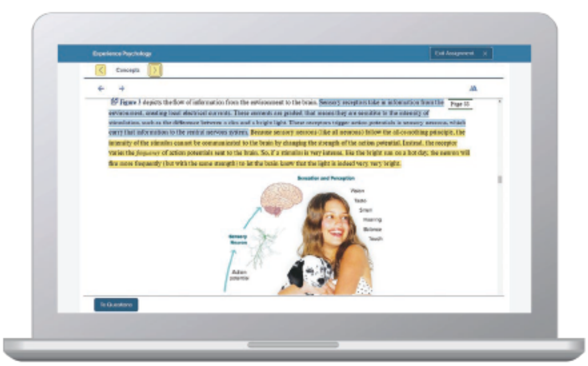

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New to This Edition

As always, when revising this material for the current edition, all examples, figures, and statistics have been updated to incorporate any recent developments that affect the world of business. Additionally, content was updated to ensure the most pertinent topical coverage is provided.

Here are the highlights for each chapter:

Chapter one

THE DYNAMICS OF BUSINESS AND ECONOMICS

- New boxed features describing real-world business issues
- Updated unemployment and GDP data
- New stats on inflation
- New stats on women in the workforce
- New section on technology and the economy
- New examples related to the COVID-19 (coronavirus) pandemic
- New figure depicting artificial intelligence in relation to its enablers

Chapter two

BUSINESS ETHICS AND SOCIAL RESPONSIBILITY

- New boxed features describing issues in business ethics and social responsibility
- New data on global trust in different industries
- New examples about ethical issues in the sharing economy
- New content about aggressive financial or business objectives
- New example of a bribery scandal
- Expanded timeline of ethical and socially responsible activities

Chapter two Appendix:

THE LEGAL AND REGULATORY ENVIRONMENT

- New boxed feature describing issues in the legal and regulatory environment
- New examples of ethical issues facing today's businesses
- New content about data privacy laws

Chapter three

BUSINESS IN A BORDERLESS WORLD

- New boxed features describing issues in international business
- Updated list of top 10 countries with which the U.S. has trade deficits/surpluses
- New content on the U.S.–China trade war
- Updated Euro Zone details
- New details on the EU's General Data Protection Regulation (GDPR)
- New content about the United States–Mexico–Canada Agreement (USMCA)
- New table of U.S. top trading partners

Chapter four

OPTIONS FOR ORGANIZING BUSINESS

- New boxed features describing real-world business issues
- New table of world's biggest dividend payers
- Updated table of America's largest private companies

Chapter five

SMALL BUSINESS, ENTREPRENEURSHIP, AND FRANCHISING

- New boxed features describing current business issues
- Examples of innovative small businesses
- New information on artificial intelligence
- Updated table of the fastest growing franchises
- Updated table of the most business-friendly states
- New stats on small business
- New data on Gen Z in the workforce
- New data on minority-owned businesses

Chapter six

THE NATURE OF MANAGEMENT

- New boxed features describing current business issues
- New content about business models
- New table of compensation packages of CEOs
- New content on gender equality

Chapter seven

ORGANIZATION, TEAMWORK, AND COMMUNICATION

- New boxed features describing current business issues
- New examples of organizational culture
- New content on artificial intelligence
- New content on email video conferencing usage in the workplace

Chapter eight

MANAGING OPERATIONS AND SUPPLY CHAINS

- New boxed features describing current business operational issues
- New content on marketing research and artificial intelligence
- New section on blockchain technology
- New content on drone technology
- Extensive overhaul of Managing the Supply Chain section
- Updated airline scorecard table
- New examples related to the COVID-19 pandemic and supply chains

Chapter nine

MOTIVATING THE WORKFORCE

- New boxed features describing current business issues
- New examples of organizational culture
- New table of best places for businesses and careers

Chapter ten

MANAGING HUMAN RESOURCES

- New boxed features describing current HR issues
- Updated common job interview questions
- New content on wage gap
- New example of how soft benefits inspire loyalty
- New section on employee relations and sexual harrassment

Chapter eleven

CUSTOMER-DRIVEN MARKETING

- New boxed features describing current marketing issues
- New content on marketing orientation
- New content on supply chain management
- New content on marketing analytics dashboards
- New data on the buying power by race/ethnicity
- New table of companies with the best customer service

Chapter twelve

DIMENSIONS OF MARKETING STRATEGY

- New boxed features describing current marketing issues
- Logistics added as key term
- New definition for physical distribution key term
- Updated figure depicting a company's product mix
- Updated personal care and cleaning products customer satisfaction ratings
- New examples related to the impact of the COVID-19 pandemic on marketing strategy

Chapter thirteen

DIGITAL MARKETING AND SOCIAL MEDIA

- New boxed features describing current digital marketing issues
- New stats on social media use by platform
- New stats on mobile app activities
- New data on the main sources of identity theft
- New section on TikTok

Chapter fourteen

ACCOUNTING AND FINANCIAL STATEMENTS

- New boxed features describing current accounting issues
- Updated rankings of accounting firms in the U.S.
- New financial information for Nvidia
- New content on net income and corporate tax rate

Chapter fifteen

MONEY AND THE FINANCIAL SYSTEM

- New boxed features describing current financial issues
- Updated life expectancy of money
- Updated cost to produce coins
- New content on cryptocurrency
- New content on interest rates
- New content on exchange traded funds (ETFs)

Chapter sixteen

FINANCIAL MANAGEMENT AND SECURITIES MARKETS

- New boxed features describing current financial issues
- Updated short-term investment possibilities
- Updated U.S. corporate bond quotes
- New content on electronic markets
- Updated estimated common stock price-earnings, ratios, and dividends for selected companies
- New table of S&P 500 corrections
- New content on the impacts of the COVID-19 pandemic on financial management

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business 7e

chapter 2 two

business ethics and social responsibility

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LEARNING OBJECTIVES

After reading this chapter, you will be able to:

LO 2-1 Describe the importance of business ethics and social responsibility.

LO 2-2 Detect some of the ethical issues that may arise in business.

LO 2-3 Specify how businesses can promote ethical behavior.

LO 2-4 Explain the four dimensions of social responsibility.

LO 2-5 Evaluate an organization's social responsibilities to owners, employees, consumers, the environment, and the community.

Any organization, including nonprofits, has to manage the ethical behavior of employees and participants in the overall operations of the organization. Firms that are highly ethical tend to be more profitable with more satisfied employees and customers.[1] Therefore, there are no conflicts between profits and ethics—in fact, unethical conduct is more likely to lower profits than raise them. For instance, Volkswagen pleaded guilty to criminal charges for cheating on U.S. emissions tests, and the company faced $25 billion in the United States for fines, vehicle buybacks, and repairs.[2] Wrongdoing by some businesses has focused public attention and government involvement on encouraging more acceptable business conduct. Any organizational decision may be judged as right or wrong, ethical or unethical, legal or illegal.

In this chapter, we take a look at the role of ethics and social responsibility in business decision making. First, we define *business ethics* and examine why it is important to understand ethics' role in business. Next, we explore a number of business ethics issues to help you learn to recognize such issues when they arise. Finally, we consider steps businesses can take to improve ethical behavior in their organizations. The second half of the chapter focuses on social responsibility and unemployment. We describe some important issues and detail how companies have responded to them. ■

LO 2-1 Describe the importance of business ethics and social responsibility.

BUSINESS ETHICS AND SOCIAL RESPONSIBILITY

In this chapter, we define **business ethics** as the principles and standards that determine acceptable conduct in business organizations. Personal ethics, on the other hand, relates to an individual's values, principles, and standards of conduct. The acceptability of behavior in business is determined by not only the organization but also stakeholders such as customers, competitors, government regulators, interest groups, and the public, as well as each individual's personal principles and values. The publicity and debate surrounding highly visible legal and ethical issues at a number of well-known firms, including Wells Fargo and Volkswagen, highlight the need for businesses to integrate ethics and responsibility into all business decisions. For instance, Wells Fargo provided incentives to its sales department that resulted in opening 3.5 million accounts without customer knowledge. This resulted in lowering customers' credit ratings and additional expenses for customers. Most unethical activities within organizations are supported by an organizational culture that encourages employees to bend the rules. On the other hand, trust in business is the glue that holds relationships together. In Figure 2.1, you can see that trust in financial services is lower than in other industries. While the majority of the population trusts business, a significant portion does not.

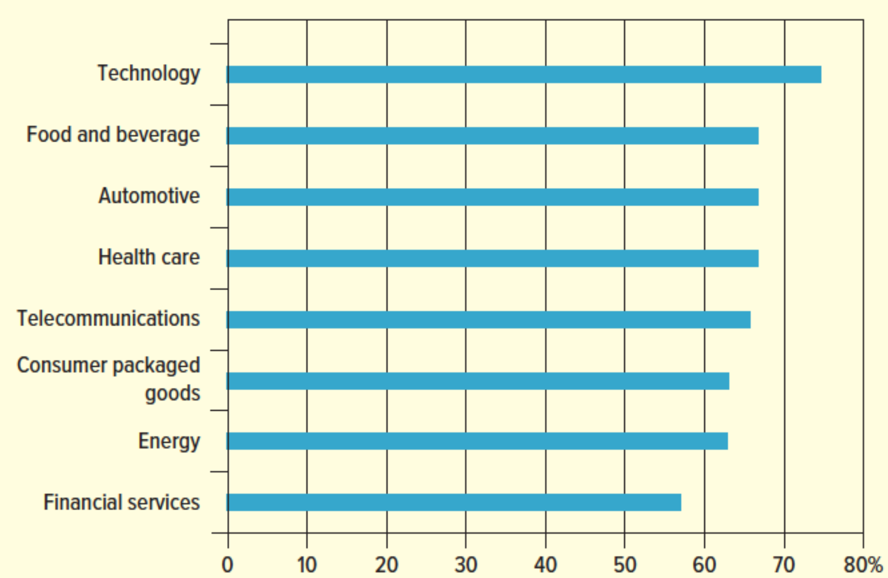
business ethics principles and standards that determine acceptable conduct in business.

Wells Fargo opened 3.5 million fake accounts that hurt customers credit ratings.

Kristi Blokhin/Shutterstock

Organizations that exhibit a high ethical culture encourage employees to act with integrity and adhere to business values. For example, Illycaffè, an Italian family business, has been recognized as an ethical leader in quality, sustainability, and supply chain practices. The company is a leader in the science and technology of coffee and the world's most global coffee brand.[3] Many experts agree that ethical leadership, ethical values, and

FIGURE 2.1 Global Trust in Different Industries



Source: Edelman, *2020 Edelman Trust Barometer Global Report*, https://www.edelman.com/sites/g/files/aatuss191/files/2020-01/2020%20Edelman%20Trust%20Barometer%20Global%20Report_LIVE.pdf (accessed May 22, 2020).

social responsibility a business's obligation to maximize its positive impact and minimize its negative impact on society.

compliance are important in creating good business ethics. To truly create an ethical culture, however, managers must show a strong commitment to ethics and compliance. This "tone at the top" requires top managers to acknowledge their own role in supporting ethics and compliance, clearly communicate company expectations for ethical behavior to all employees, educate all managers and supervisors in the business about the company's ethics policies, and train managers and employees on what to do if an ethics crisis occurs.[4]

"Businesses should not only make a profit, but also consider the social implications of their activities."

Businesses should not only make a profit, but also consider the social implications of their activities. For instance, Walmart to date has donated more than 1.5 billion pounds of food and $2 billion to fight hunger.[5] However, profits permit businesses to contribute to society. The firms that are more well known for their strong social contributions tend to be those that are more profitable. We define **social responsibility** as a business's obligation to maximize its positive impact and minimize its negative impact on society. Although many people use the terms *social responsibility* and *ethics* interchangeably, they do not mean the same thing. Business ethics relates to an *individual's* or a *work group's* decisions that society evaluates as right or wrong, whereas social responsibility is a broader concept that concerns the impact of the *entire business's* activities on society. From an ethical perspective, for example, we may be concerned about a health care organization overcharging the government for Medicare services. From a social responsibility perspective, we might be concerned about the impact that this overcharging will have on the ability of the health care system to provide adequate services for all citizens.[6]

The most basic ethical and social responsibility concerns have been codified by laws and regulations that encourage businesses to conform to society's standards, values, and attitudes. Laws and regulations attempt to institutionalize ethical conduct and prevent harm to customers, the environment, and other stakeholders. Accounting, finance, and marketing professionals have to understand laws and regulations that apply to their work. For example, the Dodd-Frank Act was passed to reform the financial industry and offer consumers protection against complex and/or deceptive financial products. At a minimum, managers are expected to obey all laws and regulations. Most legal issues arise as choices that society deems unethical, irresponsible, or otherwise unacceptable. However, all actions deemed unethical by society are not necessarily illegal, and both legal and ethical concerns change over time (see Table 2.1). More recently, identity theft has become the number-one consumer complaint with the Federal Trade Commission, and companies have an ethical responsibility to protect customer data. *Business law* refers to the laws and regulations that govern the conduct of business. Many problems and conflicts in business could be avoided if owners, managers, and employees knew more about business law and the legal system. Business ethics, social responsibility, and laws together act as a compliance system, requiring that businesses and employees act responsibly in society. In this chapter, we explore ethics and social responsibility. Chapter 2 Appendix provides an overview of the legal and regulatory environment.

TABLE 2.1 Timeline of Ethical and Socially Responsible Activities

1960s	1970s	1980s
• Social issues • Consumer Bill of Rights • Disadvantaged consumer • Environmental issues • Product safety	• Business ethics • Social responsibility • Diversity • Bribery • Discrimination • Identifying ethical issues	• Standards for ethical conduct • Financial misconduct • Self-regulation • Codes of conduct • Ethics training
1990s	**2000s**	**2010s**
• Corporate ethics programs • Regulation to support business ethics • Health issues • Safe working conditions • Detecting misconduct	• Transparency in financial markets • Cyber security • Intellectual property • Regulation of accounting and finance • Executive compensation • Identity theft	• Sustainability • Supply chain transparency • Sexual misconduct • Data protection • Disruptive technologies

THE ROLE OF ETHICS IN BUSINESS

You have only to pick up *The Wall Street Journal* or *USA Today* to see examples of the growing concern about legal and ethical issues in business. For example, Apple CEO Tim Cook has called for stronger U.S. data protection regulation to help prevent the sharing of personal information. Many other tech firms have joined the call for stronger U.S. legislation that creates comprehensive laws similar to the European Union's General Data Protection Regulation which created several laws preventing companies from collecting and sharing personal data.[7] Regardless of what an individual believes about a particular action, if society judges it to be unethical or wrong, whether correctly or not, that judgment directly affects the organization's ability to achieve its business goals.[8]

Many firms are recognized for their ethical conduct. 3M is consistently placed on the World's Most Ethical Companies list. Furthermore, 3M's chief compliance officer states, "it is not enough to just win in business—it matters how you do it." 3M sees ethics as a competitive advantage.[9] The mass media frequently report about firms that engage in misconduct related to bribery, fraud, and unsafe products. However, the good ethical conduct of the vast majority of firms is not reported as often. Therefore, the public often gets the impression that misconduct is more widespread than it is in reality.

Often, misconduct starts as ethical conflicts but evolves into legal disputes when cooperative conflict resolution cannot be accomplished. This is because individuals may have different ethical beliefs and resort to legal activities to resolve issues. Also, there are many ethical gray areas, which occur when a new, undetermined or ambiguous situation arises. There may be no values, codes, or laws that answer the question about appropriate action. The sharing economy with peer-to-peer relationships like Uber, Lyft, and Airbnb provide new business models where existing regulations were inadequate, ambiguous, or in some cases blocking progress. For example, Uber has been accused of price gouging, endangering riders' safety, sexual harassment, stealing secret information on self-driving cars from Google, and violating local regulations on public transportation in some countries, states, and cities.[10]

However, it is important to understand that business ethics goes beyond legal issues. Ethical conduct builds trust among individuals and in business relationships, which validates and promotes confidence in business relationships. Establishing trust and confidence is much more difficult in organizations that have reputations for acting unethically. If you were to discover, for example, that a manager had misled you about company benefits when you were hired, your trust and confidence in that company would probably diminish. And if you learned that a colleague had lied to you about something, you probably would not trust or rely on that person in the future.

Ethical issues are not limited to for-profit organizations either. Ethical issues include all areas of organizational activities. In government, politicians and some high-ranking officials have faced disciplinary actions over ethical indiscretions. There has been ethical misconduct in sports, and even ethical lapses in well-known nonprofits, such as the American Red Cross. Whether made in science, politics, sports, or business, most decisions are judged as right or wrong, ethical or unethical. Negative judgments can affect an organization's ability to build relationships with customers and suppliers, attract investors, and retain employees.[11]

Although we will not tell you in this chapter what you ought to do, others—your superiors, co-workers, and family—will make judgments about the ethics of your actions and decisions. Learning how to recognize and resolve ethical issues is a key step in evaluating ethical decisions in business.

LO 2-2 Detect some of the ethical issues that may arise in business.

Recognizing Ethical Issues in Business

Recognizing ethical issues is the most important step in understanding business ethics. An **ethical issue** is an identifiable problem, situation, or opportunity that requires a person to choose from among several actions that may be evaluated as right or wrong, ethical or unethical. Learning how to choose from alternatives and make a decision requires not only good personal values, but also knowledge competence in the business area of concern. Employees also need to know when to rely on their organizations' policies and codes of ethics or have discussions with co-workers or managers on appropriate conduct. Ethical decision making is not always easy because there are always gray areas that create dilemmas, no matter how decisions are made. For instance, should an employee report on a co-worker engaging in time theft? Or should you report a friend cheating on a test? Should a salesperson omit facts about a product's poor safety record in his presentation to a customer? Such questions require the decision maker to evaluate the ethics of his or her choice and decide whether to ask for guidance.

ethical issue an identifiable problem, situation, or opportunity that requires a person to choose from among several actions that may be evaluated as right or wrong, ethical or unethical.

bribes payments, gifts, or special favors intended to influence the outcome of a decision.

One of the principal causes of unethical behavior in organizations is rewards for overly aggressive financial or business objectives. It is not possible to discuss every issue, of course. However, a discussion of a few issues can help you begin to recognize the ethical problems with which businesspersons must deal. Many ethical issues in business can be categorized in the context of their relation with abusive and intimidating behavior, conflicts of interest, fairness and honesty, communications, misuse of company resources, and business associations. The Global Business Ethics Survey found that workers witness many instances of ethical misconduct in their organizations and sometimes feel pressured to compromise standards (see Table 2.2). Overall, 47 percent of employees surveyed observed misconduct. Many observed multiple issues including abusive behavior (26 percent), lying (22 percent), and conflict of interest (15 percent). During the COVID-19 (coronavirus) pandemic in 2020, many companies shifted to remote workforces. While the increased number of people working from home likely reduced incidences of bullying and sexual harassment, many companies were unable to effectively monitor employees to identify misconduct. As working from home becomes increasingly mainstream, companies will have to adjust their monitoring programs to better identify potential compliance violations.[12]

TABLE 2.2 Organizational Misconduct in the United States

Misconduct Facts	Percentage
Observed misconduct	47
Abusive behavior	26
Lying to stakeholders	22
Conflict of interest	15
Internet abuse	16
Health violations	15
Pressure to compromise standards	16
Report observed misconduct	69
Experience retaliation for reporting	44

Source: Ethics and Compliance Initiative, 2018 Global Business Ethics Survey™: The State of Ethics and Compliance in the Workplace (Arlington, VA: Ethics and Compliance Initiative, 2018).

To help you understand ethical issues that perplex businesspeople today, we will take a brief look at some of them in this section. Ethical issues can be more complex now than in the past. The vast number of news-format investigative programs has increased consumer and employee awareness of organizational misconduct. In addition, the multitude of cable channels and Internet resources has improved the awareness of ethical problems among the general public.

Bribery. Many business issues seem straightforward and easy to resolve on the surface, but are, in reality, very complex. A person often needs several years of experience in business to understand what is acceptable or ethical. For example, it is considered improper to give or accept **bribes**, which are payments, gifts, or special favors intended to influence the outcome of a decision. A bribe benefits an individual or a company at the expense of other stakeholders. Companies that do business overseas should be aware that bribes are a significant ethical issue and are, in fact, illegal in many countries. In the United States, the Foreign Corrupt Practices Act imposes heavy penalties on companies found guilty of bribing foreign government officials.

Ethics is also related to the culture in which a business operates. In the United States, for example, it would be inappropriate for a businessperson to bring an elaborately wrapped gift to a prospective client on their first meeting—the gift could be viewed as a bribe. In Japan, however, it is considered impolite *not* to bring a gift. Experience with the culture in which a business operates is critical to understanding what is ethical or unethical. On the other hand, firms must also abide by the values and policies of global business.

South Korea's president, Park Geun-hye was removed from office over a bribery scandal. The heir to the Samsung Group

A former Siemens executive plead guilty in a $100 million Argentina bribery case. The engineering firm itself was involved in a decades long legal investigation.

LUKAS BARTH/EPA-EFE/REX/Shutterstock

was sentenced to 25 years in prison for bribery and embezzlement though the sentence was reduced due to a retrial. There was a "donation" of $25 million to the National Pension Fund at the time of a Samsung merger. This case heightens the awareness of the political risks associated with bribery.[13] Such political scandals demonstrate that political ethical behavior must be proactively practiced at all levels of public service.

Misuse of Company Time. Theft of time is a common area of misconduct observed in the workplace.[14] One example of misusing time in the workplace is by engaging in activities that are not necessary for the job. Some companies have chosen to block certain sites such as Facebook, YouTube, or Pandora from employees. In this case, the employee is misusing not only time, but also company resources by using the company's computer and Internet access for personal use. Time theft costs can be difficult to measure but are estimated to cost companies hundreds of billions of dollars annually. It is widely believed that the average employee "steals" 4.5 hours a week with late arrivals, leaving early, long lunch breaks, inappropriate sick days, excessive socializing, and engaging in personal activities such as online shopping and watching sports while on the job. For example, on Cyber Monday, nearly 25 percent of employees say they shop online while at work.[15] All of these activities add up to lost productivity and profits for the employer—and relate to ethical issues in the area of time theft.

Abusive and Intimidating Behavior. Abusive or intimidating behavior is the most common ethical problem for employees. These concepts can mean anything from physical threats, false accusations, profanity, insults, yelling, harshness, and unreasonableness to ignoring someone or simply being annoying; and the meaning of these words can differ by person—you probably have some ideas of your own. Abusive behavior can be placed on a continuum from a minor distraction to a disruption of the workplace. For example, what one person may define as yelling might be another's definition of normal speech. Civility in our society is a concern, and the workplace is no exception. The productivity level of many organizations has been diminished by the time spent unraveling abusive relationships.

Abusive behavior is difficult to assess and manage because of diversity in culture and lifestyle. What does it mean to speak profanely? Is profanity only related to specific words or other such terms that are common in today's business world? If you are using words that are normal in your language but that others consider to be profanity, have you just insulted, abused, or disrespected them?

Within the concept of abusive behavior, intent should be a consideration. If the employee was trying to convey a compliment but the comment was considered abusive, then it was probably a mistake. The way a word is said (voice inflection) can be important. Add to this the fact that we now live in a multicultural environment—doing business and working with many different cultural groups—and the businessperson soon realizes the depth of the ethical and legal issues that may arise. There are problems of word meanings by age and within cultures. For example, an expression such as "Did you guys hook up last night?" can have various meanings, including some that could be considered offensive in a work environment.

Bullying is associated with a hostile workplace when a person or group is targeted and is threatened, harassed, belittled, verbally abused, or overly criticized. Bullying may create what some consider a hostile environment, a term generally associated with sexual harassment. Recently there has been an explosion of concern about sexual harassment. Ethical misconduct has been unveiled with exposure of sexual harassment that has been part of the culture of the entertainment and hospitality industries, as well as other areas such as government and many corporations.[16] Google employees staged a walkout over Google's treatment of sexual harassment claims for several senior executives,

> "Bullying is a widespread problem in the United States and can cause psychological damage that can result in health-endangering consequences to the target."

TABLE 2.3 Actions Associated with Bullies

1. Spreading rumors to damage others
2. Blocking others' communication in the workplace
3. Flaunting status or authority to take advantage of others
4. Discrediting others' ideas and opinions
5. Using e-mail to demean others
6. Failing to communicate or return communication
7. Insults, yelling, and shouting
8. Using terminology to discriminate by gender, race, or age
9. Using eye or body language to hurt others or their reputation
10. Taking credit for others' work or ideas

including one who received a $90 million exit package after being accused of sexual misconduct. Employee protestors called for Google to improve transparency for sexual misconduct cases and demanded equal pay and opportunity for employees.[17] Although sexual harassment has legal recourse, bullying has little legal recourse at this time. Bullying is a widespread problem in the United States and can cause psychological damage that can result in health-endangering consequences to the target. Surveys reveal that bullying in the workplace is on the rise.[18] As Table 2.3 indicates, bullying can use a mix of verbal, nonverbal, and manipulative threatening expressions to damage workplace productivity. One may wonder why workers tolerate such activities. The problem is that bullies often outrank their victims.

Upset by alleged financial aid embezzlement by Howard University employees, students occupied the administration building to protest the misuse of university resources.

Astrid Riecken For The Washington Post/Getty Images

Misuse of Company Resources.

Misuse of company resources has been identified by the Ethics Resource Center as a leading issue in observed misconduct in organizations. Issues might include spending an excessive amount of time on personal e-mails, submitting personal expenses on company expense reports, or using the company copier for personal use. Six Howard University employees were fired after they allegedly stole nearly $1 million via grants and tuition remission from the financial aid department.[19] While serious resource abuse can result in firing, some abuse can have legal repercussions.

Employee internal theft or the misuse of the employer's assets is a major loss of resources for many firms, especially retailers. For example, employees may hide company items in a handbag, backpack, or briefcase. Customers may be overcharged while the employees keep the extra money. Employees may ship personal items using a firm's account number. Contract maintenance personnel may steal materials or office equipment. Food service employees may provide free drinks or food to friends or even customers hoping for an extra tip. Estheticians or hair stylists may pocket money when clients pay with cash. There are many other ways to steal from the company. Firms need a good monitoring system and employee training to prevent the theft of resources.

The most common way that employees abuse resources is by using company computers for personal use. Typical examples of using a computer for personal use include shopping on the Internet, downloading music, doing personal banking, surfing the Internet for entertainment purposes, or visiting Facebook. Some companies choose to take a flexible approach to addressing this issue. For example, many have instituted policies that allow for some personal computer use as long as the use does not detract significantly from the workday.

No matter what approach a business chooses to take, it must have policies in place to prevent company resource abuse. Because misuse of company resources is such a widespread problem, many companies, like Coca-Cola, have implemented official policies delineating acceptable use of company resources. Coca-Cola's policy states that company assets should not be used for personal gain or outside business or for anything illegal or unethical.[20] This kind of policy is in line with that of many companies, particularly large ones that can easily lose millions of dollars and thousands of hours of productivity to these activities.

Conflict of Interest.

A conflict of interest, one of the most common ethical issues identified by employees, exists when an individual must choose whether to advance the individual's own personal interests or those of others. For example, a manager in a corporation is supposed to ensure that the company is profitable so that its stockholder-owners receive a return on their investment. In other words, the manager has a responsibility to investors. If she instead makes decisions that give her more power or money but do not help the company, then she has a conflict of interest—she is acting to benefit herself at the expense of her company and is not fulfilling her responsibilities as an employee. To avoid conflicts of interest, employees must be able to separate their personal financial interests from their business dealings. Adam Neumann, one of the founders of WeWork, is an example of an executive who engaged in self-serving behavior when he was the CEO. Neumann leased buildings to WeWork that he had a personal investment in. This was a conflict of interest because

The Office of Government Ethics decided cryptocurrency, such as bitcoin, should be covered by conflict of interest laws for federal employees who must now report virtual money on their financial disclosure statements.

Omar Marques/SOPA Images/LightRocket/Getty Images

he stood to profit at the company's expense. Additionally, he reserved the "We" trademark through an entity he owned then sold the rights to WeWork for $5.9 million in stock.[21] Conflict of interest can be particularly problematic in the finance industry because bad decisions can result in significant financial losses.

Insider trading is an example of a conflict of interest. Insider trading is the buying or selling of stocks by insiders who possess material that is still not public. Bribery can also be a conflict of interest. While bribery is an increasing issue in many countries, it is more prevalent in some countries than in others. Transparency International has developed a Corruption Perceptions Index (Table 2.4). Note that the United States, ranked at 23, does not appear in the top 20. The five countries rated by Transparency International as most corrupt include Yemen, Syria, Venezuela, South Sudan, and Somalia.[22]

TABLE 2.4 Least Corrupt Countries

Rank	Country
1	Denmark
1	New Zealand
3	Finland
4	Sweden
4	Singapore
4	Switzerland
7	Norway
8	Netherlands
9	Germany
9	Luxembourg
11	Iceland
12	Austria
12	Australia
12	United Kingdom
12	Canada
16	Hong Kong
17	Belgium
18	Estonia
18	Ireland
20	Japan

Source: Corruption Perceptions Index 2019, Transparency International, https://www.transparency.org/en/cpi/2019/results/table (accessed May 20, 2020).

Fairness and Honesty

Fairness and honesty are at the heart of business ethics and relate to the general values of decision makers. At a minimum, businesspersons are expected to follow all applicable laws and regulations. But beyond obeying the law, they are expected not to harm customers, employees, clients, or competitors knowingly through deception, misrepresentation, coercion, or discrimination. Honesty and fairness can relate to how the employees use the resources of the organization. In contrast, dishonesty is usually associated with a lack of integrity, lack of disclosure, and lying. One common example of dishonesty is theft of office supplies. Although the majority of office supply thefts involve small things such as pencils or Post-it Notes, some workers admit to stealing more expensive items or equipment such as computers or software. Employees should be aware of policies on stealing items and recognize how these decisions relate to ethical behavior.

One aspect of fairness relates to competition. For example, a former Apple employee was charged with stealing secrets related to its autonomous car technology for a Chinese startup, Xiaopeng Motors.[23] Although numerous laws have been passed to foster competition and make monopolistic practices illegal, companies sometimes gain control over markets by using questionable practices that harm competition. For instance, the U.S. Justice Department is filing antitrust charges against Google because of the company's dominance and alleged anticompetitive behavior in the online advertising industry. Because Google holds 90 percent of the search engine market globally, the controversy over how it abuses its dominance to remain ahead of the competition is likely to intensify.[24]

Another aspect of fairness and honesty relates to disclosure of potential harm caused by product use. Health-Ade, a kombucha company based in Los Angeles, paid a $4 million settlement due to discrepancies between the actual sugar and alcohol levels of its drinks and the amounts stated on its packaging. In addition to implementing a formula change to make its product more consistent, the company also agreed to add a disclosure to its product labels.[25]

Dishonesty has become a significant problem in the United States. The Houston Astros were fined $5 million after it was discovered the team used video surveillance to steal catchers' signals to pitchers. Coaches and players could see what pitch

plagiarism the act of taking someone else's work and presenting it as your own without mentioning the source.

was coming next and then beat on a trash can to alert the team's player at bat.[26] In another example, Philip Esformes bribed the University of Pennsylvania's basketball coach to help his son get admitted to the university. This college admissions scandal was part of a large cheating scheme, dubbed Operation Varsity Blues, by more than 50 people across the United States who paid money to William Rick Singer, the organizer. Parents included celebrities Felicity Huffman and Lori Loughlin. Loughlin and husband Mossimo Giannulli plead guilty and received short-term prison sentences. Singer used money to fraudulently inflate college entrance exam scores and bribe college officials. Participants attempted to cheat the admissions system, giving their children an unfair advantage over other applicants.[27]

Communications. Communications is another area in which ethical concerns may arise. False and misleading advertising, as well as deceptive personal-selling tactics, anger consumers and can lead to the failure of a business. Truthfulness about product safety and quality is also important to consumers. Takata, a former automotive parts company, pleaded guilty to fraud and providing false data and agreed to pay $1 billion in a settlement to victims and car manufacturers for exploding airbags.[28]

The FDA has strict labeling requirements for tobacco products. American Spirit advertises its cigarettes as being natural with a superior taste but is also required to include a warning that these cigarettes are no safer than other cigarettes.

Source: American Spirit

Another important aspect of communications that may raise ethical concerns relates to product labeling. This becomes an even greater concern with potentially harmful products like cigarettes. The FDA warned three cigarette manufacturers against using "additive-free" or "natural" on their labeling out of concern that consumers would associate these terms as meaning that their products were healthier.[29] In the advertisement, American Spirit labels its cigarettes as "natural" but includes a warning that its product is not safer than other cigarettes. However, labeling of other products raises ethical questions when it threatens basic rights, such as freedom of speech and expression. This is the heart of the controversy surrounding the movement to require warning labels on movies and videogames, rating their content, language, and appropriate audience age. Although people in the entertainment industry claim that such labeling violates their First Amendment right to freedom of expression, other consumers—particularly parents—believe that labeling is needed to protect children from harmful influences. Internet regulation, particularly regulation designed to protect children and the elderly, is on the forefront in consumer protection legislation. Because of the debate surrounding the acceptability of these business activities, they remain major ethical issues.

Business Relationships. The behavior of businesspersons toward customers, suppliers, and others in their workplace may also generate ethical concerns. Ethical behavior within a business involves keeping company secrets, meeting obligations and responsibilities, and avoiding undue pressure that may force others to act unethically. Managers in particular, because of the authority of their position, have the opportunity to influence employees' actions.

It is the responsibility of managers to create a work environment that helps the organization achieve its objectives and fulfill its responsibilities. However, the methods that managers use to enforce these responsibilities should not compromise employee rights. Organizational pressures may encourage a person to engage in activities that he or she might otherwise view as unethical, such as invading others' privacy or stealing a competitor's secrets. The firm may provide only vague or lax supervision on ethical issues, creating the opportunity for misconduct. Managers who offer no ethical direction to employees create many opportunities for manipulation, dishonesty, and conflicts of interest. This happened to Wells Fargo in creating 3.5 million fake accounts that hurt customers' credit ratings as well as other misconduct that damaged customers. The Federal Reserve restricted the bank's ability to grow until they could provide more oversight and reduce risks.[30]

Plagiarism—taking someone else's work and presenting it as your own without mentioning the source—is another ethical issue. As a student, you may be familiar with plagiarism in school—for example, copying someone else's term paper

TABLE 2.5 Questions to Consider in Determining Whether an Action Is Ethical

Are there any potential legal restrictions or violations that could result from the action?
Does your company have a specific code of ethics or policy on the action?
Is this activity customary in your industry? Are there any industry trade groups that provide guidelines or codes of conduct that address this issue?
Would this activity be accepted by your co-workers? Will your decision or action withstand open discussion with co-workers and managers and survive untarnished?
How does this activity fit with your own beliefs and values?

Turnitin is an Internet service that allows teachers to determine if their students have plagiarized content.

Sharaf Maksumov/Shutterstock

or quoting from a published work or Internet source without acknowledging it. In business, an ethical issue arises when employees copy reports or take the work or ideas of others and present it as their own. A manager attempting to take credit for a subordinate's ideas is engaging in another type of plagiarism.

Making Decisions about Ethical Issues

It can be difficult to recognize specific ethical issues in practice. Managers, for example, tend to be more concerned about issues that affect those close to them, as well as issues that have immediate rather than long-term consequences. Thus, the perceived importance of an ethical issue substantially affects choices. However, only a few issues receive scrutiny, and most receive no attention at all.[31] Managers make intuitive decisions sometimes without recognizing the embedded ethical issue.

Table 2.5 lists some questions you may want to ask yourself and others when trying to determine whether an action is ethical. Open discussion of ethical issues does not eliminate ethical problems, but it does promote both trust and learning in an organization.[32] When people feel that they cannot discuss what they are doing with their co-workers or superiors, there is a good chance that an ethical issue exists. Once a person has recognized an ethical issue and can openly discuss it with others, he or she has begun the process of resolving that issue.

LO 2-3 Specify how businesses can promote ethical behavior.

Improving Ethical Behavior in Business

Understanding how people make ethical choices and what prompts a person to act unethically may result in better ethical decisions. Ethical decisions in an organization are influenced by three key factors: individual moral standards and values, the influence of managers and co-workers, and the opportunity to engage in misconduct (Figure 2.2). While you have great control over your personal ethics outside the workplace, your co-workers and superiors exert significant control over your choices at work through authority and example. In fact, the activities and examples set by co-workers, along with rules and policies established by the firm, are critical in gaining consistent ethical compliance in an organization. If the company fails to provide good examples and direction for appropriate conduct, confusion and conflict will develop and result in the opportunity for misconduct. If your boss or co-workers leave work early, you may be tempted to do so as well. If you see co-workers engaged in personal activities such as shopping online or if they ignore the misconduct of others, then you may be more likely to do so also. Having sound personal values is important because you will be responsible for your own conduct.

Because ethical issues often emerge from conflict, it is useful to examine the causes of ethical conflict. Business managers and employees often experience some tension between their own ethical beliefs and their obligations to the organizations in which

FIGURE 2.2 Three Factors That Influence Business Ethics

Individual Standards and Values + Managers' and Co-workers' Influence + Opportunity: Codes and Compliance Requirements = Ethical/Unethical Choices in Business

codes of ethics formalized rules and standards that describe what a company expects of its employees.

whistleblowing the act of an employee exposing an employer's wrongdoing to outsiders, such as the media or government regulatory agencies.

they work. Many employees utilize different ethical standards at work than they do at home. This conflict increases when employees feel that their company is encouraging unethical conduct or exerting pressure on them to engage in it.

It is difficult for employees to determine what conduct is acceptable within a company if the firm does not have established ethics policies and standards. And without such policies and standards, employees may base decisions on how their peers and superiors behave. Professional **codes of ethics** are formalized rules and standards that describe what the company expects of its employees. Codes of ethics do not have to be so detailed that they take into account every situation, but they should provide guidelines and principles that can help employees achieve organizational objectives and address risks in an acceptable and ethical way. The development of a code of ethics should include not only a firm's executives and board of directors, but also legal staff and employees from all areas of a firm.[33] Table 2.6 lists why a code of ethics is important.

Codes of ethics, policies on ethics, and ethics training programs advance ethical behavior because they prescribe which activities are acceptable and which are not, and they limit the opportunity for misconduct by providing punishments for violations of the rules and standards. This creates compliance requirements to establish uniform behavior among all employees. Codes and policies on ethics encourage the creation of an ethical culture in the company. According to the Global Business Ethics Survey, employees in organizations that have written codes of conduct and ethics training, ethics offices or hotlines, and systems for reporting are more likely to report misconduct when they observe it. The survey found that a company's ethical culture is the greatest determinant of future misconduct.[34]

The enforcement of ethical codes and policies through rewards and punishments increases the acceptance of ethical standards by employees. One of the most important components of an ethics program is a means through which employees can report observed misconduct anonymously. Although the risk of retaliation is still a major factor in whether an employee will report illegal conduct, the Global Business Ethics Survey found that whistleblowing

Kim Gwang-ho, an automotive engineer, was a whistleblower who exposed Hyundai for allegedly hiding defects in its vehicles from the public.
emirhankaramuk/Shutterstock

has increased in the past few years. Approximately 69 percent of respondents said they reported misconduct when they observed it.[35] **Whistleblowing** occurs when an employee exposes an employer's wrongdoing to outsiders, such as the media or government regulatory agencies. Howard Wilkinson, a trader for a Danske Bank branch in Estonia, discovered massive fraud through his branch after he downloaded a report for a London business that reported that it had no assets. Wilkinson reported his findings to Danske officials, which kicked off the investigation that discovered the money laundering scheme. The internal investigation exonerated top management and shifted blame onto dozens of low-level employees, but CEO Thomas Borgen decided to resign nonetheless.[36] More companies are establishing programs to encourage employees to report illegal or unethical practices internally so that they can take steps to remedy problems before they result in legal action or generate negative publicity. Unfortunately, whistleblowers are often treated negatively in organizations. The government, therefore, tries to encourage employees to report observed misconduct. Congress has also taken steps to close a legislative loophole in whistleblowing legislation that has led to the dismissal of many whistleblowers. Congress passed the Dodd-Frank Act, which includes a "whistleblower bounty program." The Securities and Exchange Commission can now award whistleblowers between 10 and 30 percent of monetary sanctions over $1 million. The hope is that incentives will encourage more people to come forward with information regarding corporate misconduct.

TABLE 2.6 Why a Code of Ethics Is Important

• Alerts employees about important issues and risks to address.
• Provides values such as integrity, transparency, honesty, and fairness that give the foundation for building an ethical culture.
• Gives guidance to employees when facing gray or ambiguous situations or ethical issues that they have never faced before.
• Alerts employees to systems for reporting or places to go for advice when facing an ethical issue.
• Helps establish uniform ethical conduct and values that provide a shared approach to dealing with ethical decisions.
• Serves as an important document for communicating to the public, suppliers, and regulatory authorities about the company's values and compliance.
• Provides the foundation for evaluation and improvement of ethical decision making.

The current trend is to move away from legally based ethical initiatives in organizations to cultural- or integrity-based initiatives that make ethics a part of core organizational values. Organizations recognize that effective business ethics programs are good for business performance. Firms that develop higher levels of trust function more efficiently and effectively and avoid damaged company reputations and product images. Organizational ethics initiatives have been supportive of many positive and diverse organizational objectives, such as profitability, hiring, employee satisfaction, and customer loyalty.[37] Conversely, lack of organizational ethics initiatives and the absence of workplace values such as honesty, trust, and integrity can have a negative impact on organizational objectives and employee retention. According to one survey, companies with a weak ethical culture experience fewer favorable outcomes.[38]

LO 2-4 Explain the four dimensions of social responsibility.

THE NATURE OF SOCIAL RESPONSIBILITY

For our purposes, we classify four stages of social responsibility: financial, legal compliance, ethics, and philanthropy (Table 2.7). Another way of categorizing these four dimensions of social responsibility include economic, legal, ethical, and voluntary (including philanthropic).[39] Earning profits is the financial or economic foundation, and complying with the law is the next step. However, a business whose *sole* objective is to maximize profits is not likely to consider its social responsibility, although its activities will probably be legal. (We looked at ethical responsibilities in the first half of this chapter.) Voluntary responsibilities are additional activities that may not be required but which promote human welfare or goodwill. Legal and economic concerns have long been acknowledged in business, and voluntary and ethical issues are now being addressed by most firms.

Corporate citizenship is the extent to which businesses meet the legal, ethical, economic, and voluntary responsibilities placed on them by their various stakeholders. It involves the activities and organizational processes adopted by businesses to meet their social responsibilities. A commitment to corporate citizenship by a firm indicates a strategic focus on fulfilling the social responsibilities expected of it by its stakeholders. For example, CVS demonstrated corporate citizenship by eliminating tobacco products from its pharmacies. Although this cost the firm $2 billion in sales, CVS believed it was contradictory to market itself as a health care services business while still selling a dangerous product.[40] Corporate citizenship involves action and measurement of the extent to which a firm embraces the corporate citizenship philosophy and then follows through by implementing citizenship and social responsibility initiatives. One of the major corporate citizenship issues is the focus on preserving the environment. The majority of people agree that climate change is a global emergency, but there is no agreement on how to solve the problem.[41] Another example of a corporate citizenship issue might be animal rights—an issue that is important to many stakeholders. As the organic and local foods movements grow and become more profitable, more and more stakeholders are calling for more humane practices in factory farms as well.[42] Large factory farms are where most Americans get their meat, but some businesses are looking at more animal-friendly options in response to public outcry.

corporate citizenship the extent to which businesses meet the legal, ethical, economic, and voluntary responsibilities placed on them by their stakeholders.

Part of the answer to climate change issues is alternative energy such as solar, wind, biofuels, and hydro applications. The drive for alternative fuels such as ethanol from corn has added new issues such as food price increases and food shortages. A survey revealed that 73 percent of American consumers feel that it is important for the government to invest in renewable energy.[43]

TABLE 2.7 Social Responsibility Requirements

Stages	Examples
Stage 1: Financial and economic viability	Starbucks offers investors a healthy return on investment, including paying dividends.
Stage 2: Compliance with legal and regulatory requirements	Starbucks specifies in its code of conduct that payments made to foreign government officials must be lawful according to the laws of the United States and the foreign country.
Stage 3: Ethics, principles, and values	Starbucks' mission and values create ethical culture with ethical leaders.
Stage 4: Philanthropic activities	Starbucks created the Starbucks College Achievement Plan that offers eligible employees full tuition to earn a bachelor's degree in partnership with Arizona State University.

"A COMMITMENT TO CORPORATE CITIZENSHIP BY A FIRM INDICATES A STRATEGIC FOCUS ON FULFILLING THE SOCIAL RESPONSIBILITIES EXPECTED OF IT BY ITS STAKEHOLDERS."

TYSON LOOKS FOR SUSTAINABLE MEAT

As the producer of 20 percent of meat consumed in the United States, Tyson is crazy about meat. Yet with 14 percent of U.S. consumers indicating they use plant-based meat alternatives to get more protein in their diet, the market for alternative meats is increasing. Of these consumers, 86 percent do not consider themselves vegetarian or vegan.

For this reason, Tyson is invested in manufacturing plant-based food that tastes like meat, launching a new brand called Raised & Rooted. Benefits of these meat alternatives are that they use fewer resources and contribute to less environmental pollution.

A more sustainable solution to meat production could be highly beneficial. Tyson's annual greenhouse gas emissions are thought to be equivalent to those emitted by the country of Ireland. Tyson does not have the best track record with sustainability; it was forced to pay a fine of $2 million for contaminating a river with chicken waste from a processing plant. The inhumane treatment of animals has been another criticism levied against the company.

Tyson has responded by working with critics to improve its operations. For instance, Tyson CEO Tom Hayes added the position of a chief sustainability officer and promised to better the treatment of animals. Tyson has adopted the goal to cut its greenhouse gas emissions by 30 percent by 2030. In addition to investing in meat alternatives, Tyson is also launching a vegetarian brand, Green Street. The company is hoping self-regulation will improve its operations and public perceptions of the firm.[a]

Critical Thinking Questions

1. What were some of the sustainability mishaps Tyson has faced in the past?
2. What are some ways Tyson hopes to improve its sustainability and the ethical treatment of animals?
3. Do you think Tyson is investing more in alternative meats because it is beneficial to the environment or because the market is increasing in demand? Explain your reasoning.

To respond to these developments, most companies are introducing eco-friendly products and marketing efforts. Dell introduced laptops that come in sustainably sourced packaging made from 25 percent recycled ocean-bound plastics and locally recycled plastics. This is part of a greater effort for Dell to increase its use of sustainable packaging from 85 percent to 100 percent by 2030. Since 2012, Dell has used more than 100 million pounds of sustainable materials in its commitment to recycled packaging.[44] Almost 40 percent of consumers have bought a product for the first time due to the brand taking a stance on an important societal or political issue. About 64 percent chose to switch or abandon brands based on the company's stance on an issue. An example of a high-profile company taking a stance is when Audi promoted gender pay equality in a commercial that aired during the Super Bowl.[45] This is because many businesses are promoting themselves as green-conscious and concerned about the environment without actually making the necessary commitments to environmental health.

Nike released a series of controversial ads featuring Colin Kaepernick, a former NFL quarterback who kneeled during the national anthem to call attention to racial injustice. The campaign resulted in record-breaking brand engagement.

Angela Weiss/AFP/Getty Images

The Ethisphere Institute selects an annual list of the world's most ethical companies based on the following criteria: corporate citizenship and responsibility; corporate governance; innovation that contributes to the public well-being; industry leadership; executive leadership and tone from the top; legal, regulatory, and reputation track record; and internal systems and ethics/compliance program.[46] Table 2.8 shows 26 from that list.

Although the concept of social responsibility is receiving more and more attention, it is still not universally accepted. Table 2.9 lists some of the arguments for and against social responsibility.

TABLE 2.8 A Selection of the World's Most Ethical Companies

L'Oréal	HASBRO Inc.
Sony	Intel
Microsoft	Xcel Energy
3M Company	General Motors
T-Mobile	Cummins Inc.
PepsiCo	John Deere
ManpowerGroup	LinkedIn
Colgate-Palmolive Company	Prudential
International Paper Co.	Thrivent Financial
Visa Inc.	Western Digital
USAA	Kellogg Company
Accenture	Aflac Incorporated
Wyndham Hotels & Resorts	Dell

Source: Ethisphere Institute, "The 2020 World's Most Ethical Companies® Honoree List," http://www.worldsmostethicalcompanies.com/honorees/ (accessed May 20, 2020).

BUILDING A BETTER EVERYDAY LIFE WITH IKEA

IKEA was founded in Sweden in 1943 by Ingvar Kamprad. A favorite among customers searching for well-designed products at a low price, it has become the largest furniture retailer in the world. The culture of IKEA heavily reflects Swedish cultural values of hard-working, friendly, and helpful people. These values helped create IKEA's vision, which is "to create a better everyday life for the many people."

Corporate social responsibility (CSR) is a large factor in IKEA's company culture. Employees are encouraged to mentor young students, assist senior citizens, and more. By volunteering for these tasks, employees learn valuable skills that can transfer over to their jobs. IKEA has also found that CSR is a powerful recruiting tool. Through CSR, IKEA can help communities while attracting better talent.

In 1982, IKEA opened the IKEA foundation. Initially, the foundation focused on architecture and interior design, but the foundation expanded to fight for children's rights and education. The IKEA Foundation awarded a grant of $2.3 million to the World Resources Institute to help bring clean electricity to a million people in India and East Africa.

Another focus for IKEA is reducing carbon emissions. In fact, IKEA's long-term goal is to become "carbon positive," which means removing more carbon dioxide emissions than it creates. IKEA is already moving toward this goal by switching to electric delivery trucks. The company is committed to completely switching over to electric trucks in every location within the next several years. IKEA has invested around $2 billion in renewable energy and expects to be climate positive—producing more energy than they use—by 2030.[b]

Critical Thinking Questions

1. Describe the strides IKEA is attempting to take in sustainability.
2. How does IKEA display corporate social responsibility? How does this differ from ethical conduct?
3. Why do you think a culture of volunteerism might be helpful in recruiting new employees?

LO 2-5 Evaluate an organization's social responsibilities to owners, employees, consumers, the environment, and the community.

Social Responsibility Issues

Managers consider and make social responsibility decisions on a daily basis. Among the many social issues that managers must consider are their firms' relations with stakeholders, including owners and stockholders, employees, consumers, regulators, communities, and environmental advocates.

Social responsibility is a dynamic area with issues changing constantly in response to society's demands. There is much evidence that social responsibility is associated with improved business performance. Consumers are refusing to buy from businesses that receive publicity about misconduct. A number of studies have found a direct relationship between social responsibility and profitability, as well as a link that exists between employee commitment and customer loyalty—two major concerns of any firm trying to increase profits.[47] This section highlights a few of the many social responsibility issues that managers face; as managers become aware of and work toward the solution of current social problems, new ones will certainly emerge.

TABLE 2.9 The Arguments For and Against Social Responsibility

For:
1. Social responsibility rests on stakeholder engagement and results in benefits to society and improved firm performance.
2. Businesses are responsible because they have the financial and technical resources to address sustainability, health, and education.
3. As members of society, businesses and their employees should support society through taxes and contributions to social causes.
4. Socially responsible decision making by businesses can prevent increased government regulation.
5. Social responsibility is necessary to ensure economic survival: If businesses want educated and healthy employees, customers with money to spend, and suppliers with quality goods and services in years to come, they must take steps to help solve the social and environmental problems that exist today.
Against:
1. It sidetracks managers from the primary goal of business—earning profit. The responsibility of business to society is to earn profits and create jobs.
2. Participation in social programs gives businesses greater power, perhaps at the expense of concerned stakeholders.
3. Does business have the expertise needed to assess and make decisions about social and economic issues?
4. Social problems are the responsibility of the government agencies and officials, who can be held accountable by voters.
5. Creation of nonprofits and contributions to them are the best ways to implement social responsibility.

consumerism the activities that independent individuals, groups, and organizations undertake to protect their rights as consumers.

Relations with Owners and Stockholders. Businesses must first be responsible to their owners, who are primarily concerned with earning a profit or a return on their investment in a company. In a small business, this responsibility is fairly easy to fulfill because the owner(s) personally manages the business or knows the managers well. In larger businesses, particularly corporations owned by thousands of stockholders, ensuring responsibility becomes a more difficult task.

A business's obligations to its owners and investors, as well as to the financial community at large, include maintaining proper accounting procedures, providing all relevant information to investors about the current and projected performance of the firm, and protecting the owners' rights and investments. In short, the business must maximize the owners' investments in the firm.

Employee Relations. Another issue of importance to a business is its responsibilities to employees. Without employees, a business cannot carry out its goals. Employees expect businesses to provide a safe workplace, pay them adequately for their work, and keep them informed of what is happening in their company. They want employers to listen to their grievances and treat them fairly. After increased criticism about pay and benefits for its warehouse workers, Amazon raised the minimum wage paid to U.S. workers to $15 an hour. This pay increase boosted the wage of 250,000 current employees and 100,000 seasonal employees.[48]

OSHA ordered its inspectors to crack down on employers who fail to file the necessary electronic paperwork to document injury reports.

Herdik Herlambang/Shutterstock

Congress has passed several laws regulating safety in the workplace, many of which are enforced by the Occupational Safety and Health Administration (OSHA). Labor unions have also made significant contributions to achieving safety in the workplace and improving wages and benefits. Most organizations now recognize that the safety and satisfaction of their employees are critical ingredients in their success, and many strive to go beyond what is legally expected of them. Healthy, satisfied employees also supply more than just labor to their employers. Employers are beginning to realize the importance of obtaining input from even the lowest-level employees to help the company reach its objectives.

A major social responsibility for business is providing equal opportunities for all employees regardless of their sex, age, race, religion, or nationality. Diversity is also helpful to a firm financially. Corporations that raised the share of female executives to 30 percent saw a 15 percent increase in profitability.[49] Also, it has been found that when men and women managers are evenly matched, there is a better chance of generating stronger profits. Thus, many firms are trying to become more inclusive, embracing diversity.[50] Yet, despite these benefits, women and minorities have been slighted in the past in terms of education, employment, and advancement opportunities; additionally, many of their needs have not been addressed by business. After a U.K. High Court ruling, Lloyds Banking Group was ordered to equalize pension benefits for men and women. This ruling occurred after a dispute was filed by a female employee who pointed out that pensions for women were increasing at a lower rate than male pension plans for the company. The ruling is estimated to cost nearly €150 million and could result in additional costs and liabilities for the bank. Lloyds welcomed the ruling and claimed that the issue occur industrywide and should be resolved.[51] Women, who continue to bear most child-rearing responsibilities, often experience conflict between those responsibilities and their duties as employees. Consequently, day care has become a major employment issue for women, and more companies are providing day care facilities as part of their effort to recruit and advance women in the workforce. A class-action lawsuit was filed against Avon, alleging the company discriminated against pregnant women.[52] Many Americans today believe business has a social obligation to provide special opportunities for women and minorities to improve their standing in society.

Consumer Relations. A critical issue in business today is business's responsibility to customers, who look to business to provide them with satisfying, safe products and to respect their rights as consumers. The activities that independent individuals, groups, and organizations undertake to protect their rights as consumers are known as **consumerism**. To achieve their objectives, consumers and their advocates write letters to companies, lobby government agencies, make public service announcements, and boycott companies whose activities they deem irresponsible.

Many of the desires of those involved in the consumer movement have a foundation in John F. Kennedy's 1962 consumer bill of rights, which highlighted four rights. The *right to safety* means that a business must not knowingly sell anything that could result in personal injury or harm to consumers. Defective or dangerous products erode public confidence in the ability of business to serve society. They also result in expensive litigation that ultimately increases the cost of products for all consumers. The right to safety also means businesses must provide a safe place for consumers to shop.

The *right to be informed* gives consumers the freedom to review complete information about a product before they buy it. This means that detailed information about risks and instructions for use are to be printed on labels and packages. The *right to choose* ensures that consumers have access to a variety of goods and services at competitive prices. The assurance of both satisfactory quality and service at a fair price is also a part of the consumer's right to choose. The *right to be heard* assures consumers that their interests will receive full and sympathetic consideration when the government formulates policy. It also ensures the fair treatment of consumers who voice complaints about a purchased product.

The role of the Federal Trade Commission's Bureau of Consumer Protection exists to protect consumers against unfair, deceptive, or fraudulent practices. The bureau, which enforces a variety of consumer protection laws, is divided into five divisions. The Division of Enforcement monitors legal compliance and investigates violations of laws, including unfulfilled holiday delivery promises by online shopping sites, employment opportunities fraud, scholarship scams, misleading advertising for health care products, and more.

Sustainability Issues. Most people probably associate the term *environment* with nature, including wildlife, trees, oceans, and mountains. Until the 20th century, people generally thought of the environment solely in terms of how these resources could be harnessed to satisfy their needs for food, shelter, transportation, and recreation. As the earth's population swelled throughout the 20th century, however, humans began to use more and more of these resources and, with technological advancements, to do so with ever-greater efficiency. Although these conditions have resulted in a much-improved standard of living, they come with a cost. Plant and animal species, along with wildlife habitats, are disappearing at an accelerated rate. For example, the bumblebee population has suffered almost 90 percent decline in the past 20 years. Bees are important to pollinating most fruits and vegetables. The bumblebee was placed on the endangered species list and its habitats were protected.[53]

The Federal Trade Commission's Bureau of Consumer Protection protects consumers against unfair, deceptive, or fraudulent practices.

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sustainability
conducting activities in a way that allows for the long-term well-being of the natural environment, including all biological entities; involves the assessment and improvement of business strategies, economic sectors, work practices, technologies, and lifestyles so that they maintain the health of the natural environment.

Although the scope of the word *sustainability* is broad, in this book we discuss the term from a strategic business perspective. Thus, we define **sustainability** as conducting activities in such a way as to provide for the long-term well-being of the natural environment, including all biological entities. Sustainability involves the interaction among nature and individuals, organizations, and business strategies and includes the assessment and improvement of business strategies, economic sectors, work practices, technologies, and lifestyles so that they maintain the health of the natural environment. In recent years, business has played a significant role in adapting, using, and maintaining the quality of sustainability.

Environmental protection emerged as a major issue in the 20th century in the face of increasing evidence that pollution, uncontrolled use of natural resources, and population growth were putting increasing pressure on the long-term sustainability of these resources. In recent years, companies have been increasingly incorporating these issues into their overall business strategies. Some nonprofit organizations have stepped forward to provide leadership in gaining the cooperation of diverse groups in responsible environmental activities.

In the following sections, we examine some of the most significant sustainability and environmental health issues facing business and society today, including pollution and alternative energy.

Pollution.

A major issue in the area of environmental responsibility is pollution. Water pollution results from dumping toxic chemicals and raw sewage into rivers and oceans, oil spills, and the burial of industrial waste in the ground where it may filter into underground water supplies. Fertilizers and insecticides used in farming and grounds maintenance also run off into water supplies with each rainfall. Water pollution problems are especially notable in heavily industrialized areas. Society is demanding that water supplies be clean and healthful to reduce the potential danger from these substances.

Air pollution is usually the result of smoke and other pollutants emitted by manufacturing facilities, as well as carbon monoxide and hydrocarbons emitted by motor vehicles. In addition to the health risks posed by air pollution, when some chemical compounds emitted by manufacturing facilities react with air and rain, acid rain results. Acid rain has contributed to the deaths of many forests and lakes in North America as well as in Europe. Air pollution may also contribute to global warming; as carbon dioxide collects in the earth's atmosphere, it traps the sun's heat and prevents the earth's surface from cooling. It is indisputable that the global surface temperature has been increasing over the past 35 years. Worldwide passenger vehicle ownership has been growing due to rapid industrialization and consumer purchasing power in China, India, and other developing countries with large populations. The most important way to contain climate change is to control carbon emissions. For example, some utilities charge more for electricity in peak demand periods, which encourages behavioral changes that reduce consumption.

More and more consumers are recognizing the need to protect the planet. Figure 2.3 shows consumers' likelihood to personally address social responsibility and environmental issues. Although most consumers admit that sustainable products are important and that they bear responsibility for properly using and disposing of the product, many admit that they fail to do this.

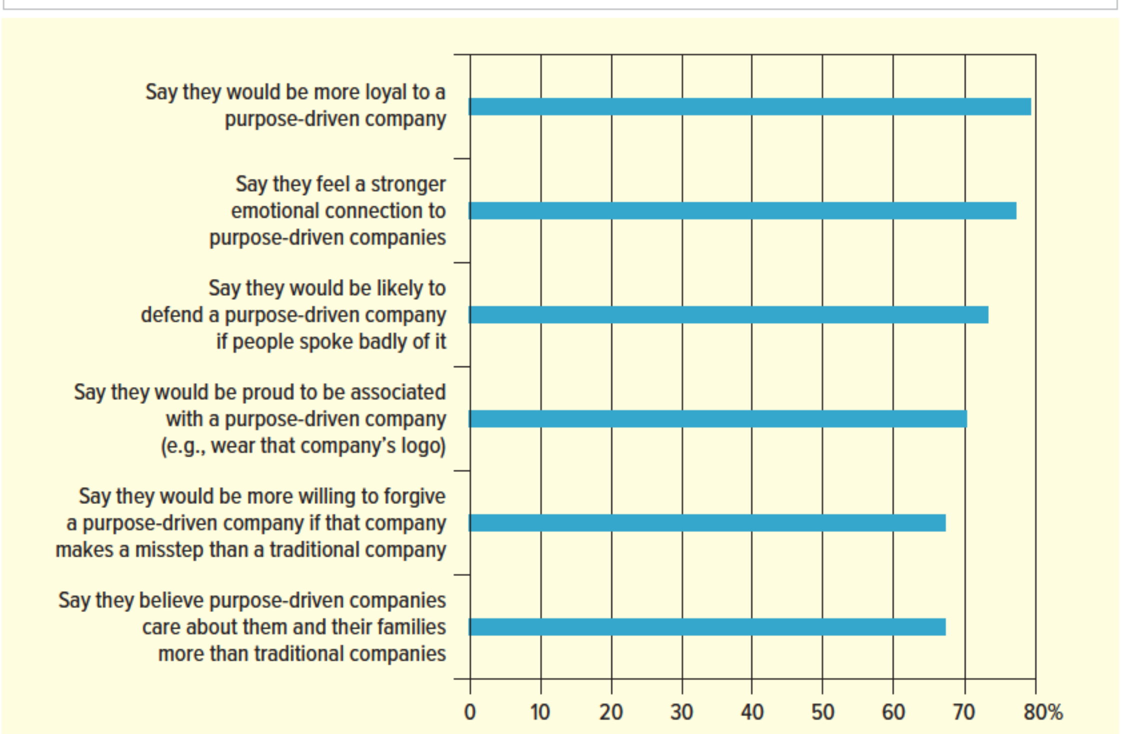
Land pollution is tied directly to water pollution because many of the chemicals and toxic wastes that are dumped on the land eventually work their way into the water supply. A study conducted by the Environmental Protection Agency found residues of prescription drugs, soaps, and other contaminants in virtually every waterway in the United States. Effects of these pollutants on humans and wildlife are uncertain, but there is some evidence to suggest that fish and other water-dwellers are starting to suffer serious effects. Land pollution results from the dumping of residential and industrial waste, strip mining, forest fires, and poor forest conservation. The world's forests cover more than 30 percent of the planet, but over the past 25 years, forests shrank by 502,000 square miles. In Brazil, more than 89,000 fires started by humans burned the Amazon in 2019, the most biodiverse rainforest on the planet.[54] During the COVID-19 pandemic in 2020, which prompted lockdowns and job loss in many countries, rainforest deforestation doubled.[55] Scientists fear the Amazon is close to a tipping point where it will enter an irreversible cycle of collapse.[56] Large-scale deforestation also depletes the oxygen supply available to humans and other animals.

Related to the problem of land pollution is the larger issue of how to dispose of waste in an environmentally responsible manner. Americans use approximately 100 billion plastic bags per year.[57] Some states and many other countries are also in the process of phasing out lightweight plastic bags.

Alternative Energy.

With ongoing plans to reduce global carbon emissions, countries and companies alike are looking toward alternative energy sources. Traditional fossil fuels are problematic because of their emissions, but also because stores have been greatly depleted.

FIGURE 2.3 Consumer Loyalty to Purpose-Driven Companies



Source: Cone/Porter Novelli, "2018 Cone/Porter Novelli Purpose Study: How to Build Deeper Bonds, Amplify Your Message and Expand Your Consumer Base," http://www.conecomm.com/2018-purpose-study-pdf (accessed May 20, 2020).

Foreign fossil fuels are often imported from politically and economically unstable regions, often making it unsafe to conduct business there. However, the United States is becoming an energy powerhouse with its ability to drill for natural gas in large shale reserves. This is allowing the United States to move forward on its goals to reach energy independence. On the other hand, concerns over how these drilling methods are affecting the environment make this a controversial topic.

The U.S. government has begun to recognize the need to look toward alternative forms of energy as a source of fuel and electricity. There have been many different ideas as to which form of alternative energy would best suit the United States' energy needs. These sources include wind power, solar power, nuclear power, biofuels, electric cars, and hydro- and geothermal power. As of yet, no "best" form of alternative fuel has been selected to replace gasoline. Additionally, there are numerous challenges with the economic viability of alternative energy sources. For instance, wind and solar power cost significantly more than traditional energy. Alternative energy will likely require government subsidies to make any significant strides. However, the news for solar power might be getting brighter. Electric cars are also gaining importance. Most automobile companies such as Tesla, BMW, General Motors, Nissan, and Toyota are introducing electric cars to help with sustainability.

DID YOU KNOW?

About 50 million tons of electronic waste is generated each year, including discarded laptops, mobile phones, and televisions.[c]

Response to Environmental Issues. Many firms are trying to eliminate wasteful practices, the emission of pollutants, and/or the use of harmful chemicals from their manufacturing processes. In response to a plastic straw ban in Seattle, McDonald's began testing plastic straw alternatives, such as paper straws, in its restaurants.[58] Other companies are seeking ways to improve their products. Utility providers, for example, are increasingly supplementing their services with alternative energy sources, including solar, wind, and geothermal power. Environmentalists are concerned that some companies are merely *greenwashing,* or "creating a positive association with environmental issues for an unsuitable product, service, or practice."

Indeed, a growing number of businesses and consumers are choosing green power sources where available. New Belgium Brewing Company, the fourth-largest craft brewer in the United States, is the first all-wind-powered brewery in the country. Many businesses have turned to *recycling,* the reprocessing of materials—aluminum, paper, glass, and some plastic—for reuse. Such efforts to make products, packaging, and processes more environmentally friendly have been labeled "green" business or marketing by the public and media. For example, lumber products at The Home Depot may carry a seal from the Forest Stewardship Council to indicate that they were harvested from sustainable forests using environmentally friendly methods.[59]

SHERWIN-WILLIAMS PAINTS ITSELF IN A CORNER

Most would agree that companies advertising a dangerous product should be held accountable. However, what if the advertisement was more than a century old? This is the dilemma paint makers like Sherwin-Williams are facing from a California lawsuit seeking damages for the firms' marketing of lead paint in homes.

For nearly two decades, California counties have demanded that paint manufacturers pay more than $1 billion into a state fund for investigating and removing lead paint from as many as 1.6 million homes. The courts initially ruled that Sherwin-Williams, NL Industries, and ConAgra were liable for the cleanup. Later, the damages were limited to paint used in houses prior to 1950, after which paint manufacturers began publicly acknowledging the dangers of lead paint. Lead paint in homes would not officially become illegal until 1978.

After the ruling, paint manufacturers tried to fund a ballot initiative for taxpayers to fund the cleanup efforts but abandoned it after public outcry. After nearly 20 years of litigation, the final settlement was reduced to $305 million to be paid by Sherwin-Williams, NL Industries, and ConAgra over a period of six years, and the companies were not required to admit any wrongdoing.

A major consideration is how long these companies knew about the dangers. Some maintain Sherwin-Williams knew about the hazards since 1900. Sherwin-Williams denies it knew about the health risks before they were scientifically accepted. This case has important implications for the industry. This case could set a precedent that could increase potential liability for advertisers, making them liable if their products are found to be hazardous further down the road—even if they are currently legal.[d]

Critical Thinking Questions

1. Describe the ethical issue in this case. Why do you think it has been so difficult to come to a solid verdict?
2. If Sherwin-Williams knew about the dangers of lead paint more than a century ago (it denies this claim), how would this violate the concepts of fairness and honesty? Do you think this should affect the verdict?
3. Recall that lead paint in homes was not made illegal until 1978. Yet knowledge that it was toxic inside the home was accepted since the 1950s. Do you think other stakeholders should be held liable for the cleanup?

With the increasing popularity of electric vehicles, companies like BMW, Volkswagen, and Tesla have introduced new electric car models.

Darren Brode/Shutterstock

BUILDING YOUR SOFT SKILLS

BY CONSIDERING YOUR ETHICS

Employers today want employees who behave ethically. But behaving ethically is not always easy, so organizations create codes of conduct or ethics to help guide their employees' behavior. Likewise, academic institutions often create codes of conduct for their students. Locate and read the code of conduct for your school. Is there anything you find surprising when reading the code? Is there anything you think is missing? What aspect of the code do you think is most challenging for students to follow, and why?

It is important to recognize that, with current technology, environmental responsibility requires trade-offs. Society must weigh the huge costs of limiting or eliminating pollution against the health threat posed by the pollution. Environmental responsibility imposes costs on both business and the public. Managers must coordinate environmental goals with other social and economic ones.

Community Relations. A final, yet very significant, issue for businesses concerns their responsibilities to the general welfare of the communities and societies in which they operate. Many businesses simply want to make their communities better places for everyone to live and work. The most common way that businesses exercise their community responsibility is through donations to local and national charitable organizations. For example, companies and their employees hold fundraising efforts to raise money for the United Way.[60] As a highly successful company, Adobe invests heavily in community development and sustainability. It invests 1 percent of its pretax profits in the Adobe Foundation, which partners with teams of employees to use the funds to improve local communities. The company donates software to more than 15,000 nonprofits.[61]

Team Exercise

Sam Walton, founder of Walmart, had an early strategy for growing his business related to pricing. The "Opening Price Point" strategy used by Walton involved offering the introductory product in a product line at the lowest point in the market. For example, a minimally equipped microwave oven would sell for less than anyone else in town could sell the same unit. The strategy was that if consumers saw a product, such as the microwave, and saw it as a good value, they would assume that all of the microwaves were good values. Walton also noted that most people don't buy the entry-level product; they want more features and capabilities and often trade up.

Form teams and assign the role of defending this strategy or casting this strategy as an unethical act. Present your thoughts on either side of the issue.

UNEMPLOYMENT

After realizing that the current pool of prospective employees lacks many basic skills necessary to work, many companies have become concerned about the quality of education in the United States. Unemployment reached 10 percent during the Great Recession, which began in 2008, but had fallen to 3.5 percent in 2019. However, it reached 14.7 percent during the COVID-19 pandemic in 2020.

Although most would argue that unemployment is an economic issue, it also carries ethical implications. Protests often occur in areas where unemployment is high, particularly when there seems to be a large gap between rich and poor.

Factory closures are another ethical issue because factories usually employ hundreds of workers. Sometimes it is necessary to close a plant due to economic reasons. However, factory closures not only affect individual employees, but their communities as well. After years of withstanding closures, even as other factories around it closed, a factory in the small town of Hanover, Illinois, shuttered its doors and transferred to Mexico. Several of the factory workers felt betrayed, and about 100 lost their jobs. Factory closures also have repercussions on other businesses in the area because more unemployed people mean fewer sales.[62]

Another criticism levied against companies involves hiring standards. Some employers have been accused of having unreasonable hiring standards that most applicants cannot meet, often leaving these jobs unfilled. Critics have accused companies of not wanting to take the time to train employees.[63] Employers, however, believe there is a significant lack of skills needed among job applicants. With more companies requiring specialized knowledge and a strong educational background, jobs are becoming increasingly competitive among those looking for employment.

On the other hand, several businesses are working to reduce unemployment. JPMorgan Chase introduced a public policy agenda, investing more than $7 million to reduce barriers to employment for people with criminal backgrounds.[64] Additionally, businesses are beginning to take more responsibility for the hard-core unemployed. These are people who have never had a job or who have been unemployed for a long period of time. Some are mentally or physically handicapped; some are homeless. Organizations such as the National Alliance of Businessmen fund programs to train the hard-core unemployed so that they can find jobs and support themselves. Such commitment enhances self-esteem and helps people become productive members of society.

ARE YOU READY // to Go Green and Think Ethics with Your Career? /

In the words of Kermit the Frog, "It's not easy being green." It may not be easy, but green business opportunities abound. A popular catch phrase, "Green is the new black," indicates how fashionable green business is becoming. Consumers are more in tune with and concerned about green products, policies, and behaviors by companies than ever before. Companies are looking for new hires to help them see their business creatively and bring insights to all aspects of business operations.

The International Renewable Energy Industry estimates that the number of jobs in the renewable energy job market could rise to 24 million by 2030. Green business strategies not only give a firm a commercial advantage in the marketplace, but also help lead the way toward a greener world. The fight to reduce our carbon footprint in an attempt against climate change has opened up opportunities for renewable energy, recycling, conservation, and increasing overall efficiency in the way resources are used. New businesses that focus on hydro, wind, and solar power are on the rise and will need talented businesspeople to lead them. Carbon emissions' trading is gaining popularity as large corporations and individuals alike seek to lower their footprints. A job in this growing field could be similar to that of a stock trader, or you could lead the search for carbon-efficient companies in which to invest.

In the ethics arena, current trends in business governance strongly support the development of ethics and compliance departments to help guide organizational integrity. This alone is a billion-dollar business, and there are jobs in developing organizational ethics programs, developing company policies, and training employees and management. An entry-level position might be as a communication specialist or trainer for programs in a business ethics department. Eventually there's an opportunity to become an ethics officer that would have typical responsibilities of meeting with employees, the board of directors, and top management to discuss and provide advice about ethics issues in the industry, developing and distributing a code of ethics, creating and maintaining an anonymous, confidential service to answer questions about ethical issues, taking actions on possible ethics code violations, and reviewing and modifying the code of ethics of the organization.

There are also opportunities to help with initiatives to help companies relate social responsibility to stakeholder interests and needs. These jobs could involve coordinating and implementing philanthropic programs that give back to others important to the organization or developing a community volunteering program for employees. In addition to the human relations function, most companies develop programs to assist employees and their families to improve their quality of life. Companies have found that the healthier and happier employees are, the more productive they will be in the workforce.

Social responsibility, ethics, and sustainable business practices are not a trend; they are good for business and the bottom line. New industries are being created and old ones are adapting to the new market demands, opening up many varied job opportunities that will lead not only to a paycheck, but also to the satisfaction of making the world a better place.[e]

chapter 2 appendix

the legal and regulatory environment

Business law refers to the rules and regulations that govern the conduct of business. Problems in this area come from the failure to keep promises, misunderstandings, disagreements about expectations, or, in some cases, attempts to take advantage of others. The regulatory environment offers a framework and enforcement system in order to provide a fair playing field for all businesses. The regulatory environment is created based on inputs from competitors, customers, employees, special interest groups, and the public's elected representatives. Lobbying by pressure groups who try to influence legislation often shapes the legal and regulatory environment.

SOURCES OF LAW

Laws are classified as either criminal or civil. *Criminal law* not only prohibits a specific kind of action, such as unfair competition or mail fraud, but also imposes a fine or imprisonment as punishment for violating the law. A violation of a criminal law is thus called a crime. *Civil law* defines all the laws not classified as criminal, and it specifies the rights and duties of individuals and organizations (including businesses). Violations of civil law may result in fines but not imprisonment. The primary difference between criminal and civil law is that criminal laws are enforced by the state or nation, whereas civil laws are enforced through the court system by individuals or organizations.

Criminal and civil laws are derived from four sources: the Constitution (constitutional law), precedents established by judges (common law), federal and state statutes (statutory law), and federal and state administrative agencies (administrative law). Federal administrative agencies established by Congress control and influence business by enforcing laws and regulations to encourage competition and protect consumers, workers, and the environment. The Supreme Court is the ultimate authority on legal and regulatory decisions for appropriate conduct in business.

COURTS AND THE RESOLUTION OF DISPUTES

The primary method of resolving conflicts and business disputes is through **lawsuits**, where one individual or organization takes another to court using civil laws. The legal system, therefore, provides a forum for businesspeople to resolve disputes based on our legal foundations. The courts may decide when harm or damage results from the actions of others.

["Business law refers to the rules and regulations that govern the conduct of business."]

Because lawsuits are so frequent in the world of business, it is important to understand more about the court system where such disputes are resolved. Both financial restitution and specific actions to undo wrongdoing can result from going before a court to resolve a conflict. All decisions made in the courts are based on criminal and civil laws derived from the legal and regulatory system.

A businessperson may win a lawsuit in court and receive a judgment, or court order, requiring the loser of the suit to pay monetary damages. However, this does not guarantee the victor will be able to collect those damages. If the loser of the suit lacks the financial resources to pay the judgment—for example, if the loser is a bankrupt business—the winner of the suit may not be able to collect the award. Most business lawsuits involve a request for a sum of money, but some lawsuits request that a court specifically order a person or organization to do or to refrain from doing a certain act.

The Court System

Jurisdiction is the legal power of a court, through a judge, to interpret and apply the law and make a binding decision in a particular case. In some instances, other courts will not enforce the decision of a prior court because it lacked jurisdiction. Federal courts are granted jurisdiction by the Constitution or by Congress. State legislatures and constitutions determine which state courts hear certain types of cases. Courts of general jurisdiction hear all types of cases; those of limited jurisdiction hear only specific types of cases. The Federal Bankruptcy Court, for example, hears only cases involving bankruptcy. There is some combination of limited and general jurisdiction courts in every state.

In a **trial court** (whether in a court of general or limited jurisdiction and whether in the state or the federal system), two tasks must be completed. First, the court (acting through the judge or a jury) must determine the facts of the case. In other words, if there is conflicting evidence, the judge or jury must decide who to believe. Second, the judge must decide which law or set of laws is pertinent to the case and must then apply those laws to resolve the dispute.

An **appellate court**, on the other hand, deals solely with appeals relating to the interpretation of law. Thus, when you hear about a case being appealed, it is not retried, but rather reevaluated. Appellate judges do not hear witnesses but instead base their decisions on a written transcript of the original trial. Moreover, appellate courts do not draw factual conclusions; the appellate judge is limited to deciding whether the trial judge made a mistake in interpreting the law that probably affected the outcome of the trial. If the trial judge made no mistake (or if mistakes would not have changed the result of the trial), the appellate court will let the trial court's decision stand. If the appellate court finds a mistake, it usually sends the case back to the trial court so that the mistake can be corrected. Correction may involve the granting of a new trial. On occasion, appellate courts modify the verdict of the trial court without sending the case back to the trial court.

When workers and management cannot come to an agreement, workers may choose to picket and go on strike. Going on strike is usually reserved as a last resort if mediation and arbitration fail.

Tannen Maury/EPA/Shutterstock

Alternative Dispute Resolution Methods

Although the main remedy for business disputes is a lawsuit, other dispute resolution methods are becoming popular. The schedules of state and federal trial courts are often crowded; long delays between the filing of a case and the trial date are common. Further, complex cases can become quite expensive to pursue. As a result, many businesspeople are turning to alternative methods of resolving business arguments: mediation and arbitration, the mini-trial, and litigation in a private court.

Mediation is a form of negotiation to resolve a dispute by bringing in one or more third-party mediators, usually chosen by the disputing parties, to help reach a settlement. The mediator suggests different ways to resolve a dispute between the parties. The mediator's resolution is nonbinding—that is, the parties do not have to accept the mediator's suggestions; they are strictly voluntary.

Arbitration involves submission of a dispute to one or more third-party arbitrators, usually chosen by the disputing parties, whose decision is final. Arbitration differs from mediation in that an arbitrator's decision must be followed, whereas a mediator merely offers

business law the rules and regulations that govern the conduct of business.

lawsuit where one individual or organization takes another to court using civil laws.

jurisdiction the legal power of a court, through a judge, to interpret and apply the law and make a binding decision in a particular case.

trial court when a court (acting through the judge or jury) must determine the facts of the case, decide which law or set of laws is pertinent to the case, and apply those laws to resolve the dispute.

appellate court a court that deals solely with appeals relating to the interpretation of law.

mediation a method of outside resolution of labor and management differences in which the third party's role is to suggest or propose a solution to the problem.

arbitration settlement of a labor/management dispute by a third party whose solution is legally binding and enforceable.

The Federal Trade Commission regulates business activities related to questionable practices in order to protect consumers.

Source: Carol M. Highsmith Archive, Library of Congress, Prints and Photographs Division

mini-trial a situation in which both parties agree to present a summarized version of their case to an independent third party; the third party advises them of his or her impression of the probable outcome if the case were to be tried.

private court system similar to arbitration in that an independent third party resolves the case after hearing both sides of the story.

Federal Trade Commission (FTC) the federal regulatory unit that most influences business activities related to questionable practices that create disputes between businesses and their customers.

suggestions and facilitates negotiations. Cases may be submitted to arbitration because a contract—such as a labor contract—requires it or because the parties agree to do so. Some consumers are barred from taking claims to court by agreements drafted by banks, brokers, health plans, and others. Instead, they are required to take complaints to mandatory arbitration. Arbitration can be an attractive alternative to a lawsuit because it is often cheaper and quicker, and the parties frequently can choose arbitrators who are knowledgeable about the particular area of business at issue.

A method of dispute resolution that may become increasingly important in settling complex disputes is the **mini-trial**, in which both parties agree to present a summarized version of their case to an independent third party. That person then advises them of his or her impression of the probable outcome if the case were to be tried. Representatives of both sides then attempt to negotiate a settlement based on the advisor's recommendations. For example, employees in a large corporation who believe they have muscular or skeletal stress injuries caused by the strain of repetitive motion in using a computer could agree to a mini-trial to address a dispute related to damages. Although the mini-trial itself does not resolve the dispute, it can help the parties resolve the case before going to court. Because the mini-trial is not subject to formal court rules, it can save companies a great deal of money, allowing them to recognize the weaknesses in a particular case.

In some areas of the country, disputes can be submitted to a private nongovernmental court for resolution. In a sense, a **private court system** is similar to arbitration in that an independent third party resolves the case after hearing both sides of the story. Trials in private courts may be either informal or highly formal, depending on the people involved. Businesses typically agree to have their disputes decided in private courts to save time and money.

REGULATORY ADMINISTRATIVE AGENCIES

Federal and state administrative agencies (listed in Table A.1) also have some judicial powers. Many administrative agencies, such as the Federal Trade Commission, decide disputes that involve their regulations. In such disputes, the resolution process is usually called a "hearing" rather than a trial. In these cases, an administrative law judge decides all issues.

Federal regulatory agencies influence many business activities and cover product liability, safety, and the regulation or deregulation of public utilities. Usually, these bodies have the power to enforce specific laws, such as the Federal Trade Commission Act, and have some discretion in establishing operating rules and regulations to guide certain types of industry practices. Because of this discretion and overlapping areas of responsibility, confusion or conflict regarding which agencies have jurisdiction over which activities is common.

Of all the federal regulatory units, the **Federal Trade Commission (FTC)** most influences business activities related to questionable practices that create disputes between businesses and their customers. Although the FTC regulates a variety of business practices, it allocates a large portion of resources to curbing false advertising, misleading pricing, and deceptive packaging and labeling. When it receives a complaint or otherwise has reason to believe that a firm is violating a law, the FTC issues a complaint stating that the business is in violation.

If a company continues the questionable practice, the FTC can issue a cease-and-desist order, which is an order for the business to stop doing whatever has caused the complaint. In such cases, the charged firm can appeal to the federal courts to have the order rescinded. However, the FTC can seek civil penalties in court—up to a maximum penalty of $10,000 a day for each infraction—if a cease-and-desist order is violated. In its battle against unfair pricing, the FTC has issued consent decrees alleging that corporate attempts to engage in price fixing or invitations to competitors to collude are violations even when

▼ **TABLE A.1** The Major Regulatory Agencies

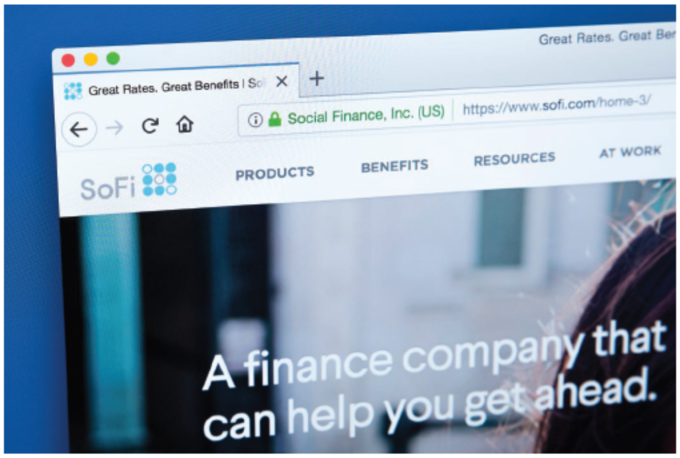
Agency	Major Areas of Responsibility
Federal Trade Commission (FTC)	Enforces laws and guidelines regarding business practices; takes action to stop false and deceptive advertising and labeling.
Food and Drug Administration (FDA)	Enforces laws and regulations to prevent distribution of adulterated or misbranded foods, drugs, medical devices, cosmetics, veterinary products, and particularly hazardous consumer products.
Consumer Product Safety Commission (CPSC)	Ensures compliance with the Consumer Product Safety Act; protects the public from unreasonable risk of injury from any consumer product not covered by other regulatory agencies.
Interstate Commerce Commission (ICC)	Regulates franchises, rates, and finances of interstate rail, bus, truck, and water carriers.
Federal Communications Commission (FCC)	Regulates communication by wire, radio, and television in interstate and foreign commerce.
Environmental Protection Agency (EPA)	Develops and enforces environmental protection standards and conducts research into the adverse effects of pollution.
Federal Energy Regulatory Commission (FERC)	Regulates rates and sales of natural gas products, thereby affecting the supply and price of gas available to consumers; also regulates wholesale rates for electricity and gas, pipeline construction, and U.S. imports and exports of natural gas and electricity.
Equal Employment Opportunity Commission (EEOC)	Investigates and resolves discrimination in employment practices.
Federal Aviation Administration (FAA)	Oversees the policies and regulations of the airline industry.
Federal Highway Administration (FHA)	Regulates vehicle safety requirements.
Occupational Safety and Health Administration (OSHA)	Develops policy to promote worker safety and health and investigates infractions.
Securities and Exchange Commission (SEC)	Regulates corporate securities trading and develops protection from fraud and other abuses; provides an accounting oversight board.
Consumer Financial Protection Bureau (CFPB)	Regulates financial products and institutions to ensure consumer protection.

the competitors in question refuse the invitations. The commission can also require companies to run corrective advertising in response to previous ads considered misleading.

The FTC also assists businesses in complying with laws. New marketing methods are evaluated every year. When general sets of guidelines are needed to improve business practices in a particular industry, the FTC sometimes encourages firms within that industry to establish a set of trade practices voluntarily. The FTC may even sponsor a conference bringing together industry leaders and consumers for the purpose of establishing acceptable trade practices.

Unlike the FTC, other regulatory units are limited to dealing with specific goods, services, or business activities. The Food and Drug Administration (FDA) enforces regulations prohibiting the sale and distribution of adulterated, misbranded, or hazardous food and drug products. For example, the FDA outlawed the sale and distribution of most over-the-counter hair-loss remedies after research indicated that few of the products were effective in restoring hair growth.

The Environmental Protection Agency (EPA) develops and enforces environmental protection standards and conducts research into the adverse effects of pollution. The Consumer Product Safety Commission recalls about 300 products a year, ranging from small, inexpensive toys to major appliances. The Consumer Product Safety Commission's website provides details regarding current recalls. The Consumer Product Safety Commission has fallen under increasing scrutiny in the wake of a number of product safety scandals involving children's toys. The most notable of these issues was lead paint discovered in toys produced in China. Some items are not even targeted to children but can be dangerous because children think they are food. Magnetic desk toys and Tide Pods have both been mistaken as candy by children.



SoFi reached a settlement with the FTC over the financial services company's deceptive advertising about loan refinancing savings.
chrisdorney/Shutterstock

Uniform Commercial Code (UCC) set of statutory laws covering several business law topics.

express warranty stipulates the specific terms the seller will honor.

implied warranty imposed on the producer or seller by law, although it may not be a written document provided at the time of sale.

tort a private or civil wrong other than breach of contract.

fraud a purposefully unlawful act to deceive or manipulate in order to damage others.

IMPORTANT ELEMENTS OF BUSINESS LAW

To avoid violating criminal and civil laws, as well as discouraging lawsuits from consumers, employees, suppliers, and others, businesspeople need to be familiar with laws that address business practices.

The Uniform Commercial Code

At one time, states had their own specific laws governing various business practices, and transacting business across state lines was difficult because of the variation in the laws from state to state. To simplify commerce, every state—except Louisiana—has enacted the Uniform Commercial Code (Louisiana has enacted portions of the code). The **Uniform Commercial Code (UCC)** is a set of statutory laws covering several business law topics. Article II of the Uniform Commercial Code, which is discussed in the following paragraphs, has a significant impact on business.

Sales Agreements. Article II of the Uniform Commercial Code covers sales agreements for goods and services such as installation but does not cover the sale of stocks and bonds, personal services, or real estate. Among its many provisions, Article II stipulates that a sales agreement can be enforced even though it does not specify the selling price or the time or place of delivery. It also requires that a buyer pay a reasonable price for goods at the time of delivery if the buyer and seller have not reached an agreement on price. Specifically, Article II addresses the rights of buyers and sellers, transfers of ownership, warranties, and the legal placement of risk during manufacture and delivery.

Article II also deals with express and implied warranties. An **express warranty** stipulates the specific terms the seller will honor. Many automobile manufacturers, for example, provide three-year or 36,000-mile warranties on their vehicles, during which period they will fix any and all defects specified in the warranty. An **implied warranty** is imposed on the producer or seller by law, although it may not be a written document provided at the time of sale. Under Article II, a consumer may assume that the product for sale has a clear title (in other words, that it is not stolen) and that the product will serve the purpose for which it was made and sold as well as function as advertised.

The Law of Torts and Fraud

A **tort** is a private or civil wrong other than a breach of contract. For example, a tort can result if the driver of a Domino's Pizza delivery car loses control of the vehicle and damages property or injures a person. In the case of the delivery car accident, the injured persons might sue the driver and the owner of the company—Domino's in this case—for damages resulting from the accident.

Fraud is a purposefully unlawful act to deceive or manipulate in order to damage others. Thus, in some cases, fraud may also represent a violation of criminal law. Health care fraud has become a major issue in the courts.

An important aspect of tort law involves **product liability**—businesses' legal responsibility for any negligence in the design, production, sale, and consumption of products. Product liability laws have evolved from both common and statutory law. Some states have expanded the concept of product liability to include injuries by products whether or not the producer is proven negligent. Under this strict product liability, a consumer who files suit because of an injury has to prove only that the product was defective, that the defect caused the injury, and that the defect made the product unreasonably dangerous. For example, a carving knife is expected to be sharp and is not considered defective if you cut your finger using it. But an electric knife could be considered defective and unreasonably dangerous if it continued to operate after being switched off.

Reforming tort law, particularly in regard to product liability, has become a hot political issue as businesses look for relief from huge judgments in lawsuits. Although many lawsuits are warranted—few would disagree that a wrong has occurred when a patient dies because of negligence during a medical procedure or when a child is seriously injured by a defective toy and that the families deserve some compensation—many suits are not. Because of multimillion-dollar judgments, companies are trying to minimize their liability, and sometimes they pass on the costs of the damage awards to their customers in the form of higher prices. Some states have passed laws limiting damage awards and some tort reform is occurring at the federal level. Table A.2 lists the state courts systems the U.S. Chamber of Commerce's Institute for Legal Reform has identified as being "friendliest" and "least friendly" to business in terms of juries' fairness, judges' competence and impartiality, and other factors.

The Law of Contracts

Virtually every business transaction is carried out by means of a **contract**, a mutual agreement between two or more parties that can be enforced in a court if one party chooses not to comply with the terms of the contract. If you rent an apartment or house, for example, your lease is a contract. If you have borrowed money under a student loan program, you have a

product liability businesses' legal responsibility for any negligence in the design, production, sale, and consumption of products.

contract a mutual agreement between two or more parties that can be enforced in a court if one party chooses not to comply with the terms of the contract.

breach of contract the failure or refusal of a party to a contract to live up to his or her promises.

agency a common business relationship created when one person acts on behalf of another and under that person's control.

principal the one in an agency relationship who wishes to have a specific task accomplished.

contractual agreement to repay the money. Many aspects of contract law are covered under the Uniform Commercial Code.

A "handshake deal" is, in most cases, as fully and completely binding as a written, signed contract agreement. Indeed, many oil-drilling and construction contractors have for years agreed to take on projects on the basis of such handshake deals. However, individual states require that some contracts be in writing to be enforceable. Most states require that at least some of the following contracts be in writing:

- Contracts involving the sale of land or an interest in land.
- Contracts to pay somebody else's debt.
- Contracts that cannot be fulfilled within one year.
- Contracts for the sale of goods that cost more than $500 (required by the Uniform Commercial Code).

TABLE A.2 State Court Systems' Reputations for Supporting Business

Most Friendly to Business	Least Friendly to Business
Delaware	Georgia
Maine	Alabama
Connecticut	New Jersey
Wyoming	Missouri
Alaska	West Virginia
North Dakota	Florida
Montana	Mississippi
Nebraska	California
Idaho	Louisiana
South Dakota	Illinois

Source: U.S. Chamber Institute for Legal Reform, "States," www.instituteforlegalreform.com/states (accessed May 21, 2020).

Only those contracts that meet certain requirements—called *elements*—are enforceable by the courts. A person or business seeking to enforce a contract must show that it contains the following elements: voluntary agreement, consideration, contractual capacity of the parties, and legality.

For any agreement to be considered a legal contract, all persons involved must agree to be bound by the terms of the contract. *Voluntary agreement* typically comes about when one party makes an offer and the other accepts. If both the offer and the acceptance are freely, voluntarily, and knowingly made, the acceptance forms the basis for the contract. If, however, either the offer or the acceptance is the result of fraud or force, the individual or organization subject to the fraud or force can void, or invalidate, the resulting agreement or receive compensation for damages.

The second requirement for enforcement of a contract is that it must be supported by *consideration*—that is, money or something of value must be given in return for fulfilling a contract. As a general rule, a person cannot be forced to abide by the terms of a promise unless that person receives a consideration. The "something of value" could be money, goods, services, or even a promise to do or not to do something.

Contractual capacity is the legal ability to enter into a contract. As a general rule, a court cannot enforce a contract if either party to the agreement lacks contractual capacity. A person's contractual capacity may be limited or nonexistent if he or she is a minor (under the age of 18), mentally unstable, intellectually disabled, insane, or intoxicated.

Legality is the state or condition of being lawful. For an otherwise binding contract to be enforceable, both the purpose of and the consideration for the contract must be legal. A contract in which a bank loans money at a rate of interest prohibited by law, a practice known as usury, would be an illegal contract, for example. The fact that one of the parties may commit an illegal act while performing a contract does not render the contract itself illegal, however.

Breach of contract is the failure or refusal of a party to a contract to live up to his or her promises. In the case of an apartment lease, failure to pay rent would be considered breach of contract. The breaching party—the one who fails to comply—may be liable for monetary damages that he or she causes the other person.

The Law of Agency

An **agency** is a common business relationship created when one person acts on behalf of another and under that person's control. Two parties are involved in an agency relationship: The **principal** is the one who wishes to have a specific task accomplished; the **agent** is the one who acts on behalf of the principal to accomplish the task. Authors, movie stars, and athletes often employ agents to help them obtain the best contract terms.

agent the one in an agency relationship who acts on behalf of the principal to accomplish the task.

real property consists of real estate and everything permanently attached to it.

personal property all other property that is not real property.

intellectual property refers to property, such as musical works, artwork, books, and computer software, that is generated by a person's creative activities.

An agency relationship is created by the mutual agreement of the principal and the agent. It is usually not necessary that such an agreement be in writing, although putting it in writing is certainly advisable. An agency relationship continues as long as both the principal and the agent so desire. It can be terminated by mutual agreement, by fulfillment of the purpose of the agency, by the refusal of either party to continue in the relationship, or by the death of either the principal or the agent. In most cases, a principal grants authority to the agent through a formal *power of attorney*, which is a legal document authorizing a person to act as someone else's agent. The power of attorney can be used for any agency relationship, and its use is not limited to lawyers. For instance, in real estate transactions, often a lawyer or real estate agent is given power of attorney with the authority to purchase real estate for the buyer. Accounting firms often give employees agency relationships in making financial transactions.

> "COPYRIGHTS, PATENTS, AND TRADEMARKS PROVIDE PROTECTION TO THE OWNERS OF PROPERTY BY GIVING THEM THE EXCLUSIVE RIGHT TO USE IT."

Both officers and directors of corporations are fiduciaries, or people of trust, who use due care and loyalty as an agent in making decisions on behalf of the organization. This relationship creates a duty of care, also called duty of diligence, to make informed decisions. These agents of the corporation are not held responsible for negative outcomes if they are informed and diligent in their decisions. The duty of loyalty means that all decisions should be in the interests of the corporation and its stakeholders. After Wells Fargo was found to be engaging in widespread misconduct, a new board chair and several new board members were brought in to improve risk management and oversight.[1]

The Law of Property

Property law is extremely broad in scope because it covers the ownership and transfer of all kinds of real, personal, and intellectual property. **Real property** consists of real estate and everything permanently attached to it; **personal property** basically is everything else. Personal property can be further subdivided into tangible and intangible property. *Tangible property* refers to items that have a physical existence, such as automobiles, business inventory, and clothing. *Intangible property* consists of rights and duties; its existence may be represented by a document or by some other tangible item. For example, accounts receivable, stock in a corporation, goodwill, and trademarks are all examples of intangible personal property. **Intellectual property** refers to property, such as musical works, artwork, books, and computer software, that is generated by a person's creative activities.

Copyrights, patents, and trademarks provide protection to the owners of property by giving them the exclusive right to use it. *Copyrights* protect the ownership rights on material (often intellectual property) such as books, music, videos, photos, and computer software. The creators of such works, or their heirs, generally have exclusive rights to the published or unpublished works for the creator's lifetime, plus 50 years. *Patents* give inventors exclusive rights to their invention for 20 years. The most intense competition for patents is in the pharmaceutical industry. Most patents take a minimum of 18 months to secure.

A *trademark* is a brand (name, mark, or symbol) that is registered with the U.S. Patent and Trademark Office and is thus legally protected from use by any other firm. Among the symbols that have been so protected are McDonald's golden arches. It is estimated that large multinational firms may have as many as 15,000 conflicts related to trademarks. Companies are diligent about protecting their trademarks both to avoid confusion in consumers' minds and because a term that becomes part of

Christian Louboutin has received intellectual property protection for its signature red sole shoes. This type of protection is known as trade dress.

denisfilm/123RF

David's Bridal filed for Chapter 11 bankruptcy protection to reduce its $500 million in debt.

1000Photography/Shutterstock

everyday language can no longer be trademarked. The names *aspirin* and *nylon*, for example, were once the exclusive property of their creators but became so widely used as product names (rather than brand names) that now anyone can use them. A related term is *trade dress*, which refers to the visual appearance of a product or its packaging. Coca-Cola's contoured bottle and Hershey's 12 rectangular panels for its chocolate bars are examples of visual characteristics protected as intellectual property. In order for these visual characteristics to receive protection, consumers must strongly associate the shape or design with the product itself.[2]

As the trend toward globalization of trade continues, and more and more businesses trade across national boundaries, protecting property rights, particularly intellectual property such as computer software, has become an increasing challenge. While a company may be able to register a trademark, a brand name, or a symbol in its home country, it may not be able to secure that protection abroad. Some countries have copyright and patent laws that are less strict than those of the United States; some countries will not enforce U.S. laws. China, for example, has often been criticized for permitting U.S. goods to be counterfeited there. Pacific Mall in Markham in Ontario, Canada, has been labeled as one of several notorious markets selling counterfeit products at the same level as the Silk Market in Beijing and open air markets in Mexico City.[3] Such counterfeiting harms not only the sales of U.S. companies, but also their reputations if the knockoffs are of poor quality. Thus, businesses engaging in foreign trade may have to take extra steps to protect their property because local laws may be insufficient to protect them.

The Law of Bankruptcy

Although few businesses and individuals intentionally fail to repay (or default on) their debts, sometimes they cannot fulfill their financial obligations. Individuals may charge goods and services beyond their ability to pay for them. Businesses may take on too much debt in order to finance growth, or business events such as an increase in the cost of commodities can bankrupt a company. An option of last resort in these cases is bankruptcy, or legal insolvency. Some well-known companies that have declared bankruptcy include Hostess, American Apparel, and RadioShack.

Individuals or companies may ask a bankruptcy court to declare them unable to pay their debts and thus release them from the obligation of repaying those debts. The debtor's assets may then be sold to pay off as much of the debt as possible. In the case

OUT OF TUNE: GIBSON FILES FOR BANKRUPTCY

Gibson Brands Inc., the Nashville-based guitar company known for Gibson and Epiphone guitars, filed for bankruptcy in May 2018. As guitar sales began to slip, Gibson's former CEO negotiated to buy an audio and home entertainment company and a Japanese consumer electronics company in an effort to diversify Gibson into a "music lifestyle" company. However, the $135 million investment stretched the company too far, and it faced $500 million in debt before it went bankrupt.

Gibson filed for Chapter 11 bankruptcy protection. Under Chapter 11, the debtor proposes a plan to reorganize the company so it can keep the business running and pay creditors back over time. The reorganization included the liquidation of its consumer electronics businesses; an agreement with the creditors to hand the company over to funds managed by KKR and Co.; and the selection of a new CEO, James Curleigh. The company hopes these moves will allow it to rebound.

Gibson is trying to get back to the basics. A U.S. bankruptcy court in the state of Delaware signed off on Gibson's reorganization plan, signaling the end of its bankruptcy status after five months. Under the new plan, the company will continue to produce its famous Gibson and Epiphone guitars along with maintaining its professional audio business. In 2020, Gibson announced plans to expand its guitar selection and focus on its newly-launched nonprofit, Gibson Foundation. The company has a long way to go to restore its former glory.[a]

Critical Thinking Questions

1. Why did Gibson declare Chapter 11 bankruptcy instead of Chapter 7 or Chapter 13?
2. How will the lawsuit likely impact Gibson in its current state?
3. What do you think will happen to Gibson if its attempts at reorganization are unsuccessful?

TABLE A.3 Types of Bankruptcy

Chapter 7	Requires that the business be dissolved and its assets liquidated, or sold, to pay off the debts. Individuals declaring Chapter 7 retain a limited amount of exempt assets, the amount of which may be determined by state or federal law, at the debtor's option. Although the type and value of exempt assets vary from state to state, most states' laws allow a bankrupt individual to keep an automobile, some household goods, clothing, furnishings, and at least some of the value of the debtor's residence. All nonexempt assets must be sold to pay debts.
Chapter 11	Temporarily frees a business from its financial obligations while it reorganizes and works out a payment plan with its creditors. The indebted company continues to operate its business during bankruptcy proceedings. Often, the business sells off assets and less-profitable subsidiaries to raise cash to pay off its immediate obligations.
Chapter 13	Similar to Chapter 11 but limited to individuals. This proceeding allows an individual to establish a three- to five-year plan for repaying his or her debt. Under this plan, an individual ultimately may repay as little as 10 percent of his or her debt.

Sherman Antitrust Act passed in 1890 to prevent businesses from restraining trade and monopolizing markets.

Clayton Act prohibits price discrimination, tying and exclusive agreements, and the acquisition of stock in another corporation where the effect may be to substantially lessen competition or tend to create a monopoly.

of a personal bankruptcy, although the individual is released from repaying debts and can start over with a clean slate, obtaining credit after bankruptcy proceedings is very difficult. However, a restrictive allows fewer consumers to use bankruptcy to eliminate their debts. The law makes it harder for consumers to prove that they should be allowed to clear their debts for what is called a "fresh start" or Chapter 7 bankruptcy. Although the person or company in debt usually initiates bankruptcy proceedings, creditors may also initiate them. The subprime mortgage crisis caused a string of bankruptcies among individuals, and Chapter 7 and Chapter 11 bankruptcies among banks and other businesses as well. Table A.3 describes the various levels of bankruptcy protection a business or individual may seek.

LAWS AFFECTING BUSINESS PRACTICES

One of the government's many roles is to act as a watchdog to ensure that businesses behave in accordance with the wishes of society. Congress has enacted a number of laws that affect business practices; some of the most important of these are summarized in Table A.4. Many state legislatures have enacted similar laws governing business within specific states.

The **Sherman Antitrust Act**, passed in 1890 to prevent businesses from restraining trade and monopolizing markets, condemns "every contract, combination, or conspiracy in restraint of trade." For example, a request that a competitor agree to fix prices or divide markets would, if accepted, result in a violation of the Sherman Antitrust Act. The FTC challenged the proposed merger between Staples and Office Depot because it believed the merger could significantly reduce the competition in the "consumable" office supply market.[4] The Sherman Antitrust Act, still highly relevant 100 years after its passage, is being copied throughout the world as the basis for regulating fair competition.

Because the provisions of the Sherman Antitrust Act are rather vague, courts have not always interpreted it as its creators intended. The Clayton Act was passed in 1914 to limit specific activities that can reduce competition. The **Clayton Act** prohibits price discrimination, tying and exclusive agreements, and the acquisition of stock in another corporation where the effect may be to substantially lessen competition or tend to create a monopoly. In addition, the Clayton Act prohibits members of one company's board of directors from holding seats on the boards of competing corporations. The act also exempts farm cooperatives and labor organizations from antitrust laws.

In spite of these laws regulating business practices, there are still many questions about the regulation of business. For instance, it is difficult to determine what constitutes an acceptable degree of competition and whether a monopoly is harmful to a particular market. Many mergers were permitted that resulted in less competition in the banking, publishing, and automobile industries. In some industries, such as utilities, it is not cost effective to have too many competitors. For this reason, the government permits utility monopolies, although recently, the telephone, electricity, and communications industries have been deregulated. Furthermore, the antitrust laws are often rather vague and require interpretation, which may vary from judge to judge and court to court. Thus, what one judge defines as a monopoly or trust today may be permitted by another judge a few years from now. Businesspeople need to understand what the law says on these issues and try to conduct their affairs within the bounds of these laws.

THE INTERNET: LEGAL AND REGULATORY ISSUES

Our use and dependence on the Internet is increasingly creating a potential legal problem for businesses. With this growing use come questions of maintaining an acceptable level of privacy for consumers and proper competitive use of the medium. Some might consider that tracking individuals who visit or "hit" their website by attaching a "cookie" (identifying you as a website visitor for potential recontact and tracking your movement

TABLE A.4 Major Federal Laws Affecting Business Practices

Act (Date Enacted)	Purpose
Sherman Antitrust Act (1890)	Prohibits contracts, combinations, or conspiracies to restrain trade; establishes as a misdemeanor monopolizing or attempting to monopolize.
Clayton Act (1914)	Prohibits specific practices such as price discrimination, exclusive dealer arrangements, and stock acquisitions in which the effect may notably lessen competition or tend to create a monopoly.
Federal Trade Commission Act (1914)	Created the Federal Trade Commission; also gives the FTC investigatory powers to be used in preventing unfair methods of competition.
Robinson-Patman Act (1936)	Prohibits price discrimination that lessens competition among wholesalers or retailers; prohibits producers from giving disproportionate services of facilities to large buyers.
Wheeler-Lea Act (1938)	Prohibits unfair and deceptive acts and practices regardless of whether competition is injured; places advertising of foods and drugs under the jurisdiction of the FTC.
Lanham Act (1946)	Provides protections and regulation of brand names, brand marks, trade names, and trademarks.
Celler-Kefauver Act (1950)	Prohibits any corporation engaged in commerce from acquiring the whole or any part of the stock or other share of the capital assets of another corporation when the effect substantially lessens competition or tends to create a monopoly.
Fair Packaging and Labeling Act (1966)	Makes illegal the unfair or deceptive packaging or labeling of consumer products.
Magnuson-Moss Warranty (FTC) Act (1975)	Provides for minimum disclosure standards for written consumer product warranties; defines minimum consent standards for written warranties; allows the FTC to prescribe interpretive rules in policy statements regarding unfair or deceptive practices.
Consumer Goods Pricing Act (1975)	Prohibits the use of price maintenance agreements among manufacturers and resellers in interstate commerce.
Antitrust Improvements Act (1976)	Requires large corporations to inform federal regulators of prospective mergers or acquisitions so that they can be studied for any possible violations of the law.
Trademark Counterfeiting Act (1980)	Provides civil and criminal penalties against those who deal in counterfeit consumer goods or any counterfeit goods that can threaten health or safety.
Trademark Law Revision Act (1988)	Amends the Lanham Act to allow brands not yet introduced to be protected through registration with the Patent and Trademark Office.
Nutrition Labeling and Education Act (1990)	Prohibits exaggerated health claims and requires all processed foods to contain labels with nutritional information.
Telephone Consumer Protection Act (1991)	Establishes procedures to avoid unwanted telephone solicitations; prohibits marketers from using automated telephone dialing system or an artificial or prerecorded voice to certain telephone lines.
Federal Trademark Dilution Act (1995)	Provides trademark owners the right to protect trademarks and requires relinquishment of names that match or parallel existing trademarks.
Digital Millennium Copyright Act (1998)	Refined copyright laws to protect digital versions of copyrighted materials, including music and movies.
Children's Online Privacy Protection Act (2000)	Regulates the collection of personally identifiable information (name, address, e-mail address, hobbies, interests, or information collected through cookies) online from children under age 13.
Sarbanes-Oxley Act (2002)	Made securities fraud a criminal offense; stiffened penalties for corporate fraud; created an accounting oversight board; instituted numerous other provisions designed to increase corporate transparency and compliance.
Do Not Call Implementation Act (2003)	Directs FCC and FTC to coordinate so their rules are consistent regarding telemarketing call practices, including the Do Not Call Registry.
Dodd-Frank Wall Street Reform and Consumer Protection Act (2010)	Increases accountability and transparency in the financial industry; protects consumers from deceptive financial practices; establishes the Consumer Financial Protection Bureau.

throughout the site) is an improper use of the Internet for business purposes. Others may find such practices acceptable and similar to the practices of non-Internet retailers who copy information from checks or ask customers for their name, address, or phone number before they will process a transaction. There are few specific laws that regulate business on the Internet, but the standards for acceptable behavior that are reflected in the basic laws and regulations designed for traditional businesses can be applied to business on the Internet as well. One law aimed specifically at advertising on the Internet is the CAN-SPAM Act. The law restricts unsolicited e-mail advertisements by requiring the consent of the recipient. Furthermore, the CAN-SPAM Act follows the "opt-out" model wherein recipients can elect not to receive further e-mails from a sender simply by clicking on a link.[5]

The central focus for future legislation of business conducted on the Internet is the protection of personal privacy. The present basis of personal privacy protection is the U.S. Constitution, various Supreme Court rulings, and laws such as the 1971 Fair Credit Reporting Act; the 1978 Right to Financial Privacy Act; and the 1974 Privacy Act, which deals with the release of government records. With few regulations on the use of information by businesses, companies legally buy and sell information on customers to gain competitive advantage. The United States currently has no federal data privacy law that is comprehensive compared to the EU's General Data Protection Regulation (GDPR). Following several high-profile privacy violation cases, however, there is growing interest at the federal level to enact more legislation. It is anticipated that many states will follow California by enacting privacy regulations in the next several years. Although the California Consumer Privacy Act (CCPA) was developed in 2018 and passed in 2019, changes to the regulation continued in 2020. The development and evolution of these regulations will continue to advance over the next few years.[6]

Internet use is different from traditional interaction with businesses in that it is readily accessible, and most online businesses are able to develop databases of information on customers. Congress has restricted the development of databases on children using the Internet. The Children's Online Privacy Protection Act (COPPA) of 2000 prohibits website and Internet providers from seeking personal information from children under age 13 without parental consent. Companies are still running afoul of COPPA. Google and YouTube paid a record $170 million settlement after the FTC said YouTube illegally collected personal information from children without parental consent in violation of COPPA. In addition to the financial penalty, YouTube reworked its content system to identify and appropriately handle child-directed content.[7]

The FTC rules for online advertising and marketing are the same as any form of communication or advertising. These rules help maintain the credibility of the Internet as an advertising medium. To avoid deception all online communication must tell the truth and cannot mislead consumers. In addition, all claims must be substantiated. Influencer marketing is relatively new compared with other forms of digital marketing, so it should be no surprise there have been road bumps for early adopters. Due to concerns about dishonest advertising, the FTC requires influencers to clearly disclose any connection they have with brands they promote. Neglecting to make a disclosure is viewed as deceptive advertising. Cases have been filed against Lord & Taylor, Warner Bros. Home Entertainment, Machinima, ADT, and more. According to the FTC, any level of compensation much be disclosed, whether a partnership is paid or an influencer strictly receives free product.[8]

LEGAL PRESSURE FOR RESPONSIBLE BUSINESS CONDUCT

To ensure greater compliance with society's desires, both federal and state governments are moving toward increased organizational accountability for misconduct. Before 1991, laws mainly punished those employees directly responsible for an offense. Under new guidelines established by the Federal Sentencing Guidelines for Organizations (FSGO), however, both the responsible employees and the firms that employ them are held accountable for violations of federal law. Thus, the government now places responsibility for controlling and preventing misconduct squarely on the shoulders of top management. The main objectives of the federal guidelines are to train employees, self-monitor and supervise employee conduct, deter unethical acts, and punish those organizational members who engage in illegal acts.

A 2010 amendment to the FSGO directs ethics officers to report directly to the board of directors rather than simply the general counsel or top officers. This places the responsibility on the shoulders of the firm's leadership, usually the board of directors. The board must ensure that there is a high-ranking manager accountable for the day-to-day operational oversight of the ethics program. The board must provide for adequate authority, resources, and access to the board or an appropriate subcommittee of the board. The board must ensure that there are confidential mechanisms available so that the organization's employees and agents may report or seek guidance about potential or actual misconduct without fear of retaliation.

> "Organizations cannot succeed solely through a legalistic approach to compliance with the sentencing guidelines; top management must cultivate high ethical standards that will serve as barriers to illegal conduct."

Sarbanes-Oxley Act a law that criminalized securities fraud and strengthened penalties for corporate fraud.

Finally, the board is required to oversee the discovery of risks and to design, implement, and modify approaches to deal with those risks.

If an organization's culture and policies reward or provide opportunities to engage in misconduct through lack of managerial concern or failure to comply with the seven minimum requirements of the FSGO (provided in Table A.5), then the organization may incur not only penalties but also the loss of customer trust, public confidence, and other intangible assets. For this reason, organizations cannot succeed solely through a legalistic approach to compliance with the sentencing guidelines; top management must cultivate high ethical standards that will serve as barriers to illegal conduct. The organization must want to be a good citizen and recognize the importance of compliance to successful workplace activities and relationships. In fact, the top concern of corporate lawyers is ethics and compliance. Implementing ethics and compliance ranks higher than any other concern, possibly due to the pressures placed on companies by the passage of Sarbanes-Oxley, the Dodd-Frank Act, and the Federal Sentencing Guidelines.[9]

The federal guidelines also require businesses to develop programs that can detect—and that will deter employees from engaging in—misconduct. To be considered effective, such compliance programs must include disclosure of any wrongdoing, cooperation with the government, and acceptance of responsibility for the misconduct. Codes of ethics, employee ethics training, hotlines (direct 800 phone numbers), compliance directors, newsletters, brochures, and other communication methods are typical components of a compliance program. The ethics component, discussed in the "Business Ethics and Social Responsibility" chapter, acts as a buffer, keeping firms away from the thin line that separates unethical and illegal conduct.

Despite the existing legislation, a number of ethics scandals in the early 2000s led Congress to pass–almost unanimously—the **Sarbanes-Oxley Act**, which criminalized securities fraud and strengthened penalties for corporate fraud. It also created an accounting oversight board that requires corporations to establish codes of ethics for financial reporting and to develop greater transparency in financial reports to investors and other interested parties. Additionally, the law requires top corporate executives to sign off on their firms' financial reports, and they risk fines and jail sentences if they misrepresent their companies' financial position. Table A.6 summarizes the major provisions of the Sarbanes-Oxley Act.

The Sarbanes-Oxley Act has created a number of concerns and is considered burdensome and expensive to corporations. Large corporations report spending more than $1.3 million each year to comply with the act, according to an annual survey by Proviti, a management consulting firm. The act has caused more than 500 public companies a year to report problems in their accounting systems. Additionally, Sarbanes-Oxley failed to prevent and detect the widespread misconduct of financial institutions that led to the financial crisis.

On the other hand, there are many benefits, including greater accountability of top managers and boards of directors, that improve investor confidence and protect employees, especially their retirement plans. It is believed that the law has more benefits than drawbacks—with the greatest benefit being that boards of directors and top managers are better informed. Some companies such as Cisco and Pitney Bowes report improved efficiency and cost savings from better financial information.

In spite of the benefits Sarbanes-Oxley offers, it did not prevent widespread corporate corruption from leading to the most recent recession. The resulting financial crisis prompted the Obama administration to create new regulation to reform Wall Street and the financial industry. In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act was passed. In addition to new regulations for financial institutions, the legislation created a Consumer Financial Protection Bureau (CFPB) to protect consumers from complex or deceptive financial products.

The Dodd-Frank Act contains 16 titles meant to increase consumer protection, enhance transparency and accountability in the financial sector, and create new financial agencies. In some ways, Dodd-Frank is attempting to improve upon provisions laid out in the Sarbanes-Oxley Act. For instance, Dodd-Frank takes whistleblower protection a step further by offering additional incentives to whistleblowers for reporting misconduct. If whistleblowers report misconduct that results in penalties of more than

TABLE A.5 Seven Steps to Compliance

1. Develop standards and procedures to reduce the propensity for criminal conduct.
2. Designate a high-level compliance manager or ethics officer to oversee the compliance program.
3. Avoid delegating authority to people known to have a propensity to engage in misconduct.
4. Communicate standards and procedures to employees, other agents, and independent contractors through training programs and publications.
5. Establish systems to monitor and audit misconduct and to allow employees and agents to report criminal activity.
6. Enforce standards and punishments consistently across all employees in the organization.
7. Respond immediately to misconduct and take reasonable steps to prevent further criminal conduct.

TABLE A.6 Major Provisions of the Sarbanes-Oxley Act

1. Requires the establishment of a Public Company Accounting Oversight Board in charge of regulations administered by the Securities and Exchange Commission.
2. Requires CEOs and CFOs to certify that their companies' financial statements are true and without misleading statements.
3. Requires that corporate boards of directors' audit committees consist of independent members who have no material interests in the company.
4. Prohibits corporations from making or offering loans to officers and board members.
5. Requires codes of ethics for senior financial officers; code must be registered with the SEC.
6. Prohibits accounting firms from providing both auditing and consulting services to the same client without the approval of the client firm's audit committee.
7. Requires company attorneys to report wrongdoing to top managers and, if necessary, to the board of directors; if managers and directors fail to respond to reports of wrongdoing, the attorney should stop representing the company.
8. Mandates "whistleblower protection" for persons who disclose wrongdoing to authorities.
9. Requires financial securities analysts to certify that their recommendations are based on objective reports.
10. Requires mutual fund managers to disclose how they vote shareholder proxies, giving investors information about how their shares influence decisions.
11. Establishes a 10-year penalty for mail/wire fraud.
12. Prohibits the two senior auditors from working on a corporation's account for more than five years; other auditors are prohibited from working on an account for more than seven years. In other words, accounting firms must rotate individual auditors from one account to another from time to time.

Source: Pub. L. 107-204,116 Stat. 745 (2002).

$1 million, the whistleblower will be entitled to a percentage of the settlement.[10] Additionally, complex financial instruments must now be made more transparent so that consumers will have a better understanding of what these instruments involve.

The act also created three new agencies: The Consumer Financial Protection Bureau (CFPB), the Office of Financial Research, and the Financial Stability Oversight Council. While the CFPB was created to protect consumers, the other two agencies work to maintain stability in the financial industry so such a crisis will not recur in the future.[11] Although it is too early to tell whether these regulations will serve to create wide-scale positive financial reform, the Dodd-Frank Act is certainly leading to major changes on Wall Street and in the financial sector.

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