

SEC Approves FINRA Rule Clarifying Arbitration Procedure

On January 7, 2010, the Securities and Exchange Commission ("Commission") approved an amendment filed by the Financial Industry Regulatory Authority ("FINRA") to clarify filing date discrepancies which exist with respect to arbitration claims filed in FINRA's arbitration forum. This amendment modifies Rule 12307 of the Code of Arbitration for Customer Disputes and Rule 13307 of the Code of Arbitration for Industry Disputes (the "Codes").

When initiating an arbitration claim in FINRA's arbitration forum, the initiating party must file, among other things, a signed and dated submission agreement, pay all required filing fees and provide a statement of claim explaining the facts and highlighting the remedies requested. In the event the initiating party does not strictly adhere to these, and other, requirements for filing a claim set forth in the Codes, the party's claims are considered deficient. Under the current Codes, it is clear that such party has 30 days to correct a deficient filing before the Director closes the case without serving the claim, but the Codes are silent on whether the date of filing of the arbitration claim is the original date of filing or the date the deficiency is corrected.

Accordingly, the Codes have been amended to provide that in the event a deficiency is discovered in the original filing of an arbitration claim filed with FINRA, and such deficiency is corrected within 30 days of the original filing, the date of filing of the arbitration claim shall be the original file date.

If you have any questions regarding the amendments, please contact John Henry at jhenry@millermartin.com, Clint Cromwell at ccromwell@millermartin.com or any other member of Miller & Martin's Securities Practice Group.

The opinions expressed in this bulletin are intended for general guidance only. They are not intended as recommendations for specific situations. As always, readers should consult a qualified attorney for specific legal guidance. Should you need assistance from a Miller & Martin attorney, please call 1-800-275-7303.

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