



SECURITIES INDUSTRY PRACTICE

# ALERT

## NEW FINRA RULE: CUSTOMERS MAY NOW OPT FOR THREE NON-INDUSTRY PANELISTS IN FINRA ARBITRATIONS

On January 31, 2011, the Securities and Exchange Commission (SEC) approved a public arbitrator program that applies immediately to all FINRA customer-based arbitrations.

Under the new amendments to the FINRA Rule 12000 Series, a customer in any new arbitration may unilaterally choose to have all arbitrators (either a single arbitrator or an entire three-arbitrator panel, which number depends on whether the customer claim exceeds \$25,000 or \$100,000) be “public” (i.e., non-securities industry-related). These changes make permanent a pilot program that had been in place for 14 (out of approximately 5,000) FINRA member firms since October 2008.

Until now, the FINRA Rule 12000 Series provided that only two of the three panelists in a customer-based FINRA arbitration be “public”

arbitrators. After analyzing the results of its two-year pilot program, FINRA believes offering customers an opportunity to choose all three panelists to be “public” makes the FINRA arbitration process appear more “fair” to aggrieved brokerage customers.

These changes do not affect any customer arbitrations in which the panel has already been convened (including any instances in which a “non-public” arbitrator is on the panel).

Also, these changes do not affect the FINRA 13000 Rule Series, which deals with industry-versus-industry arbitrations.

More details can be found in the [SEC Release 34-63799](#) as well as on [FINRA's web site](#). A FINRA Regulatory Notice on this issue has not yet been published.

At Fox Rothschild, we remain ready to assist you in assessing the impact of FINRA's new rule on your business. If you have any questions regarding the information in this alert, please contact:

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