

Cohen, Wolf buy
UI building for
new law offices



Cohen and Wolf, P.C.
 cordially invites you to celebrate
 the opening of its new office
 in the former United Illuminating Building
 115 Broad Street, Bridgeport, Connecticut
 Thursday, November 17, 1983 4:30 to 7:30 PM

Securities Law Update

05.05.2020

By Richard Slavin and Sara Bonaiuto

Broker-Customer arbitrations likely to increase

The Dow Jones Industrial Average fell approximately 11,000 points in February and March before recovering about half of that loss by the last week in April despite real volatility. The novel Coronavirus has taken its toll on almost every aspect of society including stock prices. Is that the end of the story for investors? Is there nothing to do about those losses? Is the virus an absolute “Act of God” defense to a complaint by a customer?

Even though the market suffered these declines, investors are still entitled to appropriate representation by their registered representatives. Was your account in suitable securities based on your experience, your risk tolerance, your net worth, and your age? Was it diversified? Are you a senior citizen invested in variable annuities or energy securities? If your account did begin to suffer losses, did your broker take appropriate actions to protect your investments?

When the markets fall customers often look to their financial advisors, but losses alone don't give a customer recourse against his or her financial advisors. The careful stockbroker or investment adviser has detailed records, notes of conversations and meetings, and adheres to written procedures and regulatory standards which are designed to protect customers and clients from unscrupulous operators. That being said, brokers owe duties to their customers. They must know your level of sophistication as an investor and your investment goals, and they must make suitable investment recommendations. Even COVID-19 will not provide a defense to the broker who violates these duties.

In most instances customers are required to arbitrate any dispute they have with their stockbroker rather than filing suit in court. Most customer agreements require arbitration before Financial Industry Regulatory Authority (“FINRA”) arbitrators. FINRA operates a forum to resolve disputes between broker-

dealers and their customers. Even if a customer wants to go to court to resolve a dispute, the customer will likely be prevented by the arbitration clause in his or her agreement with the broker-dealer.

Arbitrations which do not settle generally take about nine months to one year; however, over eighty percent do settle. Both sides in arbitration can get documents and information from their opponents and each side must provide the other and the arbitrators with their written versions of the facts underlying the dispute.

FINRA postpones hearings scheduled on or before July 3, 2020

FINRA recently announced that it was postponing hearings due to the Coronavirus until after July 3, 2020. FINRA will be communicating with the parties to schedule hearings. This announcement was not unexpected as it superseded an earlier notice postponing hearings. If the parties agree, they may hold virtual hearings on Zoom.

FINRA emphasized that all deadlines will remain in effect and that it will waive postponement fees when parties stipulate to adjourn hearing dates scheduled between July 6, 2020 through September 4, 2020.

The SEC maintains the June 30, 2020 deadline for the filing of Form CRS

Every registered investment adviser and broker-dealer who provides services to a retail investor must file a new Form CRS and every applicant for registration must file this form as a part of its registration application. A retail investor is *“a natural person, or the legal representative of a natural person, who seeks to receive or receives services primarily for personal, family or household purposes.”*

The form must include responses to questions provided by the SEC which involve a description of the services provided, fees, conflicts, standards of conduct, disciplinary history and other basic information. It also requires “conversation starters” which are questions included to prompt the retail investor to ask for necessary information.

The purpose of Form CRS is to help investors determine whether to (1) establish an investment advisory account or a brokerage relationship, (2) choose a particular firm or financial professional, or (3) terminate or change a relationship or specific service.

Investment advisers must file Form CRS on IARD and broker-dealers must file the form on Web CRD. Form information must also be posted on a firm’s website. The SEC has maintained the June 30, 2020 filing deadline for Form CRS.

Cohen and Wolf's Securities Practice Group

Cohen and Wolf's Securities Practice Group represents clients in securities litigation matters in federal and state courts, in FINRA arbitrations, and in regulatory hearings and investigations before federal, state, and regulatory agencies. It also represents issuers of securities, broker-dealers, investment advisers, and fund managers in offerings of securities and compliance requirements. The Group also represents registered persons in employment and expungement matters.

For more information about any of the items discussed above or about any securities matters you make speak to any of the members of the Securities Practice Group.

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