

New FINRA Arbitrator Rules Take Effect July 1

by Bettina Eckerle

FINRA's new rules for arbitrators will take effect on July 1, 2013.

The amendments change the definition of "public arbitrator" to exclude persons associated with a mutual fund or hedge fund from serving in the role. The new rules also require individuals to wait for two years after ending certain affiliations before FINRA may permit them to serve as public arbitrators.

FINRA classifies arbitrators under the Customer and Industry Codes of Arbitration Procedure as either "non-public" or "public." Non-public arbitrators are affiliated with the securities industry either through their current or former employment in a securities business, or because they provide professional services to securities businesses. Meanwhile, public arbitrators do not have any significant affiliation with the securities industry.

FINRA's existing rules already excluded advisers and certain attorneys, accountants or other professionals who derive substantial revenue from financial industry entities. The goal of the most recent changes is to improve investor perception about the neutrality of the arbitrators on the public roster.

While the SEC recently approved the rules, some question whether excluding those most familiar with the industry makes sense. While arbitrators' decisions must be objective, they must also be educated.

As highlighted by Jon Henschen, president of Henschen & Associates, a broker-dealer recruiting firm, "having people with no understanding of our industry making judgments can only further the injustices toward our industry, such as frivolous claims that at one time would have been denied but now have traction."

As always, if you have questions or comments, please call, [e-mail](#) or tweet me [@NYBusinessLaws](#).

Eckerle Law offers legal advice in a variety of transactional and regulatory matters and serves companies' plenary business law needs. Its founder, Bettina Eckerle, is a veteran of Debevoise & Plimpton and Wachtell, Lipton, Rosen & Katz. She also served as the General Counsel of two companies en route to IPO. Please visit the [Eckerle Law website](#) for more details.