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Additionally, SEC Rule 12 provides for arbitration of “any dispute, claim or controversy between parties ... arising in connection with the securities business of such parties.” Since then, most new account agreements include an arbitration clause that refers the matter to arbitration.

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Arbitrators and mediators trained by FINRA are often not legal professionals, and the mission of FINRA is not necessarily to protect the investor.

## **FINRA, Securities**



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In fact, arbitration for civil actions involving securities has dramatically increased over the last few decades. One of the benefits of arbitrating these cases is that the decision makers already are familiar with securities issues, meaning you can resolve these disputes faster than going

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disputes and individuals involved in family law disputes. For over twenty years, Mark has represented investors in arbitrations before the National Association of Securities Dealers (NASD) and the New York Stock Exchange (NYSE).

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sion, numerous lower courts. 7 . have extended the Wilko doctrine to bar arbitration of rule 10b-5 claims under section 10(b) of the



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Securities Exchange Act of 1934 (1934 Act or Exchange Act), holding that public policy concerns and legislative history compel

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Shortly after the Court's decision, which validated the use of arbitration to resolve customer-broker

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disputes arising out of the Securities Exchange Act of 1934, the American Arbitration Association promulgated Securities Arbitration Rules.

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Most securities industry lawsuits are arbitrated and mediated by FINRA, or the Financial Industry

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Regulatory Authority, the largest independent securities regulator of all securities firms in the US. By arbitrating your claim, you forego the right to take the same claim to court, and decisions rendered by the arbitrator in a FINRA dispute.

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As most arbitral rules are written on a bi-partisan basis (i.e. claimant versus respondent), arbitration does not at first sight readily lend itself to disputes arising from such multi-party, multi-contract disputes, particularly where each transaction document might have its own arbitration agreement.

### **Arbitrating M&A**

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arbitrator for the NASD  
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experience in litigating  
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we have represented individual and business investors victimized by securities fraud and manipulation.

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Forcing investors to pursue binding arbitration, individually or on behalf of a class, ignores Congress' intent in enacting the Private Securities Litigation Reform Act,



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Disputes  
which has governed  
federal...

## **The Problems With Mandatory Arbitration Of Securities ...**

By arbitrating a claim  
you cannot have the  
same matter decided  
by a court of law. In  
resolving disputes  
through arbitration, a  
FINRA arbitrator or  
panel (consisting of  
three arbitrators) will  
listen to the arguments

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set forth by the parties, study the testimonial and/or documentary evidence, and then render a decision.

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Alternative Dispute Resolution allows the parties to explore options other than traditional judicial intervention to handle global commercial and

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