

3rd Circ. Deepens Uncertainty Over FINRA Arbitration - *Law360*

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Customers who hire broker-dealers have a right to arbitrate disputes with them under the rules of the Financial Industry Regulatory Authority, a nonprofit authorized by federal law to oversee the broker-dealer industry. It is a trend, however, for brokerage firms to insert forum-selection clauses in customer agreements that require all disputes arising out of the brokerage relationship to be litigated in court. When the customers demand arbitration, the question arises — what controls, the FINRA rules or the customer agreements? Answering this question requires courts to consider the interplay of federal arbitration law, federal securities law and state contract law.

In *Reading Health System v. Bear Stearns & Co.*, the U.S. Court of Appeals for the Third Circuit held that the right to arbitrate in the FINRA rules trumps a forum-selection clause in a customer agreement. The Third Circuit disagreed with prior decisions of the U.S. Court of Appeals for the Second and Ninth Circuits and agreed with the U.S. Court of Appeals for the Fourth Circuit. The Third Circuit's decision thus adds to an already existing circuit split on the relationship between FINRA rules and customer agreements.

Read the full story here.