
September 23, 2025

SEC Statement Permitting Mandatory Arbitration of Securities Law Claims

On Wednesday, September 17, 2025, the SEC adopted a [Policy Statement](#) that the Federal securities laws do not bar charter and bylaw provisions that would impose mandatory arbitration on investor claims against issuers. As a result, SEC staff will no longer consider these provisions in determining whether to accelerate the effectiveness of a registration statement, and instead will focus on the adequacy of the registration statement's disclosures, including disclosure regarding the arbitration provision.

Whether such provisions may be included in a company's organizational documents does remain a question of state corporate law. In that regard, we note that Delaware recently enacted an amendment to the Delaware General Corporation Law that is intended to bar mandatory arbitration of Federal securities law claims for Delaware corporations.

In her [dissenting remarks](#), Commissioner Crenshaw expressed concerns about the impact on investors, who would be foreclosed from securities litigation class action lawsuits by such mandatory arbitration provisions.

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This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

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