

SECURITIES LAW ALERT

JANUARY 2011

New Jersey Legislature Considering Amendments To Consumer Fraud Act Which Would Confirm That The Statute Does Not Apply To Securities Transactions

Legislation has been recently introduced in the New Jersey State Legislature which would amend the private right of action contained in the New Jersey Consumer Fraud Act ("CFA"), N.J.S.A. 56:8-19 (2011) in a number of respects. *See* A. 3333 (Oct. 7, 2010). One of the proposed amendments would confirm that the CFA does not apply to securities transactions. In this regard, the proposed legislation provides, in relevant part:

2. The provisions of P.L. 1960, c. 39 (C.56:8-1 et seq.) [the CFA] shall:

...

(b) not apply to actions or transactions otherwise permitted or regulated by the Federal Trade Commission or any other regulatory body or officer acting under statutory authority of this State or the United States.

As transactions "regulated by ... [a] regulatory body ... acting under statutory authority of ... the United States" (*i.e.*, the Securities and Exchange Commission), securities transactions would clearly fall within the scope of this provision and would therefore be excluded from the ambit of the CFA. This amendment would thus effectively ratify the case law which has consistently held that the CFA does not apply to securities transactions. *See Lee v. First Union National Bank*, 199 N.J. 251, 260-61 (2009); *Stella v. Dean Witter Reynolds, Inc.*, 241 N.J. Super. 55, 75 (App. Div.), *certif. denied*, 122 N.J. 418 (1990).

No action has yet been taken by either house of the New Jersey legislature with regard to A. 3333.

For more information about any of the topics covered in this issue of the Securities Law Alert, please contact:

David J. Libowsky, Esq.
dlibowsky@bressler.com
973.660-4423

The information contained in this Client Alert is for general informational purposes only and is neither presented or intended to constitute legal advice or a legal opinion as to any particular matter. The reader should not act on the basis of any information contained herein without consulting first with his or her legal or other professional advisor with respect to the advisability of any specific course of action and the applicable law.

The views presented herein reflect the views of the individual author(s). They do not necessarily reflect the views of Bressler, Amery & Ross, P.C. or any of its other attorneys or clients.