

UNDERSTANDING THE AUCTION RATE SECURITIES COLLAPSE AND YOUR INVESTOR RIGHTS

Auction-rate securities are debt securities, designed to be redeemable at face value in periodic auctions; the interest rate on such securities is determined by each successive auction. In February 2008, in the aftermath of the subprime mortgage crisis, the auction market collapsed when certain major brokerage firms withdrew their substantial participation in the auction market. The collapse of the auction market diminished the value of the auction-rate securities, by rendering such auction-rate securities illiquid.

In August 2008, the U.S. Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), and certain state securities regulators, including New Jersey, arrived at settlements with certain major auction-rate securities issuers, including Citigroup, J.P. Morgan, Morgan Stanley, UBS, and Wachovia. These settlements provide, among other things, for civil monetary penalties (payable to regulators), buybacks of auction-rate securities from investors at face value, and a specialized arbitration process.

Some customers may believe that they have incurred consequential damages as a result of their purchase and ownership of the auction-rate securities. The settlements also provide for a "special arbitration procedure" which may be used by customers attempting to recover those consequential damages. State securities regulators, through the North American Securities Administrators Association (NASAA) and FINRA have each developed a specialized arbitration process allowing investors to opt for arbitration to handle these claims. The specialized arbitration process for both the states and FINRA bars issuers of auction-rate securities from denying that certain representations about the securities were misleading.

The state and FINRA specialized arbitration procedures (SAP), while generally similar, do maintain certain substantive differences. For instance, the state SAP call for a single public arbitrator who is not employed by the securities industry and allow for claimants to seek attorneys' fees in connection with their claims. The FINRA SAP provide for a single public arbitrator for consequential damages claims below \$1,000,000. Consequential damages claims of \$1,000,000 or more shall be decided by a panel of three public arbitrators. Additionally, the FINRA SAP limit recovery to consequential damages only. Further details regarding the specialized arbitration procedures may be obtained at:

[http://www.nasaa.org/Issues Answers/Auction Rate Securities](http://www.nasaa.org/Issues_Answers/Auction_Rate_Securities) (NASAA)
<http://www.finra.org> (FINRA)

The average time period of processing a general-purpose arbitration case is sixteen months. The time period of processing an auction-rate securities arbitration case cannot be determined at this time.

The New Jersey Bureau of Securities does not operate an arbitration system, decide investors' arbitration claims, or offer an opinion on the merits of such claims. The Bureau does provide information about auction-rate securities and other investor protection matters, and does follow up on investor complaints, including auction-rate securities. Also, the Bureau can check the registration and notice filing status of both firm and individual securities industry participants.

The Bureau's telephone number is (973) 504-3600. The Bureau's toll-free telephone number is (866) I-INVEST ((866) 446-8738).