

# Advisers' arbitration rights reaffirmed in comp spat with Credit Suisse

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Weeks after FINRA put firms on notice that brokers always have the right to take disputes to the regulator's arbitration forums, Credit Suisse has reaffirmed that right in a letter to ex-advisers of the firm who claim they are owed millions in back pay.

The move is likely to hearten brokers burned by Credit Suisse's previous insistence that any disputes be resolved in its private arbitration forums, which critics charged as being unfairly tilted in the Swiss firm's favor.

"It's a huge change of course and extremely beneficial," says Ross Intelisano, an attorney representing more than a dozen ex-Credit Suisse brokers and a partner at New York law firm Rich, Intelisano & Katz.

A Credit Suisse spokeswoman declined to comment.

## Quote

FINRA wrote in July that its "rules do not permit member firms to require associated persons to waive their right to arbitration under FINRA's rules in a predispute agreement."



*(Bloomberg News)*

The dispute stems from Credit Suisse's decision to exit the U.S. wealth management business. Last year, the company signed an exclusive recruiting arrangement with Wells Fargo. But more than half of the firm's roughly 250 brokers opted to join rivals such as UBS and J.P. Morgan Securities.

Those brokers charge that Credit Suisse is wrongfully withholding deferred compensation that is due to them; the firm has said that the advisers forfeited the pay by quitting to join competitors.

Credit Suisse had insisted that any disputes be resolved in a private arbitration forum paid for by the firm. Advisers' attorneys questioned the fairness of the arbitrators in the company's dispute resolution program who came from a private company, JAMS, hired by Credit Suisse. The impartiality of the arbitrators was called into question since one of the two parties paid their salary.

"For me, my biggest issue was the transparency," says Intelisano, adding that one of the advantages of FINRA's process is that both parties can see how arbitrators ruled in prior cases.

Earlier this year, a group of attorneys asked FINRA to weigh in on the matter. The regulator issued a regulatory notice in July that, while not naming Credit Suisse, reaffirmed advisers' right to have their disputes heard in FINRA arbitration forums.

The regulator wrote that "FINRA rules do not permit member firms to require associated persons to waive their right to arbitration under FINRA's rules in a predispute agreement."

In Credit Suisse's recent letter, the bank notified advisers that: "You are entitled to arbitrate your ongoing and future disputes with Credit Suisse Securities (USA) LLC in the Financial Industry Regulatory Authority ("FINRA") arbitration forum as specified in FINRA rules," the firm wrote in the letter, which was seen by *On Wall Street*.

Brian Neville, an attorney at New York law firm Lax & Neville and who represents roughly 30 ex-Credit Suisse advisers, says the firm's decision was inevitable.

"I think Credit Suisse has recognized that they have no choice. They can't fight FINRA on this, and they will have to allow people to go to FINRA arbitration," Neville says.

Neville says he will likely soon file claims on behalf of his clients in FINRA arbitration.

The cases could take a year or more to be resolved. For advisers who left Credit Suisse in November and December 2015, that means that they might not see what they claim is their final pay until 2017 at the earliest.

Neville declined to specify how much his clients believe they are owed in deferred compensation, except to say, "It's a tremendous amount of money."

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