

## Corporate & Financial Weekly Digest

November 4, 2011 by [Daren R. Domina](#)

### **SEC Approves Amendments to FINRA Rule 9251 to Explicitly Protect from Discovery Documents That Federal Law Prohibits FINRA from Disclosing**

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The Financial Industry Regulatory Authority has issued Regulatory Notice 11-50 regarding amendments to FINRA Rule 9251 (the Rule). The Rule describes the types of documents that FINRA's Enforcement and Market Regulation Departments must produce to respondents during the discovery phase of a FINRA proceeding. The Rule explicitly protects certain types of documents from production (e.g., documents protected by attorney-client privilege or attorney work-product). As a result of the approved amendments, the Rule also protects documents that federal law prohibits FINRA from disclosing. The Rule removes FINRA's previous requirement to seek a good cause determination from a hearing officer to allow FINRA to withhold such documents. The Rule also prohibits a hearing officer from ordering Enforcement or Market Regulation to either produce or reveal information about the existence of a document to a respondent if federal law prohibits such disclosure. The amendment, however, contains a procedural safeguard allowing a hearing officer to review a document to determine whether federal law prohibits its disclosure by Enforcement or Market Regulation.

Click [here](#) to read Regulatory Notice 11-50.

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