



## Brian L. Friedman

Member of the Firm

### **New York**

875 Third Avenue  
New York, New York 10022  
Tel: 212-351-4940  
Fax: 212-878-8600

[bfriedman@ebglaw.com](mailto:bfriedman@ebglaw.com)

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**BRIAN L. FRIEDMAN** is a Member of the Firm in the Litigation & Business Disputes practice, in the New York office of Epstein Becker Green. He has experience representing clients in a variety of industries, including financial services and securities, real estate and construction, retail goods and services, insurance, and health care. A substantial portion of his practice is devoted to representing banks, broker-dealers, futures commission merchants, swap dealers, and other leading financial institutions in litigation and regulatory matters.

Mr. Friedman:

- Represents clients in a variety of complex disputes involving financial services, contracts, business torts, fiduciary duty, insurance, bankruptcy, real estate, and construction, in state and federal courts and in arbitrations and mediations before FINRA, JAMS, AAA, and ICC
- Represents clients in investigations and enforcement proceedings by federal and state agencies, including the Securities and Exchange Commission, FINRA, the Commodity Futures Trading Commission, the National Futures Association, securities and commodities exchanges, state securities regulators, and the New York State Office of the Attorney General
- Represents clients in labor- and employment-related arbitrations and litigations
- Conducts internal investigations
- Advises on regulatory and compliance issues

Mr. Friedman regularly appears in federal and state courts and before arbitrators and administrative agencies. He has handled jury trials, arbitrations, mediations, TRO hearings, and preliminary injunction hearings covering a broad range of complex legal and factual issues.

In addition, Mr. Friedman has handled, on a pro bono basis, juvenile criminal appeals and divorce proceedings as well as matters involving special education in prison.

Before joining Epstein Becker Green, Mr. Friedman was a Senior Counsel at an international firm, where he was also a member of the firm's Financial Services Practice Group and Securities Litigation Practice Group.

Active in his community, Mr. Friedman currently serves as a Trustee on the Board of Education for the Irvington (NY) Union Free School District.

## **Education**

- New York University School of Law (J.D., 1999)
  - Criminal Appellate Advocacy Clinic
- Duke University (A.B., cum laude, 1996)

## **Bar Admissions**

- New York

## **Practice Areas**

- Banking Litigation
- Bankruptcy and Corporate Reorganization
- Business Litigation
- Construction and Real Estate Litigation
- Corporate and Securities Litigation
- Government Investigations/Civil & Criminal
- Insurance Coverage and Reinsurance Disputes
- Labor & Employment Litigation

## **Industries**

- Financial Services
- Retail
- Technology, Media & Telecommunications

## **Court Admissions**

- U.S. District Court, Eastern District of New York
- U.S. District Court, Southern District of New York

## **Memberships**

- New York City Bar

## Representative Matters

### Financial Services Litigation

Mr. Friedman represented:

- One of the largest prime brokers in several industry-wide federal and state lawsuits regarding alleged naked short sales
- A leading futures commission merchant (FCM) in a New York State court litigation brought by a customer alleging that the FCM misrepresented the appropriateness of an investment
- A major clearing broker in several federal lawsuits alleging violations of federal and state securities laws related to short sales of convertible securities
- A plaintiff hedge fund in a case in Delaware Chancery Court of breach of contract and breach of fiduciary duty against an company in which the hedge fund made an investment
- Two plaintiffs—a trustee for a securitized pool of student loans and a mono-line insurer—in a matter in federal court seeking to enforce credit risk insurance policies issued by another issuer
- A plaintiff trustee for commercial mortgage-backed securities in an action in the Southern District of New York against the originator for breach of contract over refusal to repurchase a loan

### FINRA and Other Arbitrations

Mr. Friedman provided representation to:

- A broker-dealer in a 92-day FINRA customer arbitration related to the sale of a complex derivative product
- A broker-dealer in multiple FINRA customer arbitrations related to the sale of variable annuities; after achieving a favorable result in a 13-day FINRA arbitration, the remaining cases were settled
- A large broker-dealer in several FINRA arbitrations regarding alleged sales practice violations, including suitability, unauthorized trading and churning, and failure to supervise
- A midsize broker-dealer in a FINRA arbitration brought by a hedge fund concerning losses from a leveraged options trading strategy
- A clearing broker in several FINRA arbitrations brought by customers of its introducing brokers
- Clearing brokers in arbitrations with former introducing firms related to the deconversion of the introducing firm
- An FCM in a National Futures Association (NFA) customer arbitration regarding alleged breach of contract, fraud, unauthorized trading, and failure to supervise

## **Employment Matters**

Mr. Friedman represented:

- A midsize investment bank in a FINRA arbitration hearing with a former employee regarding an alleged guaranteed bonus
- A large broker-dealer in a FINRA arbitration with a former employee concerning incentive compensation
- A primary dealer in a FINRA arbitration with an employee who was terminated for cause

## **Bankruptcy Matters**

Mr. Friedman provided representation to:

- A broker-dealer in connection with the bankruptcy of a repurchase agreement counterparty and the resulting investigation by the bankruptcy trustee
- A broker-dealer in connection with disputed funds arising out of the bankruptcy of a New York-based financial services company
- An FCM in connection with a significant margin call for a bankrupt foreign client
- The bankruptcy trustee of a major hospital chain in actions against various insurance companies related to their attempt to rescind D&O policies

## **Significant General Commercial Litigation Matters**

Mr. Friedman represented:

- A Japanese trading house, as claimant, in an American Arbitration Association (AAA) arbitration involving the breach of supply contracts for wood chips
- A luxury watch distribution business in multiple international arbitration hearings with the manufacturer over its termination of the distribution agreement
- A leading media company in a trial in New York Supreme Court against a construction manager, an architect, and others related to construction defects at a large facility
- A major worldwide telecommunications company in a dispute with an acquired company related to an alleged breach of representations and warranties in a merger agreement
- Franchisees in several disputes with their franchisor in AAA arbitrations

## **Regulatory Matters and Internal Investigations**

Mr. Friedman provided representation to:

- A major retail and institutional broker-dealer in an investigation by FINRA and the Securities and Exchange Commission (SEC) of email retention practices

- A retail broker-dealer in an investigation by FINRA of email retention practices
- A major broker-dealer in an investigation by the SEC of an alternative trading system
- A major broker-dealer in an investigation by FINRA of an alternative trading system
- A major broker-dealer in an investigation by FINRA of compliance with rules regarding the sale of municipal securities
- A mid-size broker-dealer in an investigation by FINRA of compliance with Regulation SHO and policies and procedures regarding electronic market access
- A leading national bank in an investigation by the Commodity Futures Trading Commission (CFTC) of segregated accounts
- A major FCM in an investigation by the CFTC of large trader reporting
- An FCM in an investigation by the CFTC of swaps trading practices
- A swap dealer in an investigation by the CFTC and the NFA of trade reporting
- A swap dealer in an investigation by the CFTC and the NFA of record retention
- A leading FCM in an investigation by the CFTC of commodity index activities
- An individual executive in connection with an NFA regulatory proceeding and her withdrawal of registration
- Firms and individuals in several investigations by exchanges for alleged rule violations
- Broker-dealers and FCMs in several internal investigations related to allegations of potential regulatory violations and/or violations of company policy

## News & Publications

February 5, 2021

**FINRA Issues 2021 Report on Examination and Risk Monitoring Program**

*Commercial Litigation Update Blog*

December 23, 2020

**Leadership Q&A with William O. Stein: An Account of a Jury Trial During COVID-19**

*Commercial Litigation Update Blog*

December 22, 2020

**Missouri Court Denies Business Interruption Claim and Questions Prior Decisions**

*Commercial Litigation Update Blog*

September 8, 2020

**Missouri Court Rules in Favor of Business Owners in COVID-19 Coverage Lawsuit**

*Workforce Bulletin Blog*

August 24, 2020

**D.C. Judge Rules COVID-19 Closure Orders Do Not Constitute “Direct Physical Loss”**

*Workforce Bulletin Blog*

April 21, 2020

**SEC and FINRA Provide Guidance on Regulation Best Interest**

*Workforce Bulletin Blog*

October 4, 2019

**Federal Court’s Approval of Settlement in Litigation Over Expenses Charged to Brokers Offers Guidance on Settlement of Parallel Class Actions**

*Financial Services Employment Law Blog*

January 23, 2018

**Brian Friedman Featured in "Epstein Becker Adds Financial Services, Arbitration Atty"**

*Law360*

## Events

**Missouri Court Rules in Favor of Business Owners in COVID-19 Coverage Lawsuit: Recent Developments on Business Interruption Claims Stemming from COVID-19**

October 7, 2020 at 1:00pm – 2:00pm

Webinar (ET)

**Financial Services Part IV: Internal and External Investigations in the Highly Regulated Financial Services Industry**

July 18, 2019

Webinar (ET)

**The SEC 2016 Examination Priorities: Exploring Recent Trends and Developments**

June 22, 2016

The Knowledge Group: Webinar