NEWS
Michael J. Connolly, Massachusetts Secretary of State

CONNOLLY FILES "FIRST IN THE NATION" SECURITIES REGULATIONS

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Secretary of State Michael J. Connolly today announced the filing of major precedent setting securities regulations, the first in the nation to protect investors against being tricked or coerced into signing a mandatory arbitration agreement as a basis for doing business with the broker.

The regulations, which go into effect January 1, 1989, will require that brokers provide Massachusetts investors with a choice in the signing of arbitration clauses when they enter into a customer agreement. Specifically, the new regulations mandate that the broker negotiate to do business, even if the customer chooses not to sign the arbitration agreement. In addition, the regulations require that the broker disclose the legal implication of the arbitration clause so that the customers signing the agreement understand that they are giving up their right to have their claim heard in court.

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Connolly, the state's chief securities regulator, said, "I am taking this step to protect small investors who have been forced, by the vastly superior economic power of their brokers, to accept an arbitration clause or forfeit the opportunity to invest. The customer should always be given the choice in signing such an agreement. These regulations not only provide investors with that choice but they also go a step further by opening up the dispute resolution process. Investor confidence in a fair and open system is vital to a healthy investment economy. I am proud to be the first in the nation taking steps towards restoring this confidence."

In July, Connolly's Securities Division held a public hearing to gather input on the proposed regulations. Testimony at the hearing revealed that the use of securities arbitration has increased dramatically, due in part to the October stock market crash, and to a recent Supreme Court decision. Figures released by the National Association of Securities Dealers showed 82% more arbitration cases in 1987 than in 1986. So far in 1988, filings for NASD arbitration were up another 45%.

"Every major brokerage house selling to individual investors requires a mandatory arbitration agreement in a significant number of their accounts," Connolly continued. "This trend towards mandatory arbitration has accelerated rapidly. Small investors, like their institutional counterparts, will now stand a fighting chance in choosing whether or not they want to enter into this type of agreement."