

## Jeffrey Steinfeld Discusses SEC's Approval of Mandatory Arbitration Provisions with *Agenda*

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Winston & Strawn partner Jeffrey Steinfeld spoke with *Agenda* to share his insights on the Securities and Exchange Commission's policy shift permitting mandatory arbitration provisions.

He stated that there are multiple factors boards should consider before deciding to adopt a mandatory arbitration clause for investors' claims. He explained that arbitration can benefit companies by keeping securities fraud claims out of public courts and may also exclude class actions, potentially reducing the number of claims filed. Adopting a clause that excludes class actions may also have a downside in an event that causes many investors to have the same issue, leading to "hundreds or thousands of individual arbitration claims," he said.

He highlighted the importance of board diligence and exploring the inclusion of procedural protections available under federal law, such as dispositive motions, in an arbitration provision. "Having well drafted and potentially detailed arbitration provisions would be very important," Jeffrey said.

These considerations will only come into play once a company knows if the state where it is incorporated permits mandatory arbitration, such as Nevada or Texas.

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