
Supreme Court Declines to Review Alpine Securities Challenge: FINRA Enforcement Actions Now Subject to SEC Review

On June 2, 2025, the U.S. Financial Industry Regulatory Authority (FINRA) filed [proposed rule changes](#) with the Securities and Exchange Commission (SEC) to allow firms facing certain enforcement sanctions to have additional time to seek a review of their case by the SEC.

This proposal follows a Supreme Court [decision](#) issued on the same day declining to hear an appeal by Alpine Securities Corp., which had challenged the constitutional authority of FINRA following FINRA's move to expel the firm for alleged violations, including improper fee practices. *See Alpine Securities Corporation v. Financial Industry Regulatory Authority*, 121 F.4th 1314 (D.C. Cir. 2024), *cert. denied*, 2025 WL 1549780 (U.S. June 2, 2025) (No. 24-904). Alpine's central argument was that FINRA, as a private self-regulatory organization (SRO), exercises regulatory powers that should be reserved for a government agency, specifically the SEC. Alpine asserted that this delegation of authority violated the nondelegation doctrine, which restricts Congress from transferring its legislative powers to private entities. *See* Petition for Writ of Certiorari, *Alpine*, 2025 WL 1549780, at *1-2 (No. 24-904).

The dispute progressed through the federal courts, raising the possibility of significant changes to the structure of securities regulation. The U.S. Court of Appeals for the District of Columbia Circuit addressed Alpine's challenge in 2024 and held that, while FINRA may initiate enforcement proceedings, it cannot expel a member firm until the SEC has reviewed the action. 121 F.4th at 1337. The appellate court did not resolve Alpine's broader constitutional claims regarding the nondelegation doctrine, instead focusing on the procedural requirement for SEC oversight before a member's expulsion becomes effective. *Id.* at 1319, 1326.

Alpine petitioned the Supreme Court to review the case, seeking a definitive ruling on the constitutional questions surrounding FINRA's authority. The Supreme Court denied the petition for *certiorari*, leaving the underlying constitutional questions unresolved and the D.C. Circuit's decision in effect. Under the D.C. Circuit's decision, the current procedural framework for FINRA will continue. FINRA retains its enforcement authority, but expulsions and similar sanctions are subject to SEC review before they are finalized.

In response to the outcome, FINRA has proposed rule changes for immediate effectiveness to codify the requirement that expulsions, membership cancellations, and denials of continued membership are subject to SEC review before taking effect. These proposed changes are intended to make FINRA's procedures comply with the D.C. Circuit's ruling and to reinforce the oversight role of the SEC in member expulsions.

The immediate impact of these changes is that FINRA's enforcement process must now include an additional layer of review by the SEC before the most severe disciplinary actions become effective. Firms should ensure they are familiar with the new rules and remain attentive to further developments in this area, as the constitutional questions raised by Alpine about the authority of SROs may be raised by another firm in the future.

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If you have any questions about the issues addressed in this alert, or if you would like a copy of any of the materials mentioned in it, please do not hesitate to call or email authors Frank Weigand (partner) at 212.701.3890 or fweigand@cahill.com or Kathleen Tierney (associate) at 212.701.3880 or ktierney@cahill.com.

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