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Legal Update:

New York Reinstates Six-Year Statute of Limitations Under Martin Act

September 5, 2019

New York Governor Andrew Cuomo signed [Senate Bill S6536](#) into law on August 26, 2019, which immediately reinstates a six-year statute of limitations for claims brought under the Martin Act.

The law adds a new subsection 9 to Section 213 of the state's civil practice law to allow for actions brought by the New York Attorney General under the Martin Act or Section 63(12) of the Executive Law (a statute that the Attorney General often relies upon in parallel with Martin Act claims to bring a claim against any person or entity that engages in repeated or persistent fraudulent or illegal acts in the transaction of business) to commence within six years of an alleged violation.

This new law reverses a 2018 ruling by the New York Court of Appeals, the state's highest court, in [People v. Credit Suisse Securities USA LLC et al.](#), which held that a three-year, rather than six-year, statute of limitations governs claims brought under the Martin Act.

The Martin Act, passed in 1921, is considered one of the New York Attorney General's most powerful law enforcement tools in conducting investigations of fraudulent practices in the marketing of stocks, bonds and other securities, and bringing civil or criminal actions against alleged violators. The Martin Act was used sparingly until the early 2000s, when then-Attorney General Elliot Spitzer began employing it vigorously to bring civil actions against Wall Street firms, an approach that has been followed by his successors. It was used by the state to recover more than one billion dollars from securities fraud cases in connection with the 2008 financial crisis.

Notwithstanding the broad scope of authority granted to the Attorney General, there is no provision in the Martin Act stating the applicable statute of limitations. This issue was first considered in the Credit Suisse case.

The New York Court of Appeals' ruling last year had a significant impact and placed a stricter time constraint on the Attorney General's ability to conduct investigations and bring charges under the Martin Act, as cases involving financial fraud or other fraudulent or illegal conduct often involve extensive and time-consuming investigations. The new law lifts that stricter time limit.

It is, however, unclear whether the reinstatement of the six-year statute of limitations will allow the Attorney General to bring actions against alleged fraudulent conduct within six years that were barred by the previous three-year statute of limitations. We will continue to follow developments in this area.



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