

Delaware Supreme Court Finds Federal Forum Selection Provisions are Facially Valid

Alert

03.21.2020

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The Delaware Supreme Court held federal-forum provisions (FFP) in charters of Delaware corporations are facially valid in *Salzberg et al v. Sciabacucchi*. The FFPs at issue generally provided that the federal district courts of the United States of America shall be the exclusive forum for the resolution of any complaint arising under the Securities Act of 1933. The Court of Chancery held that the FFPs at issue were invalid because the “constitutive documents of a Delaware corporation cannot bind a plaintiff to a particular forum when the claim does not involve rights or relationships that were established by or under Delaware’s corporate law.”

The Delaware Supreme Court noted Section 102(b)(1) of the Delaware General Corporation Law authorizes two broad types of provisions:

- Any provision for the management of the business and for the conduct of the affairs of the corporation
- Any provision creating, defining, limiting and regulating the powers of the corporation, the directors and the stockholders, or any class of the stockholders...if such provisions are not contrary to the laws of this state

Therefore, the court found an FFP could easily fall within either of these broad categories, and thus, is facially valid.

Read an expanded analysis of the court’s decision on [Stinson’s Corporate and Securities Law blog](#).

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