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Arbitrator Out of Work? Call Finra

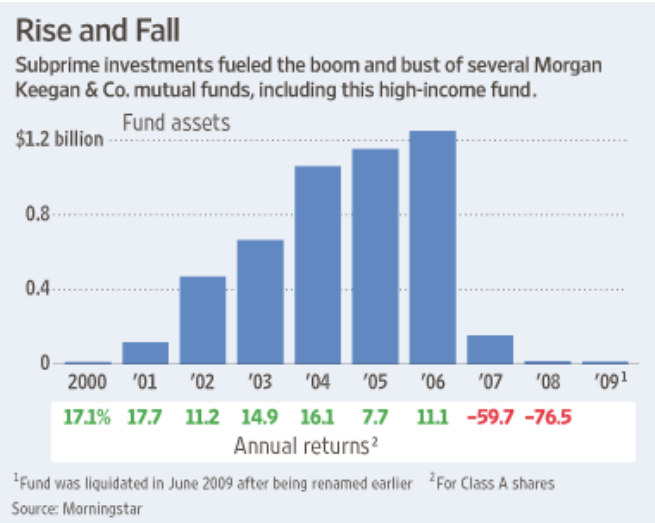
By RANDALL SMITH

Wall Street needs an army of arbitrators to clean up the mess left by the headline-grabbing collapse of three mutual funds stuffed with collateralized debt obligations and other subprime-related securities.

About 400 complaints have been filed against the Morgan Keegan & Co. investment-banking unit of [Regions Financial Corp.](#) by customers claiming they were burned by the funds, which plunged in value by as much as 82% after the housing meltdown hit.

So many investors have filed arbitration claims that the industry-funded machine for handling such disputes is overloaded. To decide all the disputes, the Financial Industry Regulatory Authority has been forced to call in hundreds of extra arbitrators.

"



We've never done this on this kind of scale," said Linda Fienberg, Finra's president of dispute resolution.

Finra recently cast a dragnet for arbitrators as far away as Chicago, New York and Florida, imploring them to come to Atlanta, Birmingham, Ala., New Orleans, Orlando, Fla., and four other cities where arbitration hearings on the mutual funds are clustered.

As a result, Finra boosted the size of the pool of available arbitrators in each city to an average of 721 from the previous 87. And it looks like the securities industry overseer will need every body it can get.

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According to Regions, based in Birmingham, just 79 arbitration cases have been heard so far, with 39 of them dismissed. Out of the \$35 million sought by investors in the mutual funds, arbitrators have awarded \$7.6 million. The company said an additional 114 claims seeking \$24 million were dropped before any decision was reached.

At the end of 2005, the five-year average annual gain by one of those funds beat all U.S. high-yield funds and the Dow Jones Industrial Average. But the funds were hammered by their investments in mortgage-backed securities, including low-quality mortgages, and complex securities like CDOs. Collateralized debt obligations are pools of bonds tied to mortgages.

Morgan Keegan has said investors were told bluntly in required disclosures that the funds were risky and could lose some or all of their value. And it says the extra arbitrators will help prevent arbitrators from hearing multiple similar cases, reducing the risk they might be influenced by the facts from a previous hearing.

The firm is fighting hard against the complaints, trying to remove arbitrators who ruled against the firm in previous hearings, challenging awards in court and bringing in costly experts to testify in cases involving relatively small losses, according to lawyers for some investors.

"They've been fighting these hammer and tongs," says Brian Smiley, an Atlanta lawyer who has represented more than 100 investors trying to recover more than \$50 million from Morgan Keegan.

Under the agreements signed by most brokerage customers, disputes must be decided by one or three arbitrators. Three-member panels include one arbitrator with ties to the securities industry.

In a dispute over \$125,095 in losses, the securities firm called as a witness Sharon Brown-Hruska, a former acting chairman of the Commodity Futures Trading Commission. Regions also pressed the arbitration panel to award the company more than

\$200,000 if it won.

"They were trying to scare these people into just dropping their claims," said Peter Mougey, a lawyer in Pensacola, Fla., who represented the investors, [Robert](#) and Helen Perkins and [Billy](#) and Sharon Powell, who live near Birmingham.

A spokesman for Ms. Brown-Hruska's firm declined to comment.

In October, the investors were awarded the full amount of their losses and nearly \$97,000 in legal fees and other expenses, Mr. Mougey said. A Regions spokeswoman said it is only fair for the firm to try to recover its costs, since investors may be awarded compensation for their own costs if they win.

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Companies within this Article

Regions Financial Corp.(RF)	6.35	-0.03	2/12
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