

ADMINISTRATIVE PROCEEDING
FILE NO. 3-13611

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
October 26, 2009

In the Matter of :
: ORDER POSTPONING HEARING
NEW YORK BROKER :
: DEUTSCHLAND AG :
: :
:

The Securities and Exchange Commission (Commission) issued its Order Instituting Proceedings (OIP) on September 3, 2009. There is no evidence that the Commission has yet delivered the OIP to Respondent in a manner that complies with Rule 141 of the Commission's Rules of Practice.

The Division of Enforcement (Division) has filed a status report, stating that the Commission's Office of International Affairs is attempting to deliver the OIP to Respondent in Germany pursuant to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters. The Division represents that evidence of international service on Respondent has not yet been received.

When the Commission adopted its current Rules of Practice in 1995, it stated in its discussion of Rule 141:

The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents does not apply to the service of Commission orders.

Rules of Practice, 60 Fed.Reg. 32,738, 32,750 (June 23, 1995) (final rules).

The Division will be required to file a supplemental status report, explaining why, in light of the Commission's unambiguous statement in 1995, it has elected to follow the Hague Convention procedures in this administrative proceeding; whether it has done so consistently in previous administrative proceedings; and whether it intends to do so consistently in future administrative proceedings when Respondents are located abroad.

IT IS ORDERED THAT the Division shall file its supplemental statement on or before October 30, 2009; and

IT IS FURTHER ORDERED that the hearing in this matter is postponed until November 4, 2009, at the time and place previously announced.

James T. Kelly
Administrative Law Judge