

# Professional Insights

*Opinions from Business Leaders We Know and Respect*

## Interview with Brian F. Amery



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### **Brian F. Amery**

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### What was the catalyst for you to pursue law as a career?

I didn't have a parent, relative or family friend who had been a lawyer. In 9th grade, I was given an assignment to create a career notebook based on a profession or occupation that you might have an interest in. For some unknown reason, I chose law. Part of this school project involved spending a day at a law firm and interviewing lawyers, which gave me a better understanding of the legal profession. That's how I got started on my career path.

### How did your firm's expertise in financial services come about?

Similar to my career path, it was not a straight line to where the firm has ended up. For background, I've always had an interest in business. At Ohio University, where I received both my undergraduate and MBA degrees, I focused on finance. At that point in my life, I wasn't totally sure about law, but decided to attend Georgetown Law School. When I got my law degree in 1974, in the midst of a mild recession, there were not a lot of law firm positions, so I took a job in Merrill Lynch's litigation department. That's where my background in the securities industry and litigation began.

After Merrill Lynch, I worked for two large law firms – first in New York City and then New Jersey – with significant securities industry practice groups. Then in 1983, I joined my current firm, which at the time had a practice

that represented a few small broker-dealers. (In those days, there actually were small broker-dealers.) Over the past 35 years, the firm has developed a substantial financial services practice.

### Can Wall Street ever shake its negative reputation?

Unfortunately, Wall Street often ends up as a punching bag for the media and politicians, and gets blamed for what's wrong in the world. To make matters worse, the Street has not been effective at telling its story, and has failed to focus attention on the positive role it plays for the nation in helping to raise capital for businesses, in creating jobs, and enabling people to achieve their financial goals. I wish there were a simple solution for this, but it's unlikely to ever change. The media needs negative news to sell newspapers, and politicians need a scapegoat for failed government policies; so Wall Street will continue to be an easy target.

### As the number of public companies declines, will Wall Street lose its capital markets franchise?

First of all, the definition of “Wall Street” needs to be revised, because it's no longer limited to broker-dealers and securities exchanges. Wall Street now encompasses hedge funds, private equity and venture capital firms. Over the past decade, and perhaps in response

to concerns about over-regulation, the financial services industry has been seeking ways to do business more profitably, and with greater flexibility in the capital raising process. Hedge funds and private equity firms, which are far less regulated, have addressed that need, and have also begun to take on a role as lenders; because they don't have the capital requirements that restrict the lending capacity of traditional banks. We're also seeing a redefinition of the broker-dealer segment, as the cost of compliance is squeezing small broker-dealers out of business.

## Do arbitration and litigation require different skills?

Arbitration and litigation could not be more different. In litigation, everything is well-scripted. Notably, the discovery process is a lot more robust, and includes depositions...so before a case goes to trial, both sides know all the issues and facts, and the process mostly involves presentation of that information to the court or jury. In arbitration, however, the discovery process is very limited. Documents are exchanged, but there are no depositions, so you never know what's going to come out of a witness's mouth at a hearing. As a result, arbitration requires a very different skill set. You need to think on your feet a lot more quickly. You also need the ability to weigh the pros and cons of every question that you ask, in real time, as you are examining witnesses. Many attorneys who've earned reputations as great litigators have tried their hand at arbitration and not done well in that venue.

## What impact will the growth of RIA firms have on the financial services industry?

Successful brokers view themselves as independent businessmen. Their client relationships are very personal. Given all the regulation and process, and the sharing of the commissions with the firm, some of these financial advisors believe they can have a greater control over their lives, less aggravation, and make more money as RIAs. This trend is likely to continue for some time, not only for big producers, but also with less successful brokers, because of the relatively higher payouts on RIA platforms.

The RIA trend, however, is unlikely to have a significant impact on wirehouse firms, because institutional clients are often reluctant to move to RIA firms, and because they have a lot to offer brokers, in terms of brand recognition, job security and operational support. Also, many brokers are not entrepreneurial, and don't want the management responsibilities or risks involved in running their own business.

## Will relaxation of regulations lead to securities industry abuse?

The government is not changing industry regulations on a wholesale basis, or eliminating safeguards. There are some regulatory changes in the works, but those won't change the industry to the extent that we could replicate what occurred in '08 and '09. The Lehman bankruptcy taught us how interconnected all financial firms are,

and how reliant on debt that many other businesses are. It's important to remember that a lot of TARP and other bailout program money went to car companies, McDonalds, and other very large, non-financial businesses that depend on short-term financing to continue in business.

I've been in this business a long time, and believe that the single worst thing that ever happened to the securities industry was when the government abolished Glass Steagall, which had separated banks and broker-dealers. That decision exposed the balance sheets of banks to the inherent risks of broker-dealers, which was one of the major contributors to the financial crisis. If Glass Steagall were reinstated, it would certainly help mitigate any future financial crisis.

## The upcoming generation of attorneys is under scrutiny, in terms of their qualifications. Has this affected how your firm recruits new talent?

You don't need to be a genius to be a good lawyer. If you're willing to work very hard and remain intellectually curious, then you can be a fine lawyer who produces great work for your clients. Of late, however, we've seen that the "working hard" requirement doesn't come so easily for some members of younger generations. We've had our share of people who want to know what the firm can do for them, rather than what they can do to help the firm and its clients. But those people can go work some other place. They are not going to work here.

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We're dedicated to offering all of our staff members a very nice, collegial working environment. We have fantastic clients, we practice a high level of law, and we all work hard. Our turnover is not high because we treat people well. It's a great place to work.

## What's behind your firm's decision to develop professional depth in issues related to financial abuse of seniors and vulnerable adults?

The Boomer generation possesses most of the nation's wealth, and as those individuals move into their senior years, there will continue to be more opportunities for abuse. We've focused on this market need for quite some time, and we expect our practice to grow. The financial abuse of elders is very disappointing, and much of it involves family members, caregivers and even acquaintances. Some elder abuse is downright theft, some of it is more subtle and tougher to detect and resolve, and some of it involves clients who are mentally slipping.

On the positive side, broker-dealers are doing a very good job of trying to educate brokers on signs to look for, and they're also working to obtain contact information of the next generation whom they might speak to if an issue arises with an elderly client. Without this authorization, there are tight restrictions on the ability to discuss a customer's account with a relative. This is a challenging issue for firms, but they do care about it, are working on it, and are making progress. It's an example of good work that Wall Street does, but does not receive public recognition for.

## Given your firm's experience with PROMESA issues, do you have a near- and long-term outlook for Puerto Rico's debt crisis?

There are a lot of constituencies in the Puerto Rico situation; they have different viewpoints, and we think they will work through all the issues. It's a great island with great people, and this has been a very unfortunate set of circumstances for them. There have been

recent tentative resolutions that have caused bond prices for those particular issuers to increase fairly substantially, and the hope is that they will work out deals with all the issuers. Some people are going to take haircuts, but overall it's unlikely to be as bad as people think, and the island will be able to move forward. We believe that, with the exception of any related litigation, everything will be resolved for bond holders and issuers within the next 3 years.

## Any insights into the personal side of Brian Amery?

I have 3 children who are in their 30s, and in terms of their career paths, the apples have not fallen too far from the financial services tree: one is a compliance lawyer for a hedge fund, one is an equity derivatives trader, and one works for American Express. I also have 4 grandchildren, so I spend a lot of time with them. We are a big sports family, which means I'm always either playing golf, or tennis, or am skiing during the winter.

## Brian F. Amery Biography

BRIAN F. AMERY is a Partner at Bressler, Amery & Ross, P.C. with offices in New York City, Florham Park, New Jersey, Fort Lauderdale, Florida, Miami, Florida and Birmingham, Alabama. Mr. Amery graduated, cum laude, from Ohio University in 1970, and earned his M.B.A. from Ohio University in 1971 majoring in finance. Mr. Amery received his J.D. in 1974 from Georgetown University. He was admitted to the New York State Bar in 1975 and to the New Jersey State Bar in 1980. Mr. Amery manages the firm's Securities Practice Group which provides a wide range

of legal services to the securities brokerage community. Mr. Amery's practice focuses on the representation of brokerage firms and their representatives in litigation, arbitration and regulatory matters. Mr. Amery also counsels his clients on a variety of business risk and legal issues that impact the daily operation of their businesses. Mr. Amery is a former adjunct instructor in corporate finance and business management at Ohio University and George Mason University. He is also a regular speaker at business seminars and conferences.

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