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**February 2013**

Supreme Court  
of the United States

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If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or your regular Skadden contact.

**Jay B. Kasner**

New York  
212.735.2628

[jay.kasner@skadden.com](mailto:jay.kasner@skadden.com)

**Matthew J. Matule**

Boston  
617.573.4887

[matthew.matule@skadden.com](mailto:matthew.matule@skadden.com)

**Edward B. Micheletti**

Wilmington  
302.651.3220

[edward.micheletti@skadden.com](mailto:edward.micheletti@skadden.com)

**Peter B. Morrison**

Los Angeles  
213.687.5304

[peter.morrison@skadden.com](mailto:peter.morrison@skadden.com)

**Charles F. Smith**

Chicago  
312.407.0516

[charles.smith@skadden.com](mailto:charles.smith@skadden.com)

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**Supreme Court Rejects Discovery Rule on Statute of Limitations for SEC Civil Penalty Enforcement Actions**

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***Gabelli v. Sec. & Exch. Comm'n*, No. 11-1274 (U.S. Feb. 27, 2013)**

In a unanimous opinion authored by Chief Justice Roberts, the U.S. Supreme Court today held that the five-year limitations period that governs SEC enforcement actions begins to run when the alleged fraud is complete. The Court reversed the Second Circuit on the issue, which had held that the discovery rule applied in cases where the defendant allegedly committed fraud. The SEC alleged that two mutual fund managers allowed one of the fund's investors to engage in market timing in the fund in exchange for an investment in a separate hedge fund, but the SEC filed the action more than five years after the conduct was alleged to have taken place. The Court explained that limitations periods ordinarily begin to run upon a party's injury, but in cases of fraud — when the injury itself is concealed — courts have developed the discovery rule to protect individuals, who are after all not required to be in a constant state of investigation. That rationale however does not apply to the SEC, whose mission is to investigate (and prevent) fraud and which has statutory authority to demand detailed records, including those extra-judicial subpoenas. Therefore, the Court concluded the discovery rule does not apply to the SEC.

Click [here](#) to view the opinion.