

PIABA: 30% OF 2020 FINRA ARBITRATION AWARDS WENT UNPAID

New Report Finds Increased Rates of Unpaid Arbitration Awards and Unpaid Award Money Compared To 2019; 24% of All Awarded Money Last Year Was Never Paid.

WASHINGTON, D.C. – SEPTEMBER 29, 2021 – The percentage of unpaid customer awards in FINRA arbitration cases increased to nearly 30% and the percentage of unpaid award dollars rose to 24%, according to the Public Investors Advocate Bar Association’s (PIABA) new report on unpaid FINRA arbitration awards. PIABA’s first report on the topic was published in 2016, and the new update illustrates how the lack of improvement on this critical issue for American investors reflects FINRA’s refusal to solve the problem.

Titled [*FINRA Arbitration’s Persistent Unpaid Award Problem*](#), the PIABA report addresses the scope of unpaid arbitration awards over the past decade, FINRA’s history of ineffective responses, and remedies that FINRA, Congress, or the SEC should take to fix the problem. The report also notes that because many investors do not discover misconduct until there is a market correction, a market downturn in the absence of meaningful recovery protection will inflict unprecedented harm on America’s retirees and those on the verge of retirement.

David P. Meyer, current president, PIABA, and report co-author said: **“FINRA now publishes some recent data on unpaid award statistics and has implemented or proposed certain rule changes to try to curb abusive industry practices, but the problem of unpaid arbitration awards is only growing. FINRA, Congress, or the SEC can and should tackle the unpaid arbitration award problem head-on.”**

Hugh Berkson, former president, PIABA, and report co-author said: **“If there was a goal to protect people from suffering devastating injuries, would it be best to install seatbelts before a car accident, or after? Investors today have no seatbelt against unscrupulous stockbrokers, investment advisors, and firms that handle hundreds of millions of customer dollars without sufficient capital reserves or liability insurance.”**

Key findings of the PIABA report include:

- Due to the COVID-related shutdown of in-person hearings, fewer FINRA arbitration cases were heard in 2020, but the percentage of unpaid customer awards and unpaid award dollars both increased, despite record brokerage firm profits.
- 29.7% of customer awards were unpaid in 2020, up from 26.9% in 2019.
- 24.2% of all dollars awarded in 2020 were unpaid, up from 19.8% in 2019.
- Neither FINRA nor state and federal regulators have directly addressed the lack of meaningful recovery protection, and the problem of unpaid arbitration awards is growing.
- The 2020 figures are consistent with FINRA’s previously reported statistics, ranging from 12% of dollars unpaid in 2015 to a high of 34% in 2018, and 22% of awards unpaid in 2015 to a high of 34% in 2017. In short, the problem is not improving since PIABA’s initial 2016 Report.

Michael Edmiston, president-elect, PIABA, said: **“PIABA published its first report on unpaid awards in 2016, presenting a comprehensive survey of the huge problem at FINRA and the potential cures. Since then, FINRA has done nothing but discount the issue, abdicate responsibility, and boast about improvements that have ultimately failed. All while the U.S. is just one market downturn away from this problem evolving into a full-blown crisis.”**

The PIABA report outlines the following proposed remedies to protect investors:

- **Legislative Remedy:** FINRA can solve the problem directly by instituting a national investor recovery pool, but it has steadfastly refused to do so unless ordered by the SEC or Congress. If FINRA remains resolute in its refusal to institute an investor recovery pool absent an instruction from

Congress or the SEC, then PIABA asks Congress to intervene to address the problem and order FINRA to do its job and protect investors.

- **SEC Dodd-Frank Remedy:** If Congress can not or will not act, and FINRA maintains course and refuses to remedy the problem on its own, the SEC has the authority to step in under Section 921 of the Dodd-Frank Act. The SEC could require that, as a condition of including a mandatory arbitration clause in its customer agreements, firms participate in an investor recovery pool.
- **The National Investor Recovery Pool:** The pool would provide recovery funds for investors who pursue a claim all the way through a final award and have exhausted reasonable efforts to collect the award from the respondent. There are a variety of potential sources for such funding: (1) FINRA fine monies assessed against member firms and associated persons violating FINRA rules; (2) assessments on FINRA members; and, (3) fees levied on the investing public.

FINRA reported that it issued \$57 million in fines in 2020, more than enough money to address the unpaid awards that year. Alternatively, if FINRA were to assess fees, the cost in 2019 would have been \$6,350.11 per firm or \$107.26 per registered representative. Since neither the SEC nor FINRA have established an insurance requirement, the fees required to fund the pool would be far less than insurance premiums. And while PIABA does not suggest that assessing a direct charge to investors is the best choice, a 2019 pool would have required only 14 cents per investor for real, meaningful recovery protection.

The report concludes: “The SEC and FINRA have demonstrated that they have long recognized the ongoing issue of unpaid arbitration awards but will not address it head-on. In fact, FINRA wants an act of Congress to require it to enact a solution. If, given a market that has consistently grown in value over the course of the last twelve years, nearly one out of four dollars awarded to investors in 2020 went unpaid even as brokerage firm profits held steady or grew to record levels, the next market downturn will likely wreak havoc on the growing population relying on their broker-managed 401(k) plans and IRAs for retirement. Protecting investors, and the taxpayers who will be required to bail them out, is simple: instituting a National Investor Recovery Pool will provide a backstop at a minimal economic cost. Either Congress, the SEC, or both must act now.”

ABOUT PIABA

Public Investors Advocate Bar Association is an international, not-for-profit, voluntary bar association of lawyers who represent claimants in securities and commodities arbitration proceedings and securities litigation. The mission of PIABA is to promote the interests of the public investor in securities and commodities arbitration, by seeking to protect such investors from abuses in the arbitration process, by seeking to make securities arbitration as just and fair as systemically possible and by educating investors concerning their rights. For more information, go to www.piaba.org.

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EDITOR'S NOTE: A streaming audio replay of the news event will be available on the web at www.piaba.org as of 5 p.m. ET/4 p.m. CT on September 29, 2021.