



## PUBLIC INVESTORS ADVOCATE BAR ASSOCIATION

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February 12, 2024

Via Email Only @ [rule-comments@sec.gov](mailto:rule-comments@sec.gov)

Ms. Vanessa Countryman  
Securities and Exchange Commission  
100 F Street, NE  
Washington, D.C. 20549-1090

File Number SR-FINRA-2024-001- Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Amend FINRA Rule 3240 (Borrowing From or Lending to Customers)

Dear Ms. Countryman:

I write on behalf of the Public Investors Advocate Bar Association ("PIABA"), an international bar association comprised of attorneys who represent investors in securities litigation. Since its formation in 1990, PIABA has promoted the interests of the public investor in all securities and commodities arbitration forums, while also advocating for public education regarding investment fraud and industry misconduct. Our members and their clients have a strong interest in rules promulgated by the Financial Industry Regulatory Authority ("FINRA") relating to both investor protection and disclosure. As such, PIABA frequently comments upon proposed rule changes and retrospective rule reviews in order to protect the rights and fair treatment of the investing public.

PIABA welcomes the opportunity to comment on FINRA's proposed amendments to FINRA Rule 3240. In October 2019, PIABA commented on FINRA's retrospective review that, among other things, sought feedback on the effectiveness of FINRA Rule 3240. In February 2022, PIABA commented on FINRA Regulatory Notice 21-43, which contained most of the same proposed amendments to Rule 3240 that are part of FINRA's current proposal.<sup>1</sup>

PIABA reiterates its support for FINRA's proposed amendments to Rule 3240, which would strengthen the rule and prohibition on borrowing from or lending to customers. As PIABA previously commented, strengthening the rule to broaden and apply it to borrowing or lending arrangements that pre-exist the broker-customer relationship is a good amendment that will protect investors. Conflicts of interest would exist in the relationship irrespective of whether or not a lending arrangement existed before or after the broker-customer relationship is

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<sup>1</sup> See PIABA Comment Letter to Jennifer Piorko Mitchell, FINRA Regulatory Notice 21-43 (February 14, 2022), attached as part of exhibit 2b (pages 111-112) to FINRA's Rule Proposal.

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established. PIABA supports making clear that if a broker is already in a non-exempt lending relationship with a person that said person may not become a client.

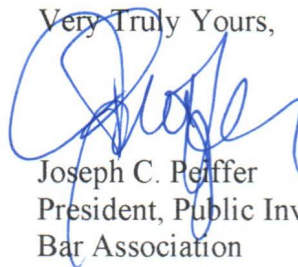
As PIABA previously stated, we think it is a good idea to make clear that the prohibition extends to not just the registered person themselves but also to a person or entity related to the registered person. The same or very similar conflict of interest is present if a registered representative's close family member obtains a loan from a registered representative's client just as if the registered representative obtained it themselves.

PIABA is also in favor of modernizing the "immediate family" definition and limiting the "personal relationship" and "business relationship" exceptions. The risk of harm here is too great to leave the potential for abuse. PIABA commends any effort to limit the exceptions and make very clear that this conduct is not allowed.

Finally, PIABA supports extending the definition of customer to those with existing accounts and those who had accounts with a registered person previously. However, PIABA believes that rather than including only customers who had accounts with a registered representative in the previous six months, that this cooling off period should be set at one year. PIABA does not believe the extension of the lookback period from six months to one year imposes an unreasonable or inappropriate burden on firms having to track customer accounts. Moreover, a one year lookback period would match the restricted firm obligation time period in FINRA Rule 4111, would curtail attempts to evade this rule and would most importantly enhance investor protection to a greater degree than the proposed six month time period.

PIABA thanks the Commission and FINRA for the opportunity to comment on this proposal. In sum, PIABA applauds FINRA's effort to root out the problem that taking loans from clients or lending money to clients presents and urges FINRA to continue its efforts to curb this abusive conduct.

Very Truly Yours,



Joseph C. Peiffer  
President, Public Investors Advocate  
Bar Association