

**PIABA REPORT: TO PROTECT RETIREMENT SAVERS, “MAJOR SURGERY”
NEEDED TO FIX SHORTCOMING OF SEC “BEST INTEREST STANDARD” PROPOSAL**

**Attorney Group Outlines 15 Major Changes to SEC Rule Proposal to Ensure Conflicts of Interest
Adequately Disclosed, Investor Needs and Limits Are Recognized.**

WASHINGTON, D.C. (August 7, 2018) – Unless the U.S. Securities and Exchange Commission (SEC) makes 15 major changes to its “Best Interest Standard” rule proposal, the Commission “will further perpetuate the status quo of allowing Wall Street brokerage firms and brokers to peddle high cost, conflict laden investments and investment strategies,” according to a new report from the Public Investors Arbitration Bar Association (PIABA).

The PIABA report, [Recommendations To Improve And Enhance The SEC Best Interest Standard For Investors](#), outlines more than a dozen specific ways to improve conflict-of-interest protections, protect investors’ best interests, and ensure adequate and clear disclosure to investors.

Outlining the need for the recommended reforms, the PIABA report notes: **“There is an overwhelming need for a strong, investor centric best interest standard. Americans are woefully unprepared for retirement and meeting other financial goals. Decades of conflicted advice and high fee investments by brokerage firms directly led to this crisis. Half of all Americans have less than \$10,000 in savings, and nearly half of the oldest Baby Boomers are at risk of not having sufficient retirement resources to pay for basic retirement expenses and healthcare costs. The Center for Retirement Research at Boston College estimates that our ‘retirement income deficit’ is \$6.6 trillion. That number represents the gap between the pension and retirement savings that American households have today and what they should have today to maintain their standard of living in retirement.”**

Report co-author Andrew Stoltmann, president of PIABA and a Chicago-based arbitration attorney, said: **“PIABA’s 15 proposed changes to the SEC’s Best Interest Standard will make the difference in actually providing meaningful protections for investors in order to achieve their investment and retirement goals. What we are looking at here is major surgery. Failing to make these additions and modifications will further perpetuate the status quo of allowing Wall Street brokerage firms and brokers to peddle high cost, conflict laden investments and investment strategies.”**

PIABA Fiduciary Committee Co-Chair Melinda Steuer, a report co-author and arbitration attorney in Sacramento, CA, said: **“The SEC’s proposed Best Interest Standard needs significant changes in order to protect the brokerage and retirement accounts of investors while remaining consistent with the SEC’s intent. After a lifetime of hard work, people deserve the opportunity to earn their financial independence. But for millions of investors, the dream of a secure retirement and meeting other financial goals is slipping out of reach. Many will find that they cannot afford basic living expenses. Any financial crisis will put an enormous strain on families, communities, and the social safety net.”**

In summary form, the 15 PIABA recommendations are:

1. Ban certain “financial incentives” such as sales contests which reward brokers for selling particular products or types of products, such as a week-long trip to Playa Del Carmen, Mexico and/or a hotel stay for two in Dublin to the top sellers of annuities within brokerage firms.
2. Prohibit extra compensation for selling in-house products or one product line over another.
3. Require clear and understandable disclosure of fees, charges and compensation associated with a recommendation, prior to or at the time the recommendation is made and a clear and understandable explanation as to other lower cost investments which are available, and why the higher cost investment is being recommended.

4. Put the burden of accurately recording customer information on the broker and/or firm and make sure that the customer information is kept current.
5. Require brokers to take reasonable steps to verify that the financial information provided by an investor is accurate.
6. Require real “due diligence” review of products that go beyond the information that is provided by product wholesalers and/or issuers.
7. If there are less expensive alternatives available, the disclosure to investors should include an explanation to the customer of why the recommended, more-expensive investments product strategy is nevertheless in the customer’s best interest.
8. The SEC rule must make it explicitly clear that brokers cannot satisfy their obligation merely by providing the customer with a prospectus or offering document. Otherwise, brokers may ignore their best interest duty by attempting to improperly shift the burden to the customer to assess the merits and risk of the investment.
9. Disclosure should be based on a direct conversation in which the broker explains the relationship, any potential and actual conflicts, how the broker is paid, and the features, benefits, and risks of the recommendation in a way that is understandable to the customer.
10. Brokers must be required to disclose the risks, benefits, and ramifications of the recommendation in a way that is understandable to the customer.
11. The rule should extend to any situation where the broker offers generalized retirement planning, financial or investment recommendations to a prospective customer, such as taking early retirement, electing a lump sum in lieu of a defined benefit pension, and refinancing a property to use the equity in order to make an investment
12. There should be a continuing duty on the part of the broker to periodically assess a recommended investment strategy to determine whether it remains in the customer’s best interest.
13. The Best Interest Standard will remain in effect for as long as the broker is continuing to be compensated as a direct or indirect result of the recommendation.
14. The rule must make it clear that states are free to create and enforce a higher standard of conduct on brokers.
15. The rule may not preempt existing or future state statutory and common law which creates stronger protections for investors within their own jurisdictions, such as California and South Dakota’s fiduciary requirements of brokers.

ABOUT PIABA

Public Investors Arbitration 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 4 p.m. ET/3 p.m. ET/1 p.m. PT on August 7, 2018.