

**May 11, 2026**

The Honorable Tim Scott (R-SC)  
Chairman  
U.S. Senate Committee on Banking, Housing,  
and Urban Affairs  
Washington, DC 20510

The Honorable Elizabeth Warren (D-MA)  
Ranking Member  
U.S. Senate Committee on Banking, Housing,  
and Urban Affairs  
Washington, DC 20510

RE: PIABA Urges Congress to Prioritize Investor Protections and Preserve State Authority to Protect Investors in Federal Market Structure Legislation

Dear Chairman Scott and Ranking Member Warren:

We write on behalf of the Public Investors Advocate Bar Association ("PIABA"), an international bar association comprised of attorneys who represent investors in disputes with the securities industry. 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 financial industry misconduct.

PIABA writes to express our support for the call to preserve state authority and core investor protections as Congress considers the Digital Asset Market Clarity Act (the "CLARITY Act") and the Digital Commodity Intermediaries Act ("DCIA"). In its current form, the CLARITY Act lacks the vital protections needed to protect American investors and risks codifying a structure that permits continued victimization of retirees and vulnerable adults.

The human cost of digital asset fraud is staggering and growing. According to the FBI's Internet Crime Complaint Center, Americans lost more than \$11 billion to cryptocurrency-related fraud in 2025 alone, a 22 percent increase from the prior year, with Americans over 60 accounting for the largest share of losses of any age group.<sup>1</sup> These are not abstract statistics. They represent retirement savings wiped out, mortgages taken out against paid-off homes, and life savings handed to criminals, many of whom are overseas and actively working against the best interests of the United States, and who exploit regulatory uncertainty and technological complexity to evade accountability.

Across the country, older Americans and hardworking families are increasingly targeted by sophisticated online scams, many involving digital assets. Fraudsters thrive in regulatory uncertainty, and any legislation that weakens or displaces investor protections, however well-intentioned, hands them a significant advantage. Congress must ensure that market structure reform closes gaps rather than creates them.

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<sup>1</sup> See FBI Internet Crime Complaint Center, 2025 Internet Crime Report, (2025), available at [https://www.ic3.gov/AnnualReport/Reports/2025\\_IC3Report.pdf](https://www.ic3.gov/AnnualReport/Reports/2025_IC3Report.pdf).

## **Provide Meaningful Private Remedies and Preserve State Anti-Fraud Enforcement**

Any final bill must preserve a meaningful private right of action for consumers and investors to bring claims against cryptocurrency market participants and ensure state regulators retain authority to enforce anti-fraud laws. Private rights of action are essential for accountability. Simply put, investors need the ability to vindicate their own rights in court, and the retirees and victims of fraud should have clear recourse when they are wronged. Private remedies also provide a necessary balance when federal enforcement is captured or weakened. Without clear savings clauses preserving state authority, retail investors, especially seniors, lose critical on-the-ground protection against scams that federal agencies cannot address.

## **Implement Mandatory Antifraud Policies with Dedicated Compliance Staff**

For generations, broker-dealers and investment companies have maintained custody of client securities and assets. They have been statutorily mandated to supervise accounts and maintain anti-fraud policies and procedures geared toward consumer and investor protection for almost one hundred years. The cryptocurrency economy should adhere to no lesser standard. The fraud statistics prove business as usual is unsustainable.

## **Maintain Regulatory Parity**

For decades, the cooperative federal–state securities regulatory framework has played a central role in protecting retail investors, particularly seniors who may be living on fixed incomes and cannot recover from significant financial losses. State regulators bring local knowledge, faster response times, and enforcement resources that federal agencies simply cannot replicate at the community level. For seniors living on fixed incomes, for whom a significant financial loss is not a setback but a catastrophe, this framework is often the last line of defense. Congress must reinforce it, not erode it.

Technology should not determine the scope of investor protection. PIABA supports Section 505 of the CLARITY Act, which affirms parity in the treatment of securities issued and traded on-chain and off-chain. Retail investors deserve the same protections whether an investment is offered through a traditional brokerage account or a digital platform.

## **Preserve State Enforcement Authority**

State securities and commodities regulators are frontline enforcers and are often the first to identify emerging fraud trends affecting investors, especially frauds targeting older Americans. For example, states have invested significant resources designed specifically to help identify and stop cases of suspected financial exploitation. Many states have also enacted dedicated elder financial exploitation statutes, established specialized fraud units targeting senior investors, and developed protocols that allow regulators to pause suspicious transactions before investors lose everything. These are not duplicative functions. They are irreplaceable ones.

The CLARITY Act and the DCIA must include a clear, robust, and unambiguous savings clause confirming that nothing in either statute limits the anti-fraud, investigative, or enforcement

authority of state securities and commodities regulators. Congress should leave no room for that argument. The investors who depend on state enforcement, particularly older Americans who are disproportionately targeted by digital asset fraud, cannot afford to find out after the fact that their protections were quietly displaced.

### **Protect State Licensing and Registration Authority**

States must retain authority to license and register securities firms and professionals operating within their jurisdictions. State registration requirements are a meaningful gatekeeping function that keeps unqualified, dishonest, and previously disciplined individuals from accessing investors in the first place. Removing or preempting state registration authority would eliminate one of the most practical and effective tools for keeping bad actors away from vulnerable investors before harm occurs, rather than pursuing them after the damage is done.

### **Preserve Investment Contract Law**

Congress should avoid language that narrows or weakens the established definition of an “investment contract.” This flexible and time-tested framework remains one of the most effective tools regulators use to combat ever-evolving scams, including those that involve digital assets. Curtailing it would make it harder to combat emerging frauds and protect older Americans and other vulnerable investors from fraudulent schemes.

### **Ensure Sustainable Regulatory Funding**

A durable market structure must include sustainable funding for oversight, enforcement, capital formation review, and investor education at both the federal and state levels. Investor education initiatives, in particular, are essential to helping seniors and hardworking Americans recognize and avoid increasingly sophisticated online scams.

### **Avoid Overbroad Exemptive Authority**

Finally, Congress should not delegate sweeping new exemptive authority, including new authority to preempt state regulators by federal agencies, without clear guardrails and robust notice-and-comment requirements that come with rulemaking. Foundational securities policy decisions that affect millions of Americans and the protections they enjoy — including retirees and small investors — should remain within Congress’s purview.

By reinforcing state authority and preventing unintended regulatory gaps, Congress can promote responsible innovation while preserving the investor protections that safeguard older Americans, hardworking families, and the integrity of our markets. Strong, coordinated oversight is not an obstacle to innovation — it is a prerequisite for public trust.

We appreciate your consideration and would welcome the opportunity to discuss these recommendations further.

Respectfully,

A handwritten signature in black ink, appearing to read "Michael C. Bixby". The signature is fluid and cursive, with the first name being the most prominent.

Michael C. Bixby  
President, Public Investors  
Advocate Bar Association