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PIABA Comment on Artificial Intelligence in Financial Services

House Financial Services Committee Democrats' Request for Information

Submitted by: Public Investors Advocate Bar Association (PIABA)
November 18, 2026
Re: Questions 22, 25, and 29

Introduction

The Public Investors Advocate Bar Association (PIABA) appreciates the opportunity to comment on the Committee's Request for Information concerning artificial intelligence in financial services. PIABA is a national organization of attorneys who represent investors in securities, investment advisory, and digital asset disputes. Its mission includes advancing investor rights, preventing misconduct by those who sell investments or provide investment advice, promoting fairness in dispute resolution, and educating investors.

AI can help investors obtain information and help firms detect misconduct, improve service, and lower expenses. But when a firm uses an AI system to recommend, allocate, price, market, or execute an investment-related service, the firm remains responsible for complying with federal securities laws and its obligations to the investor. Outsourcing a function to a vendor, embedding a model in an existing platform, or placing a human in a nominal approval role should not diminish those duties or impair an investor's ability to prove a claim and obtain relief.

PIABA responds to Questions 22, 25, and 29. Congress and regulators should apply existing investor-protection duties to AI-enabled conduct, require meaningful governance and records, preserve accountability across vendor arrangements, and ensure that demonstrable savings are reflected in the fees and costs borne by investors.

Question 22: Liability when AI contributes to violations of law

What liability, if any, should be applied to financial institutions and/or third-party service providers used by financial institutions to the extent the use of AI contributes to violations of Federal law or regulation, especially where consumers are harmed? What law(s) should be amended to create this liability framework? Should there be safe harbors provided in certain circumstances? Please explain why any proposed changes may be warranted.

Financial institutions should remain directly accountable when their use of AI contributes to a violation of federal law or regulation that harms a customer or investor. An institution should not avoid liability by characterizing a consequential recommendation, communication, or transaction as a model output, a vendor function, or an automated process. The institution selected, configured, deployed, and benefited from the system and is responsible for its business conduct. Any disclaimers or attempts to waive investors rights in this regard should be strictly prohibited.

When a broker-dealer or registered investment adviser (RIA) utilizes AI to originate recommendations, manage portfolios, or communicate with clients, the firm does so to increase its own efficiency, scale, and profitability. Consequently, the firm must bear the risk if the AI system hallucinates, acts on embedded biases, or violates securities laws. Firms cannot be allowed to outsource their liability to third-party software developers or use the "black box" nature of an algorithm as a shield against accountability.

Existing securities laws already regulate conduct without regard to whether a person used a spreadsheet, a conventional algorithm, or a generative or agentic AI system. Investment advisers' fiduciary obligations, broker-dealers' Regulation Best Interest obligations ("Reg BI"), the federal antifraud provisions, and broker-dealer supervision and books-and-records requirements continue to apply. FINRA has likewise explained that its rules apply when member firms use AI, including third-party tools, and that firms should address governance, privacy, data integrity, reliability, and accuracy.[1] The SEC's 2024 enforcement actions against advisers for false claims about their AI capabilities also show that ordinary antifraud and advertising rules can address AI-related misrepresentations.[2]

Congress should direct the SEC and FINRA to clarify, through rules or guidance, that these duties extend to all material stages of AI-assisted securities activity: data selection and use; model selection, training, and validation; due diligence; supervision; recommendation generation; communications and marketing; order routing and execution; and ongoing monitoring. The rules should require firms to designate an accountable officer and maintain a documented inventory of material AI uses, risk-tiered pre-deployment testing, periodic independent validation, ongoing monitoring for drift and disparate effects, incident response, and meaningful human review for high-impact decisions. Human review must be substantive: the reviewer should have the competence, time, authority, and information to question and override the output.

Firms should preserve records sufficient to reconstruct what the system did and what the firm and its personnel did in response. Depending on the application, records should include the model and vendor version, material prompts or inputs, data sources, outputs, confidence or limitation indicators, overrides, testing results, and relevant policies and approvals. Trade-secret claims should not prevent regulators, arbitrators, or courts from obtaining evidence under appropriate confidentiality protections. Investors need not receive proprietary source code to receive a fair opportunity to investigate and prove a claim.

Third-party vendors should be accountable for their own actionable misconduct, including material misrepresentations, defective performance where a duty exists, or statutory violations. Congress should not create blanket immunity for vendors or a categorical rule making vendors solely responsible for harms caused through a financial institution's deployment. The institution's non-delegable regulatory duties should remain with the institution; vendor responsibility should be determined under applicable law based on the vendor's role and conduct. Congress should assess

[1] FINRA Regulatory Notice 24-09 (June 27, 2024); SEC, Regulation Best Interest compliance guide; SEC, Commission Interpretation Regarding Standard of Conduct for Investment Advisers, IA-5248 (June 5, 2019). *https://www.finra.org/sites/default/files/2024-06/regulatory-notice-24-09.pdf*

[2] SEC, SEC Charges Two Investment Advisers with Making False and Misleading Statements About Their Use of Artificial Intelligence, Release No. 2024-36 (Mar. 18, 2024). *https://www.sec.gov/newsroom/press-releases/2024-36*

targeted statutory amendments only where a demonstrated gap prevents an injured investor from obtaining appropriate relief. Any amendment should preserve existing private rights of action, remedies, and access to arbitration and courts.

PIABA strongly opposes the creation of any "safe harbors" for financial institutions regarding the use of AI. Such a safe harbor could convert minimum process steps into immunity even where a firm's recommendation was unsuitable, conflicted, misleading, or negligently supervised.

Question 25: Duties for AI-assisted recommendations and advice

What obligations should apply to investment advisers and broker-dealers that use AI in connection with recommendations and advice to retail and institutional clients, including with respect to fiduciary duty under the Investment Advisers Act, Regulation Best Interest, conflicts of interest arising from the use of third-party AI vendors, model and algorithm testing and validation, and supervision and recordkeeping?

The same investor-facing standards should apply whether a recommendation is generated by a human, an algorithm, or a combination of the two. Advisers must continue to act consistently with their fiduciary duty of care and loyalty. Broker-dealers and associated persons must continue to comply with Regulation Best Interest, including its care, conflict-of-interest, disclosure, and compliance obligations.[3] An AI system does not change the nature of the recommendation or the customer's reasonable reliance on the firm.

Specifically, the following obligations must be enforced:

- **The Duty to Understand (Comprehension):** Under Reg BI's Care Obligation, a broker-dealer must understand and comprehend the potential risks, rewards, and costs associated with a recommendation. If an AI system operates as a "black box," the firm inherently cannot fulfill this obligation. Firms must be prohibited from deploying AI to make retail recommendations unless the firm can clearly explain the data, inputs, and logic that led to the specific recommendation.
- **Strict Supervision (FINRA Rule 3110):** Firms must establish robust, continuous supervisory systems specifically designed to monitor AI outputs. Traditional, backward-looking compliance audits are insufficient for self-learning algorithms. Firms must implement real-time testing to ensure their AI models are not systematically pushing high-commission products or favoring the firm's interests over the customer's.
- **Conflict of Interest Elimination:** AI systems trained to maximize firm revenue will inevitably find subtle, highly sophisticated ways to steer investors toward conflicted products. Firms must have an affirmative obligation to test their models specifically for conflicts of interest and neutralize them before the technology interacts with retail customers.

Regulators should require advisers and broker-dealers to assess the system in the context in which it is used rather than rely solely on generic vendor testing. Before deployment, firms should test whether the system uses accurate and relevant investor-profile information; evaluates reasonably

[3] *See* footnote 1, FINRA Regulatory Notice 24-09 (June 27, 2024).

available alternatives; accounts for product risks, liquidity, fees, and compensation; and avoids steering investors toward products or strategies that benefit the firm or vendor. Testing should include realistic case studies, and use vulnerable investor profiles, volatile markets, use of margin, illiquid and complex products, and situations in which the available data are incomplete or stale. Firms should document limitations and establish thresholds for escalation or suspension.

Third-party AI relationships can create conflicts that are not cured by disclosure alone. Examples include revenue sharing, proprietary-product preference, compensation tied to platform use, vendor ownership of investor data, incentives to increase trading or assets under management, and a vendor's undisclosed commercial relationships. Firms should identify, mitigate, or eliminate conflicts consistent with the applicable standard of conduct; disclose material facts in understandable terms; and retain responsibility for the recommendation. Boilerplate statements that "AI may be used" do not explain a material conflict or how it affected a recommendation.

A firm's supervisory system should address model changes, version control, vendor updates, data quality, cybersecurity, privacy, hallucinations or unsupported outputs, and employee reliance on generated content. Material changes should trigger renewed testing and approval. Firms should train personnel and monitor whether they accept outputs without review. When AI is used to generate investor-facing research, performance claims, or product comparisons, the firm should verify the underlying facts and retain substantiation. The SEC's AI-washing enforcement demonstrates why marketing claims about AI must be accurate and supportable.[4]

Recordkeeping should permit a regulator and an investor, subject to appropriate protections, to understand the recommendation that was made, the relevant investor information, the model and inputs used, the alternatives considered, conflicts identified, human review and overrides, and the basis for the firm's conclusion. Records, including all inputs into the model, should be maintained in durable, searchable form for the applicable retention period. Firms should not be permitted to rely on a vendor's inability to produce records as a defense to their own recordkeeping or supervisory failures.

Congress should preserve technology-neutral duties and direct the SEC and FINRA to issue coordinated, risk-based standards with public input. Those standards should clarify supervisory expectations without creating a lower standard for automated advice, preempting stronger state investor protections, or converting a checklist into a defense against otherwise valid claims.

Question 29: Evidence of cost savings and pass-through to investors

What evidence exists regarding the use of AI by investment advisers, broker-dealers, registered investment companies, and other market participants to reduce intermediation costs—including advisory fees, fund operating expenses, transaction costs, and execution costs—for retail and institutional investors? What steps, if any, should Congress and the SEC take to ensure that AI-driven cost savings are passed through to investors, supporting the long-term growth of retirement and other household savings, rather than retained as additional firm revenue? What evidence

[4] *See* footnote 2, SEC Charges Two Investment Advisers with Making False and Misleading Statements About Their Use of Artificial Intelligence, Release No. 2024-36 (Mar. 18, 2024).

exists regarding the use of AI by investment advisers, broker-dealers, registered investment companies, and other market participants?

AI may reduce certain costs, including document review, routine customer service, compliance surveillance, portfolio rebalancing, research, and operational processing. The existence, size, and durability of savings are empirical questions, however. To the extent that advisers, broker-dealers, and registered investment companies have significant AI-driven cost savings, those should be passed on to investors through reduced advisory fees and commissions to support the long-term growth of retirement and other household savings.

The SEC should collect and publish appropriately anonymized, comparable information on AI-related costs and investor outcomes. For advisers and funds, useful measures include advisory and management fees, fund operating expenses, trading and execution costs, vendor and data expenses, and material implementation and oversight costs. For broker-dealers, measures should include commissions and other transaction charges, markups and markdowns, payment for order flow and other routing economics where applicable, execution quality, account fees, and the costs of recommended products. Reporting should identify the services and investor populations covered, the baseline and comparison period, whether the figures are gross or net of implementation costs, and any material changes in service, risk, or product mix.

Congress and the SEC should require firms that market AI-driven cost savings or lower-cost services to substantiate those claims and clearly disclose the fees and costs investors actually bear. For investment products, disclosures should identify both direct expenses and material indirect costs, including, where relevant, sales loads, distribution compensation, liquidity costs, and transaction expenses. Firms should not imply that lower internal operating costs necessarily mean lower investor costs or better investor outcomes.

Where firms represent that AI reduces costs for clients, the SEC should require periodic disclosure of the method used to calculate the claimed savings and the extent to which savings were passed through. The Commission should also examine whether fees remain reasonable in light of materially reduced service-delivery costs and whether conflicts or pricing practices prevent investors from receiving promised benefits.

Congress should support research comparing AI-enabled and non-AI services using transparent methodologies and investor-centered outcomes, including total costs, service quality, error rates, access, and investment outcomes over appropriate time periods. Cost reductions are valuable when investors receive them without losing meaningful human assistance, fair access, or effective recourse when systems fail.

Recommendations

- Confirm that existing securities laws and investor-facing standards apply fully to AI-assisted recommendations, advice, communications, and transactions.
- Keep financial institutions accountable for their own deployment and supervision of AI, while preserving responsibility for third-party vendors' own actionable conduct.

- Require risk-based testing, validation, conflict management, meaningful human review, monitoring, incident response, and records that permit reconstruction of consequential AI decisions.
- Reject any AI-related safe harbors, immunity, or limits on private remedies based on voluntary standards, vendor assurances, or nominal human review.
- Require substantiation of AI-related cost and performance claims, comparable cost reporting, and disclosure of whether and how claimed savings benefit investors.
- Preserve investors' access to regulators, arbitration, and courts, including access to relevant evidence under appropriate confidentiality protections.

Conclusion

AI should be permitted to improve financial services, but it should not weaken the standards that protect investors or make accountability harder to enforce. Congress and regulators should ensure that firms remain responsible for AI-assisted conduct, that investors can understand and challenge harmful recommendations, and that measurable efficiencies support investors through lower costs and better service.