

CONSUMER FEDERATION OF AMERICA & PIABA: SEC CHAIR'S PROPOSAL ON INVESTMENT ADVICE SHOULD BE RENAMED "REGULATION NBI (NOT BEST INTERESTS)"

Ahead of Vote, Leading Investor Watchdog Group Accuse SEC of Falsely Claiming Reg BI Better for Investors; CFA, PIABA and Better Markets Warn Mislabeled Proposal is "Step Backwards"

WASHINGTON, D.C. – June 4, 2019 – Roughly 24 hours before the Securities and Exchange Commission (SEC) is set to vote on the so-called "Reg BI" proposal from SEC Chairman Jay Clayton, the Public Investors Arbitration Bar Association (PIABA) and Consumer Federation of America (CFA) issued an unusually strongly worded warning that the proposal will do more harm than good and is being misrepresented by the SEC. PIABA and CFA were joined by Better Markets during a phone-based news conference today.

[The PIABA-CFA statement](#) reads in part: **"... the final (Reg BI) package will fall far short of what investors need and deserve. There is a reason why Wall Street is clamoring for the Clayton plan and why it has encountered nearly universal opposition from investor advocates. While the Chairman's plan is being pitched to the news media and Capitol Hill as improving protections for retail investors, the truth is that it is actually a step backwards: It will leave investors with fewer protections in important areas than they would have had if the Commission had not acted. If truthfully labeled in terms of its impact on investors, it would be called Regulation NBI (Not Best Interests)."**

In the joint statement, PIABA and CFA caution that the Clayton proposal will actually REDUCE protections for investors and INCREASE public confusion about the rules governing broker-dealers and investment advisers providing investment advice and recommendations to individual investors. The rules are incorrectly being promoted as an improvement over current "suitability" standards, when, in fact, they do little more than codify current FINRA standards.

PIABA President Christine Lazaro, professor of Clinical Legal Education and director of the Securities Arbitration Clinic at St. John's University School of Law said: **"The SEC will let investors down with this regulatory package. In many ways, this is a step backwards. Investors are being told their brokers will adhere to a best interest standard, but the brokers will not actually be required to act in their clients' best interests. Were this a sales pitch for a public offering reviewed by the SEC, it would have to be determined to be false and misleading."**

"These regulations are a betrayal of the Mr. and Ms. 401(k) investors Chairman Clayton pledged to protect when he launched this rulemaking," said Barbara Roper, director of investor protection, Consumer Federation of America. **"Instead of strengthening the protections investors receive when they rely on brokers for investment recommendations, they will weaken the protections that apply when investors turn to investment advisers for advice. Congress gave the SEC all the authority it needs to adopt a strong, pro-investor standard for brokers and advisers, and the Chairman made a deliberate choice not to use that authority."**

Dennis Kelleher, president and CEO, Better Markets, said: **"If a truth-in-labeling law applied to the SEC, then this rule would be called the 'Broker Profits First, Investors' Best Interests a Distant Second.' This anti-investor rule sets a standard of care for brokers that isn't much different than the 'say anything' practice followed by too many used car salesmen. The rule provides meaningless protections for investors, who will be misled into thinking their brokers must act in their best interest, when the rule doesn't actually impose such a duty. The disclosure requirements that go with the final rule remain untested and hopelessly confusing, and they could never adequately protect investors. It is a sad day in America when the agency that exists to protect investors decides instead to protect industry profits above investors' best interests."**

The following are among the key "Reg BI" deficiencies outlined by PIABA and CFA:

- The standard will not actually require brokers to act in their customers' best interest.
- The standard will not prevent brokers from placing their own interests ahead of customers' interests. Brokers will continue to be permitted to have conflicts that threaten their ability to act in a customer's best interests.
- The standard will apply on a transaction by transaction basis regardless of the nature of the relationship between the broker and customer. Brokers will not be required to monitor customer accounts to ensure investments remain on track, something that most investors reasonably expect their brokers to be doing.
- Investment Advisers will be able to satisfy the standard through disclosure alone, allowing them to place their interests ahead of their clients' interests.
- The disclosures will be confusing and will not help investors make informed decisions.

For the full text of the joint PIABA-CFA statement go to <http://bit.ly/PIABACFA>.

ABOUT THE GROUPS

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.

The Consumer Federation of America is an association of more than 250 national, state and local consumer organizations founded in 1968 to advance the consumer interest through research, advocacy, and education. For more information, go to www.consumerfed.org.

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CAN'T PARTICIPATE? 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 June 4, 2019.