



PUBLIC INVESTORS ADVOCATE BAR ASSOCIATION

1225 West Main Street, Suite 126 | Norman, OK 73069
Toll Free (888) 621-7484 | Fax (405) 360-2063
www.piaba.org

August 31, 2021

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506
pubcom@finra.org

Re: *Effective Methods to Educate Newer Investors*
FINRA Special Notice – 6/30/21

Dear Ms. Mitchell,

The Public Investors Advocate Bar Association (“PIABA”),¹ jointly with the PIABA Foundation,² submits this letter in response to FINRA’s Special Notice, dated June 30, 2021, requesting comments from stakeholders pertaining to *Effective Methods to Educate Newer Investors*.

PIABA is an international bar association whose member attorneys are devoted to representing the interests of investors in disputes with the securities industry. Since its formation in 1990, PIABA has promoted the interests of the public investor in all dispute resolution forums, while also advocating for public education regarding the securities industry. Our members routinely represent public investors who have been damaged financially as customers of financial institutions. PIABA frequently comments upon proposed legislation, rules and solicitation of comments involving investor protection, including educational initiatives.

Formed in 2012, the PIABA Foundation’s mission is to promote investor literacy to consumers, in part, by providing educational materials that are designed to prevent investment abuse as well as to raise awareness about the investment-related securities arbitration dispute resolution process.

¹ PIABA’s website may be accessed at www.piaba.org.

² The PIABA Foundation’s website may be accessed at <https://piabafoundation.org/>

Officers and Directors

President: David P. Meyer, OH
EVP/President-Elect: Michael Edmiston, CA
Secretary: Thomas D. Mauriello, CA
Treasurer: Darlene Pasieczny, OR

Hugh D. Berkson, OH
Samuel B. Edwards, TX
Robert J. Girard II, CA
Marnie C. Lambert, OH

Christine Lazaro, NY
Thomas D. Mauriello, CA
David P. Neuman, WA
Timothy J. O’Connor, NY

Joseph C. Peiffer, LA
Jeffrey R. Sonn, FL
Andrew J. Stoltmann, IL
Robin S. Ringo, *Executive Director*

PIABA and the PIABA Foundation have always maintained that the issue of investor education is paramount to protecting public investors. Many of the investors represented by PIABA's members would not have suffered losses if they had been provided with minimal information about the workings of the financial industry prior to investing. We strongly feel that the education of new and unsophisticated investors is crucial, particularly in light of the recent rise of investor app-based platforms that intentionally make the investing process seem like a video game. Proper investor education may help to stem the problems that result from the rise of the 'gamification' of investing by these new, low-cost platforms that target young, unsophisticated investors with no prior experience in securities.

Most investors begin their financial literacy process when they come in direct contact with individuals employed in the financial industry, however, there is a fundamental conflict of interest between a securities professional's desire to manage investor accounts – and investor expectations – and the investor's need to comprehend how the system works. PIABA has long maintained that the financial industry should not be in charge of investor education. If the financial industry were to take control of investor education with respect to newer investors, the goal of protecting the public investor would be taken out of the equation. One does not have to be a cynic to conclude that Wall Street would use "investor education" as a vehicle to increase bottom line profits. As the industry's watchdog, FINRA is in a position to provide educational opportunities and resources that do not have Wall Street's bottom line as their primary goal.

PIABA suggests a few specific areas on which to focus that would serve to strengthen investor education and, commensurately, extend protections to newer investors. First, FINRA should look into disseminating investor education information through social media. Second, FINRA should consider making use of behavioral science research to understand how and why Americans invest. Third, FINRA should take steps to make the existing investor education modules maintained by the FINRA Foundation more accessible to newer investors, including inserting a link to the educational projects supported by the PIABA Foundation. And lastly, FINRA must work with the SEC in developing programs to thwart the 'gamification' of investing through app-based platforms.

EFFECTIVE USE OF SOCIAL MEDIA

PIABA encourages FINRA to explore the use of social media to inform newer investors of the availability of investor education. Younger investors have grown up in the digital age and obtain the vast majority of their information through social media. While FINRA already maintains somewhat of a presence on Twitter and Facebook, FINRA should actively seek to disseminate investor education information via some of the newer social media platforms that have seen massive use by young people.

According to a 2021 study, adults under 30 (the targeted demographic of FINRA's investor education initiatives and app-based platforms) stand out for their use of Instagram, Snapchat, YouTube, and TikTok³. 18- to 29-year-olds say they use Instagram or Snapchat and about half say they use TikTok, with those on the younger end of this cohort – ages 18 to 24 – being especially likely to report using Instagram (76%), Snapchat (75%), TikTok (55%), and YouTube (95%). FINRA needs to shift their resources to the platforms that garner the most use by younger investors.

³ Social Media Use in 2021, Pew Research Center, April 7, 2021 (available at <https://www.pewresearch.org/internet/2021/04/07/social-media-use-in-2021/>)

UNDERSTANDING INVESTORS' BEHAVIORAL SCIENCE

When contemplating education for newer investors, one additional factor that FINRA must consider is how easy it is for investors to be misled into believing that they are knowledgeable about complex investment strategies and products. In many cases, people consider themselves reasonably knowledgeable about investments when they have a minimum understanding at best. Many of us represent professors, doctors, lawyers, and even financial professionals who believe they understood how an investment worked, only to learn that they were completely wrong. It is important for investors to be advised of the danger of overconfidence and how other cognitive biases can lead investors to lose a great deal by engaging in extremely risky trading⁴.

In arbitration proceedings, investors are frequently accused of failing to mitigate their losses by selling a bad investment. It is important that investors, financial advisors, arbitrators, and others incorporate the well-established research on the cognitive bias of loss aversion. Some in the financial services industry have incorporated behavioral economics into their offerings, giving them an advantage when marketing to newer investors⁵. FINRA should also incorporate what we have learned from behavioral economics into its educational offerings, rather than relying upon outdated investment education materials.

IMPROVEMENT OF EXISTING INVESTOR EDUCATION INFORMATION

PIABA commends FINRA in the establishment and support of the FINRA Investor Education Foundation. The website provides a wealth of information to assist in educating newer investors. PIABA feels that the FINRA Investor Education Foundation could be more effective by making some revisions to the available materials that target the younger demographic of newer investors.

⁴ See, e.g., Richard Thaler, From Cashews to Nudges: The Evolution of Behavioral Economics, Nobel Prize Lecture December 8, 2017, (available at <https://www.nobelprize.org/uploads/2018/01/thaler-lecture.pdf>); Thaler, Tversky, Kahneman, Schwartz, The Effect of Myopia and Loss Aversion on Risk Taking: An Experimental Test, 112 Quarterly Journal of Economics 647 (May 1997), (available at <https://www.jstor.org/stable/2951249>); Shampanier, Mazar, Ariely, Zero as a Special Price: The True Value of Free Products, (Nov-Dec 2007, Marketing Science), (available at <https://people.duke.edu/~dandan/webfiles/PapersPI/Zero%20as%20a%20Special%20Price.pdf>); Ariely, Dan & Norton, Michael I (2008), How actions create--not just reveal--preferences. *Trends Cogn Sci*, 12(1). pp. 13-16,(available at <https://hdl.handle.net/10161/6219>).

⁵ See, e.g., UBS article, Is there a link between emotions and economic outcomes? (available at <https://www.ubs.com/microsites/nobel-perspectives/en/latest-economic-questions/success/articles/emotional-economics.html>); How Top Financial Advisors re Using Behavioral Science to Rethink Your Investments, Forbes September 11, 2018, (available at <https://www.forbes.com/sites/halahtouryalai/2018/09/10/how-top-financial-advisors-are-using-behavioral-science-to-rethink-your-investments-1/?sh=6d6c16d33c09>).

Currently, the FINRA Investor Education Foundation homepage is not user-friendly and does not provide a prominent link on its homepage to access the detailed content modules dealing with investor education. We note that neither the table of contents nor the actual component modules can be easily accessed from the home page. The investor education materials page is essentially impossible to locate from the home page. The home page should be revised to assist newer investors to locate all of the investor education materials maintained by the Foundation easily.

Another impediment to easy access of available material is, once an investor finds the actual educational modules, they are required to download MS Word versions of the information (for example, see the table of contents: <https://www.finrafoundation.org/files/content-module-table-contents>). Many investors may be hesitant to download content. The site should be updated to allow investors to access the substance of the modules through clickable links without downloading files.

Section 11-4 of the educational module, 'Safeguarding Your Investments', is inadequate. The section purports to advise investors of their legal rights and discusses 1) Corporate information; 2) Shareholder derivative and class action actions; and 3) The Securities Investor Protection Corporation (SIPC), however, the entire educational module fails to reference the fact that an aggrieved investor may have recourse against a broker-dealer or registered representative through arbitration or civil litigation. The section should be revised to include language about direct legal claims by individual investors against broker-dealers and provide a link to FINRA's online complaint services.

Additionally, FINRA has long maintained a link to PIABA's website so aggrieved investors can locate attorneys experienced in investor rights. It would be useful for newer investors if the FINRA Investor Education Foundation website and educational materials contains a similar link to the PIABA website and other external resources, including the PIABA Foundation.

GAMIFICATION OF INVESTING

PIABA is concerned about the recent trend of "gamification" of investing by App based platforms. Immediate efforts should be taken to educate newer investors as to the pitfalls of low cost, app-based platforms and their lack of meaningful educational offerings. Newer investors are enticed to actively trade through these apps with the use of game-like leaderboard competitions, constant notifications/alerts and social networking links. Investing is not a game. FINRA should take immediate action to curb the abuses of securities sales through these app-based platforms and offer educational materials specifically addressing the issues associated with using these platforms. A crucial component of curbing abuses would be through a major social media push to educate newer investors on the pitfalls and risks of investing through these app platforms.

Ms. Jennifer Piorko Mitchell

August 31, 2021

Page 5

CONCLUSION

PIABA and the PIABA Foundation appreciate the opportunity to submit these comments and applauds FINRA for looking into the vital area of education for newer investors. PIABA and the PIABA Foundation would like to continue to be engaged with this effort as it moves forward.

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "David P. Meyer".

David P. Meyer, President
Public Investors Advocate Bar Association