



## PUBLIC INVESTORS ARBITRATION BAR ASSOCIATION

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January 10, 2020

Via email to [pubcom@finra.org](mailto:pubcom@finra.org)

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

Re: **FINRA Regulatory Notice 2019-36** (Limiting a registered person from being a customer's beneficiary or holding a position of trust on behalf of a customer)

Dear Ms. Mitchell:

I write on behalf of the Public Investors Advocate Bar Association (“PIABA”), an international, not-for-profit, voluntary bar association that consists of attorneys who represent investors in disputes with the securities industry. Since its formation in 1990, PIABA’s mission has been to promote the interests of the public investor by, among other things, seeking to protect such investors from abuses in the arbitration process, seeking to make the arbitration process as just and fair as possible, and advocating for public education related to investment fraud and industry misconduct. Our members and their clients have a fundamental interest in the rules promulgated by the Financial Industry Regulatory Authority (“FINRA”) that govern the practices of brokers and broker-dealer firms.

PIABA supports proposed FINRA Rule 3241 as outlined in SR-FINRA-2019-036 (hereinafter “the Notice”) that addresses potential conflicts of interest created where a registered representative is named as a beneficiary, executor or trustee, or placed in a similar position of trust for a customer. The new rule requiring brokers to disclose these situations where registered persons are named beneficiaries or hold positions of trust for customers and then requiring firms to assess and approve such status would add a layer of protection to vulnerable clients and their families.

As FINRA notes, conflicts of interest frequently arise in situations where registered representatives are named as beneficiaries or hold positions of trust. Senior and cognitively impaired investors are particularly vulnerable, and problems may not become known to family members for years. PIABA members have encountered countless situations when representing investors or investors’ families where a registered representative was given carte blanche authority to do with an investor’s money or accounts whatever he or

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she wanted. This has resulted in many situations where vulnerable investors have been victimized when a trusted advisor invests a client's money in a broker's outside business activity, uses the client's money to invest in high commission products, or, sometimes just taking the client's money. That includes tanking a client's money by becoming a beneficiary of the client's estate which is an important issue the proposed rule would address.

Requiring brokers to disclose their interests – whenever they learn of them – will inform their supervisors of such a relationship and increase the scrutiny with which those accounts are reviewed. This would also mandate that a supervising brokerage firm would have more information when supervising transactions in an account for which the firm knows the broker has a financial interest. In the event the broker does not learn of his or her beneficiary status until they actually benefit, the disclosure would then be made and then the review pertaining to the appropriateness of that beneficiary status could be made after the fact. Effectively, these proposed changes add a layer of protection to vulnerable customers and in many cases, the impacted family members.

Brokers who are honestly benefitting from a customer's account based upon a close but non-familial relationship should have no problem with this rule as it does not prohibit such a relationship, but simply calls for additional disclosure and supervision.

For these reasons, PIABA supports the increased disclosure and supervisory requirements imposed under proposed FINRA Rule 3241 where brokers find themselves in positions where they could potentially benefit from their positions as beneficiaries, trustees, etc. to non-immediate family members.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Samuel B. Edwards". The signature is fluid and cursive, with a long horizontal stroke at the end.

Samuel B. Edwards, President  
Public Investors Advocate Bar Association