

## Public Statement

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# Opening Statement on Press Call Regarding SEC Ongoing Efforts to Protect Teachers' Retirement Savings



**Chairman Jay Clayton**

**July 28, 2020**

This morning, I opened a press conference regarding the Enforcement action against Valic Financial Advisors, Inc. with the following personal remarks:

Thank you all for joining us this morning to discuss this important matter. I will post more extensive remarks on our website regarding our broader efforts to protect the retirement savings of our teachers. I'm kicking off this call to highlight three points:

First, Our Teachers Initiative, which we announced about a year ago.<sup>[1]</sup> It is an important aspect of our efforts to focus enforcement and investor education resources where they are needed and will have the greatest impact – we have at least 800,000 teachers who participate in defined contribution plans with a total of over \$1 trillion in assets; <sup>[2]</sup>

Second, Stephanie Avakian and Steve Peikin, and their team in the Division of Enforcement — in particular the women and men in our San Francisco Regional Office — have recognized that teachers need and deserve our attention, and they have turned this recognition into tangible actions with lasting benefits. They have my great thanks and admiration. You will hear from them in a moment; and

Third, today's action should be a signal to teachers and those who sell them investment products. More specifically:

- **Teachers:** Please ask questions about your investment options, including if there are any hidden fees or expenses — you should know how much of your money is going to work for your retirement.
- **Market Professionals:** Examine your practices. If you are engaged in (or facilitating) any conduct that is similar to the conduct our Enforcement Division has brought to light today, Stop. Further, remedy it and report your efforts to us promptly. We believe in substantial credit for self-reporting and cooperation. We also believe that those who continue a practice that is clearly inconsistent with the law have no place in our markets.

With those three opening thoughts, I will now turn it over to Stephanie and Steve. Stephanie and Steve, great work. Even in the face of the many challenges presented by COVID-19, you and your colleagues are doing the work our Main Street investors would want us to do and you're doing it well.

I will now provide some additional information on the background to the Valic matter and, more importantly, our ongoing efforts to protect and assist our teachers.

## Background on the Teachers Initiative

During my first several years at the SEC, I traveled the country and meet with retail investors to discuss our work on the standards of conduct for financial professionals<sup>[3]</sup> — in other words, our efforts to enhance the obligations of care and loyalty the financial professionals owe to retail investors. I spoke with retail investors of all ages, backgrounds, and levels of knowledge about investing. One of the things that was incredibly impactful to me was learning about the limited scope and high cost of the defined contribution retirement products that were being offered to our teachers. To be direct, what I heard initially made me question whether I was hearing it correctly or missing something. Then, when I was assured I had not misheard and had the full story, I was disturbed.

As the challenges presented by COVID-19 demonstrate, teachers provide an important service to our families and to our country, often at significant personal and financial sacrifice. Those of us with school-age children know well that we need well-functioning schools, with dedicated professionals focused on our society's most important obligation and resource — the next generation. At those meetings, and too many times since, I was upset to hear that these women and men who were dedicating their lives to public service and our collective future were not being treated as they should. It was and remains clear to me that the SEC should do more about it.

For context, and as I mentioned this morning, over \$1 trillion is currently invested in 403(b) and 457(b) plans, which are the plans most often offered in public school districts. At least 800,000 teachers throughout the country participate in defined contribution plans, such as 403(b) and 457(b) plans.<sup>[4]</sup> Public school teachers, who number approximately 3.3 million in total, also have substantial assets in defined benefit plans. We estimate that teacher retirement assets (in both defined benefit and defined contribution plans) aggregate to over \$2 trillion.<sup>[5]</sup> That is a pool of assets that should be managed with due care and candor. To be sure, I have met many dedicated professionals who manage teacher benefit plans with care and loyalty front of mind. That said, the amounts at stake are high and our teachers deserve our attention. It is clear that we and our fellow authorities — federal, state and local — should be watching this space.

That is why I asked Stephanie and Steve to take a hard look into the stories I heard, using the specialized expertise of the talented women and men of the Enforcement Division and the experience of our colleagues in San Francisco who have long focused on this issue. And, to their credit, here we are, just a year later, getting justice for educators who were not told all the material facts about how and why they were being steered towards certain financial service providers. That is a testament to Stephanie, Steve, and the Enforcement team that they and their predecessors built. American investors are fortunate to have people like them working on behalf of all of us.

As I mentioned in my opening, unfortunately, it is not clear that this is an isolated matter. I hope that the number and scope of similar inappropriate conduct is small. Regardless of the size, there is no reason for this conduct in our markets. Investment professionals and others who are providing retirement services to teachers (and similar groups) should examine their practices to ensure that they are appropriately discharging their obligations and, in particular, that there is full and fair disclosure of fees, expenses and conflicts. As I noted, we believe in substantial credit for self-reporting and cooperation, and investment professionals should remedy any potentially improper conduct and report their efforts to us promptly.

## Not Just Oversight and Enforcement, Education

At the SEC, our work extends well beyond bringing cases like the one we are discussing today. To be sure, oversight and enforcement are central to our mission. Through these efforts, we are able to right wrongs and deter future misconduct, including uncovering hidden fees and undisclosed incentives to steer investors to higher priced products, saving investors billions of dollars on a forward-looking basis. Importantly, we also are responsible for getting the word out about how to make better investment decisions, as well as general financial decisions, including raising awareness of the red flags of investment fraud.<sup>[6]</sup> We make substantial efforts to better arm

investors with information they can use to avoid making costly decisions, including avoiding getting involved with bad actors in the first place.

In the case of investment products and products offered to groups, such as veterans, teachers and other public services workers, this type of education can have broad benefits. For example, if you have just a handful of people who ask good questions and demand clear answers about widely offered investment products, the risk to all investors of being the victim of fraud and other misconduct goes down substantially and the likelihood that all investors will be offered a better set of investment choices goes up significantly. When you ask – and get answers to – direct questions such as, “How much of my money is going to work for me, and how much is going to fees and expenses?” you help yourself and your colleagues.

With these considerations in mind, today, we relaunched our online resource for teachers: [SEC.gov/teachers](https://www.sec.gov/teachers). This webpage is a one-stop shop for teachers looking to learn not just about their own investment options, but also about how they can incorporate lessons on personal finance in their classrooms. On the webpage, you will also find a short film featuring members of our San Francisco Regional Office, discussing how they came to learn about many of the issues I discussed today and why it is important to them that we continue fighting on behalf of our nation’s educators. I again thank them for being leaders and a catalyst for our efforts on behalf of investors.

The webpage also contains a link to an episode of our Teacher Investor Outreach Podcast series, the SECrets to Investing, where I discuss, among other things, the important role teachers play in enhancing financial literacy, including the impact one of the many special teachers I was fortunate to learn from had on me.<sup>[7]</sup>

Here, I will end with a final, personal thank you. At every stage in my life – public school, college, law school, through to today, I have had the good fortune to be taught by, and to be friends and colleagues with, teachers who care. Thank you all very much.

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[1] See <https://www.sec.gov/news/press-release/2019-85>.

[2] Source – BLS: <https://www.bls.gov/ncs/ebs/benefits/2019/employee-benefits-in-the-united-states-march-2019.pdf>.

[3] See, e.g., SEC Chairman Clayton Invites Main Street Investors to ‘Tell Us’ About Their Investor Experience, <https://www.sec.gov/news/press-release/2018-125>; Atlanta Investor Town Hall, <https://www.sec.gov/investing-america>.

[4] See note 2 *supra*.

[5] See, e.g., *id.*; <https://publicplansdata.org/public-plans-database/>.

[6] See <https://www.investor.gov/protect-your-investments/fraud/how-avoid-fraud/red-flags-investment-fraud-checklist>.

[7] See <https://www.sec.gov/page/teachers-outreach-podcast>.