

111TH CONGRESS  
1ST SESSION

# H. R. 2798

To increase securities protection coverage in the event of stolen or missing assets, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 2009

Mr. ARCURI (for himself and Mr. MAFFEI) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To increase securities protection coverage in the event of stolen or missing assets, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Support Investment  
5 Protection for Customers Reform Act of 2009”.

6 **SEC. 2. INCREASING SECURITIES INVESTOR PROTECTION**  
7 **CORPORATION CASH COVERAGE.**

8 (a) INCREASING THE CASH LIMIT OF PROTECTION  
9 FROM \$100,000 TO \$250,000.—Section 9 of the Securi-

1 ties Investor Protection Act (15 U.S.C. 78fff-3) is amend-  
2 ed—

3 (1) in subsection (a)(1), by striking “\$100,000  
4 for each such customer” and inserting “the standard  
5 maximum cash advance amount for each such cus-  
6 tomer, as determined in accordance with subsection  
7 (d)”;

8 (2) by adding at the end the following new sub-  
9 sections:

10 “(d) STANDARD MAXIMUM CASH ADVANCE  
11 AMOUNT.—For purposes of this Act, the term ‘standard  
12 maximum cash advance amount’ means \$250,000, ad-  
13 justed as provided under subsection (e) after March 31,  
14 2010.

15 “(e) INFLATION ADJUSTMENT.—

16 “(1) IN GENERAL.—Not later than April 1,  
17 2010, and the first day of each 5-year period there-  
18 after, and subject to the approval of the Commis-  
19 sion, the Board of Directors of SIPC shall consider  
20 the factors set forth under paragraph (5), and, upon  
21 determining that an inflation adjustment is appro-  
22 priate, shall prescribe the amount by which the  
23 standard maximum cash advance amount applicable  
24 to a customer claim shall be increased by calculating  
25 the product of—

1           “(A) \$250,000; and

2           “(B) the ratio of the annual value of the  
3           Personal Consumption Expenditures Chain-  
4           Type Price Index (or any successor index there-  
5           to), published by the Department of Commerce,  
6           for the calendar year preceding the year in  
7           which the adjustment is calculated under this  
8           paragraph, to the published annual value of  
9           such index for the calendar year preceding the  
10          date this subparagraph takes effect. The values  
11          used in such calculation shall be the applicable  
12          values most recently published by the Depart-  
13          ment of Commerce.

14          “(2) ROUNDING.—If the amount determined  
15          under paragraph (1) for any period is not a multiple  
16          of \$10,000, the amount so determined shall be  
17          rounded down to the nearest \$10,000.

18          “(3) PUBLICATION AND REPORT TO CON-  
19          GRESS.—Not later than April 5 of any calendar year  
20          in which an adjustment is required to be calculated  
21          under paragraph (1) to the standard maximum cash  
22          advance amount—

23                  “(A) the Commission shall publish in the  
24                  Federal Register the standard maximum cash  
25                  advance amount, as so calculated; and

1           “(B) the Board of Directors of SIPC shall  
2           submit a report to the Congress containing the  
3           amount described in subparagraph (A).

4           “(4) 6-MONTH IMPLEMENTATION PERIOD.—Any  
5           increase in the standard maximum cash advance  
6           amount shall take effect on January 1 of the year  
7           immediately succeeding the calendar year in which  
8           such increase is made.

9           “(5) INFLATION ADJUSTMENT CONSIDER-  
10          ATION.—In making any determination under para-  
11          graph (1) to increase the standard maximum cash  
12          advance amount, the Board of Directors of SIPC  
13          shall consider, among other factors—

14                 “(A) the overall state of the fund;

15                 “(B) the economic conditions affecting  
16                 members of SIPC; and

17                 “(C) potential problems affecting members  
18                 of SIPC.”.

19          (b) INCREASING SIPC LINE OF CREDIT WITH THE  
20          DEPARTMENT OF TREASURY.—Section 4(h) of the Securi-  
21          ties Investor Protection Act (15 U.S.C. 78ddd(h)) is  
22          amended by striking out “\$1,000,000,000” and inserting  
23          “the lesser of \$2,500,000,000 or the target amount of the  
24          SIPC Fund specified in the bylaws of SIPC”.

1 **SEC. 3. AMENDMENTS TO THE SECURITIES INVESTOR PRO-**  
2 **TECTION ACT.**

3 (a) INCREASING THE MINIMUM ASSESSMENT PAID  
4 BY SIPC MEMBERS.—Section 4(d)(1)(C) of the Securities  
5 Investor Protection Act (15 U.S.C. 78ddd(d)(1)(C)) is  
6 amended by striking “\$150” and inserting “\$1,000”.

7 (b) SIPC AS TRUSTEE IN SIPA LIQUIDATION PRO-  
8 CEEDINGS.—Section 5(b)(3) of the Securities Investor  
9 Protection Act (15 U.S.C. 78eee(b)(3)) is amended—

10 (1) by striking “SIPC has determined that the  
11 liabilities of the debtor to unsecured general credi-  
12 tors and to subordinated lenders appear to aggre-  
13 gate less than \$750,000 and that”; and

14 (2) by striking “five hundred” and inserting  
15 “5,000”.

16 (c) INSIDERS INELIGIBLE FOR SIPC ADVANCE.—

17 (1) IN GENERAL.—Section 9(a)(4) of the Secu-  
18 rities Investor Protection Act (15 U.S.C. 78fff-  
19 3(a)(4)) is amended by inserting “an insider,” after  
20 “or net profits of the debtor,”.

21 (2) INSIDER DEFINED.—Section 16 of the Se-  
22 curities Investor Protection Act (15 U.S.C. 78lll) is  
23 amended by adding at the end the following new  
24 paragraph:

1           “(15) INSIDER.—The term ‘insider’ shall have  
2           the same meaning as in section 101(31) of title 11,  
3           United States Code.”.

4           (d) ELIGIBILITY FOR DIRECT PAYMENT PROCE-  
5           DURE.—Section 10(a)(4) of the Securities Investor Pro-  
6           tection Act (15 U.S.C. 78fff-4(a)(4)) is amended by strik-  
7           ing out “\$250,000” and inserting “\$850,000”.

8           (e) INCREASING THE FINE FOR PROHIBITED ACTS  
9           UNDER SIPA.—Section 14(c) of the Securities Investor  
10          Protection Act (15 U.S.C. 78jjj(c)) is amended by striking  
11          “\$50,000” each place it appears and inserting  
12          “\$250,000”.

13          (f) PENALTY FOR MISREPRESENTATION OF SIPC  
14          MEMBERSHIP OR PROTECTION.—Section 14 of the Securi-  
15          ties Investor Protection Act (15 U.S.C. 78jjj) is amended  
16          by inserting at the end the following new subsection:

17          “(d) MISREPRESENTATION OF SIPC MEMBERSHIP  
18          OR PROTECTION.—

19                 “(1) Any person who falsely represents by any  
20                 means (including through the Internet or any other  
21                 medium of mass communication), with actual knowl-  
22                 edge of the falsity of the representation and with an  
23                 intent to deceive or cause injury to another, that  
24                 such person, or another person, is a member of

1 SIPC or that any person or account is protected or  
2 is eligible for protection by SIPC, shall be—

3 “(A) civilly liable for any damages caused  
4 thereby; and

5 “(B) fined not more than \$250,000 or im-  
6 prisoned for not more than 5 years.

7 “(2) Any Internet service provider who, on or  
8 through a system or network controlled or operated  
9 by the service provider, transmits, routes, provides  
10 connection for, or stores any material containing any  
11 misrepresentation described in paragraph (1) shall  
12 be civilly liable for any damages caused by such mis-  
13 representation, including damages suffered by SIPC,  
14 if such Internet service provider—

15 “(A) has actual knowledge that the mate-  
16 rial contains a misrepresentation described in  
17 paragraph (1), or

18 “(B) in the absence of actual knowledge, is  
19 aware of facts or circumstances from which it  
20 is apparent that such material contains a mis-  
21 representation described in paragraph (1), and  
22 upon obtaining such knowledge or awareness, fails to  
23 act expeditiously to remove, or disable access to,  
24 such material.

1           “(3) Any court having jurisdiction of a civil ac-  
2           tion arising under this Act may grant temporary and  
3           final injunctions on such terms as it deems reason-  
4           able to prevent or restrain any violation of para-  
5           graph (1) or (2). Any such injunction may be served  
6           anywhere in the United States on the person en-  
7           joined, shall be operative throughout the United  
8           States, and shall be enforceable, by proceedings in  
9           contempt or otherwise, by any United States court  
10          having jurisdiction over that person. The clerk of the  
11          court granting the injunction shall, when requested  
12          by any other court in which enforcement of the in-  
13          junction is sought, transmit promptly to the other  
14          court a certified copy of all papers in the case on file  
15          in such clerk’s office.”.

16 **SEC. 4. COMMISSION STUDY ON INTERNATIONAL FINAN-**  
17 **CIAL COOPERATION.**

18           (a) SENSE OF CONGRESS REGARDING NECESSITY OF  
19 AN INTERNATIONAL EFFORT TO INVESTIGATE AND  
20 THWART GLOBAL INVESTMENT FRAUD.—It is the sense  
21 of Congress that—

22           (1) international commerce and global invest-  
23           ment have grown exponentially since World War II,  
24           creating a marketplace without borders;

1           (2) investors of all sizes deserve assurances that  
2           their financial assets are protected from theft, and  
3           their transactions are legitimate and accounted for;  
4           and

5           (3) the case against Bernard L. Madoff Invest-  
6           ment Securities, Inc. represents one of the worst and  
7           most devastating instances of financial fraud and de-  
8           ception in this Nation's history, resulting in untold  
9           billions of dollars in missing assets and affecting  
10          thousands of investors in this Nation and around the  
11          globe.

12          (b) FEDERAL COMMISSION ON INTERNATIONAL FI-  
13          NANCIAL FRAUD.—

14           (1) ESTABLISHMENT.—There is hereby estab-  
15          lished within the Office of Inspector General of the  
16          Securities and Exchange Commission a Commission  
17          on International Financial Fraud (hereinafter in this  
18          subsection referred to as the “Commission”).

19           (2) MEMBERSHIP.—The Commission shall be  
20          composed of the following members:

21           (A) The Chairman of the Board of Direc-  
22          tors of the Securities Investor Protection Cor-  
23          poration.

24           (B) The Chairman of the Securities Ex-  
25          change Commission.

1 (C) The Secretary of the Treasury.

2 (D) The Chairman of the Board of Gov-  
3 ernors of the Federal Reserve System.

4 (E) The Secretary of State.

5 (F) The Director of the Federal Bureau of  
6 Investigation.

7 (G) One or more additional individuals, at  
8 the discretion of the Inspector General of the  
9 Securities and Exchange Commission, where  
10 each such individual is the heads of a State,  
11 local, private, or not-for-profit entity dem-  
12 onstrating research and academic expertise on  
13 issues pertaining to international investment  
14 and financial fraud.

15 (3) DUTIES.—The Commission shall—

16 (A) study potential relevance, structure,  
17 and long-term benefit of—

18 (i) an international financial court;

19 and

20 (ii) establishing an international proc-  
21 ess for the adjudication of cases of finan-  
22 cial fraud;

23 (B) establish partnerships with State,  
24 local, private, and not-for-profit entities dem-  
25 onstrating research and academic expertise on

1 issues pertaining to international investment  
2 and financial fraud;

3 (C) subject to the approval of the Inspec-  
4 tor General of the Securities and Exchange  
5 Commission, facilitate communication and in-  
6 formation sharing with international public, pri-  
7 vate, and not-for-private entities relating to—

8 (i) the creation of an international fi-  
9 nancial court; and

10 (ii) establishing an international proc-  
11 ess for the adjudication of cases of finan-  
12 cial fraud; and

13 (D) study investigative and insurance pro-  
14 tection frameworks for international United  
15 States investments.

16 (4) REPORTS.—Not later than 3 months after  
17 the date of the enactment of this Act, and quarterly  
18 thereafter, the Commission shall issue a report to  
19 the Congress containing—

20 (A) the Commission’s recommendations on  
21 how an international financial court could be  
22 structured;

23 (B) the Commission’s recommendation on  
24 how a process for the international adjudication

1 of claims of financial fraud could be structured;  
2 and

3 (C) any additional recommendations of the  
4 Commission.

5 (5) TERMINATION.—The Commission shall ter-  
6minate on the date that is 1 year after the date of  
7the enactment of this Act.

8 (6) FUNDING.—The cost of funding the Com-  
9mission shall be divided equally among each Federal  
10agency or department which is represented by a  
11Member of the Commission. Notwithstanding the  
12previous sentence, any State, local, private, or not-  
13for-profit entity that chooses to may also contribute  
14funds to pay for the cost of funding the Commission.

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