

PAUL E. KANJORSKI

11TH DISTRICT, PENNSYLVANIA

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FINANCIAL SERVICES

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Mr. Stephen P. Harbeck  
President  
Securities Investor Protection Corporation  
805 Fifteenth Street, NW, Suite 800  
Washington, DC 20005-2215

Dear Mr. Harbeck:

The Capital Markets Subcommittee will soon convene a hearing to assess the limitations of the Securities Investor Protection Act (SIPA). As you know, the liquidation of the Madoff estate has raised concerns by some about the fairness of how the Securities Investor Protection Corporation (SIPC) distributes the assets of failed broker-dealers and who, beyond the failed broker-dealer, SIPC seeks to obtain assets from in order to compensate investors and minimize outlays of SIPC's reserves. In addition, court documents and news reports have, at times, presented data that varies greatly by source regarding the scope of the Madoff Ponzi scheme, the pool of potential claimants, and SIPC's actions related to compensating Mr. Madoff's victims.

In order to prepare for this hearing and to generate a better public understanding of the actual experience and data related to resolving the Madoff fraud -- and so that Members of Congress can adequately respond to ongoing constituent questions about the liquidation of and claims processed on behalf of the victims of the Madoff Ponzi scheme -- please provide us with the following information as of August 1, 2010:

1. A schedule that details the total balance of the SIPC Fund as defined by SIPA. Of this balance, please identify how much is unallocated, reserved for the Madoff proceeding, and reserved for all other proceedings.
2. An explanation of how SIPC Members are presently assessed annually and an estimate of the aggregate assessment that will be added to the SIPC Fund during the remainder of 2010 and in 2011.
3. A schedule that details all lines of credit available to SIPC, outstanding borrowings, and remaining credit available. Also, please disclose whether any lines of credit have been closed during 2009 and 2010 and explain why.
4. For claims related to the Madoff Ponzi scheme, please provide a schedule that details the number and aggregate value of allowed claims and the number and aggregate value of allowed claims at or below the statutory limits of SIPC protection. Also, include the average disbursement per claim.
5. Please estimate how many Madoff Ponzi scheme claimants would be eligible for advances of up to \$500,000 under the final statement method of calculating "net equity" as that term was defined in the

case considered by the U.S. Bankruptcy Court for the Southern District of New York (Case No. 08-01789-brl). Also, please estimate the aggregate value of advances that would have been made under this method.

6. Please estimate the total number and value of distributions made to Madoff investors in excess of their investments. Of these distributions, please estimate how many avoidance actions that the trustee has brought or expects to bring and the amount the trustee has recovered and expects to recover in the future. Further, please break out the number of and expected recoveries from avoidance actions between investors who may have known about or participated in the Ponzi scheme and those who were likely to be unaware of the Ponzi scheme.
7. For all Madoff-related SIPC claims, please provide a schedule stratified by claims of less than a million dollars, between one and three million dollars, between three and five million dollars, between five and ten million dollars and in excess of ten million dollars that details how many claims would be eligible under both the final statement method and the cash-in/cash-out method of calculating net equity. Further, please provide the aggregate amount that could be clawed back from claimants under each method.
8. Please estimate the number of Madoff-related claims not yet determined and estimate the timeframe for when those claims will likely be determined. Also, for all claims filed since the liquidation proceedings started, please calculate the average time period expressed in months between the filing of the claim and the trustee's determination of the claim.
9. For all Madoff-related claims, please detail how many claims have been disallowed because the investors were not directly invested with Mr. Madoff's firm.
10. For each year, from 1992 until the liquidation of Bernard L. Madoff Investment Securities, please detail the aggregate funds that flowed into the firm and out to investors.

It is important for the Congress to receive this information in order to maintain transparency into the SIPC liquidation and claims process related to the Madoff matter. This information may also assist Congress as it considers options for modifying and updating SIPA. Consistent with all applicable laws and regulations, we look forward to receiving this information from you on or before September 8, 2010.

Sincerely,



Paul E. Kanjorski  
Chairman, Subcommittee on Capital  
Markets, Insurance and Government  
Sponsored Enterprises



Scott Garrett  
Ranking Member, Subcommittee on Capital  
Markets, Insurance and Government  
Sponsored Enterprises

cc: The Honorable Mary L. Schapiro  
Chairman  
U.S. Securities and Exchange Commission  
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