

Summary: “H.R. 1987:Ponzi Scheme Investor Protection Act of 2011”

- The bill ends claw back for direct investors and allows indirect investors to be eligible for SIPC coverage (of up to \$100,000).
- Language relating to “negligence” is now focused solely on negligent registered professional investment advisers. Individual, non-professional investors cannot be considered negligent.
- A new section on Oversight of Trustee compensation directs the bankruptcy judge, in cases where SIPC has no reasonable expectation that they will recoup the fees that they pay the trustee, to consider the nature, value and extent of the services rendered by the trustee. Right now SIPC’s recommendation for trustee compensation is essentially unquestionable.
- A new section mandates an annual audit of “certain” trustees. In cases where SIPC has no reasonable expectation that they will be able to recoup the advances that they make during the course of a liquidation an annual audit by and independent public accountant will be required.
- A new section alters the definition of net equity to include the time value of money. The defrauded Ponzi scheme investor’s net equity will now be calculated by adjusting for the percentage of the annual increase/decrease in the Consumer Price Index which is set by the Department of Labor. Net equity will now recognize when the cash was invested with Madoff and what the general rise in prices was between the year of deposit and December 2008 when the Madoff Ponzi scheme was uncovered.