

H.R. 757 Hearing Relevant Links and Statement Highlights

The hearing before the [U.S. House Financial Services Subcommittee on Capital Markets and Government Sponsored Enterprises](#) entitled *“The Securities Investor Protection Corporation: the Past, the Present, and the Future”* was held this past Wednesday, March 7th. A video of the full hearing can be found [here in the archived webcasts](#) on the Committee’s website. For a shortened video clip of Ron Stein’s testimony, [please click here](#).

- **Congressman Scott Garrett’s (R-NJ), Chairman’s Opening Statement:** Chairman of the Subcommittee, Rep. Scott Garrett (R-NJ) has been one of our continued allies on investor fraud in Washington. During the hearing, Congressman Garrett focused much of his opening statement on the wrongdoings of SIPC specifically related to the failure of the Madoff firm. “Instead of being provided protection by SIPC, as Congress did intend in order to increase confidence in investment in our markets, innocent investors in this case are being sued by the very same Trustee chosen by SIPC,” stated Congressman Garrett.

Congressman Garrett also spoke about the importance of H.R. 757. “It’s because of my concerns over these issues I’ve introduced H.R. 757, the Equitable Treatment of Investors Act. This legislation would reaffirm and clarify key protections for ordinary investors that were put in place when Congress passed and amended the SIPC. In particular, the bill aims to shield innocent individual investors, who have already been defrauded and financially devastated by the Madoff situation, from further clawbacks by the SIPC Trustee. In addition, the bill clarifies that for purpose of SIPC protection, customers of registered brokers are legally entitled to rely on their broker statements as evidence of what their broker owes them. Finally, H.R. 757 would end an ongoing conflict of interest by having the SEC, rather than SIPC, select Trustees for the SIPC liquidation,” said Congressman Garrett.

- **Congresswoman Carolyn Maloney (D-NY) Cites Need for Confidence in our Financial System:** “The massive fraud that was put forth by Bernard Madoff is very personal to me and it hurt many of my constituents...the confidence of investors around the world in the system of regulation and law enforcement of our financial markets was visibly shaken by this scandal. I believe that markets run as much on confidence as they do on capital. And this is a serious blow to investors’ confidence at a critical time.”
- **Congressman Peter King’s (R-NY) Four Takeaways from Madoff Liquidation:**
 - 1.) “The Trustee, Irving Picard, is out of control.” Congressman King spoke about how the Trustee interprets SIPA as he desires, not as intended by the courts and how he intimidates innocent victims.
 - 2.) “The victims are being treated unfairly.” King mentioned how very few victims have received the statutory mandated SIPC advances. He said, “It’s not an exaggeration to say the victims have been victimized twice, once by Bernie Madoff and now by Irving Picard.”
 - 3.) “The Trustee is not being properly supervised.”
 - 4.) “This miscarriage of justice endured by the Madoff victims could happen to any investor.”

- **Panel One, [Senator David Vitter \(R-LA\)](#) Acknowledges Need for SIPC Reform:**
 “Through the Stanford experience, I’ve come to the conclusion that there is a need for major SIPC reform...I do not think SIPC is focused enough on following the law and executing the law. I think it’s far too focused on serving the industry and its member companies and looking after their interests. And my experience in the Stanford case in particular, has led me to that unfortunate conclusion.”
- **Panel Two, SIPC President/CEO and Chairman of the Board Defend SIPC:** [Stephen Harbeck, President & CEO](#) and [Sharon Bowen, Acting Chairman of the Board](#) both testified on behalf of SIPC and touted the organization as doing the “greatest good for the greatest number consistent with the law.” Members of the subcommittee responded with numerous questions for the two panelists, but Harbeck stood behind the net equity method and said that Rep. Garrett's proposed changes to the law would be devastating to many investors. "To base the payment on the last statement is to allow the fraudulent actor ... the final say on who wins and who loses," Harbeck said.
- **Panel Three, Panelists Propose Suggestions for SIPC Changes**
 Panelists [Joe Borg, Director of the Alabama Securities Commission](#), [Steven Caruso of Maddox Hargett & Caruso, P.C.](#) and [Ira Hammerman of the Securities Industry and Financial Markets Association](#), and Ron Stein of the Network for Investor Action and Protection offered varying testimonies on proposed changes to SIPC and how to properly address investor fraud. In addition to [Ron’s Stein’s full written testimony](#), Stein emphasized the following points during the hearing:

 - A majority of the Madoff victims have not, and will not receive any of the SIPC advance guaranteed by Congress under SIPA statute due to the misguided and inequitable methodology adopted by SIPC and the Trustee.
 - Over three years into the fraud, it appears as though the Madoff liquidation has protected SIPC and enriched the Trustee and the Trustee’s law firm at the expense of the customers
 - In light of the clawback cases the Trustee has brought, no investor will be able to safely withdraw funds from their brokerage account.
 - Enactment of H.R. 757 is a crucial step in restoring sanity to the SIPA process. It will make clear that account statements will be honored in the event of a brokerage firm failure. It will end the use of clawbacks against innocent victims, and it will end the cozy relationship between SIPC and their shortlist of trustees.