

Statement of William Daly
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House Committee on Financial Services
Subcommittee on Capital Markets and Government Sponsored
Enterprises

The Securities Investor Protection Corporation: Past, Present,
and Future

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Chairman Garrett, Ranking Member Waters and members of the Capital Markets and Government Sponsored Enterprises Subcommittee, thank you for the opportunity to submit this statement from the Bond Dealers of America (the “BDA”).

The BDA is the only trade association exclusively focused on U.S. fixed income markets and represents middle-market brokers and dealers who are headquartered in cities all over the country, doing business throughout the United States coast to coast.

Our members are the “Main Street” firms, not the Wall Street firms. They help communities around the country finance their schools, roads and bridges. They also provide investment opportunities and liquidity for the investors in those communities.

The Securities Investor Protection Corporation (SIPC) plays an important role in the American financial markets, providing investors with the assurance that if their broker gets into financial difficulty the investor’s cash and securities in possession of the broker will not be lost.

We appreciate this opportunity to comment on the Report and Recommendations of the SIPC Modernization Task Force. The Task Force clearly spent a great deal of time on this project and gave serious thought to the issues before it. We commend them for their efforts.

We believe, however, that the challenges to modernizing SIPC go far beyond the incremental recommendations of the Task Force and that some of the recommendations would increase the challenges. As the Task Force recognizes, several of its recommendations will have the effect of increasing claims.

SIPC was created approximately 40 years ago and for most of its history the demands on its resources were relatively low. However, since 2008 the demands have become larger by several orders of magnitude. Its expenses increased from virtually zero in 2007 to over \$1.3 billion in 2008 and have remained very high by historical standards ever since. Obviously, the liquidation of Lehman Brothers was due to the financial crisis, but other liquidations – notably the Madoff ponzi scheme and the liquidation of MF Global – were not. There is also the case of the Stanford International Bank Ltd., where SIPC and the SEC differ over whether the case is covered by the Securities Investor Protection Act (SIPA). As with the other very large cases, the Stanford case would involve major claims on SIPC’s resources if the SEC’s view prevails. And it would clearly represent an expansion of SIPC’s role as currently interpreted by the SIPC Board.

It does not appear that after a short period of time, SIPC will return to “business as usual” as it was before 2008 and any discussion of modernization should take that into account.

As a result of the demands put on SIPC, member assessments have had to increase dramatically, and will increase further if the SEC prevails in the Stanford case. In 2007 and 2008 (and for many years previously) members' assessments were virtually zero. They now exceed \$400 million a year. The effect on individual firms has been dramatic, with the assessments for some BDA members increasing 1000 fold. Increases of that magnitude in a short period can and do affect firms and the services they provide to investors. Such a sudden and large increase in assessments strains firms' budgets and forces adjustments and curtailments in plans and projects to provide services and investment opportunities to the firms' clients.

In this context, the recommendations of the Task Force, while perhaps good policies, seem to us to have missed the mark. In a situation where the scope and activity of SIPC have dramatically changed and may change further, there is no recognition of that fact in the Task Force's report or recommendations. The challenges facing SIPC and how it can fulfill its role in the financial system going forward is simply not recognized nor dealt with in the report's recommendations.

In fact, the Task Force makes a number of recommendations that would increase the claims on SIPC without any discussion of the magnitude of the increases nor any cost/benefit analysis.

The Task Force does recommend that the SIPC Board undertake its own examination of the recommendations. We would go farther. We believe that the SIPC Board should examine SIPC's role in a more fundamental way. We believe that before the SIPC Board takes up these recommendations that it should examine SIPC's role currently and what it likely will be in the future, what the magnitude of claims will be, whether the current increase in claims is solely due to the financial crisis and will abate or whether there may be a permanent increase in SIPC claims, what the capital needs of SPIC will be and finally, how to equitably finance those capital needs.

Thank you again for the opportunity to present our views.