

## **SIPC: \$61 MILLION IN COMMITMENTS MADE TO MADOFF CLAIMANTS, WITH \$100 MILLION LEVEL EXPECTED TO BE REACHED BY MEMORIAL DAY**

### ***Trustee Madoff, SIPC President Harbeck Provide Update on Liquidation Proceeding***

**NEW YORK CITY & WASHINGTON, D.C.//May 14, 2009//**Even as forensic accountants and lawyers continue to untangle what is believed to be the most complicated and far-reaching financial fraud in U.S. history, a total of \$61,409,834.50 of Securities Investor Protection Corporation (SIPC) funds already has been committed in determination letters sent to 125 claimants in the Securities Investor Protection Act (SIPA) liquidation proceeding for Bernard L. Madoff Investment Securities LLC (BLMIS), according to Irving H. Picard, the court-appointed trustee, and SIPC President Stephen Harbeck.

In a briefing today for reporters, Picard and Harbeck said that the commitment of SIPC funds is expected to reach or exceed the \$100 million level by Memorial Day. As of yesterday, a total of 8,848 customer claims have so far been filed in connection with 3,565 customer accounts at BLMIS. SIPC maintains a special reserve fund authorized by Congress to help investors at failed brokerage firms.

Picard and Harbeck emphasized that forensic accounting experts and legal teams are working as quickly as possible to catalog all of the far-reaching aspects of the BLMIS investment fraud scheme, recover all available assets and make payments to investors, as provided for under the terms of SIPA.

In addition to the payments now either made or in the works, Picard and Harbeck highlighted the following recent developments:

- **Identification and recovery to date of a total of \$1 billion in Madoff-related assets.** Related proceeds will be available as “customer property” to make payments to eligible BLMIS customers.
- **The filing of lawsuits to recover \$10.1 billion in fictitious profits paid out by BLMIS.** These funds also would be made available as customer property in order to satisfy valid BLMIS customer claims. That total includes lawsuits filed this week naming various trust funds and partnerships run by investor Jeffrey M. Picower and the Harley International hedge fund.
- **Expansion of the SIPC Fund.** SIPC is committed to advancing funds immediately upon the trustee’s request. Harbeck assured claimants that SIPC will have sufficient funds to carry out this mission. The SIPC Board of Directors has authorized the reinstatement of revenue-based assessments on members of the Securities Investor Protection Corporation.
- **The creation of a “hardship case” process.** Instituted in recent days by the Trustee, this process is intended to expedite the handling of claims from individuals in financial or other distress.

SIPC President Harbeck said: **“This is an unprecedented undertaking, but I believe that we can now say that we are at ‘the end of the beginning’ in this incredibly complicated case. Since its inception, SIPC has commenced 322 proceedings. Cash and securities totaling approximately \$160 billion dollars have been distributed to customers in those proceedings. Of that amount, approximately \$159.7 billion came from the debtors’ estates and \$323.8 million came from the SIPC Fund. As these numbers make clear, much of the work done by every trustee and his or her counsel is identifying and gathering the assets of the member and distributing them in a fair and equitable way to all customers of the failed brokerage.”**

BLMIS Trustee Irving H. Picard said: **“As the largest and most complex securities fraud in history, BLMIS presents many unique difficulties rarely encountered in the typical failure of a broker or dealer. Due to the fact that every customer statement was a fiction, the first task was to reconstruct the books and records of BLMIS from scratch. This entails reconstructing every customer account from the ground up using BLMIS records, bank statements, emails, records from third parties as well as documents received from customers through the customer claims process. This has been and continues to be an enormously time consuming endeavor.”**

Picard added: **“I have a statutory duty to treat fairly all BLMIS customers and part of that duty requires pulling together the largest possible fund of customer property from which to make payments. This includes the duty to investigate, and, where appropriate, go to court to recover from persons or entities who received more than their share. In actual fact, persons who are subject to these recovery efforts actually received money stolen from others. Congress specifically requires that these funds must be returned so that all customers share equally.”**

Picard added: **“I cannot listen only to the pleas of those investors who are demanding preferential consideration in this process. The Trustee has been urged by some, but certainly not all, claimants to use the last monthly statement issued by BLMIS as the basis for his determination of customer claims. To do so would benefit longer-term customers at the expense of shorter term customers. It would allow a certain favored few who received compounded annual returns at substantially higher rates than other customers to also benefit. This would in effect allow Bernie Madoff to determine which entities would get a larger proportion of customer property. This would do extreme prejudice to persons who put cash into the scheme relatively recently. That may be fine for those investors who would benefit disproportionately from such an approach, but it is not what fairness and Congress dictate in this situation.”**

Picard and Harbeck also sought to dispel incorrect information surrounding the BLMIS liquidation proceeding:

- **Trustee expenses are not paid out of customer property.** Harbeck said: “Contrary to what has been suggested by some entirely ill-informed parties, all of the expenses of this work have been paid for by SIPC. Customer funds are never used to pay for administrative expenses in a liquidation proceeding.”
- **SIPC does not provide a \$500,000 “insurance” policy.** Harbeck explained: “The maximum \$500,000 dollar advance available under SIPA is not ‘insurance’ as some have incorrectly described it. SIPA provides that the SIPC Fund will protect a customer up to \$500,000, of which up to \$100,000 may be cash. Thus, if a customer’s account balance is less than \$500,000, that customer would only receive the amount allowed on the claim, not the full \$500,000 advance.”

For more information about SIPC liquidation proceedings, see "The Investor's Guide to Brokerage Firm Liquidations" at [http://www.sipc.org/pdf/SIPC\\_brochure\\_Investors\\_Guide\\_To\\_BD\\_Liquidations.pdf](http://www.sipc.org/pdf/SIPC_brochure_Investors_Guide_To_BD_Liquidations.pdf).

## **ABOUT SIPC**

The Securities Investor Protection Corporation is the U.S. investor's first line of defense in the event a brokerage firm fails, owing customer cash and securities that are missing from customer accounts. SIPC either acts as trustee or works with an independent court-appointed trustee in a brokerage insolvency case to recover funds.

The statute that created SIPC provides that customers of a failed brokerage firm receive all non-negotiable securities - such as stocks or bonds -- that are already registered in their names or in the process of being registered. At the same time, funds from the SIPC reserve are available to satisfy the remaining claims of each customer up to a maximum of \$500,000. This figure includes a maximum of \$100,000 on claims for cash. From the time Congress created it in 1970 through December 2008, SIPC has advanced \$520 million in order to make possible the recovery of \$160 billion in assets for an estimated 761,000 investors.

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**INVESTOR CONTACTS:** All investor inquires related to the BLMIS liquidation should be directed to <http://www.madofftrustee.com>. All investor inquiries of SIPC should be directed to [asksipc@sipc.org](mailto:asksipc@sipc.org) or (202) 371-8300.

**EDITOR'S NOTE:** A streaming audio recording of the news event will be available on the Web as of 4 p.m. EDT on May 14, 2009 at <http://www.sipc.org>.