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Statement from the Office of Irving H. Picard,
SIPA Trustee for the Liquidation of Bernard L. Madoff Investment Securities (“BLMIS”)

MADOFF TRUSTEE FILES BRIEF OPPOSING JPMC MOTION TO DISMISS

NEW YORK, NEW YORK – September 1, 2011 – Irving H. Picard, the SIPA Trustee for the liquidation of Bernard L. Madoff Investment Securities, today filed a brief opposing the JPMC defendants’ motion to dismiss in the United States District Court for the Southern District of New York. The Trustee’s memorandum of law addresses the motion filed by JPMorgan Chase & Co., JPMorgan Chase Bank, N.A., J.P. Morgan Securities LLC, and J.P. Morgan Securities Ltd. (collectively, “JPMC” or “Defendants”) to dismiss the Trustee’s amended complaint.

The memorandum of law provides an in-depth overview of the Trustee's standing under the law to pursue recoveries and damages for the BLMIS Customer Fund.

Specifically, today’s filing addresses JPMC’s attempt to escape liability, which is premised in large part on the argument that the Trustee lacks standing to assert the claims based on the recent Opinion and Order of the Honorable Jed S. Rakoff in *Picard v. HSBC Bank, plc, et al.*, Case Nos. 11-CV-763 (JSR) and 11-CV-836 (JSR), 2011 WL 3200298(S.D.N.Y. July 28, 2011) (the “HSBC decision”). The HSBC Court held that the Trustee did not have standing to bring common law claims against the defendants in that action.

The Trustee, who is appealing the case, argues that the HSBC decision is unsound in multiple respects and should not be applied here. The Trustee’s ability to bring common law claims is well established under SIPA and there are a myriad of cases in which courts have recognized the authority of other bankruptcy trustees to bring common law claims. The Trustee’s claims assert generalized harm to *all* creditors of the BLMIS estate and higher courts have upheld the rights of a Trustee to bring general claims that will benefit all creditors.

The Trustee has made detailed allegations of JPMC’s misconduct and complicity in Madoff’s fraud in the amended complaint against JPMC. In today’s filing, the Trustee and his Counsel state that the amended complaint should stand and the case should be permitted to move forward. “Allowing the defendants to escape liability for their knowing and devastating conduct would be to give a free pass to the bank to the detriment of Madoff’s victims and in direct contravention of the law,” said David J. Sheehan, counsel for the Trustee and a partner at Baker & Hostetler LLP.

The amended complaint – filed June 24, 2011 – expanded the Trustee’s allegations against JPMC, included a jury demand, and seeks to recover a minimum of \$19 billion in damages, in addition to approximately \$1 billion in fraudulent transfers and equitable claims. All recovered monies will be placed in the BLMIS Customer Fund and distributed, pro rata, to BLMIS customers with allowed claims.

The Trustee's 148-page amended complaint makes specific allegations that JPMC was at the very center of Madoff's fraud and was complicit in it. Madoff could not have conducted his multi-billion-dollar Ponzi scheme within the four corners of BLMIS. He needed a bank that was willing to assist in the daily operation of a Ponzi scheme of unprecedented scale: to routinely enable billions of dollars to bounce back and forth between BLMIS and its customers with an evident lack of legitimate business purpose, to overlook the lack of securities trading, to decline to inquire into or report fictitious account activity, and to cloak the whole enterprise in the respectability of a renowned financial institution.

The filing contains more than sufficient facts, alleging aiding and abetting breach of fiduciary, fraud, and conversion; knowing participation; conversion; unjust enrichment; and fraud on the regulator. For that reason, the Trustee says, the amended complaint should stand and the case should be permitted to go forward.

The original complaint against JPMC was initially filed under seal on December 2, 2010 in the United States Bankruptcy Court for the Southern District of New York. That complaint was unsealed on February 3, 2011.

A copy of today's filing, as well as prior related filings and press releases, will be made available on the Trustee's website at www.madofftrustee.com. It can also be found on the District Court's website as Case No. 1:11-cv-00913 (CM) (MHD) at www.nysb.uscourts.gov.

The Baker & Hostetler LLP attorneys involved with the filing of the complaints and the opposition motion include: David J. Sheehan, Deborah H. Renner, Keith R. Murphy, Thomas D. Warren, Tracy L. Cole, Jessie M. Gabriel, Seanna R. Brown, Sarah J. Truong, Jennifer A. Vessells, Lauren M. Hilsheimer, Lindsey D'Andrea, Marc Skapof, George Klidonas, and Matthew J. Moody.

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