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Press release from the office of Irving H. Picard, SIPA Trustee for the liquidation of Bernard L. Madoff Investment Securities LLC (BLMIS)

Supreme Court Net Equity Decision Permits SIPA Trustee to file Motion for Second Interim Pro Rata Distribution

NEW YORK, NEW YORK and WASHINGTON, DC – June 25, 2012 – Plans for the distribution of recovered funds in the liquidation of Bernard L. Madoff Investment Securities LLC (BLMIS) can now proceed after the Supreme Court declined to review the net equity calculation formula used by Irving H. Picard, the SIPA Trustee in the Madoff liquidation.

“The Supreme Court of the United States found no issue worthy of review in the challenge to our net equity calculation formula. This settles the issue once and for all and allows us to seek approval for a second distribution of recovered funds to Madoff customers,” Mr. Picard said. “With the Court’s ruling in hand, we can now determine the amount of the distribution and file the motion for approval with the Bankruptcy Court within an expedited time frame.”

In a joint announcement today with Stephen P. Harbeck, President and Chief Executive Officer of the Securities Investor Protection Corporation (SIPC), Mr. Picard said that this would be the second interim distribution of recovered funds to BLMIS customers with allowed claims.

“After more than two years, this is excellent news for the hundreds of victims who have not received a return of all the funds they deposited with Madoff,” said Mr. Harbeck. “These victims can now look forward to receiving a distribution in the near future. The SIPA Trustee and his team, who have been held back from distributing funds pending the outcome of this time-consuming legal challenge, can now move ahead with plans for a distribution.”

The SIPA Trustee has recovered or reached agreements to recover approximately \$9.1 billion, equivalent to \$7 million a day for BLMIS customers since his appointment in December 2008. These recoveries exceed prior recovery efforts related to all other Ponzi schemes, in terms of dollar value and percentage of stolen funds recovered.

To date, the SIPA Trustee in the BLMIS liquidation has distributed more than \$1.1 billion to Bernard Madoff’s victims. The first interim pro rata distribution of \$332.6 million in recovered monies from the BLMIS Customer Fund to BLMIS customers – on allowed claims relating to 1,230 accounts, or about 4.6 percent of losses incurred by customers – commenced on October 5, 2011. In addition, BLMIS customers have received more than \$801.3 million in advances the SIPA Trustee has requested from SIPC and distributed to BLMIS customers.

“We are pleased to be moving forward with a second distribution from the Customer Fund,” said David J. Sheehan, chief counsel to the SIPA Trustee. “Our legal strategy has proven highly effective and we will continue on this course to pursue all possible avenues to marshal the maximum recoveries possible for BLMIS customers.”

Potential Additional Distribution

Messrs. Picard and Harbeck said that the second interim pro rata distribution could increase if there is no further appeal by July 16, 2012 of the approximately \$7.2 billion forfeited to the U.S. Government by the estate of Jeffrey Picower, \$5 billion of that being the settlement with the SIPA Trustee.

“Without exception, higher courts have upheld the Bankruptcy Court’s approval of the landmark Picower settlement. We are hopeful that there will be no further delay in our ability to return those funds to their rightful owners,” Mr. Picard said. Additional distributions are conditioned upon resolving appeals of other settlements including the \$1.025 billion Tremont settlement and the \$220 million settlement with the Norman F. Levy family. Ongoing litigation and other matters – such as the potential for an interest or constant dollar calculation – also require that significant funds continue to be held in reserve.

Information on each settlement appeal status and other issues may be found on the SIPA Trustee’s website – www.madofftrustee.com – under the “Recoveries” tab on the home page.

Net equity decision

The net equity calculation methodology is the formula for determining eligibility for pro rata distributions to BLMIS customers with allowed claims from the Customer Fund, based on “cash-in, cash-out” of BLMIS. The Bankruptcy Court’s approval of this methodology was appealed, and on August 16, 2011, the United States Court of Appeals for the Second Circuit upheld the Bankruptcy Court’s approval, affirming the SIPA Trustee’s determination regarding the calculation of net equity and rejecting the use of the fictitious November 2008 BLMIS statements in determining the value of claims. Petitions for a panel rehearing of that decision or for rehearing en banc were also denied prior to the filing of the *writ of certiorari* with the United States Supreme Court. The Supreme Court’s denial of the *writ* ends the appeal process regarding the net equity issue.

The Customer Fund Allocation and Distribution Motion will be filed shortly with the United States Bankruptcy Court for the Southern District of New York. A copy of the motion and notice of the hearing date will be available as soon as it is filed on the SIPA Trustee's website at <http://www.madofftrustee.com>. It will also be available on the Bankruptcy Court’s website at <http://www.nysb.uscourts.gov/>; docket number Bankr. S.D.N.Y., No. 08-01789 (BRL).