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

NEW YORK, NEW YORK –April 23, 2020 –Today the U.S. Court of Appeals for the Second Circuit granted the SIPA Trustee’s request for direct appeals of the Bankruptcy Court judgments entered in *Picard v. Legacy Capital Ltd., et al.* and *Picard v. Citibank, N.A., et al.* Irving H. Picard issued the following statement in connection with the Second Circuit’s decision:

“The appeals arise from adversary proceedings the Trustee brought under SIPA and the Bankruptcy Code to recover property that was fraudulently transferred by BLMIS. After nearly a decade of litigating the *Legacy* action, the *Citibank* action, and other adversary proceedings before the Bankruptcy and District Courts, fundamental questions regarding the pleading standards for avoidance and recovery of fraudulent transfers in SIPA cases remain unsettled.

“The heart of the matter centers on a 2014 District Court decision. The District Court held that a SIPA trustee must plead the absence of good faith, with particularized allegations, as part of his *prima facie* case to avoid and recover transfers under the Bankruptcy Code, even though good faith is an affirmative defense under the Bankruptcy Code. In addition, the District Court discarded the ‘inquiry notice’ standard used to evaluate good faith in bankruptcy cases. In its place, the District Court set forth a heightened standard of willful blindness that the Trustee must meet in SIPA actions to recover fraudulent transfers.

“Through these direct appeals, we are asking the Second Circuit to reverse the rulings by the Bankruptcy and District Courts on the basis that they are inconsistent with precedent and wrongly preclude the SIPA Trustee from recovering hundreds of millions of dollars for distribution to those who were most affected by the Madoff Ponzi scheme – the hundreds of victims who, after all these years, have never received back what they deposited with BLMIS.”