

111TH CONGRESS
1ST SESSION

H. R. 2798

To increase securities protection coverage in the event of stolen or missing assets, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 2009

Mr. ARCURI (for himself and Mr. MAFFEI) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To increase securities protection coverage in the event of stolen or missing assets, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Support Investment
5 Protection for Customers Reform Act of 2009”.

6 **SEC. 2. INCREASING SECURITIES INVESTOR PROTECTION**
7 **CORPORATION CASH COVERAGE.**

8 (a) INCREASING THE CASH LIMIT OF PROTECTION
9 FROM \$100,000 TO \$250,000.—Section 9 of the Securi-

1 ties Investor Protection Act (15 U.S.C. 78fff-3) is amend-
2 ed—

3 (1) in subsection (a)(1), by striking “\$100,000
4 for each such customer” and inserting “the standard
5 maximum cash advance amount for each such cus-
6 tomer, as determined in accordance with subsection
7 (d)”;

8 (2) by adding at the end the following new sub-
9 sections:

10 “(d) STANDARD MAXIMUM CASH ADVANCE
11 AMOUNT.—For purposes of this Act, the term ‘standard
12 maximum cash advance amount’ means \$250,000, ad-
13 justed as provided under subsection (e) after March 31,
14 2010.

15 “(e) INFLATION ADJUSTMENT.—

16 “(1) IN GENERAL.—Not later than April 1,
17 2010, and the first day of each 5-year period there-
18 after, and subject to the approval of the Commis-
19 sion, the Board of Directors of SIPC shall consider
20 the factors set forth under paragraph (5), and, upon
21 determining that an inflation adjustment is appro-
22 priate, shall prescribe the amount by which the
23 standard maximum cash advance amount applicable
24 to a customer claim shall be increased by calculating
25 the product of—

1 “(A) \$250,000; and

2 “(B) the ratio of the annual value of the
3 Personal Consumption Expenditures Chain-
4 Type Price Index (or any successor index there-
5 to), published by the Department of Commerce,
6 for the calendar year preceding the year in
7 which the adjustment is calculated under this
8 paragraph, to the published annual value of
9 such index for the calendar year preceding the
10 date this subparagraph takes effect. The values
11 used in such calculation shall be the applicable
12 values most recently published by the Depart-
13 ment of Commerce.

14 “(2) ROUNDING.—If the amount determined
15 under paragraph (1) for any period is not a multiple
16 of \$10,000, the amount so determined shall be
17 rounded down to the nearest \$10,000.

18 “(3) PUBLICATION AND REPORT TO CON-
19 GRESS.—Not later than April 5 of any calendar year
20 in which an adjustment is required to be calculated
21 under paragraph (1) to the standard maximum cash
22 advance amount—

23 “(A) the Commission shall publish in the
24 Federal Register the standard maximum cash
25 advance amount, as so calculated; and

1 “(B) the Board of Directors of SIPC shall
2 submit a report to the Congress containing the
3 amount described in subparagraph (A).

4 “(4) 6-MONTH IMPLEMENTATION PERIOD.—Any
5 increase in the standard maximum cash advance
6 amount shall take effect on January 1 of the year
7 immediately succeeding the calendar year in which
8 such increase is made.

9 “(5) INFLATION ADJUSTMENT CONSIDER-
10 ATION.—In making any determination under para-
11 graph (1) to increase the standard maximum cash
12 advance amount, the Board of Directors of SIPC
13 shall consider, among other factors—

14 “(A) the overall state of the fund;

15 “(B) the economic conditions affecting
16 members of SIPC; and

17 “(C) potential problems affecting members
18 of SIPC.”.

19 (b) INCREASING SIPC LINE OF CREDIT WITH THE
20 DEPARTMENT OF TREASURY.—Section 4(h) of the Securi-
21 ties Investor Protection Act (15 U.S.C. 78ddd(h)) is
22 amended by striking out “\$1,000,000,000” and inserting
23 “the lesser of \$2,500,000,000 or the target amount of the
24 SIPC Fund specified in the bylaws of SIPC”.

1 **SEC. 3. AMENDMENTS TO THE SECURITIES INVESTOR PRO-**
2 **TECTION ACT.**

3 (a) INCREASING THE MINIMUM ASSESSMENT PAID
4 BY SIPC MEMBERS.—Section 4(d)(1)(C) of the Securities
5 Investor Protection Act (15 U.S.C. 78ddd(d)(1)(C)) is
6 amended by striking “\$150” and inserting “\$1,000”.

7 (b) SIPC AS TRUSTEE IN SIPA LIQUIDATION PRO-
8 CEEDINGS.—Section 5(b)(3) of the Securities Investor
9 Protection Act (15 U.S.C. 78eee(b)(3)) is amended—

10 (1) by striking “SIPC has determined that the
11 liabilities of the debtor to unsecured general credi-
12 tors and to subordinated lenders appear to aggre-
13 gate less than \$750,000 and that”; and

14 (2) by striking “five hundred” and inserting
15 “5,000”.

16 (c) INSIDERS INELIGIBLE FOR SIPC ADVANCE.—

17 (1) IN GENERAL.—Section 9(a)(4) of the Secu-
18 rities Investor Protection Act (15 U.S.C. 78fff-
19 3(a)(4)) is amended by inserting “an insider,” after
20 “or net profits of the debtor,”.

21 (2) INSIDER DEFINED.—Section 16 of the Se-
22 curities Investor Protection Act (15 U.S.C. 78lll) is
23 amended by adding at the end the following new
24 paragraph:

1 “(15) INSIDER.—The term ‘insider’ shall have
2 the same meaning as in section 101(31) of title 11,
3 United States Code.”.

4 (d) ELIGIBILITY FOR DIRECT PAYMENT PROCE-
5 DURE.—Section 10(a)(4) of the Securities Investor Pro-
6 tection Act (15 U.S.C. 78fff-4(a)(4)) is amended by strik-
7 ing out “\$250,000” and inserting “\$850,000”.

8 (e) INCREASING THE FINE FOR PROHIBITED ACTS
9 UNDER SIPA.—Section 14(c) of the Securities Investor
10 Protection Act (15 U.S.C. 78jjj(c)) is amended by striking
11 “\$50,000” each place it appears and inserting
12 “\$250,000”.

13 (f) PENALTY FOR MISREPRESENTATION OF SIPC
14 MEMBERSHIP OR PROTECTION.—Section 14 of the Securi-
15 ties Investor Protection Act (15 U.S.C. 78jjj) is amended
16 by inserting at the end the following new subsection:

17 “(d) MISREPRESENTATION OF SIPC MEMBERSHIP
18 OR PROTECTION.—

19 “(1) Any person who falsely represents by any
20 means (including through the Internet or any other
21 medium of mass communication), with actual knowl-
22 edge of the falsity of the representation and with an
23 intent to deceive or cause injury to another, that
24 such person, or another person, is a member of

1 SIPC or that any person or account is protected or
2 is eligible for protection by SIPC, shall be—

3 “(A) civilly liable for any damages caused
4 thereby; and

5 “(B) fined not more than \$250,000 or im-
6 prisoned for not more than 5 years.

7 “(2) Any Internet service provider who, on or
8 through a system or network controlled or operated
9 by the service provider, transmits, routes, provides
10 connection for, or stores any material containing any
11 misrepresentation described in paragraph (1) shall
12 be civilly liable for any damages caused by such mis-
13 representation, including damages suffered by SIPC,
14 if such Internet service provider—

15 “(A) has actual knowledge that the mate-
16 rial contains a misrepresentation described in
17 paragraph (1), or

18 “(B) in the absence of actual knowledge, is
19 aware of facts or circumstances from which it
20 is apparent that such material contains a mis-
21 representation described in paragraph (1), and
22 upon obtaining such knowledge or awareness, fails to
23 act expeditiously to remove, or disable access to,
24 such material.

1 “(3) Any court having jurisdiction of a civil ac-
2 tion arising under this Act may grant temporary and
3 final injunctions on such terms as it deems reason-
4 able to prevent or restrain any violation of para-
5 graph (1) or (2). Any such injunction may be served
6 anywhere in the United States on the person en-
7 joined, shall be operative throughout the United
8 States, and shall be enforceable, by proceedings in
9 contempt or otherwise, by any United States court
10 having jurisdiction over that person. The clerk of the
11 court granting the injunction shall, when requested
12 by any other court in which enforcement of the in-
13 junction is sought, transmit promptly to the other
14 court a certified copy of all papers in the case on file
15 in such clerk’s office.”.

16 **SEC. 4. COMMISSION STUDY ON INTERNATIONAL FINAN-**
17 **CIAL COOPERATION.**

18 (a) SENSE OF CONGRESS REGARDING NECESSITY OF
19 AN INTERNATIONAL EFFORT TO INVESTIGATE AND
20 THWART GLOBAL INVESTMENT FRAUD.—It is the sense
21 of Congress that—

22 (1) international commerce and global invest-
23 ment have grown exponentially since World War II,
24 creating a marketplace without borders;

1 (2) investors of all sizes deserve assurances that
2 their financial assets are protected from theft, and
3 their transactions are legitimate and accounted for;
4 and

5 (3) the case against Bernard L. Madoff Invest-
6 ment Securities, Inc. represents one of the worst and
7 most devastating instances of financial fraud and de-
8 ception in this Nation's history, resulting in untold
9 billions of dollars in missing assets and affecting
10 thousands of investors in this Nation and around the
11 globe.

12 (b) FEDERAL COMMISSION ON INTERNATIONAL FI-
13 NANCIAL FRAUD.—

14 (1) ESTABLISHMENT.—There is hereby estab-
15 lished within the Office of Inspector General of the
16 Securities and Exchange Commission a Commission
17 on International Financial Fraud (hereinafter in this
18 subsection referred to as the “Commission”).

19 (2) MEMBERSHIP.—The Commission shall be
20 composed of the following members:

21 (A) The Chairman of the Board of Direc-
22 tors of the Securities Investor Protection Cor-
23 poration.

24 (B) The Chairman of the Securities Ex-
25 change Commission.

1 (C) The Secretary of the Treasury.

2 (D) The Chairman of the Board of Gov-
3 ernors of the Federal Reserve System.

4 (E) The Secretary of State.

5 (F) The Director of the Federal Bureau of
6 Investigation.

7 (G) One or more additional individuals, at
8 the discretion of the Inspector General of the
9 Securities and Exchange Commission, where
10 each such individual is the heads of a State,
11 local, private, or not-for-profit entity dem-
12 onstrating research and academic expertise on
13 issues pertaining to international investment
14 and financial fraud.

15 (3) DUTIES.—The Commission shall—

16 (A) study potential relevance, structure,
17 and long-term benefit of—

18 (i) an international financial court;

19 and

20 (ii) establishing an international proc-
21 ess for the adjudication of cases of finan-
22 cial fraud;

23 (B) establish partnerships with State,
24 local, private, and not-for-profit entities dem-
25 onstrating research and academic expertise on

1 issues pertaining to international investment
2 and financial fraud;

3 (C) subject to the approval of the Inspec-
4 tor General of the Securities and Exchange
5 Commission, facilitate communication and in-
6 formation sharing with international public, pri-
7 vate, and not-for-private entities relating to—

8 (i) the creation of an international fi-
9 nancial court; and

10 (ii) establishing an international proc-
11 ess for the adjudication of cases of finan-
12 cial fraud; and

13 (D) study investigative and insurance pro-
14 tection frameworks for international United
15 States investments.

16 (4) REPORTS.—Not later than 3 months after
17 the date of the enactment of this Act, and quarterly
18 thereafter, the Commission shall issue a report to
19 the Congress containing—

20 (A) the Commission’s recommendations on
21 how an international financial court could be
22 structured;

23 (B) the Commission’s recommendation on
24 how a process for the international adjudication

1 of claims of financial fraud could be structured;
2 and

3 (C) any additional recommendations of the
4 Commission.

5 (5) TERMINATION.—The Commission shall ter-
6minate on the date that is 1 year after the date of
7the enactment of this Act.

8 (6) FUNDING.—The cost of funding the Com-
9mission shall be divided equally among each Federal
10agency or department which is represented by a
11Member of the Commission. Notwithstanding the
12previous sentence, any State, local, private, or not-
13for-profit entity that chooses to may also contribute
14funds to pay for the cost of funding the Commission.

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