Statement by Rep. Michele Bachmann
House Financial Services Subcommittee on Capital Markets,
Insurance and Government Sponsored Enterprises
Hearing entitled "Assessing the Madoff Ponzi Scheme and Regulatory Failures"

February 4, 2009

Thank you, Mr. Chairman.

When Bernard Madoff recently admitted to defrauding his customers and stealing upwards of $50 billion by executing the largest "Ponzi" scheme in U.S. history, every member of this Committee was stunned. How could this happen? How could such a broad scheme go unnoticed for years and years?

And when we learned of the investigations conducted by Mr. Markopolos over the past 9 years, we were even more disturbed and concerned about how this could have possibly slipped through the cracks.

In Mr. Markopolos' written testimony, he has submitted 115 documents dating back to May 2000 which detail his contact with the SEC attempting to present evidence that an investigation of Mr. Madoff's firm was necessary This includes everything from email and phone conversations with SEC examiners to in-depth analyses of flaws in Mr. Madoff's profit structure. As we all know, nothing was substantially investigated and Mr. Madoff was able to continue his scheme freely for nearly a decade.

So often policymakers find themselves wishing we knew now what we didn't know then and we can all agree that hindsight is 20/20. Unfortunately, the SEC actually had this information at its fingertips and did not act.They had the benefit of hindsight when it could really be useful.

As a result of the Madoff case, thousands of companies and individuals have lost tremendous amounts of money. The Securities Investment Protection Corporation (SIPC) recently distributed over 8,000 claims forms to Mr. Madoff's customers who may be eligible for relief.

But that's only the tip of the iceberg. One issue that must not get lost as we work to understand what happened and move forward to both promote relief and justice and ensure nothing like this happens again in the future is that of the many *individuals* who were invested in company pension and profit sharing plans. Through their employers, they trusted Mr. Madoff's firm to responsibly manage their investments. It remains unclear whether individual participants invested in such plans will be afforded the protections established by the Securities Investor Protection Act.

Mr. Stephen Harbeck, President of the SIPC, recently testified before our Committee that the SIPC trust fund only has $1.6 billion in funds available, with additional access to several billion more. But in the interest of fairness it is important that SIPC consider the circumstances of individual claims. These are hardworking citizens whose pension or employee profit sharing benefits may now be lost due to Mr. Madoff. They have been just as victimized by this fraud as their companies.

I've heard devastating stories from Minnesotans in such circumstances, such as one employee who receives a $40,000 annual salary and could lose $40,000 in profit sharing benefits through this fraud. Retirees and near-retirees are clearly in the worst possible situation. As this Committee continues to examine the events surrounding and the consequences of the Madoff case, I urge my colleagues and the SIPC to make these people a priority.

Thank you, Mr. Chairman, and I look forward to hearing from today's witnesses.