OPENING STATEMENT OF CONGRESSMAN PAUL E. KANJORSKI

COMMITTEE ON FINANCIAL SERVICES

MEETING TO DISCUSS ASSESSING THE MADOFF PONZI SCHEME AND

THE NEED FOR REGULATORY REFORM

JANUARY 5, 2009

We meet today to begin to understand how Bernard Madoff swindled thousands of innocent investors, effectively stole billions of dollars, and evaded securities regulators already tipped off about this unprecedented Ponzi scheme. The allegations that Mr. Madoff stands at the center of a $50 billion scam simply shock the conscience.

These deeply disturbing events have raised even more troubling questions about the effectiveness of our regulatory system. I have long stressed the need for pursuing comprehensive regulatory reform, and I have convened hearings to advance this initiative. But, before we act on legislation in the 111th Congress to restructure the regulatory system for the financial services industry and enhance investor protection, we need to understand how Mr. Madoff organized his many business operations and how he perpetrated his fraudulent acts.

Today, we will hear from experts in the financial world, including an inspector general, the head of the Securities Investor Protection Corporation, and academics. They will help the Congress to begin to unravel this tangled web. We will also hear from a Madoff victim to help us all understand the dire implications this ruse has had for individual investors, charitable organizations, and pension funds.

This meeting to discuss the Madoff affair will also be the first of several public proceedings. At future hearings we will hear from senior officials at the Securities and Exchange Commission and from Harry Markopolos, who has asked us to temporarily postpone his testimony so that he can better prepare for our questions. We will need to hear from other financial services regulators, as well. We also need to hear from auditors and their overseers.

This elaborate Ponzi scheme fell through the cracks of our regulatory system. From what we have all learned in the press, it now appears that regulators should have detected the Madoff wrongdoing earlier because of the red flags raised by others. Authorities received information about potential problems when outsiders like Mr. Markopolos could not create a model that matched the results of Mr. Madoff's purported strategy. Others published articles as early as 2001 raising questions about Mr. Madoff's firm. Other red flags include unrealistically steady investment returns and an auditor the size of a mouse examining a fund the size of an elephant.

Perhaps most shocking, after Mr. Madoff misled government examiners and after he was then forced to register as an investment adviser, the Commission did not conduct any subsequent inspections. Moreover, in its prior examinations, the Commission failed to effectively use its subpoena power to obtain any records other than those voluntarily offered.

In the wake of this unprecedented financial crisis, we now know that our securities regulators have not only missed opportunities to protect investors against massive losses from the most complex financial instruments like derivatives, but they have also missed the chance to protect them against the simplest of scams, the Ponzi scheme. Clearly, our regulatory system has failed miserably and we must rebuild it now.

As we resurrect our regulatory structure, we must ensure that regulators have the resources that they need to get the job done. A former chairman of the Commission, Arthur Leavitt, has noted that the agency's enforcement unit is chronically understaffed. Whereas it had had 433 people in the office of compliance and examinations looking at 8,000 advisers two years ago, today it has 400 people looking at 11,000 advisers and thousands of mutual funds.

Moreover, the number of investment advisers subject to the Commission's oversight has doubled since 1997. While we do not yet know if the Commission's oversight in this case can be blamed on a lack of resources, we can certainly work to make sure adequate staff and powers are available in the future.

We must also take actions to better protect all investors, from elderly widows to sophisticated market participants. There are many ideas on how we can accomplish this objective. The Congress will review these options. In the Madoff case, legal authorities will be tasked with finding a way to help aggrieved investors, too.

Finally, it is important to note that this is a real crisis with real victims. I, for one, was saddened to learn of a gentleman who, because he lost the money of his family and his clients in the Madoff financial scandal, took his own life. Life is always more precious than money. I therefore hope that we will see no more tragic fallout from this messy, sordid affair.

In closing, I thank our witnesses and my colleagues for joining me here today. Together, I hope that we can learn from this terrible event, figure out how we can improve our regulatory structure, and undertake the most substantial rewrite of the laws governing the U.S. financial markets since the Great Depression.