OPENING STATEMENT OF
CHAIRMAN PAUL E. KANJORSKI

SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE,
AND GOVERNMENT SPONSORED ENTERPRISES

HEARING ON ADDITIONAL REFORMS TO
THE SECURITIES INVESTOR PROTECTION ACT

DECEMBER 9, 2009

Good morning. One year ago this week, Federal authorities arrested Mr. Bernard Madoff for perpetrating the largest Ponzi scheme in U.S. history. It is therefore appropriate for us to meet today for the third time to examine this massive securities fraud. As my colleagues know, I have sought to use this $65 billion deception as a case study to guide our work in reshaping and reforming our financial services regulatory system.

Last month, our Committee passed H.R. 3817, the Investor Protection Act, and we have now rolled this important securities reform bill into H.R. 4173, the Wall Street Reform and Consumer Protection Act, which the House will begin to consider today. Both bills contain a number of provisions that directly respond to Mr. Madoff's substantial swindle.

The repeated failures of the U.S. Securities and Exchange Commission -- despite having received several leads from a number of sources -- to detect the Madoff fraud allowed the hoax to continue for more than a decade. A lack of effective coordination, sufficient funding, and staff expertise each contributed to this unfortunate regulatory breakdown.

In response, our bills double the authorized funding for the Commission over 5 years to ensure that the agency has the resources it needs to hire staff with appropriate expertise and to get its job done. The bills also provide for an expeditious, independent, and comprehensive review of the entire securities regulatory structure by a high-caliber entity with experience in organizational change. This study will identify specific reforms and improvements that the Commission and the other entities that oversee our securities markets must put in place to ensure superior investor protection going forward.

The Madoff episode also revealed the need to elevate the importance of whistleblowers like Mr. Markopolos -- who made repeated entreaties to the Commission regarding Mr. Madoff's con -- by establishing incentives so that more of them will come forward. Our regulatory reform package therefore includes a bounty program to help identify wrongdoing in our securities markets and reward individuals whose tips lead to successful enforcement actions. With a bounty program, we will effectively have more cops on the beat.

In studying the Madoff case, we have additionally learned that the Public Company Accounting Oversight Board lacked the powers it needed to examine and take action against the auditors of broker-dealers. Our legislation closes this loophole so schemers like Madoff will no longer be able to rely on inept or corrupt accounting firms to rubber stamp their criminal activities.

Through our investor protection reforms, we have further sought to strengthen the Securities Investor Protection Act, the law that helps investors to recover funds when a broker or dealer fails. We have increased the resources available to the Securities Investor Protection Corporation to fund liquidations, boosted the level of cash coverage an investor is entitled to, and raised penalties on brokerages for violations of the law. We have also broadened the eligible types of investments covered. We can, however, do more to reform this law.

Today, we will continue to move this process forward as we examine the ongoing efforts of the Securities Investor Protection Corporation to mitigate the sizable losses suffered by Mr. Madoff's victims, as well as the casualties of the $8 billion Stanford Financial fraud. We will also explore the intended and unintended consequences of several proposed changes to the Securities Investor Protection Act that aim to address problems that some Madoff and Stanford Financial victims -- including retirees, pension funds, charities and others -- have encountered.

While each of these amendments seeks to fix a perceived deficiency in the law, each proposal would also benefit from a robust debate in order to identify potential problems and possible refinements. Some, for example, have advocated that the Securities Investor Protection Corporation should not claw back the profits taken by early investors who unwittingly partook in a Ponzi scheme. I have concerns that such a plan, if implemented, would treat later investors unfairly. That said, clawing back profits already used by charities could prove especially devastating. As such, we must walk a fine line in determining how to proceed, if at all.

In closing, I would like to extend my appreciation to my colleagues from New York, Mr. Ackerman and Mr. Maffei, as well as Mr. Ellison of Minnesota, Mr. Klein of Florida, and Mr. Perlmutter of Colorado who have helped to select today's witnesses and advance discussions on reforming the Securities Investor Protection Act. Together, I hope that we can learn more from these terrible events and figure out how we can further improve our regulatory system.