

Dear _____

[UPDATE THIS FIRST PARAGRAPH WITH A BREIF BACKGROUND OF YOUR OWN STORY]

I had invested my life's savings in Bernard L. Madoff Investment Securities, Inc. ("Madoff"). At the time the investment was recommended to me by a friend, I reviewed Madoff's purported investment strategy (going into the market five-six times/year and purchasing a portfolio of Fortune 100 company stocks; selling those stocks and putting the funds in US Treasury Notes; then re-investing in Fortune 100 company stocks). I told my friend the only risk was that Madoff was a fraud. My friend laughed and said that Madoff had an impeccable reputation in the industry and that firms who were jealous of his trading strategy had reported him to the SEC who had investigated Madoff on several occasions and found him to be absolutely honest. Naively, I thought there could be no better recommendation.

The fact that investors cannot rely upon the competence of the SEC is of enormous concern to everyone. I am confident that Congress will address that issue because, otherwise, the United States securities markets cannot survive. What also needs to be addressed is the devastation to approximately 100,000 Americans who, relying upon the SEC's stamp of approval, invested their lives' savings in Madoff and have now lost everything. I urge you to enact legislation that will accomplish the following:

1. Madoff victims are entitled to a "theft loss" as of 2008, pursuant to Section 165(c)(2) of the Internal Revenue Code, which they can carry back for *at least* ten years. This is important because many of the Madoff investors are in their 70's, 80's and 90's and have no future income against which to offset the theft loss.
2. Victims should be able to take the full loss in 2008 and, in the event that they are fortunate enough to receive some recovery from SIPC, the Madoff bankruptcy, or some other source, they can declare that recovery as income in the year received.
Victims are also entitled to refunds of income taxes paid on phantom income.
3. The tax basis of the loss should be defined to include previously recognized phantom income under the reinvested income theory since investors paid taxes on the phantom income. It should be **clearly** spelled out that an investor's loss should be equal to the original investment, plus phantom income less withdrawals. Existing law and current proposed legislation is not clear about this.
4. The carryback period **for theft losses and refunds of income taxes paid on phantom income** should be equal for all victims regardless of the date when they invested in Madoff. There is no logic to having a staged carryback period. To a person who invested his life's savings in Madoff in 2006 in reliance upon the SEC's stamp of approval, it is terribly unfair to limit his carryback period to a mere two years.

5. An efficient expedient method should be adopted to assure that taxpayers are able to obtain refunds as quickly as possible so as to avoid forcing victims to sell their houses in a down market at a depressed price.
6. The Bankruptcy Code should be amended to prohibit fraudulent conveyance litigation against *innocent customers* of an SEC-regulated broker/dealer who receive income in good faith from their broker. The American securities markets cannot attract investors if they cannot be assured that the balance on their monthly statement belongs to them and cannot be “clawed back” by a bankruptcy trustee.
7. With tax adjustments, a theft loss must be made available to investors who had Roth IRA accounts or regular IRA accounts with Madoff. For example, an IRA investor who lost \$1 million could be given a theft loss of \$650,000.
8. Some relief must be provided to charities, foundations, and union, pension and employee benefit Plans and other similar entities that were wiped out by the fraud. A provision should be considered allowing for restorative payments that would not otherwise be subject to the normal income tax limitations currently imposed. This would expand the current provision suggested by HR 1159.
9. Also for legislative review would be consideration for modifying the existing gift tax exclusion. See proposed legislation HR 1159.

Thank you very much for your consideration of this matter which is so important to the restoration of economic stability in these trying times.