

Congress of the United States
Washington, DC 20515

May 17, 2012

Chairman Spencer Bachus
The Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus,

We write to address and alleviate your concerns on our legislation - H.R. 4002, **The Improving Security for Investors and Providing Closure Act (Improving SIPC Act) of 2012** - and reiterate our request for a prompt hearing and markup on this important legislation.

In your letter, you state that any changes to the Securities Investor Protection Act of 1974 (SIPA), which is the governing statute of the Securities Investor Protection Corporation (SIPC), *“must not create an incentive to commit fraud, force SIPC to borrow against its credit line, mandate that SIPC cover investment loss, or impose a financial burden on SIPC’s members or, most importantly, their customers.”* We firmly believe that we have carefully crafted our legislation to adhere to and strengthen these underlying principles, and we would like to take the time to respond.

First, it is important to note that the provisions of our legislation only apply in the extraordinary situation that a lawsuit is filed by the SEC against SIPC ordering a liquidation and payout to customers of a failed broker. If the SEC agrees with SIPC that restitution is not appropriate in a specific case, then no such suit would be filed and the settlement option provided in the Improving SIPC Act would not be available in that particular case. We believe this provision makes it inconceivable that our legislation would encourage or incentivize participation in fraud. The idea that a customer would purposely make an investment with a suspicious broker - predicated on the belief that if the broker collapsed as a result of fraud, the SEC would take the extraordinary step to sue SIPC if coverage is denied, and that SIPC would then exercise its right under our legislation to offer a settlement to that customer - is simply too remote a possibility.

Second, and to your point addressing not imposing additional mandates on SIPC and its customers, our legislation only provides SIPC with the option to extend a settlement offer to the affected customers. Simply put, if SIPC is sued by the SEC over coverage of a failed broker, and SIPC does not believe it is appropriate to extend a settlement to the affected clients, they are under no obligation to do so. SIPC’s choice of whether to propose a settlement offer would certainly take into account the overall fiscal health of the SIPC Fund itself. Indeed, SIPC would have the full discretion and authority to ensure that any settlement offer does not force them to borrow against their credit line or impose financial burdens on their members. Our legislation ensures that any settlement offer made by SIPC to affected customers would be made with full cognizance and awareness of the implications on all parties, especially SIPC.

Third, you state that any legislative response to the Stanford case should wait until all the issues surrounding ongoing or potential liquidation procedures have been resolved. The fact is, if we were proposing a bill that would dramatically re-write the SIPA law upon which these legal proceedings are predicated, we would tend to agree with you. However, H.R. 4002 would not have such an impact on the Stanford legal proceedings. Under our bill, nothing would change for those who want no part of a settlement offer, and they would be free to continue awaiting the outcome of the SEC's legal action, which would not be affected by this legislation.

Respectfully, we would submit that for those who lost everything to Stanford, the uncertain and protracted liquidation procedure is not simply "frustrating" as you stated in your letter. For many of these citizens, the dissolution of their life savings at this point in their lives poses a real and significant threat to their health, safety, and emotional well-being, which will only worsen with time. It also is hard to imagine that the overwhelming majority of these honest, hardworking people would not have taken the settlement offer extended by SIPC last year if the opportunity had been available. Instead, the present law permitted the SEC to reject SIPC's offer on behalf of the Stanford victims. Our bill would correct this injustice, permitting the Stanford victims to choose to accept or reject a SIPC settlement offer, not the SEC. Under our bill this offer would be made through a transparent, fair, and structured process.

Mr. Chairman, we write to you not only as United States Representatives, but as fellow citizens who live in the states and communities of the Gulf Coast which were hit the hardest by the crimes of convicted felon Allen Stanford. From your position as Chairman of the Committee on Financial Services, you have the opportunity to advance legislation that could bring desperately needed relief and closure to our constituents in Louisiana and Florida, your constituents in Alabama, and countless others throughout the country we all serve in Congress, now and in the future. We are confident that if given the opportunity, we would be able to satisfy any other concerns you have with the bill and make any necessary corrections if needed. We look forward to working with you on this important matter.

Sincerely,



Bill Cassidy
Member of Congress



Theodore E. Deutch
Member of Congress

CC: Ranking Member Frank, Subcommittee Chairman Garrett, Subcommittee Ranking Member Waters, and Committee Vice Chairman Hensarling