

HR __: The Improving SIPC Act of 2012

Trigger

The provisions of the Act only take effect when a circumstance arises in which the SEC and SIPC are unable to agree on whether SIPC coverage is applicable to an instance of brokerage failure, and the SEC files suit against SIPC to force a liquidation and payout.

One-Time Payment Offer

SIPC would be permitted, but not required, to formally propose a one-time payment to the affected investors. The terms of the payment would only involve the customer's lost net equity deposited with the broker, applied to an adjustment of the \$500,000 cap on SIPC claims. For example, SIPC could propose a cap of \$250,000 on all payments. Or, they could propose a cap of \$100,000. The cap must apply equally and uniformly to all those affected by the brokerage failure in question.

Every investor will have the opportunity to receive an official, binding offer for their claim before deciding whether to accept the one-time payment or not.

Investor Option

Once SIPC declares its intention to offer a one-time payment to affected investors, a 180-day window opens for those investors to decide individually whether they choose to accept a settlement under the cap proposed by SIPC. Upon request by the affected customer, SIPC shall work with each customer to furnish an estimation of total net equity losses eligible for SIPC restitution.

- For those with losses that equal less than the proposed cap, who in all likelihood are the ones who lost everything, the decision to take the one-time payment should be fairly obvious.
- For those who lost just slightly more than the proposed cap, the one-time payment would also be an appealing option as it would provide immediate restitution and not a prolonged and uncertain legal fight.
- For those who lost significantly more than the proposed cap, or for any other reason choose not to accept the one-time payment, nothing in this Act would preclude them from continuing to hold out for the SEC to secure the full \$500,000 through litigation proceedings.

The choice to settle under the terms of this Act will permanently prohibit the claimant from making any further claims against SIPC for restitution of their losses.

Notification

For instances in which a disagreement arises between SEC and SIPC that could result in the provisions of this Act going into effect, SIPC shall provide notice to customers of the potential for a one-time payment. SIPC's notice to those claimants also will explain the options available to them under this Act, as well as deadlines for action.