

112TH CONGRESS
2D SESSION

H. R. 4002

To amend the Securities Investor Protection Act of 1970 to provide one-time payments from the SIPC Fund for customers during a pending lawsuit by the Securities and Exchange Commission against the Securities Investor Protection Corporation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 2012

Mr. CASSIDY (for himself, Mr. DEUTCH, Mr. HARPER, Mr. DUNCAN of Tennessee, Mr. ALEXANDER, Mr. WEST, Mr. BOUSTANY, Mr. CULBERSON, Mr. McCAUL, Mr. LANDRY, Mr. SESSIONS, Mr. GRIFFIN of Arkansas, and Mr. HASTINGS of Florida) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Securities Investor Protection Act of 1970 to provide one-time payments from the SIPC Fund for customers during a pending lawsuit by the Securities and Exchange Commission against the Securities Investor Protection Corporation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Improving Security
5 for Investors and Providing Closure Act of 2012” or the
6 “Improving SIPC Act of 2012”.

1 **SEC. 2. CUSTOMER PAYMENT DURING PENDING ACTION.**

2 (a) IN GENERAL.—Section 11 of the Securities Inves-
3 tor Protection Act of 1970 (15 U.S.C. 78ggg) is amend-
4 ed—

5 (1) by redesignating subsections (c) and (d) as
6 subsections (d) and (e), respectively; and

7 (2) by inserting after subsection (b) the fol-
8 lowing:

9 “(c) CUSTOMER PAYMENT DURING PENDING AC-
10 TION.—

11 “(1) ONE-TIME PAYMENT PERMITTED.—

12 “(A) IN GENERAL.—At the time that an
13 action is initiated under subsection (b), SIPC
14 may choose to allow all customers of the debtor
15 to elect to receive a one-time payment from the
16 SIPC Fund to settle their net equity claims
17 against the debtor.

18 “(B) CUSTOMER ELECTION.—If SIPC al-
19 lows customers to make the election described
20 under subparagraph (A), each customer choos-
21 ing to make such election—

22 “(i) must make such election during
23 the action brought under subsection (b),
24 but in no case later than the 180-day pe-
25 riod beginning on the date that SIPC
26 chooses to allow such election; and

1 “(ii) shall forgo all other possible pro-
2 tections under this Act with respect to the
3 debtor.

4 “(2) METHOD OF PAYMENT.—

5 “(A) IN GENERAL.—To the extent prac-
6 ticable, one-time payments made under this
7 subsection shall be made in the same manner as
8 payments of net equity claims of customers of
9 a debtor are made under the other provisions of
10 this Act.

11 “(B) PAYMENT AMOUNT LIMITED TO
12 CLAIMS.—The amount paid to a customer
13 under this subsection may not exceed the cus-
14 tomer’s net equity claims against the debtor.

15 “(3) CAP ON ONE-TIME PAYMENTS.—At the
16 time the action is initiated under subsection (b),
17 SIPC shall set a cap on the amount of one-time pay-
18 ments that can be made under this subsection, and
19 such cap—

20 “(A) shall not exceed \$500,000; and

21 “(B) shall apply equally to all customers of
22 the debtor.

23 “(4) EFFECT OF ELECTION.—With respect to
24 any customer who receives a one-time payment
25 under this subsection, SIPC shall be subrogated to

1 all rights of the customer against the debtor, regard-
2 less of whether the one-time payment was in an
3 amount to fully satisfy the customer's claims against
4 the debtor.

5 “(5) NOTICE; TECHNICAL ASSISTANCE.—If
6 SIPC allows customers to make the election de-
7 scribed under paragraph (1)(A), SIPC shall—

8 “(A) promptly notify each customer of the
9 debtor of their rights under this subsection; and

10 “(B) provide technical assistance to such
11 customers to determine if they should make an
12 election under paragraph (1)(B).

13 “(6) TREATMENT OF CERTIFICATES OF DE-
14 POSIT.—For purposes of this subsection, a certifi-
15 cate of deposit purchased by a person through an
16 account with the debtor shall be treated as cash de-
17 posited and held by the debtor in an amount equal
18 to the amount the person paid for the certificate of
19 deposit, less any amounts paid to such person on the
20 certificate of deposit.

21 “(7) RULEMAKING.—SIPC may issue such reg-
22 ulations as may be necessary to carry out this sub-
23 section.

24 “(8) DEBTOR DEFINED.—For purposes of this
25 subsection, the term ‘debtor’ means the broker or

1 dealer that is the subject of the action brought
2 under subsection (b).”.

3 (b) APPLICATION.—With respect to an ongoing ac-
4 tion brought under section 11(b) of the Securities Investor
5 Protection Act of 1970 (15 U.S.C. 78ggg(b)) before the
6 date of the enactment of this Act, the customer election
7 available under section 11(c) of such Act may be made
8 during the 180-day period beginning on the date of the
9 enactment of this Act.

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