

113TH CONGRESS
1ST SESSION

H. R. 827

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 26, 2013

Mr. CASSIDY (for himself and Mr. DEUTCH) 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 2013” or the
6 “Improving SIPC Act of 2013”.

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.

17 “(B) CUSTOMER ELECTION.—If SIPC al-
18 lows customers to make the election described
19 under subparagraph (A), each customer choos-
20 ing to make such election must make such elec-
21 tion during the action brought under subsection
22 (b), but in no case later than the 180-day pe-
23 riod beginning on the date that SIPC chooses
24 to allow such election.

25 “(2) METHOD OF PAYMENT.—

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

7 “(B) PAYMENT AMOUNT LIMITED TO
 8 CLAIMS.—The amount paid to a customer
 9 under this subsection shall be equal to the less-
 10 er of—

11 “(i) the customer’s net equity claim
 12 against the debtor; and

13 “(ii) the cap set under paragraph (3).

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

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

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

22 “(4) EFFECT OF ELECTION.—

23 “(A) NO SIPC ADVANCE.—Section 9(a)
 24 shall not apply with respect to any customer

1 who receives a one-time payment under this
2 subsection.

3 “(B) SUBROGATION.—With respect to any
4 customer who receives a one-time payment
5 under this subsection, SIPC shall be subrogated
6 to all rights of such customer against the debt-
7 or once the customer recovers an amount equal
8 to the customer’s net equity claim against the
9 debtor.

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

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

15 “(B) provide technical assistance to such
16 customers to determine if they should make an
17 election under paragraph (1)(B).

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

1 “(7) JUDICIAL REVIEW OF CERTAIN SIPC DE-
2 TERMINATIONS.—With respect to any person who is
3 not permitted to make an election under this sub-
4 section because SIPC does not identify them as a
5 customer of the debtor, such person may commence
6 an action against SIPC in the appropriate United
7 States district court to challenge the determination
8 by SIPC that they are not a customer of the debtor.

9 “(8) RULEMAKING.—SIPC may issue such reg-
10 ulations as may be necessary to carry out this sub-
11 section.

12 “(9) DEBTOR DEFINED.—For purposes of this
13 subsection, the term ‘debtor’ means the broker or
14 dealer that is the subject of the action brought
15 under subsection (b).”.

16 (b) APPLICATION.—With respect to an ongoing ac-
17 tion brought under section 11(b) of the Securities Investor
18 Protection Act of 1970 (15 U.S.C. 78ggg(b)) before the
19 date of the enactment of this Act, the customer election
20 available under section 11(c) of such Act may be made
21 during the 180-day period beginning on the date of the
22 enactment of this Act.

23 (c) RULE OF CONSTRUCTION.—A person’s qualifica-
24 tion as a customer for purposes of section 11(c) of the
25 Securities Investor Protection Act of 1970 shall have no

- 1 effect on whether such person qualifies as a customer
- 2 under any other provision of such Act.

