



*United States Attorney
Southern District of New York*

**FOR IMMEDIATE RELEASE
MARCH 10, 2009**

**CONTACT: U.S. ATTORNEY'S OFFICE
YUSILL SCRIBNER,
REBEKAH CARMICHAEL,
JANICE OH
PUBLIC INFORMATION OFFICE
(212) 637-2600**

**FBI
JIM MARGOLIN, MONICA McLEAN
PUBLIC INFORMATION OFFICE
(212) 384-2720, 2715**

**DOL-EBSA
GLORIA DELLA
PUBLIC INFORMATION OFFICE
(202) 693-8666**

**BERNARD L. MADOFF CHARGED IN
ELEVEN-COUNT CRIMINAL INFORMATION**

LEV L. DASSIN, the Acting United States Attorney for the Southern District of New York, JOSEPH M. DEMAREST, JR., the Assistant Director-in-Charge of the New York Field Office of the Federal Bureau of Investigation ("FBI"), and ALAN D. LEBOWITZ, the Deputy Assistant Secretary of the United States Department of Labor, Employee Benefits Security Administration ("DOL-EBSA"), announced the filing today of a Criminal Information in Manhattan federal court charging BERNARD L. MADOFF with eleven felony charges including securities fraud, investment adviser fraud, mail fraud, wire fraud, three counts of money laundering, false statements, perjury, false filings with the United States Securities and Exchange Commission ("SEC"), and theft from an employee benefit plan. There is no plea agreement between the Government and the defendant.

If found guilty of all counts, MADOFF, 70, faces a statutory maximum sentence of 150 years' incarceration. MADOFF is also subject to mandatory restitution and faces fines up to twice the gross gain or loss derived from the offense. The Criminal Information filed today also includes forfeiture allegations which would require MADOFF to forfeit the proceeds of the charged crimes, as well as all property involved in the money

laundering offenses and all property traceable to such property. The statutory maximum sentences for each of the charged offenses are set forth in an attached chart.

Specifically, the Criminal Information alleges that:

BERNARD L. MADOFF is the founder, and served as the sole member and principal, of Bernard L. Madoff Investment Securities LLC, and its predecessor, Bernard L. Madoff Investment Securities, (collectively and separately, "BLMIS"). BLMIS was a broker-dealer, with its principal place of business in New York City, which engaged in three principal types of business: market making; proprietary trading; and investment advisory services. Madoff Securities International Ltd. ("MSIL") was an affiliate of BLMIS incorporated in the United Kingdom, which engaged principally in proprietary trading. MADOFF owned the majority of the voting shares of MSIL, and served as the Chairman of MSIL's Board of Directors.

From at least the 1980s until his arrest on December 11, 2008, MADOFF perpetrated a scheme to defraud the clients of BLMIS by soliciting billions of dollars of funds under false pretenses, failing to invest investors' funds as promised, and misappropriating and converting investors' funds to MADOFF's own benefit and the benefit of others without the knowledge or authorization of the investors.

To execute the scheme, MADOFF solicited and caused others to solicit prospective clients to open trading accounts with BLMIS, based upon his promise to use investor funds to purchase shares of common stock, options, and other securities of large, well-known corporations, and representations that he would achieve high rates of return for clients, with limited risk. However, as MADOFF well knew, these representations were false. MADOFF failed to invest the BLMIS investment advisory clients' funds in securities as he had promised. Instead, notwithstanding representations that MADOFF made and caused to be made on tens of thousands of account statements and other documents sent to BLMIS clients throughout the operation of the scheme, MADOFF operated a massive Ponzi scheme in which client funds were misappropriated and converted to the use of MADOFF, BLMIS, and others.

In connection with the Ponzi scheme, MADOFF accepted billions of dollars of investor money -- cumulatively, from individual investors, charitable organizations, trusts, pension funds, and hedge funds, among others -- and established on their behalf thousands of accounts at BLMIS.

Among the false representations he made to clients and prospective clients about his investment strategies, MADOFF marketed an investment strategy referred to as a "split strike conversion" strategy. Clients were promised that BLMIS would invest their funds in a basket of approximately 35-50 common stocks within the Standard & Poor's 100 Index (the "S&P 100"), a collection of the 100 largest publicly traded companies in terms of their market capitalization. MADOFF claimed that he would select a basket of stocks that would closely mimic the price movements of the S&P 100. MADOFF further claimed that he would opportunistically time those purchases, and would be "out of the market" intermittently, investing clients' funds in these periods in United States Government-issued securities such as United States Treasury bills. MADOFF also claimed that he would hedge the investments that he made in the basket of common stocks by using investor funds to buy and sell option contracts related to those stocks, thereby limiting potential losses caused by unpredictable changes in stock prices.

Further, to induce new and continued investments by clients and prospective clients, MADOFF promised certain clients annual returns in varying amounts of up to approximately 46 percent per year. MADOFF also told certain clients that the fee for his services would be based on an approximately \$0.04 per share commission on the stocks that MADOFF traded for such clients.

Contrary to promises that he would use investor funds to purchase securities on their behalf and invest client funds pursuant to the strategies he had marketed, MADOFF used most of the investors' funds to meet the periodic redemption requests of other investors. In addition, MADOFF took some of these clients' investment funds as "commissions," which he used to support the market making and proprietary trading businesses of BLMIS, and from which he and others received millions of dollars in benefits.

MADOFF created and caused to be created a broad infrastructure at BLMIS to generate the impression and support the appearance that BLMIS was operating a legitimate investment advisory business in which client funds were actively traded as he had promised, and to conceal the fact that no such business was actually being conducted. Among other things, MADOFF hired numerous employees -- many of whom had little or no prior pertinent training or experience in the securities industry -- to serve as a "back office" for this investment advisory business. MADOFF directed those BLMIS employees to communicate with clients and generate false and fraudulent documents, including monthly

client account statements and trade confirmations purporting to reflect the purchases and sales of securities which MADOFF claimed were conducted on behalf of BLMIS's clients. Furthermore, account statements and trade confirmations sent to clients reflected fictitious returns consistent with the returns that had previously been promised to them.

Moreover, to support BLMIS's market making and proprietary trading businesses, between at least 2002 and about 2008, MADOFF caused more than \$250 million of BLMIS investment advisory clients' funds to be directed, through a series of wire transfers, to the operating accounts that funded the operations of these businesses. Specifically, MADOFF caused those investor funds to be sent from a BLMIS account in New York City (the "BLMIS Client Account") to accounts held by BLMIS-affiliate MSIL in London, United Kingdom (the "MSIL Accounts"). He then further caused funds to be transferred from the MSIL Accounts to either the BLMIS Client Account or to another bank account in New York City, which was principally used to fund BLMIS's operations.

MADOFF directed these funds transfers, in part, to give the appearance that he was conducting securities transactions in Europe on behalf of the investors when, in fact, he was not. MADOFF also directed the transfer of funds from the MSIL Accounts to purchase and maintain property and services for the personal use and benefit of MADOFF, his family members, and associates.

To conceal his scheme, MADOFF, among other things, withheld information from regulators and repeatedly lied to the SEC in written submissions and in sworn testimony.

In furtherance of the scheme, MADOFF caused fraudulent certified financial statements for BLMIS, including balance sheets, statements of income, statements of cash flows, and reports on internal control, to be created. MADOFF further caused such fraudulent financial statements to be sent to clients and prospective clients and to be filed with the SEC. MADOFF knew that the certification attached to the BLMIS financial statements falsely averred that those statements had been prepared in accordance with Generally Accepted Auditing Standards and Generally Accepted Accounting Principles.

As of November 30, 2008, BLMIS had approximately 4,800 client accounts. On December 1, 2008, BLMIS issued account statements for the calendar month of November 2008 reporting that those client accounts held a total balance of approximately \$64.8 billion. In fact, BLMIS held only a small fraction of that balance on behalf of its clients.

* * *

MADOFF is expected to appear at a plea proceeding on March 12, 2009, at 10:00 a.m. before United States District Judge DENNY CHIN in Manhattan federal court. Pursuant to an order issued by Judge CHIN on March 6, 2009, any individual who wishes to be heard during that proceeding must send notice via e-mail to the U.S. Attorney's Office for the Southern District of New York at usanys.madoff@usdoj.gov by 10:00 a.m. on March 11, 2009.

Mr. DASSIN praised the investigative work of the FBI and the DOL-EBSA. Mr. DASSIN also thanked the SEC for its assistance.

"The charges reflect an extraordinary array of crimes committed by Bernard Madoff for over twenty years. While the alleged crimes are not novel, the size and scope of Mr. Madoff's fraud are unprecedented. As a result, Mr. Madoff faces one hundred fifty years in prison, mandatory restitution to the victims of his crimes, forfeiture of his ill-gotten gains, and criminal fines. The Government has not entered into any agreement with Mr. Madoff about his plea or sentencing," said Acting United States Attorney LEV L. DASSIN. "The filing of these charges does not end the matter. Our investigation is continuing."

Assistant United States Attorneys MARC LITT, LISA A. BARONI, WILLIAM J. STELLMACH, BARBARA A. WARD, and SHARON FRASE, are in charge of the prosecution.

The charges and allegations contained in the Criminal Information are merely accusations, and the defendant is presumed innocent unless and until proven guilty.

09-054

###

STATUTORY MAXIMUM SENTENCES

United States v. Bernard L. Madoff

| <u>Count</u> | <u>Charge</u> | <u>Maximum Penalties</u> |
|---------------|--|--|
| ONE | Securities Fraud | 20 years in prison; 3 years' supervised release; fine of the greatest of \$5 million or twice the gross gain or loss from the offense; and restitution |
| TWO | Investment Adviser Fraud | 5 years in prison; 3 years' supervised release; fine of the greatest of \$10,000 or twice the gross gain or loss from the offense; and restitution |
| THREE | Mail Fraud | 20 years in prison; 3 years' supervised release; fine of the greatest of \$250,000 or twice the gross gain or loss from the offense; and restitution |
| FOUR | Wire Fraud | 20 years in prison; 3 years' supervised release; fine of the greatest of \$250,000 or twice the gross gain or loss from the offense; and restitution |
| FIVE | International Money Laundering To Promote Specified Unlawful Activity | 20 years in prison; 3 years' supervised release; fine of the greatest of \$500,000 or twice the value of the monetary instruments or funds involved, or twice the gross gain or loss from the offense; and restitution |
| SIX | International Money Laundering To Conceal and Disguise The Proceeds Of Specified Unlawful Activity | 20 years in prison; 3 years' supervised release; fine of the greatest of \$500,000 or twice the value of the monetary instruments or funds involved, or twice the gross gain or loss from the offense; and restitution |
| SEVEN | Money Laundering | 10 years in prison; 3 years' supervised release; fine of the greatest of \$250,000 or twice the gross gain or loss from the offense; and restitution |
| EIGHT | False Statements | 5 years in prison; 3 years' supervised release; fine of the greatest of \$250,000 or twice the gross gain or loss from the offense; and restitution |
| NINE | Perjury | 5 years in prison; 3 years' supervised release; fine of the greatest of \$250,000, or twice the gross gain or loss from the offense; and restitution |
| TEN | Making a False Filing with the SEC | 20 years in prison; 3 years' supervised release; fine of the greatest of \$5,000,000 or twice the gross gain or loss from the offense; and restitution |
| ELEVEN | Theft from an Employee Benefit Plan | 5 years in prison; 3 years' supervised release; fine of the greatest of \$250,000, or twice the gross gain or loss from the offense; and restitution |