



February 5, 2009

**STATEMENT OF EMPLOYEE BENEFITS SECURITY ADMINISTRATION  
“DUTIES OF FIDUCIARIES IN LIGHT OF RECENT EVENTS REGARDING BERNARD L. MADOFF  
INVESTMENT SECURITIES LLC”**

Recent events regarding Bernard L. Madoff Investment Securities LLC have resulted in fiduciaries, investment managers and other investment service providers asking the Department of Labor about steps they should be taking in connection with employee benefit plans they believe may have exposure to losses as a result of plan assets being invested with Madoff entities. Fiduciaries of employee benefit plans covered by the Employee Retirement Income Security Act of 1974 (ERISA) should address these events in a manner consistent with their fiduciary duties of prudence and loyalty to the plan's participants and beneficiaries.

Where plan fiduciaries determine that plan assets were invested with Madoff entities and material losses are likely, appropriate steps should be taken to assess and protect the interests of the plan and its participants and beneficiaries. Such steps may include (1) requesting disclosures from investment managers, fund managers, and other investment intermediaries regarding the plan's potential exposure to Madoff-related losses, (2) seeking advice regarding the likelihood of losses due to investments that may be at risk; (3) making appropriate disclosures to other plan fiduciaries and plan participants and beneficiaries; and (4) considering whether the plan has claims that are reasonably likely to lead to recovery of Madoff-related losses that should be asserted against responsible fiduciaries or other intermediaries who placed plan assets with Madoff entities, as well as claims against the Madoff bankruptcy estate. Fiduciaries must ensure that claims are filed in accordance with applicable filing deadlines such as those applicable to bankruptcy claims and for coverage by the Securities Investor Protection Corporation (SIPC).

The web site of the court-appointed trustee for the liquidation of Bernard L. Madoff Investment Securities LLC is [www.madofftrustee.com](http://www.madofftrustee.com). This web site contains the liquidation notice, claim forms and related claims information, and deadlines for the filing of claims with the trustee.