

our securities markets at odds with SIPA's primary policy objective.

To execute the Trustee's CICO formulation it is necessary to examine every customer account over the entire term of the relationship (for many spanning 20 to 30 years) to sum up total deposits and total withdrawals (without providing any return on investment—even a standard rate). If deposits exceed withdrawals the customer has a "net equity" and qualifies for SIPC protection under CICO. If withdrawals exceed deposits over the life of the relationship, the customer is declared ineligible for SIPC relief and may be targeted for "clawback" of the net withdrawals.

How, you may ask, could the Trustee ignore the SIPA definition of "net equity" and proceed to institute "clawback" actions? The answer lies in SIPA's incorporation by reference of provisions and powers under the Federal Bankruptcy Code. However, the Bankruptcy Code does not permit "clawbacks" of amounts paid by a broker to a customer to satisfy the broker's legal obligations to the customer—our securities system could not work any other way. Again, SIPC and the Trustee are disregarding the clear body of law to further harm the Madoff victims.

Let us now examine the results of this receivership to date to determine just how equitable its performance has been.

At closing, the approximately 4900 accounts of BLMIS that have filed claims for relief with SIPC had aggregate final statement values of roughly \$57 Billion. Of that 4900, well less than half of those accounts (2053) have been determined eligible for SIPA protection under the Trustee's CICO formulation. Only 1207 of those eligible accounts will receive full SIPA relief benefits—advance payment of \$500,000 and a priority status to the distribution of recovered "customer funds" up to the remaining balance of the CICO-approved claim. 846 of the approved claims will receive advance payments averaging \$200,000; and because the advances fully satisfy the CICO claim these accounts have no priority status with respect to customer funds. 2728 accounts receive no relief (advances or priority status) under SIPA.

These numbers, derived from SIPC responses to the House Financial Services Subcommittee on Capital Markets, portray an outcome distressingly out of step with Congress' intent for SIPA protection.

The overall record of performance in providing investment protection in this case is even worse. The bulk of advance payments to eligible accountholders were distributed in the last quarter of 2010, fully two years after the closing of BLMIS. There is absolutely no way to square that performance with the clear mandate in Section 9(a) of SIPA for "prompt payment" of advances—a mandate which recognized that most customers, victimized by bankruptcy of their broker-dealer, will be in dire need of urgent financial relief.

Now let us turn our attention to the "clawback" suits against innocent customers who over the course of their investment relationship withdrew what they rightly believed to be earnings for normal real life purposes—income to support retirement, payment of Federal, State, and local taxes, helping a child with a home purchase, assisting a grandchild with college costs etc.—only now to find the Trustee demanding a return of some of those disbursements.

What the Trustee now suggests as relief for all the Madoff victims, those who have re-

ceived no SIPA financial protection (over half) and those receiving inadequate and dilatory relief, is the opportunity to file fraud claims against the "general" bankruptcy estate, when and if assets are assigned to it. For most of the innocent customers, now in desperate financial condition and fraught with daily anxiety, such relief is temporally distant with challenging prospects for success. In a general bankruptcy proceeding these individuals, many of them aged, will be competing with claimants (financial institutions and the like) with far greater resources and top-line legal representation.

To his credit, the Trustee, with aid provided by the U.S. Attorney's office, has assembled some significant assets from parties complicit with the debtor. The innocent customers of Madoff should without question have the first and priority claim for relief in the distribution of those assets. That is the clear intent of SIPA in establishing claims to "customer funds" before assets move into the general bankruptcy estate. Had the Trustee, at the outset of this receivership, followed historic SIPC practices using customer final statements to determine "net equity", then all of these innocent customers would now be eligible for the distribution of "customer funds" under some equitable plan devised by the Trustee with the approval of the Bankruptcy Court. Moreover, they would be protected and assisted in their distress by full advances from the SIPC Fund, which has the resources to provide such relief.

Two additional matters need to be understood by my colleagues. Because the use of the CICO methodology reduced dramatically the number of customers qualifying for advances from the SIPC Fund (an entity funded by the broker-dealer community and expressly established for the early relief of customers), that Fund has benefited by a savings of over \$1 billion. To make this outcome more unacceptable, the failure to distribute those funds means that customer refund claims to the IRS for "theft losses" will be increased by some \$300 million. Thus the broker-dealer community's responsibility gets passed on to the American taxpayer.

The conduct of this receivership has been pitifully inadequate in fulfilling the protections of the Madoff victims contemplated by Congress in 1970 and 1978. The processes employed by the Trustee, from the standpoint of the typical customer, have been needlessly time consuming and remarkably expensive. In its most recent response to the Capital Markets Subcommittee, SIPC advises that the Trustee, his law firm, and other consultants have been paid some \$288 million over two years and contemplate billing for another \$1 billion over the next four years. All the while, many Madoff victims are scrambling to exist.

It is my earnest hope that an overwhelming majority of my colleagues will join me in supporting this legislation, which is so important, not only for the protection of many innocent investors, but also for encouraging investment going forward, which is critical to the economic renewal our country needs.

**BAD LANGUAGE: ENGLISH-ONLY BILLS ONCE AGAIN ATTEMPT TO PENALIZE IMMIGRANTS**

## HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 17, 2011*

Mr. GENE GREEN of Texas. Mr. Speaker, I would like to submit the following editorial:

**BAD LANGUAGE: ENGLISH-ONLY BILLS ONCE AGAIN ATTEMPT TO PENALIZE IMMIGRANTS**

[From the Brownsville Herald, Feb. 13, 2011]

Among the various bills offered in Washington and Austin are new efforts to force every US. resident to speak English.

U.S. Rep. Steve King, R-Iowa, has pledged to file an English-only bill in Congress. Similar bills have already been filed in the Texas Legislature.

State Rep. Dennis Bonnen, R-Angleton, has filed legislation to make English the official state language and require that all official business be conducted in that language. Rep. Tim Kleinschmidt, R-Lexington, has offered a bill mandating that driving tests be given only in English.

We doubt that such bills would pass constitutional muster. The First Amendment clearly states that "Congress shall make no law . . . abridging the freedom of speech. . . ." That should include laws limiting the language that people choose to speak.

The nativists who support such legislation forget this country's honorable history of accepting troubled refugees, such from Cuba in 1980, Indochina in the 1970s and various defectors from the Soviet bloc countries throughout the Cold War. It's unreasonable and cruel to accept these people, only to impose our oppressive rules on their behavior.

Language restrictions on driver's tests make little sense, especially in a border state like Texas. Many foreign nationals spend significant amounts of time in this state, whether on business or on vacation. Many of them drive on our streets when they're here. With trade pacts calling for greater access to shipments from other countries, we should encourage people to show proficiency and knowledge of our traffic laws; language restrictions will only discourage people from working to get those licenses.

The ability to conduct business in other languages should be evident to all state lawmakers. More than \$150 billion in goods are traded between Texas and Mexico each year alone. Greater investment and trade coming from Japan, China, and other countries should inspire officials to expand rather than restrict languages that are accepted for legal documents.

Language is not a major problem for this country. Many immigrants come here unable to speak English but, more than 80 percent of their children are fluent in the language. English is the primary language of some 94 percent of their grandchildren.

However, such bills send a clear message to people in other countries: We don't want you here. As America continues to fall behind other countries academically and is losing trade and commerce to other countries, we might be convincing some of the brightest minds to stay home, and benefit their home countries, not the U.S.

We trust majorities of lawmakers will see the folly in these bills.

HONORING P. MICHAEL FREEMAN,  
FIRE CHIEF OF LOS ANGELES  
COUNTY

**HON. GRACE F. NAPOLITANO**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 17, 2011*

Mrs. NAPOLITANO. Mr. Speaker, we rise today to honor P. Michael Freeman, our good friend and long time Fire Chief of Los Angeles County. Chief Freeman is retiring after 22 years of service as the Fire Chief and 47 years as a firefighter. His commitment to the Los Angeles community, dedication to his employees, and strong leadership of the department will be greatly missed.

Chief Freeman was born and raised in Los Angeles County. He moved to Dallas and had a 25-year career with the Dallas Fire Department eventually rising to the rank of Acting Fire Chief. During that time, he served our nation honorably in the Army Reserve. It was in 1989 that the Los Angeles County Board of Supervisors made the wise decision to bring Chief Freeman home and make him the eighth Fire Chief of Los Angeles County.

Chief Freeman has been one of the most respected and longest serving public servants in the history of Los Angeles County. He has steadfastly faced the many challenges that come with running a fire department in a county of 10.5 million people, 4,000 square miles, 88 cities, 70 miles of coastline, dense urban areas, towering mountain ranges and deep forests. He has effectively led the fire department through the annual wildfire seasons, overseeing and containing some of the worst wildfires in the history of California in 2003 and 2009. He coordinated the response with other government agencies to the Northridge earthquake and the many other earthquakes that have rocked Los Angeles over the years. He has expertly overseen the daily operations of the department in responding to the multitude of emergencies that arise in an urban environment.

Chief Freeman has improved the department's emergency response capabilities and has been a strong advocate for the department with the federal government. He has worked with Members of Congress to ensure the first responder community has access to the federal resources they need for fire prevention programs, emergency response equipment, and natural disaster preparedness training. He has organized and led the effort to implement a new Los Angeles Regional Interoperable Communications System (LA-RICS). This system will allow first responders throughout the county to communicate effectively on solutions to emergencies ranging from major disasters to day-to-day events.

Chief Freeman has volunteered in numerous roles with the federal government to lend his expertise to improving emergency response services across the nation. He served as chairman of the board of FIRESCOPE and as a member of the Federal Emergency Management Agency's National Urban Search and Rescue (USAR) Advisory Committee. In 2003, he was selected by Secretary Tom Ridge to serve as a member of the U.S. Department of Homeland Security's emergency responder advisory committee. He also served as chairman of the International Association of Fire Chiefs Terrorism Task Force.

As the economy has weakened and the County has faced major budget challenges, Chief Freeman has done an outstanding job of maintaining the proper staffing, professional service and quick response times that our residents have come to expect. He has managed the many facets of the department well, from emergency medical services to hazardous materials response to the lifeguarding of our many beaches. He has strengthened the department's cooperation and coordination with regional, state and federal emergency response partners. Additionally, Chief Freeman has continuously worked to improve the diversity of the department by hiring more female and minority firefighters.

Chief Freeman implemented many important life safety response programs that are integral to the department's operations today. These include Urban Search and Rescue (USAR), the Canine Search Program, a 24-hour Health Hazardous Materials Division, and the Firehawk Helicopter Program.

Mr. Speaker, as Members of the Los Angeles County delegation, we would like to personally acknowledge and commend P. Michael Freeman for his dedication to the people of Los Angeles. He is a model of the brave, honorable and selfless public servant that is displayed every day by the men and women of the Los Angeles County Fire Department. We are privileged to have worked with Chief Freeman. We ask the House to join us in congratulating Chief Freeman on his many years of service and wish him much success in his future endeavors.

Members who signed: GRACE F. NAPOLITANO, KAREN BASS, HOWARD L. BERMAN, JANE HARMAN, HOWARD P. MCKEON, LAURA RICHARDSON, LUCILLE ROYBAL-ALLARD, ADAM B. SCHIFF, MAXINE WATERS, DAVID DREIER, XAVIER BECERRA, JUDY CHU, KEVIN MCCARTHY, GARY G. MILLER, DANA ROHR-ABACHER, LINDA T. SANCHEZ, BRAD SHERMAN, HENRY A. WAXMAN.

**HONORING R.C. ALEXANDER**

**HON. MARSHA BLACKBURN**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 17, 2011*

Mrs. BLACKBURN. Mr. Speaker, business leader Peter Drucker believes, "whenever you see a successful business, someone once made a courageous decision." Mr. Speaker, I rise today to tell you of one successful businessman who lived Drucker's mantra. Born on a working farm in Williamson County, Alexander built an automotive empire in Middle Tennessee. Through humble beginnings to a sprinting end, R.C. Alexander spent his life developing a strong sense of business, family, and community.

Starting with nine employees and single gas station in Murfreesboro, TN, R.C. Alexander grew Alexander Automotive into 22 locations throughout Franklin, Columbia, Murfreesboro, Dickson, and Cookeville. Built upon the tenants of hard work, dedication to community, and straightforward business models, Alexander Automotive maintained almost 1,000 employees at the time of R.C. Alexander's death. He led not only generations of his own family to excellence, but taught those in his influence of the straightforward business practices that brought him success.

Through service to his community, fidelity to his mission, and dedication to his family, Alexander leaves a behind a lasting tribute to his ideals. I ask my colleagues to join with me in celebrating the legacy of Mr. R.C. Alexander.

**OUR UNCONSCIONABLE NATIONAL  
DEBT**

**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 17, 2011*

Mr. COFFMAN of Colorado. Mr. Speaker, today our national debt is \$14,129,889,690,377.50.

On January 6, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

This means the national debt has increased by \$3,491,463,944,083.70 since then.

This debt and its interest payments we are passing to our children and all future Americans.

**TRAGEDY IN KHOJALY,  
AZERBAIJAN**

**HON. BILL SHUSTER**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, February 17, 2011*

Mr. SHUSTER. Mr. Speaker, as the Co-Chairman of the House Azerbaijan Caucus, I rise today to bring attention to the tragedy that took place in Khojaly, Azerbaijan, a town and townspeople that were destroyed on February 26, 1992.

Sadly, today there is little attention or interest paid to the plight of Khojaly outside of Azerbaijan. However, one of our greatest strengths as elected officials is the opportunity to bring to light truths that are little known and command recognition. As a friend of Azerbaijan, I am proud to remind my colleagues that we must never forget the tragedy that took place at Khojaly.

At the time, the Khojaly tragedy was widely covered by the international media, including the Boston Globe, Washington Post, New York Times, Financial Times, and many other European and Russian news agencies.

Khojaly, a town in the Nagorno-Karabakh region of Azerbaijan, now under the control of Armenian forces, was the site of the largest killing of ethnic Azerbaijani civilians. With a population of approximately 7,000, Khojaly was one of the largest urban settlements of the Nagorno-Karabakh region of Azerbaijan.

According to Human Rights Watch and other international observers the massacre was committed by the ethnic Armenian armed forces, reportedly with the help of the Russian 366th Motor Rifle Regiment. Human Rights Watch described the Khojaly Massacre as "the largest massacre to date in the conflict" over Nagorno-Karabakh. In a 1993 report, the watchdog group stated "there are no exact figures for the number of Azeri civilians killed because Karabakh Armenian forces gained control of the area after the massacre" and "while it is widely accepted that 200 Azeris were murdered, as many as 500–1,000 may have died."