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**Madoff: The Simple, Clean, Curative Bond Proposal
That Has Been Completely Forgotten
National Affairs
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Permit me an observation about life. It is sometimes, perhaps even frequently, the case, when an unusual but reasonably complex situation arises, that people ignore the immediately obvious but rather simple solution in favor of complex possibilities that ultimately are recognized as either unlikely of success or overly difficult of accomplishment. Something like that may have happened in the financial disaster caused by subprime mortgages. The immediately obvious but simple solution would have been to provide the debtors with the money to pay the arrears on their mortgages, coupled with revamping the mortgages so that they reflected only *reasonable* interest rates instead of the insane rates which obtained after adjustable rates were reset far higher.

But this simple solution, which would have nipped the crisis early on if not totally in the bud, was rejected for myriad reasons. There are those who think, and I am one of them, that this rejection, and the myriad reasons underlying it, were the work of what has been called the financial oligarchy (which is described brilliantly in an article by Simon Johnson in the April issue of the *Atlantic*). It is this oligarchy, including its minions in government, which first caused the meltdown and then engineered trillions in bailouts, plus obscene bonuses, almost all across Wall Street. In the end, even the oligarchy, and its highest ranking but financially-naïve aide, President Obama, has been driven to assist those who were victimized by the insane mortgages which the oligarchy perpetrated for its own *vast* enrichment for about a decade or more. But the assistance came *way* too late to avoid meltdown and is probably far too little as well.

I think a similar early phenomenon -- rejecting the simple and obvious in favor of the complex but ultimately difficult of accomplishment -- has been at work in the Madoff matter. Early on a gentleman named Eliot Kaye came up with a solution that involved providing government bonds to victims. But his solution was tossed on the scrap heap because it was afflicted with the dread word "bailout." Americans being up in arms

over the bailout of trillions given to the financial oligarchy that *culpably*, sometimes even criminally, caused the general economic disaster, it was claimed impossible to even consider what might possibly even be *considered* a bailout of the *innocent* victims of a fraudster -- a member of the financial oligarchy, no less -- whose empire crashed because of the meltdown caused by the guilty. In the words of a famous Harvard constitutional law professor of the mid 20th Century, Paul Freund, Americans were confusing the lightning with the lightning rod.

So instead of following Eliot Kaye's idea, people began talking and arguing bitterly about how to calculate and/or obtain theft deductions, tax refunds, and SIPC recoveries. Persons who had IRAs or invested through pensions, feeder funds, or partnerships are angry because they feel their needs are being ignored. Some persons, intent on seeing their own views prevail no matter what, have engaged in public character assassination of intentionally named others. Groups and people who should have been working for the same end split apart. The entire matter is about to become -- to some extent has already become -- a lawyer's relief act, as some of us warned early-on would happen if something on the order of Eliot Kaye's proposal was not adopted.

People may have to wait years to get monies, or they may instead be coerced by financial pressure -- they are having to sell homes to live, after all -- into accepting shortchanging amounts from the government in order to be able to live. It at least *seems* a certainty that lobbyists for the obscenely wealthy are feasting on actions taken behind the scenes. The whole thing is now something of a gigantic miasma, as some of us warned early-on would occur.

So I would like to go back to the simple and obvious solution advanced by Eliot Kaye, but which I have altered a bit to make even simpler. And I would also like to suggest that *every* victim -- whether he or she is a leader or part of the Madoff Survivors web group, the Madoff Victims web group, some other web group, or no group at all, get behind *this* idea. I would like to suggest every victim write to Senators and Congressmen or their staffs to request implementation of the idea, that lobbying be heavily focused on this simple idea, and that nobody quit until Congress implements it.

Here is the simple idea which, even though it is simplicity itself, will greatly assist direct investors, feeder fund investors, IRA investors, pension fund investors, charities -- *everyone*. Forget about tax refunds. Forget about tax deductions. Forget about SIPC. Waive them all. Instead, the government should give all victims -- at least all *American* victims and I would frankly think *all* victims, regardless of nationality -- government bonds whose principal is payable at the end of ten years, and whose interest rate, payable annually, is either approximately seven percent tax free or approximately ten percent taxable. The bonds' principal would be for the amount shown in an investor's November 30th statement (minus amounts already obtained in tax refunds or from SIPC). All litigation rights against the culpable will be transferred to the government, which is best situated to and can pursue them in court if it wishes and may be able to recover immense amounts by doing so. The victims, however, will simply get, as said, bonds whose principal will come due in ten years, with interest payable annually.

This is simple, clean, direct and would achieve crucial goals. Let us start with victims. Whether they were direct investors or investors through feeder funds, many of them, who are now wiped out, were literally living off of their Madoff earnings, which they would take out every year for living expenses. In recent years Madoff claimed to be earning, roughly speaking, about ten to twelve percent taxable, about eight or nine percent after taxes. Victims, whether direct investors or feeder fund investors, will

continue to get roughly similar amounts (probably a bit less actually) under the bond proposal.

People with IRAs will not have to pay taxes except to the extent that they get interest from the government every year. Although even that income could remain tax free if they were allowed to roll over the money into another IRA.

Pension funds and charities will be able to continue to obtain money tax free, just as before. Partnerships and trusts will likewise receive the same treatment as before.

For those who do not want to hold on to their government bonds for ten years, there is likely to develop -- there almost surely will develop -- a secondary market, an over the counter market, on which the bonds can be sold, depending on the situation, for their appropriately discounted value or their appropriately higher-than-face-value value.

As for the government, it makes out pretty much like a bandit in comparison with the situation otherwise. The government has estimated the amount of loss shown in statements from Madoff at being \$65 billion. It was also estimated early on that the government might have to pay out a total of 20 billion or more in tax refunds and SIPC recovery, though this estimate may now be far different and, if the government itself has made knowledgeable estimates, it is not telling anyone what they are -- although it *should* and Congress should *demand* to know. Under the bond proposal, at 7 percent tax free, the government, for ten years, will pay out only \$4.55 billion a year (seven percent of \$65 billion). It will *not* pay out a total of the previously estimated \$20 billion for over five years -- not until the sixth year will the *total* reach \$20 billion. Each year it will pay out, very roughly *only about one-tenth of one percent* of the total of nearly *ten trillion dollars* it is now estimated the government will provide, as an investor, lender, and/or insurer to the financial oligarchy who caused the meltdown. (It is not widely known that the total bailout is estimated to be nearly *ten trillion* dollars, but it is.)

In addition, the present value of annually receiving for 10 years either 7 percent (\$70,000) or ten percent (\$100,000) each year to someone who had an account of one million dollars is \$430,120 at ten percent and \$491,651 at seven percent. At the end of the ten years, the government will pay the 65 billion dollars in principal, but the present value of 65 billion dollars to be received ten years later is \$33 billion and change at seven percent (or just half the amounts in investors' accounts), or \$25 billion and change at ten percent (or not much more than one-third of what was in the accounts). Those present values of the income and of the principal to be paid in ten years contrast rather dramatically, do they not, with the nearly \$10 trillion or more to be paid in a very brief total time to the financial oligarchs who caused the current disaster and are bagging the trillions.

To me, the bond proposal, first suggested by Eliot Kaye and tweaked here, is *by far* the simplest, easiest, cleanest, quickest, most reasonable way of resolving the whole Madoff mess. It is also applicable, of course, to the *far* smaller Ponzi schemes that have more recently been unearthed and that, like Madoff's, flourished because of governmental incompetence and irresponsibility. Not to mention that it will help restore confidence in markets by showing that the government will not allow innocent victims to suffer permanently and to a truly huge extent because of governmental ineptitude that was beyond description. I would urge everyone to get behind the bond idea and focus extensive efforts on it. I personally will try to focus on it, and I hope all Google groups, their leaders, their members, and others will likewise focus on it, will write and visit their legislators, etc. It is the clean, simple, restitutionary way to go. It is the way that will most quickly aid the innocent and help restore investors' confidence in the market. And it will *not* require the trillion(s) being paid to the guilty architects of the

meltdown.

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