

FORM PV-eFile Certification and Release  
Claim filed by Pooled Investment Vehicle on behalf of Underlying Indirect Investors

## MADOFF VICTIM FUND

Distribution Vehicle for Forfeited Assets

on behalf of the



## UNITED STATES DEPARTMENT OF JUSTICE

*All submissions to the Madoff Victim Fund will be considered in support of a claim only  
if they are verified under the penalty of perjury pursuant to 28 U.S.C. § 1746.*

### INSTRUCTIONS

This Form PV – eFile Certification and Release is for the use of a pooled investment vehicle that is electronically filing claims with the Madoff Victim Fund (“MVF”) for the benefit of its underlying investors.

Please review the Frequently Asked Questions section at [www.madoffvictimfund.com](http://www.madoffvictimfund.com) for further information regarding claim eligibility and the claims process.

In many cases the best records of cash invested in Madoff Securities through the pooled vehicle will be held by the pooled vehicle itself. Therefore, MVF encourages pooled vehicles to file claims on behalf of their underlying investors to provide the necessary documentation to establish actual investor net losses. Unless they were investing their own proprietary capital, as opposed to funds managed on behalf of others, pooled investment vehicles will generally NOT meet the definition of an eligible victim. A pooled vehicle filing on its own behalf for proprietary capital should use Form “IND” or “DIR” as appropriate.

A Pooled Investment Vehicle is an entity that aggregated funds of more than one person or entity and invested those funds, in whole or in part, in Madoff Securities. This term includes family trusts or investment vehicles, formal or informal groups of people (friends, family or business associates), “feeder funds”, managed accounts of banks or other financial institutions, investment limited partnerships, hedge funds and any other pooled investment entities where the funds of multiple people or entities were aggregated and invested in one or more Madoff accounts.

**The United States Department of Justice (“DOJ”) will determine all questions of eligibility to make a claim on MVF in its sole discretion.**

### *Making an Individual Claim*

*Individuals who lost funds invested in Madoff Securities indirectly through a partnership, family trust, bank investment fund or other pooled vehicle, are eligible to file a claim on MVF on their own behalf, rather than relying on the pooled vehicle through which they invested.*

Where a pooled investment vehicle files claims on behalf of its investors, and an investor, who is included in the pooled investment vehicle's claim, files his or her own claim on Form IND, MVF will consolidate claims information to complete its claim review. However, the underlying investor must in all cases be identified to the satisfaction of MVF to avoid any duplicate payments and to verify eligibility.

### **Victim Status**

To qualify for a recovery from the MVF a claimant must have been a "victim" of the crimes that took place involving Bernard Madoff or Madoff Securities. A victim must have suffered a monetary loss on an investment made with Madoff Securities on or before December 11, 2008. Such a qualifying investment can have been made as a direct account holder, or indirectly through another person or entity. However, no person or entity will be an eligible victim if it did not actually lose its own money in the fraud at Madoff Securities.

**Investments Through Multiple Pooled Vehicles.** One characteristic of the fraud at Madoff Securities was the use of multiple tiers of investment partnerships or conduits to gather assets and funnel them to Madoff Securities. A victim of the Madoff fraud may file with MVF no matter how many layers of investment vehicles were between the investor and Madoff Securities, so long as the net loss from an actual investment of cash with Madoff Securities and other factors can be established.

In all cases MVF will look through the formal structure of investment vehicles to determine the economic substance of whose funds were ultimately lost in the fraud at Madoff Securities. These "ultimate or underlying investors" are generally the persons who will be eligible to recover from MVF. Although pooled investment managers may file claims *on behalf of their underlying investors*, unless they lost their own proprietary funds MVF will consider the investors, not the "investment managers", to be the eligible victims.

### Offsets

The net loss of each investor in a pooled investment vehicle generally will be computed on an individual basis, without aggregating investments or withdrawals with those of unrelated individuals. This is a different process for computing loss than used in the Madoff Securities bankruptcy, where investments and withdrawals were netted across all investors using the same pooled account.

MVF will aggregate the deposits and withdrawals in multiple accounts of a single investor, and among multiple investors wherever DOJ determines that there is a “unity of interest” between two or more investors or accounts. Where a unity of interest is determined to exist, these accounts will be consolidated for purposes of determining the combined “net loss”. However unless such a “unity of interest” is determined to exist, the measurement of net investment losses or net cash withdrawals will be done on an individual basis, without netting against the deposits or withdrawals of others who invested through the same account.

**Full Disclosure.** Claim submissions by pooled vehicles must disclose fully and completely all of an investor’s accounts with interests in Madoff Securities, and all investments and withdrawals from all accounts. Failure to provide complete and accurate information will be grounds for disqualifying a Petition.

**Collateral Recoveries.** In processing a claim, all “collateral recoveries” from any source must be deducted from the net investment amount. See the FAQs for a description of collateral recoveries.

### Sale or Transfer of Claims

If a pooled investment vehicle has sold its claims in the Madoff Securities bankruptcy, such sale will not generally affect the eligibility of the pooled vehicle’s investors to file a claim with MVF. Even where a pooled vehicle may have purported to sell its claims against the DOJ remission fund, such a sale will generally not affect the rights of underlying investors. Thus in all cases of doubt, MVF encourages pooled investment vehicles to file a claim for the benefit of each of their underlying investors.

**Completion and submission of an eFile claim does not automatically entitle your investor to a distribution from MVF. Determination letters regarding the eligibility of claims will be mailed later in the claims process.**

For additional information regarding MVF eligibility requirements, please refer to our website at [www.madoffvictimfund.com](http://www.madoffvictimfund.com).

# FORM PV-eFile Certification and Release Submitted on behalf of Underlying Indirect Investors

## I Pooled Investment Vehicle Information

*Please type or print using blue or black ink*

Madoff Securities Account

**Madoff Securities Account Number** that your investor's money was ultimately invested in

Name on the Madoff Securities Account

Vehicle Information

Name of the Pooled Investment Vehicle *(if different from the Madoff Securities Account)*

Tax ID *(Check one)*     SSN     EIN     Foreign ID

 *(If Foreign ID, provide country)* \_\_\_\_\_

Name of Liquidator or Administrator *(if applicable)*

Status

Operating     Closed / Defunct     In Liquidation     Other: \_\_\_\_\_

Mailing Address

Attention

Street Address

City, State/Province, Postal Code

Country

Contact Information

Daytime Phone

Alternate/Cell Phone

Contact Name *(if other than primary claimant)*

E-mail Address or Website

## II Recoveries

Has this Pooled Vehicle received any distributions from the bankruptcy trustee for Madoff Securities?

- No
- Yes - Please provide the aggregate distributions received.

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*Please furnish a copy of all letters or reports given to investors in your pooled vehicle regarding distributions received from the bankruptcy trustee.*

## III eFile Submission

Indicate the method of electronic data file transmission:

- Emailed eFile submission to [efile@madoffvictimfund.com](mailto:efile@madoffvictimfund.com) - Date emailed: \_\_\_\_\_
- CD included with this signed Form PV eFile Certification and Release

## IV Certification and Release

A. **CERTIFICATION.** The undersigned represents and certifies under penalty of perjury that:

1. This Form PV-eFile is submitted by \_\_\_\_\_ (the “Pooled Investment Vehicle”) on behalf of its underlying investors in the Pooled Investment Vehicle as reported on the eFile claims submission (the “Indirect Investors”).
2. The transaction information provided in the eFile for the Indirect Investors relating to investments in Madoff Securities, including deposits, withdrawals, loans and any other transactions is true, correct and complete. Information regarding all accounts, whether showing a net investment or net withdrawals, has been provided.
3. All collateral recoveries that were received by the Pooled Investment Vehicle and distributed to Indirect Investors have been fully disclosed herein and in the eFile. The amounts distributed to the Indirect Investor from such recoveries have been fully disclosed.

**In order to receive a distribution from the MVF, the Indirect Investors for whom you are submitting this Form PV will be required to complete his/her/its own certification and release, representing and certifying the following.**

1. All personal and transactional information, and all disclosures regarding any recovery for the loss resulting from the Madoff fraud, are complete and accurate to the best of their knowledge.
2. He/she/it is not and/or has not been any of the following.
  - a. A person who knowingly participated in, benefitted from or acted in a willfully blind manner relating to the fraud, and has not earned fees, commissions or other payments from handling or directing investments in Madoff Securities, except as disclosed in Form A (available on our website).
  - b. A person who was an officer, director or employee of Madoff Securities at any time during the Madoff fraud through and including December 11, 2008.
  - c. A member of the Madoff family.
  - d. A person who has forfeited cash or property to the DOJ in connection with the Madoff fraud.
  - e. A defendant in any state or federal criminal action relating to the Madoff fraud.
  - f. A person who is otherwise prohibited from receiving payments in the United States, including all prohibited persons under regulations of the Office of Foreign Assets Control (see [www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Foreign-Assets-Control.aspx](http://www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Foreign-Assets-Control.aspx)).
  - g. An affiliate, assign, heir, distributee, parent, spouse, child, or other relative of any of the foregoing, or an entity controlled by, or under common control of, any of such persons.

3. He/she/it consents to the use by the U.S. Department of Justice, the MVF and its staff, and any of the Department's agents of any of the information provided herein and in the eFile claims submission for any purpose relating to this claims and remission process, including verifying the Petition or the identity of the Petitioner. This information includes, but is not limited to, the Social Security Number (or taxpayer identification number or similar foreign identifying information), address, telephone number and brokerage account information of persons involved in any claim.

4. **RELEASE.** The Indirect Investors will also be required to grant the following release.

Each Petitioner hereby recognizes that the distribution of funds that make up the Madoff Victim Fund is not required by law, but that any distribution made shall be in the sole discretion of the Attorney General. Petitioner, whether ultimately determined eligible or ineligible to receive a remission payment from the Madoff Victim Fund, hereby releases and fully discharges, and consents and agrees that it shall make no claim of any kind or nature whatsoever against any person in connection with the administration and distribution of the Madoff Victim Fund, including the U.S. Department of Justice, U.S. Attorney's Office, Special Master and their employees and agents.

**Each of the undersigned declares under penalty of perjury under the laws of the United States of America (and the applicable laws of any other jurisdiction) on information and belief that the information contained herein and in the eFile claims submission, the statements made and the answers given herein and in the eFile claims submission are true and correct and that any documents submitted are true and genuine.**

Executed on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ in  
(Month) (Year)  
\_\_\_\_\_  
(City, State, Country)

Pooled Investment Vehicle
_____ Authorized Signature
_____ Type/print name
_____ Title / Capacity of persons signing above
_____ Name of Entity