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OPENING STATEMENT OF SENATOR RICHARD C. SHELBY

Hearing on SEC Inspector General's Report on Madoff Fraud

September 10, 2009

"Thank you, Mr. Chairman."

"Last January, a little more than one month after Bernard Madoff confessed to running a \$50 billion multi-decade Ponzi scheme, this Committee held a hearing to try to understand how a fraud of that magnitude could go undetected by the Securities and Exchange Commission for so many years. Unfortunately, that hearing yielded few answers.

"In the intervening seven months, the SEC's Inspector General has been piecing together what really happened. His report sets out a chronology that tracks fifteen years of missed opportunities and considerable incompetence. The IG found that the Office of Compliance Inspections and Examinations and the Division of Enforcement were made aware at least six times that there might be something wrong at Madoff's firm. Potentially fruitful leads were not pursued while significant staff resources were devoted to running down clearly unproductive avenues. Investigations were unfocused, understaffed, and improperly documented.

"Communication across SEC offices was so badly flawed that Madoff himself had to alert the New York examiners that their counterparts in the Washington office had been looking at similar issues. The IG determined that SEC culture and organizational structure discouraged employees from reaching out to one another to share market intelligence, obtain expert advice, or compare notes about their cases. SEC employees did not give weight to colleagues' recommendations, so a tip found credible by one group of staffers would be dismissed hastily by another.

"The report also documents that Mr. Madoff, despite his persistent misrepresentations to the SEC, received greater deference by the staff than the tippers who spotted his fraud. Ultimately, in each case, the report indicates that the lingering questions and concerns of SEC employees were swept under the rug by impatient and inflexible

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supervisors who concluded that asking the logical next questions would take too long or would be outside the scope of the examination.

“In the aftermath of the botched Madoff investigation, the SEC has claimed that more funding will address its failures. The report, however, clearly describes an agency that does not know how to use the information and resources it already has. Fixing the SEC will not merely involve more resources. The Commission is going to have to make broad-based changes if it hopes to become a smarter, more flexible, more productive and ultimately more accountable organization.

“I am hopeful that the SEC will learn from its failures and seize this opportunity to reform itself from within. If it refuses to do so, Congress will do it for them.”

“Thank you, Mr. Chairman.”