Boulegeris Investments, Inc.

Character is Destiny
- Heraclitus

December 30, 2008

If this year were a football game, the referee would now be throwing the penalty flag for “piling on.” Having suffered the fallout of toxic investment products disseminated worldwide by US money center banks, investors have now been shocked by allegations of monumental fraud by a large hedge fund. This event deserves comment on both personal and systemic levels.

While the implosion of this particular hedge fund, managed by former NASDAQ chairman, Bernard Madoff, will ravage the investment programs of select global financial institutions, certain charitable endowments, and some unfortunate individuals, it is not expected to have a systemic effect on the financial markets. Disclosure of this $50 billion “Ponzi” scheme, in which early participants were paid with money raised from subsequent “investors”, warrants rekindling of a long overdue national dialogue regarding regulatory oversight and ethical business behavior.

Firstly, we are compelled to draw a stark contrast between the veiled practices of the aforementioned hedge fund and the transparent, regulated business model of Boulegeris Investments, Inc. (BII). It is striking that the investment activities of the hedge fund occurred in the <u>unregistered</u> part of the Madoff advisory operation. <u>Unlike</u> the vast majority of hedge funds, BII is a SEC (Securities and Exchange Commission)-Registered Investment Advisor. BII provides the SEC a thorough explanation of its business practices and updates this disclosure on an annual basis.

Secondly, and perhaps most importantly, unlike the Madoff hedge fund, BII never has <u>custody</u> of client assets. The custodian for the assets of our clients is Fidelity Investments, Inc. At first glance, this critical point may appear simplistic. In reality it is profound, as it speaks to the structural integrity that safeguards investors’ assets. President Reagan cautioned, “Trust, but verify,” and we too sanction this credo. Independent of comprehensive annual reports generated by BII, our clients receive monthly and year-end statements from the custodian (Fidelity). This is yet another striking divergence from the hedge fund that forwarded only internally generated summary reports to investors. Further, our clients are capable of electronically logging onto the Fidelity website on a no-notice basis and reviewing their accounts at any time.

The practice of regulatory compliance is an ongoing commitment. We are proactive in this endeavor. As members of the *Investment Advisor Association*, we avail ourselves of their legal staff to stay abreast of changes in securities laws and regulatory requirements. We believe that the stewardship of assets is a sacred trust that demands the highest standards of ethical conduct and ongoing diligent effort to sustain fiduciary responsibilities.

We continue to advocate for significant change in the regulatory environment in making the following recommendations:

- Hedge funds should be required to participate in the detailed registration process with the SEC. Like their European counterparts, US-based hedge funds should be required to appoint independent administrators and custodians.

- Hedge funds and Exchange Traded Funds (ETFs) should be prohibited from leveraging assets irresponsibly. Such behavior poses systemic and societal risk.

- The Financial Accounting Standards Board (FASB) should withdraw the proposed Rule 140. This would require certain off balance sheet securitizations to be placed on balance sheet within two years. While well intentioned, at this time this act would add more stress to reeling financial institutions, and could conceivably derail the entire TARP (Troubled Assets Relief Program).

- The Uptick Rule should be reinstated. Established in 1938, and disabled in 2007, this rule serves to protect investors from short selling predicated on false rumors as well as short selling without having appropriately borrowed stock (naked short selling).

- Institutional and retail shareholders alike should be empowered to protect the public interest by affording them the option of prohibiting their shares from being borrowed for the purpose of short sales.

- The unfettered credit default swap market should be regulated. This opaque $50 trillion market should be subject to strict margin and robust collateral requirements. Further transparency would be gained by settlement of trades through a clearing house.

These safeguards provide checks and balances to the human imperfections of greed and recklessness that too often are masked under the guise of “financial innovation”. When considering policies that impact modern capitalism one helpful guiding post is to view them through the prism of protecting the individual investor. This fosters transparency and inspires public trust. These collective values strengthen free markets, are foundational to regulatory reform and are at the core of sustaining a long-term market recovery.

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