

# INSIDE Public Accounting

The competitive advantage for accounting firm leaders since 1987

2008 YEAR END  
SPECIAL ISSUE

## 2008 Is Almost Gone. In Its Wake Lies A Battered Economy And A Unique Opportunity For CPA Firms



As we look back at the headlines from 2008, the collective refrain from businesses, accounting firms and individuals across the globe is, “What the hell just happened?”

Volatility. Deflation. Meltdown. Credit crunch. Recession. Depression? “201(k).” Layoffs. Bailouts. Foreclosures. Bankruptcy. Bernie Madoff. Climate change. War. Scandals. As a nation, we’re exhausted, confused and rightly so, anxious.

Whole institutions appear to be collapsing around us. The auto industry, the housing industry, manufacturing, construction, the financial industry. State Governors are resigning in shame. Faith in institutions is teetering on the brink of massive distrust.

Frankly, no one knows who to trust anymore. “Trust me” is a phrase that many people have grown quite skeptical of – and rightly so. Just like *Charlie Brown* trying to kick the football, over the past few years we have all slowly gained confidence in our institutions, and Wham! Inevitably Lucy plucks the ball from the tee and poor old Charlie again lands flat on his back.

As public accountants, you may not have all the answers, but you do hold the key to one of the few trust relationships that are still solid. You know your clients and have a unique opportunity to listen to them now. You bring a deliberate, structured approach to business decision making and can help calmly create a roadmap forward. Clients are anxious and scared and they want someone to listen to them. Call them up. Take them to lunch. Sit in on their management meetings. Get the “face time” now that will reassure them that you are on their side – because it is hard for them to see that anyone is looking out for them right now.

Internally, within the profession, the situation is confusing too. In continued discussions with CPAs and consultants, we know the accounting profession is also going through its own share of angst. Clients are leaving. Projects are being delayed. Receivables are up and aging. Layoffs are a reality. Personal

In this special PDF issue of IPA, we want to wish our readers a Happy Holiday Season. We also want to share some insights on the Bernie Madoff scandal.

We will have full reporting of this and much more in the upcoming January 2009 issue of IPA.



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investments are down – sometimes way down. Some firms will be experiencing negative growth for the first time in years. ***Business development is critical once again.***

Younger accountants have never seen a cycle like this. They need guidance just as much as clients do. Those of you with a little more grey hair and a little more experience need to help bring a long view to your firm – a perspective that spans the ups and downs of economic cycles to help mentor and guide those who are still a bit green.

Practitioners we are talking with are using words like, “Deliberate,” “Structured,” “Methodical” and “Rational” to describe how they are approaching their client base and their own plan.



In the upcoming January issue of IPA, we will explore some of the issues, challenges and opportunities that lie ahead for the profession. We look at the economy, the new Obama presidency, continued consolidation of IPA Top 100 firms, and some of the opportunities that are directly in front of us. We hope this sparks some dialogue within your firm as to how to take some of the challenges ahead and turn them into business opportunities.

We wish all of you a happy new year as we welcome 2009 with a renewed sense of opportunity and hope. We wish to thank our staff, the many partners, consultants and individuals who have over the past year, helped us along the way. We look forward to better times, to a more prosperous economy and to the positive changes that are sure to come in 2009.

*Our Warmest Regards,*

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## **The Bernie Madoff Scandal: An IPA Update**

*It has been two weeks since news broke of the largest Ponzi scheme in history. CPA firms across the country are working to understand their exposure, their clients' exposure, and what to do about it. Even those who are completely untouched by the scandal are finding ways to reach out to clients to reassure them that they are here to help.*

*IPA has pulled together this update to help you understand what other firms are doing and saying right now, so that your firm can also address the issue with your clients. Recognizing that we know a tiny fraction of what there is to know about the scope of this crime, and*

*recognizing that there are dozens of reports coming out each day, this guide can't be all-inclusive, but can give you some tools to step up and demonstrate the strength of what the accounting profession can offer.*

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What happened? Or maybe we should be asking how could it happen? How could \$50 billion disappear in today's environment? Didn't we learn anything from Enron, from the scandals that toppled the largest accounting firm in the world? Who was asleep at the wheel? It appears the blame lies across the board.

According to reports, the three-person CPA firm of **Friehling & Horowitz** is under investigation for its potential role in one of the largest Ponzi schemes in history; the Madoff scandal. F&H is based in Rockland County, N.Y.; its staff consisted of a 78-year-old retiree living in Florida, and an accountant and a secretary in a 13-ft by 8-ft office. "Most hedge funds, even when they're small, use one of the four or five big-name [accounting] firms," **Jake Walthour** of Aksia told the *Associated Press*. "And this wasn't one of them."

F&H is also being investigated by the **American Institute of Certified Public Accountants** (AICPA). *The problem:* F&H has been telling the AICPA for 15 years that it doesn't conduct audits. F&H is enrolled in the peer review program but hasn't submitted to a review since 1993, says AICPA spokesman **Bill Roberts**. That's because the firm has been informing the AICPA – every year, in writing – for 15 years that it doesn't perform audits. *Meanwhile, F&H has reportedly done just that for Madoff.*

Former SEC chairman **Arthur Levitt**, who knew Madoff when both worked on Wall Street and consulted with him while at the SEC said in a statement, "A very skillful criminal can almost always outfox the regulator or the overseer."

**The Litigation Process is Beginning.** Fairfield Greenwich Group is considering suing **PricewaterhouseCoopers** for failing to detect the Madoff scam. The New York Law School is suing auditors **BDO Seidman**, over money it has lost. The suit filed in federal court in Manhattan, names *J. Ezra Merkin*, chairman of **GMAC Financial Services**, the money manager who placed \$3 million of the school's money into Madoff's firm. The suit claims that BDO "utterly failed" in its audit of *Ascot Partners*, and that it failed to flag Ascot's reliance on a single money manager – Madoff. BDO says that it never audited Madoff's firm, just Merkin's, and that its audits "conformed to all professional standards." In a separate lawsuit, Scott Berrie, an investor in Gabriel Partners, another investment partnership managed by Merkin, is suing Gabriel and BDO for alleged securities fraud and negligence.

Other accounting firms will surely be drawn into the legal crossfire. The list of CPA firms caught in the middle of one of the largest fraud cases in history is growing. Firms are fielding calls from anxious clients, scurrying to place announcements on their Web sites, sending letters, contacting clients and more. ■

**December 31 Deadlines? Maybe Not** – Most firms we are talking to are scrambling to determine what needs to be done regarding client losses before December 31, 2008. Attorneys suggest that a theft-loss deduction is possible for 2008, and might be available for prior years. Capital-gains taxes paid by investors may be refundable for 2005 through 2007, lawyers said. In addition, they said investors probably can convince the IRS they are victims of theft, which would let them deduct losses from their income taxes dating back to 2005. Any unused theft losses could be used to reduce tax liabilities for the next 20 years. The general consensus of opinion of those we are speaking to is that there is little that will need to be done before 12/31/08, and most feel that the IRS will extend any deadlines to deal with tax return items related to the Madoff scandal. ■

**The Securities Investor Protection Corporation** – the government agency [<http://www.sipc.org>] that will see a lot of claims in the coming months – is working on a separate Madoff Claim Form. A pop-up notice on their Web site reassures investors that “*A claim form will be available soon for the Madoff liquidation proceeding.*”

On December 15, the **Honorable Louis L. Stanton**, a Federal Judge in the United States District Court for the Southern District of New York, appointed **Irving Picard** as Trustee for the liquidation of *Bernard L. Madoff Investments Securities LLC* pursuant to the SIPA as set forth in the attached order. You may visit the Web site directly at: <http://www.madoff.com/>

Individuals will be able to file claims with the organization; for those who've lost money because of theft, the SIPC can return a maximum of \$500,000. The Madoff case will be particularly challenging for the SIPC because the precise size of the losses have yet to be determined it's hard to know how much investors will get back. Adding to the challenge: The firm's records are in a sorry state, which may prevent investors from recouping any losses. ■

**Are You Exposed? Check This List Of Entities Announcing Exposure To Madoff Investments** – Money Magazine has prepared a running list of entities that have had money invested in the Madoff fund. Check out the list to see if any of your clients' funds are invested in any of these entities as well.:

[http://money.cnn.com/news/newsfeeds/articles/djf500/200812181545DOWJONESDJONLINE000942\\_FORTUNE5.htm](http://money.cnn.com/news/newsfeeds/articles/djf500/200812181545DOWJONESDJONLINE000942_FORTUNE5.htm) ■

## THE PROFESSION RESPONDS...

**Indianapolis-based KSM Capital** is working to recover its clients' money that has been tied up with Madoff. Indianapolis-based **KSM Capital Advisors** disclosed that the unfolding Madoff scandal could cost its clients as much as \$15 million. Making matters worse: KSM's parent, accounting firm **Katz Sapper & Miller**, could lose up to 1% of its book value as a result of its own investments in the alleged Ponzi scheme. The firm would not put that loss in dollar terms. KSM managing director **Peter Reist** says the firm began calling clients with the

bad news last week, and that the past few days have been one of the worst stretches of his life. “Many of them are devastated and shocked,” Reist says. “It’s very tragic.”

<http://www.insideindianabusiness.com/newsitem.asp?ID=33076> ■

**Marcum & Kliegman Sets Up Madoff Task Force** – “First of all, take a deep breath.” Those are the words of wisdom that **Michael Greenwald**, head of the Madoff Task Force at M&K tells clients who are calling the firm inquiring about their retirement savings. Today, there is simply too little verifiable information out there. “This isn’t going to be a case of first impressions. Today we know 1/10 of 1% of what we will probably know a month from now,” he cautions. “We are trying to be very deliberate about what we tell clients. We want to give them the right advice the first time.” [http://www.mklip.com/press\\_read.asp?Id=175](http://www.mklip.com/press_read.asp?Id=175) ■

**Morrison Brown Argiz & Farra Task Force** – Miami-based MBA&F has formed a special task force to examine the income tax ramifications to clients and investors who participated directly or indirectly with Bernard Madoff entities. The task force plans to work with legal counsel that represent Bernard Madoff victims with potential Securities Investment Protection Corporation (SIPC) filings, assessment of damages and defense of distributed proceeds received in prior years that regulatory agencies may attempt to reclaim. <http://www.mbafcpa.com/PressRoom/PressReleases/id/255/read/Task-Force-to-Assist-Investors-in-Madoff-Fraud-Case/> ■

**WithumSmith+Brown Trying to Determine Who Has Been Affected** – Tom Basilo, head of WS+B’s Client Economic Recovery Team, shakes his head at the recent Madoff revelations. “The mood in New York is depression. Everyone wonders what the next shoe is that will drop.” WS+B has jumped on a process of discovery to see which of their clients might be affected by the scandal. The tax department is moving especially fast, addressing the tax ramifications of losses and making sure that anything that should be done before 12/31/08 is taken care of first. “We can get to the financial statement implications later,” he tells IPA. *More with Mr. Basilo will be covered in the January issue of IPA.* ■

**Grassi & Co. Offering Free Tax Advice To Madoff Victims** – Grassi & Co. is offering investors affected by the liquidation of Bernard L. Madoff Investments Securities LLC free advice about the tax ramifications of their potential losses. “This scandal has shaken the fabric of the investment community,” commented MP Lou Grassi.

**Gerber & Co Offers Madoff Scam Victim Assistance** – Los Angeles-based BDO Seidman Alliance Member **Gerber & Co.** is making its veteran tax experts available to all victims of current investment Ponzi scams, irrespective of whether they are a client of the firm at no charge. <http://www.gerberco.com/> ■

<p><b>URGENT NEWS</b></p> <p><b>ATT: Victims of Madoff Ponzi scam</b></p> <p>You may be entitled to a tax deduction or refund.</p> <p><a href="#">CLICK HERE FOR FREE INFO AND GUIDANCE</a></p>	<p>A FREE PUBLIC SERVICE FOR MADOFF SCAM VICTIMS</p>
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## WHAT IPA IS HEARING...

“The Madoff scandal is the topic of conversation anywhere and everywhere. Traditionally wealthy people are talking about selling their home and their jewelry. People are skittish and don’t know who they can trust. I’ve never seen anything like this before.” – *Ken Kanter, J.H. Cohn*

“CPA firms tend to do well in tough times. With the standard ‘blocking and tackling’ we do as CPAs, our firm can provide much needed comfort and protection to our clients now.” – *David Sibits, CBIZ*

“We sent a letter to clients explaining who the broker/dealer is, who the custodian is, and who the Registered Investment Advisor is in their relationship with us, so that they will have a better understanding of the separation of duties. Investor confidence is shattered, and we see a lot more clients moving away from Wall Street back to Main Street to help them with wealth management.” – *Chris Allegretti, Hill, Barth & King*

“This scandal has shaken the fabric of the investment community.” – *Louis Grassi, Grassi & Co.*

“The mood in New York is depression. Everyone wonders what the next shoe is that will drop.” – *Tom Basilo, WithumSmith+Brown*

“It’s way too early to be offering any advice to firms,” *Bill Roberts* Director of Media Relations on whether the AICPA is already helping its members deal with the immediate aftermath of the Madoff revelations.

“We have confidence in the peer review system.” *Bill Roberts* on the revelation that the CPA firm who “audited” the Madoff fund hasn’t participated in the AICPA peer review program in 15 years. ■

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### Coming in the 2009 January Issue of **INSIDE Public Accounting**

- MPs Speak Out On The Opportunities, Issues And Challenges Firms May Face With The New Presidential Administration
- Economic Turmoil Provides Unequalled Opportunities For CPA Firms
- The Bernard Madoff Scheme – How Will It Affect The Profession
- Strategies You Can Implement Today To Help Your Firm And Your Clients Get Through Tough Times

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