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## MEMORANDUM FOR TAXPAYER ADVOCATE SERVICE EMPLOYEES

FROM: /s/ Nina E. Olson  
National Taxpayer Advocate

SUBJECT: Guidance on Coding Failed Investment Scheme  
Claim Cases and Other Criteria 9 Issues

The purpose of this memo is to issue guidance on properly coding Taxpayer Advocate Service (TAS) cases involving claims from "Ponzi", also known as pyramid schemes, and other failed investment schemes, such as those offered by Bernard L. Madoff Investment Securities LLC, commonly referred to as "Madoff." Please ensure this information is distributed to all affected employees within your organization.

Pyramid or "[Ponzi](#)" schemes can take a variety of forms and may include issuing stock, securities, or debt instruments that promise an unrealistic return on the investment through interest, dividends, capital gains, royalties, etc. In most cases, the promoters use newer investors' money to pay returns to earlier investors. Some investors may receive a minor return on their investment. Eventually the scheme is exposed, and most investors lose their investment. The tax treatment for these losses will vary depending on facts and circumstances. Case Advocates may encounter taxpayers claiming a bad debt deduction or theft loss, or reclassifying original interest received as a return of capital.

On January 12, 2009, the IRS issued an alert instructing Wage and Investment Division Account Management employees to suspend "Madoff" claims until additional instructions are available. Taxpayers may face delays by the IRS in responding to their claims. Taxpayer Advocate Service cases stemming from these claims will include the processing of investor amended returns, theft losses,

carry-backs and carry-forwards stemming from investment and theft losses resulting from the schemes.

I hereby authorize TAS employees to accept “Madoff,” Ponzi, and other investment scheme-related cases into TAS under Criterion 9 – Public Policy as outlined in [Internal Revenue Manual \(IRM\) 13.1.7.2.4](#), *TAS Case Criteria 9, TAS “Public Policy”*. This way, I can ensure that these taxpayers are fully aware of their rights and the IRS policies concerning their claim. Please remember if a case involves an issue designated as Criteria 9, you should first determine if Criteria 1 through 8 applies. The case should only be designated Criterion 9 if it does not meet any other case criteria.

To identify these cases on TAMIS, please enter “PONZI” in the Systemic Advocacy Use Field on Taxpayer Screen 5 for all cases involving “Madoff” claims or claims resulting from other Ponzi or failed investment schemes.

In addition to “Madoff” and Ponzi scheme claim cases, the following issues may be coded criteria 9 when no other criterion applies.

- Private Debt Collection
- Earned Income Tax Credit Certification (2004 filing season)
- Criminal Investigation Identity Theft Pilot (2007 filing season)

I have determined that these groups of taxpayers facing these issues warrant assistance from the TAS.