

Securities Investors' Bill Of Rights (SIBORAP)

By: Steve Selengut

Part One of Four

We the securities investors of the United States, in order to form more transparent financial markets, establish effective regulations, defend against destructive speculation and manipulation, promote financial well-being, preserve working capital, and protect retirement income, do establish this Securities Investors Bill of Rights and Protections (SIBORAP).

These rights are intended to replace, amend and/or abolish all laws and regulations currently in conflict with SIBORAP, and are to be implemented by all parties to financial transactions.

Any institutional efforts to create and/or market securities and/or derivative products that do not comply with the spirit of SIBORAP will result in fines to corporate officers and directors, congressional oversight committee members, regulatory agency directors, and their financial or legal counsel.

All derivative investment products of any kind, any investment programs or specific recommendations promoted in any medium by non-professionals and professionals alike, SEC registered or not, must comply with SIBORAP. Any non-plain-vanilla security, or derivative product containing college-level mathematical complexity, must comply with SIBORAP.

If the average investor cannot understand the purpose of the security, view its content, and form valid expectations about its market value and/or income generation performance in varying market environments--- that security should not be purchased by that person, and must not be sold to him.

It is important that the regulatory bodies responsible for implementing SIBORAP include non Wall Street representatives in their advisory committees. Any and all financial products, contracts, options, and programs approved by regulators will be given a layman's language risk assessment.

All producers of derivative products must provide regulators with clear written documentation of the specific risks involved, in layman's terms. Regulators will label derivatives as to risk "tier level", and identify the entities, persons, and programs prohibited from purchasing them.

The primary purpose of SIBORAP is to protect investors from the actions of others by lessening the global impact of specific types of transactions. A secondary objective is to protect the majority of investors from themselves.

SIBORAP includes these ten specific sections: (1) Product Transparency, (2) Regulation and Education, (3) Protection from Speculators (4) Control of Hedge Funds, (5) Brokerage Account Statements, (6) Retirement Account Investments, (7) Executive Compensation, (8) Corporate Financial Statements, (9) Taxation of Investment and Retirement Income, and (10) Transactional Greed and Fear Controls.

Section One: Product Transparency.

All individual investors, regardless of size, tax status, or educational achievement have the right to see precisely what securities are inside any investment product they purchase, and not only in terms of the top ten positions and asset allocation. All securities within the portfolio must be visible electronically, and updated daily. The top ten holdings would typically represent less than 30% of the portfolio.

Investment Companies shall create no products that contain more than one level of content identification, or whose make-up would artificially or inappropriately impact the market valuation of the securities it contains. A product containing individual negotiable securities of any kind, either equity or income based, may not become a part of any other product or publicly traded security.

This rule would outlaw all multi-level derivatives such as funds-of-funds, index funds that purchase more than 100 shares of the stocks they track, CDOs, and other multi-level gambling devices so popular within the derivative markets.

It will also allow shareholders and regulators to see if any illegal or undisclosed activities or processes are being used in-between standard reporting periods. (Note that funds, corporations, and brokerage firms would no longer be required to send quarterly or annual reports to anyone, so long as the documents are available on line.)

Full disclosure, always in laymen's terms, is required for all gain-enhancing/risk-increasing activities such as leverage, options, and futures transactions.

Section Two: Regulation and Education.

Since the investor community has grown to include nearly all employed persons, and because such persons may have a limited understanding of investing, they have the right to expect government regulators to protect their interests.

Incidentally, and because approximately 99.9% of "middle class" members are investors, the tax rules associated with SIBORAP Section Nine will be effective retroactive to the 2007 tax year--- for middle class families and small business taxpayers only. The resultant tax credit will be applied to withholding taxes.

A well-regulated securities industry is needed to assure that the risks associated with securities are clearly identified and labeled. Investors have the right to clear, non-legalistic, explanations of risk, particularly when their selections involve other than stocks and bonds.

Specific risk assessment for individual securities and derivatives (securities whose value depends upon the value of other securities) is more important than disclosure of company operations and affiliations. If Registered Investment Advisors (RIAs) have no weapons of mass financial destruction (WMFDs) to sell, no mass financial destruction will recur.

Section Two (Regulation and Education) is continued in Part Two of the SIBORAP report. Part Two also includes Sections Three (Protection from Speculators) and Four (Control of Hedge Funds).

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Part Two of Four

SIBORAP includes these ten specific sections: (1) Product Transparency, (2) Regulation and Education, (3) Protection from Speculators (4) Control of Hedge Funds, (5) Brokerage Account Statements, (6) Retirement Account Investments, (7) Executive Compensation, (8) Corporate Financial Statements, (9) Taxation of Investment and Retirement Income, and (10) Transactional Greed and Fear Controls.

Section Two: Regulation and Education (continued from Part One of the SIBORAP report).

Security industry regulators will be charged with many responsibilities: (1) educating investors with respect to product content; (2) developing a "hierarchy-of-risk" tool that identifies the risks in all things sold to investors; and (3) preventing the spread of unregulated Internet based investment advice offered by persons of unknown qualifications.

Additionally, they will be responsible for:

(4) Preventing the development of multi-level, multi-leveraged, WMFDs; (5) requiring that all financial blogs include appropriate caveats that speak to the qualifications of contributors; (6) investigating any "acronym" product produced by Wall Street, and (7) preventing rating agencies from separately rating pieces of derivative products.

If it looks and feels like a bond, it better not be a currency futures speculation.

The "hierarchy-of-risk" tool compares the risk vs. reward characteristics of a laundry list of investment securities from lowest-risk, investment grade, through highest-risk, speculation. A risk level "tier" system has been created:

Tier One: government securities, IG (investment grade) municipal and corporate bonds, and US government backed and/or guaranteed securities. Tier Two: individual commercial and residential mortgages, IG preferred stocks, dividend paying IGV stocks, and most REITs.

Tier Three: other exchange-listed stocks, most royalty trusts, and DJIA, S & P, and NASDAQ index funds. Tier Four: IPOs, sector index funds, junk bonds, options, futures and commodities contracts, currencies, multi-level derivatives, penny stocks, and anything with a "traunch" inside, etc.

Special documentation is required for individual investors to purchase anything listed as a Tier Four speculation. Tier Four speculations are only available to individuals with more than two million dollars in invested working capital and a segregated, personal retirement programs, with at least one million in working capital.

Note that individuals who do not comply with SIBORAP rules would continue to be taxed on both retirement and investment income. Investors continue to have an inalienable right to be stupid.

Section Three: Protection from Speculators.

Investors have a right to protection from unexpected risks being added to portfolios without their control, knowledge, or permission. No contract of a derivative and/or a speculative nature may be used in a manner that could impair the perceived investment status of any individual security.

This would preclude the use of almost all forms of "naked" short selling by any entity or person, index fund ownership of more than 100 share positions of tracked equities, and all "naked" stock options. The only short selling that would survive would be "against-the-box", and only in private, non-retirement, portfolios.

Similarly, margin financing in all but individual, non-retirement portfolios, would be prohibited--- which just means that mutual funds and hedge funds would be unable to borrow against the assets within the fund to leverage the portfolio. This

eliminates the disruptive effect of margin calls on the values of the securities in non-speculative portfolios, retirement plans, etc.

Certain commodities and currencies speculations must be restricted to professionals within their communities. Basically, if you're not willing to take delivery of the commodity, you can't trade it. In recent years, for example, commodities speculators have been able to place global economies in turmoil by manipulating gasoline and food prices.

Under SIBORAP, regulators would be able to control speculators more quickly, and less experienced (wealthy or not) individual investors would be unable to participate in dangerous speculative endeavors.

Section Four: Controls of Hedge Funds.

Investors have the right to know that the same rules apply to all market participants. Hedge fund disclosure material must be made available to all eligible investors, and all hedge funds are subject to SIBORAP.

Hedge funds of all varieties will become regulated entities, and their operators, principles and officers will be required to fully disclose the processes and methodologies that they will be using in their operations. Any form of collusion between hedge fund operators is illegal, for any purpose.

Clearly, in 2008, hedge fund operators conspired with one another to manipulate the world oil market and to crush companies within the financial sector. Such flagrant breaches of the public interest will be eliminated by SIBORAP.

Hedge funds may not use margin borrowing, must not short securities they do not own, and must not allow entry to anyone who does not meet the funds stated wealth requirements. They may use covered option strategies, but cannot invest in any multi-level derivatives.

No unqualified person, through whatever medium, may participate in any form of hedge fund. Funds that contain hedge funds are prohibited.

Sections Five: Brokerage Account Statements, Six: Retirement Account Investments, and Seven: Executive Compensation, are presented in Part Three of the SIBORAP report.

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Part Three of Four

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Section Five: Brokerage Account Statements.

Investors have a right to brokerage account statements that: (1) help them monitor and manage their asset allocation, (2) report realized gains and losses for the year, (3) track both the cost of their holdings, and their net account deposits, and (4) emphasize the long-term, cyclical nature of the investment process.

Under SIBORAP, all brokerage firms would be required to maintain cost basis information on all holdings, and the ACATS system would be required to provide it in all transfer transactions. Mutual funds would be required to include cost basis information on their quarterly reports. Statements that simply report transactions, and focus only on market value, promote the emotional environment that leads to poor decision-making.

Statements must divide securities into three classes: equities, income, and other and specify asset allocation numbers for each class in terms of cost basis. Each client's equity and income target allocations must be provided and compared with the actual totals. Within each category, sub-categories (e.g., open or closed-end mutual funds, taxable or tax-free income, etc.) would be required.

No combined-portfolio graph or chart presentations would be permitted unless accompanied by supporting charts of the separate asset allocation buckets. Supporting charts must compare securities with appropriate indices, and include lines for both working capital (i.e. cost basis) and market value. Associated commentary must describe market conditions in cyclical terms, and describe what reasonable performance expectations would be for each class of security.

Statement margin information must include warnings about the dangers of margin borrowing. Investors must be given the opportunity to switch any automatic dividend reinvestment arrangements or withdrawal programs to loan repayment.

Investors have the right to statements that inform, report, and educate. Statements should outline reasonable performance expectations for the major classes of securities, the reasons for the assessment, and a sense of how the present environment should be understood in terms of market, economic, and interest rate cycles.

Wrap account statements must make it clear to investors that their accounts are identical in all respects to other clients engaged with the same management program, and that the programs are not being managed just with their personal goals and objectives in mind.

All retirement portfolio statements must facilitate compliance with SIBORAP Section Six.

Section Six: Retirement Account Investments.

Investors have a right to augment employer-sponsored programs and Social Security with self directed retirement vehicles of their own design. Tax Code changes mandated by SIBORAP (see Section Nine) exempt retirement income and (most) investment income from taxation by any level of government, and introduce a new "elective" Social Security option.

Individual investors have a right to safeguards from excessive risk taking in any and all self-directed retirement portfolios, including those provided by employers. Cost based asset allocation and diversification rules must be applied to all portfolios above \$100,000 in working capital and in all portfolios for those aged 55 and above.

Asset allocation rules: All retirement portfolios with working capital (cost basis) under \$100,000 must have at least 55% invested in top tier (Tier One) income securities. Portfolios with more than \$100,000 of working capital must have at least 30% invested in government securities. After age 55, retirement accounts must hold at least 60% (cost basis of securities) in individually owned government securities and/or Closed End Funds comprised of top tier income securities, and which have less than 20% leverage.

Diversification rules: No portfolio in excess of \$100,000 may contain a single position that exceeds 5% of working capital, or a mutual fund position that exceeds 10%. Sector allocations should be held below 25% of portfolios.

No retirement portfolio, non-financial corporation, state or local government, foundation, endowment, or other fiduciary entity may own or trade Tier Four securities and contracts, or derivatives that contain such securities.

Retirement accounts that comply with these protective elements are 100% non-taxable, but cannot be borrowed against or withdrawn from before age 60. All Social Security participants under age 40 may elect to use one half of their mandatory salary deductions to fund deferred, fixed-income-only annuity contracts. Google: Guaranteed Social Security Benefits: Make It So, for more information.

Section Seven: Executive Compensation.

Every shareholder of a publicly traded entity has a right to share in the growth and profit of the business to the same extent and in the same manner as the employees they, in effect, hire to manage the business.

Corporate executives and directors have totally lost touch with their equity owners, who were never consulted (in terms that a "Joe the Plumber" could understand) about being compensated strictly in terms of the illusory market value of their holdings.

Corporate executive compensation needs to be brought down to a significantly lower "competitive level", and more of the corporate profit needs to be "spread around" to owners and employees, applied to debt reduction, and placed in reserves for contingencies. It is unlikely that there would be a shortage of qualified CEO applicants at a mere four or five million per year in salary.

Section Seven (Executive Compensation) is continued in Part Four of the SIBORAP report, which also includes Sections Eight (Corporate Financial Statements), Nine (Taxation Considerations), and Ten (Transactional Fear and Greed Controls).

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Part Four of Four

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Section Seven: Executive Compensation - continued from Part Three of the SIBORAP report.

Every dollar paid to corporate executives, directors, and employees (in any form whatsoever) in excess of two million dollars would be matched by a ten-cent per share extra dividend to all shareholders and a 10%-of-annual-pay bonus to all employees.

All golden parachutes, separate "non-qualified" retirement plans, stock option and deferred compensation programs, and others that do not benefit all employees and shareholders will be unwound over a three to five year period. Any employee who receives in excess of \$250,000 in compensation must buy (and retain while employed by the company plus 3 years) 10 common shares for each \$1,000 of his or her highest career compensation--- retroactive three years.

Under SIBORAP, any corporation that reports profits in any year, or that pays performance-based bonuses to any employee, must first pay a "bonus" dividend to its shareholders equal to no less than 25% of the profits and proposed bonuses.

Section Eight: Corporate Financial Statements.

Investors have a right to have confidence in the numbers presented in corporate financial statements. SIBORAP mandates that all publicly traded companies employ an independent auditing firm to: translate company financials into simplified documents comprehensible to non-accountants.

These auditors would be rotated among similar companies and industries, with at least three years between appearances at any one company. Their compensation would be a flat rate plus rewards for identifying inaccuracies, inappropriate practices, and outright fraud. Executives in the chain of command from where the problems were found would be personally responsible for the rewards paid to the auditors.

Auditors would rank the financial status of companies based upon cash flow data, debt to equity ratios, operating profitability, industry trends, and other fundamental indicators of value.

Section Nine: Taxation Considerations.

The current tax code encourages, even dictates, investment errors, and creates a larger burden on all levels of government than is necessary. Investors have a right to formulate their investment and retirement plans without having to worry about changing tax code requirements.

Ironically, the present Social Security structure does more harm than good to both the economy and retiree benefit packages. SIBORAP allows most employees to "opt out" of Social Security in favor of making (smaller) mandatory contributions to a fully funded and guaranteed, private, retirement benefit program.

Employers would be freed of this employee benefit burden, but would be required to use their savings to: add jobs, reduce prices, increase shareholder dividends, or improve employee health benefits. Employees will have more money to spend, and thousands of new jobs will be created within an existing industrial infrastructure--- not to mention careers in (private sector) corporate oversight.

As implied above, SIBORAP prohibits the taxation (by any government) of: (1) any form of retirement income received from any employee benefit plan, and fixed-income-annuity funded Social Security benefits, and (2) any form of investment income, foreign or domestic, received by absolutely any entity that complies with SIBORAP.

SIBORAP reinforces the rights of investors in particular, and citizens of the USA in general, to keep what they have earned, created, and inherited during their lifetimes, and to pass their estates to their heirs unencumbered by any form of taxation at any level. All inheritance taxes are illegal, retroactive twenty years.

Section Ten: Transactional Fear and Greed Controls.

Investors have a right to be emotional, irrational, fickle, stubborn, confused, fearful, inexperienced, hindsightful, and greedy. Nothing the most thoughtful and caring professional can say or do will prevent the errors that many of us look back on with a frown and a headshake.

SIBORAP will provide investors with better information, introduce rules that will help them benefit from proven asset allocation and diversification techniques, and implement controls on both cold blooded speculators and blood thirsty tax collectors. But couldas, wouldas, and shouldas cannot be legislated out of the investment formula--- even with trading halts.

In reality, financial institutions won't be required to emphasize long-term investment thinking or to encourage cycle-savvy investment behavior. But the information is available and the experienced wisdom is out there for the reading. SIBORAP will help the lazy investor in his pursuit of wealth, but pulling the right decision lever is every investor/voter's lonely responsibility.

As to the global investment environment that should spawn a SIBORAP--- that other value investor, the guy from Omaha, put it pretty clearly just the other day in the New York Times: "Be fearful when others are greedy, and be greedy when others are fearful."

Help put a SIBORAP in your future--- vote!

Steve Selengut

<http://www.sancoservices.com/>

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Professional Investment Management from 1979 Author of: "The Brainwashing of the American Investor: The Book that Wall Street Does Not Want YOU to Read", and "A Millionaire's Secret Investment Strategy"