

MEMO# 23433

May 5, 2009

SEC Charges Operators of Reserve Primary Fund with Fraud

[23433]

May 5, 2009

TO: INST. MONEY MARKET FUNDS ADVISORY COMMITTEE No. 20-09
MONEY MARKET FUNDS ADVISORY COMMITTEE No. 20-09 RE: SEC CHARGES OPERATORS
OF RESERVE PRIMARY FUND WITH FRAUD

The SEC today filed fraud charges against the investment adviser, broker-dealer, and two individuals that operate the Reserve Primary Fund for failing to provide key material facts to investors and trustees about the true effect of the Lehman holdings on the fund. [\[1\]](#) In bringing the enforcement action, the SEC also seeks to expedite the distribution of the fund's remaining assets to investors.

In a complaint filed with the U.S. District Court for the Southern District of New York, the SEC alleges that the defendants misrepresented that the investment adviser would provide the credit support necessary to protect the \$1.00 net asset value of the Primary Fund, understated the volume of redemption requests received by the fund, and failed to provide the trustees with accurate information concerning the value of Lehman securities. According to the complaint, the SEC also is asking the court to enter an order compelling a pro rata distribution of the remaining fund assets that are currently being withheld from investors pending the outcome of approximately 29 lawsuits against the fund, the trustees, and the officers and directors of the Reserve entities.

The SEC's complaint seeks a final judgment ordering the defendants to pay financial penalties and disgorge ill-gotten gains plus prejudgment interest, and enjoining them from future violations of the federal securities laws.

Jane G. Heinrichs

endnotes

[1] A copy of the SEC's complaint and press release are available on the SEC's website at <http://sec.gov/news/press/2009/2009-104.htm>.

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.