Regulators censured for Madoff failure

GENERAL FINANCIAL

'Inexplicable how the SEC missed it'

Complaints filed over nine years

By Joanna Chung in New York

US securities regulators yesterday came under heavy fire from legislators for failing to detect Bernard Madoff's alleged $50bn "Ponzi" scheme in spite of receiving apparently credible complaints about him for the past nine years.

Linda Chatman Thomsen, director of enforcement at the Securities and Exchange Commission, told legislators the agency lacked resources to investigate all leads. "While we appreciate and examine every lead we receive, we simply do not have the resources to fully investigate them," she said.

The staff received hundreds of thousands of tips each year and attempted to devote attention to the most promising leads and the most serious potential violations, Ms Thomsen told the Senate banking committee. The SEC's role is being investigated by its own inspector-general.

Industry rivals complained to the SEC about Mr Madoff as early as 1999 but he was not charged with fraud until his sons reported him to federal authorities in December.

"Madoff's fraud was so immense and obvious and took place over such a long period of time, it is simply inexplicable how the SEC missed it," Senator Charles Schumer, told the hearing yesterday. "Today's SEC appears stagnant and behind the times."

The Madoff scandal marks the second time this decade the SEC has come under heavy fire. Its budget was substantially increased in 2003 after SEC officials blamed low salaries and high turnover for their failure to tackle conflicted stock research and catch accounting fraud at Enron.

Christopher Dodd, Democratic chairman of the committee, criticised the SEC for not flagging Mr Madoff's use of a three-man auditing team. Ms Thomsen, who declined to comment on the Madoff investigation, said the enforcement arm opened an investigation of Madoff's firm in 2006 but closed it last year without bringing legal action.

Lori Richards, the SEC's director of compliance inspections and examinations, testified that her staff examined Madoff's broker-dealer operation, most recently in 2004 and 2005, but did not examine the investment advisory arm, which registered in 2006.

Stephen Harbeck, president of the Securities Investor Protection Corporation – which is helping to liquidate Mr Madoff's firm – said customers were owed $600m in stock the firm did not have on hand.

SIPC hopes to pay off "simple, straightforward" claims as early as February.

Tremont Group is closing a hedge fund division after the New York fund manager lost $3.1bn invested with Bernard Madoff's alleged fraud.

Tremont, one of the biggest investors with Mr Madoff, has laid off more than a third of staff after the losses and plunging assets under management, which now amount to $2.7bn.

Additional reporting by James Mackintosh