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Madoff Lawyers' Alliance Pushes for International Financial Court

Posted by Brian Baxter

At a gathering in a 27th floor conference room in [McCarter & English's](#) midtown Manhattan offices on Monday, [a group of lawyers leading a global alliance of law firms](#) representing clients caught up in the Bernard Madoff scandal called for the establishment of an International Financial Court.

Led by McCarter & English international practice group chair Gaytri Kachroo, counsel to [chief Madoff whistleblower Harry Markopolos](#), and Javier Cremades of Madrid's [Cremades & Calvo-Sotelo](#), the group intends to submit a proposal for the creation of an IFC at a [G-20](#) meeting scheduled for [next month in London](#).

The proposal calls for the IFC to be organized in conjunction with the [United Nations](#), [International Monetary Fund](#), and [World Bank](#). Cremades said that with the requisite political will the court can be up and running within seven months. The Madoff Lawyers' Alliance already has met with professor Rafael Illescas, chairman of the [United Nations Commission on International Trade Law](#) (UNCITRAL), and, according to Cremades, Illescas supports the establishment of an IFC. Illescas plans to raise the idea at UNCITRAL's next meeting in New York.

"Right now this is a political issue," Cremades said, adding that the international scope of the Madoff matter poses unique challenges that will require "joint responsibility" by law enforcement bodies worldwide. Scant details were offered regarding how precisely to structure the IFC. The court's mandate should be tightly focused on financial fraud, he said, and prospective parties must consent to taking part in any proceedings.

Sovereignty rules likely would require that all national remedies be exhausted before moving for an IFC hearing, Kachroo said. As national legal initiatives begin to meet their limits, Kachroo said that the construction of an international framework of financial regulation for the capital markets would be a natural forum for the IFC.

Both Cremades and Kachroo went out of their way to note that members of the Madoff Lawyers' Alliance calling for the creation of the IFC were "just sharing and centralizing" ideas rather than acting on behalf of their myriad clients, which include banks, hedge funds, public institutions, and individuals on an array of issues--bankruptcy, breach of contract, tax, and torts to name a few.

"We are not an investors' rights group," Cremades said.

While most of the lawyers shared the common objective of developing a system to adjudicate issues of supranational financial fraud, some lawyers at the conference said that many of the details had yet to be hashed out or vetted with clients. (Kachroo and Markopolos alone will meet with [SEC](#) chairwoman Mary Schapiro and SEC Inspector General David Klotz on Tuesday and James Siegel, special counsel to [House Financial Services](#) committee chairman Barney Frank, on Wednesday.)

Some firms attending Monday's conference are not members of the group--two [Greenberg Traurig](#) litigation partners at the gathering said they were representing an accounting firm on the defense side (they declined to name their client). The Alliance is open to any firm that can "provide further legal thought" on the issues, Cremades said. But one group of lawyers is decidedly unwelcome.

"We don't want the Madoff attorneys in the alliance," he said only half-jokingly.

When the panel of Alliance lawyers was asked if Madoff's expected plea deal with prosecutors--[a hearing is scheduled for Thursday](#)--would help in terms of determining the location of overseas assets, Cremades expressed hope for discovering "the path to where the money is" while other colleagues took more of a wait-and-see approach.

"We'll leave it to prosecutors to forge their own agreement [with Madoff]," said McCarter & English litigation partner William Moran. "As for the [call to create] the IFC, we don't see that being affected by any Madoff plea."

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