

MF Global - U.S. Update as of November 7, 2011

Author: [Elizabeth A. McGovern](#), Associate, Philadelphia, London

Publication Date: November 07, 2011

SIPC Trustee Takes First Steps to Thaw Frozen Customer Securities Accounts

On November 4, 2011, the SIPC Trustee took his first steps toward transferring frozen customer securities accounts held by MF Global Inc. ("MFGI") when he announced that he will be accepting proposals for the transfer of all customer securities accounts of MFGI (the "**Securities Accounts**") to another member of the Securities Investor Protection Corporation. This action is in addition to the steps the Trustee took last week to transfer certain segregated commodities accounts from MFGI to other futures commission merchants.

All prospective transferees of the Securities Accounts are required to sign a nondisclosure agreement prior to conducting due diligence on the Securities Accounts and must be prepared to exhibit their financial capability to fund their proposals and handle the Securities Accounts going forward through, inter alia, current FOCUS Reports, balance sheets, and bank references. Upon receipt of executed nondisclosure agreements, the Trustee will notify prospective transferees of the procedures for making proposals.

Bankruptcy Court Grants Trustee's Motion for Authority to Issue Subpoenas; Denies US Debtors' Request for Access to Information

The SIPC Trustee filed a motion November 3, 2011 seeking authority to issue subpoenas for the production of documents and to conduct depositions of the current and former officers, directors and employees of MFGI and its affiliates, among others (the "**Discovery Motion**"). That same day, MF Global Ltd. and MF Global Finance, Inc. (collectively, the "**US Debtors**") filed a limited response to the Discovery Motion, requesting that they be provided with notice of the discovery undertaken by the Trustee, copies of all documents produced, and the right to attend any depositions conducted by the Trustee (the "**Limited Response**").

Following a telephonic hearing November 4, 2011, the Bankruptcy Court entered an order granting the Discovery Motion and denying the relief requested by the US Debtors in its Limited Response (the "**Subpoena Order**"). In its memorandum opinion issued contemporaneously with the Subpoena Order, the Bankruptcy Court cited to the language of the SIPA Act, including its requirement that the Trustee conduct an investigation of all relevant matters relating to the liquidation proceeding. The Bankruptcy Court found that the Trustee cannot effectively perform this function if he is required to divulge his investigatory methodology or information discovered to a party-in-interest. Further, the Bankruptcy Court noted that serious allegations of potential



misconduct had been leveled against MFGI, which misconduct is "clearly a proper subject for investigation" by the Trustee. The Trustee must be able to investigate these allegations free of interference from the US Debtors or any other party-in-interest.

MF Global Canada Co. Commences Proceedings in Canada Under the Bankruptcy and Insolvency Act

On November 4, 2011, MF Global Canada Co. ("**MF Canada**"), the Toronto unit of commodities and listed derivatives broker MF Global Holdings Ltd. (the "**Holdings**"), was placed in receivership under the Bankruptcy and Insolvency Act subsequent to the Chapter 11 petition of Holdings. As of November 7, 2011, bankruptcy and insolvency proceedings are pending against MF Global entities in the United States, England, Australia and Canada.

We have a dedicated team, with experience in insolvency, financing, financial markets and commodities trading, advising clients with assets, positions and other dealings with MF Global. If you have dealings with or exposures to MF Global and would like help with this evolving situation, please contact Kyri Evagora, Georgia Quenby, Brett Hillis, Andrew Cross or Andrea Pincus.

About Reed Smith

Reed Smith is a global relationship law firm with more than 1,600 lawyers in 23 offices throughout the United States, Europe, Asia and the Middle East.

The information contained herein is intended to be a general guide only and not to be comprehensive, nor to provide legal advice. You should not rely on the information contained herein as if it were legal or other professional advice.

The business carried on from offices in the United States and Germany is carried on by Reed Smith LLP of Delaware, USA; from the other offices is carried on by Reed Smith LLP of England; but in Hong Kong, the business is carried on by Reed Smith Richards Butler. A list of all Partners and employed attorneys as well as their court admissions can be inspected at the website <http://www.reedsmith.com/>.

© Reed Smith LLP 2011. All rights reserved.