

## SIPC Trustee Appointed for MF Global, Inc.

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**Publication Date: November 04, 2011**

On October 31, 2011, the Securities Investor Protection Corporation ("SIPC") filed an application with the United States District Court for the Southern District of New York seeking a declaration that the customers of MF Global Inc. ("MFGI") "are in need of the protections available under the Securities Investor Protection Act of 1970" ("SIPA"). MFGI is the US broker-dealer subsidiary of MF Global Holdings, Ltd., which, along with MF Global Finance USA Inc., filed for chapter 11 bankruptcy protection on October 31, 2011 in the US Bankruptcy Court for the Southern District of New York. The District Court granted SIPC's petition and referred the matter to the Bankruptcy Court. James W. Giddens, who performed a similar role for Lehman Brothers Inc., was appointed trustee for the liquidation. The Trustee will oversee the liquidation of MFGI, with a primary goal of fulfilling the SIPA mandate to satisfy public customer claims, including those related to commodities and securities, in an orderly process.

The SIPC Proceeding is in its early stages and is complicated by what the Securities and Exchange Commission and Commodity Futures Trading Commission have described as "possible deficiencies in customer segregated futures accounts held at [MF Global, Inc.]".

On November 2, 2011, the Trustee took his first official action and sought authority from the Bankruptcy Court to transfer certain segregated customer commodity positions from MFGI to one or more futures commission merchants ("Transferees"), potentially resulting in the transfer of 50,000 accounts. On November 3, the Trustee issued a notice confirming that he is in the process of effectuating a bulk transfer of the commodity contracts and a portion of the related initial margin (as discussed in the next paragraph) to certain qualified Transferees selected by the Trustee. The Transferees will, in turn, notify each customer of the successful transfer of the customer property. The Trustee also confirmed that there will be a process by which customers can elect to transfer their positions without transferring any of the related initial margin.

Due to the aforementioned shortfall in customer segregated property, a portion of the initial margin posted by customers to MFGI will not be transferred with those positions. For example, some customer property in the form of initial margin on deposit with the Chicago Mercantile Exchange ("CME") will be transferred to the Transferees. Initial reports from the SIPC Proceeding suggest that approximately 60% of such margin will transfer to the Transferees, while 40% will remain at the CME for further distribution by the Bankruptcy Court at a later date. Customer property (including initial margin) held at MFGI or in its customer accounts at banks will not be transferred at this time. Customers will need to submit a claim at a later, court-appointed date in respect of any initial margin that is not eligible for transfer under the November 2 court order.



Further, on November 3 the Trustee filed a motion with the Bankruptcy Court seeking to confirm his authority under the SIPA to issue subpoenas as a part of his duty to investigate the debtor and, in due course, to issue a report to the Court, SIPC, regulators, and the public.

We have a dedicated team, with expertise 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.

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