

## **Status Update from the Office of James W. Giddens, Trustee for the Liquidation of MF Global Inc., Concerning the Trustee's Investigation**

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February 6, 2012 – New York, New York – James W. Giddens, the Trustee for the liquidation of MF Global Inc., today filed a preliminary report on the progress of his investigation into the failure of the broker-dealer with the United States Bankruptcy Court for the Southern District of New York, the Honorable Martin Glenn, presiding. The Trustee's investigation has preliminarily determined that MF Global Inc. had a shortfall in commodities customer segregated funds beginning on Wednesday, October 26, 2011, and that the shortfall continued to grow in size until the bankruptcy filing on Monday, October 31, 2011.

The Trustee's investigators have now traced a majority of the cash transactions, totaling more than \$105 billion, made in and out of MF Global Inc. in the last week before bankruptcy and are completing the process of tracing the remaining transactions. MF Global also executed securities transactions totaling more than \$100 billion during its final week of operations. These included liquidation of customer securities, proprietary positions and other items. The securities included complex instruments, such as off-balance sheet repurchase transactions involving sovereign debt securities and derivative structures.

“For three months our investigative team has worked to understand what happened during the final days of MF Global when cash and related securities movements were not always accurately and promptly recorded due to the chaotic situation and the complexity of the transactions,” Giddens said. “With these preliminary investigative conclusions in hand, we will analyze where the property wired out of bank accounts established to hold segregated and secured property ultimately ended up. We will then determine whether there is a sound and legal basis for recoveries against third parties that will help make customers whole. These will be very complex legal and factual determinations, which we will make consistent with our duty as the advocate for the former customers of MF Global Inc.”

The investigation to date has found that transactions regularly moved between accounts and that funds believed to be in excess of segregation requirements in the commodities segregated accounts were used to fund other daily activities of MF Global. In the past, such transfers were in amounts of less than \$50 million, but as liquidity demands increased and could not be met from internal sources, much larger amounts were used, apparently with the assumption that funds would be restored by the end of the day. By Wednesday, October 26, as the result of increasing demands for funds or collateral throughout MF Global, funds did not return as anticipated. As these withdrawals occurred, a lack of intraday accounting visibility existed, caused in part by the volume of transactions being executed, and the 4(d) U.S.

segregated commodity customer account appears to have reached a deficit condition on Wednesday, October 26 that continued through to MF Global's bankruptcy.

The Trustee has identified most of the parties that were the immediate recipients of transfers from MF Global Inc. during the final days and weeks of operation. These transfers were largely effected through the clearing banks acting on behalf of MF Global Inc. The ultimate recipients of these transfers included banks, exchanges and clearing houses, MF Global Inc. affiliates, counterparties, and customers of the futures commission merchant and the broker-dealer.

The number of transactions executed by MF Global during the last week prior to the bankruptcy escalated to unprecedented volumes. The rush to meet funding needs for collateral, margin and customer liquidations led to billions of dollars in securities sales, draws on credit facilities, and a web of inter-company loans across affiliates, some foreign. The company's computer systems and employees had difficulty keeping up with the unprecedented volume of transactions. A number of transactions were recorded erroneously or not at all. So called "fail" transactions – where either the buyer or seller fails to deliver the cash or the security, respectively – were five times the normal volume during the firm's final week.

The investigation has revealed that a confluence of factors contributed to the deterioration of MF Global's liquidity position. The exposure to European sovereign debt, coupled with the announcement of disappointing quarterly results, triggered credit downgrades by Moody's, Fitch and S&P. This escalation in credit risk mandated substantial margin calls and increased demands from counterparties and exchanges for collateral. As an example, the additional margin paid to support only the sovereign debt positions exceeded \$200 million during the final week of operations. This was a significant drain on available cash and securities. The sovereign debt investments undertaken on a repo to maturity basis allowed some immediate gains to be booked, but these were purely paper profits generating negligible cash while the underlying transactions resulted in calls for substantial additional margin.

The heightened risk and apparent loss of confidence drove customers to close their accounts and withdraw funds, resulting in even greater demands on a relatively limited amount of available cash. The Trustee's investigation has revealed that, while personnel may not have been immediately aware of it, MF Global Inc. experienced a shortfall in 4(d) customer funds beginning during the day on Wednesday, October 26. The MF Global parent company struggled to continue to operate and even to sell the business, but MF Global Inc. appears to have remained in a shortfall of commodity customer segregated funds virtually continuously until its parent filed for Chapter 11 protection on Monday, October 31 and the Securities Investor Protection Act (SIPA) proceeding was commenced against MF Global Inc. later that afternoon.

The Trustee's investigators, including the legal and forensic accounting teams, have conducted over 50 witness interviews, preserved secure access to thousands of boxes of hard copy documents, imaged over 800 computer drives, and are maintaining over 100 terabytes of data.

To understand where the money went during October 2011, the analysis conducted by the Trustee's professionals has included 840 cash transactions in excess of \$10 million that total \$327 billion, and an ongoing analysis of related securities transactions involving a value of over \$100 billion. These large cash transactions alone span 47 bank accounts across eight financial institutions. An additional 20,000 cash transfers that total \$9 billion involve transfers of less than \$10 million.

The Trustee's investigation is continuing to correlate cash transfers to relevant movements of securities used as collateral or loaned to counterparties. To that end, the Trustee is now working with various third parties to further define these securities transactions and obtain more complete information about the extent and basis for transfers to select parties. The Trustee continues to investigate the complex factual and legal questions to determine how best to pursue possible recoveries and the extent to which applicable law would support claims against particular recipients of funds, affiliates, and possibly to other parties, including employees of MF Global.

The Trustee's investigation will continue, in coordination with the regulatory and law enforcement investigations that are being conducted by the Department of Justice, the CFTC, and the SEC on an ongoing basis. The Trustee will seek to release additional information related to his investigation in the future, but cannot prematurely release information that might compromise the integrity of those investigations or the Trustee's own efforts to recover funds for customers and the estate.

## **CLAIMS PROCESS AND ACCOUNT TRANSFERS**

The Trustee's staff is continuing its analysis of customer claims after the claims filing period for commodities customers closed on January 31, 2012.

Once a claim is reviewed by the Trustee's staff on as expedited a basis as possible, a determination letter will be issued to the claimant. These determination letters are being issued on a rolling basis. The determination letter will acknowledge the claim and provide a determination as to whether the claim has been allowed, denied, reclassified, or is subject to further reconciliation or information requests.

The Trustee is eager to make additional distributions to former MF Global Inc. customers as soon as possible. However, the Trustee is required by law to hold an appropriate reserve of

funds until disputed claims are resolved either through negotiation or by the Court. At this time, the Trustee anticipates significant disputed claims against the MF Global Inc. estate by MF Global Holdings Ltd., MF Global UK Limited, and other entities. The Trustee will move to attempt to resolve these claims as quickly as possible, but it is uncertain how long resolution will take. Therefore, it is not known at this time when the Trustee will be legally able to make additional distributions.

The Trustee has already distributed nearly \$4 billion to former MF Global Inc. retail commodities customers with US futures positions via three bulk transfers:

- Within days of the bankruptcy, the Trustee received court approval for the transfer of 10,000 commodities customer accounts with three million open positions, along with approximately \$1.5 billion in collateral associated with those positions at the time of the bankruptcy. These open positions had a notional value of \$100 billion. It is estimated that 40% of all commodity futures exchange activity in United States markets came from MF Global Inc. trades and a serious disruption in markets was avoided by the transfer.
- A transfer of 60% of the cash attributable to approximately 15,000 customer commodity accounts with cash only in the accounts, totaling approximately \$500 million, was completed in November.
- And in December and January a third transfer occurred that moved approximately \$2 billion to restore 72% of US segregated customer property to all former MF Global Inc. retail commodities customers with US futures positions.

In addition, the Trustee has received Court approval to sell and transfer approximately 318 active retail securities accounts, which is substantially all of the securities accounts at MF Global Inc. Nearly all securities customers have received 60% or more of their account value and already 194 of former MF Global Inc. securities customers have received the entirety of their account balances because of a Securities Investor Protection Corporation guarantee.

**The information in this statement does not apply to any other MF Global entity, including separate insolvency proceedings involving the parent company, MF Global Holdings Ltd.**