



## U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre  
1155 21st Street, NW, Washington, DC 20581  
Telephone: (202) 418-5000  
Facsimile: (202) 418-5547  
[aradhakrishnan@cftc.gov](mailto:aradhakrishnan@cftc.gov)  
[gbarnett@cftc.gov](mailto:gbarnett@cftc.gov)

Division of Clearing and  
Risk  
Division of Swap Dealer  
and Intermediary  
Oversight

Ananda Radhakrishnan  
Director, DCR  
Gary Barnett  
Director, DSIO

November 2, 2011

Laura C. Klimpel, Counsel and Chief Compliance Officer  
New York Portfolio Clearing  
55 Water Street  
New York, New York 10041

Re: Notification of Post-Relief Transfer Pursuant to Commission Regulations 190.02(a)(2) and 190.06(g)(2)(i)

Dear Ms. Klimpel:

This letter is in response to your letter, written on behalf of New York Portfolio Clearing (NYPC), dated November 2, 2011 (the NYPC Letter), notifying the Commission of NYPC's transfer of certain customer positions as a result of the insolvency proceedings of MF Global, Inc. (MF Global), one of its clearing members. The NYPC Letter is pursuant to Commission Regulation 190.02(a)(2), which requires a clearing house, prior to transferring customer positions under Section 764(b) of the Bankruptcy Code, to notify the Commission of its intent. If the Commission is so notified and does not disapprove pursuant to Commission Regulation 190.06(g)(2)(i)(B), such transfer may not be avoided by the bankruptcy trustee.

In order to minimize disruption to the markets and to protect the integrity of the marketplace and market participants, NYPC proposed transferring certain MF Global customer segregated account positions. In particular, NYPC intends to transfer positions carried on its books for [ ] and [ ] to [ ] and [ ], respectively, and intends to work diligently to effect the transfer of the accounts of [ ] and [ ] to [ ] and [ ], respectively.

The Division of Clearing and Risk (DCR) and the Division of Swap Dealer and Intermediary Oversight (together with DCR, the Divisions) have reviewed the NYPC Letter. Under Commission Regulation 190.06(g)(2)(i)(B), if the Commission does not disapprove the

Laura C. Klimpel  
Page 2

transfer, such transfer may not be avoided by the bankruptcy trustee. Acting pursuant to the authority delegated to it by Commission Regulation 190.10(d), the Divisions hereby notify you that the Commission does not disapprove the transfer of the positions set forth in the NYPC Letter in the manner described therein. In addition, in the event that one or more of the transfers are not permissible under Commission Regulation 190.06(g)(2)(i)(B) on the grounds that they are deficit accounts, the Commission authorizes such transfers under Commission Regulation 190.06(h)(2).

The Commission reiterates that customer segregation is the foundation of customer protection in the commodity futures and swaps markets. Segregation must be maintained at all times, pursuant to Section 4d of the Commodity Exchange Act (the Act) and Commission Regulation 1.20. As mentioned above, MF Global does not have sufficient funds in segregation to meet Commission requirements. The Commission intends to take any and all action afforded to it, within the purview of the Bankruptcy Code and the Act, to ensure that customers maximize their recovery of funds and to discover the reason for the shortfall in segregation.

This letter is based upon the representations of NYPC and applicable laws and regulations in their current form. If you have any questions concerning this correspondence, please contact Jon DeBord, Special Counsel, DCR, at 202-418-5478 or [jdebord@cftc.gov](mailto:jdebord@cftc.gov).

Sincerely,



Gary Barnett  
Director, DSIO



Ananda Radhakrishnan  
Director, DCR