

**EXPEDITED RELIEF REQUESTED**

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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re

MF GLOBAL INC.,

Debtor.

Case No. 11-2790 (MG) SIPA

**EXPEDITED MOTION TO APPROVE FURTHER TRANSFERS  
AND DISTRIBUTIONS FOR MF GLOBAL INC. UNITED STATES  
COMMODITY FUTURES CUSTOMERS**

James W. Giddens (the “Trustee”), as Trustee for the liquidation of the business of MF Global Inc. (“MFGI” or the “Debtor”) under the Securities Investor Protection Act of 1970, as amended (“SIPA”), 15 U.S.C. § 78aaa *et seq.*,<sup>1</sup> by and through his undersigned counsel, respectfully makes this motion (the “Motion”), pursuant to SIPA section 78fff-1(b), sections 105(a) and 766(c) of title 11 of the United States Code (the “Bankruptcy Code”), and 17 C.F.R. §§ 190.01 through 190.10 (the “Part 190 Regulations”), for entry of an order approving further

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1. For convenience, subsequent references to SIPA will omit “15 U.S.C.”

transfers and distributions of certain segregated customer funds of MFGI's U.S. commodity customers via other futures commission merchants ("FCMs"). In support of the Motion, the Trustee respectfully states as follows:

**PRELIMINARY STATEMENT**

1. The Trustee, through this Motion, seeks the Court's approval to effect the immediate orderly distribution of up to \$2.1 billion—a substantial portion of the U.S.-based customer property currently under the Trustee's control, including funds being held at derivative clearing organizations ("DCOs"), such as the Chicago Mercantile Exchange (the "CME"), (or that will be under his control shortly) ("U.S. Segregated Customer Property") that was deemed segregated in U.S. depositories by MFGI's former management pursuant to section 4d of the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.* ("U.S. Segregated Customer Equity").<sup>2</sup> The Trustee's proposal, described in detail below, should restore approximately two-thirds or more of U.S. Segregated Customer Equity *pro rata* to all former commodity futures customers of MFGI and would authorize further transfers of U.S. Segregated Customer Property if appropriate in the Trustee's discretion, as long as adequate reserves are maintained.

2. Since his appointment, the Trustee's primary goal has always been to marshal the assets of MFGI expeditiously and to reconcile the books and records of MFGI as quickly as possible to make as full and as prompt a distribution of customer property to MFGI's former customers as the circumstances and the law will allow. In the face of the unprecedented

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2. Assets secured for customers that traded in foreign futures are now in most cases under the control of foreign bankruptcy proceedings in separate accounts segregated pursuant to 17 C.F.R. § 30.7 (the "30.7 Accounts"), which were not segregated in the manner required for U.S. futures pursuant to section 4d of the Commodity Exchange Act, and must be separately distributed pursuant to 17 C.F.R. § 190.08(c)(1). The Trustee is pursuing recovery of these foreign assets, but presently has virtually none under his control.

circumstances of MFGI's demise, and an apparent significant shortfall in U.S. Segregated Customer Equity, this Motion furthers that goal to the greatest extent possible under the law.

3. Through two Court-approved bulk transfers, the Trustee has already distributed more than \$2 billion of U.S. Segregated Customer Property, for the benefit of MFGI's former commodity futures customers. (ECF Nos. 14 and 316.) With the relief sought in the Motion, the Trustee proposes to distribute, upon approval of the order, an additional amount not to exceed \$2.1 billion of U.S. Segregated Customer Property. The precise amount will be calculated as part of the distribution process. Given the apparent significant shortfall, the Trustee believes that these distributions will account for two-thirds or more of the U.S. Segregated Customer Equity that should have been segregated for the benefit of MFGI's former commodity customers and equates to between eighty and eight-five percent of all of the U.S. Segregated Customer Property that the Trustee has recovered.

4. The purpose of this third proposed bulk transfer is to achieve a uniformly equalizing *pro rata* interim distribution to each and every U.S. commodity futures customer (that is, customers with cash or other property related to futures or options on futures which are traded on a U.S. exchange). This distribution and transfer would immediately restore a total of two-thirds or more (the "True Up Amount") of what should have been segregated in U.S. depositories by MFGI's management for its U.S. commodity futures customers, in a percentage to be fully determined during the distributions. This third proposed bulk transfer would distribute up to \$2.1 billion of U.S. Segregated Customer Property in one or more stages, and permit further transfers where appropriate, as long as adequate reserves are maintained. The Trustee envisions including the distribution of physical assets (warehouse receipts, precious metal certificates and the like) with this third bulk transfer; however, the books and records of MFGI related to the

physical assets are not yet in a position to guarantee that the *pro rata* distribution of physical assets will take place at the same time as liquid assets. This Motion seeks the authority to effect the equitable distribution of the True Up Amount of U.S. Segregated Customer Equity for each and every U.S.-based commodity futures customer, through this and possible future interim distributions or bulk transfers, as property is obtained and the maintenance of an adequate reserve permits.

5. As detailed below, the transfers envisioned by this Motion will rely heavily on the records and implementation assistance of the DCOs, primarily CME, that have facilitated the first two bulk transfers for the benefit of MFGI's former U.S. commodity futures customers. Because of the Trustee's reliance on the DCOs for both the reconciliation of the first two bulk transfers and the implementation of this massive undertaking, the Trustee cannot predict with certainty how long the transfers will take to complete, but, should Court approval be granted, the Trustee envisions that the process can start immediately on a rolling basis and that it will take two to four weeks for the CME and other DCOs to fully calculate and facilitate the requested transfers and distributions.

6. While this effort substantially advances the Trustee's statutory mandate to return customer property as promptly as possible, the Trustee is also mindful of his obligation to do so in a manner that is fair to all customers, including all of those that will assert claims during the claims process. Accordingly, while the Trustee's proposed third bulk transfer would distribute up to \$2.1 billion of U.S. Segregated Customer Property—bringing the total amount distributed to MFGI customers to approximately \$4.1 billion—the Trustee would still maintain an adequate reserve of U.S. Segregated Customer Property. This reserve will be maintained at approximately fifteen to twenty percent of the total amount of U.S. Segregated Customer

Property and be available to the Trustee or distributed for contingencies and, eventually, distribution through the Court-approved claims process. Some of this reserve is in the Trustee's control currently; the remainder of this property is expected within the next few days, as identified property is brought under the Trustee's control. Because the ultimate shortfall of U.S. Segregated Customer Equity cannot be determined with certainty until the claims are received and determined, this reserve will ensure fair treatment among all commodity customers for unexpected contingencies, such as a shortfall greater than the current estimate if claims are asserted in amounts greater than currently expected.<sup>3</sup> This reserve may also be augmented, as the Trustee continues to marshal assets and effect the ongoing administration of the estate, consistent with his statutory duties and for the benefit MFGI's former customers.

7. The Trustee's concerns for ensuring a proper contingency and ensuring fair treatment of all of MFGI's customers is further aided by the \$550 million guarantee of the CME (as described below and in the Trustee's motion for approval of the Second Bulk Transfer (as that term is defined herein) (ECF No. 193)). Because all claimants will be afforded due process with respect to their claims—whether or not those claims are ultimately deemed meritorious—the Trustee is maintaining a prudent reserve in an effort to make a current distribution of as much U.S. Segregated Customer Property as possible, as quickly as possible.

8. Even while maintaining this reserve, the Trustee is seeking Court approval to return more than eighty percent of the U.S. Segregated Customer Property that the Trustee has

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3. By law, the Trustee must give notice of the claims process to all accountholders with open accounts based on MFGI's books for the one-year period prior to the Filing Date. The number of accountholders for this period will inevitably be greater than the number of MFGI customers with allowable claims, and the claims process may also result in some claims for which the Trustee has not yet accounted. For this reason, among others, the Trustee must rely on the claims process to fully determine the amount of the shortfall.

marshaled and controls (or expects to control shortly) within a month of MFGI being placed into SIPA liquidation. This distribution equates to approximately two-thirds or more of U.S. Segregated Customer Equity that should have been segregated by MFGI's former management for the benefit of MFGI's U.S.-based trading customers.

9. While the extent of the apparent shortfall of U.S. Segregated Customer Equity is not known with certainty at this time, the Trustee has determined that the relief sought herein is prudent and consistent with the purpose of SIPA and the regulations of the CFTC to provide prompt, but fair, *pro rata* treatment to customers to the greatest extent possible.

### **FACTUAL BACKGROUND**

10. On October 31, 2011 (the "Filing Date"), the Honorable Paul A. Engelmayer, United States District Court for the Southern District of New York, entered an order (the "MFGI Liquidation Order") commencing liquidation of MFGI pursuant to the provisions of SIPA in the case captioned *Securities Investor Protection Corp. v. MF Global Inc.*, Case No. 11-CIV-7750 (PAE).

11. The MFGI Liquidation Order, *inter alia*: (i) appointed James W. Giddens as Trustee for the liquidation of the business of MFGI pursuant to SIPA section 78eee(b)(3); and (ii) removed the case to this Court as required for SIPA cases by SIPA section 78eee(b)(4) (the "SIPA Proceeding"). (MFGI Liquidation Order ¶¶ II, IX.) The MFGI Liquidation Order specifically includes a provision authorizing the Trustee to "take other action as necessary and appropriate for the orderly transfer of customer accounts and related property," (*id.* ¶ X), which provision SIPC specifically included in its application for MFGI's liquidation for this purpose. MFGI's management, which had reported the shortfall, consented to the MFGI Liquidation Order.

12. The proposed third bulk transfer, if approved, will complement the first and second Court-approved bulk transfers, and will also complement the expedited claims process approved by the Court on November 23, 2011 (ECF No. 423). After evaluation, the Trustee believes that the relief requested herein is appropriate to achieve the purposes of customer protection espoused by SIPA and the CFTC rules. The Trustee has determined that a cash distribution via a bulk transfer of up to \$2.1 billion to one or more transferee FCMs (the “Transferees”), will benefit each and every one of MFGI’s approximately 36,000 former U.S. commodity futures customers. The Trustee further believes that this distribution is both appropriate and prudent and would result in expeditious *pro rata* distributions to and the equitable treatment of all of MFGI’s former U.S. commodity futures customers.

13. The first Court-approved bulk transfer of open commodity contracts, which also transferred a percentage of the associated margining collateral (the “First Bulk Transfer”) required the active participation and cooperation of the CME and other participating DCOs, and the Trustee was, in large part, dependent on their records to transfer property and accounts to new FCMs. To facilitate and to achieve the First Bulk Transfer, the Trustee permitted the DCOs, under authority of the Court’s Order entered on November 2, 2011 (ECF No. 14), to use MFGI’s records of open trades on the relevant exchanges to assist in indentifying Transferees and allocating positions and collateral for MFGI’s former customers at their new FCMs. This allocation was complex, and, as it was completed, the DCOs began the process of providing data to the Trustee so that MFGI’s books and records could be updated to reflect the allocations of the First Bulk Transfer of open commodity contracts and associated collateral.

14. The second Court-approved bulk transfer for the benefit of former MFGI commodity futures customers that had only cash or cash equivalents in their accounts as of the

Filing Date (the “Second Bulk Transfer”) was effected based upon the books and records of MFGI, in consultation with the DCOs.

15. The proposed third bulk transfer will be the most complex of the three. In effecting the proposed third bulk transfer, the Trustee will rely on reconciliation data provided by the DCOs to determine what additional amounts of U.S. Segregated Customer Property for distribution are required for each and every MFGI U.S.-commodity customer account to effect an equalizing *pro rata* distribution of U.S. Segregated Customer Equity. The Trustee’s reliance on data provided by the CME and other DCOs will allow the Trustee to distribute property by bulk transfer as quickly as possible. If the Trustee were to verify and audit this data independently before effecting the proposed bulk transfer, it would result in a very significant delay in distributing customer property, to the detriment of MFGI’s U.S. commodity customers. Overall, the Trustee believes the amount sought to be distributed is prudent, and this determination is bolstered by the CME’s offer of further security to the estate for any nonrecovery of potential overpayments by supplementing its original \$250 million guarantee with an additional \$300 million, bringing the total amount of the guarantee to \$550 million (collectively, the “CME Guarantee”). The funds associated with the CME Guarantee will be available for the benefit of MFGI’s former U.S. commodity futures customers should it ultimately be determined that, as a result of Court-approved interim bulk transfer distributions, any customer has received more than a *pro rata* share of the final distribution.

16. The CME’s commitment has provided the Trustee with additional assurance that a further distribution at this juncture of up to \$2.1 billion by a bulk transfer is prudent and in the best interests of customers and the markets generally. To the extent that the Trustee’s eventual independent review of the reconciliation data provided by the CME and other

DCOs proves that any overpayments were made to commodity customers, the CME Guarantee may be used, for the benefit of all customers, to correct the effects of any nonrecovery of such overpayments. The Trustee will rely on the full reconciliation and audit procedures established as part of the Court-approved claims process to correct and perfect distribution of customer property.

17. In addition to receiving distributions through the first and second Court-approved bulk transfers—and, if approved, the proposed third bulk transfer—all former commodity futures customers of MFGI will, as part of the Court-approved expedited claims process, have the opportunity to claim any cash or other property not distributed through the bulk transfers, by timely submitting a claim. The Trustee will determine each commodity futures customer's final *pro rata* share of commodity customer property based on each customer's computed net equity—taking into account the amounts distributed through Court-approved bulk transfers, such as the one proposed herein. This Motion will enable the Trustee to make further bulk transfers or interim distributions as circumstances may permit as long as the reserve can be maintained.

18. SIPC has authorized the undersigned to say that it approves the relief described in this Motion.

### **JURISDICTION AND VENUE**

19. Following removal to this Court, this Court has “all of the jurisdiction, powers, and duties conferred by [SIPA] upon the court to which the application for the issuance of the protective decree was made.” SIPA section 78eee(b)(4).

20. Venue is proper in this Court pursuant to SIPA section 78eee(a)(3) and 15 U.S.C. § 78aa.

### **RELIEF REQUESTED**

21. By this Motion, the Trustee respectfully seeks an Order of the Court, in the form attached hereto as Exhibit A, approving the relief requested herein, in the following manner, under SIPA section 78fff-1(b), Bankruptcy Code sections 105(a) and 766(c), and the Part 190 Regulations of the CFTC applicable to this proceeding.

22. The proposed third bulk transfer would allow the Trustee to return as much U.S. Segregated Customer Property as possible. This proposed bulk transfer would ultimately distribute an equalizing *pro rata* share of U.S. Segregated Customer Equity, bringing each U.S. commodity futures customer to an amount in excess of two-thirds of what MFGI's former management should have segregated for them. While all accountholders would be "trued up" to an equalizing *pro rata* share in excess of two-thirds upon approval of this Motion, in an amount to be fully calculated, the following account categories would receive the associated treatment described below, as a result of this proposed third transfer:

23. Trade to Zero Accounts. This category includes accounts that contained open U.S. exchange-traded commodity contracts on the Filing Date that accountholders liquidated or traded to zero between the Filing Date and the date that the First Bulk Transfer was effectuated (the "Trade to Zero Accounts"). These accountholders did not qualify for the First Bulk Transfer, since they had no open commodity contracts to transfer at the time of the First Bulk Transfer, nor did they qualify for the second bulk cash transfer because, as of the Filing Date, these accounts contained open commodity contracts. The third proposed bulk transfer would allow the Trustee to transfer the entire True Up Amount—that is, more than two-thirds of the cash held in the Trade to Zero Accounts. The Trustee believes that there are fewer than 700 Trade to Zero Accounts with deposits of approximately \$310 million.

24. Additional Cash-Only Accounts. Based on the best information available to him at the time, and to accomplish the Second Bulk Transfer promptly, the Trustee transferred approximately \$475 million of U.S. Segregated Customer Property for the benefit of more than 15,000 cash-only accounts. The proposed third bulk transfer would capture additional cash-only accounts not included in the First and Second Bulk Transfers (the “Additional Cash-Only Accounts”). The Additional Cash-Only Accounts were excluded from the First Bulk Transfer because they contained cash related to foreign futures (that is, futures or options on futures traded on an exchange located outside of the U.S.). As the First Bulk Transfer pertained only to open commodity contracts traded on U.S. exchanges (because these are segregated funds in the Trustee’s control), cash balances in these accounts—even if not related to foreign futures—did not transfer, but should have. Other Additional Cash-Only Accounts were excluded from the Second Bulk Transfer as a result of anomalies discovered in consultation with the CME. To the extent possible, the proposed third bulk transfer process will identify these and other Additional Cash-Only Accounts that would have qualified to benefit from the First and Second Bulk Transfers, but were reasonably excluded at the time. In furtherance of the Trustee’s goal of ensuring that each former MFGI commodity customer subject to the transfers benefits equally, the proposed third bulk transfer would enable the Trustee to make a transfer of the entire True Up Amount—that is, two-thirds or more of the U.S. Segregated Customer Equity in the Additional Cash-Only Accounts—to these accountholders.<sup>4</sup>

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4. The proposed third bulk transfer, like the First and Second Bulk Transfers, cannot include funds associated with foreign futures. These funds are, by CFTC regulation, held in separate secured accounts that are held by foreign entities and not available at this time to the Trustee.

25. Bounced Check Accounts. This category includes accounts from which checks were issued that have been dishonored as a result of the liquidation of MFGI's business (the "Bounced Check Accounts"). When each check was issued, the corresponding account's balance was reduced accordingly (usually to zero). Holders of the Bounced Check Accounts would have benefited more fully from the Second Bulk Transfer, had their cash balances not been reduced when the checks were issued. As part of the proposed third bulk transfer, the account balances in the Bounced Check Accounts will be restored and the restored balance will be used to determine the transfer amount. In the case of holders of Bounced Check Accounts who reduced their cash balances to zero, the proposed third bulk transfer would enable the Trustee to make a transfer of the entire True Up Amount—that is, more than two-thirds of the U.S. Segregated Customer Equity in the restored Bounced Check Accounts. The Trustee believes that approximately \$57 million will be recredited to holders of Bounced Check Accounts.

26. First Bulk Transfer Accounts. This category includes accounts with open commodity contracts that were transferred with related margin in the First Bulk Transfer, but the margin transferred resulted (in almost all cases) in less than a sixty percent distribution to these customers (the "First Bulk Transfer Accounts"). In many cases (sometimes because the accountholders liquidated many, but not all, of their open commodity contracts), only a small percentage of the total account assets was transferred. The proposed third bulk transfer would allow the Trustee to make additional transfers of cash to these customers to bring their total transfer amount to the True Up Amount. The First Bulk Transfer Accounts represent the most difficult, cumbersome and farthest-reaching aspect of the proposed third bulk transfer; they require significant analysis to determine which accounts qualify and, for each qualifying account,

what amount the individual account must receive to bring that account to the True Up Amount. This determination will be based largely on the data provided by the DCOs as to the amounts transferred in the First Bulk Transfer. In advance of a full reconciliation and audit of MFGI's records, as modified by the data provided by the DCOs, the Trustee estimates that transfers in this category will exceed \$1.3 billion of U.S. Segregated Customer Property. The Trustee believes it is prudent to move forward in making transfers to the First Bulk Transfer Accounts, notwithstanding the foregoing challenges, because the maintenance of a minimal, adequate reserve and the CME Guarantee, as described above, provide adequate assurance.

27. Second Bulk Transfer Accounts. This category includes accounts with only cash or cash equivalents on the Filing Date, that have received (or are in the process of receiving), via bulk transfer, sixty percent of the cash associated with U.S. exchange-based commodity futures trading as part of the Second Bulk Transfer (the "Second Bulk Transfer Accounts"). The proposed third bulk transfer would allow the Trustee to make additional transfers of U.S. Segregated Customer Property to these customers to bring their total transfer amount to the True Up Amount of U.S. Segregated Customer Equity, along with all of the other accountholders.

#### **BASIS FOR RELIEF REQUESTED**

28. Where, as here, an FCM is liquidated under SIPA, SIPA imposes all of the duties of a trustee under the commodity broker liquidation provisions of chapter 7 of the Bankruptcy Code,<sup>5</sup> to the extent consistent with SIPA, except for the duty to liquidate securities positions held in the debtor's estate. SIPA section 78fff-1(b). The Commodity Exchange Act

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5. The Bankruptcy Code's commodity broker liquidation provisions are found in 11 U.S.C. §§ 761-767.

and the regulations promulgated by the CFTC thereunder set forth different segregation requirements based on the type of trading that a customer was undertaking through the commodity broker (*e.g.*, trading futures and options on futures on U.S. contract markets versus trading futures and options on futures on foreign contract markets); a trustee under the Bankruptcy Code's commodity broker liquidation provisions has a duty to allocate and distribute customer property under these rules. 17 C.F.R. § 190.08. Pursuant to the CFTC Part 190 Regulations, and consistent with SIPA, a trustee liquidating a commodity broker has a duty to seek and to effect the transfer of open customer contracts and equity. 17 C.F.R. § 190.02(e)(1), referencing 17 C.F.R. § 190.06(e) and (f); *see also* 1 Collier on Bankruptcy ¶¶ 12.02[2] and 12.06[2] (16th ed. 2011).

29. The Part 190 Regulations permit the CFTC, in appropriate cases and to protect the public interest, to authorize such transfers as it has done here. *See* 17 C.F.R. § 190.06(h).

30. The transfers proposed in this Motion may also be considered a partial *pro rata* distribution, pursuant to the plan set forth herein, made in accordance with 17 C.F.R. § 190.08(d)(5), to return to U.S. commodity futures customers as much as possible of the U.S. Segregated Customer Equity that the Trustee has been able to recover. This partial distribution would be made as part of the Court-approved plan detailed in the expedited claims process, and, along with the CME Guarantee, provides opportunity for equalizing payment of net equity claims, and adequate security to the estate for potential nonrecovered overpayments to customers, if any.

31. Ultimately, like the Second Bulk Transfer, the mechanism proposed by this Motion would be for the Trustee to provide cash to the Transferees, which—having accepted

assignment of the accounts of MFGI's former customers—would fund those accounts with whatever amount necessary to bring the accounts to the True Up Amount of U.S. Segregated Customer Equity. The relief requested herein, coupled with the first and second Court-approved bulk transfers already undertaken and primarily completed, allows all of MFGI's former commodity customers to have unprecedented access not just to some portion of their positions and assets, but to the bulk of their liquid U.S. Segregated Customer Equity. This proposed bulk transfer would achieve a *pro rata* distribution to each and every former U.S. commodity futures customer in an amount of two-thirds or more of what should have been segregated, even as the Court-approved expedited claims process is already underway. The proposed third bulk transfer, if approved, will result in the distribution of a substantial portion of the U.S. Segregated Customer Property currently under the Trustee's control (or that will be under his control shortly) while also maintaining a prudent reserve of several hundred million dollars for the claims process and unexpected contingencies.

32. The Court is empowered to grant this Motion, under SIPA section 78fff-1(b), and section 105(a) of the Bankruptcy Code, which authorizes the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). In practice, section 105(a) of the Bankruptcy Code grants bankruptcy courts broad statutory authority to enforce the Bankruptcy Code's provisions either under the specific statutory language of the Bankruptcy Code or under equitable common law doctrines. *See Momentum Mfg. Corp. v. Employee Creditors Comm. (In re Momentum Mfg. Corp.)*, 25 F.3d 1132, 1136 (2d Cir. 1994).

33. Thus, SIPA, the Bankruptcy Code and the Part 190 Regulations recognize that, in appropriate cases—such as this one—the Trustee may be given approval to effect the

immediate transfer of U.S. Segregated Customer Property to one or more new FCMs for the benefit of every one of MFGI's former commodity futures customers, and to protect the public interest as a whole, without preferring any of MFGI's customers at the expense of any others. The continued cooperation of SIPC, the CFTC and the DCOs, along with the commitments of the CME, will continue to play a pivotal role in implementing such relief.

34. In conjunction with the first and second Court-approved bulk transfers, the relief sought in this Motion will result in the orderly and immediate return of substantial amounts of U.S. Segregated Customer Property to U.S. commodity futures customers within weeks of the filing of one of the largest liquidation proceedings in history, leaving MFGI's U.S. commodity futures customers with more alternatives than they would have if these funds were to remain untransferred and subject entirely to the Court-approved expedited claims process.

#### **CONCLUSION**

WHEREFORE, the Trustee respectfully requests that this Court enter an Order, in the form attached hereto as Exhibit A, and granting the Trustee such other and further relief as is just and proper.

Dated: New York, New York  
November 29, 2011

HUGHES HUBBARD & REED LLP

By: /s/ James B. Kobak, Jr.

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the SIPA Liquidation of MF Global Inc.

# **EXHIBIT A**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re

MF GLOBAL INC.,

Debtor.

Case No. 11-2790 (MG) SIPA

**[PROPOSED] ORDER GRANTING EXPEDITED MOTION TO APPROVE  
FURTHER TRANSFERS AND DISTRIBUTIONS FOR MF GLOBAL INC.  
UNITED STATES COMMODITY FUTURES CUSTOMERS**

Upon consideration of the Motion<sup>1</sup> dated November 29, 2011, of James W. Giddens (the “Trustee”), as Trustee for the liquidation of the business of MF Global Inc. (“MFGI” or the “Debtor”) under the Securities Investor Protection Act (“SIPA”), pursuant to SIPA section 78fff-1(b), sections 105(a) and 766(c) of title 11 of the United States Code (the “Bankruptcy Code”), and 17 C.F.R. sections 190.01 through 190.10 (the “Part 190 Regulations”), for entry of an order approving the transfer to other futures commission merchants (“FCMs”) of customer property of MFGI’s commodity futures customers; and the Court having jurisdiction to consider the Motion and relief requested therein pursuant to SIPA section 78eee(b)(4); and it appearing that due and proper notice of the Motion and the relief requested therein having been given, and no other further notice needing to be given; and SIPC supporting and approving the transfers and distributions as described in the Motion; and the Court having reviewed the Motion and determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein, to wit, that the transfers and

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1. Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.

distributions described in the Motion and set forth below will effectuate the terms and purpose of the Order of the District Court entered on October 31, 2011 commencing this liquidation of MFGI (the “MFGI Liquidation Order”), and are appropriate exercises of the Trustee’s authority pursuant to the MFGI Liquidation Order, SIPA section 78fff-1(b), Bankruptcy Code sections 105(a) and 766(c), and the Part 190 Regulations; and after due deliberation and sufficient cause appearing therefore, it is hereby

ORDERED that the Motion is granted in all respects; and it is further

ORDERED that, under SIPA section 78fff-1(b), Bankruptcy Code section 766(c), and the Part 190 Regulations, the Trustee is authorized and shall use his best efforts to complete one or more transfers and distributions of up to \$2.1 billion of U.S. Segregated Customer Property to qualified FCMs that have agreed to accept such U.S. Segregated Customer Property (the “Transferees”) for the benefit of MFGI’s U.S. commodity futures customers, and such further transfers and distributions as the Trustee believes to be prudent, provided that an appropriate reserve of approximately fifteen to twenty percent of the total U.S. Segregated Customer Property is maintained; and it is further

ORDERED that the Trustee—upon advice and approval of SIPC—will seek and may use the assistance of the Chicago Mercantile Exchange Group, Inc., and other registered derivatives clearing organizations (“DCOs”) that agree to facilitate the transfers (collectively, the “Facilitating DCOs”), and the Facilitating DCOs will cooperate in the transfers, including providing accountings and other assistance already and continuing to do so; and it is further

ORDERED that the Facilitating DCOs and participating FCMs are hereby authorized to consummate the transfers to the Transferees, and to take all other actions reasonably necessary in furtherance thereof to complete the transfers directed by the Trustee, and shall have no liability

for any actions taken in furtherance of this Order consistent with and in accordance with applicable law; and it is further

ORDERED that the automatic stay is vacated to the extent necessary to allow the Facilitating DCOs to take any of the actions described in the foregoing paragraph; and it is further

ORDERED that the completion of the transfers is a necessary step to implement the MFGI Liquidation Order and the purposes of this SIPA liquidation as described at the time of execution of the MFGI Liquidation Order; and it is further

ORDERED that the Trustee is authorized to execute, deliver, implement and fully perform any and all obligations, instruments, documents, and papers, and to take any and all actions reasonably necessary to consummate the transfers; and it is further

ORDERED that the Court shall retain exclusive jurisdiction to implement and enforce the provisions of this Order, including all disputes related to the transfers; and it is further

ORDERED that the failure to specifically include any particular provision in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Trustee's implementation of the transfers and distributions be approved in their entirety; and it is further

ORDERED that any stay of this Order provided by the Bankruptcy Rules or other applicable law shall not be applicable to this Order, and this Order shall be effective and enforceable immediately upon entry.

Dated: \_\_\_\_\_, 2011  
New York, New York

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HONORABLE MARTIN GLENN  
UNITED STATES BANKRUPTCY JUDGE