



Atlanta Calgary Chicago Houston London New York Singapore Winnipeg

November 10, 2011

Hon. Martin Glenn
United States Bankruptcy Court
Courtroom 501
One Bowling Green
New York, N.Y. 10004

In re MF Global Inc., Debtor; Case No. 11-2790(MG)SIPA

Dear Judge Glenn:

We are writing to advise the Court of the views of ICE Clear U.S. and ICE Futures U.S. with respect to the motion filed by certain customers of the Debtor -- MF Global, Inc. -- to permit the release of a portion of the cash in their trading accounts at MF Global which has been inaccessible to them by operation of the stay that took effect on October 31, 2011. ICE Clear U.S. is a derivatives clearing organization which clears all products traded on ICE Futures U.S., a designated contract market that lists for trading futures and options on agricultural commodities, equity indexes and foreign currencies. MF Global was one of the largest clearing members of these contracts and over 250,000 contracts for over 1,500 customer accounts were recently transferred from MF Global customer accounts to other clearing members by ICE Clear U.S. pursuant to bulk transfers authorized by the Trustee.

Just two days after the stay took effect in this matter, the Court issued an order in response to the emergency motion of the Trustee, approving a bulk transfer of the open customer contracts and the minimum level of margin required by the clearing organization in connection with those positions, or an amount otherwise agreed to with the Trustee. ICE Clear U.S. transferred 100% of the clearing organization margin requirement to receiving clearing members. This amount represented approximately half of the segregated deposits that ICE Clear U.S. held for the affected customers.

Subsequent to issuance of the stay and prior to issuance of the bulk transfer order, some portion of MF Global's customers with segregated commodity accounts liquidated their open contracts and now hold only a cash position in their accounts with MF Global. Other customers with segregated commodity accounts transferred their open contracts to a healthy clearing firm but were not allowed to transfer their cash balances. Because the customers who already liquidated or transferred prior to the bulk transfers had no open positions to move, the effect of the bulk transfer order was to preclude these traders from accessing any of the cash lying idle in their accounts with MF Global. Thus, the bulk transfer order created an inadvertent preference in favor of those customers who did nothing in response to MF Global's financial condition, and operated against those customers who acted quickly and responsibly to reduce their exposure to MF Global and thereby the exposure of the various clearing organizations of which MF Global was a clearing member. We believe this result is inequitable and within the power of the court to redress. Furthermore, if this inequitable approach is left unaddressed by the court, it could establish an inappropriate standard for future bankruptcy events. Such an inappropriate standard would create a moral hazard by encouraging customers not to immediately transfer their position or liquidate



to minimize risk (their own risk as well as the risk of both the estate and the clearinghouses) but rather to “wait and hope.” This could potentially have grave systemic implications.

We therefore urge the Court to immediately permit the release of as much of the cash balance as possible that remains in the accounts of these liquidating and transferring customers at MF Global, and to authorize the release of as much of the cash balance as possible from accounts of the customers who were part of the bulk transfer process.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Thomas Hammond", written in a cursive style.

Thomas Hammond
President, ICE Clear U.S.
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A handwritten signature in black ink, appearing to read "T W Farley", written in a cursive style.

Thomas Farley
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CC: Hughes Hubbard & Reed, counsel to Trustee
Commodity Futures Trading Commission
SIPC
Tibbetts Keating & Butler