

Hearing Date: May 24, 2013
Time: 10:00 a.m. Eastern Time
Location: New York, New York

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

In re:

MF GLOBAL HOLDINGS LTD., et al.,

Debtors.

Chapter 11

Case No. 11-15059 (MG)

(Jointly Administered)

**LIMITED OPPOSITION OF THE COMMODITY FUTURES TRADING COMMISSION
TO THE AMENDED THIRTEENTH OMNIBUS OBJECTION OF PLAN
PROPONENTS SEEKING TO RECLASSIFY CERTAIN CLAIMS**

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The Commodity Futures Trading Commission (“CFTC” or “Commission”) opposes the *Amended Thirteenth Omnibus Objection of Plan Proponents Seeking to Reclassify Certain Claims* (“Amended Objection”) (ECF Doc. 1317) to the extent the Amended Objection seeks to subordinate the CFTC’s contingent equitable claims for disgorgement or restitution on behalf of injured MF Global, Inc., commodity customers. As explained below, the Bankruptcy Code provides for subordination of any fine, penalty, or forfeiture. It does not allow subordination of non-punitive claims for restitution or disgorgement. Thus, the Amended Objection should be overruled in part.

BACKGROUND

1. The Commodity Exchange Act (“CEA” or the “Act”) charges the CFTC with, among other things, protecting commodity-market participants from fraudulent or other abusive practices and misuses of customer assets. 7 U.S.C. § 5(b). The CEA provides that a futures commission merchant (FCM) must segregate and separately account for all customer property that the FCM receives to margin, guarantee, or secure a commodity transaction. *Id.* § 4d(a)(2). The Act also provides that a principal is liable for its agent’s violations of the Act. *Id.* § 2(a)(1)(B). Section 6c of the Act states that “[w]henver it shall appear to the Commission that any” person, including any entity, “has engaged, is engaging, or is about to engage in any” violation of the CEA or any CFTC regulation, the “Commission may bring an action in the proper district court of the United States.” *Id.* § 13a-1(a).

2. The Act specifies several remedies the Commission may pursue and that a court may grant to redress such violations. The Commission may obtain:

- (i) a “permanent or temporary injunction or restraining order,” *id.* § 13a-1(b);
- (ii) “writs of mandamus,” *id.* § 13a-1(c);
- (iii) “a civil penalty,” *id.* § 13a-1(d)(1)(A)-(B);

- (iv) “restitution to persons who have sustained losses proximately caused by such violation (in the amount of such losses),” *id.* § 13a-1(d)(3)(A); and
- (v) “disgorgement of gains received in connection with such violation,” *id.* § 13a-1(d)(3)(B).

3. On August 21, 2012, the CFTC timely filed Proof of Claim forms setting forth contingent, unliquidated claims against each of the six debtors in this Chapter 11 proceeding. (*Declaration of Robert A. Schwartz in Support of the Limited Opposition of the Commodity Futures Trading Commission to the Amended Thirteenth Omnibus Objection of Plan Proponents Seeking to Reclassify Certain Claims* (“Schwartz Decl.”) Exs. A-F.) Item 2 of each Proof of Claim form requests the “Basis for Claim.” In response, on each form, the CFTC referenced an Attachment. (*Id.*) The Attachments submitted with each Proof of Claim form explain that each claim was filed to preserve the Commission’s rights to bring litigation against each debtor for violations, if any, of the CEA or CFTC regulations, in the event the Commission determines that that such law was violated:

On October 31, 2011, the Commission’s Division of Enforcement opened an investigation into whether the Commodity Exchange Act or Commission regulations were violated. It is possible that this investigation may lead to litigation involving [the debtor]. The Commission is filing this protective proof of a contingent unliquidated claim to preserve the Commission’s rights in that event.

(*Id.* (Attachments).)

Item 5 of each Proof of Claim form asks the claimant to indicate, by checking a box, whether “any part of the claim” includes “Taxes or penalties owed to governmental units.” (Schwartz Decl. Exs. A-F.) The CFTC checked that box on each of the six Proof of Claim forms, indicating that “part of the claim” includes penalties. (*Id.*)

4. On March 6, 2013, the Plan Proponents filed the *Thirteenth Omnibus Objection of Plan Proponents Seeking to Reclassify Certain Claims*. (ECF Doc. 1163.) The Plan Proponents stated that the CFTC's six claims are "on account of tax penalties" and sought an order subordinating them pursuant to 11 U.S.C. § 726(a)(4). In support, the Plan Proponents submitted the *Declaration of Scott A. Rinaldi in Support of the Thirteenth Omnibus Objection of Plan Proponents Seeking to Reclassify Certain Claims*. (ECF Doc. 1163 at 11.) The declarant, Scott A. Rinaldi of FTI Consulting Inc., stated that "I, or employees of FTI under my supervision and direction, personally reviewed" the CFTC's claims and others and "[b]ased upon such review, I believe that each of" the CFTC's claims (along with the other listed claims) "is a claim on account of a non-pecuniary tax penalty." (ECF Doc. 1163 at 12.)

5. On April 9, 2013, counsel for the CFTC communicated by email to counsel for the Plan Proponents, informing them that their characterization of the CFTC's claims as "claims 'on account of a non-pecuniary tax penalty'" was erroneous. (Schwartz Decl. ¶ 8.) On April 12, 2013, counsel for the CFTC spoke by telephone with counsel for the Creditor Co-Proponents (ECF Doc. 1317 at 3 n.5) and informed them that the claims covered by the CFTC's Proof of Claim forms include claims not only for civil penalties, but also for restitution and disgorgement, and that these latter two categories of claims are not subject to subordination under the Bankruptcy Code (Schwartz Decl. ¶ 9).

6. On April 16, 2013, the Plan Proponents filed the Amended Objection.

ARGUMENT

The CFTC's claims may only be subordinated to the extent they include a "fine, penalty, or forfeiture." 11 U.S.C. § 726(a)(4). To the extent the CFTC's claims include restitution and disgorgement under 17 U.S.C. § 13a-1(d)(3)(A) and (B), they may not be subordinated.

Whether a claim is for a “fine, penalty, or forfeiture” depends on whether it is punitive or remedial, *i.e.*, whether it seeks to punish the wrongdoer or merely to restore the status quo before the wrongdoing. *SEC v. Lorin*, 869 F. Supp. 1117, 1122-23 (S.D.N.Y. 1994); *accord Meeker v. Lehigh V. R. Co.*, 236 U.S. 412, 423 (1915); *In re Schaffer*, 515 F.3d 424, 428 (5th Cir. 2008); *Johnson v. SEC*, 87 F.3d 484, 491 (D.C. Cir. 1996); *HUD v. Cost Control Mktg. & Sales Mgmt.*, 64 F.3d 920, 928 (4th Cir. 1995); *In re Schultz Broadway Inn, Ltd.*, 89 B.R. 43, 44 (Bankr. W.D. Mo. 1988), *aff’d*, 912 F.2d 230 (8th Cir. 1990).¹ The CEA provides for both types of sanction – punitive sanctions in the form of civil penalties under 7 U.S.C. § 13a-1(d)(1), and remedial sanctions including “restitution to persons who have sustained losses” and “disgorgement of gains” under 7 U.S.C. § 13a-1(d)(3)(A) and (B), respectively.

Non-criminal restitution is presumptively remedial. *SEC v. Texas Gulf Sulphur Co.*, 446 F.2d 1301, 1308 (2d Cir. 1971) (“Restitution of the profits on these transactions merely deprives the appellants of the gains of their wrongful conduct.”); *accord Johnson*, 87 F.3d at 491 (holding that sanction was remedial, not punitive, “where the effect ... is to restore the status quo ante, such as through a proceeding for restitution”); *SEC v. DiBella*, 409 F. Supp. 2d 122, 127 (D. Conn. 2006) (following *Johnson*). For example, in *In re Seneca Oil Company*, 906 F.2d 1445 (10th Cir. 1990), the Department of Energy (“DOE”) alleged that the debtor overcharged purchasers of crude oil, and DOE therefore sought restitution on behalf of those customers. *Id.* at 1456. Plan proponents sought to subordinate DOE’s claim, arguing that they were claims for a “fine, penalty, or forfeiture” under section 726(a)(4). The Tenth Circuit held that DOE’s restitution claim was not penal and could not be subordinated because “(1) the claim [wa]s based

¹ Certain of the cited cases concern section 523(a)(7) rather than 726(a)(4), but “the phrase ‘fine, penalty, or forfeiture’ as it appears in § 726(a)(4) must have the same meaning as in § 523(a)(7).” *Pa. Dep’t of Pub. Welfare v. Davenport*, 495 U.S. 552, 561-62 (1990).

solely on actual pecuniary loss, (2) the purpose of the claim [wa]s restitutionary rather than penal, and (3) the statutory scheme support[ed] the restitutionary nature of the claim.” *Id.* at 1455. As to the “statutory scheme,” the court found it persuasive that the relevant sections provided for restitution *as well as* civil penalties, making clear that a “restitution” claim under the statute was distinct and remedial. *Id.* at 1456.

The restitution remedy under the CEA, 7 U.S.C. § 13a-1(d)(3)(A), shares each of these characteristics. First, the claim is based solely on actual pecuniary loss because the statute explicitly ties the recovery to “the amount of such losses.” *Id.* § 13a-1(d)(3)(A). Second, a “restitutionary rather than penal” purpose is explicit in the statute—to compensate “persons who have sustained losses proximately caused” by the violation. *Id.* Finally, the statutory scheme, like the statute at issue in *Seneca Oil*, separately provides for “a civil penalty,” confirming that the restitution remedy is distinct and non-punitive. *Id.* § 13a-1(d)(1).

The remedial, non-punitive purpose of disgorgement under the CEA is equally clear. “It is well established that disgorgement is remedial rather than punitive, since a fundamental policy underlying disgorgement is to prevent the unjust enrichment of the wrongdoer rather than to punish him.” *SEC v. Robinson*, No. 00-cv-7452, 2002 WL 1552049, at *7 (S.D.N.Y. Jul. 16, 2002). Indeed, “disgorgement may not be used punitively.” *SEC v. First City Financial Corp.*, 890 F.2d 1215, 1231 (D.C. Cir. 1989); *see also Riordan v. SEC*, 627 F.3d 1230, 1234 (D.C. Cir. 2010) (“[D]isgorgement orders are not penalties, at least so long as the disgorged amount is causally related to the wrongdoing.”); *SEC v. Bilzerian*, 29 F.3d 689, 696 (D.C. Cir. 1994) (“[W]e conclude that the disgorgement order is remedial in nature and does not constitute punishment within the meaning of double jeopardy.”); *CFTC v. British Am. Commodity Options Corp.*, 788 F.2d 92, 93 (2d Cir. 1986) (“[T]he party seeking disgorgement must distinguish

between the legally and illegally derived profits.”). It “merely deprives one of wrongfully obtained proceeds” and thus “returns the wrongdoer to the status quo before any wrongdoing had occurred.” *Lorin*, 869 F. Supp. at 1122; *see also DiBella*, 409 F. Supp. 2d at 127 (“Disgorgement ... merely dispossesses the wrongdoer of the profits earned from illegal conduct.”).

None of the Plan Proponents’ arguments to the contrary have merit.

First, Plan Proponents’ statement that the CFTC “concedes that its claims are for ‘taxes or penalties’” (ECF Doc. 1317 at 7 (citing proofs of claim)) lacks a good-faith basis. The cited claim forms ask whether “*any part* of the claim” is for “[t]axes or penalties.” (Schwartz Dec. Exs. A-F. (emphasis added).) The CFTC’s affirmative responses indicates that “part of the claim” against each debtor is for penalties. As the Plan Proponents state in a footnote, prior to the filing of the Amended Objection, “counsel for the Creditor Co-Proponents conferred with counsel for the CFTC to discuss the CFTC Claims and the Plain Proponents’ position that the CFTC Claims should be reclassified as Subordinated Claims.” (ECF Doc. 1317 at 3 n.3.) In that conference, counsel for the CFTC informed counsel for the Plan Proponents that only a portion of each of the CFTC’s claims relates to penalties, and that each claim also includes restitution and disgorgement, which may not be subordinated. (Schwartz Decl. ¶ 9.)

Second, Plan Proponents misconstrue section 726(a)(4) of the Bankruptcy Code in arguing that a claim is “considered a penalty” if it is “not intended to compensate *the claimant*,” but an injured third-party. (ECF Doc. 1317 at 6 (emphasis added); *see also id.* at 7 (arguing for subordination “because the CFTC itself has not suffered any loss”).) That is not what section 726(a)(4) says. Rather, it states that a claim is subordinated if it is: “for any fine, penalty, or forfeiture ... *to the extent that such* fine, penalty, forfeiture” is “*not* compensation for actual

pecuniary loss suffered by the holder of such claim.” 11 U.S.C. § 726(a)(4) (emphases added). In other words, *if* a claim is for a fine, penalty, or forfeiture, it is subordinated *unless* it intended to compensate the claimant. If the claim is *not* for a fine, penalty, forfeiture, it is not covered by section 726(a)(4) and is therefore not subordinated.² The court in *Seneca Oil* correctly rejected the same argument the Plan Proponents assert here:

The language of Section 726(a)(4) does not provide that a claim is a fine, penalty, or forfeiture unless the holder of the claim is seeking recovery for actual loss to the holder. Rather, the language provides that a fine, penalty, or forfeiture will be accorded fourth priority only “to the extent that such fine, penalty, [or] forfeiture ... [is] not compensation for actual pecuniary loss suffered by the holder of such claim.” Thus, *the language makes actual pecuniary loss to the holder of the claim relevant only if a fine, penalty, or forfeiture is involved.* That language does not state that if a claim is not for pecuniary loss to the holder of the claim the claim automatically is a fine, penalty, or forfeiture.

906 F.2d at 1455-56 (emphasis added; alterations in *Seneca Oil*).

Texas American Oil Corp. v. U.S. Department of Energy, 44 F.3d 1557 (Fed. Cir. 1995) (ECF Doc. 1317 at 6-7), cited by the Plan Proponents, is not to the contrary. In *Texas American Oil*, while DOE sought a claim it termed “restitution,” it was “undisputed that no significant restitution ha[d] been made or [wa]s expected to be made to any person who actually suffered a pecuniary loss.” *Id.* at 1569. Instead, recovered funds would be “retained for government use.” *Id.* The court held that true restitution requires “some relationship between the person injured and the recipient of the recovery.” *Id.* Because the government intended to retain the money although it had “expended no funds and suffered no actual loss,” the claims were, for purposes of section 726(a)(4), “non-compensatory penalties and forfeitures,” which must be subordinated.

² Section 726(a)(4) provides for the same treatment of “multiple, exemplary, or punitive damages.” 11 U.S.C. § 726(a)(4). Plan Proponents do not assert that the CFTC’s claims are for multiple, exemplary, or punitive damages.

Id. at 1571. Here, by contrast, the CEA limits the CFTC’s restitution claims to “restitution to persons who have sustained losses.” 7 U.S.C. § 13a-1(d)(3)(A).

Finally, it is irrelevant that these equitable remedies appear in a section with the heading “civil penalties.” *See Bhd. of R.R. Trainmen v. Balt. & Ohio R.R.*, 331 U.S. 519, 528 (1947) (“That the heading ... fails to refer to all the matters which the framers of that section wrote into the text is not an unusual fact.”). Section headings “cannot limit the plain meaning of the text.” *Id.* at 528-29. “[N]or are they necessarily designed to be a reference guide or a synopsis.” *United States ex rel. Thistlethwaite v. Dowty Woodville Polymer, Ltd.*, 110 F.3d 861, 866 (2d Cir. 1997). Here, because the statute text provides for “civil penalt[ies],” 7 U.S.C. § 13a-1(d)(1), separately from the provisions for restitution and disgorgement, *id.* § 13a-1(d)(1), “a plain reading of the text suggests that” the latter “are not a fine, penalty, or forfeiture,” *Schaffer*, 515 F.3d at 428. The Court “should not interpret the statute in a way that erases that distinction.” *Comm. to Stop Airport Expansion v. FAA*, 320 F.3d 285, 289 (2d Cir. 2003) (rejecting reliance on a section heading where “Congress distinguished between ... two types of agency power”).

The legislative history of 7 U.S.C. § 13a-1(d)(3)(A) and (B) confirms their remedial character. Both provisions were added to the CEA in Section 744 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”). Dodd-Frank, Pub. L. No. 111-203, § 744, 124 Stat. 1376, 1735 (July 21, 2010). Prior to Dodd-Frank, courts held that the CFTC’s power under 7 U.S.C. § 13a-1(b) to obtain an “injunction” included the power to obtain equitable remedies. *See, e.g., British Am. Commodity Options Corp.*, 788 F.2d at 94. However, in *CFTC v. Wilshire Investment Management Corp.*, 531 F.3d 1339 (11th Cir. 2008), the U.S. Court of Appeals for the Eleventh Circuit held that such relief must be limited to the amount of the defendant’s unjust enrichment. *Id.* at 1345. If victims’ losses were greater than that amount, the

Wilshire court held that the CFTC could not seek complete redress on their behalf. *Id.* Dodd-Frank Section 744, sometimes called the “*Wilshire fix*,” reversed that outcome, confirming that the CFTC has the power not only to pursue fines and disgorge profits, but to make victims whole:

SEC. 744. RESTITUTION REMEDIES

Section 6(c)(d) of the Commodity Exchange Act (7 U.S.C. 13a-1(d)) is amended by adding at the end the following:

“(3) **EQUITABLE REMEDIES.**—In any action brought under this section, the Commission may seek, and the court may impose, on a proper showing, on any person found in the action to have committed any violation, equitable remedies including—

“(A) restitution to persons who have sustained losses proximately caused by such violation (in the amount of such losses); and

“(B) disgorgement of gains received in connection with such violation.”.

Dodd-Frank, Pub. L. No. 111-203, § 744, 124 Stat. 1376, 1735.

Congress thus clarified that *in addition* to the express authority to seek civil penalties for wrongdoing, the CFTC may also seek a full range of equitable remedies, including restitution and disgorgement, to restore the status quo *ex ante*—quintessentially non-punitive functions, giving rise to claims that are not subject to subordination under 11 U.S.C. § 726(a)(4). Thus, the purpose of the CFTC’s filing claims here, in accordance with 7 U.S.C. § 13a-1, is to protect its ability in the event it determines that the law was violated, to make victims whole, disgorge wrongdoers of the gains received, *and* to pursue such punitive sanctions as the Commission determines are appropriate.

CONCLUSION

For the foregoing reasons, the Amended Objection should be overruled to the extent it seeks to subordinate the CFTC’s claims for restitution or disgorgement under 7 U.S.C. § 13a-1(d)(3).

Respectfully submitted,

COMMODITY FUTURES TRADING COMMISSION

By: /s/ Robert A. Schwartz
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Robert B. Wasserman,
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Dated: May 9, 2013

CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2013, I caused the foregoing document to be served on all counsel via the Court's CM/ECF system.

/s/Robert A. Schwartz
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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

MF GLOBAL HOLDINGS LTD., et al.,

Debtors.

Chapter 11

Case No. 11-15059 (MG)

(Jointly Administered)

**DECLARATION OF ROBERT A. SCHWARTZ IN SUPPORT OF THE
LIMITED OPPOSITION OF THE COMMODITY FUTURES TRADING COMMISSION
TO THE AMENDED THIRTEENTH OMNIBUS OBJECTION OF PLAN
PROPONENTS SEEKING TO RECLASSIFY CERTAIN CLAIMS**

Robert A. Schwartz, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am an Assistant General Counsel of the U.S. Commodity Futures Trading Commission (CFTC) and counsel of record for the CFTC in the above-captioned Chapter 11 proceeding.
2. Attached hereto as Exhibit A is a true and correct copy of the CFTC's Proof of Claim and Attachment with respect to debtor MF Global Holdings Ltd., Case No. 11-15059 (MG).
3. Attached hereto as Exhibit B is a true and correct copy of the CFTC's Proof of Claim and Attachment with respect to debtor MF Global Finance USA Inc., Case No. 11-15058 (MG).

4. Attached hereto as Exhibit C is a true and correct copy of the CFTC's Proof of Claim and Attachment with respect to debtor MF Global Capital LLC, Case No. 11-15808 (MG).

5. Attached hereto as Exhibit D is a true and correct copy of the CFTC's Proof of Claim and Attachment with respect to debtor MF Global Market Services LLC, Case No. 11-15809 (MG).

6. Attached hereto as Exhibit E is a true and correct copy of the CFTC's Proof of Claim and Attachment with respect to debtor MF Global FX Clear LLC, Case No. 11-15810 (MG).

7. Attached hereto as Exhibit F is a true and correct copy of the CFTC's Proof of Claim and Attachment with respect to debtor MF Global Holdings USA Inc., Case No. 12-10863 (MG).

8. On April 9, 2013, I communicated by email to Brett Miller of Morrison & Forrester LLP and Bruce Bennett of Jones Day in relevant part as follows:

I am hoping to speak to the appropriate person regarding the Thirteenth Omnibus Objection of Plan Proponents Seeking to Reclassify Certain Claims, ECF Doc. No. 1163 in the Holdings case. The filing seeks to reclassify the CFTC's claims (and others) against the several entities, but the supporting affidavit mistakenly describes the CFTC's claims as claims "on account of a non-pecuniary tax penalty." I wanted to reach out and see if you would be willing to make a correction. Can we (or the appropriate colleague of yours) talk about it some time this week?

9. On April 12, 2013, I participated in a phone conference with Bennett L. Spiegel and Lori Sinanyan of Jones Day for the purpose of correcting the Plan Proponents' representation that the CFTC's claims against the Chapter 11 debtors are on account of a tax penalty. I informed Mr. Spiegel and Ms. Sinanyan that, as indicated in each Proof of Claim Attachment, each of the CFTC's claims is a contingent claim based on the Commodity Exchange Act (CEA) and CFTC regulations. I directed Mr. Spiegel and Ms. Sinanyan's attention to 7 U.S.C. § 13a-1(d) of the CEA, which sets forth remedies that the CFTC may pursue in an enforcement action, including separate provisions for a "civil penalty," *id.* § 13a-1(d)(1), "restitution to persons who

have sustained losses proximately caused” by a violation of the CEA or a CFTC regulation, *id.* § 13a-1(d)(3)(A), and “disgorgement of gains received in connection with such violation,” *id.* § 13a-1(d)(3)(B). I informed Mr. Speigel and Ms. Sinanyan that the CFTC’s contingent claims against each debtor are based only in part on potential penalties, and are also based on contingent equitable claims, including claims under section 13a-1(d)(3) for restitution to injured persons and disgorgement of gains, to the extent the Commission determines that there were such injuries or gains in connection with violation of the CEA or CFTC regulations. I further stated to Mr. Speigel and Ms. Sinanyan that such claims for restitution and/or disgorgement are not, and the CFTC does not consider them to be, penalty claims, and they are not subject to subordination under the Bankruptcy Code.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 9, 2013
Washington, D.C.

By: /s/ Robert A. Schwartz
Robert A. Schwartz, Assistant General Counsel
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CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2013, I caused the foregoing document to be served on all counsel via the Court's CM/ECF system.

/s/Robert A. Schwartz
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Exhibit A: Proof of Claim and Attachment with respect to MF Global Holdings Ltd.

7. **Documents:** Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain: _____

8. **Signature:** (See instruction #8)
 Check the appropriate box.

I am the creditor I am the creditor's authorized agent. I am the trustee, or the debtor, or their authorized agent. (See Bankruptcy Rule 3004.) I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.)

(Attach copy of power of attorney, if any.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Robert A. Schwartz
 Title: Assistant General Counsel
 Company: U.S. Commodity Futures Trading Commission

Address and telephone number (if different from notice address above): _____ (Signature) _____ (Date)

Telephone number: _____ Email: _____

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571. **Modified B10 (GCG) (2/12)**

INSTRUCTIONS FOR PROOF OF CLAIM FORM

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THE GENERAL BAR DATE IN THESE CHAPTER 11 CASES IS AUGUST 22, 2012 AT 5:00 PM (PREVAILING EASTERN TIME)

THE GOVERNMENTAL BAR DATE IN THESE CHAPTER 11 CASES IS AUGUST 29, 2012 AT 5:00 PM (PREVAILING EASTERN TIME)

Items to be completed in Proof of Claim form

<p>Court, Name of Debtor, and Case Number: The chapter 11 cases of MF Global Holdings Ltd. and MF Global Finance USA Inc. were commenced in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") on October 31, 2011.</p> <p>The chapter 11 cases of MF Global Capital LLC, MF Global Market Services LLC and MF Global FX Clear LLC were commenced in the Bankruptcy Court on December 19, 2011.</p> <p>The chapter 11 case of MF Global Holdings USA Inc. was commenced in the Bankruptcy Court on March 2, 2012.</p> <p>You should select the Debtor against which you are asserting your claim.</p> <p>A SEPARATE PROOF OF CLAIM FORM MUST BE FILED AGAINST EACH DEBTOR.</p> <p>Creditor's Name and Address: Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. Please provide us with a valid email address. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).</p> <p>1. Amount of Claim as of Date Case Filed: State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.</p> <p>2. Basis for Claim: State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to your claim.</p>	<p>3. Last Four Digits of Any Number by Which Creditor Identifies Debtor: State only the last four digits of the Debtor's account or other number used by the creditor to identify the Debtor.</p> <p>3a. Debtor May Have Scheduled Account As: Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the Debtor.</p> <p>3b. Uniform Claim Identifier: If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.</p> <p>4. Secured Claim: Check whether the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.</p> <p>5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507 (a): If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.</p> <p>6. Credits: An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the Debtor credit for any payments received toward the debt.</p> <p>7. Documents: Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.</p>
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8. Date and Signature:

The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, attach a complete copy of any power of attorney, and provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

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A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

Creditor

A creditor is the person, corporation, or other entity to whom the Debtor owes a debt that was incurred before the date of the bankruptcy filing. See 11 U.S.C. § 101 (10).

Claim

A claim is the creditor's right to receive payment for a debt owed by the Debtor on the date of the bankruptcy filing. See 11 U.S.C. § 101 (5). A claim may be secured or unsecured.

Proof of Claim

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the Debtor on the date of the bankruptcy filing. The creditor must file the form with GCG as described in the instructions above and in the Bar Date Notice.

Secured Claim Under 11 U.S.C. § 506 (a)

A secured claim is one backed by a lien on property of the Debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a Debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the Debtor money (has a right to setoff).

Unsecured Claim

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

Claim Entitled to Priority Under 11 U.S.C. § 507 (a)

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

Redacted

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor must show only the last four digits of any social-security, individual's tax-identification, or financial-account number, only the initials of a minor's name, and only the year of any person's date of birth. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information.

Evidence of Perfection

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

Acknowledgment of Filing of Claim

To receive acknowledgment of your filing from GCG, please provide a self-addressed, stamped envelope and a copy of this proof of claim when you submit the original claim to GCG.

Offers to Purchase a Claim

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the Debtor. These entities do not represent the bankruptcy court or the Debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq.*), and any applicable orders of the bankruptcy court.

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Indicate on the Face of Proof of Claim form the Debtor against which you assert a claim.
Choose only one Debtor for each Proof of Claim form.

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- MF Global FX Clear LLC (Case No. 11-15810 (MG))
- MF Global Holdings USA Inc. (Case No. 12-10863 (MG))

Commodity Futures Trading Commission
Basis for Protective Filing of Proof of Contingent Unliquidated Claim

On October 31, 2011, the Commission's Division of Enforcement opened an investigation into whether the Commodity Exchange Act or Commission regulations were violated. It is possible that this investigation may lead to litigation involving MF Global Holdings, Ltd. The Commission is filing this protective proof of a contingent unliquidated claim to preserve the Commission's rights in that event.

Exhibit B: Proof of Claim and Attachment with respect to MF Global Finance USA Inc.

7. **Documents:** Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain: _____

8. **Signature:** (See instruction #8)

Check the appropriate box.

- I am the creditor I am the creditor's authorized agent. I am the trustee, or the debtor, or their authorized agent. (See Bankruptcy Rule 3004.) I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.)

(Attach copy of power of attorney, if any.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Robert A. Schwartz

Title: Assistant General Counsel

Company: U.S. Commodity Futures Trading Commission

Address and telephone number (if different from notice address above): _____ (Signature) _____ (Date)

Telephone number: _____ Email: _____

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571. **Modified B10 (GCG) (2/12)**

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You should select the Debtor against which you are asserting your claim.

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Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. Please provide us with a valid email address. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

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3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the Debtor's account or other number used by the creditor to identify the Debtor.

3a. Debtor May Have Scheduled Account As:

Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the Debtor.

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If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

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Check whether the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

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Exhibit C: Proof of Claim and Attachment with respect to MF Global Capital LLC

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Check the appropriate box.

- I am the creditor I am the creditor's authorized agent. I am the trustee, or the debtor, or their authorized agent. (See Bankruptcy Rule 3004.) I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.)
 (Attach copy of power of attorney, if any.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Robert A. Schwartz

Title: Assistant General Counsel

Company: U.S. Commodity Futures Trading Commission

Address and telephone number (if different from notice address above): _____ (Signature) _____ (Date)

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List of Debtors and Case Numbers

Indicate on the Face of Proof of Claim form the Debtor against which you assert a claim.
Choose only one Debtor for each Proof of Claim form.

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- MF Global Finance USA Inc. (Case No. 11-15058 (MG))
- MF Global Capital LLC (Case No. 11-15808 (MG))
- MF Global Market Services LLC (Case No. 11-15809 (MG))
- MF Global FX Clear LLC (Case No. 11-15810 (MG))
- MF Global Holdings USA Inc. (Case No. 12-10863 (MG))

Commodity Futures Trading Commission
Basis for Protective Filing of Proof of Contingent Unliquidated Claim

On October 31, 2011, the Commission's Division of Enforcement opened an investigation into whether the Commodity Exchange Act or Commission regulations were violated. It is possible that this investigation may lead to litigation involving MF Global Capital LLC. The Commission is filing this protective proof of a contingent unliquidated claim to preserve the Commission's rights in that event.

Exhibit D: Proof of Claim and Attachment with respect to MF Global Market Services LLC

7. **Documents:** Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain: _____

8. **Signature:** (See instruction #8)
 Check the appropriate box.

I am the creditor I am the creditor's authorized agent. I am the trustee, or the debtor, or their authorized agent. (See Bankruptcy Rule 3004.) I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.)

(Attach copy of power of attorney, if any.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Robert A. Schwartz
 Title: Assistant General Counsel
 Company: U.S. Commodity Futures Trading Commission

Address and telephone number (if different from notice address above): _____ (Signature) _____ (Date)

Telephone number: _____ Email: _____

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571. **Modified B10 (GCG) (2/12)**

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the Debtor, exceptions to these general rules may apply. The attorneys for the Chapter 11 Trustee and his court-appointed claims agent, GCG, Inc. ("GCG"), are not authorized and are not providing you with any legal advice.

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THE GENERAL BAR DATE IN THESE CHAPTER 11 CASES IS AUGUST 22, 2012 AT 5:00 PM (PREVAILING EASTERN TIME)

THE GOVERNMENTAL BAR DATE IN THESE CHAPTER 11 CASES IS AUGUST 29, 2012 AT 5:00 PM (PREVAILING EASTERN TIME)

Items to be completed in Proof of Claim form

<p>Court, Name of Debtor, and Case Number: The chapter 11 cases of MF Global Holdings Ltd. and MF Global Finance USA Inc. were commenced in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") on October 31, 2011.</p> <p>The chapter 11 cases of MF Global Capital LLC, MF Global Market Services LLC and MF Global FX Clear LLC were commenced in the Bankruptcy Court on December 19, 2011.</p> <p>The chapter 11 case of MF Global Holdings USA Inc. was commenced in the Bankruptcy Court on March 2, 2012.</p> <p>You should select the Debtor against which you are asserting your claim.</p> <p>A SEPARATE PROOF OF CLAIM FORM MUST BE FILED AGAINST EACH DEBTOR.</p> <p>Creditor's Name and Address: Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. Please provide us with a valid email address. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).</p> <p>1. Amount of Claim as of Date Case Filed: State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.</p> <p>2. Basis for Claim: State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to your claim.</p>	<p>3. Last Four Digits of Any Number by Which Creditor Identifies Debtor: State only the last four digits of the Debtor's account or other number used by the creditor to identify the Debtor.</p> <p>3a. Debtor May Have Scheduled Account As: Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the Debtor.</p> <p>3b. Uniform Claim Identifier: If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.</p> <p>4. Secured Claim: Check whether the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.</p> <p>5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507 (a): If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.</p> <p>6. Credits: An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the Debtor credit for any payments received toward the debt.</p> <p>7. Documents: Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.</p>
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8. Date and Signature:

The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, attach a complete copy of any power of attorney, and provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

DEFINITIONS**Debtor**

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

Creditor

A creditor is the person, corporation, or other entity to whom the Debtor owes a debt that was incurred before the date of the bankruptcy filing. See 11 U.S.C. § 101 (10).

Claim

A claim is the creditor's right to receive payment for a debt owed by the Debtor on the date of the bankruptcy filing. See 11 U.S.C. § 101 (5). A claim may be secured or unsecured.

Proof of Claim

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the Debtor on the date of the bankruptcy filing. The creditor must file the form with GCG as described in the instructions above and in the Bar Date Notice.

Secured Claim Under 11 U.S.C. § 506 (a)

A secured claim is one backed by a lien on property of the Debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a Debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the Debtor money (has a right to setoff).

Unsecured Claim

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

Claim Entitled to Priority Under 11 U.S.C. § 507 (a)

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

Redacted

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor must show only the last four digits of any social-security, individual's tax-identification, or financial-account number, only the initials of a minor's name, and only the year of any person's date of birth. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information.

Evidence of Perfection

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

Acknowledgment of Filing of Claim

To receive acknowledgment of your filing from GCG, please provide a self-addressed, stamped envelope and a copy of this proof of claim when you submit the original claim to GCG.

Offers to Purchase a Claim

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the Debtor. These entities do not represent the bankruptcy court or the Debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq.*), and any applicable orders of the bankruptcy court.

List of Debtors and Case Numbers

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- MF Global Holdings USA Inc. (Case No. 12-10863 (MG))

Commodity Futures Trading Commission
Basis for Protective Filing of Proof of Contingent Unliquidated Claim

On October 31, 2011, the Commission's Division of Enforcement opened an investigation into whether the Commodity Exchange Act or Commission regulations were violated. It is possible that this investigation may lead to litigation involving MF Global Market Services LLC. The Commission is filing this protective proof of a contingent unliquidated claim to preserve the Commission's rights in that event.

Exhibit E: Proof of Claim and Attachment with respect to MF Global FX Clear LLC

7. **Documents:** Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain: _____

8. **Signature:** (See instruction #8)

Check the appropriate box.

- I am the creditor I am the creditor's authorized agent. I am the trustee, or the debtor, or their authorized agent. (See Bankruptcy Rule 3004.) I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.)
 (Attach copy of power of attorney, if any.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Robert A. Schwartz

Title: Assistant General Counsel

Company: U.S. Commodity Futures Trading Commission

Address and telephone number (if different from notice address above): _____ (Signature) _____ (Date)

Telephone number: _____ Email: _____

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571. **Modified B10 (GCG) (2/12)**

INSTRUCTIONS FOR PROOF OF CLAIM FORM

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Items to be completed in Proof of Claim form

Court, Name of Debtor, and Case Number:

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The chapter 11 cases of MF Global Capital LLC, MF Global Market Services LLC and MF Global FX Clear LLC were commenced in the Bankruptcy Court on December 19, 2011.

The chapter 11 case of MF Global Holdings USA Inc. was commenced in the Bankruptcy Court on March 2, 2012.

You should select the Debtor against which you are asserting your claim.

A SEPARATE PROOF OF CLAIM FORM MUST BE FILED AGAINST EACH DEBTOR.

Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. Please provide us with a valid email address. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to your claim.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the Debtor's account or other number used by the creditor to identify the Debtor.

3a. Debtor May Have Scheduled Account As:

Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the Debtor.

3b. Uniform Claim Identifier:

If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

4. Secured Claim:

Check whether the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507 (a):

If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Credits:

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the Debtor credit for any payments received toward the debt.

7. Documents:

Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

8. Date and Signature:

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Unsecured Claim

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

Claim Entitled to Priority Under 11 U.S.C. § 507 (a)

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

Redacted

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Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

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- MF Global FX Clear LLC (Case No. 11-15810 (MG))
- MF Global Holdings USA Inc. (Case No. 12-10863 (MG))

Commodity Futures Trading Commission
Basis for Protective Filing of Proof of Contingent Unliquidated Claim

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Exhibit F: Proof of Claim and Attachment with respect to MF Global Holdings USA Inc.

7. **Documents:** Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".)

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8. **Signature:** (See instruction #8)

Check the appropriate box.

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 (Attach copy of power of attorney, if any.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Robert A. Schwartz

Title: Assistant General Counsel

Company: U.S. Commodity Futures Trading Commission

Address and telephone number (if different from notice address above): _____ (Signature) _____ (Date)

Telephone number: _____ Email: _____

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571. **Modified B10 (GCG) (2/12)**

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The chapter 11 cases of MF Global Capital LLC, MF Global Market Services LLC and MF Global FX Clear LLC were commenced in the Bankruptcy Court on December 19, 2011.

The chapter 11 case of MF Global Holdings USA Inc. was commenced in the Bankruptcy Court on March 2, 2012.

You should select the Debtor against which you are asserting your claim.

A SEPARATE PROOF OF CLAIM FORM MUST BE FILED AGAINST EACH DEBTOR.

Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. Please provide us with a valid email address. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to your claim.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

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3a. Debtor May Have Scheduled Account As:

Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the Debtor.

3b. Uniform Claim Identifier:

If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

4. Secured Claim:

Check whether the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507 (a):

If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

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An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the Debtor credit for any payments received toward the debt.

7. Documents:

Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

8. Date and Signature:

The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, attach a complete copy of any power of attorney, and provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

DEFINITIONS**Debtor**

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

Creditor

A creditor is the person, corporation, or other entity to whom the Debtor owes a debt that was incurred before the date of the bankruptcy filing. See 11 U.S.C. § 101 (10).

Claim

A claim is the creditor's right to receive payment for a debt owed by the Debtor on the date of the bankruptcy filing. See 11 U.S.C. § 101 (5). A claim may be secured or unsecured.

Proof of Claim

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the Debtor on the date of the bankruptcy filing. The creditor must file the form with GCG as described in the instructions above and in the Bar Date Notice.

Secured Claim Under 11 U.S.C. § 506 (a)

A secured claim is one backed by a lien on property of the Debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a Debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the Debtor money (has a right to setoff).

Unsecured Claim

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

Claim Entitled to Priority Under 11 U.S.C. § 507 (a)

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

Redacted

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor must show only the last four digits of any social-security, individual's tax-identification, or financial-account number, only the initials of a minor's name, and only the year of any person's date of birth. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information.

Evidence of Perfection

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

Acknowledgment of Filing of Claim

To receive acknowledgment of your filing from GCG, please provide a self-addressed, stamped envelope and a copy of this proof of claim when you submit the original claim to GCG.

Offers to Purchase a Claim

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the Debtor. These entities do not represent the bankruptcy court or the Debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq.*), and any applicable orders of the bankruptcy court.

List of Debtors and Case Numbers

Indicate on the Face of Proof of Claim form the Debtor against which you assert a claim.
Choose only one Debtor for each Proof of Claim form.

- MF Global Holdings Ltd. (Case No. 11-15059 (MG))
- MF Global Finance USA Inc. (Case No. 11-15058 (MG))
- MF Global Capital LLC (Case No. 11-15808 (MG))
- MF Global Market Services LLC (Case No. 11-15809 (MG))
- MF Global FX Clear LLC (Case No. 11-15810 (MG))
- MF Global Holdings USA Inc. (Case No. 12-10863 (MG))

Commodity Futures Trading Commission
Basis for Protective Filing of Proof of Contingent Unliquidated Claim

On October 31, 2011, the Commission's Division of Enforcement opened an investigation into whether the Commodity Exchange Act or Commission regulations were violated. It is possible that this investigation may lead to litigation involving MF Global Holdings USA Inc. The Commission is filing this protective proof of a contingent unliquidated claim to preserve the Commission's rights in that event.