Hearing Date and Time: November 18, 2013 at 10:00 a.m.
Objection Deadline: November 11, 2013 at 4:00 p.m

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UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re: MF GLOBAL HOLDINGS LTD., et al., Debtors.	Chapter 11 Case No. 11-15059 (MG) (Jointly Administered)
In re: MF GLOBAL INC., Debtor.	Case No. 11-2790 (MG)

NOTICE OF MOTION OF U.S. SPECIALTY INSURANCE COMPANY FOR RELIEF FROM THE AUTOMATIC STAY, TO THE EXTENT APPLICABLE

PLEASE TAKE NOTICE that a hearing (the "Hearing") will be held before the Honorable Martin Glenn, United States Bankruptcy Judge, on November 18, 2013 at 10:00 a.m., or as soon thereafter as counsel may be heard, at the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, Courtroom 501, New York, NY 10004-1408, to consider the annexed motion (the "Motion") of U.S. Specialty Insurance Company for

Relief From the Automatic Stay, to the Extent Applicable. A proposed Order is attached to the Motion.

PLEASE TAKE FURTHER NOTICE that the Hearing may be continued or adjourned from time to time without further notice other than an announcement of the adjourned date or dates at the Hearing or a later hearing.

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Motion, must (i) be made in writing; (ii) state with particularity the grounds therefore; (iii) conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court; (iv) be filed with the Bankruptcy Court electronically in accordance with General Order M-399 (General Order M-399 and the User's Manual for the Electronic Case Filing System can be found at www.nysb.uscourts.gov, the official website for the Bankruptcy Court), by registered users of the Bankruptcy Court's case filing system and, by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (.pdf), WordPerfect, Microsoft Word or any other Windows-based word processing format (with a hard copy delivered directly to Judge Glenn's Chambers); and (v) be served in accordance with General Order M-399, and upon counsel for U.S. Specialty Insurance Company, Troutman Sanders LLP, 1850 Crescent Tower Drive, Suite 500, Vienna, Virginia 22182, Attention: Leslie S. Ahari, Esq.; and Troutman Sanders LLP, The Chrysler Building, 405 Lexington Avenue, New York, New York 10174, Attention: Brett D. Goodman, Esq., together with proof of service therein, so as to be received by no later than 4:00 p.m. on November 11, 2013.

PLEASE TAKE FURTHER NOTICE that if no objections are timely filed or served, the Court may grant the relief requested in the Motion without a hearing.

Date: New York, New York
October 22, 2013

TROUTMAN SANDERS LLP

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UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re: MF GLOBAL HOLDINGS LTD., et al., Debtors.	Chapter 11 Case No. 11-15059 (MG) (Jointly Administered)
In re: MF GLOBAL INC., Debtor.	Case No. 11-2790 (MG)

MOTION OF U.S. SPECIALTY INSURANCE COMPANY FOR RELIEF
FROM THE AUTOMATIC STAY, TO THE EXTENT APPLICABLE

U.S. Specialty Insurance Company ("U.S. Specialty"), by and through its undersigned counsel, enters a limited appearance solely for the purpose of moving the Court pursuant to 11 U.S.C. § 362(d) and Bankruptcy Rule 4001(a) for relief from the automatic stay, to the extent applicable, to advance defense costs being incurred by Joseph Saab in the lawsuit, *Bank of Montreal v. Optionable, Inc., et al.*, Case No. 09-CV-7557 (GBD) (S.D.N.Y.) (the "*BMO* Action"), under an excess Professional Liability Insurance Policy issued for the 2007 to 2008 claims-made policy period. Mr. Saab is a former employee of MF Global, Inc. ("MFGI")

(and/or its predecessors), a subsidiary of MF Global Holdings Ltd., both of which are debtors in proceedings before this Court. U.S. Specialty does not consent to jurisdiction for any other purpose. The grounds for this Motion are set forth below.

I. JURISDICTION

1. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G). Venue is proper before this Court pursuant to 28 U.S.C. § 1409.

II. FACTUAL BACKGROUND

A. The BMO Action

2. On May 17, 2007, the Bank of Montreal ("BMO") disclosed that it would post a CDN $680 million loss due to the re-valuation of its natural gas options book. Following an investigation, BMO determined that two of its employees, David Lee and Robert Moore, were involved in a fraud that resulted in significant trading losses.

3. The incident resulted in various criminal and civil investigations involving BMO's employees and certain others who had dealt with them. However, no governmental or regulatory action of any kind ever was filed against Mr. Saab.

4. On August 29, 2009, BMO filed suit against MFGI, Mr. Saab, Optionable, Inc. and various of its former officers, shareholders and employees for their alleged role in the fraud carried out by Mr. Lee, the former head of BMO's commodity derivatives group, and his former supervisor, Mr. Moore, to conceal CDN $680 million in trading losses in the energy markets, primarily with respect to natural gas trading, caused by Mr. Lee's trading strategies. BMO purports to seek hundreds of millions of dollars in damages from the defendants to recoup its

losses caused by the fraud of its own employees. *See Bank of Montreal v. Optionable, Inc., et al.*, Case No. 09-cv-7557 (GBD) (S.D.N.Y.) (the "*BMO* Action").

5. Mr. Saab disputes BMO's allegations and from the outset, has mounted a vigorous defense of the litigation.

6. On October 31, 2011, MF Global Holdings Ltd., MF Global Finance USA, Inc. and MFGI filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"), and the Honorable Paul A. Engelmayer, U.S. District Court for the Southern District of New York, entered the Order Commencing Liquidation of MFGI pursuant to SIPA 15 U.S.C. § 78aaa *et seq.* On December 19, 2011, Capital, FX Clear and Market Services filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. On March 2, 2012, Holdings USA filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. On November 2, 2011, this Court ordered that the debtors' cases under chapter 11 be jointly administered (the "Chapter 11 Cases").

7. The *BMO* Action thereafter was stayed as to MFGI. However, BMO has filed a Proof of Claim in MFGI's SIPA proceedings based on the *BMO* Action, which to date remains unresolved.

8. The *BMO* Action has not been stayed as to Mr. Saab. Since the filing of the initial complaint, and continuing after the filing of the debtors' bankruptcy petitions, the *BMO* Action has been active and contentious. The court's docket sheet reflects over 225 filings since the inception of the case. Mr. Saab and BMO currently are engaged in discovery, which has been complicated by a number of discovery disputes. Depositions have not yet occurred. The District Court has ordered that all discovery be completed by April 1, 2014.

9. White & Case represents Mr. Saab. Mr. Saab through counsel also has retained a number of experts to assist in the defense.

B. <u>The Professional Liability Policies</u>

10. Before the debtors' bankruptcy filings, a number of different insurers issued primary and excess Professional Liability Policies to MF Global Holdings, Ltd. for the 2007 to 2008 claims-made policy period, which provide aggregate limits of $200 million (the "Professional Liability Policies").

11. Specifically, New Hampshire Insurance Company issued the primary Professional Indemnity Insurance Policy No. 64638 (the "Primary Policy"). Subject to all of its terms and conditions, the Primary Policy provides a $15 million limit of liability, subject to a $5 million retention to be paid by the Insureds.

12. U.S. Specialty issued the first layer Excess Policy No. 14-MGU-07-A14405 (the "U.S. Specialty Excess Policy"), which provides a $15 million limit excess of the underlying limit provided by New Hampshire. The U.S. Specialty Excess Policy generally follows form to the terms and conditions contained in New Hampshire's Primary Policy. True and correct copies of the Primary Policy and the Excess Policy are attached hereto as Exhibit A.

13. The Insuring Agreement in the Primary Policy states "the *insurer* shall pay on behalf of the *insured* for all loss for any *civil liability* arising out of a *wrongful act* which gives rise to a *claim* first made against an insured by a third party during the *policy period* and reported in writing to the *insurer*. . . ." Primary Policy Section 1.[1] *Insured* means the *insured entity* and the *individual insureds*. *See* Primary Policy Section 2.18. MF Global and its subsidiaries – including MFGI – therefore are *insureds*. *See* Primary Policy Declarations 1, Sections 2.19,

[1] Words appearing in italics are defined terms in the Primary Policy.

2.27. Mr. Saab as a former MFGI employee is an *individual insured*. *See* Primary Policy Sections 2.16, 2.20, 2.37.

14. The Primary Policy defines *loss* to include (among other things), *defence costs*. *See* Primary Policy Section 2.23. *Defence costs* means "reasonable and necessary fees, costs and expenses" incurred by *insureds* in defense of any *circumstance* or *claim*. *See* Primary Policy Section 2.12.

15. With respect to advancement of costs, the Primary Policy states that "[E]xcept to the extent that the *insurer* has denied indemnity . . . the *insurer* shall advance *defence costs* incurred to the *insured* in respect of any *claim* prior to the final resolution of the *claim*." Primary Policy Section 5.8. The *insurer* does not have the duty to defend *claims*. *See* Primary Policy Section 5.9.

16. In April 2008, the *insureds* provided notice of the BMO matter to U.S. Specialty and other insurers.

17. By the time of the commencement of the SIPA proceeding on October 31, 2011, MFGI had paid the $5 million retention applicable under the Primary Policy in connection with attorneys' fees and costs incurred by it and Mr. Saab. New Hampshire had reserved its rights with respect to the *BMO* Action but had agreed to advance defense costs to MFGI and Saab pursuant to the Primary Policy.

18. On December 14, 2011, New Hampshire filed a Motion for Relief from the Automatic Stay, To the Extent Applicable, with this Court, requesting leave to advance defense costs for the *BMO* Action under the Primary Policy. *See* Docket No. 277. On January 19, 2012, this Court granted the motion. *See* Docket No. 380. The Court's Order states that the Primary Policy "is not an 'asset of the estate' and therefore the automatic stay imposed by 11 U.S.C.

§362(a) is not applicable." Accordingly, the Court permitted New Hampshire to reimburse defense costs incurred by MFGI or Mr. Saab incurred before the bankruptcy filing, and to advance Mr. Saab's defense costs incurred after October 31, 2011.

19. New Hampshire recently advised U.S. Specialty that it has exhausted the limit of liability under the Primary Policy. Mr. Saab, through counsel, has requested that U.S. Specialty advance defense costs under the Excess Policy.

20. U.S. Specialty has reserved all rights under its Excess Policy in connection with the *BMO* Action. Notwithstanding its reservation of rights, U.S. Specialty is agreeable to advancing defense costs on Mr. Saab's behalf subject to a continuing reservation of rights, including the right to seek repayment in the event such defense costs ultimately are determined not to be covered.

III. RELIEF REQUESTED AND BASIS THEREFOR

21. Because the case law is not uniform on the question whether the proceeds of liability policies are property of the estate under 11 U.S.C. § 541 and thereby subject to the automatic stay contained in 11 U.S.C. § 362, U.S. Specialty has filed this motion out of an abundance of caution so as to avoid violating the stay. While U.S. Specialty takes no position in this case on whether the proceeds of the Excess Policy are property of the debtors' estates, if it is determined that the stay applies both to the Excess Policy and its proceeds, U.S. Specialty seeks entry of an order granting relief from the stay, if applicable, for purposes of advancing defense costs incurred by Mr. Saab under the Excess Policy in connection with the *BMO* Action.

22. Although it is well established that a liability policy is considered property of a debtor's estate under 11 U.S.C. § 541, the proceeds are not necessarily so. *See In re Continental Airlines*, 203 F.3d 203, 216 (3d Cir. 2000) (the "proceeds from [an] insurance policy should be

evaluated separately from the debtor's interest in the policy itself"); *see also In re Louisiana World Exposition, Inc.*, 832 F.2d 1391, 1400-01 (5th Cir. 1987) (proceeds of a directors' and officers' ("D&O") policy which did not provide liability coverage for third-party claims against the debtor not property of the estate); *In re Global Crossing Sec. and ERISA Litig.*, 225 F.R.D. 436, 463 (S.D.N.Y. 2004) ("individual insureds…have a right to use the policies' proceeds to cover their defense and settlement costs in litigation"); *Ochs v. Lipson* (*In re First Central Fin. Corp.*), 238 B.R. 9, 16 (Bankr. E.D.N.Y. 1999) *aff'd in an unreported decision*, No. 99-CV-6730 (TCP), 2000 U.S. Dist. LEXIS 22005 (E.D.N.Y. Mar. 2, 2000) ("While a majority of courts consider a D&O policy estate property, there is an increasing view that a distinction should be drawn when considering treatment of proceeds arising under such policies.") (citation omitted). *Cf. In re Eastwind Group, Inc.*, 303 B.R. 743, 748 (Bankr. E.D. Pa. 2004) (where securities laws violations were asserted both against the directors and officers and the debtor, the proceeds of a D&O policy providing entity coverage for securities claims were property of the estate); *In re CyberMedica, Inc.*, 280 B.R. 12 (Bankr. D. Mass. 2002) (proceeds of D&O policy which provided coverage to debtor for indemnity and third-party claims were property of the chapter 7 debtor's estate).

23. As noted above, by its January 19, 2012 Order, this Court held that the New Hampshire Primary Policy is not property of the estate, and the automatic stay therefore was inapplicable. However, in the Court's Memorandum Decision dated April 10, 2012, this Court considered whether to permit advancement of defense costs under other professional liability ("E&O") policies issued to the debtors for the 2011 to 2012 period. In doing so, the Court declined to resolve the issue of whether proceeds of those E&O policies were property of the estate. Instead, the Court assumed that the proceeds were property of the estate but determined

nevertheless that cause existed to lift the stay and permitted the insurers to advance defense costs subject to certain limitations. *See In re MF Global Holdings Ltd.*, 469 B.R. 177, 187, 190-197 (Bankr. S.D.N.Y. 2012) (Docket No. 619).

24. U.S. Specialty takes no position on whether the proceeds of the Excess Policy are property of the debtors' estates. However, even assuming that the proceeds should be deemed property of the estates, "cause" exists under 11 U.S.C. § 362(d) for relief from the stay for the purpose of permitting U.S. Specialty to advance Mr. Saab's defense costs under the Excess Policy.

25. Section 362(d) provides that the Court may grant relief from the automatic stay on request from a party in interest "for cause." 11 U.S.C. § 362(d). As this Court explained in its April 10, 2012 decision, in determining cause to lift the stay, courts consider the following factors:

> (1) whether relief would result in a partial or complete resolution of the issues; (2) lack of any connection with or interference with the bankruptcy case; (3) whether the other proceeding involves the debtor as a fiduciary; (4) whether a specialized tribunal with the necessary expertise has been established to hear the cause of action; (5) whether the debtor's insurer has assumed full responsibility for defending it; (6) whether the action primarily involves third parties; (7) whether litigation in another forum would prejudice the interest of other creditors; (8) whether the judgment claim arising from the other action is subject to equitable subordination; (9) whether movant's succession to other proceeding would result in a judicial lien avoidable by the debtor; (10) the interests of judicial economy and the expeditious and economical resolution of litigation; (11) whether the parties are ready for trial in the other proceeding; and (12) impact of the stay on the parties and the balance of harms.

In re MF Global Holdings, Ltd., 469 B.R. at 191 (*quoting Sonnax Indus., Inc. v. Tri Component Prods. Corp. (In re Sonnax Indus., Inc.*), 907 F.2d 1280, 1286 (2d Cir. 1990)). "Not all of the factors are relevant in every case, and 'cause' is a broad and flexible concept that must be determined on a case-by-case basis." *Id.*

26. Here, "cause" exists for granting relief from the stay in order to permit U.S. Specialty to advance defense costs to Mr. Saab under the Excess Policy. As detailed above, the Excess Policy provides coverage to *individual insureds* who have a present need for payment of their defense costs. Mr. Saab has an immediate need for his defense costs to be paid, as he is a defendant in ongoing litigation against him seeking hundreds of millions of dollars in damages. Mr. Saab lacks the resources to pay the defense costs personally. Without payment of his fees from the Excess Policy, Mr. Saab would be left without the effective assistance of counsel to defend him, and would suffer significant prejudice as a result.

27. Moreover, the ongoing funding of Mr. Saab's defense costs under the Excess Policy will benefit the debtors' estates. As noted above, although the *BMO* Action has been stayed as to MFGI, BMO has filed a Proof of Claim in the SIPA proceeding. The work being done by Mr. Saab's defense counsel and his experts and their development of significant defenses to BMO's claim inures to the benefit of the MFGI estate, because the defenses apply equally to MFGI. In that regard, U.S. Specialty understands that the MFGI Trustee has been monitoring the *BMO* Action and his counsel is in contact with Mr. Saab's counsel.

28. Counsel for the MFGI Trustee has advised U.S. Specialty that the MFGI Trustee's position is that the Excess Policy and additional excess Professional Liability Policies for the 2007 to 2008 period are part of the MFGI estate and that MFGI is entitled to coverage under the Professional Liability Policies for the claims asserted in the *BMO* Action which also form the basis of a claim asserted in the SIPA proceeding. Counsel for the MFGI Trustee has also advised that the MFGI Trustee does not object to U.S. Specialty's motion for relief from the automatic stay to advance defense costs to Mr. Saab with the condition that U.S. Specialty agrees (a) to provide quarterly updates on the amount of defense costs paid on behalf of Mr. Saab, and (b) to

include the MFGI Trustee's counsel in any settlement discussions, while reserving its rights to seek to modify the order. U.S. Specialty has agreed to the two conditions which are reflected in the accompanying proposed order.

29. Based on the foregoing, "cause" under 11 U.S.C. § 362(d) exists to warrant relief from the stay to permit U.S. Specialty to advance payments of Mr. Saab's defense costs under the Excess Policy.

IV. CONCLUSION

30. For the foregoing reasons, U.S. Specialty respectfully requests relief from the automatic stay provision in 11 U.S.C. § 362, to the extent applicable, in order to advance reasonable and necessary defense costs incurred by Mr. Saab under the Excess Policy in connection with the *BMO* Action, subject to U.S. Specialty's full reservation of its rights under the Excess Policy and applicable law. U.S. Specialty further requests that the Court's order be effective upon entry, and that the 14 day stay period provided under Rule 4001(a)(3) not apply.

Date: New York, New York
October 22, 2013

TROUTMAN SANDERS LLP

By: /s/ Brett D. Goodman

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Attorneys for U.S. Specialty Insurance Company

Exhibit "A"

Your Insurance Policy From

New Hampshire Insurance Company

AIG A Member Company of American International Group

Professional Indemnity Insurance

Policy Wording

New Hampshire Insurance Company

PROFESSIONAL INDEMNITY INSURANCE

SCHEDULE

Policy Number		64638
Item 1.	***Policyholder***	MF Global Ltd including its *subsidiary* companies
	Address	Clarendon House 2 Church Street Hamilton HM11, Bermuda
Item 2.	***Policy Period***	From: 12.01 a.m. on 30th April, 2007 To: 12.01 a.m. on 30th April, 2008 Both days Local Standard Time at the Address stated in Item 1 above.
Item 3.	**Limit of Liability**	Total aggregate (excluding any amount borne by the *insured* as retention) for all *claims* and all *loss* under all insurance covers combined: USD $15,000,000.
Item 4.	**Retention**	USD $5,000,000 each *single claim*
Item 5.	**Premium**	Premium payable: USD $600,000
Item 7.	**Major Shareholder**	Fifteen (15%) per cent.
Item 8.	***Regulatory Response Team***	DLA Piper Rudnick Gray Cary UK LLP c/o Rakhi Talwar +44 (0)20 7153 7165 Rakhi.talwar@dla.piper.com

SIGNED FOR AND ON BEHALF OF THE INSURER

DATE: 7/24/07

Agents for

KITSON INSURANCE SERVICES LTD.

New Hampshire Insurance Company
Countersigned in Hamilton Bermuda

PROFESSIONAL INDEMNITY INSURANCE

In consideration of the payment of the premium and in reliance upon the statements made to the *insurer* in the proposal form, its attachments and all other information submitted to the *insurer*, all of which are to be the basis of and incorporated into this contract, the *insurer* agrees as follows:

1. Insurance Cover

Investment Advisor/Manager Professional Civil Liability

The *insurer* shall pay on behalf of the *insured* for all *loss* for any *civil liability* arising out of a *wrongful act* which gives rise to a *claim* first made against an *insured* by a *third party* during the *policy period* (or discovery period, if applicable) and reported in writing to the *insurer* pursuant to the terms of this policy.

2. Definitions

2.1 ***Aggravated damages*** means any award of damages made in any jurisdiction which is intended to provide compensation to the person receiving the award, whether such compensation relates to economic or non-economic losses suffered by such person.

2.2 ***Approved person*** means any natural person employed by an *insured entity* or a *subsidiary* to whom the Financial Services Authority has given its approval to perform one or more of controlled functions 21-27 for that *insured entity* or *subsidiary* pursuant to Section 59 of the Financial Services and Markets Act 2000.

2.3 ***Associate effectively*** means: at the expense of the *insurer*:

(a) to be notified promptly of all significant developments;

(b) to be informed of the strategy being adopted;

(c) to be consulted about material decisions before they are taken; and

(d) to have views taken into account if the sum claimed exceeds the applicable retention hereunder by fifty (50) per cent of the full annual premium hereunder.

2.4 ***Broker-Dealer*** means an individual or firm acting as an agent for buyers and sellers and charging a commission but who, at the same time, trades for his or her own account.

2.5 ***Circumstance*** means any circumstance brought to the attention of the *policyholder's* General Counsel or Chief Financial OfficerHead of Group Insurance or Head of Group Risk, or designated alternate in which a third party:

(i) alleges that they have suffered a loss; or

(ii) may, in the reasonable opinion of the *policyholder's* General CounselHead of Group Insurance, or his designated alternate, suffer a loss,

arising out of any *wrongful act* and which, in the reasonable opinion of the *policyholder's* General CounselHead of Group Insurance, or his designated alternate, having regard to the facts and information then available to him, may give rise to a *claim* being made against the *insured*.

2.6 ***Civil liability*** means a legally enforceable obligation to a *third party* to pay damages or to make restitution in accordance with any settlement entered into with such *third party* or an award of a court, tribunal or a *regulator* under whose jurisdiction the *insured* is bound.

2.7 ***Claim*** means:

(i) any suit or proceeding, including any civil proceeding, *third party* proceeding, counter claim or arbitration proceeding, brought by any person or entity against an *insured* for monetary damages or other relief, including non-pecuniary relief;

(ii) any written demand from any person or entity seeking monetary damages or other relief, including non-pecuniary relief, from an *insured* for the results of any specified *wrongful act*;

(iii) any official investigation, examination, inquiry or other similar proceeding at which an *individual insured* of the *insured entity's* attendance is required provided such official investigation, examination, inquiry or other similar proceeding is directly related to an alleged *wrongful act* of such *individual insured* of the *insured entity* in their capacity as such:

(1) once such *individual insured* is identified in writing by such investigating authority as a person against whom a civil, criminal, administrative, regulatory or arbitration proceeding for monetary, non-monetary or injunctive relief which is commenced by: (a) service of a complaint or similar pleading; (b) return of an indictment, information or similar document (in the case of a criminal proceeding); or (c) receipt or filing of a notice of charges may be commenced; or

(2) in the case of an investigation by the SEC or a similar state government authority, after the service of a subpoena upon such *individual insured*.

2.8 ***Claimant's costs*** means any costs and expenses (including but not limited to, legal costs, accountants' costs and loss adjusters' costs) incurred by any claimant who brings a *claim* against an *insured* and which such *insured* is required or, with the written consent of the *insurer* (such consent not to be withheld unreasonably), agrees to pay to such claimant in connection with such *claim*.

2.9 ***Co-defendant's costs*** means any costs and expenses (including, but not limited to, legal costs, accountants' costs and loss adjusters' costs) incurred by any party who is named

as a co-defendant with an *insured* in relation to a *claim* and which such *insured* is required or, with the written consent of the *insurer* (such consent not to be withheld unreasonably), agrees to pay to such co-defendant in connection with such *claim*.

2.10 ***Compensation*** means any commissions, payments, fees, compensation or any other type or remuneration. *Compensation* also means kickbacks, bribes or any other similar type of payments.

2.11 ***Critical Regulatory Event*** means:

(i) a raid or on-site visit to the *policyholder* or a *subsidiary* which first takes place during the *policy period* by any official regulator that involves the production, review, copying or confiscation of files or interviews of any *individual insured*;

(ii) a public announcement relating to the foregoing; or

(iii) the receipt by any *insured* denying the *policy period* from any official *regulator* of a formal notice which legally compels the *insured* to produce documents to, or answers by or attend interviews with the *regulator*.

2.12 ***Defence costs*** means reasonable and necessary fees, costs and expenses (incurred with the written consent of the *insurer*, such consent not to be withheld unreasonably, including premiums for any appeal bond, attachment bond or similar bond arising out of a covered judgement, but without obligation to apply for or furnish any bond) resulting solely from the investigation, adjustment, defence, discharge, dismissal, settlement and appeal of any *circumstance* or *claim*.

Defence costs shall also include external legal costs incurred in investigating and advising on a situation prior to such situation being notified as a *circumstance* to the *insurer* pursuant to General Provision 5.7 below. This is on the proviso that such situation is subsequently notified to the *insurer* as a *claim* or a *circumstance*, and is otherwise covered hereunder.

Defence costs shall also include the reasonable fees, costs and expenses of an accredited expert retained through defence counsel approved by the *insurer* (such approval not to be unreasonably withheld or delayed) on behalf of an *insured* in connection with the defence of a covered *claim*.

Such costs are subject to a sub-limit of USD $1,000,000 in the aggregate and these costs shall count towards the erosion of the *retention*.

2.13 ***Director*** or ***officer*** means any natural person who was, now is, or shall be a director or officer of the *insured entity*. The terms *director* and *officer* shall also mean any equivalent position under the laws of any jurisdiction.

2.14 ***Discovered*** or ***discovery*** means when any of the *insured entity's directors*, *officers*, partners, departmental directors, senior managers, trustees or equivalent, or any *employee* in a supervisory position first become aware of or have any knowledge of any act, omission or event which could reasonably be foreseen to give rise to a *loss* covered by this policy, even though the exact amount or details of such *loss*, act, omission or event are not known at the time of *discovery*. Such knowledge possessed

or *discovery* made by any *insured* thereof shall constitute knowledge possessed or *discovery* made by every *insured*.

2.15 ***Discovery period*** means the period of time specified in Extension 4.5, immediately following the termination of this policy during which written notice may be given to the *insurer* of any *claim* first made against the *insured* during such period of time for any *civil liability* arising out of a *wrongful act* occurring prior to the end of the *policy period* and otherwise covered by this policy.

2.16 ***Employee*** means any natural person employed by the *insured entity* in the ordinary course of the *services* of the *insured entity* and whom the *insured entity* compensates by way of salary or wages and has the right to govern and direct the performance of that person's duties. *Employee* shall include:

(i) any natural person under a contract of employment (be it full time, part-time or temporary, or be it written or implied) with the *insured entity*;

(ii) any natural person working under the direct control and supervision of the *insured entity*;

(iii) any *director* or *officer* when performing acts coming within the scope of the usual duties of an *employee* of the *insured entity* or while acting as a member of a committee duly elected or appointed by resolution of the Board of Directors of the *insured entity* to perform specific, as distinguished from general, directorial acts on behalf of the *insured entity*;

(iv) any natural person compensated by the *insured* by wages, salaries, commissions or any other form of payments in respect of consultancy services.

Except to the extent that they are covered under (iv) above, the term *employee* does not mean any independent broker, independent financial adviser, or any similar agent or independent representative remunerated on a sales or commission basis unless specifically agreed by the *insurer* and endorsed to this policy.

2.17 ***Fund*** means any trust, investment trust, investment management company (open or closed ended), fund, partnership, or other similar entity which is established or acquired in connection with the business of Man Group Plc or its *subsidiaries*.

2.18 ***Insured*** means the *insured entity* and the *individual insured(s)*. *Insured* shall not include the *funds*.

2.19 ***Insured entity*** means the *policyholder*.

2.20 ***Individual insured*** means a *director* or *officer*, and *approved person* and any past, present or future partners or trustees of the *insured entity*.

Individual insured shall also mean any *employee* of the *insured entity*.

Furthermore, *individual insured* does not include external auditors appointed in accordance with the Companies Act 1985 (UK) or any similar legislation in any other jurisdiction.

2.21 ***Insurer*** means:

New Hampshire Insurance Company in respect of risks located in the United Kingdom and any territory outside the European Economic Area.

Landmark Insurance Company Limited in respect of risks located in any other territory.

2.22 ***Limit of liability*** means the amount specified in Item 3 of the Schedule.

2.23 ***Loss*** means:

(i) *defence costs*; and/or

(ii) damages, *aggravated damages* as permitted by law, judgments, restitution orders of a compensatory nature, *claimant's costs*, *co-defendant's costs*, legal costs and expenses awarded against any *insured*; and/or

(iii) settlements negotiated with the *insurer's* consent (such consent not to be withheld unreasonably); and/or

(iv) awards of punitive, exemplary and multiple damages (where insurable by law) in an amount not greater than, but in addition to, two times the amount of compensatory damages awarded. Enforceability of this paragraph shall be governed by such applicable law which most favors coverage for punitive, exemplary and multiple damages; and/or

(v) awards of any referee, arbitrator, the Financial Services Ombudsman or any other ombudsman appointed by the Secretary of State for Trade and Industry or by any self-regulatory organisation or by any recognised professional body by whose rules the *insured* is bound,

in respect of any *claim* covered under this policy.

Loss shall not include:

(a) taxes, unless such taxes form part of an award of damages to a third party;
(b) wages, salaries or other remuneration of any *insured*;

(c) the cost of complying with any settlement for or award of non-monetary relief; or

(d) principal, interest or other monies accrued or due (either now or in the future) but not yet paid to the *insured entity* as a result of any loan, lease or extension of credit.

2.24 ***Money laundering*** means actual or attempted, conspiracy to commit, commission of, aiding, abetting, counselling, procuring, or inciting of any criminal or dishonest act which is in breach of and/or constitutes an offence or offences under:

(i) any money laundering legislation (or any provisions and/or rules or regulations made by any *regulator* in connection therewith) including any act

which, if it occurred in a part of the United Kingdom, would be unlawful under Part 7 of the Proceeds of Crime Act 2002 (c. 29) and/or any act which, if it occurred in a part of the United States, would be unlawful under Racketeer Influenced and Corrupt Organizations, 18 United States Code, Chapter 96; or

(ii) any legislation which implements or is designed to implement the European Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering, as amended (including Part 3 of the United Kingdom Terrorism Act 2000 (c .11)); and/or

(iii) the International Convention for the Suppression of the Financing of Terrorism.

2.25 ***Offering*** shall mean the public or private sale of an entity's stock, including, but not limited to, an initial public offering, secondary offering or a private placement.

2.26 ***Plan*** means any pension, profit sharing or employee/executive benefits programme, employee benefit, welfare benefit, share saver or share option plan or charitable fund or foundation established and maintained by the *insured entity* for the benefit of the past, present and/or future *employees* of the *insured entity* or their respective beneficiaries.

2.27 ***Policyholder*** means the organisations specified in Item 1 of the Schedule.

2.28 ***Policy period*** means the period of time from the inception date to the earlier of:

(i) the expiry date specified in Item 2 of the Schedule; or

(ii) the effective date of cancellation of this policy.

2.29 ***Pollutants*** means but is not limited to, any solid, liquid, biological, radiological, gaseous or thermal irritant or contaminant whether occurring naturally or otherwise, including asbestos, smoke, vapour, soot, fibres, mould, spores, fungus, germs, fumes, acids, alkalis, lead, products containing lead, nuclear or radioactive material of any sort, chemicals and waste. Waste includes, but is not limited to, material to be recycled, reconditioned or reclaimed.

2.30 ***Regulator*** means any federal or state government, governmental body, governmental or administrative agency, self-regulatory body or any other regulator.

2.31 ***Regulatory response team*** means the organisation specified in Item 8 of the Schedule.

2.32 ***Regulatory crisis response costs*** means the reasonable fees, costs and expenses of the *regulatory response team* incurred in responding to a *critical regulatory event* of the *insured.*

2.33 ***Retention*** means the amount specified in Item 4 of the Schedule.

2.34 ***Security*** means all negotiable and non-negotiable instruments, including any note, stock, bond, evidence of indebtedness, share (or other equity) or debt security representing either money or property, but does not include money.

2.35 ***Services*** means financial or professional services or other activities performed by the *insured*, or by any other person for whose act, error or omission the *insured* is legally responsible, in connection with the business of the *insured entity* that are permitted under all applicable laws and regulations and shall include, but shall not be limited to, all administrative, back office or other operations (including, but not limited to, technology functions) of the *insured entity* which support the provision of those services or activities.

2.36 ***Single claim*** means all *claims* arising out of, based upon or attributable to one originating cause or related or continuous originating causes, irrespective of whether such *claims* arise out of the same or a number of *wrongful acts* and irrespective of whether such *claims* involve the same or different claimants.

2.37 ***Subsidiary*** means any company in which the *policyholder* either directly, or indirectly through one or more of its *subsidiaries*:

(i) controls the composition of the board of directors;

(ii) controls more than half of the voting power; or

(iii) holds more than half of the issued share capital.

Cover under this Policy is automatically afforded to any *subsidiary* which the *policyholder* creates, either directly or indirectly through one or more of its *subsidiaries*, after the inception date of this policy.

Cover as is afforded to any *subsidiary* under this policy shall only apply for *wrongful act(s)* or other covered acts, committed while such entity is or was a *subsidiary* of the *policyholder*, unless otherwise agreed by the *insurer*.

2.38 ***Third party*** means any past or present customer or client of the *insured* or a *regulator* or consumer body acting on behalf of a customer or client of the *insured* to the extent that they are statutorily empowered to so act, or any other party to whom the *insured* becomes liable as a consequence of the provision of the *services*.

2.40 ***Trade secret*** means information, including a formula, compilation, pattern, program, device, method, process or technique that derives independent economic value, actual or potential, from not being generally known and not readily ascertainable through proper means by another person who can obtain economic advantage from its disclosure or use.

2.41 ***Transaction*** means any one of the following events:

(i) an *insured entity* and/or any entity which controls outstanding shares representing fifty (50) per cent or more of the voting power for the election of *directors* of an *insured entity*, consolidates with or merges into or sells all or substantially all of its assets to any other person or entity or group of persons and/or entities acting in concert;

(ii) any person or entity, whether individually or together with any other person and/or group of persons, and/or entities acting in concert, acquires an amount

of the outstanding shares representing more than fifty (50) per cent of the voting power for the election of *directors* of an *insured entity*, or acquires the voting rights for such an amount of the shares;

(iii) a receiver, liquidator or administrator is appointed for any *insured entity*;

(iv) an *insured entity* becomes a *subsidiary* of another entity or becomes controlled by another entity by virtue of any law.

2.42 ***Wrongful act*** means any actual or alleged act, error or omission by the *insured*, or by any other person for whose act, error or omission the *insured* is legally responsible, arising out of the provision of, or failure to provide the *services*. For the avoidance of doubt, the term "act, error or omission" as used in the foregoing, shall include, but not be limited to any:

(i) breach of duty, breach of trust (including, but not limited to, breach of constructive trust) breach of fiduciary duty, neglect, error, misstatement, misleading statement, misrepresentation, libel, slander, omission or breach of warranty of authority; or

(ii) breach of any statute enacted anywhere in the world (including any statutory provisions and/or any rules or *regulations* made by any regulatory body or authority thereunder, and including any award of any referee, arbitrator, the Financial Services Ombudsman or any other ombudsman appointed by the Secretary of State for Trade and Industry or by any self-regulatory organisation or by any recognised professional body by whose rules the *insured* is bound). This policy shall not cover any breach of statute enacted within the United States of America or Canada except to the extent that any act or omission which it is claimed constituted such breach would in any event give rise to liability for a negligent act or an error or omission in the absence of such statute; or

(iii) other breach of a duty to a third party which is actionable at law in tort, or actionable in delict or quasi-delict in respect of Scotland.

3. Exclusions

The *insurer* shall not be liable to make any payment for *loss* in respect of any *claim* under the Insurance Cover or to make any payment under any Extension of this policy:

3.1 **Contractual Liability**

arising out of, based upon or attributable to any liability to a *third party* assumed or accepted by the *insured* under any contract or agreement except to the extent such liability would have attached to the *insured* in the absence of such contract or agreement and provided that this exclusion shall not apply to the extent that a claim alleges the *insured* has not exercised reasonable professional care;

3.2 **Fines, Penalties, Punitive, Exemplary Damages**

arising out of, based upon, attributable to or for:

(i) civil or criminal fines or penalties imposed by law;

(ii) punitive or exemplary damages (unless awarded for libel or slander);

(iii) the multiplied portion of multiplied damages;

(iv) taxes;

(v) any amount for which the *insureds* are not financially liable or which are without legal recourse to the *insureds*;

(vi) matters uninsurable under the law pursuant to which this policy is construed.

Notwithstanding the foregoing, the following are not excluded:

(a) awards of punitive or exemplary damages where insurable by law in an amount not greater than the amount of any compensatory damages awarded;

3.3 **Intellectual Property**

arising out of directly or indirectly, based upon, attributable to or in any way connected with any actual or alleged:

(i) plagiarism; or

(ii) accessing of, misappropriation, infringement or violation of any:

(a) right to privacy; or

(b) intellectual property rights including but not limited to, copyright, patent, trademark, trade name, *trade secret*, or computer programs,;

3.4 **Laddering, Spinning & Tying**

arising out of, based upon, or attributable to, in whole or in part, any actual or alleged instances of "laddering", "spinning" or "tying" which shall include but not be limited to:

(i) solicitation or receipt of any excessive, additional, undisclosed, improper or illegal *compensation* relating to an *offering*, or *compensation* greater than that disclosed in the prospectus or registration statement relating to the *offering*;

(ii) improper solicitations or agreements, whether express or implied, relating to any *offering*, including, but not limited to, solicitations or tie-in agreements to purchase: (i) additional shares of the *insured entity's* stock at pre-determined prices; or (ii) shares of another corporation's stock; or

(iii) solicitation or receipt of shares in an *offering* in return for, as consideration for, or as part of an arrangement concerning, the provision of investment banking business or corporate finance business to an *insured* whether before or after the solicitation or receipt of such shares.

This exclusion shall only apply if it is established through a judgment, or any other final adjudication adverse to the *insured*, or any admission by an *insured* that the relevant conduct did in fact occur;

3.5 **Prior Knowledge and Prior Discovery**

arising out of, based upon or attributable to or in any way connected with any *claim* or *circumstance* which were notified under any policy of which this policy is a renewal or replacement or which it may succeed in time;

3.6 **Technology Failure**

arising out of, based upon, or attributable to

(i) any mechanical, electronic or software failure, faulty construction, error in design, latent defect, wear or tear, gradual deterioration, electrical disturbance, electrical data processing media failure or breakdown or any malfunction or error in programming or errors or omissions in processing; or

(ii) .breakdown or malfunction of any machine or system of machines, including any electrical power interruption, surge, brown out or black out, or failure of telephone lines, data transmission lines, satellites or other infrastructure comprising or supporting the internet

This Exclusion 3.6 shall not apply to any *claim* resulting solely from an error committed by an *employee* in using and maintaining the system of the *insured* and which has caused a *third party* to sustain a *loss*;

3.7 **War**

directly or indirectly caused by, resulting from or in connection with the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

(1) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power.

This policy also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to (1) above.

In the event any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect;

3.8 **Physical Injury/Property Damage**

arising out of, based upon or attributable to:

(i) physical injury, sickness, disease, pain or death and, only if arising out of the foregoing, mental anguish, mental injury, shock, humiliation, or emotional distress at any time; or

(ii) loss of or damage to or destruction of any tangible property from any cause, including the loss of use thereof.

Notwithstanding this exclusion, a sub-limit of USD $1,250,000 in the aggregate or the *limit of liability*, whichever is the lower, shall apply for all *loss* arising out of all *claims* first made against all *insureds* for the destruction of or loss of any document, the property of or for which the *insured* is legally responsible, which is in the custody of the *insured*, provided the destruction of or loss of any such document is not the result of fire, explosion, implosion or collapse. This sub-limit shall be part of and not in addition to the overall aggregate *limit of liability*;

3.9 **Diminution in Value**

arising out of, based upon or attributable to, any guarantee or warranty provided by or on behalf of the *insured* as to the performance of any investments including *securities*, money, currencies, options, future transactions, property, or any other item of value unless such diminution or loss in value (or failure to appreciate) is caused solely or in part by a *wrongful act* of an *individual insured* in the execution or implementation of *services;*

3.10 **Fees, Commissions, or other Compensation**

alleging, arising out of, based upon, or attributable to a dispute concerning the return of fees, commissions, or other compensation for any *services* rendered or required to be rendered by the *insured* but this Exclusion shall apply only to that portion of any settlement or award in an amount equal to such fees, commissions, or other compensation;

3.11 **Insolvency**

arising out of, based upon, or attributable to the insolvency, bankruptcy or liquidation or receivership or administration (voluntary or otherwise) of any *insured* or any *fund* managed by or to which the *insured* provides *services*;

3.12 **Insured versus Insured**

arising out of, based upon or attributable to any *claim* brought by or on behalf of:

(i) an *insured*, or successors or assigns of any *insured*; or

(ii) any entity that is operated or managed or controlled by any *insured*; or

(iii) the *policyholder's* parent company (or any parent or any subsidiary thereof).

This exclusion shall not apply to any *claim*:

(a) brought by an *employee* as long as such *claim* is brought solely in such claimant's capacity as a customer or client of the *insured entity* and is

instigated and continued totally independent of, and totally without the solicitation of, or assistance of, or active participation of, or intervention of, any other *insured*;

(b) brought by any fund company insured under Policy No.39003105;

(c) brought by an *insured* in respect of an indemnity for a claim by a customer or a client of the *policyholder*;

(d) any *claim* brought by an *insured* in the form of a cross-claim or third-party claim for contribution or indemnity which is part of, and results directly from a *claim* that is covered by this policy;

3.13 **Investment Banking/Broker-Dealer**

alleging, arising out of, based upon or attributable to, in whole or in part, the inability of any financial organisation, or *broker-dealer* (who is not an *insured*) in securities or commodities (or selection of such) to make any payment;

3.14 **Major Shareholder/Investor**

arising out of, based upon or attributable to any *claim* made against any *insured* which is brought by or on behalf of, whether directly or derivatively by, any individual or entity that owns or controls (whether beneficially, directly or indirectly) the percentage specified in Item 7 of the Schedule or more of the issued and voting share capital of any *insured entity*;

3.15 **Pollution**

alleging, arising out of, based upon or attributable to, or in any way involving directly or indirectly:

(i) the actual, alleged or threatened discharge, release, escape or disposal of *pollutants*; or

(ii) any direction or request to test for, monitor, clean up, remove, treat, detoxify, neutralise or contain any *pollutant* or contaminants with which the *insured* is required to comply or for which the *insured* is responsible or any voluntary decision to do so;

3.16 **Regulatory**

arising out of, based upon or attributable to any *claim* brought by or on behalf of or instigated or continued with the solicitation, assistance, participation or intervention of any *regulator* whether directly or indirectly, and whether brought in its capacity as a receiver, conservator, liquidator, securities holder or assignee of the *insured entity* except:

(i) when acting solely in such *regulator's* capacity as a client or customer of the *insured entity*; or

(ii) when acting on behalf of any client or customer of the *insured* or group of clients or customers of the *insured* pursuant to any statutory provision, and where such *claim*, had it been brought directly by such client or customer or group of clients or customers, would have been covered hereunder;

3.17 **Trustee Liability**

arising out of, based upon or attributable to any of the responsibilities, obligations or duties in respect of any *plan*, including but not limited to any actual or alleged violation of responsibilities, obligations, or duties imposed upon fiduciaries by the Pensions Act 1995 (UK) or the Employee Retirement Income Security Act of 1974 (USA) and any amendments thereto or any similar provision of the law or any amendment thereto or under any related common or statutory or similar provision, of any state, territory, jurisdiction or political subdivision.

Notwithstanding the foregoing, it is agreed that the *insurer* shall be liable for *loss* in connection with any *claim* made against the *insured* of Glenwood whilst acting in the aforementioned capacities but solely in respect of *wrongful acts* committed or omitted on or after the 23rd May, 2001;

3.18 **Wrongdoing**

alleging, arising out of, based upon, or attributable to:

(i) the gaining of any profit or advantage to which the *insured* is not legally entitled; or

(ii) the deliberate commission of any *wrongful act* by the *insured*; or

(iii) an *insured's* actual or attempted commission, aiding, abetting, counselling, procuring, inciting, participation in or conniving at any criminal, dishonest, fraudulent or malicious act; or

(iv) any knowing or wilful violation of any law or regulation binding on an *insured*,

provided that this exclusion shall only apply to the *insured* against whom it is established by an admission, court judgment or other final adjudication that the subject conduct did in fact occur;

3.19 **Business Risk**

arising out of, based upon or attributable to:

(i) the internal administration or operation of the business of the *insured entity* other than in connection with the provision by the *insured* of *services*;

(ii) any liability under a contract of insurance or reinsurance to pay benefits or indemnity due to an *insured entity's* capacity as an insurer or reinsurer of such contract;

(iii) any costs, payments or expenses or damage made or incurred by an *insured entity* prior to a matter becoming a *claim* including all costs, payments, expenses or damage associated with such matters, other than *defence costs* and fees, costs, expenses, loss and damage which are covered by Extension 4.4;

(iv) (a) merger and acquisition activity; or

(b) purchase or sales transactions in the *securities* of the *insured entity*,

by the *insured entity's* on its own behalf;

(v) a proprietary trading loss or a business loss where the *insured entity* is acting on its own behalf or as principal.

4. Extension of Cover

Subject to all provisions, terms, exclusions and conditions of this policy, cover is extended as detailed below. If one or more of the extensions under this policy is deleted or replaced or not required by the *policyholder*, there shall be no reduction in the premium payable as specified under Item 5 of the Schedule. The total of all payments made under these extensions shall be part of and not in addition to the *limit of liability*. The extensions are also subject to the *retention*.

4.1 New Subsidiaries

(i) Cover under this policy is extended to include any *subsidiary* which the *policyholder* acquires, either directly or indirectly through one or more of its *subsidiaries*, after the inception date of this policy provided that the *subsidiary* at the date of its acquisition:

(a) has total gross assets which are less than twenty (20) per cent of the *insured entity's* total gross assets;

(b) does not have a listing of any of its *securities* on any exchange in the United States of America or Canada; and

(c) has not had a *claim* or *loss* within the past three (3) years with a quantum greater than USD $500,000.

If the new *subsidiary* fails to meet any or all of the conditions above, the *insurer* hereby agrees to provide cover hereunder in respect of such new entity from the date of acquisition or at the expiry of the *policy period* for ninety (90) days, provided that during which time the *policyholder* shall provide such additional information as may be reasonably required by the *insurer* and pay any additional premium as may be reasonably required by the *insurer*.

During such ninety (90) day period, the *policyholder* may request that the *insurer* provides cover for the new *subsidiary* for the *policy period*. In exercising its discretion in relation to this request, the *insurer* must act reasonably.

If the *insurer* agrees to this request, the *policyholder* shall pay any additional premium as may be reasonably required by the *insurer*.

In the event that the *insurer* refuses such a request, the *insurer* will provide to the *policyholder* a written confirmation of such refusal within fourteen (14) days of receipt of the *policyholder's* request, together with a written statement of the reasons why such request was refused.

Cover as is afforded to such *subsidiaries* by virtue of this extension shall only apply for *wrongful act(s)* and other covered act(s), committed while such *subsidiary* is or was a *subsidiary* of the *policyholder*.

(ii) Cover under this policy is extended to include any company or undertaking in which the *policyholder*, either directly or indirectly through one or more of its *subsidiaries*, has an interest and which does not fall within the definition of "subsidiary" in Definition 2.38, provided that the *policyholder* shall provide such additional information about the company or undertaking as may be reasonably required by the *insurer* and shall pay, if the *insurer* agrees to extend this policy to include such company or undertaking, any additional premium as may be reasonably required by the *insurer*.

Cover as is afforded to any such company or undertaking by virtue of this extension shall only apply for *wrongful act(s)* and other covered act(s), committed while the *policyholder* had an interest in such company or undertaking.

It being agreed that "company or undertaking" shall not include any fund company insured under Policy No. 39003105.

4.2 **Heirs, Estates and Legal Personal Representatives**

The *insurer* will pay for *loss* in respect of a *claim* first made against the estates, heirs, legal personal representatives or assigns of any deceased, incompetent, insolvent or bankrupt *individual insured* during the *policy period* and notified to the *insurer* during the *policy period* provided such *claim*:

(i) is made against them solely because of their status as estates, heirs, legal personal representatives or assigns of that deceased, incompetent, insolvent or bankrupt *individual insured*; and

(ii) would be covered under this policy if made against that *individual insured*.

4.3 **Joint Property Liability**

The *insurer* will pay for *loss* in respect of a *claim* first made against the lawful spouse or other legally recognised domestic partner of an *individual insured* during the *policy period* and notified to the *insurer* during the *policy period* provided such *claim*:

(i) is made solely because of his or her status as the lawful spouse or domestic partner of that *individual insured*; and

(ii) would be covered under this policy if made against that *individual insured*; and

(iii) seeks damages recoverable from the marital community property, or from property jointly held by that *individual insured* and the lawful spouse or domestic partner, or from property transferred from that *individual insured* to the lawful spouse or domestic partner.

4.4 **Representation at Investigations and Examinations**

This policy shall provide cover for any reasonable and necessary fees, costs and expenses incurred with the prior written consent of the *insurer*, such consent not to be withheld unreasonably, (but not including internal costs such as wages, salaries or other remuneration) attributable to any official investigation, examination, inquiry or other similar proceeding in relation to the affairs of the *insured entity* where attendance is required of the *director* or *officer* by virtue of his or her position as *director* or *officer* of the *insured entity* which does not qualify as *a claim* under Definition 2.7 (iii) of this policy, provided that the notice requiring the *director* or *officer's* attendance at any such official investigation, examination or inquiry is received by the *director* or *officer* during the *policy period*.

so long as not brought by regulator

Notwithstanding, the cover provided by virtue of this extension 4.4 shall not include fees, costs or expenses attributable to any official investigation, examination, inquiry or other similar proceeding arising from an event that affects the industry in which the *policyholder* conducts its business activities, as opposed to affecting primarily the *policyholder* itself.

If the *director* or *officer* of the *insured entity* believes that as a result of any such official investigation, examination, inquiry or other similar proceeding, circumstances exist which may reasonably be expected to give rise to a *claim*, notice must be given to the *insurer* of the circumstances and the reasons for anticipating a *claim*, in accordance with General Provision 5.7.

It is further agreed that the total aggregate limit of liability for fees, costs and expenses that the *insurer* shall be liable to pay pursuant to the cover provided by this extension is specifically sub-limited to USD $1,250,000 in the aggregate (the "*sub-limit of liability*"). The *sub-limit of liability* is part of and not in addition to the total aggregate *limit of liability* and will in no way serve to increase the *insurer's limit of liability* as specified therein.

4.5 **Discovery Period**

If this policy is neither renewed nor replaced with similar Professional Indemnity insurance, then the *policyholder* shall have the right to a *discovery period* of twelve (12) months following the effective date of non-renewal upon payment of an additional premium of one hundred (100) per cent of the full annual premium, being the annual premium level in effect immediately prior to the end of the *policy period*.

The *insured* shall be entitled to a forty five (45) day *discovery period* at no additional premium if this policy is not renewed by the *insurer*. If the *policyholder* elects to purchase a *discovery period*, this forty five (45) day *discovery period* shall be part of and not in addition to the purchased *discovery period*.

To purchase the *discovery period*, the *policyholder* must request its purchase in writing within fifteen (15) days of the termination date of this policy and must tender the additional premium within thirty (30) days of the termination date. In the event that the *discovery period* is cancelled at any time by the *policyholder*, the earned additional premium shall be computed pro rata and any unearned additional premium shall be refunded forthwith to the *policyholder* provided that the *policyholder* has provided to the *insurer* a written statement which releases the *insurer* from all liability under the Policy.

If a *transaction* takes place, then the *policyholder* shall not have the right to purchase a *discovery period* as set out above. However, the *policyholder* shall have the right within forty five (45) days of the end of the *policy period* to request an offer from the *insurer* of a *discovery period* of up to seventy two (72) months. Following receipt of such a request for an offer, the *insurer* shall have the right but not the duty to offer a *discovery period* with terms, conditions and premium as the *insurer* may reasonably decide.

No *discovery period* of any length is available in the event of this policy being cancelled due to the non payment of premium.

4.6 Regulatory Crisis Response

The insurer will pay as part of the *limit of liability* up to USD $75,000 (in addition to costs, fees and expenses covered under extension 4.4) for *regulatory crisis response costs* incurred through the *regulatory response team* in response to a *critical regulatory event* which does not fall within the definition of *claim*.

5. General Provisions

5.1 Representation

In granting cover to any one *insured*, the *insurer* has relied upon the material statements and particulars in the proposal together with its attachments and other information supplied. These statements, attachments and information are the basis of cover and shall be considered incorporated into and constituting part of this policy.

5.2 Single Policy

This policy is a single contract of insurance and if more than one *insured* is covered, this policy shall nevertheless be and remain a single contract of insurance for the benefit of the *insured* as joint *insured* and accordingly, without limitation:

(i) the *policyholder* shall act for itself and for all *insureds* for all purposes under this policy, including but not limited to the giving and receiving of notice, the giving of notice of a *claim* or *loss*, the payment of premiums that may become due and the receipt and acceptance of any endorsements issued to form a part of this policy and the exercising or declining to exercise any right to a *discovery period*;

(ii) payment of any *loss* under this policy to the *policyholder* shall fully release the *insurer* with respect to such *loss* (but only where such payment is full and final in respect of the relevant *loss* and not partial only), however, in the event that any *loss* sustained by any United Kingdom Pension Fund is covered under this policy, payment shall be made by the *insurer* to the trustees of such funds for and on behalf of the beneficiaries;

(iii) if the *policyholder* is more than one entity and any such entity ceases for any reason to be covered under this policy, then the remaining entities shall be considered to be the *policyholder* for all purposes under this policy;

(iv) the *insurer's* liability for *loss* sustained by any or all of the *insured* shall not exceed the amount for which the *insurer* would be liable had all such *loss* been sustained by any one of the *insured*;

(v) in calculating *loss* covered under this policy, where another *insured* receives a benefit corresponding or relating to such *loss*, that benefit will be set off against the value of such *loss*;

(vi) *loss* sustained by any nominee organised by the *insured entity* for the purpose of handling certain of its business transactions shall be deemed to be *loss* sustained by the *insured entity*.

5.3 **Changes in Risk During Policy Period**

(i) If during the *policy period* a *transaction* takes place with respect to any *insured entity* then the cover provided under this policy with respect to such *insured entity* and any *subsidiary* is amended to apply only to *wrongful act(s)*, committed prior to the effective date of the *transaction*.

The *policyholder* shall give the *insurer* written notice of the *transaction* as soon as practicable, but not later than thirty (30) days after the effective date of the *transaction*.

(ii) If during the *policy period*, the *insured entity* decides to make an initial offering of its own *securities* in any jurisdiction, whether its *securities* are already traded or not, by any means, public or private, then as soon as the information is publicly available, the *insured entity* shall provide the *insurer* with any prospectus or offering statement for the *insurer's* evaluation and assessment of the increased exposure of the *insured* and the *insurer* shall be entitled to amend the terms and conditions of this policy as the *insurer* may reasonably require and/or charge a reasonable additional premium reflecting the increase in exposure.

At the *policyholder's* request, prior to the public announcement of such *securities* offering, the *insurer* shall evaluate and assess the increased exposure and advise all necessary amendments to the terms and conditions of this policy that the *insurer* may reasonably require and any additional premium that may reasonably be required by the *insurer*. In this event and at the request of the *policyholder*, the *insurer* will enter into a confidentiality agreement with the *policyholder* relating to any information provided regarding the proposed *securities* offering.

(iii) This policy shall cease in respect of any *employee* of the *insured entity*, as soon as any *director* or *officer* of the *insured entity* not in collusion with such *employee* shall first learn of any wrongdoing on the part of the *employee* whenever committed, but without prejudice to the loss of *property* in transit in the custody of such person at the time the *director* or *officer* of the *insured entity* shall so learn of such wrongdoing.

5.4 **Cancellation**

This policy may be cancelled as follows:

(i) by the *insurer* for non payment of premium; or

(ii) by mutual agreement between the *insurer* and the *policyholder*, provided that, in the event of such cancellation, the earned premium shall be computed pro rata and any unearned premium shall be refunded forthwith to the *policyholder* provided that the *policyholder* has provided to the *insurer* a written statement which releases the *insurer* from all liability under the Policy.

5.5 **Limit of Liability**

The *limit of liability* is the total aggregate limit of the *insurer's* liability for all *losses* arising out of all *claims* made against all *insureds* under this policy combined, reported or *discovered* during the *policy period*. The limit of liability for the *discovery period* shall be part of and not in addition to the total aggregate limit of liability for the *policy period*.

A *claim* which is made, or a *loss* which is *discovered* subsequent to the *policy period* or the *discovery period* which pursuant to General Provision 5.7 is considered made during the *policy period* or the *discovery period* shall also be subject to the same total aggregate *limit of liability*.

Defence costs are part of *loss* and subject to the total aggregate *limit of liability* for *loss*.

The *limit of liability* of this policy is the total sum payable by New Hampshire Insurance Company and Landmark Insurance Company Limited combined. Accordingly any sum paid by either New Hampshire Insurance Company or Landmark Insurance Company Limited under this Policy shall erode the *limit of liability* of this policy. In no circumstances shall the liability of New Hampshire Insurance Company Limited and Landmark Insurance Company Limited combined exceed the limit of liability specified in the policy Schedule.

5.6 **Retention**

The *insurer* shall only be liable for the amount of *loss* that is in excess of the *retention*. The *retention* amount shall be borne by the *insured* and shall remain uninsured. A single *retention* amount shall apply to each *single claim*.

5.7 **How to Give Notice and Report a Claim/Loss**

The *insured* shall give written notice to the *insurer* of:

(i) any *claim* made against the *insured*; or

(ii) any *circumstance*,

within sixty (60) days after the *claim* or *circumstance* is brought to the attention of the *policyholder's* General Counsel or Chief Financial OfficerHead of Group Insurance or Head of Group Risk (or a designated alternate) provided always that, in the reasonable opinion of the *policyholder's* General CounselHead of Group Insurance (or designated alternate) having regard to the facts and information then available to him, the value of such *claim* or *circumstance* is reasonably likely to exceed 50% of the *retention*.

Notwithstanding the foregoing, it is agreed that the *insured* will notify all other *claims* or *circumstances* brought to the attention of the *policyholder's* HGeneral Counselead of Group Insurance (or a designated alternate) to the *insurer* by bordereau (with brief details of their nature and estimated amount) prior to the end of the *policy period*. The insurers agree that all *claims* or *circumstances* notified to the insurers under the terms of this policy shall attach to the *policy period*.

If, during the *policy period* or the *discovery period*, written notice of a *claim* or *circumstance* is given to the *insurer* pursuant to the terms and conditions of this policy, then any *claim* arising out of, based upon or attributable to the facts of or to a *wrongful act* alleged in that *claim* or *circumstance*, shall be considered made against the *insured* and reported to the *insurer* at the time the first notice was given.

All notifications of *claims* and *circumstances* under this policy must be in writing and properly addressed to the *insurer* at the following address:

IRU Claims Department
American International Underwriters
175 Water Street,
New York,
NY, 10038

If posted the date of posting shall constitute the date that notice was given, and proof of posting shall be sufficient proof of notice.

5.8 **Advancement of Costs**

Except to the extent that the *insurer* has denied indemnity, and subject to the *limit of liability* and *retention*, the *insurer* shall advance *defence costs* incurred to the *insured* in respect of any *claim* prior to the final resolution of the *claim*. Such payments must be repaid to the *insurer* by the *insured*, severally according to their respective interests, in the event and to the extent that the *claim* is ultimately determined not to be covered, or resolved on terms or in a manner which exclude it from coverage under this policy.

5.9 **How Defence Will Be Conducted**

The *insurer* does not assume any duty to defend any *claim*. The *insured* shall defend and contest any *claim* made against them, however the *insurer* is entitled to *associate*

effectively with the *insured* in defence of any *claim* that appears likely to involve them including but not limited to being entitled to *associate effectively* with the negotiation of any settlement.

In relation to any *claim* for which cover is sought under this policy which is (or is reasonably likely to be) valued at USD $500,000, the *insured* shall not, without the prior written consent of the *insurer*, admit liability or assume any liability for or settle any *claim* or incur any *defence costs*. Only those settlements and *defence costs* which have been consented to by the *insurer* in writing (if such consent was necessary) shall be recoverable as *loss* under this policy. The *insurer's* consent shall not be unreasonably withheld provided that the *insurer* is entitled to *associate effectively* in the defence and negotiation of any settlement of any *claim* in order to reach a decision as to reasonableness.

The *insurer* shall have the right to make investigation, conduct negotiations and, with the written consent of the *insured*, settle any *claim*, on such terms and in such manner as the *insurer*, acting reasonably, deems expedient.

If the *insured* unreasonably refuses to consent to any settlement sought under this policy which is recommended by the *insurer*, acting reasonably, and acceptable to the claimant, the *insurer's* liability for all *loss* on account of that *claim* shall not exceed the amount for which the *claim* could have been settled if the *insurer's* recommendation had been consented to, plus *defence costs* incurred up to the date of the refusal.

5.10 **Choice of Counsel/Retained Solicitor**

Affixed as Appendix A hereto and made a part of this policy is a list of Panel Counsel Law firms ("Panel Counsel Firms") from which a selection of legal counsel may be made to conduct the defence of any *claim* made against an *insured* pursuant to the terms of this clause.

In the event the *insured* is defending a *claim* under this policy, then the *insured* shall select a Panel Counsel Firm or, with the consent of the *insurer* (such consent not to be unreasonably withheld or delayed), any other counsel to defend such *claim*. If, however, at any time thereafter a dispute arises between *insurer* and *insured* involving the defence of the claim, the *insurer* and the *insured* shall select a replacement defence counsel from the list of Panel Counsel Firms or, with the consent of the *insurer* (such consent not to be unreasonably withheld or delayed), any other counsel.

The selection of any counsel , shall be from the jurisdiction in which the *claim* is brought. In the event a *claim* is brought in a jurisdiction not included on the list of Panel Counsel Firms, a counsel shall be chosen from a jurisdiction which is the nearest geographic jurisdiction to either where the *claim* is maintained or where the corporate headquarters or state of formation of the *policyholder* is located. In such instance, however, the *insurer* shall, at the written request of the *policyholder*, assign a firm of counsel who is not a Panel Counsel Firm of the *insurer's* choice in the jurisdiction in which the *claim* is brought to function as "local counsel" on the *claim* to assist the Panel Counsel Firm which will function as "lead counsel" in conducting the defence of the *claim*.

With the express consent of the *insurer* (such consent not to be unreasonably withheld or delayed), an *insured* may select a counsel different from that selected by other *insured* defendants if such selection is required due to an actual conflict of interest or is otherwise reasonably justifiable.

The list of Panel Counsel Firms may be amended from time to time by the *insurer*. However, no change shall be made to the specific list attached to this policy during the *policy period* without the prior written consent of the *policyholder*, such consent not to be unreasonably withheld or delayed.

5.11 **Alternative Dispute Resolution Process**

It is hereby understood and agreed that all disputes or differences which may arise under or in connection with this policy, whether arising before or after termination of this policy, including any determination of the amount of *loss*, shall be submitted to the alternative dispute resolution ("**ADR**") process set forth in this clause.

Either the *insurer* or an *insured* may elect the type of **ADR** process discussed below; provided, however, that such *insured* shall have the right to reject the *insurer's* choice of the type of **ADR** process at any time prior to its commencement, in which case such *insured's* choice of **ADR** process shall control.

The *insurer* and each and every *insured* agrees that there shall be two choices of **ADR** process: (1) non-binding mediation administered by the American Arbitration Association, in which the *insurer* and any such *insured* shall try in good faith to settle the dispute by mediation under or in accordance with its then-prevailing Commercial Mediation Rules; or (2) arbitration submitted to the American Arbitration Association in accordance with its then-prevailing Commercial Arbitration Rules, in which the arbitration panel shall consist of three disinterested individuals. In either mediation or arbitration, the mediator or arbitrators shall have knowledge of the legal, corporate management, or insurance issues relevant to the matters in dispute. The mediator or arbitrators shall also give due consideration to the general principles of the law of the state where the *policyholder* is incorporated in the construction or interpretation of the provisions of this policy. In the event of arbitration, the decision of the arbitrators shall be final and binding and provided to both parties, and the arbitrators' award shall not include attorneys fees or other costs. In the event of mediation, either party shall have the right to commence a judicial proceeding; provided, however, that no such judicial proceeding shall be commenced until the mediation shall have been terminated and at least 120 days shall have elapsed from the date of the termination of the mediation. In all events, each party shall share equally the expenses of the **ADR** process.

Either choice of **ADR** process may be commenced in New York, New York; Atlanta, Georgia; Chicago, Illinois or Denver. The *policyholder* shall act on behalf of each and every *insured* in deciding to proceed with an **ADR** process under this clause.

5.12 **Allocation**

(i) In the event that any *claim* involves both covered matters and matters not covered under this policy, a fair and proper allocation of any *loss* shall be

made between the *insured* and the *insurer* taking into account the relative legal exposures attributable to covered matters and matters not covered under this policy.

(ii) In the event that any exclusion in this policy applies to any part of a *claim*, the *insured* shall not be prevented from seeking recovery under this policy for any other part of the *claim* which is not so excluded.

(iii) In the event that a determination as to the amount of *defence costs* to be advanced to the *insured* under this policy cannot be agreed to, then the *insurer* shall advance *defence costs* which the *insurer*, acting reasonably, states to be fair and proper until a different amount shall be agreed upon. In the event that a different amount cannot be agreed upon, the *insured* and the *insurer* shall resolve such dispute by reference to the provisions of General Provision 5.11 of this policy.

5.13 **Subrogation**

In the event of payment under this policy in respect of a *claim*, the *insurer* shall be subrogated to the extent of such payment to all of the *insured's* rights of recovery in respect of payment and shall be entitled to pursue and enforce such rights in the name of the *insured*. The *insured* shall provide the *insurer* with all reasonable assistance and co-operation including the execution of all papers required and shall do everything that may be necessary to secure any rights including the execution of any documents necessary to enable the *insurer* effectively to bring suit in the name of the *insured*. The *insured* shall do nothing to prejudice those rights. In no event however, shall the *insurer* exercise its rights of subrogation against an *individual insured* under this policy unless such *individual insured* has:

(i) gained any profit to which such *employee* was not legally entitled; or

(ii) deliberately committed any wrongful professional act; or

(iii) committed or attempted to commit, aided, abetted, counselled, procured, incited, participated in or connived at, any criminal, dishonest, fraudulent or malicious act; or

(iv) knowingly or wilfully violated any *law* or *regulation*,

provided that the insurer shall only be able to exercise such rights of subrogation if it is established through a judgment, or any other final adjudication adverse to the *individual insured*, or any admission by an *insured entity* that the relevant conduct did in fact occur.

In the event that the *insurer* makes a payment to the *insured* in respect of a *claim* and subsequently reclaims such payment, the insurer shall take all steps necessary to subrogate to the *insured* any rights which have been subrogated to the *insurer* pursuant to this clause.

5.14 **Other Insurance**

Unless otherwise required by law, any insurance as is provided under this policy shall apply only as specifically excess over any other valid and collectible insurance or indemnity available to the *insured*. This policy shall provide insurance in respect of the amount by which *loss* exceeds such other insurance or indemnity available to the *insured* or the *retention* of this policy, whichever is the greater.

5.15 **Recoveries**

Any amount recovered (except from insurance, reinsurance, sureties or indemnity) following a paid *loss* under this policy, will be allocated in the following order of reimbursement:

(a) the costs and expenses reasonably and necessarily incurred in relation to the recovery to be allocated pro rata between the *insured* and the *insurer* on the basis they have been paid;

(b) any *loss* in excess of the limit of liability specified in Item 3 of the Schedule;

(c) the *loss* paid by this policy; and

(d) the *retention*.

5.16 **Wrongdoing**

For the purposes of determining the applicability of this policy (and, in particular, for the purposes of determining the applicability of the Exclusions contained in clause 3 of this policy), any wrongdoing or any other act carried out by any *insured* shall not be imputed to any other *insured*, except to the extent that an *insured* is acting in collusion with another *insured*.

5.17 **Assignment**

This policy and any rights hereunder cannot be assigned by either party without written consent of the other.

5.18 **Governing Law**

Any interpretation of this policy relating to its construction, validity or operation shall be made in accordance with the laws of the State of New York and in accordance with the English Text as it appears in this policy.

5.19 **Titles and Italics**

Titles are included for convenience only and do not affect interpretation of this policy. Words and expressions in the singular include the plural and vice versa. Words in italics have special meaning and are defined. Words that are not specifically defined in this policy have the meaning normally attributed to them.

5.20 **Fraudulent Claims**

If the *policyholder* shall give notice of any *loss* knowing the same to be false or fraudulent, as regards amount or otherwise, such *loss* shall be excluded from this

policy and the *insurer* reserves the right to void this policy in its entirety, and in such case, all *losses* shall be forfeited.

5.21 **Contracts (Rights of Third Parties) Act 1999**

Nothing in this policy is intended to confer a directly enforceable benefit to any party other than the *insured*, whether pursuant to Section 1(a) and Section 1(2) of the Contracts (Rights of Third Parties) Act 1999 (UK) or the equivalent legislation in any applicable jurisdiction.

5.22 **Legislation**

References in this policy to any statutory provisions shall be deemed also to refer to any statutory modifications or re-enactments thereof or any statutory instrument, order or regulation made thereunder.

5.23 **Premium Payment Warranty**

The premium must be paid to and received by insurers on or before 23.59 hrs on May 30th 2007 (the ***"payment due date")***

If the premium due under this policy has not been so paid, the *insurer* shall have the right to cancel this policy by notifying the *insured* via the broker in writing. In the event of cancellation, premium is due to the *insurer* on a pro rata basis for the period that the *insurer* is on risk but the full policy premium shall be payable to the *insurer* in the event of a *claim, loss* or occurrence prior to the date of cancellation which gives rise to a liability under this policy.

It is agreed that the *insurer* shall give not less than 15 days prior notice of cancellation to the *insured* via the broker. If premium due is paid in full to the *insurer* before the notice period expires, notice of cancellation shall automatically be revoked. If not, the policy shall automatically terminate at the end of the notice period.

Unless otherwise agreed, the Leading Underwriter (and agreement parties if appropriate) are authorised to exercise rights under this clause on their own behalf and on behalf of all the insurers participating in this contract.

If any provision of this clause is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of this clause which will remain in full force and effect.

5.24 **Several Liability Notice**

The subscribing insurers' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing insurers are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

5.25 **Innocent Non-Disclosure**

In the event of the *insurer* being at any time entitled to avoid this policy ab initio by reason of the inaccuracy or omission of any material information given or which ought to have been given by the *insured*, the *insurer* may, at its election, instead of voiding this policy ab initio, give notice to the *insured* that it regards this policy as in full force and effect save that there shall be excluded ab initio from the indemnity afforded hereunder any *loss* which has arisen or which may arise and which is related to the circumstances which ought to have been disclosed but which were not disclosed to the *insurer*. This policy shall then continue in full force and effect but shall be deemed to exclude, as if the policy has been specifically endorsed ab initio, the particular or possible *loss* referred to in the notice given to the *insured*.

5.26 **Mitigation**

The *insurer* agrees to indemnify the *insured* for any sum paid by that *insured* in preventing, mitigating or compromising any loss or damage incurred by a third party as a result of any *wrongful act* which *claim*, had it been made during the *policy period* or *discovery period*, would have been covered by this policy, provided that:

(i) the *insured* have taken all reasonable action to mitigate such loss or damage; and

(ii) the *wrongful act* which may result or have resulted in such a payment are reported to the *insurer* within 5 days of the *wrongful act* being brought to the attention of the *policyholder's* Head of Group Insurance or Head of Group Risk (or a designated alternate); and

(iii) where any action taken by the *insured* in respect of any loss or damage resulting from a *wrongful act* which the *insured* reasonably believes will exceed USD $500,000 such action shall be taken only in accordance with the rules of the Financial Services Authority or other regulatory authority; and

(iv) the liability of the *insurer* shall not exceed that which would have existed if such claim had been pursued against the *insured*.

New Hampshire Insurance Company and Landmark Insurance Company Limited are member companies of American International Group, Inc. New Hampshire Insurance Company and Landmark Insurance Company Limited are authorised and regulated by the Financial Services Authority and are members of the Association of British Insurers and the Financial Ombudsman Service. AIG Europe (UK) Ltd. acts as agent for both New Hampshire Insurance Company and Landmark Insurance Company Limited.

ENDORSEMENT No. 1

This endorsement, effective 30 April, 2007 attaches to and forms part of Policy Number 64638 issued to Man Financial, Inc by New Hampshire Insurance Company and Landmark Insurance Company Limited

ADDITIONAL COMPANIES ENDORSEMENT

In consideration of the premium charged for the policy to which this endorsement is attached, it is understood and agreed that the following companies shall be specifically covered under said policy, subject to the special terms and conditions noted hereunder:

Man Financial Holdings Canada Ltd (aka Man Financial Canada Co)
Man Financial Canada Co
Man Financial SA
Man Financial Futures (HK) Ltd
Man Financial Holdings (HK) Ltd
Man Financial Securities (HK) Ltd
Man Financial Foreign Exchange (HK) Ltd
Man Financial Middle East DMCC
Polaris Man Financial Futures Co Ltd
Man Financial Japan Limited
Man Financial (S) Pte Ltd
Man Financial Ltd
Man Securities Ltd
E D & F Man Group Ltd
GNI Ltd
E D & F Man Paris Consultants Ltd
Man Financial Overseas Ltd
Man Financial Holdings Ltd
MF Global Ltd (formerly Botolph Holdings Ltd)
Botolph Nominees Ltd
E D & F Man Nominees Ltd
Clachan Nominees Ltd
GNI SA (in liquidation)
Man Group USA Inc
Heinbold Asset Management Inc
Man Capital LLC
Man FX Clear LLC
Man Financial Liquidity Management LLC
Man Trad LLC
Man International Inc
Man Financial Inc
Man Securities Inc
GNI Securities Inc
Exchange Place Holdings LP
Man Group Finance Inc
E D & F Man Finance Inc

US Futures Exchange LLC.

It is being understood and agreed that the *insurer* shall not be liable to make any payment for *loss* for *civil liability* and *defence costs* in connection with any *claim* or *claims* made against the *insured* involving the aforementioned entity in respect of any *wrongful act* committed or omitted by them prior to the 27th July 2006

Man Financial Australia Ltd
It is being understood and agreed that the *insurer* shall not be liable to make any payment for *loss* for *civil liability* and *defence costs* in connection with any *claim* or *claims* made against the *insured* involving the aforementioned entity in respect of any *wrongful act* committed or omitted by them prior to the 1st April, 2001.

GNI Holdings Ltd.
It is being understood and agreed that the *insurer* shall not be liable to make any payment for *loss* for *civil liability* and *defence costs* in connection with any *claim* or *claims* made against the *insured* involving the aforementioned entity (and their subsidiary companies) in respect of any *wrongful act* committed or omitted by them prior to the 6th November, 2002.

ENDORSEMENT NO 2

This endorsement with effect from 30th April, 2007 attaches to and forms part of policy number 64638 issued to Man Financial, Inc and all subsidiary companies by New Hampshire Insurance Company and Landmark Insurance Company Limited.

SPECIFIC MATTERS ENDORSEMENT

It is hereby understood and agreed as follows:

1. The *insurer* shall not be liable to make any payment in connection with:

   (i) any of the *claims*, notices, events, proceedings, investigations or actions referred to in any of the *listed items*;

   (ii) the investigation, prosecution, adjudication, settlement, disposition, resolution or defence of: (a) any *listed item*; or (b) any *claim(s)* arising from any *listed item*.

2. For the purposes of this Endorsement "***listed items***" means the following:

	Policy Year	Discovery Date	Name
(i)	2001/02	August 2001	Caixa/Borell
(ii)	2002/03	October 2002	Parabola/Tangent
(iii)	2003/04	October 2003	CCPM
(iv)	2003/04	October 2004	Man AHL Diversified
(v)	2004/05	December 2004	Man Glenwood Fund EU
(vi)	2004/05	March 2005	Phoenix
(vii)	2004/05	June 2005	AMF (French Regulator)
(viii)	2004/05	July 2005	Philadelphia Alternative Asset Management and the employment and activities of Thomas Gilmartin whilst employed by the *insured*.
(ix)	2006/07	April 2007	Gil Neihuas
(x)	2006/07	April 2007	Leaderguard
(xi)	2006/07	April 2007	IETE

Subject to all other policy terms and conditions.

ENDORSEMENT NO 3

This endorsement with effect from 30th April, 2007 attaches to and forms part of policy number 64638 issued to Man Financial, Inc and all subsidiary companies by New Hampshire Insurance Company and Landmark Insurance Company Limited.

OFAC ENDORSEMENT

In consideration of the premium charged, it is hereby understood and agreed that payment of loss under this policy shall only be made in full compliance with all United States of America economic or trade sanction law or regulation, including, but not limited to, sanction laws and regulations administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC").

APPENDIX A

PANEL COUNSEL FIRMS

Australia	Minter Ellison Phillips Fox Ebsworth & Ebsworth Blake Dawson Waldron
Bahrain	Al Mahmood & Zu'Bi Hassan Radhi & Associates Haya Rashed Al Khalifa Law Firm
Bermuda	Appleby Spurling Hunter Attride-Stirling & Woloniecki Conyers Dill & Pearman
British Virgin Islands	Appleby Spurling Hunter Conyers Dill & Pearman
Canada	Fasken Martineau Dumoulin LLP Dorsey & Whitney LLP Gowling Lafleur Henderson LLP
Cayman Islands	Appleby Spurling Hunter Walkers
England and Wales	Rosling King Legal First
France	Meyrier Fayout Lacoste Bouckaert Ormen Passemard Sportes Gide Loyrette Nouel De Pardieu Brocas Maffei & Leygonie
Guernsey	Collas Day Ozannes Ogier & Le Masurier
Hong Kong	Deacons Johnson Stokes & Master
Ireland	Mason Hayes & Curran McCann Fitzgerald A&L Goodbody

Japan	Mori Hamada & Matsumoto Nagashima Ohno & Tsunematsu Nishimura & Partners Asahi Koma Law Offices
Jersey	Bedell Cristin Ogier & Le Masurier Mourant Du Feu & Jeune
Luxembourg	Arendt & Medernach Elvinger, Hoss & Prussen Le Goueff Avocats
Netherlands	Houthoff Buruma Nautadutilh Van Doorne Boekel de Neree
New Zealand	Minter Ellison Rudd Watts Phillips Fox Bell Gully
Singapore	Allen & Gledhill Drew & Napier LLC
Switzerland	Prager Dreifuss Schellenberg Wittmer Bär & Karrer Homburger Lenz & Staehelin
Taiwan	Tsar & Tsai Formosa Transnational Lee And Li
United Arab Emirates	Afridi & Angell Al Tamimi & Company
USA	
Chicago	Cozen O'Connor
Chicago	Sidley Austin Brown & Wood LLP
Kansas	Foulston Siefkin LLP
Kansas	Shook, Hardy & Bacon LLP
Kansas	Shoghart Thomson & Kilroy
New York	Cozen O'Connor
New York	Lebouef, Lamb, Greene & Macrae LLP
New York	Katten Muchin Rosenman
New York	Herrick Feinstein

In Witness Whereof, we have caused this policy to be executed and attested, and if required by state laws, this policy shall not be valid unless countersigned by an authorized representative.

Elizabeth M. Mel
Secretary
New Hampshire Insurance Company

President
New Hampshire Insurance Company

U.S. SPECIALTY INSURANCE COMPANY
Houston, Texas

THIS IS A CLAIMS MADE EXCESS POLICY WHICH APPLIES ONLY TO CLAIMS FIRST MADE AGAINST THE INSUREDS DURING THE POLICY PERIOD. THE LIMITS OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED, AND MAY BE EXHAUSTED, BY THE PAYMENT OF DEFENSE EXPENSES.

DECLARATIONS

EXCESS INDEMNITY POLICY
(NEW YORK FORM)

POLICY NUMBER: 14-MGU-07-A14405 RENEWAL OF: N/A

ITEM 1. **NAMED CORPORATION:** MF Global, Ltd.
717 5th Avenue
New York, NY 10011

ITEM 2. **POLICY PERIOD:** (a) Inception Date: 4/30/2007
(b) Expiration Date: 4/30/2008
at 12:01 a.m. at the Principal Address stated in ITEM 1.

ITEM 3. **LIMIT OF LIABILITY** (inclusive of **Defense Expenses**): $15,000,000

ITEM 4. **SCHEDULE OF UNDERLYING INSURANCE**

	Insurer	Policy Number	Limit
Primary Policy	New Hampshire Insurance Company	64638	$15,000,000

ITEM 5. **PREMIUM:** $510,000.00

ITEM 6. **NOTICES REQUIRED TO BE GIVEN TO INSURER MUST BE ADDRESSED TO:**
HCC GLOBAL FINANCIAL PRODUCTS
P.O. Box 4018
Farmington, CT 06034
Attention: Claims Manager

ITEM 7. **ENDORSEMENTS ATTACHED AT ISSUANCE:**
NY9 NY10 NY11 NY12 NY13 994-936 994-937 994-999 80016

IN WITNESS WHEREOF, the Insurer has caused this Policy to be signed on the Declarations Page by its President, a Secretary and a duly authorized representative of the Insurer.

Michael L. Schell
Secretary

President

Authorized Representative

Date: September 4, 2007

USSIC-NY 993 (04/2002)

U.S. SPECIALTY INSURANCE COMPANY

Excess Indemnity Policy

HCC Global Financial Products

8 Forest Park Drive
P.O. Box 4018
Farmington, CT 06034

U.S. SPECIALTY INSURANCE COMPANY

EXCESS INDEMNITY POLICY

This is a claims made policy. Please read it carefully.

In consideration of the payment of the premium, and in reliance upon all statements made and information furnished to the Insurer and to the issuers of the **Underlying Insurance** and subject to the Declarations and the limitations, conditions, provisions, any endorsements to and all other terms of this Policy, the Insurer and the **Insureds** agree as follows:

I. INSURING AGREEMENT

The Insurer shall provide the **Insureds** with insurance excess of the **Underlying Insurance** scheduled in ITEM 4 of the Declarations. Except as specifically set forth in the terms, conditions or endorsements of this Policy, coverage hereunder shall apply in conformance with the terms, conditions, limitations and endorsements of the policy immediately underlying this Policy, except that coverage hereunder shall attach only after all **Underlying Insurance** has been exhausted by actual payment of claims or losses thereunder.

II. PRIMARY AND UNDERLYING INSURANCE

A. Maintenance of Underlying Insurance

All of the **Underlying Insurance** scheduled in ITEM 4 of the Declarations shall be maintained during the **Policy Period** in full effect except for any reduction of the limits of liability available under the **Underlying Insurance** solely by reason of actual payment of claims or losses thereunder. Subject at all times to Section II.B of this Policy, the Insurer shall not be liable under this policy earlier or to any greater extent than it would have been if the **Insureds** had complied with this condition.

B. Cancellation of Underlying Insurance

This Policy shall terminate immediately upon the cancellation of any one or more of the policies scheduled in ITEM 4 of the Declarations, whether cancelled by the **Insureds** or the applicable insurer. Notice of cancellation or non-renewal of any such policies duly given by any of the applicable insurers shall serve as notice of the cancellation or non-renewal of this Policy by the Insurer.

C. Amendment of Underlying Insurance

No amendment to any **Underlying Insurance** during the **Policy Period** shall be effective in extending the coverage or limits of liability afforded by this Policy unless the Insurer so agrees in writing.

III. DEFINITIONS

A. **Insured** means any person or organization insured under the policy immediately underlying this Policy.

B. **Policy Period** means the period from the inception date to the expiration date set forth in ITEM 2 of the Declarations, or to any earlier cancellation date.

C. **Primary Policy** means the policy scheduled as such in ITEM 4 of the Declarations.

D. **Underlying Insurance** means all policies scheduled in ITEM 4 of the Declarations and any policies replacing them.

IV. LIMITS OF LIABILITY

A. The amount or amounts stated in ITEM 3 of the Declarations are the limits of the Insurer's liability and shall be the maximum amount(s) payable by the Insurer under this Policy. The limits of liability available under this Policy to pay damages or settlements shall be reduced, and may be exhausted, by the payment of defense expenses.

B. In the event of the reduction of the limits of liability of the **Underlying Insurance** solely as the result of actual payment of claims or losses thereunder by the applicable insurers, this Policy shall, subject to the Insurer's limits of liability and to the other terms, conditions and endorsements of this Policy, continue to apply to claims or losses as excess insurance over the amount of insurance remaining under such **Underlying Insurance**.

C. In the event of the exhaustion of all of the limits of liability of such **Underlying Insurance** solely as the result of actual payment of claims or losses thereunder, the remaining limits available under this Policy shall, subject to the Insurer's limits of liability and to the other terms, conditions and endorsements of this Policy, continue for subsequent claims or losses as primary insurance. Under such circumstances, any retention or deductible specified in the **Primary Policy** shall also apply to this Policy.

V. SETTLEMENT

The **Insureds** shall not admit liability for or settle any claim for any amount that would involve the coverage afforded by this Policy without the Insurer's prior written consent.

VI. CLAIM PARTICIPATION

The Insurer may, at its sole discretion, elect to participate in the investigation, settlement and/or defense of any claim against the **Insureds** even if the **Underlying Insurance** has not been exhausted.

VII. SUBROGATION AND RECOVERIES

A. In the event of any payment under this Policy, the Insurer shall be subrogated to all the **Insureds'** rights of recovery against any person or organization, and the **Insureds** shall execute and deliver all instruments and papers and do whatever else is necessary to secure such rights.

B. Any amount recovered after payment under this Policy shall be apportioned in the inverse order of payment to the extent of actual payment. The expenses of all such recovery proceedings shall be apportioned in the same ratio as the recoveries.

VIII. NOTICES

A. If the **Insureds** give any notice of any matter under the **Underlying Insurance**, the **Insureds** must also give the Insurer written notice of such matter in the same manner as required by the terms and conditions of the **Primary Policy**, except that such written notice must be sent to the Insurer at the address set forth in ITEM 6 of the Declarations.

B. The **Insureds** shall give the Insurer notice in writing as soon as practicable of:

1. the cancellation of any **Underlying Insurance**, or

2. any additional or return premiums charged or allowed in connection with any **Underlying Insurance**.

IX. POLICY TERMINATION

A. This Policy may be canceled by the **Insureds** at any time either by surrender of this Policy or by written notice stating when thereafter such cancellation is to be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice and this policy shall terminate at the date and hour specified in such notice.

B. The Insurer shall refund the unearned premium computed at the customary short rate if the Policy is canceled by the **Insureds**.

X. CONFORMITY TO STATUTE

Any terms of this Policy which are in conflict with the terms of any applicable laws construing this Policy are hereby amended to conform to such laws.

XI. AUTHORIZATION AND NOTICES

The person or entity named in ITEM 1 of the Declarations shall be the sole agent, and shall act on behalf, of the **Insureds** with respect to all matters under this Policy, including but not limited to giving and receiving notices and other communication, effecting or accepting any endorsements to or notice of cancellation of this Policy, paying premium and receiving any return premiums.

XII. NO ALTERATIONS WITHOUT ENDORSEMENT

No change in or modification of this Policy shall be effective unless made by endorsement signed by an authorized employee of the Insurer or any of its agents relating to this Policy.

In witness whereof the Insurer has caused this Policy to be executed by its authorized officers, but this Policy will not be valid unless countersigned on the Declarations Page by a duly authorized representative of the Insurer.

Secretary

President

ENDORSEMENT NUMBER: 1

NEW YORK AMENDATORY ENDORSEMENT:
COMPLIANCE WITH NEW YORK INSURANCE LAW

To be attached to and made a part of Policy No. 14-MGU-07-A14405, issued to MF Global, Ltd. by U.S. Specialty Insurance Company.

In consideration of the premium charged, it is hereby understood and agreed that, notwithstanding anything in this Policy to the contrary, with respect to such insurance as is afforded by this Policy, the terms of this Policy as respects coverage for operations in the State of New York shall conform to the coverage requirements of the applicable insurance laws of the State of New York or the applicable regulations of the New York Insurance Department; provided, however, that the Insurer's limit of liability as stated in this Policy shall be excess of the limits of liability of any underlying insurance or self-insurance as stated in the Declarations or in any endorsement attached hereto.

All other terms, conditions and limitations of this Policy will remain unchanged.

Complete the following only when this endorsement is not prepared with the policy or is not to be effective with the policy.

Effective Date of this endorsement:

By: _____
Attorney-in-Fact

ENDORSEMENT NUMBER: 2

NEW YORK AMENDATORY ENDORSEMENT: NOTICES

To be attached to and made a part of Policy No. 14-MGU-07-A14405, issued to MF Global, Ltd. by U.S. Specialty Insurance Company.

In consideration of the premium charged, Section VIII. NOTICES is amended to read as follows:

VIII. NOTICES

A. If the **Insureds** give any notice of any matter under the **Underlying Insurance**, the **Insureds** must also give the Insurer written notice of such matter in the same manner as required by the terms and conditions of the **Primary Policy**, except that such written notice must be sent to the Insurer at the address set forth in ITEM 6 of the Declarations.

B. Notice of any matter, whether by or on behalf of any person or entity entitled to coverage under this Policy or by or on behalf of any claimant against any such person or entity, will be deemed written notice to the Insurer if given to any licensed agent of the Insurer in this state, with particulars sufficient to identify the person or entity entitled to coverage.

C. Failure by any person or entity entitled to coverage under this Policy to give any notice required to be given within any prescribed time will not invalidate any coverage that would otherwise have been available if it is shown that (a) it was not reasonably possible to give such notice within the prescribed time and (b) notice was given as soon as reasonably possible. Notice given during any applicable Discovery Period will be deemed notice during the **Policy Period**.

D. The **Insureds** shall give the Insurer notice in writing as soon as practicable of:

1. the cancellation of any **Underlying Insurance**, or

2. any additional or return premiums charged or allowed in connection with any **Underlying Insurance**.

All other terms, conditions and limitations of this Policy will remain unchanged.

Complete the following only when this endorsement is not prepared with the policy or is not to be effective with the policy.

Effective Date of this endorsement:

By: _____
Attorney-in-Fact

ENDORSEMENT NUMBER: 3

NEW YORK AMENDATORY ENDORSEMENT:
REGULATION 121 – DECLARATIONS PAGE SUPPLEMENT

To be attached to and made a part of Policy No. 14-MGU-07-A14405, issued to MF Global, Ltd. by U.S. Specialty Insurance Company.

In consideration of the premium charged:

(1) This is a "claims-made" policy which means, generally, that coverage applies under this Policy for only those claims first made against the **Insured** during the **Policy Period**.

(2) This Policy provides no coverage for claims arising out of incidents, occurrences or alleged wrongful acts which took place prior to the retroactive date, if any, stated in the Policy.

(3) This Policy covers only claims actually made against the **Insured** while the Policy remains in effect and all coverage under the Policy ceases upon the termination of the Policy, except for any automatic discovery period coverage that may be available pursuant to the provisions of the **Underlying Insurance**, unless the **Insured** purchases additional discovery period coverage available pursuant to the provisions of the **Underlying Insurance**.

(4) During the first several years of being covered under a "claims-made" policy, claims-made premium rates are comparatively lower than rates on other types of policies. You can expect substantial annual premium increases, independent of overall rate level increases, until the claims-made relationship reaches maturity.

All other terms, conditions and limitations of this Policy will remain unchanged.

Complete the following only when this endorsement is not prepared with the policy or is not to be effective with the policy.

Effective Date of this endorsement:

By: _____
Attorney-in-Fact

ENDORSEMENT NUMBER: 4

NEW YORK AMENDATORY ENDORSEMENT:
REGULATION 121 – APPLICATION SUPPLEMENT

To be attached to and made a part of Policy No. 14-MGU-07-A14405, issued to MF Global, Ltd. by U.S. Specialty Insurance Company.

In consideration of the premium charged:

(1) This is a "claims-made" policy which means, generally, that coverage applies under this Policy for only those claims first made against the **Insured** during the **Policy Period**.

(2) This Policy provides no coverage for claims arising out of incidents, occurrences or alleged wrongful acts which took place prior to the retroactive date, if any, stated in the Policy.

(3) This Policy covers only claims actually made against the **Insured** while the Policy remains in effect and all coverage under the Policy ceases upon the termination of the Policy, except for any automatic discovery period coverage that may be available pursuant to the provisions of the **Underlying Insurance**, unless the **Insured** purchases additional discovery period coverage available pursuant to the provisions of the **Underlying Insurance**.

All other terms, conditions and limitations of this Policy will remain unchanged.

Complete the following only when this endorsement is not prepared with the policy or is not to be effective with the policy.

Effective Date of this endorsement:

By: _____
Attorney-in-Fact

ENDORSEMENT NUMBER: 5

NEW YORK AMENDATORY ENDORSEMENT:
REGULATION 162

To be attached to and made a part of Policy No. 14-MGU-07-A14405, issued to MF Global, Ltd. by U.S. Specialty Insurance Company.

In consideration of the premium charged:

(1) To the extent this Policy provides coverage for Defense Expenses incurred defending a criminal proceeding, such coverage is limited to that permitted by Section 726 of the Business Corporation Law, Section 726 of the Not-for-Profit Corporation Law, and Section 7023 of the Banking Law, whichever is applicable.

(2) There is no coverage under this Policy for legal services insurance with respect to any claim that is an administrative proceeding or seeks injunctive or other non-pecuniary relief if such claim:

(a) involves entitlement to non-employment related benefits, provided directly or indirectly, from any government, governmental agency or political subdivision pursuant to an entitlement program; or

(b) is initiated or instituted by a large commercial insured, as defined in Section 71.1 of Department Regulation No. 107.

(3) No more than twenty-five percent (25%) of this Policy's Limit of Liability may be reduced by the payment of loss constituting legal services insurance.

All other terms, conditions and limitations of this Policy will remain unchanged.

Complete the following only when this endorsement is not prepared with the policy or is not to be effective with the policy.

Effective Date of this endorsement:

By: _____
Attorney-in-Fact

ENDORSEMENT NUMBER: 6

DELETE SECTION IX. POLICY TERMINATION

To be attached to and made a part of Policy No. 14-MGU-07-A14405, issued to MF Global, Ltd. by U.S. Specialty Insurance Company.

In consideration of the premium charged, it is agreed that Section IX of the Policy is deleted in its entirety.

All other terms, conditions and limitations of this Policy will remain unchanged.

Complete the following only when this endorsement is not prepared with the Policy or is not to be effective with the Policy.

Effective date of this endorsement:

By:_____
Attorney-in-Fact

ENDORSEMENT NUMBER: 7

RECOGNITION OF DEPLETION OF UNDERLYING LIMITS
(SUB-LIMIT IN UNDERLYING LIMITS)

To be attached to and made a part of Policy No. 14-MGU-07-A14405, issued to MF Global, Ltd. by U.S. Specialty Insurance Company.

In consideration of the premium charged, it is agreed that:

(1) If any limit of liability of the **Underlying Insurance** is subject to a sub-limit of liability, there shall be no coverage under this Policy for any claim that is subject to such sub-limit.

(2) Notwithstanding the foregoing, the limits of liability of the **Underlying Insurance** shall be deemed to have been reduced, depleted or exhausted, as the case may be, by actual payment of claims or losses as to which the **Underlying Insurance** afford coverage, including without limitation any claims or losses subject to a sub-limit of liability.

All other terms, conditions and limitations of this Policy will remain unchanged.

Complete the following only when this endorsement is not prepared with the policy or is not to be effective with the policy.

Effective Date of this endorsement:

By: _____
Attorney-in-Fact

ENDORSEMENT NUMBER: 8

TREATMENT OF INSUREDS' PAYMENTS AS REDUCING OR EXHAUSTING UNDERLYING LIMIT

To be attached to and made a part of Policy No. 14-MGU-07-A14405, issued to MF Global, Ltd. by U.S. Specialty Insurance Company.

In consideration of the premium charged, and notwithstanding anything in the Policy to the contrary, it is agreed that the **Insureds'** actual payment of covered loss under a policy of **Underlying Insurance** will be deemed to reduce or exhaust (as the case may be) the limit of liability of such policy of **Underlying Insurance** to the extent of such payment, but only if the **Insureds**:

(i) promptly notify the Insurer that the **Insureds** intend to make such payment; and

(ii) obtain the Insurer's written consent before making such payment (which consent will not be unreasonably withheld).

In no event, however, shall such payment by the **Insureds** be deemed to waive any term, condition or limitation of this Policy (except as expressly provided herein) or any term, condition or limitation of any policy of **Underlying Insurance**.

All other terms, conditions and limitations of this Policy will remain unchanged.

Complete the following only when this endorsement is not prepared with the Policy or is not to be effective with the Policy.

Effective date of this endorsement:

By:_____
Attorney-in-Fact

ENDORSEMENT NUMBER: 9

POLICYHOLDER DISCLOSURE – TERRORISM PREMIUM NOTICE

To be attached to and made a part of Policy No. 14-MGU-07-A14405, issued to MF Global, Ltd. by U.S. Specialty Insurance Company.

Your Policy contains coverage for certain losses caused by terrorism. We are required to notify you of the portion of the premium, if any, attributable to the coverage for terrorist acts certified under the Terrorism Risk Insurance Act (TRIA) of 2002, as extended on December 22, 2005. TRIA also requires us to provide disclosure of federal participation in payment of terrorism losses resulting from an "act of terrorism" as defined by Section 102(1) of TRIA.

Section 102(1) of TRIA defines the term "act of terrorism" as any act that is certified by the Secretary of the Treasury of the United States – in concurrence with the Secretary of State of the United States and the Attorney General of the United States – to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of an air carrier or vessel or the premises of a United States mission; and to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

Please be advised that the actual coverage provided by your Policy for acts of terrorism, as is true for all coverages, is limited by the terms, conditions, exclusions, limits and other provisions of your Policy, any endorsements to the Policy and generally applicable rules of law.

YOU SHOULD KNOW THAT, WHERE COVERAGE IS PROVIDED BY THIS POLICY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM, SUCH LOSSES MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. UNDER THIS FORMULA, THE UNITED STATES GOVERNMENT GENERALLY PAYS 90% (85% COMMENCING IN 2007) OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURANCE COMPANY PROVIDING THE COVERAGE. THE PREMIUM CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS COVERED BY THE FEDERAL GOVERNMENT UNDER TRIA.

The amount of your premium that is attributable to coverage for terrorist acts certified under TRIA is $0 .

All other terms, conditions and limitations of this Policy will remain unchanged.

Complete the following only when this endorsement is not prepared with the Policy or is not to be effective with the Policy.

Effective date of this endorsement:

By:_____
Attorney-in-Fact

ENDORSEMENT NUMBER: 10

AMEND DECLARATIONS ENDORSEMENT

To be attached to and made a part of Policy No. 14-MGU-07-A14405, issued to MF Global, Ltd. by U.S. Specialty Insurance Company.

In consideration of an additional premium of $N/A, those ITEMS from the Declarations marked with an X below are amended as follows:

X ITEM 1. **INSURED**

From: MF Global, Ltd.
717 5th Avenue
New York, NY 10011

To: MF Global, Ltd.
Clarendon House
2 Church Street
Hamilton, HM 11
Bermuda

___ ITEM 2. **POLICY PERIOD**

From: (a) Inception Date:
(b) Expiration Date:
at 12:01 a.m. at the Principal Address stated in ITEM 1.

To: (a) Inception Date:
(b) Expiration Date:
at 12:01 a.m. at the Principal Address stated in ITEM 1.

___ ITEM 3. **LIMIT OF LIABILITY (INCLUSIVE OF DEFENSE EXPENSES)**

From: $

To: $

___ ITEM 4. **SCHEDULE OF UNDERLYING INSURANCE**

From:

	Insurer	Policy Number	Limit
Primary Policy			
1st Excess			
2nd Excess			
3rd Excess			

To:

	Insurer	Policy Number	Limit
Primary Policy			
1st Excess			
2nd Excess			
3rd Excess			

___ ITEM 7. **ENDORSEMENTS ATTACHED AT ISSUANCE**

From:

To:

All other terms, conditions and limitations of this Policy will remain unchanged.

Complete the following only when this endorsement is not prepared with the Policy or is not to be effective with the Policy.

Effective date of this endorsement: 7/20/2007

By:_____
Attorney-in-Fact

ENDORSEMENT NUMBER: 11

POLICY PERIOD EXTENSION ENDORSEMENT

To be attached to and made a part of Policy No. 14-MGU-07-A14405, issued to MF Global, Ltd. by U.S. Specialty Insurance Company.

In consideration of an additional premium of $43,350.00, it is agreed that subsection (b) of ITEM 2 **Policy Period** of the Declarations is amended to read in its entirety as follows:

(b) Expiration Date: May 31, 2008

All other terms, conditions and limitations of this Policy will remain unchanged.

Complete the following only when this endorsement is not prepared with the Policy or is not to be effective with the Policy.

Effective date of this endorsement: 4/30/2008

By:_____
Attorney-in-Fact

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re: MF GLOBAL HOLDINGS LTD., et al., Debtors.	Chapter 11 Case No. 11-15059 (MG) (Jointly Administered)
In re: MF GLOBAL INC., Debtor.	Case No. 11-2790 (MG)

ORDER GRANTING MOTION OF U.S. SPECIALTY INSURANCE COMPANY FOR RELIEF FROM THE AUTOMATIC STAY, TO THE EXTENT APPLICABLE

Upon the motion of U.S. Specialty Insurance Company ("U.S. Specialty") (Docket No. ___),[1] for relief from the Automatic Stay, to the extent applicable, seeking authority to reimburse from Excess Policy No. 14-MGU-07-A14405 (the "Policy"), issued to MF Global Holdings, Ltd. for the 2007 to 2008 policy period, defense costs incurred by Joseph Saab, a former employee of the debtor, MF Global Inc., in connection with a lawsuit filed against him, and notice of the motion having been properly given, and having considered all objections or other responses to the motion (if any), and the Court having reviewed the motion pursuant to 11 U.S.C. §§362(d), 541(a) and 105(a), and Fed. R. Bankr. P. 4001(a) and 9014, and found good cause to enter the relief requested by the motion, now therefore, **IT IS HEREBY ORDERED**

1. To the extent applicable, the automatic stay imposed by 11 U.S.C. §362(a) in the respective proceedings is hereby modified solely to the extent necessary to allow U.S. Specialty to advance and/or make payments under the Policy for defense costs incurred by Joseph Saab in

[1] Capitalized terms not defined herein shall have the meaning ascribed to them in the Motion.

the lawsuit, *Bank of Montreal v. Optionable, Inc., et al.*, Case No. 09-CV-7557 (GBD) (S.D.N.Y.), subject to U.S. Specialty's determination that the lawsuit is potentially covered under the Policy and subject to a reservation of rights by U.S. Specialty or by any Insured under the Policy and applicable law.

2. Nothing herein shall constitute a finding by the Court that the proceeds of the Policy are or are not property of the debtors' estates, and the Court makes no finding as to the applicability of the automatic stay imposed by 11 U.S.C. §362(a) to the Policy proceeds.

3. U.S. Specialty shall provide written quarterly updates on the amount of defense costs advanced on behalf of Mr. Saab to the MFGI Trustee and MF Global Holdings Ltd., as the plan administrator under the confirmed plan in the Chapter 11 Cases (the "Plan Administrator"). U.S. Specialty shall include counsel for the MFGI Trustee in settlement discussions in connection with the litigation.

4. Nothing herein shall prejudice the current or future position of U.S. Specialty, the MFGI Trustee, the Plan Administrator or any Insured, and the parties reserve all rights, with respect to (1) the appropriateness of any obligation on U.S. Specialty or restriction on the operation of the Policy contemplated by this Order; or (2) the appropriateness of any other obligation on U.S. Specialty or restriction on the operation of the Policy. The parties also reserve their rights to seek to modify this order.

5. Any and all advancements or payments by U.S. Specialty shall reduce the Policy's limit of liability in a like amount to the extent permitted under the terms and conditions of the Policy, unless or until such amounts are repaid to U.S. Specialty.

6. Nothing in this Order shall constitute (1) a waiver, modification or limitation of U.S. Specialty's reservation of all rights, remedies and defenses under the Policy and otherwise; (2) a

waiver, modification or limitation of any of the terms or conditions of the Policy; or (3) a finding that such sums are due and owing, or in what amount, under the Policy. Similarly, nothing in this Order shall constitute a waiver, modification of limitation of any rights of the MFGI Trustee and the Plan Administrator, or any other insured under the Policy.

7. This Order is immediately valid and fully effected upon its entry and the 14 day stay pursuant to Fed. R. Bankr. Proc. 4001(a) is hereby waived.

8. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Date: New York, New York
November __, 2013

_____
HONORABLE MARTIN GLENN
United States Bankruptcy Judge