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

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In re : Chapter 11
MF GLOBAL HOLDINGS LTD., *et al.*, : Case No. 11-15059 (MG)
Debtors. : (Jointly Administered)
: :
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MOTION FOR INTERIM AND FINAL ORDERS UNDER 11 U.S.C. §§ 105, 363, 364, 503(b)(1), 553, AND 1108 AND FED. R. BANKR. P. 6003 (I) AUTHORIZING CONTINUED USE OF EXISTING (A) BANK ACCOUNTS, (B) CASH MANAGEMENT SYSTEM, AND (C) BUSINESS FORMS AND CHECKS; AND (II) AUTHORIZING THE CONTINUATION OF INTERCOMPANY TRANSACTIONS AMONG THE DEBTORS AND NON-DEBTOR AFFILIATES AND ACCORDING SUPERPRIORITY STATUS TO ALL POSTPETITION INTERCOMPANY CLAIMS

Louis J. Freeh (the “Trustee”),¹ the duly appointed chapter 11 trustee of debtors MF Global Holdings Ltd. (“Holdings Ltd.”) and MF Global Finance USA Inc. (together with Holdings Ltd., the “Initial Debtors”) and duly appointed chapter 11 trustee of debtors MF Global Capital LLC, MF Global FX Clear LLC and MF Global Market Services LLC (the “Additional

¹ The Trustee, to the best of his ability, as the prime fiduciary of the Prior Debtors and operator of the Prior Debtors’ businesses, and pursuant to 11 U.S.C. §§ 1106 and 1107 and the United States Department of Justice Chapter 11 Trustee Handbook, must protect and preserve the assets of the Prior Debtors. It is, therefore, his duty to act on behalf of the Current Debtor, as the fiduciary of its parent entity, to protect and preserve these assets. Moreover, the Current Debtor, by a motion simultaneously herewith, has sought to apply the *Order to Appoint a Chapter 11 Trustee* (Docket No. 156) in the Initial Debtors’ cases to the Current Debtor’s case.

Debtors” and together with the Initial Debtors, the “Prior Debtors”), submits this motion (the “Motion”), on behalf of the Prior Debtors and newly filed debtor MF Global Holdings USA Inc.² (“Holdings USA” or the “Current Debtor” and together with the Prior Debtors, the “Debtors”), for entry of an order pursuant to sections 105, 363, 364, 503(b)(1), 553, and 1108 of title 11 of the United States Code, as amended (the “Bankruptcy Code”), and Bankruptcy Rule 6003 (I) authorizing continued use of existing (a) bank accounts, (b) cash management system, and (c) business forms and checks; and (II) authorizing the continuation of intercompany transactions among the Debtors and non-debtor affiliates and according superpriority status to all postpetition intercompany claims. The Motion supplements the motions previously filed by the Initial Debtors (Docket No. 7) (the “Initial Cash Management Motion”), and by the Additional Debtors (Docket No. 294, the “Round Two Cash Management Motion”), by requesting similar relief for the Current Debtor.

In support of this Motion, the Trustee relies upon and incorporates by reference the *Second Declaration of Laurie R. Ferber Pursuant to Local Bankruptcy Rule 1007-2 and in Support of Chapter 11 Petitions and Various First-Day Motions* (the “Second Ferber Declaration”) filed concurrently herewith. In further support of this Motion, the Trustee represents as follows:

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and this Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

² MF Global Holdings USA Inc. (federal taxpayer identification number 2847) has filed a petition for relief concurrently herewith and has requested joint administration with MF Global Holdings Ltd. (11-15059).

2. The statutory predicates for the relief requested herein are Bankruptcy Code sections 105, 363, 364, 503(b)(1), 553, and 1108.

BACKGROUND

3. On October 31, 2011 (the “Initial Debtors’ Petition Date”), the Initial Debtors filed voluntary petitions in this Court for relief under chapter 11 of the Bankruptcy Code, as well as filed motions for first-day relief, including a motion for joint administration of the Initial Debtors’ cases (Docket No. 2).

4. On November 2, 2011, this Court granted the Initial Debtors’ motion and ordered the joint administration of the Initial Debtors’ cases.

5. On November 7, 2011, the United States Trustee (the “U.S. Trustee”) appointed the statutory creditors’ committee (the “Statutory Creditors’ Committee”) in the Initial Debtors’ cases.

6. The Statutory Creditors’ Committee and the Initial Debtors, on November 21, 2011, jointly moved this Court for an order directing the U.S. Trustee to appoint a chapter 11 trustee (Docket No. 131), which the Court entered on November 22, 2011 (Docket No. 156).

7. On November 25, 2011, the U.S. Trustee filed the Application for Order Approving Appointment of Chapter 11 Trustee (Docket No. 169), which this Court approved by entering the Order Approving the Appointment of Chapter 11 Trustee (Docket No. 170), pursuant to which the Trustee was appointed in the Initial Debtors’ cases.

8. On December 19, 2011 (the “Additional Debtors’ Petition Date”), the Additional Debtors filed petitions for relief under chapter 11 of the Bankruptcy Code and the Trustee, as fiduciary of the Initial Debtors, filed a motion for an order under Bankruptcy Rule 1015(a) directing the joint administration of the Additional Debtors’ chapter 11 cases with those of the Initial Debtors (Docket No. 292). On the same date, the Trustee, as fiduciary of the Initial

Debtors, also filed a motion for entry of an order under Bankruptcy Code section 105(a) directing that certain orders entered in the chapter 11 cases of the Initial Debtors be made applicable to the Additional Debtors (Docket No. 293).

9. On December 21, 2011, this Court entered orders for relief with respect to each of the Additional Debtors and directed joint administration of the Additional Debtors' cases with the Initial Debtors' cases (Docket No. 298). The Court also entered the order making certain previous orders applicable in the Additional Debtors' cases on December 23, 2011 (Docket No. 303).

10. On December 27, 2011, this Court approved the appointment of Louis J. Freeh as chapter 11 trustee of the Additional Debtors' cases.

11. On the date hereof (the "Current Debtor's Petition Date" and, collectively with the Initial Debtors' Petition Date and the Additional Debtors' Petition Date, the "Petition Dates"), the Current Debtor filed a voluntary petition in this Court for relief under chapter 11 of the Bankruptcy Code, along with various first-day motions seeking orders addressing issues critical to the administration of the Current Debtor's estate.

12. The factual background regarding the Debtors, including their prior business operations, their capital and debt structure, and the events leading to the filing of these bankruptcy cases, is set forth in the Second Ferber Declaration filed concurrently herewith and fully incorporated herein by reference.³

RELIEF REQUESTED

13. By this Motion, the Trustee, as fiduciary of the Prior Debtors, seeks to maintain the Current Debtor's current bank accounts and to continue to make intercompany payments as

³ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Second Ferber Declaration.

necessary. Accordingly, the Trustee seeks an order (i) authorizing continued use of existing (a) bank accounts, (b) cash management systems, and (c) business forms and checks; and (ii) authorizing the continuation of intercompany transactions among the Debtors and non-debtor affiliates and according superpriority status to all postpetition intercompany claims, in accordance with the cash management order entered as to the Initial Debtors (the “Initial Debtors’ Cash Management Order”), entered December 14, 2011 (Docket No. 276).

BASIS FOR RELIEF

14. The Office of the United States Trustee for the Southern District of New York (the “U.S. Trustee”) has established certain guidelines (the “U.S. Trustee Guidelines”) to supervise the administration of chapter 11 cases. These guidelines require a debtor to, among other things: (a) close all existing bank accounts and open new debtor-in-possession bank accounts; (b) establish separate debtor-in-possession accounts for all estate monies required for the payment of expenses, payroll, and taxes (which account would include payroll taxes); and (c) obtain checks for all debtor-in-possession accounts that bear the designation “Debtor-In-Possession,” the bankruptcy case number, and the type of account. As set forth below, the Trustee, as fiduciary of the Prior Debtors, submits that enforcing these requirements would disrupt the Current Debtor’s wind-down activities and impose a financial burden on the Current Debtor’s estate.

A. The Trustee Should Be Granted Authority to Maintain the Debtors’ Existing Bank Accounts.

15. Prior to the commencement of these cases, in the ordinary course of business, Holdings Ltd. and its domestic affiliates maintained hundreds of outside bank accounts located at financial institutions throughout the United States, through which they used a coordinated cash management system to manage cash receipts and disbursements for their entire domestic

corporate enterprise (collectively, the “Bank Accounts”).⁴ The Bank Accounts include, among others, those maintained as disbursement, payroll and receipt accounts. As described below, the Current Debtor holds two such Bank Accounts, as listed in Exhibit B, which are integral to the Debtors’ cash management system to facilitate the recovery of assets, the payment of payroll and other expenses, receipt and disbursement of advances and reimbursements from MF Global Inc. and the Additional Debtors for shared services obligations, and eventual distributions to creditors.

16. Prior to the Petition Dates, and continuing to the present with regard to all of the Debtors, Holdings USA processed payments for the benefit of Holdings Ltd. and its various U.S. subsidiaries, with the Bank Accounts of Holdings USA being utilized to facilitate payroll processing and benefits administration for the employees of such entities and other operating disbursements for those entities. These disbursements are currently made through the Holdings USA Operational Bank Account (8246) (the “Operational Account”) at Signature Bank. *See* Cash Management Diagram attached hereto as Exhibit C.

17. In addition, although it does not maintain business operations, Holdings USA has been providing since the Initial Debtors’ Petition Date certain shared administrative services to MF Global Inc. (“MFGI”), with MFGI prefunding or reimbursing Holdings USA for the cost of those services. MFGI will prefund Holdings USA through deposits into a Holdings USA Bank Account (8300) (the “Reimbursement Account”) at Signature Bank. These segregated funds are restricted and continue to constitute property of MFGI’s estate unless and until they are used only for their intended purposes in accordance with letter agreements between the Debtors and MFGI. Funds are transferred from the Reimbursement Account to the Operational Account

⁴ A list of the Bank Accounts held by Holdings USA is attached as Exhibit A hereto. The list of Bank Accounts attached as Exhibit B hereto reflects the subset of the Exhibit A Bank Accounts that the Trustee anticipates using in connection with the administration of these cases. Nevertheless, the Trustee reserves all rights to use other existing Bank Accounts listed on Exhibit A hereto.

when Holdings USA pays for services rendered or expenses incurred on behalf of MFGI. The approximate amount of funds in the Reimbursement Account that is prefunded by MFGI is \$311,313. It is essential to the orderly administration of these estates and to the estate of MFGI that the Trustee be authorized to continue to use funds in the Reimbursement Account in the ordinary course of business to pay for the services and expenses for which such funds have been deposited, consistent with the arrangements put in place between the Trustee and MFGI since the Initial Debtors' Petition Date.

18. Holdings USA also provides certain services and facilitates the payment of certain obligations of the Additional Debtors, which are not debtors under the *Final Order Under 11 U.S.C. §§ 105, 361, 362, 363(c), 363(e) and 364 and Bankruptcy Rules 2002, 4001, 6003, 6004 and 9014 (I) Authorizing the Debtors to Use Cash Collateral, and (II) Granting Adequate Protection* (Docket No. 275) (the "Cash Collateral Order"). To avoid use of the cash collateral of JPMorgan Chase Bank, N.A. ("JPMorgan") for those obligations, the Additional Debtors fund those payments through a transfer of funds to the Reimbursement Account.⁵ Holdings USA will then transfer funds from the Reimbursement Account to the Operational Account when it issues payment for these services on behalf of an Additional Debtor.

19. Up to and including January 15, 2012 (when the parties completed the bifurcation of payroll administration between Holdings USA and MFGI), Holdings USA also provided payroll processing and payroll cash management services for the employees of MFGI and certain of the Additional Debtors. Under that arrangement, MFGI or the Additional Debtor would

⁵ In accordance with the terms of the interim cash management order entered upon the commencement of the Additional Debtors' chapter 11 cases, up to \$40,000 of that funding was permitted to come from the account of a non-debtor affiliate, MF Global FX LLC ("FX"), with FX being accorded a superpriority administrative expense claim against the obligated Additional Debtor on account thereof until repaid. Going forward, such funding will come from the account of the obligated Additional Debtor.

directly fund its respective payroll obligations to the Holdings USA Payroll Account (9236) at JPMorgan. While this account is no longer in use for operational purposes, the Debtors maintain a residual balance of \$53,538, approximately \$3,500 of which is held on account of outstanding MFGI employee checks.

20. The budgets approved to date under the Cash Collateral Order are structured in a manner consistent with the foregoing cash management arrangements.

21. The Trustee believes that the Current Debtor's Bank Accounts are in financially stable banking institutions with Federal Deposit Insurance Corporation ("FDIC") (up to an applicable limit per Debtor per institution) or other appropriate government-guaranteed deposit protection insurance.

22. The Trustee, as fiduciary of the Prior Debtors, hereby seeks a waiver of the requirement in the U.S. Trustee Guidelines that the prepetition Bank Accounts listed on Exhibit B be closed and that new postpetition bank accounts be opened. If enforced in these cases, such requirements would inevitably disrupt the administration of these cases and would likewise jeopardize the Debtors' efforts to maximize the value of their estates. Accordingly, the Trustee must be permitted to (a) continue to maintain the Current Debtor's existing Bank Accounts, (b) if necessary, open new accounts (and give the U.S. Trustee notice of such newly opened accounts) wherever they are needed, whether or not such banks are designated depositories in the Southern District of New York, on the condition that any new bank account shall be with a bank that is insured by the FDIC and organized under the laws of the United States of America or any state therein and shall be designated a "debtor in bankruptcy under the control of a chapter 11 trustee" account by the respective bank, and (c) treat the Bank Accounts

and any such newly opened accounts for all purposes as accounts of the Debtors, maintained by the chapter 11 trustee and his professionals.

23. Subject to a prohibition against honoring prepetition checks without specific authorization from this Court, the Trustee requests that the Current Debtor's Bank Accounts be deemed to be chapter 11 Debtor Operating Accounts and that their maintenance and continued use, in the same manner and with the same account numbers, styles and document forms as those employed during the prepetition period, be authorized.

24. The Trustee also seeks a waiver of the requirement to establish specific bank accounts for tax payments. The Trustee believes that he can pay the Current Debtor's tax obligations most efficiently out of its existing Bank Accounts, that the U.S. Trustee can adequately monitor the flow of funds into, among, and out of such accounts, and that the creation of new accounts designated solely for tax obligations would be unnecessary and inefficient.

25. The efficiencies realized by permitting the Trustee to maintain the Current Debtor's current Bank Accounts would preserve value for both the Debtors and their stakeholders. Courts in this and other districts have recognized that, in complex chapter 11 cases, strict enforcement of the requirement that a debtor close its bank accounts does not serve the rehabilitative process of chapter 11, and have therefore waived this requirement and replaced it with more effective procedures similar to those requested herein. *See, e.g., In re Mark IV Indus., Inc.*, No. 09-12795 (SMB) (Bankr. S.D.N.Y. May 27, 2009); *In re Dana Corp.*, No. 06-10354 (BRL) (Bankr. S.D.N.Y. Mar. 29, 2006); *In re Delphi Corp.*, No. 05-44481 (RDD) (Bankr. S.D.N.Y. Nov. 4, 2005); *In re Northwest Airlines Corp.*, No. 05-17930 (ALG) (Bankr. S.D.N.Y. Oct. 7, 2005); *In re Delta Air Lines, Inc.*, No. 05-17923 (PCB) (Bankr. S.D.N.Y. Oct. 6, 2005); *In re Aerovias Nacionales de Colombia S.A. Avianca (In re Avianca, Inc.)*, Nos. 03-11678 and

03-11679 (ALG) (Bankr. S.D.N.Y. Jun. 4, 2003); *In re WorldCom, Inc.*, No. 02-13533 (AJG) (Bankr. S.D.N.Y. July 22, 2002); *In re Adelphia Bus. Solutions, Inc.*, No. 02-11389 (REG) (Bankr. S.D.N.Y. Mar. 27, 2002).

B. The Trustee Should Be Authorized to Continue to Use the Current Debtor's Existing Cash Management System.

26. In order to ensure an orderly transition into chapter 11, the Trustee requests authority to continue to use the Debtors' existing cash management system as necessary to facilitate the administration of these cases and the wind down of their businesses. Prior to the commencement of these cases, the Debtors, in the ordinary course of business, used a partially automated and integrated cash management system to collect, transfer, and disburse funds and to accurately record all such transactions as they were made (the "Cash Management System"). The Cash Management System, in conjunction with the financial and accounting systems, allows the Debtors to (a) control corporate funds centrally, (b) identify cash requirements, (c) transfer cash as needed to respond to these requirements, (d) track all intercompany transfers, and (e) reduce administrative expenses by facilitating the movement of funds. The Trustee seeks to continue using the Cash Management System, in accordance with the Initial Debtor's Cash Management Order, entered December 14, 2011 (Docket No. 276), as necessary to fund and track wind-down expenses and cash transfers.

27. The Cash Management System provides a centralized platform for the Debtors to fund the wind down of their businesses. As noted above, prior to the Current Debtor's Petition Date, accounts at Holdings USA were used to facilitate disbursements for payroll and certain other ordinary-course expenditures for the Debtors. Continuation of that same cash management function will facilitate the orderly administration of these cases and ensure uninterrupted

processing and payment of payroll and benefits for employees and payments to certain vendors and service providers whose services are integral to the orderly administration of these cases.

28. The Trustee seeks to keep the Current Debtor's existing Cash Management System in place because requiring the Current Debtor to adopt a new, segmented cash management system would be expensive, would create unnecessary administrative problems, and would be much more disruptive than productive. In particular, establishing a new system of accounts, a new cash management and disbursement system, and a new payroll processing system would require the Debtors to incur substantial additional costs and expenses, to the detriment of the Debtors' creditors and other stakeholders. Consequently, maintenance of the existing Cash Management System, including the Debtors' continued ability to transfer funds among themselves, is essential.

29. The Trustee submits that the relief requested herein is appropriate and within the authority of this Court. The Trustee's request for authorization to continue to use the Current Debtor's existing Cash Management System has been held to be entirely consistent with Bankruptcy Code section 363(c)(1), which allows a debtor-in-possession to "use property of the estate in the ordinary course of business." See *In re Charter Co.*, 778 F.2d 617, 621 (11th Cir. 1985). Additionally, relief similar to that requested herein has been repeatedly granted by courts in this and other jurisdictions in other chapter 11 cases including *In re Delta Air Lines, Inc.*, No. 05-17923 (PCB) (Bankr. S.D.N.Y. Oct. 6, 2005); *In re Northwest Airlines Corp.*, No. 05-17930 (ALG) (Bankr. S.D.N.Y. Oct. 7, 2005); *In re Global Crossing, Ltd.*, No. 02-40188 (REG) (Bankr. S.D.N.Y. May 17, 2002); *In re WorldCom, Inc.*, No. 02-13533 (AJG) (Bankr. S.D.N.Y. Oct. 15, 2002); *In re The Warnaco Group, Inc.*, No. 01-41643 (RLB) (Bankr. S.D.N.Y. June 11, 2001); *In re Teligent, Inc.*, No. 01-12974 (SMB) (Bankr. S.D.N.Y. June 13, 2001); and *In re The*

Singer Co. N.V., No. 99-10578 (BRL) (Bankr. S.D.N.Y. Nov. 18, 1999). Similar authorization is appropriate here.

C. The Trustee Should Be Granted Authority to Continue to Use Existing Business Forms and Checks.

30. Prior to the Petition Dates, in the ordinary course of business, the Current Debtor used numerous business forms including, but not limited to, letterhead, purchase orders, invoices, contracts, and checks (collectively, the “Business Forms”). Changing Business Forms in these chapter 11 cases would be expensive and burdensome to the Debtors. The Trustee requests that the Debtors be authorized to continue to use all Business Forms existing immediately prior to the Current Debtor’s Petition Date, which will be modified to include a designation of “debtor in bankruptcy under the control of a chapter 11 trustee.” To this end, the Trustee agrees to use reasonable efforts to refer to the Current Debtor’s status as “debtor in bankruptcy under the control of a chapter 11 trustee” on all checks issued after the Current Debtor’s Petition Date and on other physical Business Forms after the Current Debtor’s existing stock has been exhausted.

31. Courts in other large chapter 11 cases in this district and others have routinely granted the same or similar relief to chapter 11 debtors, including without requiring reference to a debtor’s status. *See, e.g., In re Lyondell Chem. Co.*, No. 09-10023 (REG) (Bankr. S.D.N.Y. Jan. 8, 2009 and March 12, 2009); *In re Frontier Airlines Holdings, Inc.*, No. 08-11298 (RDD) (Bankr. S.D.N.Y. April 11, 2008 and May 2, 2008); *In re Dana Corp.*, No. 06-10354 (BRL) (Bankr. S.D.N.Y. Mar. 29, 2006); *In re Delphi Corp.*, No. 05-44481 (RDD) (Bankr. S.D.N.Y. Nov. 4, 2005); *In re Northwest Airlines Corp.*, No. 05-17930 (ALG) (Bankr. S.D.N.Y. Oct. 7, 2005); *In re Delta Air Lines, Inc.*, No. 05-17923 (PCB) (Bankr. S.D.N.Y. Oct. 6, 2005); *In re UAL Corp.*, No. 02-48191 (ERW) (Bankr. N.D. Ill. Dec. 9, 2002); *In re Genity Inc.*, No. 02-43558 (PCB) (Bankr. S.D.N.Y. Dec. 2, 2002); *In re WorldCom, Inc.*, No. 02-13533 (AJG)

(Bankr. S.D.N.Y. Oct. 15, 2002); *In re Global Crossing, Ltd.*, No. 02-40188 (REG)

(Bankr. S.D.N.Y. May 17, 2002); *In re Ogden N.Y. Servs. Inc.*, No. 02-40826 (CB) (Bankr.

S.D.N.Y. Apr. 2, 2002); *In re Adelpia Bus. Solutions, Inc.*, Nos. 02-11389, 02-11394 (REG)

(Bankr. S.D.N.Y. Mar. 27, 2002); *In re Kmart Corp.*, No. 02-02474 (SPS) (Bankr. N.D. Ill. Jan.

26, 2002); *In re Hayes Lemmerz International, Inc.*, No. 01-11490 (MFW) (Bankr. D. Del. Dec. 27, 2001).

D. The Trustee Should Be Authorized to Continue Intercompany Transactions.

32. The Debtors' books and records also reflect numerous other intercompany account balances among various Debtors as of the Petition Dates. All prepetition intercompany account balances have been frozen, as of the Petition Dates, and the treatment of such claims will be determined as part of an overall liquidation plan for the Debtors.

33. In connection with the Cash Management System, the majority of the Debtors' wind-down expenses going forward will be paid from accounts held by Holdings USA in accordance with the Cash Collateral Order, with the Initial Debtors and Additional Debtors causing funds to be transferred to Holdings USA as necessary to fund such expenses. To ensure that each individual Debtor will not, at the expense of its creditors, fund another Debtor entity, the Trustee respectfully requests that, pursuant to Bankruptcy Code section 364(c)(1), all intercompany claims against a Debtor by another Debtor arising after the Petition Date as a result of intercompany transactions and allocations ("Postpetition Intercompany Claims") be accorded superpriority status, with priority over any and all administrative expenses of the kind specified in Bankruptcy Code sections 503(b) and 507(b), subject and subordinate only to (a) any order granting adequate protection to the prepetition secured lenders, and (b) other valid liens. If Postpetition Intercompany Claims are accorded superpriority status, each individual Debtor on whose behalf another Debtor has utilized funds or incurred expenses will continue to bear

ultimate repayment responsibility, thereby protecting the interests of each Debtor's creditors. Nothing herein is a request to validate the nature or amount of any intercompany transaction or claim, whether arising pre or postpetition. The Trustee will continue to maintain records of such transfers, including records of all current intercompany accounts receivable and payable.

34. The Trustee also contemplates intercompany transfers of funds between Debtors and certain non-Debtor affiliates. Prior to the Petition Date, MF Global was an integrated, global enterprise with operations throughout the world, including in the United Kingdom, Australia, Singapore, India, Canada, Hong Kong, and Japan. Many of the Debtors' non-Debtor affiliates are presently subject to various administration proceedings around the world and are also in the process of winding down. Because of the Company's integrated nature, however, the Debtors incur costs for insurance, personnel, and facilities that are directly attributable to non-Debtor activities. Likewise, the Debtors depend on similar resources of certain non-Debtor affiliates. These expenses cannot be reduced or eliminated without significant detrimental impact on the Debtors or their non-Debtor affiliates. To ensure that each individual Debtor does not fund, at the expense of its creditors, another Debtor or non-Debtor entity, the Trustee has taken steps to fairly allocate shared costs among the Debtors and non-Debtor entities and to receive pre-payment or reimbursement for such costs at or prior to the time they are incurred through intercompany transactions, in accordance with the terms of the Cash Collateral Order.

35. The relief requested herein is necessary because certain Debtors and non-Debtor affiliates may require intercompany advances in order to maintain their liquidity and going concern value. Courts frequently have granted such superpriority status to postpetition intercompany claims in cases such as this. *See, e.g., In re Dana Corp.*, No. 06-10354 (BRL) (Bankr. S.D.N.Y. Mar. 29, 2006); *In re Delphi Corp.*, No. 05-44481 (RDD) (Bankr. S.D.N.Y.

Nov. 4, 2005); *In re Interstate Bakeries Corp.*, No. 04-45814 (JWV) (Bankr. W.D. Mo., Sept. 22, 2004); *In re NorthWestern Corp.*, No. 03-12872 (CGC) (Bankr. D. Del. Nov. 26, 2003); *In re Kmart Corp.*, No. 02-02474 (SPS) (Bankr. N.D. Ill. Jan. 26, 2002); *In re Hayes Lemmerz Int'l, Inc.*, No. 01-11490 (MFW) (Bankr. D. Del. Dec. 27, 2001); *In re Singer Co. N.V.*, No. 99-10578 (BRL) (Bankr. S.D.N.Y. Nov. 18, 1999); *In re Phillip Servs. (Delaware), Inc.*, No. 99-02385 (MFW) (Bankr. D. Del. June 28, 1999); *In re Harneschfeger Indus.*, No. 99-2171 (PJW) (Bankr. D. Del. June 7, 1999); *In re Loewen Group Int'l*, No. 99-1244 (PJW) (Bankr. D. Del. June 1, 1999).

36. The Trustee, as fiduciary of the Prior Debtors, also seeks authorization to preserve and exercise intercompany setoff rights. Section 553(a) of the Bankruptcy Code provides that:

[e]xcept as otherwise provided in this section and in sections 362 and 363 of the title, this title does not affect any right of a creditor to offset a mutual debt owing by such creditor to the debtor that arose before the commencement of the case under this title against a claim of such creditor against the debtor that arose before the commencement of the case

11 U.S.C. § 553(a). A creditor need only establish two elements before a setoff may be asserted: mutuality and timing. *See Official Comm. of Unsecured Creditors v. Mfrs. & Traders Trust Co. (In re Bennett Funding Group, Inc.)*, 212 B.R. 206, 212 (B.A.P. 2d Cir. 1997), *aff'd* 146 F.3d 136 (2d Cir. 1998); *see also Verco Indus. v. Spartan Plastics (In re Verco Indus.)*, 704 F.2d 1134, 1139 (9th Cir. 1983); *In re Lundell Farms*, 86 B.R. 582, 584 (Bankr. W.D. Wis. 1988).

Although courts have not uniformly defined the elements of mutuality, most courts require the following elements: that the debts are (a) owed between the same parties and (b) in the same right or capacity. *See* 5 ALAN N. RESNICK, ET AL., *COLLIER ON BANKRUPTCY* ¶ 553.03[3][a] & n.69 (15th rev. ed. 2008) (citing *inter alia, Davidovich v. Welton (In re Davidovich)*, 901 F.2d 1533, 1537 (10th Cir. 1990); *Lubman v. Sovran Bank, N.A. (In re A & B Homes, Ltd.)*, 98 B.R. 243, 248 (Bankr. E.D. Va. 1989)). Timing requires that both claims arise prepetition. *See*

Packaging Indus. Group, Inc. Dennison Mfg. Co. (In re Sentinel Prods. Corp.), 192 B.R. 41, 45 (S.D.N.Y. 1996); *Scherling v. Hellman Elec. Corp. (In re Westchester Structures Inc.)*, 181 B.R. 730, 739 (Bankr. S.D.N.Y. 1995). In addition, courts have allowed the parties to offset claims postpetition in the same manner as a prepetition setoff, as long as the mutuality requirements are met. See, e.g., *United States v. Gordon Sel-Way, Inc. (In re Gordon Sel-Way, Inc.)*, 239 B.R. 741, 751-755 (E.D. Mich. 1999), aff'd, 270 F.3d 280 (6th Cir. 2001); *Mohawk Indus., Inc. v. United States (In re Mohawk Indus., Inc.)*, 82 B.R. 174, 179 (Bankr. D. Mass. 1987).

37. The Cash Management System allows the Trustee to track all obligations owing between related entities and thereby ensures that all setoffs of intercompany transactions will meet both the mutuality and timing requirements of Bankruptcy Code section 553. Therefore, the Trustee respectfully requests that the Debtors and their non-Debtor affiliates be expressly authorized upon approval of the Trustee to set off prepetition obligations arising on account of intercompany transactions between a Debtor and another Debtor or between a Debtor and a non-Debtor affiliate. Further, the intercompany transactions provide numerous benefits to the Debtors. The Trustee, as fiduciary of the Prior Debtors, therefore seeks to continue the intercompany transactions postpetition in the ordinary course of their businesses as necessary to support the orderly wind down of their businesses.

E. Immediate Relief Is Necessary to Avoid Immediate and Irreparable Harm.

38. Bankruptcy Rule 6003 provides that “[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 20 days after the filing of the petition, grant . . . (b) a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition.” FED. R. BANKR. P. 6003(b). Bankruptcy Rule 6004(h) provides that “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the

expiration of 10 days after entry of the order, unless the court orders otherwise.” FED. R. BANKR. P. 6004(h). For all the reasons set forth herein, the Debtors, and ultimately their creditors and shareholders, will suffer immediate and irreparable harm absent the Court’s entry of an order granting the relief requested herein. Consequently, the relief requested herein is consistent with Bankruptcy Rule 6003. Moreover, the order granting the relief requested herein should become effective and enforceable immediately notwithstanding Bankruptcy Rule 6004(h).

NOTICE

39. Notice of this Motion has been provided by facsimile, electronic transmission, overnight delivery, or hand delivery to: (a) the United States Trustee for the Southern District of New York; (b) the United States Attorney for the Southern District of New York; (c) the Securities and Exchange Commission; (d) the U.S. Commodity Futures Trading Commission; (e) the Internal Revenue Service; (f) counsel for the agents under the Debtors’ prepetition Liquidity Facility; (g) the indenture trustee for each of the Debtors’ outstanding bond issuances; (h) counsel to the Statutory Creditors’ Committee; (i) the parties included on the Current Debtor’s list of twenty (20) of its largest unsecured creditors; and (j) parties that have requested special notice in these cases. The Trustee submits that, under the circumstances, no other or further notice is necessary.

CONCLUSION

WHEREFORE, the Trustee respectfully requests that this Court enter an order, substantially in the form annexed hereto as Exhibit D, granting the relief requested in this Motion and such other and further relief as may be just and proper.

Dated: March 2, 2012
New York, New York

Respectfully submitted,

/s/ Brett H. Miller

Brett H. Miller

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Exhibit A

Bank Accounts Held by the Current Debtor

MF Global Holdings USA Inc.
Exhibit A
Listing of Additional Debtor Bank Accounts

MF Global Holdings USA Inc.

Account Name	Financial Institution	Account Type	External Account #	Currency	Purpose
MF Global Holdings USA Inc.	Signature Bank	DDA	8246	USD	Entity Operating Account
MF Global Holdings USA Inc. - Reimbursement Account	Signature Bank	DDA	8300	USD	Receipt of Reimbursements from MF Global Inc. and Additional Debtors
MF Global Holdings USA Inc.- General Acct	JP Morgan Chase	DDA	9236	USD	Prepetition Entity Operating Account
MF Global Holdings USA Inc.- Payroll	JP Morgan Chase	DDA	3691	USD	Prepetition Entity Operating Account
MF Global Holdings USA Inc. - E D & F Man Flex Spndg Plan	JP Morgan Chase	DDA	4174	USD	Prepetition Entity Operating Account

Exhibit B

**Bank Accounts to Be Used by the Trustee
in Connection with the Current Debtor's Wind Down**

MF Global Holdings USA Inc.
Exhibit B
Listing of Integral Additional Debtor Bank Accounts

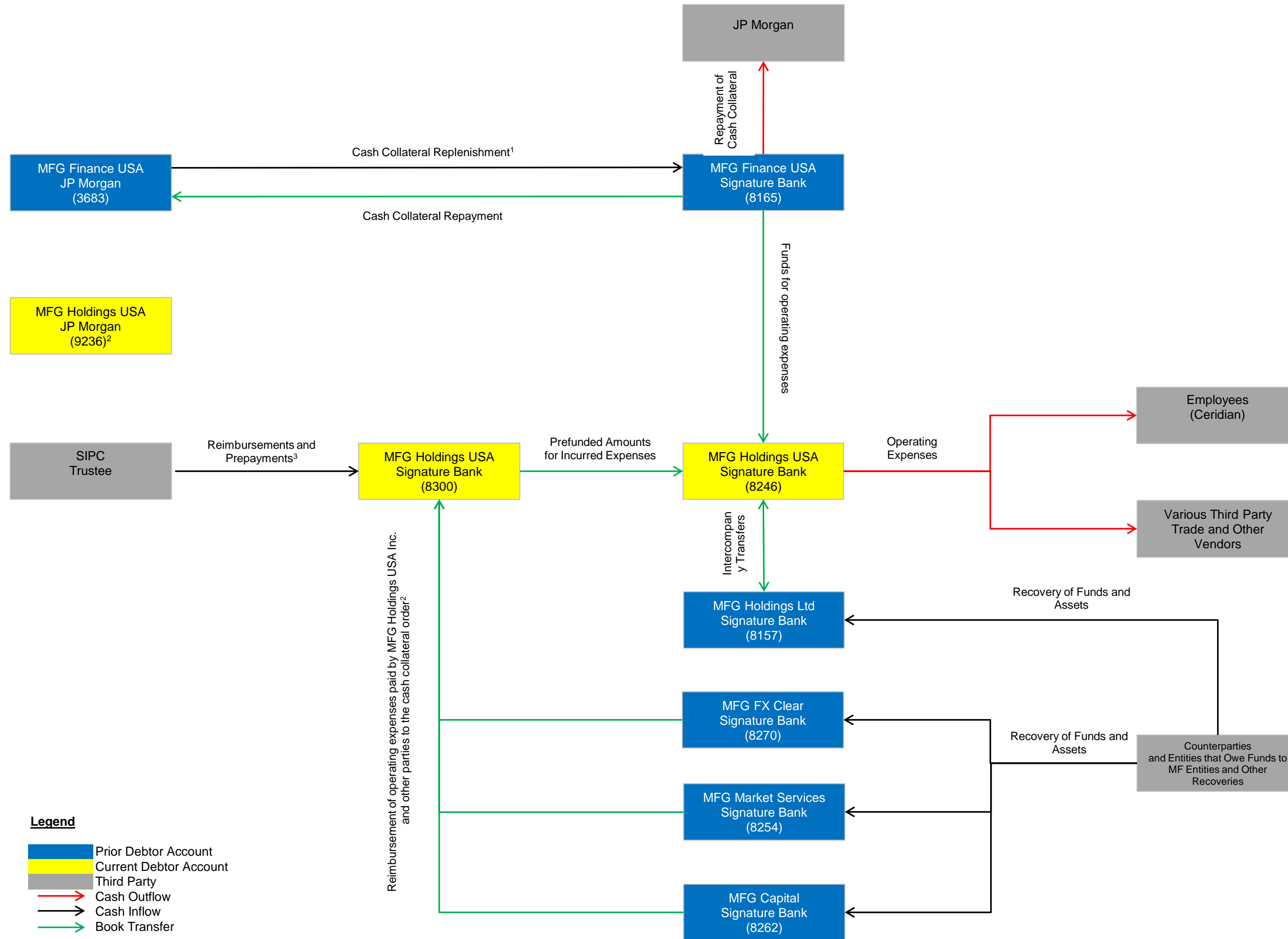
MF Global Holdings USA Inc.

Account Name	Financial Institution	Account Type	External Account #	Currency	Purpose
MF Global Holdings USA Inc.	Signature Bank	DDA	8246	USD	Entity Operating Account
MF Global Holdings USA Inc. - Reimbursement Account	Signature Bank	DDA	8300	USD	Receipt of Reimbursements from MF Global Inc. and Additional Debtors

Exhibit C

Cash Management Diagram

**MF Global Holdings Ltd
Exhibit C
Cash Management Diagram**



Notes:

¹ Cash Collateral funds to replenish the cash management system when needed in accordance with the Cash Collateral Budget. The balance in the cash collateral account at Signature Bank (Account 8165) cannot be greater than \$2.5 million.

² Account is no longer used to facilitate the processing and funding of payroll. The account remains open and contains a residual balance for checks that were issued and have not cleared.

³ Funds for expenses paid on behalf of MF Global Inc., MF Global FX Clear LLC, MF Global Market Services LLC, and MF Global Capital LLC must be prefunded.

Exhibit D

Proposed Form of Order

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

-----	x
	:
In re	: Chapter 11
	:
MF GLOBAL HOLDINGS LTD., <i>et al.</i> ,	: Case No. 11-15059 (MG)
	:
Debtors.	: (Jointly Administered)
	:
-----	x

**[INTERIM] ORDER UNDER 11 U.S.C. §§ 105, 363, 364, 503(b)(1), 553, AND 1108 AND
FED. R. BANKR. P. 6003 (I) AUTHORIZING CONTINUED USE OF EXISTING
(A) BANK ACCOUNTS, (B) CASH MANAGEMENT SYSTEM, AND (C) BUSINESS
FORMS AND CHECKS; AND (II) AUTHORIZING THE CONTINUATION OF
INTERCOMPANY TRANSACTIONS AMONG THE DEBTORS AND NONDEBTOR
AFFILIATES AND ACCORDING SUPERPRIORITY STATUS
TO ALL POSTPETITION INTERCOMPANY CLAIMS**

Upon the motion dated February 15, 2012 (the “Motion”)¹ of the Trustee for entry of an order (the “Order”), pursuant to sections 105(a), 363, 364, 503(b)(1), 553, 1107, and 1108 of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 6003 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) (I) authorizing continued use of existing (a) bank accounts, (b) cash management system, and (c) business forms and checks; and (II) authorizing the continuation of intercompany transactions among the Debtors and nondebtor affiliates and according superpriority status to all postpetition intercompany claims; and upon consideration of the facts set forth in the Second Ferber Declaration; and due and sufficient notice of the Motion; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by the Motion is in the best interests of the Debtors, their estates, their creditors and other parties in interest; and after due deliberation thereon and sufficient cause appearing therefor, it is hereby

¹ Capitalized terms used but not defined herein shall have the same meanings ascribed to them in the Motion.

ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is GRANTED as set forth herein.
2. The Trustee is authorized but not directed to (a) maintain and continue to use the Current Debtor's bank accounts in existence as of the Current Debtor's Petition Date, listed on Exhibit A to the Motion (the "Bank Accounts"), in the same manner and with the same account numbers, styles, and document forms as are currently employed, (b) deposit funds in, and withdraw funds from, the Bank Accounts by all usual means, including checks, wire transfers, automated clearinghouse ("ACH") transfers, drafts, electronic fund transfers, or other items presented, issued, or drawn on the Bank Accounts, (c) pay ordinary-course bank fees in connection with the Bank Accounts (whether prepetition or postpetition) consistent with prepetition practices, (d) perform the obligations under the documents and agreements governing the Bank Accounts (whether prepetition or postpetition), and (e) treat the Bank Accounts for all purposes as accounts of the Debtors. The banks at which the Bank Accounts are maintained are referred to herein as the "Banks."
3. All Banks are authorized and directed to (a) continue to administer, service, and maintain the Bank Accounts as such accounts were administered, serviced, and maintained prior to the Current Debtor's Petition Date, without interruption and in the usual and ordinary course and (b) pay any and all checks, drafts, wires, ACH transfers, electronic fund transfers, or other items presented, issued, or drawn on the Bank Accounts (collectively, the "Disbursements"); provided, however, that (i) there are sufficient available funds in the relevant Bank Accounts and (ii) such check, draft, wire, ACH transfer, electronic fund transfer or other item presented, issued, or drawn on the Bank Accounts is issued on or after the Current Debtor's Petition Date.

4. The Trustee is authorized to direct the Banks to honor all outstanding Disbursements drawn on accounts in the name of any of the non-Debtors to the extent of sufficient available funds. The Banks are authorized and directed to accept and honor all representations from the Trustee as to which Disbursements are non-Debtor Disbursements.

5. The Trustee is authorized to close any of the Bank Accounts and may modify the terms of existing Bank Accounts or open any additional bank accounts (both modified and new accounts, the “New Accounts”), wherever the Trustee deems that such accounts are needed or appropriate and all such New Accounts shall be deemed to be Bank Accounts; provided that (a) any New Account shall be (i) with a bank that is organized under the laws of the United States of America or any state therein and that is insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation and (ii) designated a “debtor in bankruptcy under the control of a chapter 11 trustee” (or similar designation) account by the relevant bank, and (iii) opened with Authorized Depositories, and (b) the Trustee shall provide the U.S. Trustee with notice of any New Accounts. The Banks are authorized to honor the Trustee’s request to open or close (as the case may be) such Bank Account(s) as long as the provisions of this Order are complied with.

6. The relief, rights, and responsibilities provided for in this Order shall be deemed to apply to any and all Bank Accounts listed on Exhibit A to the Motion including, without limitation, any New Accounts.

7. Subject to the relief set forth in this Order, the U.S. Trustee requirement that the Trustee close all existing bank accounts and open new Accounts is hereby waived.

8. The U.S. Trustee requirement that the Trustee open separate Accounts for payroll is hereby waived.

9. The Trustee is hereby authorized to use existing business forms (including, without limitation, correspondence, checks, letterhead, purchase orders, and invoices); provided, however, that the Trustee shall add a “debtor in bankruptcy under the control of a chapter 11 trustee” designation (or similar designation) to its existing checks, where practical, and other business forms, where practical, and shall purchase new checks and other business forms with “a debtor in bankruptcy under the control of a chapter 11 trustee” designation (or similar designation) upon the depletion of the Debtors’ current stock of checks and other business forms.

10. The Trustee is authorized to continue using the Debtors’ existing cash management system (the “Cash Management System”) to manage cash, to pay expenses and other obligations in accordance with (or, in the case of the Current Debtor, in a manner not in violation of the Cash Collateral Order, intercompany payables, to extend intercompany credit, and to otherwise transfer funds by and among the Debtors and the affiliates to the extent permitted by) (or, in the case of the Additional Debtors, in a manner not in violation of) the Cash Collateral Order; provided, however, that nothing herein grants the Trustee authority to receive moneys from the entities that are, or become, the subject of administration under the laws of the United Kingdom or the subsidiaries of any such entities (the “UK Administration Entities”) if the Trustee is not otherwise legally permitted to do so; and provided further, however, that nothing herein shall be determined to adjudicate the respective rights of the Trustee, on the one hand, and the UK Administration Entities, on the other hand, with respect to claims against, interests in, or assets of their affiliates. The Trustee is authorized to continue to use funds in the Reimbursement Account in the ordinary course to pay for the services and expenses for which such funds have been deposited, consistent with the arrangements put in place between the Trustee and MFGI since the Initial Debtors’ Petition Date.

11. The Trustee shall maintain records of all transfers within the Cash Management System so that all transfers and transactions shall be adequately and promptly documented in, and ascertainable from, the Debtors' books and records, in a similar manner as maintained prior to the commencement of these Chapter 11 cases.

12. The Trustee is authorized to implement such changes to the Cash Management System as the Trustee may deem necessary or appropriate.

13. The Trustee is authorized to maintain and continue ordinary-course intercompany funding and other transactions with each Debtor and their affiliates in connection with the Cash Management System, including maintaining and continuing the practice of extending and repaying the intercompany loans in the ordinary course of business, for such period as the Trustee remains in compliance with the relief granted in the Cash Collateral Order.

14. To the extent a Debtor receives a postpetition intercompany transfer (each a "Beneficiary Debtor"):

- (a) pursuant to Bankruptcy Code sections 364(c)(1) and 507(b), the intercompany transfer shall constitute an allowed superpriority claim of the applicable affiliate against the applicable Beneficiary Debtor, with priority over any and all other administrative expenses and other claims against the Beneficiary Debtors, including all administrative expenses of the kind specified in Bankruptcy Code sections 503(b) and 507(b), and over any and all administrative expenses or other claims arising from Bankruptcy Code sections 105, 326, 328, 330, 331, 364, 503(b), 506(c), 507(a), 726, 1113 or 1114 (the "Superpriority Claim"), subject and subordinate only to any order granting adequate protection to JPMorgan Chase Bank, N.A. in connection with the cash collateral order and the "Carve Out" referenced therein and other valid liens, and payable from having recourse to all property of the applicable Beneficiary Debtors; and
- (b) the Superpriority Claim and the liens described above shall be entitled to the full protection of Bankruptcy Code section 364(e) in the event that this Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

15. Subject to the provisions of paragraph 15 of this Court's January 19, 2012 *Final Order Granting Motion (I) Authorizing Continued Use of Existing (A) Bank Accounts, (B) Cash*

Management System, and (C) Business Forms and Checks; and (II) Authorizing the Continuation of Intercompany Transactions Among the Debtors and Non-debtor Affiliates and According Super Priority Status to All Postpetition Intercompany Claims (Docket No. 378) relating to MF Global FX Clear, LLC, the Trustee is authorized to continue transferring funds to non-Debtor affiliates in the ordinary course of business, including through intercompany loans, in connection with the Cash Management System.

16. The Trustee is expressly authorized to set off prepetition obligations arising on account of intercompany transfers between a Debtor and another Debtor or between a Debtor and a non-Debtor affiliate.

17. Notwithstanding anything in this order to the contrary, the Trustee's authority to use or transfer cash hereunder shall be subject to the same limitations and restrictions as are provided for with respect to the use or transfer of cash in the Cash Collateral Order. To the extent there is any conflict between this Order and any Cash Collateral Order, the terms of the Cash Collateral Order shall control.

18. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the content of the Motion or otherwise deemed waived.

19. A hearing (the "Final Hearing") will be held on _____, 2012 at ____:___ __.m. (prevailing Eastern Time) to consider the relief requested in the Motion on a final basis and, pending entry of an order following the conclusion of the Final Hearing, the relief granted herein shall remain in effect on an interim basis. If no objection to the relief requested in this Motion on a permanent basis is received by the appropriate Objection Deadline pursuant to the Case Management Order, this Order shall be deemed the Final Order.

20. Notwithstanding the possible applicability of Bankruptcy Rule 6004, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

21. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated: March ____, 2012
New York, New York

THE HONORABLE MARTIN GLENN
UNITED STATES BANKRUPTCY JUDGE