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

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

**MOTION OF BANK OF AMERICA, N.A. FOR ORDER PERMITTING SECURITIES
TRADING UPON ESTABLISHMENT OF ETHICAL WALL**

Bank of America, N.A. ("Bank of America"), a member of the Statutory Creditors' Committee (the "Committee") in the chapter 11 cases of the above-captioned debtors in possession (collectively, the "Debtors"), hereby submits this motion (this "Motion") for an order (the "Order") permitting Bank of America, as well as certain affiliates of Bank of America,¹ to trade in the Securities (as defined below) upon the establishment and implementation of "Ethical

¹ As used herein, the term "affiliate" means with respect to any entity, any other entity directly or indirectly controlling, controlled by, or under common control with such other entity. For the purpose of this definition, the term "control" (including, with correlative meanings, the terms "controlling," "controlled by," and "under common control with"), as used with respect to any entity, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities, by contract or otherwise.

Walls”² and in accordance with the terms and conditions of any such Order. In support of this Motion, Bank of America respectfully represents as follows:

Introduction

1. On October 31, 2011 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). Pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtors continue in the management and operation of their businesses and properties as debtors in possession. The Debtors’ chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). No trustee or examiner has been appointed in these cases.

2. On November 7, 2011, the Office of United States Trustee (the “US Trustee”) appointed the Committee and designated the following five members to serve on the Committee: (i) Wilmington Trust Company (solely in its capacity as indenture trustee); (ii) JP Morgan Chase Bank, N.A.; (iii) Bank of America, N.A.; (iv) Elliott Management Corporation; and (v) Caplin Systems Ltd.

Jurisdiction

3. The Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper

² As used herein, the term “Ethical Wall” refers to procedures established by an organization to isolate its trading activities as a member of a statutory creditors’ committee. An Ethical Wall typically involves procedures inside the institution which both (i) comply with the requirements for insulating certain people from certain material non-public information and (ii) function without unnecessary disruption to the management and operation of the organization. Typical Ethical Wall arrangements consist of the following, to the extent necessary to achieve compliance: staffing arrangements whereby the institution’s personnel responsible for performing committee functions are different than the personnel responsible for performing trading functions; physical separateness of the office and file spaces used by those personnel; establishment of procedures for securing committee-related files; establishment of separate telephone and facsimile lines for trading activities and committee activities; and special procedures for the delivery and posting of telephone messages.

pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

4. By this Motion, Bank of America requests an order in the form annexed hereto as Exhibit B (the “Order”) determining that Bank of America, as well as affiliates of Bank of America (together with Bank of America, each an “Ethical Wall Entity”), acting in any capacity will neither violate their fiduciary duties as a member of the Committee or otherwise, nor subject their claims to possible disallowance, subordination or other adverse treatment by trading (i) stock, notes (including but not limited to the following notes issued by the Debtors: the 1.875% convertible notes, the 6.25% senior unsecured notes, the 3.375% convertible senior notes, and the 9% convertible notes), bonds, debentures, participations, bank loans (including, but not limited to, the Debtors’ \$1.2 billion unsecured revolving credit facility and \$300 secured subsidiary credit facility) or derivatives based upon or relating to, any of the Debtors’ or their non-debtor affiliates’³ debt obligations or equity interests or (ii) any other claims against or interests in any one or more Debtors estates or their non-debtor affiliates that constitute “securities” within the meaning of applicable United States or state securities laws or both, or the securities laws of any other jurisdictions ((i) and (ii) collectively, the “Securities”),⁴ whether or not covered by Bankruptcy Rule 3001(e) as long as an Ethical Wall Entity that engages in any such transaction establishes and effectively implements an Ethical Wall and procedures to prevent the misuse of any material non-public information obtained as a result of Bank of America’s performance of Committee-related activities.

³ As used herein, the term “non-debtor affiliates” includes, without limitation, MF Global Inc., and all other affiliates of the Debtors, whether or not such affiliate is a debtor in an insolvency, liquidation, administration, or similar proceeding under the jurisdiction of one or more courts other than this Court or under the administration of an administrative agency of the United States, any state thereof, or any foreign governmental entity.

⁴ For the avoidance of doubt, nothing in this Motion is meant to suggest that a debt obligation under a credit facility or similar agreement or arrangement, or a participation in the same, is a “security” as such term is defined in the Securities Act of 1933, as amended.

5. Bank of America is directly itself or is affiliated with investment advisors or managers that provide investment-advisory services to institutional, pension, mutual fund and high net-worth clients and affiliated funds and accounts. Bank of America may also buy and sell the Securities for their own portfolios. Although Bank of America owes fiduciary duties to the unsecured claimholders of these estates, it also has fiduciary duties to maximize returns to its respective clients including through trading the Securities. Thus, if Bank of America is barred from trading the Securities during the pendency of these Bankruptcy Cases because of its duties to other creditors, it may risk the loss of a beneficial investment opportunity for itself and/or its clients and, moreover, may breach its fiduciary duty to such clients. Alternatively, if Bank of America resigns from the Committee, the role of the Committee and its duties to other creditors may be compromised by virtue of Bank of America taking a less active role in the reorganization process.

6. Bank of America has an interest in having the Motion considered by the Court as soon as possible. To that end, Bank of America is seeking to have the Motion heard on shortened time. Bank of America reserves the right to request the order that may be entered by the Court apply retroactively to sales or transfers of the Securities.

7. As evidence of its implementation of the procedures detailed herein, filed herewith is a declaration (the "Ethical Wall Declaration") filed by Eric T. Sieke, attached hereto as Exhibit A, which states that Bank of America will comply with the terms and procedures set forth in this motion, or otherwise approved by the US Trustee.

Basis for Relief Requested

8. Many institutions have faced the same dilemma discussed above with respect to statutory committee memberships in other chapter 11 cases in recent years and to

resolve this issue, bankruptcy courts, with increasing regularity, have allowed members (and their affiliates) of statutory committees to trade in the securities of a debtor and its non-debtor affiliates while still serving as committee members. Cases in the Southern District of New York where a bankruptcy court has authorized members of statutory committees to trade securities upon establishment of an Ethical Wall include: *In re General Growth Properties, Inc., et al.*, Case No. 09-11977 (ALG) (Sept. 28, 2008, Sept. 29, 2009, March 2, 2010, and April 8, 2010); *In re Lehman Bros. Holding, Inc., et al.*, Case No. 08-13555 (JMP) (Oct. 16, 2008, Oct. 22, 2008, Nov. 5, 2008, and March 22, 2010); *In re Calpine Corp., et al.*, Case No. 05-60200 (BRL) (January 25, 2006); *In re Solutia Inc., et al.*, Case No. 03-17949 (PCB) (January 22, 2004); *In re Magellan Health Services, Inc., et al.*, Case No. 03-40515 (PCB) (May 6, 2003); *In re WorldCom, Inc.*, Case No. 02-13533 (AJG) (Aug. 6, 2002); *In re Enron Corp.*, No. 01-16034 (AJG) (Feb. 27, 2002); *In re Dairy Mary Convenience Stores, Inc.*, Case No. 01-42400 (AJG) (Dec. 20, 2001); *In re Iridium Operating LLC*, Case No. 99-45005 (CB) (Nov. 3, 1999).

9. The proposed relief is also supported by substantially similar orders entered in other jurisdictions. *See, e.g., In re Capmark Financial Group, Inc., et al.*, Case No. 09-13684 (CSS) (Bankr. D. Del. April 7, 2010); *In re SemCrude L.P., et al.*, Case No. 08-11525 (BLS) (Bankr. D. Del. Aug. 29, 2008); *In re Fedders North America, Inc., et al.*, Case No. 07-11176 (BLS) (Bankr. D. Del. Sept. 20, 2007); *In re Global Power Equipment Group, Inc., et al.*, Case No. 06-11045 (BLS) (Bankr. D. Del. Dec. 4, 2006); *In re Federated Dep't Stores, Inc.*, Case No. 1-90-00130, 1991 Bankr. LEXIS 288 (Bankr. S.D. Ohio Mar. 7, 1991).

10. Each of these orders provides that a statutory committee member does not violate its fiduciary duties as a committee member by trading in a debtor's securities (or, by extension, a non-debtor affiliate's securities) so long as it acts in accordance with certain

information blocking procedures approved by the Bankruptcy Court. The orders further provide that the Bankruptcy Court may take appropriate action if there is any actual breach of fiduciary duty because of a breach of the information blocking procedures.

11. In the seminal decision on this issue, *In re Federated Dep't Stores, Inc.*, No. 1-90-00130, 1991 Bankr. LEXIS 288 (Bankr. S.D. Ohio Mar. 7, 1991), the Bankruptcy Court – agreeing with the position of the Securities and Exchange Commission on this issue – stated that the movant, Fidelity Management & Research Company:

will not be violating its fiduciary duties as a committee member and accordingly, will not be subjecting its claims to possible disallowance, subordination, or other adverse treatment, by trading in securities of the Debtors . . . during the pendency of these [c]ases, provided that Fidelity employs an appropriate information blocking device or “[Screening] Wall” which is reasonably designed to prevent Fidelity trading personnel from receiving any non-public committee information through Fidelity committee personnel and to prevent Fidelity committee personnel from receiving information regarding Fidelity’s trading in securities of the Debtors . . . in advance of such trades.

In re Federated Dep't Stores, Inc., 1991 Bankr. LEXIS 288 at *2. The *Federated Dep't Store* Court approved Fidelity’s Ethical Wall procedures, which, as here, included: (i) a written acknowledgement by personnel performing committee work that they could receive non-public information and were aware of the Screening Wall procedures in effect; (ii) a prohibition on the sharing of non-public committee information with certain other employees; (iii) separate file space for committee work inaccessible to certain other employees; (iv) restrictions on committee personnel’s access to trading information; and (v) a compliance review process. Similarly, the order in *Federated Dep't Store* only covered those committee members actually engaged in the trading of securities as a regular part of their business. The Ethical Wall procedures outlined here parallel those protections established in the *Federated Dep't Store* case and followed in

subsequent cases.

12. Bank of America has furnished a copy of this Motion and the Order to the US Trustee, and will work with the US Trustee to present an agreed proposed order to the Court.

Notice

13. Notice of this Motion will be given by overnight delivery to the US Trustee, the Securities and Exchange Commission, the Internal Revenue Service, counsel to the Debtors, counsel for the agents under the Debtors' prepetition revolving line of credit, the indenture trustee for each of the Debtors' outstanding bond issuances, the parties included on the Debtors' amended list of fifty largest unsecured creditors, and parties that have requested service pursuant to Bankruptcy Rule 2002 in these chapter 11 cases. Based on the foregoing, Bank of America respectfully submits that no further notice is needed.

No Prior Request

14. No previous motion for the relief requested herein has been made to this Court or any other court.

WHEREFORE Bank of America respectfully requests (i) an order, substantially in the form annexed hereto as Exhibit B, granting the Ethical Wall Entities permission to engage in trading of the Securities during the pendency of these cases, as long as any Ethical Wall Entity that engages in any such transaction establishes and effectively implements Ethical Wall policies and procedures consistent with the provisions of the Order to prevent the misuse of any material non-public information obtained as a result of Bank of America performance of Committee-related activities, and (ii) any further relief as the Court deems just and appropriate.

Dated: November 15, 2011
New York, New York

WILLKIE FARR & GALLAGHER LLP

By: /s/ Margot B. Schonholtz

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Exhibit A

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SOUTHERN DISTRICT OF NEW YORK**

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Debtors.)	(Jointly Administered)
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DECLARATION OF ERIC T. SIEKE

1. I have personal knowledge of each of the facts stated in this Declaration, except for those facts stated on information and belief, and as to those facts, I am informed and believe them to be true. I submit this Declaration on behalf of Bank of America, N.A. (“Bank of America”), a member of the Statutory Creditors’ Committee (the “Committee”) in the chapter 11 cases of MF Global Holdings Ltd. *et al.* (the “Debtors”), to advise the United States Trustee for the Southern District of New York of the “Ethical Wall” procedures designed to prevent trading personnel and investment advisory personnel of Bank of America from receiving any non-public information concerning the Debtors through Bank of America personnel, representatives or agents performing activities related to the Committee.

2. Bank of America shall cause personnel designated to receive non-public

Committee information (“Committee Personnel”) to execute a letter, substantially in the form annexed as Exhibit C hereto, acknowledging that they may receive non-public information and that they are aware of, and agree to comply with, the Order and the Ethical Wall procedures which are in effect with respect to the Securities. Each Ethical Wall Entity shall provide a copy of any such letter executed by its Committee Personnel to the US Trustee.

3. Committee Personnel will not share material non-public Committee information (“Information”) with any other employees of such Ethical Wall Entity other than in compliance with the Ethical Wall procedures, provided that Information may be shared with:¹

- a. Senior management of an Ethical Wall Entity who, due to their duties and responsibilities, have a legitimate need to know such Information, provided that such individuals (i) otherwise comply with the Order and (ii) use such Information only in connection with their senior managerial responsibilities; and
- b. regulators, auditors, consultants, advisors and legal and compliance personnel, and to the extent that such information may be accessible by internal computer systems, Ethical Wall Entity administrative personnel who service and maintain such systems, each of whom will agree not to share Information with other employees and will keep such Information in files inaccessible to other employees, representatives and agents who are not involved with trading or investment advisory activities with respect to such Ethical Wall Entity, Ethical Wall Member’s clients, or Ethical Wall Entity’s interests.

4. Except as otherwise provided for in the Order, each Ethical Wall Entity shall take those steps necessary to restrict access to hard copy files containing Information to non-Committee Personnel. Further, each Ethical Wall Entity will maintain separate phone numbers and facsimile lines for Committee Personnel.

5. Except as otherwise provided for in the Order, each Ethical Wall Entity shall take those steps necessary to restrict the exchange of Information through electronic means between Committee Personnel and all non-Committee Personnel.

¹ For the avoidance of doubt, those persons listed in paragraphs 3(a) & 2(b) shall be deemed non-Committee Personnel unless they execute Exhibit C.

6. Committee Personnel will not receive any specific or detailed information regarding an Ethical Wall Entity's trades in the Securities in advance of the execution of such trades; provided, however, that this restriction shall not apply to Committee Personnel who are legal personnel, to the extent they are consulted about these chapter 11 cases, including but not limited to, the terms of the Order or the Ethical Wall Entity's general ability to trade in the Securities. Committee Personnel may receive: (i) reports and communications showing the Ethical Wall Entity's purchases, sales and ownership of Securities, but no more frequently than as is customary or otherwise appropriate; and (ii) the usual internal reports showing the Ethical Wall Entity's purchases and sales on behalf of Ethical Wall Entity or its clients to the extent that such personnel would otherwise receive such reports and communications in the ordinary course, and such reports are not specifically prepared with respect to the Debtors.

7. Each Ethical Wall Entity's compliance personnel shall review such Ethical Wall Entity's trades to determine if there is any reason to believe that such trades were not made in compliance with the information blocking procedures; provided, however, that the Order is not intended to preclude the Court from taking any action it may deem appropriate in the event that an actual breach of fiduciary duty has occurred because the procedures employed have not been effective or for reasons unrelated to the fact of such Ethical Wall Entity's ability to trade based upon the establishment of the procedures set forth in the Order, and the Order shall not preclude the US Trustee from taking any appropriate action (including the removal of a Bank of America from the Committee) for an actual breach of fiduciary duty by Bank of America.

8. An Ethical Wall Entity that trades in the Securities shall, unless it resigns from the Committee or otherwise is no longer a party to the Order,² provide written or electronic

² Upon the resignation of a member of the Committee that is an Ethical Wall Entity, the resigning Ethical Wall

notice on a quarterly basis to the US Trustee verifying review of, and continued compliance with, the terms of the Order and shall disclose, as soon as is practicable, to the US Trustee any material breaches of the Order.

9. The individual Bank of America representative who is chosen as Committee Personnel shall also submit a Declaration affirming his or her compliance with the procedures set described herein and accepting any responsibilities in connection herewith.

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

Dated: November 15, 2011

/s/ Eric T. Sieke

Exhibit B

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

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

**ORDER PERMITTING SECURITIES TRADING
UPON ESTABLISHMENT OF ETHICAL WALL**

Upon the motion dated November 15, 2011 (the "Motion"), of Bank of America, N.A. ("Bank of America"), a member of the Statutory Creditors Committee ("Committee") of the above-captioned debtors in possession (collectively, the "Debtors") for an order permitting the Ethical Wall Entities¹ to trade in the Securities upon the establishment and implementation of an Ethical Wall and in accordance with the terms and conditions of this Order, and due and proper notice of the Motion having been given, and no adverse interest being affected, and any opposition to the Motion having been duly considered and overruled, and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED, that the Motion is granted as herein provided; and it is further

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

ORDERED, that Bank of America, acting in any capacity, shall not violate and shall not be deemed to have violated its fiduciary duties as a member of the Committee and, accordingly, will not subject its claims to disallowance, subordination, or other adverse treatment on account of Bank of America and/or its affiliates trading Securities, whether or not covered by Bankruptcy Rule 3001(e), during the pendency of these cases, provided, however, Bank of America establishes, effectively implements, and strictly adheres to the policies and procedures set forth in the Declaration of Eric T. Sieke, to prevent the non-Committee Personnel (as defined therein) from misusing non-public information obtained as a result of Bank of America's performance of Committee-related activities, and it is further

ORDERED, that the Ethical Wall procedures to be employed by an Ethical Wall Entity, if it wishes to trade in the Securities, shall be the information blocking procedures set forth in the Declaration of Eric T. Sieke, and it is further

ORDERED, that this Order shall apply to an Ethical Wall Entity only if it is engaged in trading of securities as a regular part of its business; and it is further

ORDERED, that nothing set forth in the Motion or this Order shall constitute an admission by any party or finding by this Court that debt obligations of the Debtors or non-debtor affiliates, whether arising under a credit facility or similar agreement or arrangement, or a participation in the same, is a "security" as such term is defined in the Securities Act of 1933, as amended; and it is further

ORDERED, that Bank of America's affiliate or affiliates may be designated as an Ethical Wall Entity if an employee or employees of such affiliate or affiliates execute Exhibit C to the Motion and provide a copy of such executed letter to the US Trustee; and it is further

ORDERED, that any entity bound by this Order shall not trade in the Securities except in compliance with this Order; and it is further

ORDERED, that this Court retains jurisdiction to construe and enforce the terms of this Order.

Dated: _____, 2011

THE HONORABLE MARTIN GLENN
UNITED STATES BANKRUPTCY JUDGE

Exhibit C

[FIRM LETTERHEAD]

[NAME]

[ADDRESS]

Re: In re MF Global Holdings Ltd., *et al.*, (Case No. 11-145059) (MG)
Order to Permit Securities Trading Upon Establishment of an Ethical Wall

Dear _____ :

I am writing this letter pursuant to, and in accordance with, the Order Permitting Securities Trading Upon Establishment of an Ethical Wall (the "Order") entered by the Bankruptcy Court for the Southern District of New York on November __, 2011. I am an **[TITLE]** of **[BANK OF AMERICA, N.A. OR AFFILIATE NAME]**. I am a Committee Personnel (as referenced in the Order) of the Statutory Committee of Unsecured Creditors of the above referenced cases. I hereby acknowledge that (a) I may receive nonpublic information regarding the Debtors and the Debtors' non-debtor affiliates as a consequence of Bank of America's performance of Committee-related activities, and (b) I am aware of, and agree to comply with, the Order of the Ethical Wall procedures which is in effect with respect to the Securities (as referenced in the Order).

Sincerely yours,