

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

In re

MF GLOBAL INC.,

Debtor.

Case No. 11-2790 (MG)
SIPA

**STATEMENT OF COMMODITY FUTURES TRADING COMMISSION IN
SUPPORT OF TRUSTEE'S EMERGENCY MOTION FOR AN ORDER
APPROVING THE TRANSFER OF CERTAIN SEGREGATED CUSTOMER
COMMODITY ACCOUNTS OF MF GLOBAL INC. AND RELATED
MARGIN AND MOTION FOR EXPEDITED HEARING**

The Commodity Futures Trading Commission (“CFTC” or “Commission”) supports the emergency motion of James W. Giddens (“Trustee”), as trustee for the liquidation of the business of MF Global, Inc. (“MFGI”) under the Securities Investor Protection Act of 1970, as amended, 15 U.S.C. § 78aaa *et seq.*, for entry of an order approving the transfer of certain segregated commodity customer accounts and related margin as well as the motion for expedited hearing. The CFTC is the federal agency responsible for the regulation of commodity futures and options, including the commodity business of MFGI, and for the protection of commodity customers. The CFTC’s regulations for commodity broker bankruptcy proceedings require the trustee to “immediately use its best efforts to effect a

transfer” of customer accounts no later than the fourth business day after the order for relief. 17 CFR § 190.02(e)(1). This requirement reflects the Commission’s judgment that liquidation of customer commodity positions in bankruptcy necessarily creates high risks to customers of loss of value of market positions as well as disruption of customers’ ability to use commodity positions for hedging risks and other business purposes. Liquidation of customer positions in connection with the bankruptcy of large commodity brokers such as MFGI also poses high risk of disruption of markets with effects on market participants beyond the immediately affected customers.

On October 31, 2011, the CFTC was advised by the General Counsel for MFGI that MFGI’s segregated accounts containing customer property and funds had a “significant shortfall.” See Declaration of Ananda Radhakrishnan ¶ 2 (attached as Exhibit A). Segregation of customer funds is the foundation of customer protection in the commodity futures and swaps markets. Segregation must be maintained at all times, pursuant to Section 4d of the Commodity Exchange Act (“the Act”) and Commission Regulation 1.20. The Commission intends to take all appropriate action, within the purview of the Bankruptcy Code and the Act, to ensure that customers maximize their recovery of funds and to discover the reason for the shortfall in segregation.

The CFTC has reviewed the emergency motion and proposed order. The CFTC believes that the emergency motion offers the best available mechanism, albeit one that is imperfect, for minimizing losses to customers and disruption of markets. This is so notwithstanding the possibility that the planned transfer of accounts will not prevent all losses or disruption to customers.

The CFTC further strongly supports the need for an expedited hearing. The Commission's regulations provide a limited time period for transfers to be accomplished while receiving the protection from avoidance provided by 17 CFR § 190.06(g)(2). Derivatives clearing organizations must manage their risks, including by liquidating positions that are not supported by a clearing member. In the case of transactions cleared through MFGI, arrangements to pay obligations to clearing organizations promptly (*i.e.*, once or twice a day) have been effectively suspended for three days as of the date of this motion. Derivatives clearing organizations that clear transactions of MFGI customers have, in order to facilitate protection of customers and avoid disrupting markets, extended forbearance, but such forbearance may end at any time the clearing organizations determine that protection of their membership as a whole and their proper functioning requires positions to be liquidated. As a result of MFGI's inability to meet its current obligations, the accounts of its customers are currently frozen and, unless the positions are transferred promptly, are in imminent danger of forced liquidation.

Following the proposed transfer, the CFTC will continue to work in cooperation with the trustee to identify and recover MFGI customer assets and ensure their return to customers.

Respectfully submitted,

Dan M. Berkovitz
General Counsel

Jonathan L. Marcus
Deputy General Counsel

 /s_ Martin B. White
Martin B. White
Assistant General Counsel
Commodity Futures Trading Comm'n
1155 21st Street NW
Washington, D.C. 20581
(202) 418-5120

EXHIBIT A

DECLARATION OF ANANDA RADHAKRISHNAN

**UNITED STATES BANKRUPTCY COURT
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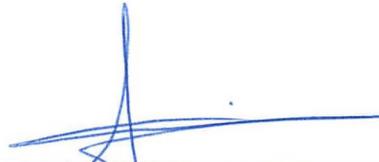
Declaration of Ananda Radhakrishnan

1. I am Ananda Radhakrishnan, Director of Clearing and Risk at the U.S. Commodity Futures Trading Commission. In that capacity, I am responsible for the oversight of all derivatives clearing organizations registered with the CFTC and the activities of its clearing members, which include CFTC registered futures commission merchants.
2. On Monday, October 31, 2011, at 7:18 p.m., I received through my official government e-mail account the attached e-mail from Laurie Ferber, General Counsel for MF Global, Inc., advising the Commission that MF Global's segregated accounts containing customer property and funds had a

“significant shortfall.”

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

Executed on November 2, 2011.

A handwritten signature in blue ink, consisting of a vertical line that loops back down and then a horizontal line that extends to the right.

Ananda Radhakrishnan
Director, Division of Clearing and Risk
U.S. Commodity Futures Trading Comm'n

Radhakrishnan, Ananda

From: Ferber, Laurie (NY Int) <LFERBER@mfglobal.com>
Sent: Monday, October 31, 2011 7:18 PM
To: macchiarolim@sec.gov; Sollazzor@sec.gov; bujakb@sec.gov; Wasserman, Robert B.; Radhakrishnan, Ananda; marren@cboe.com
Cc: george.c.gallagher@us.pwc.com
Subject: 17a-11

This is to inform you that MF Global Inc. has discovered a significant shortfall in its segregated funds account. The company is continuing to review the circumstances of the shortfall.

Laurie R. Ferber
Genral Counsel

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