



July 24, 2012

U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: July 26, 2012 Public Meeting of the CFTC Technology Advisory Committee

Members of the Committee:

Thank you for the opportunity to speak with you today about Confirmation.com's service; the role it played in uncovering the PFG Best fraud; and how Confirmation.com can be used going forward to continue to protect investor funds and uncover or deter fraud.

BACKGROUND

As background, Confirmation.com is the creator and patent holder for secure online audit confirmations. My colleague and the founder of Confirmation.com is Brian Fox, a CPA who worked for both Ernst & Young and PriceWaterhouseCoopers in the 90's when he recognized that not only was the paper and fax process for audit confirmations inefficient – delivering confirmations back to the auditors 4-6 weeks after a request was made – he also recognized that the paper process could be easily manipulated by fraudsters looking to steal or misuse the cash from the businesses they ran and the cash provided by their investors.

Twelve years ago Confirmation.com created the first secure online clearinghouse for audit confirmations which now allows auditors to receive confirmation responses back in under 60 seconds and has been effective in uncovering multiple confirmation frauds, namely the PFG Best fraud, as well as others including a U.S. listed company fraud and a Chinese company listed on a U.S. stock exchange that was committing fraud.

LEADER IN SECURE AUDIT CONFIRMATIONS

Each year Confirmation.com processes more than \$1 trillion in confirmation data, processing millions of confirmations for more than 10,000 regulatory bodies, external audit firms, and internal audit departments. With access to thousands of banks through our network, 70 of the Top 100 banks respond to confirmations through Confirmation.com to include 19 of the Top 20 U.S. banks as well as the U.S. Federal Reserve Bank, which launched our service last year. 25 banks including Bank of America, HSBC, Citizens Bank, BB&T, SunTrust and Silicon Valley Bank have mandated the use of Confirmation.com and won't respond to confirmations sent to them any other way. Every Top 100 accounting firm in the



country sends confirmation requests through our service and we are endorsed by the American Bankers Association and are the Preferred Provider of Electronic Confirmations for the American Institute of CPAs.

CONFIRMATION FRAUD

Confirmation fraud dates back almost 100 years to the McKesson & Robbins fraud, which is the first recorded confirmation fraud. Within the last 10 years alone we have seen more than 40 public company frauds involving mailed and faxed audit confirmations, included are:

- The 14 year Olympus fraud, which cost investors more than \$4.5 billion in market cap value and involved individuals at 3 different banks who intentionally responded falsely to audit confirmations requests;
- Parmalat which fabricated a \$4.9 billion bank account and concealed it for 10 years and cost investors 97% of their shareholder value in less than a week;
- Along with many others such as Refco, Ahold, Kmart and the majority of reverse Chinese merger frauds like Sino-Forest and China-Biotics.

Our solution caught the PFG Best fraud and if used on even a monthly basis could have caught the MF Global fraud. Ideally, though, the mandatory use of our service would significantly deter potential fraudsters who – absent a service like Confirmation.com’s - might otherwise be inclined to simply steal investor funds for personal use or “temporarily” use investor funds to double-down on bad bets hoping to recover their losses and put the money back in the investors’ accounts before anyone knew it was gone.

Confirmation fraud happens one of two ways:

- The fraudster gets someone at the bank to intentionally respond to the auditors with false confirmation information – which happened at Olympus where individuals at 3 different banks intentionally provided false and misleading information to the auditors;
- Or the fraudster controls the location where the confirmations are sent, making it look like the bank responded – which is what happened with both the PFG Best and Parmalat confirmation frauds.



CONFIRMATION.COM CAPABILITIES

Most auditors today don't utilize the full capabilities of our service because most auditors still send confirmations just once a year. Confirmation.com's full capabilities have been used to provide confirmation responses in less than 60 seconds, and we have users who provide confirmation responses as frequently as 5 times per day through electronic interfaces. We have long been advocates for sending confirmations more than just one time per year because doing so can be a significant deterrent to fraud and at the very least reduce the timeframe that fraud could occur thereby potentially limiting investor losses.

The service is cloud-based where both the requestors and responders can self-register and begin using the service almost immediately with no hardware or software to install or maintain. Because most banks don't prioritize audit confirmation responses – until maybe today that is – we provide three (3) levels of solutions to banks. The first level has the ability to push or request data from banks who have not registered with Confirmation.com's service. The second level allows registered banks to literally begin using the service the day they register, until they are able to allocate the IT resources necessary to tie-into Confirmation.com's third level which is a secure FTP (file transfer protocol) for automated confirmation responses. This third level integrates directly with the banks legacy systems and allows the banks to electronically provide confirmation response data through Confirmation.com to the auditors.

While many people in this room would assume that each person working for a public accounting firm, internal audit department or outside regulator has honest intentions because of their fiduciary role to the public, what probably isn't a surprise to others is that with hundreds of thousands of individuals having used our service over the last twelve years, we have had attempts where those with a fiduciary role tried to take advantage of the technology to gain unauthorized access to private financial data. One can only guess at their motives – curiosity, accident, knowledge for personal reasons – but access to private financial information must come with certain controls to mitigate unauthorized access. Without these controls, most banks' legal counsels won't allow for the release of private financial information. This is primarily because absent such approval the bank would have no way to determine that the "auditor" is making a request on an entity which is actually under the auditor's purview, where the auditor has the proper authorization to be provided that private financial data. Without a mechanism for verifiable authorization from the bank's client to the bank, it would be easy for someone to gain unauthorized access to private data.

To alleviate this concern for the banks, Confirmation.com's system provides a patented mechanism for proper authorization by the client to the banks for the release of the information based on the banks' internal legal requirements. This has allowed us to be successful in blocking unauthorized individuals from gaining access to private financial information. Based on the unique needs of the auditors, Confirmation.com's service can be configured to the two extremes where in one case the client approval must be given on every request, or on the other extreme where a single initial approval is provided,



allowing the auditor to send confirmations anytime and as often as the auditor would like, which is the option we see is needed with the solution being discussed here today.

While a balance in isolation won't identify fraud or the misuse of funds, Confirmation.com's system can be enabled to automatically match confirmation response data to third-party data to ensure accuracy. This capability in conjunction with parameters that can be set to trigger flags for auditors which identify anomalies occurring outside learned standard deviations could indicate possible fraud or unusual account activity.

RESTORING INVESTOR CONFIDENCE

What we really have here is a need to restore investor confidence because without it, investors won't be able to trust the companies they invest in or the companies they invest through. As the market leader, Confirmation.com's secure audit confirmation clearinghouse is proven to catch fraud and deter future fraudsters, which will result in restoring investor confidence back into the marketplace.

SOLUTION

Confirmation.com has been working on the solution you seek for the last decade with millions of confirmations and identification of multiple frauds as proof of the success we've had. The ultimate solution that the market desires is the one we have always envisioned, the core of which we have built and is in use today. The solution we propose is a cloud-service that allows for transparency into the cash balances for both the auditors and the investors as often as both parties require and is useful to them – that being near-instantaneous, whether hourly, daily, monthly, quarterly or annually,

- it allows for quick and simple use and integration by all parties without new hardware or software for users to purchase;
- will identify anomalies through both predetermined parameters and learned standard deviations;
- and provides usable reports for analysis by the auditors and investors to not only ensure but improve investor confidence.

With access to thousands of banks using our Level 1 solution, and hundreds of banks including 70 of the Top 100 banks and the Federal Reserve already using Confirmation.com's Level 2 and Level 3 solutions, along with more than 60,000 auditors, hundreds of thousands of audited companies and with a solution that is also utilized by and beneficial to even the smallest of our community bank users, Confirmation.com's clearinghouse is the effective, cost efficient service through which banks provide clarity and transparency into the cash positions of the companies being audited.



CONCLUSION

I want to again thank the Committee for allowing me to speak at this public panel. Confirmation.com has spent 12 years focused on catching fraudsters and eliminating confirmation fraud through the use of efficient, cloud-based technology. We have a proven system in place today that can be modified if necessary to meet your unique needs and the needs of the investors whose money you are charged with protecting and we look forward to continuing this discussion with you. Thank you again for your time here today.

Sincerely,

A handwritten signature in blue ink that reads "CF Schellhorn".

Christopher F. Schellhorn
Chairman & CEO
Confirmation.com