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

In re

MF GLOBAL INC.,

Debtor.

Case No. 11-2790 (MG) SIPA

**OMNIBUS REPLY TO LIMITED OBJECTIONS TO MOTION OF JAMES W.
GIDDENS, SIPA TRUSTEE FOR LIQUIDATION OF MF GLOBAL INC., TO
APPROVE FIRST INTERIM DISTRIBUTION FOR ALLOWED
COMMODITY FUTURES CLAIMS**

James W. Giddens (the “Trustee”), as Trustee for the liquidation of the business of MF Global Inc. (“MFGI” or the “Debtor”) under the Securities Investor Protection Act of 1970, as amended (“SIPA”), 15 U.S.C. §§ 78aaa *et seq.*,¹ as and for his omnibus reply to the limited objections (collectively, the “Limited Objections”) interposed to the Trustee’s expedited motion (the “Motion,” ECF No. 1086) to approve the first interim distribution for allowed

1. For convenience, subsequent references to SIPA will omit “15 U.S.C.”

commodity futures claims, by and through his undersigned counsel, respectfully states as follows:

PRELIMINARY STATEMENT

1. The Trustee filed the Motion seeking authority to distribute an additional approximately \$600 million of Segregated Funds,² approximately \$50 million of Secured Funds, and to identify and establish a Delivery Class and distribute approximately \$35 million of Delivery Funds to claimants with allowed claims for property in that class. These funds would be distributed to former futures customer claimants who timely filed claims and have received and agreed to the Trustee's determination of their claims (each a "Finalized Claim"), on a rolling basis. For clarity, a claimant's claim also becomes a "Finalized Claim" if the claimant does not agree to the Trustee's determination of the claim, but either through mutual agreement or judicial determination, any disputes regarding the claim are ultimately resolved.³

2. Several former public customers of MFGI interposed limited objections and responses or sent informal responses to the Trustee's counsel (together, the "Limited Objections") relating to the relief sought in the Motion.⁴ These Limited Objections primarily

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2. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.
 3. The term "Finalized Claim" was not used in the Proposed Order, originally submitted by the Trustee, but rather the Trustee used "allowed claim." Again, for the avoidance of doubt, the Trustee meant that claims that were allowed because of the claimant's agreement and those that were finalized through mutual or judicial resolution would be eligible for this proposed First Interim Claims Distribution.
 4. These consist of: (1) Claimant Jill Zunshine's Response to the Trustee's Motion to Approve First Interim Distribution for Allowed Commodity Futures Claims (ECF No. 1190); (2) Response of Patrick O'Malley, M.D., Matthew Johnson and Michael Dokupil to Trustee's Motion to Approve First Interim Distribution for Allowed Commodity Futures Claims (ECF No. 1206); (3) Certain MF Global Inc. Claimants' Objection to Motion of James W. Giddens, SIPA Trustee for Liquidation of MF Global Inc., to Approve First Interim Distribution for Allowed Commodity Futures Claims (ECF No. 1208); (4) Joinder and Limited Response of John Supple, Thomas Ritter and Greenbriar Partners, L.P. to Motion of James W. Giddens, SIPA Trustee for Liquidation of MF Global, Inc., to Approve First Interim Distribution for Allowed Commodity Futures Claims (ECF No.

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seek clarification regarding the identified and proposed Delivery Class and the Declaration, Release and Assignment (the “DRA”) that is required to be executed by claimants if they agree with the Trustee’s determinations of their claims before their claims are deemed Finalized Claims and they become eligible to receive funds through the proposed First Interim Claims Distribution. Accordingly, this omnibus reply (the “Omnibus Reply”) addresses the Limited Objections by common category.

3. Counsel for the Trustee has reviewed the five formal Limited Objections that were filed in response to the Motion and the one informal, undocketed response, and addresses all those responses in this Omnibus Reply.⁵

4. The Trustee also received submissions from what are clearly not former public customers of MFGI, nor representatives of former public customers. The trustee for the chapter 11 proceeding of MF Global Holdings Ltd., *et al.* (the “Chapter 11 Trustee”) filed a statement (the “Holdings Statement,” ECF No. 1215) purporting to support the relief requested by the Motion, but making requests for extensive data concerning the status of the MFGI liquidation for purposes not germane to this Motion solely for the interests of its non-customer creditors and bondholders. This Motion only involves distribution of segregated customer property to former customers and makes clear both that the Trustee is withholding reasonable and substantial sums of customer property for contingencies and that non-customer property that

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1216); (5) Limited Objection of Former Commodities Account Customers of MF Global Inc. to Motion of James W. Giddens, SIPA Trustee for Liquidation of MF Global Inc., to Approve First Interim Distribution for Allowed Commodities Futures Claims, and to Related Proposed Order (ECF No. 1217); and (6) Informal Response of George V. Utlik (undocketed).

5. A chart summarizing each of these responses, and showing the Trustee’s replies, is attached hereto as Exhibit A.

is being marshaled is not involved. The Statutory Creditors' Committee of MF Global Holdings Ltd., *et al.* (the "Chapter 11 Committee") then filed a (very late) response, titled as a joinder in the Holdings Statement (the "Committee Statement," ECF No. 1277), which included a chart of mostly incorrect statements about the discussions and exchanges of information between the two trustees, in which the Chapter 11 Committee has not actively participated.

5. To be clear, the Trustee has been working diligently for the benefit of MFGI's former customers and conducting this SIPA Proceeding with the utmost transparency for their benefit. The non-germane points of the Chapter 11 Trustee are addressed at the end of this Omnibus Reply after addressing the concerns of former public customers—the beneficiaries of the Trustee's Motion. Additionally, in Exhibit B attached hereto, the Trustee sets the record straight about the status of the information exchanges between the Trustee and the Chapter 11 Trustee.

THE TRUSTEE'S RESPONSES TO THE LIMITED OBJECTIONS

Limited Objections Relating to the Delivery Class

6. Two of the Limited Objections from former customers relate to the Trustee's identification and proposed establishment of a Delivery Class.⁶ The Trustee maintains that, pursuant to the Part 190 Regulations, the proposed Delivery Class is comprised of Delivery Credits, Frozen Proceeds, and Delivery Debits, as well as the Physical Customer Property.

6. See Response of Patrick O'Malley, M.D., Matthew Johnson and Michael Dokupil to Trustee's Motion to Approve First Interim Distribution for Allowed Commodity Futures Claims (ECF No. 1206); Joinder and Limited Response of John Supple, Thomas Ritter and Greenbriar Partners, L.P. to Motion of James W. Giddens, SIPA Trustee for Liquidation of MF Global, Inc., to Approve First Interim Distribution for Allowed Commodity Futures Claims (ECF No. 1216).

7. As the Trustee noted in the Motion, the Part 190 Regulations identify six potential account classes: futures accounts, foreign futures accounts, leverage accounts, commodity option accounts, *delivery accounts*, and cleared OTC derivatives accounts. 17 C.F.R. § 190.01(a) (emphasis added). “Delivery account” means:

[A]ny account prominently designated as such in the records of the debtor which contains only the specifically identifiable property associated with delivery set forth in § 190.01(kk)(3), (4), and (5), except that with respect to § 190.01(kk)(4) and (5), delivery need not be made or taken and exercise need not be effected for such property to be included in a delivery account.

17 C.F.R. § 190.05(a)(2). In other words, the Delivery Class will include the subset of specifically identifiable property defined in § 190.01(kk)(3), (4), and (5).

8. Under all three relevant subsections of § 190.01(kk), the definition of specifically identifiable property is dependent on two common factors. First, the cash or other property must be identified on the books and records of the debtor as related to delivery of Physical Customer Property or exercise of the related contracts. *See* 17 C.F.R. § 190.01(kk)(3) (requiring that specifically identifiable property defined under this subsection “can be identified on the books and records of the debtor as received from or for the account of a particular customer as held specifically for the purpose of delivery or exercise”); 17 C.F.R. § 190.01(kk)(4) (requiring that specifically identifiable property defined under this subsection “is identified on the books and records of the debtor as received . . . specifically for the purpose of payment . . . upon taking delivery or . . . upon exercise”); 17 C.F.R. § 190.01(kk)(5) (requiring that specifically identifiable property defined under this subsection “is identified on the books and records of the debtor as received . . . for the purpose of a delivery or exercise”).

9. Second, the cash or other property encompassed by the subset of “specifically identifiable property” defined in 17 C.F.R. § 190.01(kk)(3)–(5), which must be

included in the Delivery Class pursuant to 17 C.F.R. § 109.05(a)(2), must be received, acquired, held, tendered, or deposited for the purpose of *making or taking delivery* of Physical Customer Property or exercising the related contracts. *See* 17 C.F.R. § 190.01(kk)(3) (requiring that specifically identifiable property defined under this subsection be “held by or for the account of the debtor for the purpose of *making or taking delivery* [of Physical Customer Property]”) (emphasis added); 17 C.F.R. § 190.01(kk)(4) (requiring that specifically identifiable property defined under this subsection be deposited “to pay for the *taking of physical delivery* [of Physical Customer Property]”) (emphasis added); 17 C.F.R. § 190.01(kk)(5) (requiring that specifically identifiable property defined under this subsection be tendered “to *make physical delivery* [of Physical Customer Property]”) (emphasis added).

10. In the MFGI books and records, property associated with the segregated (pursuant to section 4d of the Commodity Exchange Act) portion of a customer’s account was designated as “F1”; property associated with the secured (pursuant to 17 C.F.R. § 30.7) portion of a customer’s account was designated as “F2”; and property associated with the delivery portion of a customer’s account was designated as “F/D”. Delivery Credits and Delivery Debits were prominently designated in MFGI’s books and records as associated with the “F/D” portion of a customer’s account. Frozen Proceeds are essentially Delivery Credits suspended as a result of MFGI’s entry into liquidation, and would have been designated as associated with the “F/D” portion of a customer’s account if MFGI did not enter into liquidation and these proceeds had received any designation in MFGI’s book and records.⁷ In other words, Delivery Credits,

7. As part of the Third Bulk Transfer (ECF No. 717), failed wire transfers, that—but for MFGI’s liquidation—would have been recredited to the accounts with which they were associated were (with Court approval) credited back to the accountholders’ accounts so that bulk transfer distributions could be calculated and effected

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Delivery Debits, and Frozen Proceeds were identified on the books and records of MFGI as related to delivery of Physical Customer Property or exercise of the related contracts.

11. Further, Delivery Credits are simply proceeds credited to the F/D portion of a customer's account resulting from the customer *making delivery* of Physical Customer Property in fulfillment of a contractual obligation. As noted above, Frozen Proceeds are Delivery Credits suspended as a result of MFGI's entry into liquidation. Delivery Debits are simply debits recorded in the F/D portion of a customer's account resulting from the customer *taking delivery* of Physical Customer Property in fulfillment of a contractual obligation. In other words, Delivery Credits, Delivery Debits, and Frozen Proceeds were associated with the customer's account for the purpose of *making or taking delivery* of Physical Customer Property or exercising the related contracts. Thus, these categories of property fall squarely into the subset of "specifically identifiable property" encompassed by 17 C.F.R. § 190.01(kk)(3)–(5), which must be included in the Delivery Class pursuant to 17 C.F.R. § 190.05(a)(2).

12. Moreover, on MFGI's books and records, Delivery Credits were designated as associated with the "F/D" portion of customers' accounts and were *not* designated as associated with the "F1" portion of customers' accounts that includes property segregated under section 4d of the Commodity Exchange Act ("4d Customer Property"). Importantly, the funds associated with Delivery Credits were not required to be segregated under section 4d of the

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appropriately. While this investigation into Frozen Proceeds took longer, the process here is logistically similar to the failed wire transfer process previously authorized by this Court; the Frozen Proceeds would have posted as F/D credits (a/k/a Delivery Credits) to the accountholders' accounts, but for MFGI's liquidation. In both cases, the credits were not reflected on the books and records on the Filing Date, but are nonetheless, readily traceable to the former customers' accounts and corresponding account classes.

Commodity Exchange Act, and, in fact, were not so segregated—meaning that they were not comingled with the 4d Customer Property. Thus, it would be improper to include Delivery Credits and Frozen Proceeds in the account class containing 4d Customer Property. Delivery Credits and Frozen Proceeds clearly do not qualify as property associated with commodity transactions in foreign markets secured pursuant to 17 C.F.R. § 30.7 (“30.7 Secured Customer Property”), were not associated with the “F2” portion of customers’ accounts, and cannot be included in the account class containing 30.7 Secured Customer Property. Including Delivery Credits, Delivery Debits, and Frozen Proceeds in the Delivery Class will in no way negate the CFTC’s purpose in creating the delivery account class of ensuring that “this property . . . will not be diluted by other types of customer claims.” 48 Fed. Reg. 8716, 8731 (Mar. 1, 1983). Delivery Credits, Delivery Debits, and Frozen Proceeds must be accounted for in the Delivery Class in order to comply with the Part 190 Regulations, and cannot be included in any other account class or associated with “other types of customer claims.”

13. As the Trustee stated in the Motion, the Delivery Credits were not required to be segregated pursuant to section 4d of the Commodity Exchange Act, were not so segregated, but are nevertheless among the missing MFGI customer funds. One Limited Objection⁸ seeks to have the Delivery Credits and Frozen Proceeds improperly excluded from the Delivery Class. As holders of Physical Customer Property, these objectors are attempting to wrongfully reduce the shortfall of one account class—the Delivery Class—by inappropriately excluding Delivery Credits and Frozen Proceeds. Because the Delivery Credits are among the

8. See Response of Patrick O’Malley, M.D., Matthew Johnson and Michael Dokupil to Trustee’s Motion to Approve First Interim Distribution for Allowed Commodity Futures Claims (ECF No. 1206).

missing MFGI customer funds, they will have the net effect of increasing the shortfall of whichever account class to which that property is attributed. Delivery Credits and Delivery Debits were prominently designated in MFGI's books and records as associated with the "F/D" portion of customers' accounts, and were held by MFGI for the purpose of making or taking delivery of Physical Customer Property. As explained above, Frozen Proceeds are Delivery Credits suspended as a result of MFGI's entry into liquidation. Accordingly, Delivery Credits, Delivery Debits, and Frozen Proceeds properly belong in the Delivery Class, along with Physical Customer Property, regardless of the effect they may have on the shortfall of that class. It would unjustly burden other former customers of MFGI to improperly increase the shortfall of other account classes by inappropriately attributing Delivery Credits, Delivery Debits, and Frozen Proceeds to any account class other than the class to which they belong—the Delivery Class.

14. These objectors further assert that Delivery Credits and Frozen Proceeds cannot be included in the Delivery Class because they were not required to be segregated and were in fact not segregated. Response of Patrick O'Malley, M.D., Matthew Johnson and Michael Dokupil at ¶ 9. To be clear, the Trustee stated that these funds were not required to be segregated *pursuant to section 4d of the Commodity Exchange Act* (Motion at ¶ 24)—and were not, in fact, comingled with such segregated funds. Moreover, the fact that funds associated with Delivery Credits and Frozen Proceeds were not required to be segregated and were not in fact segregated does not and cannot exclude them from the definition of "specifically identifiable property" under 17 C.F.R. § 190.01(kk)(3)–(5) where those subsections make no mention of segregation. Further, 17 C.F.R. § 190.05(a)(2) provides only that the delivery account class must include "the specifically identifiable property *associated* with delivery set forth in

§ 190.01(kk)(3), (4), and (5)” (emphasis added). Again, there is no segregation requirement included in the definition of delivery account.

15. In support of their assertion, the objectors misrepresent CFTC commentary as stating that “the ‘delivery account’ class should only include ‘[p]roperty segregated on behalf of a delivery account.’” Response of Patrick O’Malley, M.D., Matthew Johnson and Michael Dokupil at ¶ 9 (citing 48 Fed. Reg. 8716, 831 (Mar. 1, 1983)). The cited provision of the Federal Register actually reads, “[p]roperty segregated on behalf of a delivery account, under the allocation provisions, will be allocated only to that account class.” 48 Fed. Reg. 8716, 831 (Mar. 1, 1983). Thus, any property segregated on behalf of a delivery account must be included in the delivery account class, which includes the Delivery Credits, Delivery Debits, and Frozen Proceeds. Moreover, 17 C.F.R. § 190.08(c) specifically states that “property held by or for the account of a customer, which is segregated on behalf of a specific account class, or readily traceable on the filing date to customers of such account class, must be allocated to the customer estate of the account class for which it is segregated *or to which it is readily traceable.*” (emphasis added). Therefore, even under the objectors’ mischaracterization of the CFTC’s commentary, property not so segregated but otherwise readily traceable and encompassed by the relevant definitions included in 17 C.F.R. §§ 190.01(kk)(3)–(5) and 190.05(a)(2)—including the Delivery Credits, Delivery Debits, and Frozen Proceeds—must also be included in the Delivery Class.

16. A second Limited Objection⁹ supported the Motion and requested only that the Trustee promptly determine the claims of and make distributions to those claimants with property that would now fall into the Delivery Class, but which was not covered by the categories of property which received distributions through the bulk transfer process. If the Trustee is authorized to establish the Delivery Class in accordance with the terms set forth in the Motion, his professionals will issue claim determinations to these claimants as soon as practicable. If these Delivery Class claimants agree with the Trustee's determinations and execute DRAs, thereby rendering their claims Finalized Claims, they will promptly become eligible for distributions. If these Delivery Class claimants object to the Trustee's determinations, they will be eligible for distributions after the dispute is resolved.

Limited Objections Relating to the DRAs

17. Several of the Limited Objections sought clarification on, or objected to, aspects of the DRA that accompanies the Trustee's claim determinations.¹⁰ As a preliminary matter, in order to receive funds under the proposed First Interim Claims Distribution, claimants must have timely filed claims and received determinations of their claims from the Trustee. Thereupon, if a claimant agrees with the Trustee's determination of his or her claim and executes

9. *See* Joinder and Limited Response of John Supple, Thomas Ritter and Greenbriar Partners, L.P. to Motion of James W. Giddens, SIPA Trustee for Liquidation of MF Global, Inc., to Approve First Interim Distribution for Allowed Commodity Futures Claims (ECF No. 1216).

10. *See* Claimant Jill Zunshine's Response to the Trustee's Motion to Approve First Interim Distribution for Allowed Commodity Futures Claims (ECF No. 1190); Certain MF Global Inc. Claimants' Objection to Motion of James W. Giddens, SIPA Trustee for Liquidation of MF Global Inc., to Approve First Interim Distribution for Allowed Commodity Futures Claims (ECF No. 1208); Limited Objection of Former Commodities Account Customers of MF Global Inc. to Motion of James W. Giddens, SIPA Trustee for Liquidation of MF Global Inc., to Approve First Interim Distribution for Allowed Commodities Futures Claims, and to Related Proposed Order (ECF No. 1217); Informal Response of George V. Utlik (undocketed).

the DRA accompanying the Trustee's claim determination, the claimant will be deemed to have a Finalized Claim, eligible for distribution under the proposed First Interim Claims Distribution. If a claimant disputes the Trustee's determination of his or her claim, such claim will be deemed a Finalized Claim only upon resolution of the dispute—whether that be through negotiation between the parties or through judicial resolution culminating in entry of a Court order.

18. Separately from this Omnibus Reply and related Motion, the Trustee has entered a stipulation and filed a response to various former customers' concerns and objections regarding the DRA (the "DRA Response," ECF No. 1274). The concerns regarding the DRA that were raised in the Limited Objections to this Motion were largely filed by the same former MFGI customers who filed objections to the DRA¹¹ and are addressed in the Trustee's DRA Response. Accordingly, the DRA Response is incorporated by reference into this Omnibus Reply.

19. In sum, the DRA only assigns the portion of a customer's claim relating to *actual* payments of funds the customer receives from the Trustee in connection with this SIPA Proceeding. The DRA does not and will not alter or limit any rights a customer has, or any standing a customer has, to assert claims against third parties other than the Released Persons (as defined in the DRA) and to recover against such third parties on unsatisfied claims. The Trustee has considerable discretion in carrying out his responsibilities, to an even greater extent than a trustee in a bankruptcy liquidation, including the obtaining of releases and assignments for

11. Of the three formal Limited Objections addressing the DRA, Jill Zunshine also filed a separate objection to the DRA (ECF No. 1161), as did the Paradigm Group (ECF No. 1111), and their concerns are addressed in the DRA Response. The concerns raised in the one remaining formal Limited Objection (ECF No. 1208) are also addressed in the DRA Response. The questions raised in the informal, undocketed response of George V. Utlik are addressed herein.

former customer's claims against third parties. *SEC v. Albert & Maguire Secs. Co.*, 560 F.2d 569, 573 (3d Cir. 1977) (trustee's broad powers extend to obtaining assignments of a customer's claims against third parties); *see also* 1 Collier on Bankruptcy ¶ 12.02 (16th ed. 2011). The document that the Trustee requests of each claimant is consistent with the goals of having similar, parallel claims processes for commodities and securities customers. It is prudent in terms of preserving standing for possible recovery of customer property and an application of principles consistent with the Second Circuit's ruling regarding assignment of claims under Section 541(a)(7) of the Bankruptcy Code. *See Bankruptcy Servs., Inc. v. Ernst & Young (In re CBI Holding Co.)*, 529 F.3d 432, 457 (2d Cir. 2008).

Miscellaneous Additional Points Addressed in the Limited Objections

20. One Limited Objection asserted that a deadline should be set for the Trustee's determination of claims.¹² The Trustee's professionals are putting forth tremendous efforts to determine claims with as much expediency as is responsibly possible. As of the time of this filing, in the roughly two months since the bar date for the filing of commodities customer claims:

- The Trustee has received 26,778 total commodities claims and has received over 4,500 additional general creditor claims that were likely misfiled, which will be treated as commodities claims. That said, the vast majority of the misfiled general creditor claims appear to be duplicative of filed commodities claims and some of the filed commodities claims are duplicates of and/or amendments to previously filed

12. *See* Certain MF Global Inc. Claimants' Objection to Motion of James W. Giddens, SIPA Trustee for Liquidation of MF Global Inc., to Approve First Interim Distribution for Allowed Commodity Futures Claims (ECF No. 1208) at ¶ 4.

claims. The Trustee expects that the total number of unique claims from former commodities customers (accounting for duplicates and amendments) will be approximately 23,000.

- The Trustee has determined and issued letters of determination for 21,116 commodities claims (which is over 90% of the expected total claims).
- To date, the Trustee has received 49 objections to his determinations and has received approximately 8,000 DRAs from former commodities customers agreeing with the Trustee's determination. The time to object to the Trustee's determinations has expired for another approximately 4,500 claims.

21. The roughly two thousand unique commodities public customer claims that are in the process of being determined involve complexities that require additional investigation, reconciliation and/or resolution. Nonetheless, the Trustee's professionals continue to work toward determining the remaining commodities customer claims as quickly as possible, expect to complete these determinations in the very near future, and are continuously issuing letters of determination on a rolling basis. A deadline for the Trustee's determination of these claims is not only unwarranted, it would be detrimental to determining net equity claims accurately and fairly in the interests of all claimants and as the CFTC regulations require. For example, the recent Court approval of the sale of the Physical Customer Property remaining under the Trustee's control (ECF No. 1279) and the proposed establishment of the Delivery Class in the instant Motion, if approved by the Court, will now allow the Trustee to move forward with related claims determinations. As noted above, the Trustee's professionals are also taking great efforts to re-categorize misfiled claims as commodities customer claims where appropriate by reviewing MFGI's records, to ensure that these claimants receive the utmost

protection to which they are entitled. Moreover, since the relief requested in the Motion seeks authority for the Trustee to make the First Interim Claims Distribution on a rolling basis and is dependent on sufficient releases being received, the timing of the determinations of the remaining claims has very little impact.

The Chapter 11 Trustee's Statement and the Chapter 11 Committee's Statement

22. In addition to the Limited Objections filed by former MFGI customers, the Chapter 11 Trustee filed the Holdings Statement, which purports to support the Motion, but requests that the Trustee be required to provide extensive data for the benefit of MF Global Holdings Ltd. and its creditors.¹³ The Trustee has taken great efforts to conduct this SIPA Proceeding with transparency and will continue to do so. Pursuant to this Court's November 23, 2011 Order Approving Trustee's Expedited Application to Establish Parallel Customer Claims Processes and Related Relief (the "Claims Process Order," ECF No. 423), the Trustee is obligated to file interim reports on the status of the liquidation every six months beginning with the publication of the notice of commencement of this SIPA Proceeding. Claims Process Order at 7. Accordingly, the Trustee will file his first interim report by June 4, 2012. The Trustee also files status updates regarding the claims process every sixty days. Claims Process Order at 7. The Trustee thus filed reports addressing the status of the claims process on January 12, 2012 (ECF No. 835) and March 2, 2012 (ECF No. 977). Further, in order to provide as much information as possible to former MFGI customers and other interested parties as promptly as is prudent, the Trustee voluntarily prepared and filed his Preliminary Report on Status of His

13. See Chapter 11 Trustee's Statement Regarding Motion of James W. Giddens, SIPA Trustee for Liquidation of MF Global Inc., to Approve First Interim Distribution for Allowed Commodity Futures Claims (ECF No. 1215).

Investigation (ECF No. 896) within four months of commencement of the SIPA Proceeding—far sooner than is standard in SIPA liquidations. Moreover, the Trustee posts information and updates frequently on his website.

23. The Trustee will continue to comply with his reporting requirements as established under SIPA § 78fff-1(c) and by prior order of this Court, and will provide regular status reports to the Court and other interested parties, with due regard for preserving estate resources and the integrity of his ongoing investigation into the demise of MFGI. Additional disclosures are not warranted.

24. The Chapter 11 Committee then filed a very late joinder¹⁴ in the Holdings Statement and included a chart of information that the Chapter 11 Committee incorrectly states is being withheld by the Trustee. The allegations—while wholly irrelevant to this Motion—include references to meetings, discussions, and exchanges of information from which the Chapter 11 Committee has largely been absent and are inaccurate. In Exhibit B, the Trustee sets the record straight about the status of these matters.

25. This Motion is aimed solely at seeking authorization to distribute *customer property* back to former MFGI customers in the most prompt and efficient manner possible, and the relief requested is in furtherance of the interests of former MFGI public customers. Those customers receive priority treatment by operation of law. Possible intercompany claims, subordinated claims, and proprietary trading accounts come after them. The holding company and its creditors' committee, who employ some of the principal people who operated the

14. See Joinder of Statutory Creditors' Committee of MF Global Holdings Ltd., *et al.* in Support of Position of Chapter 11 Trustee Regarding Motion of James W. Giddens, SIPA Trustee for Liquidation of MF Global Inc., to Approve First Interim Distribution for Allowed Commodity Futures Claims (ECF No. 1277).

business and presided over its demise, can scarcely claim to be unable to know basic information about intercompany accounts and outstanding trading relationships. The creditors of the holding company cannot blame the MFGI Trustee for the lack, to date, of any schedules, bar date, or any real plan for the debtors' future in the Chapter 11 Proceeding.

CONCLUSION

26. For the reasons set forth above, the Trustee respectfully requests that this Court enter the proposed order attached to the Motion as Exhibit A, and grant such other and further relief as is just and proper.

Dated: New York, New York
April 10, 2012

HUGHES HUBBARD & REED LLP

By: /s/ James B. Kobak, Jr.

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EXHIBIT A

Exhibit A: Specific Limited Objections and the Trustee's Responses

Responses Received from Former Public Customers of MFGI

1. Response of Claimant Jill Zunshine (Zach Zunshine)		(ECF No. 1190)
<u>Objection</u>	<u>Trustee's Response</u>	
<ul style="list-style-type: none"> ▪ Claimant objects to the Motion only to the extent that the Trustee proposes to exclude her from participating in the First Interim Claims Distribution because she objects to the DRA required to be executed in order to have a Finalized Claim. (p. 1) ▪ Specifically, the DRA provision requiring claimants to transfer and assign their third party claims and causes of action is not supported by law. (p. 1) ▪ The provision of the DRA requiring claimants to bestow immunity upon SIPC and the Trustee in his personal and official capacity extends beyond their legal entitlements. (p. 1) ▪ The provision requiring claimants to indemnify the Trustee and SIPC in case there is later a lien or claim found against their accounts is not supported by law. (p. 1-2) ▪ Claimants who object to the DRA, but not to the Trustee's determination of their claims, should be allowed to participate in the First Interim Claims Distribution. (p. 3) 	<ul style="list-style-type: none"> ▪ Separately from this Omnibus Reply and related Motion, the Trustee has entered a stipulation and filed a response to various former customers' concerns and objections regarding the DRA (the "DRA Response," ECF No. 1274). The concerns regarding the DRA that were raised in the Limited Objections to this Motion were largely filed by the same former MFGI customers who filed objections to the DRA and are addressed in the Trustee's DRA Response. Accordingly, the DRA Response is incorporated by reference into this Omnibus Reply. ▪ In sum, the DRA only assigns the portion of a customer's claim relating to <i>actual</i> payments of funds the customer receives from the Trustee in connection with this SIPA Proceeding. The DRA does not and will not alter or limit any rights a customer has, or any standing a customer has, to assert claims against third parties other than the Released Persons (as defined in the DRA) and to recover against such third parties on unsatisfied claims. The Trustee has considerable discretion in carrying out his responsibilities, to an even greater extent than a trustee in a bankruptcy liquidation, including the obtaining of releases and assignments for former customer's claims against third parties. <i>SEC v. Albert & Maguire Secs. Co.</i>, 560 F.2d 569, 573 (3d Cir. 1977) (trustee's broad powers extend to obtaining assignments of a customer's claims against third parties); <i>see also</i> 1 Collier on Bankruptcy ¶ 12.02 (16th ed. 2011). The document that the Trustee requests of each claimant is consistent with the goals of having similar, parallel claims processes for commodities and securities customers. It is prudent in terms of preserving standing for possible recovery of customer property and an application of principles consistent with the Second Circuit's ruling regarding assignment of claims under Section 541(a)(7) of the Bankruptcy Code. <i>See Bankruptcy Servs., Inc. v. Ernst & Young (In re CBI Holding Co.)</i>, 529 F.3d 432, 457 (2d Cir. 2008). 	

2. Response of Patrick O'Malley, M.D., Matthew Johnson and Michael Dokupil (Barnes & Thornburg LLP) (ECF No. 1206)	
<u>Objection</u>	<u>Trustee's Response</u>
<ul style="list-style-type: none"> ▪ The Motion incorrectly attempts to include Delivery Credits and Frozen Proceeds within the Delivery Class. The Delivery Class should be made up of only physical commodities and including Delivery Credits and Frozen Proceeds in the Delivery Class creates an improper shortfall in that class. (¶¶ 1, 4) ▪ First, the Delivery Credits and Frozen Proceeds should not be included in the Delivery Class because they are not “specifically identifiable property” and do not fall within the plain language of a “delivery account.” (¶ 6) ▪ Second, the inclusion of the Delivery Credits and Frozen Proceeds within the Delivery Class does not follow the CFTC’s articulated intent regarding the creation of the “delivery account” class, which was to shield customers holding specifically identifiable property from the otherwise dilutive effect of the Part 190 Regulations’ pro rata distribution scheme. (¶¶ 7–8) ▪ The CFTC’s commentary notes that the “delivery account” class should only include property segregated on behalf of a delivery account, and the Delivery Credits and Frozen Proceeds were not required to be segregated nor in fact segregated, and thus they are not allowed to be part of a “delivery account” class. (¶ 9) 	<ul style="list-style-type: none"> ▪ As discussed in further detail in the Omnibus Reply, Delivery Credits and Delivery Debits were prominently designated in MFGI’s books and records as associated with the “F/D” portion of customers’ accounts, and were held by MFGI for the purpose of making or taking delivery of Physical Customer Property. Frozen Proceeds are essentially Delivery Credits suspended as a result of MFGI’s entry into liquidation, and would have been designated as associated with the “F/D” portion of a customer’s account if MFGI did not enter into liquidation and these proceeds had received any designation in MFGI’s book and records. Accordingly, Delivery Credits, Delivery Debits, and Frozen Proceeds properly belong in the Delivery Class pursuant to 17 C.F.R. §§ 190.05(a)(2) and 190.01(kk)(3)–(5), along with Physical Customer Property, regardless of the effect they may have on the shortfall of that class. It would unjustly burden other former customers of MFGI to improperly increase the shortfall of other account classes by inappropriately attributing Delivery Credits, Delivery Debits, and Frozen Proceeds to any account class other than the class to which they belong—the Delivery Class. ▪ Including Delivery Credits, Delivery Debits, and Frozen Proceeds in the Delivery Class will in no way negate the CFTC’s purpose in creating the delivery account class of ensuring that “this property . . . will not be diluted by other types of customer claims.” 48 Fed. Reg. 8716, 8731 (Mar. 1, 1983). Delivery Credits, Delivery Debits, and Frozen Proceeds must be accounted for in the Delivery Class in order to comply with the Part 190 Regulations, and cannot be included in any other account class or associated with “other types of customer claims.” ▪ The fact that funds associated with Delivery Credits and Frozen Proceeds were not required to be segregated and were not in fact segregated does not and cannot exclude them from the definition of “specifically identifiable property” under 17 C.F.R. § 190.01(kk)(3)–(5) where those subsections make no mention of segregation. Further, 17 C.F.R. § 190.05(a)(2) provides only that the delivery account class must include “the specifically identifiable property <i>associated</i> with delivery set forth in § 190.01(kk)(3), (4), and (5)” (emphasis added). Again, there is no segregation requirement included in the definition of delivery account. ▪ Moreover, 17 C.F.R. § 190.08(c) specifically states that “property held by or for the account of a customer, which is segregated on behalf of a specific account class, or readily traceable on the filing date to customers of such account class, must be allocated to the customer estate of the account class for which it is

	<p>segregated or to which it is readily traceable.” (emphasis added). Therefore, even under the objectors’ mischaracterization of the CFTC’s commentary, property not so segregated but otherwise readily traceable and encompassed by the relevant definitions included in 17 C.F.R. §§ 190.01(kk)(3)–(5) and 190.05(a)(2)—including the Delivery Credits, Delivery Debits, and Frozen Proceeds—must also be included in the Delivery Class.</p>
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3. Certain MF Global Inc. Claimants’ Objection (Stutzman, Bromberg, Esserman & Plifka) (ECF No. 1208)	
<u>Objection</u>	<u>Trustee’s Response</u>
<ul style="list-style-type: none"> ▪ The Trustee seeks authority to issue distributions to customer claimants who have “agreed to the Trustee’s determination of their claims,” but the Motion is unclear as to what will be required of claimants as part of their “agreement to” the Trustee’s final determination of their claim. (¶ 3) ▪ There is no justification for the Trustee to require any release or transfer of rights from any claimant in order for that claimant to receive a distribution. (¶ 3) 	<ul style="list-style-type: none"> ▪ In order to receive funds under the proposed First Interim Claims Distribution, claimants must have timely filed claims and received determinations of their claims from the Trustee. Thereupon, if a claimant agrees with the Trustee’s determination of his or her claim and executes the DRA accompanying the Trustee’s claim determination, the claimant will be deemed to have a Finalized Claim, eligible for distribution under the proposed First Interim Claims Distribution. If a claimant disputes the Trustee’s determination of his or her claim, such claim will be deemed a Finalized Claim only upon resolution of the dispute—whether that be through negotiation between the parties or through judicial resolution culminating in entry of a Court order. ▪ Separately from this Omnibus Reply and related Motion, the Trustee has entered a stipulation and filed a response to various former customers’ concerns and objections regarding the DRA (the “DRA Response,” ECF No. 1274). The concerns regarding the DRA that were raised in the Limited Objections to this Motion were largely filed by the same former MFGI customers who filed objections to the DRA and are addressed in the Trustee’s DRA Response. Accordingly, the DRA Response is incorporated by reference into this Omnibus Reply. ▪ In sum, the DRA only assigns the portion of a customer’s claim relating to <i>actual</i> payments of funds the customer receives from the Trustee in connection with this SIPA Proceeding. The DRA does not and will not alter or limit any rights a customer has, or any standing a customer has, to assert claims against third parties other than the Released Persons (as defined in the DRA) and to recover against such third parties on unsatisfied claims. The Trustee has considerable discretion in carrying out his responsibilities, to an even greater extent than a trustee in a bankruptcy liquidation, including the obtaining of releases and assignments for former customer’s claims against third parties. <i>SEC v. Albert & Maguire Secs. Co.</i>,

	<p>560 F.2d 569, 573 (3d Cir. 1977) (trustee’s broad powers extend to obtaining assignments of a customer’s claims against third parties); <i>see also</i> 1 Collier on Bankruptcy ¶ 12.02 (16th ed. 2011). The document that the Trustee requests of each claimant is consistent with the goals of having similar, parallel claims processes for commodities and securities customers. It is prudent in terms of preserving standing for possible recovery of customer property and an application of principles consistent with the Second Circuit’s ruling regarding assignment of claims under Section 541(a)(7) of the Bankruptcy Code. <i>See Bankruptcy Servs., Inc. v. Ernst & Young (In re CBI Holding Co.)</i>, 529 F.3d 432, 457 (2d Cir. 2008).</p>
<ul style="list-style-type: none"> ▪ Before any further distributions are made, a deadline for the Trustee’s expeditious initial determination of timely filed claims should be established or, alternatively, a claimant should be able to request that the Trustee issue a determination of the claim within a reasonable time frame set by the Court. (¶ 4) 	<ul style="list-style-type: none"> ▪ The roughly two thousand unique commodities public customer claims that are in the process of being determined involve complexities that require additional investigation, reconciliation and/or resolution. Nonetheless, the Trustee’s professionals continue to work toward determining the remaining commodities customer claims as quickly as possible, expect to complete these determinations in the very near future, and are continuously issuing letters of determination on a rolling basis. ▪ As discussed in greater detail in the Omnibus Reply, a deadline for the Trustee’s determination of these claims is not only unwarranted, it would be detrimental to determining net equity claims accurately and fairly in the interests of all claimants and as the CFTC regulations require. ▪ Moreover, since the relief requested in the Motion seeks authority for the Trustee to make the First Interim Claims Distribution on a rolling basis and is dependent on sufficient releases being received, the timing of the determinations of the remaining claims has very little impact.

4. Joinder and Limited Response of John Supple, Thomas Ritter and Greenbriar Partners, L.P. (Foley & Lardner LLP) (ECF No. 1216)	
<p style="text-align: center;"><u>Objection</u></p>	<p style="text-align: center;"><u>Trustee’s Response</u></p>
<ul style="list-style-type: none"> ▪ The respondents support the relief sought by the Motion, but request that the Court, in addition to granting the relief requested by the Trustee: (i) clarify that the Third Bulk Transfer Order allows for an immediate up to 72% distribution to the Delivery Class customers; or (ii) encourage the Trustee to address the claims of customers, like the Delivery Class customers, who have not yet received a 72% distribution through a prompt claim 	<ul style="list-style-type: none"> ▪ If the Trustee is authorized to establish the Delivery Class in accordance with the terms set forth in the Motion, his professionals will issue claim determinations to these claimants as soon as practicable. If these Delivery Class claimants agree with the Trustee’s determinations and execute DRAs, thereby rendering their claims Finalized Claims, they will promptly become eligible for distributions. If these Delivery Class claimants object to the Trustee’s determinations, they will be eligible for distributions after the dispute is resolved.

determination. (¶¶ 1, 15)	
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5. Limited Objection of Former Commodities Account Customers of MF Global Inc. (Entwistle & Cappucci LLP, Susman Godfrey L.L.P., and Nisen & Elliot, LLC)	(ECF No. 1217)
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<u>Objection</u>	<u>Trustee’s Response</u>
<ul style="list-style-type: none"> ▪ The objectors object to the Motion solely to the extent the Trustee attempts to condition the First Interim Claims Distribution on claimants executing the DRA. (¶¶ 1, 3) ▪ There is no legal basis for the Trustee to require customers of MFGI to assign to him their claims against third parties as a condition to receiving distributions. (¶¶ 2, 5, 7) 	<ul style="list-style-type: none"> ▪ Separately from this Omnibus Reply and related Motion, the Trustee has entered a stipulation and filed a response to various former customers’ concerns and objections regarding the DRA (the “DRA Response,” ECF No. 1274). The concerns regarding the DRA that were raised in the Limited Objections to this Motion were largely filed by the same former MFGI customers who filed objections to the DRA and are addressed in the Trustee’s DRA Response. Accordingly, the DRA Response is incorporated by reference into this Omnibus Reply. ▪ In sum, the DRA only assigns the portion of a customer’s claim relating to <i>actual</i> payments of funds the customer receives from the Trustee in connection with this SIPA Proceeding. The DRA does not and will not alter or limit any rights a customer has, or any standing a customer has, to assert claims against third parties other than the Released Persons (as defined in the DRA) and to recover against such third parties on unsatisfied claims. The Trustee has considerable discretion in carrying out his responsibilities, to an even greater extent than a trustee in a bankruptcy liquidation, including the obtaining of releases and assignments for former customer’s claims against third parties. <i>SEC v. Albert & Maguire Secs. Co.</i>, 560 F.2d 569, 573 (3d Cir. 1977) (trustee’s broad powers extend to obtaining assignments of a customer’s claims against third parties); <i>see also</i> 1 Collier on Bankruptcy ¶ 12.02 (16th ed. 2011). The document that the Trustee requests of each claimant is consistent with the goals of having similar, parallel claims processes for commodities and securities customers. It is prudent in terms of preserving standing for possible recovery of customer property and an application of principles consistent with the Second Circuit’s ruling regarding assignment of claims under Section 541(a)(7) of the Bankruptcy Code. <i>See Bankruptcy Servs., Inc. v. Ernst & Young (In re CBI Holding Co.)</i>, 529 F.3d 432, 457 (2d Cir. 2008).

6. Informal Response of Attorney George V. Utlik (Arent Fox LLP) (Undocketed)	
<u>Objection</u>	<u>Trustee's Response</u>
<ul style="list-style-type: none"> ▪ Respondent seeks clarification as to the Trustee's meaning and intent behind the term "Finalized Claim" and how the claims are allowed for purposes of the First Interim Claims Distribution. ▪ Specifically, do the Finalized Claims include both (a) claims as received and agreed to by customers based on the Trustee's determination and (b) claims that are disputed by customers and are either (i) amicably resolved with the Trustee upon entry into a stipulation or (ii) determined through judicial intervention upon entry of a court order? ▪ Are Finalized Claims "allowed" and therefore eligible for further distributions in their final amount as determined through either (a) an agreement with the Trustee or (b) court order? ▪ Is receipt of the DRA by the Trustee included in the concept of a "Finalized Claim"? Is a customer's right to receive further distributions contingent upon the Trustee's receipt of the DRA? 	<ul style="list-style-type: none"> ▪ In order to receive funds under the proposed First Interim Claims Distribution, claimants must have timely filed claims and received determinations of their claims from the Trustee. Thereupon, if a claimant agrees with the Trustee's determination of his or her claim and executes the DRA accompanying the Trustee's claim determination, the claimant will be deemed to have a Finalized Claim, eligible for distribution under the proposed First Interim Claims Distribution. If a claimant disputes the Trustee's determination of his or her claim, such claim will be deemed a Finalized Claim only upon resolution of the dispute—whether that be through negotiation between the parties or through judicial resolution culminating in entry of a Court order. ▪ The term "Finalized Claim" was not used in the Proposed Order, originally submitted by the Trustee, but rather the Trustee used "allowed claim." Again, for the avoidance of doubt, the Trustee meant that claims that were allowed because of the claimant's agreement and those that were finalized through mutual or judicial resolution would be eligible for this proposed First Interim Claims Distribution.

Responses Received from Entities Other than Former Public Customers of MFGI

1. Chapter 11 Trustee's Statement (Morrison & Foerster LLP) (ECF No. 1215)	
<u>Objection</u>	<u>Trustee's Response</u>
<ul style="list-style-type: none"> ▪ This Statement purports to support the Motion, but requests that the Trustee be required to provide extensive data for the benefit of MF Global Holdings Ltd. and its creditors. (¶¶ 1-4) 	<ul style="list-style-type: none"> ▪ As detailed in the Omnibus Reply, the Trustee has taken great efforts to conduct this SIPA Proceeding with transparency and will continue to do so. The Trustee will continue to comply with his reporting requirements as established under SIPA § 78fff-1(c) and by prior order of this Court, and will provide regular status reports to the Court and other interested parties, with due regard for preserving estate resources and the integrity of his ongoing investigation into the demise of MFGI. Additional disclosures are not warranted. ▪ This Motion is aimed solely at seeking authorization to distribute <i>customer property</i> back to former MFGI customers in the most prompt and efficient manner possible, and the relief requested is in furtherance of the interests of former MFGI public customers. Those customers receive priority treatment by operation of law. Possible intercompany claims, subordinated claims, and proprietary trading accounts come after them. The holding company and its creditors' committee, who employ some of the principal people who operated the business and presided over its demise, can scarcely claim to be unable to know basic information about intercompany accounts and outstanding trading relationships. The creditors of the holding company cannot blame the MFGI Trustee for the lack, to date, of any schedules, bar date, or any real plan for the debtors' future in the Chapter 11 Proceeding.

2. Joinder of Statutory Creditors' Committee of MF Global Holdings Ltd., et al. in Support of Chapter 11 Trustee (Dewey & LeBoeuf LLP) (ECF No. 1277)	
<u>Objection</u>	<u>Trustee's Response</u>
<ul style="list-style-type: none"> ▪ Joins with the Chapter 11 Trustee and does not object to the relief sought in the Motion, but requests extensive information from the SIPA Trustee as a condition to further distributions to customers. (¶¶ 1, 7) ▪ Annexed a chart of information that the Chapter 11 Committee 	<ul style="list-style-type: none"> ▪ As detailed in the Omnibus Reply, the Trustee has taken great efforts to conduct this SIPA Proceeding with transparency and will continue to do so. The Trustee will continue to comply with his reporting requirements as established under SIPA § 78fff-1(c) and by prior order of this Court, and will provide regular status reports to the Court and other interested parties, with due regard for preserving estate

<p>incorrectly states is being withheld by the Trustee. (Exhibit C)</p>	<p>resources and the integrity of his ongoing investigation into the demise of MFGI. Additional disclosures are not warranted.</p> <ul style="list-style-type: none">▪ This Motion is aimed solely at seeking authorization to distribute <i>customer property</i> back to former MFGI customers in the most prompt and efficient manner possible, and the relief requested is in furtherance of the interests of former MFGI public customers. Those customers receive priority treatment by operation of law. Possible intercompany claims, subordinated claims, and proprietary trading accounts come after them. The holding company and its creditors' committee, who employ some of the principal people who operated the business and presided over its demise, can scarcely claim to be unable to know basic information about intercompany accounts and outstanding trading relationships. The creditors of the holding company cannot blame the MFGI Trustee for the lack, to date, of any schedules, bar date, or any real plan for the debtors' future in the Chapter 11 Proceeding.▪ The allegations contained in the Chapter 11 Committee's chart annexed to their Joinder as Exhibit C—while wholly irrelevant to this Motion—include references to meetings, discussions, and exchanges of information from which the Chapter 11 Committee has largely been absent and are inaccurate. In <u>Exhibit B</u> annexed to this Omnibus Reply, the Trustee sets the record straight about the status of these matters.
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EXHIBIT B

**Exhibit B: Trustee’s Responses to Information Requests from Statutory
Creditors’ Committee of MF Global Holdings Ltd., et al. (Exhibit C to ECF
No. 1277)**

On April 5, 2012 the Statutory Creditors’ Committee of MF Global Holdings Ltd. *et al.* filed a statement (ECF No. 1277) and chart (ECF No. 1277-3) with the Court in this proceeding that incorrectly asserts that the SIPA Trustee has failed to respond to or comply with certain requests, primarily for information, from the Chapter 11 Trustee for MF Global Holdings Ltd. As detailed in the chart below, the SIPA Trustee has not failed to respond to or comply with any such requests.

<u>Request No.</u>	<u>Trustee’s Response</u>
1	<ul style="list-style-type: none"> ▪ Request (in less detail) was the subject of a February 29, 2012 meeting between the Chapter 11 Trustee and the SIPA Trustee; basic points were discussed; no follow-up questions on these topics have since been raised. Shortfall explained as difference between customer assets available and estimated claims across all categories of customers.
2	<ul style="list-style-type: none"> ▪ Request was presented at a January 11, 2012 meeting of all global affiliates and was rejected by the Joint Special Administrators for MF Global UK Ltd. The SIPA Trustee could find no purpose in participating without MF Global UK Ltd.
3	<ul style="list-style-type: none"> ▪ Request was the subject of a February 29, 2012 meeting between the Chapter 11 Trustee and the SIPA Trustee; no follow-up questions on these topics have since been raised. Efforts to recover funds at depositories and counterparties have been and continue to be ongoing.
4	<ul style="list-style-type: none"> ▪ Request was the subject of a February 29, 2012 meeting between the Chapter 11 Trustee and the SIPA Trustee; no follow-up questions on these topics have since been raised.
5	<ul style="list-style-type: none"> ▪ Request was the subject of a March 20, 2012 meeting between the Chapter 11 Trustee and the SIPA Trustee. The SIPA Trustee received limited follow-up questions on March 26, 2012 and the SIPA Trustee is in the process of responding to those requests. ▪ The persons most knowledgeable of this Request are and have been in the employment of the Chapter 11 Trustee. The Chapter 11 Trustee and his consultants had previously looked to the SIPA Trustee to answer questions where the relevant information is already within their custody, possession, and control.

<u>Request No.</u>	<u>Trustee's Response</u>
6	<ul style="list-style-type: none"> ▪ Request was the subject of a March 20, 2012 meeting between the Chapter 11 Trustee and the SIPA Trustee. The SIPA Trustee received limited follow-up questions on March 26, 2012 and the SIPA Trustee is in the process of responding to those requests. ▪ The persons most knowledgeable of this Request are and have been in the employment of the Chapter 11 Trustee. The Chapter 11 Trustee and his consultants had previously looked to the SIPA Trustee to answer questions where the relevant information is already within their custody, possession, and control.
7	<ul style="list-style-type: none"> ▪ The SIPA Trustee's professionals have fully complied with this Request and produced documents. The SIPA Trustee cannot attest to the completeness or accuracy of ordinary course documents of MFGI. MFGI was operated as a subsidiary of Holdings at the time.
8	<ul style="list-style-type: none"> ▪ Request was the subject of a March 20, 2012 meeting between the Chapter 11 Trustee and the SIPA Trustee, but no questions were raised during the meeting concerning this claim. The SIPA Trustee had previously sent documentation to the Chapter 11 Trustee concerning this claim and requested that they share their views on such documentation. ▪ The persons most knowledgeable of this Request are and have been in the employment of the Chapter 11 Trustee. The Chapter 11 Trustee and his consultants had previously looked to the SIPA Trustee to answer questions where the relevant information is already within their custody, possession, and control.
9	<ul style="list-style-type: none"> ▪ Request has been tabled at the behest of the Chapter 11 Trustee in favor of focusing on other issues.
10	<ul style="list-style-type: none"> ▪ Request has been tabled at the behest of the Chapter 11 Trustee in favor of focusing on other issues.
11	<ul style="list-style-type: none"> ▪ Request has been tabled at the behest of the Chapter 11 Trustee in favor of focusing on other issues.
12	<ul style="list-style-type: none"> ▪ Request has been tabled at the behest of the Chapter 11 Trustee in favor of focusing on other issues.
13	<ul style="list-style-type: none"> ▪ Request has not previously been made of the SIPA Trustee. Some requests clearly improper and overbroad. Claims of non-public customers are not addressed on a priority basis.