

## MF Global enters insolvency proceedings on both sides of the pond

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MF Global, one of the world's leading broker/dealer firms entered into insolvency proceedings in both the US and the UK on 31 October 2011. US entities MF Global Holdings Ltd. and MF Global Finance USA Inc. filed voluntary petitions for relief under Chapter 11 of the US Bankruptcy Code in the Bankruptcy Court for the Southern District of New York. Also on 31 October, the US Securities Investor Protection Corporation ("SIPC") initiated the liquidation of MF Global, Inc. a jointly registered futures commission merchant and broker-dealer, under the Securities Investor Protection Act ("SIPA"). The US District Court for the Southern District of New York entered an order granting SIPC's request for SIPA protections for customers of MF Global, Inc.

The UK subsidiary, MF Global UK Limited, was placed into a new special administration regime for investment banks, the first company to enter this regime. Under the special administration regime the special administrators' objectives are to ensure the return of client assets as soon as is practicable, to engage with exchanges, clearing houses and other authorities, and the winding up of the company for the benefit of creditors.

The US entities generally attributed their Chapter 11 filing to current global economic insecurity and the resultant instability of financial markets. They cited certain precipitating factors as triggering their present bankruptcy filings, including increased net capital requirements relating to European sovereign debt, contraction of proprietary principal activities resulting in net losses for the most recent ended fiscal quarter, and MF Global being downgraded to junk status by various rating agencies which sparked an increase in margin calls in certain of its subsidiaries.

The position of MF Global UK Limited clients and MF Global, Inc. clients who have placed funds and other assets with either entity will depend on the basis on which those assets are held, including whether the funds are held as client money under the UK Financial Services Authority rules or customer property under the SIPA rules, as applicable. MF Global UK Limited has also been declared to be in default by LCH Clearnet Ltd., the London Metal Exchange and several other UK exchanges and clearing houses.

Being declared in default brings into play wide-ranging powers belonging to the relevant body to manage the default in the least disruptive manner to the market. Clients of MF Global UK Limited looking to transfer positions to another broker will need to engage with the relevant clearing house and/or exchange as well as the relevant broker to effect the transfer. In practice, the margin covering the positions is unlikely to be transferred at the same time as the positions themselves, and so it is likely clients will need

to provide cover to the replacement broker to cover their positions. Clients can choose which positions to transfer but the exchange can close out untransferred positions.

In the US, the SIPC proceeding is in its relatively early stages and is complicated by what the US Securities and Exchange Commission and Commodity Futures Trading Commission have described as "possible deficiencies in customer segregated futures accounts held at [MF Global, Inc.]" In the immediate term, US customers are dealing with a variety of scenarios that include failed transfers of assets and futures positions from MF Global, Inc. to other broker-dealers and failed settlements of outstanding securities trades. Ultimately, the scope of customer's rights will be determined through the SIPC proceeding and are likely to be communicated in the coming days and weeks through a series of notices and protocols issued by the SIPC trustee.

We have a dedicated team, with expertise in insolvency, financing, financial markets and commodities trading advising clients with assets, positions and other dealings with MF Global. If you have dealings with or exposures to MF Global and would like help with this evolving situation, please contact Kyri Evagora, Georgia Quenby, Brett Hillis, Andrew Cross or Andrea Pincus.

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