

MF Global Bankruptcy – Questions and Answers

Q: Information has been sketchy since the beginning on the MF Global situation. Where can I find accurate, reliable information?

A: The NGFA has established a special section on its web site as an authoritative, go-to source for MF Global bankruptcy information. The page contains links to important motions and communications by the bankruptcy trustee; links to information posted by the CME Group, the Commodity Futures Trading Commission, the bankruptcy trustee and bankruptcy court, and other organizations; a link to a recording of the NGFA’s webinar on the situation; and more useful information. The page is updated often, and NGFA members are encouraged to check it regularly. The web page address is <http://www.ngfa.org/mfglobalbankruptcy.cfm>.

Q: Is the NGFA hiring a lawyer to represent member companies in the bankruptcy proceeding?

A: No. The NGFA does not contemplate hiring an attorney to represent individual NGFA-member firms affected by the bankruptcy. The NGFA has been advised that because the association as an entity was not a customer of MF Global – and, therefore, not a “party in interest” in the case – it would not have standing in the bankruptcy proceedings. Thus, the NGFA believes a more effective role is for it to work with the CME Group, Commodity Futures Trading Commission (CFTC) and other industry organizations as an advocate for the interests of former MF Global customers in the hierarchy of competing claimants.

The NGFA also has been advised that a class action on behalf of MF Global customers is not feasible at this stage. The NGFA recommends strongly that all affected firms seek competent legal counsel during the bankruptcy proceeding. Contact information for several firms, including the NGFA’s outside counsel and several other NGFA-member firms that are representing clients in the bankruptcy proceeding, are listed on the NGFA’s MF Global web page.

Q: What has the NGFA done to help members recover their funds?

A: In addition to providing current, accurate information to the industry through the new web page, the webinar, the *NGFA Newsletter* and other communications, the NGFA has retained legal counsel at Arent Fox LLP, the association’s long-time outside counsel. Under this additional retainer, counsel is monitoring and staying in contact with the bankruptcy trustee and bankruptcy court, and advising the association on how best to represent member firms to facilitate return of their assets. The NGFA currently is exploring initiating communications with

the bankruptcy trustee stressing that customers who held segregated funds should be first in the hierarchy of claimants as the trustee contemplates distributions; and that all former MF Global customers making claims for cash distributions should receive equal percentage distributions.

Q: Is the NGFA working with the CME Group, CFTC and Congress to get to the bottom of this and make sure it doesn't happen again?

A: Yes. The NGFA has been in regular contact with the CME Group to attempt to get information and resolve customer issues. The NGFA has asked CME to establish an “ombudsman” position to field customer questions and direct them to the right place for resolution. Additional communications to the CME, CFTC and Congress are planned, and will focus on returning all customer funds to their owners quickly; restoring confidence in the concept that customer funds never again should be put at risk; and examining regulatory reforms that will prevent a repeat of the situation and provide additional protections to customer funds.

Q: My account was transferred from MF Global to another futures commission merchant, but only part of my maintenance margin funds went with the account. What happened to the excess cash in the account?

A: The NGFA is advised that under U.S. bankruptcy law, an appointed trustee is responsible for holding assets during the proceeding and making distributions to customers once all assets and claimants are identified. Excess cash in futures accounts, whether associated with a futures position or not, currently is being held by the trustee.

Q: What about CME's announcement last week of a \$300 million guarantee. Will that money be used to compensate customers with funds tied up in the bankruptcy proceeding?

A: The CME Group announced on Nov. 11 that a \$250 million guarantee had been made to the bankruptcy trustee. Basically, the guarantee was made to provide assurances to the trustee that potential shortfalls subsequently discovered by the trustee would be covered, with the hope that the guarantee would facilitate earlier distribution of funds by the trustee to customers. “Though CME Clearing does not guarantee FCM-held assets, CME Group is willing to provide a \$250 million financial guarantee to the trustee to give the trustee greater latitude to make an interim distribution of cash to customers now, given the monumental task he (the trustee) faces to sort through considerable data and claims in order to complete the MF Global liquidation and make distributions to creditors,” the CME Group said in its statement. Subsequently, in his motion to the bankruptcy court on Nov. 15, the trustee referenced the CME guarantee as providing a “constructive commitment” that assisted in cash distributions.

In addition to the \$250 million guarantee, the CME Group also announced a \$50 million commitment by the CME Trust to CME Group market participants that suffered losses attributable to MF Global's improper handling of funds held at the firm level, in the event there is a shortfall at the conclusion of the trustee's distribution process.

Q: How long will it take to get my money back? Will all my cash be returned?

A: At this point, it is very difficult to project how long the bankruptcy proceeding might last. Under normal bankruptcy proceedings, distribution of property could take months. The trustee and regulatory agencies still are in the process of their forensic analysis of MF Global accounts and fund movements. Once the amount of any shortfall of funds is accounted for, the trustee can begin the process of determining amounts and timing of distributions. However, some interim installment distributions of cash could be made.

Q: Didn't the trustee announce a cash distribution earlier this week? Who will receive that cash distribution?

A: The trustee filed a motion in bankruptcy court on Nov. 15 seeking approval for a distribution of 60 percent of customers' cash balances. That motion was quickly approved by the bankruptcy court on Nov. 17. The trustee also filed a motion to establish a process for customers to submit claims for cash distributions. It is unclear right now how quickly that may occur.

Q: Would a cash distribution be made across-the-board to all customers?

A: The trustee's motion indicates his intent to make this interim distribution of cash only to "cash-only" customers of MF Global that existed prior to the Oct. 31 bankruptcy filing. The trustee's motion does not contemplate cash distributions to customers whose futures accounts were involved in bulk account transfers and contained excess cash. It is possible that additional installments of cash distributions will be sought by the trustee. The NGFA advocates that all customers with cash held by the trustee should be treated equally in the distribution of funds.

Q: My account balances at my new FCM still don't seem right. How can I get that fixed?

A: CME Group officials have advised the NGFA that automatic adjustments will be made to accounts to true up balances, but many questions remain unresolved. Customers also have been told to work with their new FCM to resolve discrepancies. The NGFA has requested that the CME Group establish an "ombudsman" position to field inquiries about specific situations and direct them to the appropriate place for resolution.