

February 13, 2012

Summary of Briefing by CFTC Commissioner Jill Sommers and CFTC Staff

SUBJECT: MF Global

- CFTC will conduct two public roundtables on MF Global on Feb. 29 and March 1. The first roundtable will be focused on specific ways to provide protections to individual customers. The second will be more general in nature, focused on topics such as segregated funds, oversight provided to FCMs by self-regulatory organizations (SROs), CFTC supervision of SROs, etc.
- Commissioner Sommers commented that she expects another round of Congressional hearings on MF Global. It is her hope that the CFTC will be able to make some legislative recommendations to Congress within the next few months.
- Comm. Sommers and staff declined to provide additional details as to whether most customer money has been traced and located, nor did they want to comment on prospects that the SIPA trustee whose mandate is to return funds to customers of MF Global Inc. will succeed in reclaiming funds from parent company MF Global Holdings Inc. or its affiliates. Sommers commented that such communications are more appropriately done by the trustee.
- There was fairly extensive discussion of criminal/civil penalties to which violations of segregated funds could be subject; the regulation of FCMs; oversight by self-regulatory organizations (SROs) like the CME Group, which are the first line of supervision of FCMs; and the oversight role played by CFTC of the self-regulatory process.
- Several classes of funds and property were described that could potentially be targeted to be reclaimed by the SIPA trustee on behalf of securities/commodities customers. Customers have exclusive claim to cash and specifically identifiable property that are part of the SIPA estate. However, to claim funds that may have been moved out of the SIPA estate into the Chapter 11 bankruptcy estate (i.e., MF Global Holdings Inc., its affiliates, customers, counterparties, creditors), it would need to be shown that such funds were MF Global customer funds and had been moved improperly. Even so, such claims likely would be contested and subject to legal action. In a conversation with staff after the briefing, no prediction was made about how long such a process could last.