

## Notice to clients

8 June 2012

### **MF Global Australia Limited (In Liquidation) (MFGA, the Company)**

Dear client,

Further to the client notice dated 24 April 2012, the Liquidators provide below an update on the main areas of the Liquidation of MFGA.

#### **1. Court proceedings (Main Proceedings)**

We provide a brief update on the proceedings commenced by the Liquidators in the Supreme Court of New South Wales (No. 2011/411117) (Proceedings) below.

##### *1.1 Timetable to Court hearing*

The Proceedings have been instigated to consider various issues identified by the Liquidators in the Amended Originating Process (AOP) as previously published on the Deloitte / MFGA website ([www.deloitte.com/au/mfglobal](http://www.deloitte.com/au/mfglobal)). The hearing is due to commence on 26 June 2012 and is scheduled for 4 days. As part of these proceedings client representatives have been appointed to represent clients. The updated list of representative defendants is set out as follows:-

<b>Class</b>	<b>Representative</b>
CFD account clients	RMF Management Services Pty Ltd
Futures account clients	GrainCorp Operations Limited
Margin FX account clients	The GFL Group Pty Limited
Online FX account clients	Underdog Clothing Pty Ltd
Non-client creditors	Practical Human Resource Solutions Pty Ltd
Cash Only clients	Jiliby Pty Ltd
Futures account clients on valuation issue	George Weston Foods Limited

In addition to the above client representatives it should also be noted that:-

- Deutsche Bank has joined as a defendant to the main proceedings
- Bundaberg Sugar has been granted leave to be heard in the proceedings.

In accordance with the Court timetable the Liquidators have served written submissions on the issues on the client representatives.

The client representatives and other parties to the Proceedings are required to file their written submissions by 12 June 2012. Further submissions from any party to the Proceedings are due by 19 June 2012.

### *1.2 Replacement of Kimbalex as the "Cash Only" representative*

As described in the notice to clients dated 3 April 2012, Kimbalex Investments Pty Ltd (Kimbalex) was appointed to represent the clients of MFGA that held no open positions on the date that Administrators were appointed (Cash Only Clients).

As a result of a company affiliated with Kimbalex acting as a broker to a buyer of clients claims against MFGA, Kimbalex offered to be replaced in its role as the "Cash Only" representative in the Proceedings to avoid any perceived conflict of interest.

On 5 June 2012 Kimbalex was replaced by Jiliby Pty Ltd as the Sixth Defendant appointed to represent the Cash Only Clients. With the co-operation of Kimbalex this issue did not cause any delay or interference with the proceedings.

## **2. Court proceedings - MFGUK and ASX**

The Liquidators held further discussions with Mike Pink, Special Administrator of MFGUK, in London in May 2012. These discussions were productive and both parties continue to progress this matter.

The Special Administrator requested an extension of the Court hearing date to enable him to consider further correspondence from the ASIC and also to enable him to obtain further information. On the basis that the matter continues to progress positively the Liquidators of MFGA agreed to the extension request.

The Federal Court of Australia adjourned the matter until 3 August 2012.

## **3. MF Global affiliates: status of MFGA claims and receipt of close out data**

### *3.1 MF Global Inc.*

Following further meetings with the lawyers for Mr Giddens (Trustee of MF Global Inc.) we received two Notice of Trustee's Determination of Claims (the "Notices") in respect to the accounts held by MFGA with MF Global Inc.

The Trustee has determined that USD14,880,410 in Omnibus Commodities Customer Claims, USD3,320,795 in Omnibus Securities Customer Claims are public customer claims i.e. rank equally with other client claims of MF Global Inc. and are not subrogated.

The Trustee also determined one account for USD300,490 as a House Account and is subordinated to other client claims. The Liquidator of MFGA disputed the House Account determination.

Please note that the Trustee advised that these determinations are subject to:

- 1.) the Trustee verifying that the ultimate recipients of the funds from the Omnibus Commodities Customer Claims and Omnibus Securities Customer Claims are MFGA clients. The Trustee reserves their right to reclassify the claims as general unsecured claims after reviewing information regarding MFGA clients
- 2.) receiving additional information and documentation that is required to satisfy the Trustee. We have not received details of the information requested.

We have again requested close out information.

### *3.2 MFGUK*

The Special Administrators have provided draft close out statements, which include pricing information, in respect to the MFGA futures accounts held with MFGUK. We are reviewing these draft statements. Once final statements are received from MFGUK the client records of MFGA can be updated. The CFD account statements have not been provided at this stage by MFGUK.

### *3.3 MF Singapore*

No MFGA client statements or pricing information has been received despite repeated requests.

### *3.4 MF Hong Kong*

No MFGA client statements or pricing information has been received despite repeated requests.

## **4. Committee of Inspection (COI)**

A second meeting of the COI was held on 14 May 2012. At this meeting the COI considered and approved the Liquidators entering into debt assignment agreements in the form posted to the Liquidators' website for a period of six months. The minutes of this meeting have been lodged with ASIC.



The third meeting of the Committee of Inspection (the Committee) was held in Sydney on 30 May 2012. The Liquidators provided an update to the Committee regarding the Liquidation, the Proceedings, sale of client debts and other matters. The minutes of this meeting will be lodged with ASIC shortly.

#### **5. Sale / transfer of client debt**

The Liquidators continue to receive interest from a number of parties and clients regarding the sale / transfer of client debts. The Liquidators have published on the Deloitte website ([www.deloitte.com/au/mfglobal](http://www.deloitte.com/au/mfglobal)) a number of documents which are required to be completed by the seller and purchaser in order for the assignment to be recognised by the Liquidators. In the first instance please refer to "Claims trading procedures and disclosure notice" dated 15 May 2012 for further information.

We strongly suggest clients take legal advice regarding debt sale transactions.

Yours faithfully,

**Chris Campbell**  
**Joint Liquidator of MF Global Australia Limited (In Liquidation)**