

**STATEMENT OF LOUIS J. FREEH
BEFORE THE UNITED STATES SENATE
COMMITTEE ON BANKING, HOUSING & URBAN AFFAIRS
APRIL 24, 2012**

Chairman Johnson, Ranking Member Shelby, and Distinguished Members of the Committee:

My name is Louis J. Freeh and I am appearing before you today in my capacity as the Chapter 11 Trustee of MF Global Holdings Ltd. and five of its subsidiaries.

On October 31, 2011, MF Global Holdings Ltd. and MF Global Finance USA Inc., referred to generally as “Finco”, filed for bankruptcy under Chapter 11 of the Bankruptcy Code. Upon the commencement of the bankruptcy cases, the debtors operated as debtors-in-possession. Shortly thereafter, on November 7, 2011, the Office of the United States Trustee formed a creditors’ committee representing the unsecured creditor constituency of the Chapter 11 debtor entities. Without any possibility of rehabilitation, the debtors and the creditors committee jointly filed a motion to appoint a Chapter 11 Trustee. That motion was approved by the Court, and I was named as the Chapter 11 Trustee. My appointment was approved by the Bankruptcy Court effective as of November 28, 2011.

On December 19, 2011, three additional MF Global entities that are each indirect subsidiaries of the Chapter 11 parent filed for bankruptcy. I was subsequently appointed the Chapter 11 Trustee of those entities as well. In addition, on March 2, 2012, MF Global Holdings USA Inc., a direct subsidiary of the parent holding company debtor, filed for bankruptcy protection. On March 8, 2012 I was also appointed Chapter 11 Trustee of that estate. As is evident from this brief timeline, we are in the early stages of

this bankruptcy proceeding, and there is still much information to be learned about the facts and circumstances that led to the collapse of MF Global.

My duties as a Chapter 11 Trustee are set forth in Section 1106 of the Bankruptcy Code and include the obligation to investigate the acts, conduct, assets, liabilities and financial condition of the debtor, among other things. Unlike the SIPA Trustee, who is charged primarily with the return to customers of their investment property, the responsibility of the Chapter 11 Trustee is to maximize the value of the estate for the benefit of its creditors.

Upon my appointment on November 28, 2011, I began to assemble a team of legal advisors and financial consultants with extensive experience in bankruptcy matters, as it was widely believed that these proceedings were likely to be among the most complex bankruptcy matters in recent memory. We immediately began to assess the Debtors' state of affairs. Investigations into the collapse of MF Global were already being conducted by the CME, the SEC, the CFTC, and the SIPA Trustee, and at least two federal prosecutors' offices.. Customers of MF Global Inc., the US broker dealer, had already commenced litigation against certain officers and directors of the broker dealer as well as those of the parent holding company debtor.

Even before the commencement of my appointment, the Debtors were faced with a number of expansive requests for documents and information and my team immediately immersed itself in a process that had already been unfolding for several weeks, in an effort to learn what documents were in my possession, how records were maintained, and where files were kept. All of this was critical to our ability to fulfill our obligations as Chapter 11 Trustee.

These difficulties were exacerbated by the fact that what had once been operated as one large MF Global world-wide organization suddenly became fragmented, virtually overnight. Separate proceedings were commenced for individual MF Global entities, most notably the SIPA proceeding here in the US and the UK administration (the UK equivalent of a US bankruptcy proceeding) of the UK broker dealer, which proceeded independently from one another. The MF Global entities suddenly found themselves without access to global systems previously utilized by the entire group of companies, because certain entity-wide systems such as accounting and email systems were owned and controlled by individual MF Global companies.

With these difficulties, the Chapter 11 debtors had been able to assemble some materials before my appointment. I needed, however, to ascertain what documents, files, information, and materials were the property of the Chapter 11 parent, versus property of the SIPA estate, the UK broker dealer estate, or perhaps jointly owned by a Chapter 11 debtor and another estate. My advisory team was required to review thousands of pages of e-mails, documents and other files to determine (1) what those materials said, (2) whether the materials were responsive to any request by any governmental agency or the SIPA Trustee, and (3) whether any protectable corporate privilege existed. I then needed to implement a process to produce as quickly as we could documents requested as part of the investigations, but also in a manner that did not unnecessarily result in a broad waiver of any existing privilege. To do otherwise at this very early stage potentially could have been contrary to my obligations as Chapter 11 Trustee. Ultimately, these issues were resolved and the process moved forward expeditiously.

Although none of the entities for which I serve as Chapter 11 Trustee are regulated entities, the concerns of customers are nonetheless important to me and my advisors. With a backdrop of allegations of missing customer funds, the Bankruptcy Judge, the Honorable Martin Glenn, directed that my team perform an analysis of the approximately \$25 million held in a cash collateral account owned by Finco to determine whether that cash included misappropriated MF Global Inc. customer property. Thereafter, my advisors poured through account data and transaction documents covering more than \$3.5 billion in cash transfers, including transfers from accounts held by MF Global Inc. My advisors interviewed and met with employees of MF Global Inc. and advisors retained by the SIPA Trustee in order to ensure that an appropriate investigation had been conducted in preparing the report. Upon completing the analysis, which was shared with the SIPA Trustee, we concluded with no disagreement from the opinion of the SIPA Trustee that the cash collateral account did not include misappropriated or misdirected customer funds.

There has been a great deal of publicity regarding the shortfall in customer property. Without in any way diminishing the importance of the SIPA Trustee's obligation to locate and recover customer property, the Bankruptcy Code requires me to attempt to recover for the benefit of the creditors of the Chapter 11 estates monies that were obtained by the parent from third party lenders and investors and routed to the US broker dealer or elsewhere. In particular, and by way of example, during the month of October, 2011, in excess of \$1 billion in cash was transferred from MF Global Holdings Ltd. and Finco to MF Global Inc. In addition, a substantial portion of the net proceeds from the \$650 million of MF Global bonds sold in 2011 to investors by MF Global

Holdings Ltd. had been transferred to MF Global Inc. Just as the SIPA Trustee is analyzing and investigating the whereabouts of funds and property entrusted by customers to the US broker dealer, so too my team must investigate the whereabouts of funds loaned to the US broker dealer for which the Chapter 11 estates remain liable to creditors and investors.

In furtherance of my duty to investigate the affairs of the Chapter 11 debtors for which I serve as Trustee, my advisors and I meet regularly with our creditors committee as well as with representatives of the SIPA Trustee and the representatives of the foreign affiliates. These meetings are important for each of the estates to gather and share information with one another to facilitate a timely investigation of the facts and circumstances leading up to the bankruptcy and to determine where the assets of the various estates may be located.

The representatives of the SIPA Trustee and my advisors often speak daily, have engaged in information sharing calls at least weekly, and are currently discussing coordinated efforts to assist one another in the administration of our respective estates. I have found this cooperation to be invaluable, if not essential, to my ability to satisfy my fiduciary obligations as a Chapter 11 Trustee. I strongly believe that the interests of all of the various estates are best served by cooperating and sharing information to uncover precisely what led to the collapse of MF Global. No one estate has all of the information, but together, the puzzle pieces can be put together.

To be clear, the trustees and foreign administrators can and likely will assert different legal arguments to support their claims to property located throughout the world. The bankruptcy court and perhaps other courts will make those legal

determinations. But the ultimate legal disputes that may arise should not serve as a barrier to sharing the critical facts to tell the world what led to the collapse.

Notwithstanding that we are operating under the supervision of the court, however, it is clear even at this early stage that the competing, and perhaps at times conflicting, obligations and duties of the two Trustees and various foreign administrators has and will continue to have the effect of extending the length of time necessary for all of the estates to conduct their investigations; to determine the value and location of assets; and ultimately to make distributions to customers and/or creditors.

At the present time, the Chapter 11 debtors employ approximately 15 non-executive individuals, most of whom had been employed by one of the debtors prior to the commencement of the bankruptcy cases. They, along with the remaining senior executives, continue to provide invaluable support in reconciling the debtors' books and records, closing open trades at the unregulated entities, the preparation of tax returns, and assisting in understanding the many complex pre-petition transactions between and among the various MF Global entities.

In conversations about retaining these individuals and the knowledge they possess, I've discussed at various times the possibility of establishing a retention program. To be clear, no formal program was ever created for senior executives, nor was any motion ever filed with the court for approval in connection with any retention program for senior executives.

As we continue our investigation, we will be filing a report with the Bankruptcy Court on or before June 4, 2012. Mindful of this impending deadline, we have filed with the Bankruptcy Court a motion seeking authority to issue subpoenas for the production of

documents and examination of witnesses on a shortened timetable. That motion will be heard on April 25, 2012. We remain hopeful that parties will be cooperative during this investigation, but a formal process will be utilized as necessary.

It is important to note that the transparency of the bankruptcy process mandates that the work performed by the Chapter 11 Trustee is closely monitored by the Office of the United States Trustee and supervised by the United States Bankruptcy Court.

I fully intend to fulfill my legal obligations as Chapter 11 Trustee as timely and transparently as I can responsibly do so, recognizing that all of my, and my professionals, actions must be consistent with the duties and obligations set forth in the Bankruptcy Code.