



# COMMODITY CUSTOMER COALITION

INFO@COMMODITYCUSTOMERCOALITION.ORG | WWW.COMMODITYCUSTOMERCOALITION.ORG

125 SOUTH WACKER DRIVE, STE 300 | CHICAGO, IL 60606

FAX: 312-212-4073 | OFFICE: 312-344-3076

April 23, 2012

The Honorable Tim Johnson  
Chairman  
United States Senate  
Committee on Banking, Housing and Urban Affairs  
136 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Richard Shelby  
Chairman  
United States Senate  
Committee on Banking, Housing and Urban Affairs  
304 Russell Senate Office Building  
Washington, D.C. 20510

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

On behalf of all MF Global customers, I would like to thank the members of the Senate Banking, Housing and Urban Affairs Committee for continuing to investigate the collapse of MF Global. We are very pleased to see that you have called the US Trustee, Mr. Louis Freeh, to testify before the Committee. Mr. Freeh's record of service to the United States is a long and honorable one, deserving our admiration and respect as beneficiaries of that service. As customers of MF Global, however, we take issue with Mr. Freeh's management of the Chapter 11 liquidation of MF Global Holdings, Inc (MFGH). We hope that your committee can persuade Mr. Freeh that a voluntary conversion of MFGH's bankruptcy proceeding from Chapter 11 to Chapter 7 serves the interest of MF Global's creditors and customers alike.

The Commodity Customer Coalition is a non-profit customer advocacy group which formed in the wake of MF Global's collapse. We formally represent hundreds of customers in MF Global's bankruptcy proceeding and informally represent thousands more in our efforts to raise public awareness surrounding the investigation of MF Global. We are also working with several Members of Congress and committees to speed recoveries to MF Global customers, as well as on reforms to mitigate the impact of future commodity broker bankruptcies.

While we understand that Mr. Freeh's role of marshalling assets for the general creditors of MFGH may put him at odds with customers of MF Global, Inc. (MFGI) on occasion, we contend that Mr. Freeh is keeping an administratively insolvent firm in Chapter 11. Whatever his motives for doing so, Mr. Freeh's actions are adversely affecting the prospects of recovery for farmers, ranchers, investors and industrial concerns whose money was purloined by MF Global. As a direct result of Mr. Freeh, customers seeking the return of their property from MF Global will wait longer and receive less.

MFGH is administratively insolvent. There are apparently no assets at the estate of MFGH, as Trustee Freeh has filed no schedule of assets nearly six months after the debtor's filing for Chapter 11 protection. Chapter 11 bankruptcy protections are designed to allow firms to deal with their creditors and reemerge from bankruptcy as functioning businesses. No subsidiary, affiliate or parent in the MF Global mess will survive bankruptcy to conduct business. The proceeding which was designed to deal with this type of bankruptcy is a Chapter 7 proceeding.

Chapter 11 permits MF Global's creditors to pay for their legal expenses out of the estate of MFGH. Two of those creditors are the two largest banks in the United States. While they receive the benefit of having assets of MFGH pay for their legal expenses, customers of MF Global have to pay their own way. If recoveries of MFGI customers are available at the holding company, as the SIPA Trustee now contends, the net effect of this will be that misappropriated customer property of farmers and ranchers pays for the legal expenses of large banks and financial intuitions. The legions of

professionals now billing the assets of the MFGH estate will amount to a plundering of MFGI's customer assets. The chilling effect this result would have on financial markets in the US cannot be overstated. A conversion to Chapter 7 corrects this patently unfair use of the bankruptcy laws for the direct financial benefit of "to big to fail" banks who received taxpayer assistance in 2008.

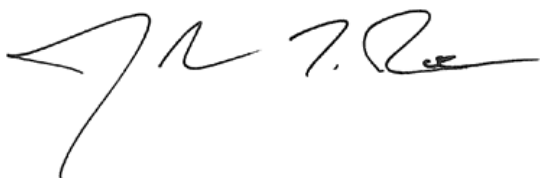
Mr. Freeh also had the audacity to request retention bonuses for MFGH executives who may have civil and criminal liability relating to the firm's collapse. While we recognize we must pay these executives while they continue to work for Mr. Freeh, a six figure retention bonus for an employee of a bankrupt firm is as fiscally senseless as it is morally bankrupt. These executives do not deserve to be paid with money which may go to pay recoveries to customers, especially given that they cannot answer the simplest questions regarding the use of that property.

Making matters worse, the US Trustee is unnecessarily slowing the distribution of customer property. Mr. Freeh has filed claims against the securities and segregated 4d commodity funds of customer property held by its MFGI subsidiary. For each claim Mr. Freeh files, the SIPA Trustee must reserve property under his control against these claims. Since Mr. Freeh's \$700 million claim against MFGI's securities funds exceeds the amount of money the SIPA Trustee has in that pool, no securities customer of MFGI may receive another distribution Mr. Freeh's claim has been determined. These claims--that the holding company somehow can subordinate and abscond with property which belongs to customers of MFGI--have no basis in law. These frivolous claims are a tremendous waste of the limited resources of the SIPA Trustee, as well as those of the Bankruptcy Court.

It is within Mr. Freeh's power to apply for a voluntary conversion of MF Global's bankruptcy from a Chapter 11 proceeding to a Chapter 7 proceeding. A stipulated conversion from a Chapter 11 to a Chapter 7 proceeding between Trustees Freeh and Giddens would moderate many of the problems we see with the ongoing proceeding. If Mr. Freeh chooses not to, the Commodity Customer Coalition intends to file for a motion for an involuntary conversion from Chapter 11 to Chapter 7. As we are funded almost entirely by donations from former MF Global customers, once again customers must pay their own way while others--with varying degrees of culpability--bear no burden. We hope that Members of the Committee will consider questioning Mr. Freeh as to why he insists on the Chapter 11 process when it is obvious that MF Global will never function as a business in the future.

If we can be of any assistance to Members of the Committee, please do not hesitate to contact us. Again, we thank you for your efforts on behalf of MF Global's customers and look forward to the hearing.

Regards,

A handwritten signature in black ink, appearing to read "John L. Roe". The signature is fluid and cursive, with a long horizontal stroke at the end.

John L. Roe  
Commodity Customer Coalition  
125 South Wacker Drive, STE 300  
Chicago, IL 60606  
312-933-6564

[jroe@btrtrading.com](mailto:jroe@btrtrading.com)

[www.commoditycustomercoalition.org](http://www.commoditycustomercoalition.org)