



COMMODITY CUSTOMER COALITION

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February 16, 2012

The Honorable Timothy Geithner
Secretary of the United States Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Mr. Douglas H. Shulman
Commissioner of the IRS
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Geithner and Commissioner Schulman:

I am writing to you to request guidance and relief for taxpayers impacted by the MF Global bankruptcy. I am the co-founder of the Commodity Customer Coalition, a non-profit advocacy group formed in the wake of MF Global's collapse which represents thousands of MF Global's customers. As tax deadlines for 2011 filings quickly approach, former MF Global customers face a myriad of intricate issues relating to how to account for their frozen and potentially stolen assets. The IRS could help alleviate the additional burden wrought by tax uncertainty, as well as its own burden in processing tens of thousands of tax filings completed with no official guidance, by addressing these issues as it did for victims of the Madoff Securities Ponzi scheme.

As you may be aware, MF Global Holdings, Inc. ("MFGH") was a holding company which controlled many multi-national subsidiaries operating primarily as commodities and securities brokerage firms. MFGH filed for Chapter 11 bankruptcy on October 31, 2011, after a shortfall in customer segregated accounts at its MF Global, Inc. ("MFGI") subsidiary was discovered. MFGI is now subject to a Securities Investor Protection Act ("SIPA") liquidation proceeding and an estimated shortfall of over \$1.6 billion in commodity customer assets persists. Criminal, regulatory and civil investigations are currently being conducted by the MFGI SIPA Trustee, the MFGH Trustee, the Department of Justice, the Securities and Exchange Commission and the Commodity Futures Trading Commission. It is estimated that half of this shortfall is tied up at MFGI's foreign affiliates in local bankruptcy proceedings, while the rest of it is 'missing' from customer accounts. These missing customer funds may have been commingled with MFGI's assets to satisfy its own obligations.

In 2009, the IRS articulated applicable rules, offered guidance and provided an optional "safe harbor" treatment for taxpayers in order to alleviate financial hardships incurred as a result of the Madoff Securities Ponzi scheme. Specifically, I am referring to Revenue Ruling 2009-9 and Revenue Procedure 2009-20. There are many differences between the Madoff and MF Global cases, but they both involved SIPA liquidations and missing customer property. While the issue of criminal intent remains unresolved in the MF Global collapse, it is possible that MF Global customers may have been the victim of a crime which would allow them to account for their losses as "theft losses" for tax

purposes. If actual fraud is never proven, certainly MF Global's shortfall in customer segregated funds constitutes constructive fraud which raises additional tax issues.

We ask that the IRS provide guidance, articulate the specific rules which apply in the reporting of losses from MF Global's bankruptcy and offer a similar optional "safe harbor" treatment for taxpayers, regardless of proof of criminal intent to defraud. MF Global's pool of claimants and the complexity of their tax situations are at least as diverse as those in the Madoff case. We implore the IRS to be as proactive in providing relief for MF Global's victims as it was for Mr. Madoff's.

Additionally, the SIPA Trustee for the MF Global liquidation has yet to issue 1099-B forms for MF Global customers and on February 15, 2012 filed a 30 day extension from complying with this requirement. As the deadline for corporate tax filings draws near, we also ask that the IRS work with the SIPA Trustee to ensure that taxpayers receive these forms before their filing deadlines pass.

The Commodity Customer Coalition stands ready to provide you with any support we can to facilitate tax relief for MF Global customers. We are intimately aware of many of the issues facing these customers and would be happy to work with the IRS in its due diligence on this matter. Please contact me should you have any questions or require additional information. Thank you for your time and consideration in this matter.

Regards,

A handwritten signature in black ink, appearing to read "J.L. Roe". The signature is fluid and cursive, with a large initial "J" and "R".

John L. Roe
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