

FAQs - Answers to frequently asked questions currently being received by the Administrators

I set out answers to some frequently asked questions that I have received below.

Q. It appears that appointed insolvency practitioners in other jurisdictions are stating that they will pay partial distributions to clients of funds held in segregated accounts. What is preventing the Australian Administrators from initiating a partial distribution process?

A. We are not able to comment on the actions of administrators or trustees in other jurisdictions, other than to point out that the laws and regulations that apply in Australia are not the same as in other jurisdictions. The precise rules regarding client segregated accounts and payment of monies to and from these accounts contained in Part 7.8 of the Corporations Act will not be applicable in other jurisdictions.

From the press releases that we have seen and discussions with other Administrators in other countries, our current understanding of the overseas positions is as follows:

- **US**
 - The bulk of positions were transferred to other brokers etc. which we believe has converted a significant number of clients to cash only accounts
 - It appears CME (Chicago Mercantile Exchange) Group has provided a guarantee to the US Trustee to guarantee recovery of certain funds. We do not know the precise terms of this guarantee. However we understand that this guarantee has enabled the Trustee to commence early distributions
 - This is not what has occurred in Australia. We have no guaranteed funds available, although we have commenced discussions with CME to see if there is an opportunity for it to extend the funds recovery guarantee to Australia

- **Canada**
 - All positions were transferred with collateral to another market participant
 - Funds for distribution to clients were sourced from a compensation fund
 - This did not occur in Australia and there is no available compensation fund

- **UK**
 - The UK administrators have advised clients of a formal proof of debt process asking clients to advise the amounts they are owed
 - However they have stated that there will be no distribution until at least April 2012
 - This is not dissimilar to our estimated timeline in Australia

There are a number of issues that we need to resolve in order to be in a position to distribute funds to clients. These issues were discussed at length with the Committee of creditors, and include:

- Treatment of client segregated accounts when there are multiple bank accounts within a client pool, some of which are in foreign currency
- Whether funds received from clearing houses, counter parties etc. are available for specific client groups or whole client pools
- Valuation of client claims in light of some positions were compulsorily closed and others were closed out or transferred (without collateral)

To assist in attempting to identify the impact of these issues and get to a position to distribute some funds early, we have commenced reconciling positions in detail using:

- 1) Data from clearing houses and counterparties
- 2) Special data extracts of client accounts obtained from the third party service provider in the UK

Many of these issues are complex legal questions. Therefore we are proposing to seek directions from the Court, most likely in February 2012 when the Courts resume from the Christmas break.

An “at best” indicative time frame provided to the Committee was as follows:

- **December 2011 to early January 2012** – Complete calculations of clients’ close out positions as at 1 November 2011 using all available close out information from third parties. For those positions where information is not available estimates will be made
- **December 2011 to January 2012** – Prepare applications for Court on legal questions to be considered
- **January to February 2012** – Commence claims proving procedure for clients to provide details of monies owed
- **March to April 2012** – Close claims proving procedure, or amend depending on Court decisions
- **March to April 2012** – Attempt first distribution of funds depending on Court directions

Q. I hold only cash - why are you unable to distribute at least a portion of the funds you are holding?

A. We are working to develop an appropriate methodology that we hope will enable a partial distribution. It is crucial that the process adopted is fair to all clients, whether they are "cash only" clients, or clients that held open positions at the date of my appointment. We will need to obtain directions from a Court before any partial distribution to clients can be made. Without a court direction, we think that there is greater possibility for disputes once the distribution process is underway. In other insolvency matters of a similar nature it has become apparent that where there are disputed distribution assumptions the funds can be tied up in lengthy Court proceedings for these matters to be determined.

Money in MFGA's client segregated accounts was not kept separately for each client but rather was pooled for clients in the particular client products. There is not enough money in the client segregated accounts to pay all potential claims in full at this stage, for the reasons discussed at the first creditors' meeting (see slide 44 of the presentation from the first creditors' meeting). There are different views as to how these funds should be distributed. This is complicated by the fact that at present, we do not know the total amount of funds that will be recovered from counterparties, or the extent of any shortfall that may exist. Should the administrators proceed to make a partial distribution without full consideration of the appropriate and fair calculation methodology, we think that there is greater scope for disputes and delays to arise. This is why Court directions will be sought, along with the consultation of the Committee of Creditors.

Q. As each product category is at various stages of collection, is it possible to provide a distribution for one group of clients and not another?

A. There are a number of different ways in which distributions of client funds could potentially occur. We are working to develop appropriate methodologies to ensure that no client or group of clients is unfairly advantaged or disadvantaged. Again Court directions in all likelihood will be required to confirm these methodologies.

However, for example an early distribution to CFD clients should not be impacted by the timing of distributions to Futures clients. These matters are independent.

Q. Have FX funds that were held in USD been transferred to AUD?

A. Funds that were held in foreign currencies at the date of my appointment remain in foreign currencies and have not been converted to AUD. We are not yet able to comment on how funds held in foreign currency will be treated.

As noted in our updates to clients, you should not rely on statements or accounts issued after the date of our appointment, including in relation to FX exposure that may be indicated in your statements.

Client claims in FX and client segregated bank accounts in FX add to the complexity of determining which clients may have claims against certain funds, for which Court directions are likely to be required.

Q. Can I have the contact details for the Creditors Committee members?

A. Names of Committee members elected at the First Creditors Meeting are listed below.

The Committee Members details				
#	Member name	Entity name	On behalf of	Category
1	Milan Cakic	Slater and Gordon	Pepper Financial Services	CFD Client
2	Jim Taig	Seismo Australia Limited	Seismo Australia Limited or RMF Management Services Pty Ltd	CFD Client
3	Matthew Cottrell	N/A	Matthew Cottrell	CFD Client
4	Adam Townley	Barefoot Funds Pty Ltd	Barefoot Superannuation Fund	CFD Client
5	Jamie Clinnick	N/A	Jamie Clinnick	CFD Client
6	Peter Candy	Graincorp Operations Limited	Graincorp Operations Limited	Futures Client
7	James Yhap	N/A	James Yhap	Futures Client
8	Geoff Louw	Bell Potter Securities Limited	Bell Potter Securities Limited	Futures Client
9	James Coventry	Epoch Capital Limited	Epoch Capital Limited	Futures Client
10	Sam Liuzzo	N/A	James G and Laura McCormick	Futures Client
11	Brent Penfold	The BP Superannuation Fund	The BP Superannuation Fund	Futures Client
12	Daniel Habib	Patsystems Pty Ltd	Patsystems Pty Ltd	Trade Creditor
13	Louis Snitzer	N/A	Louis Snitzer	Employees

Q. How can I voice any concerns with the Committee?

A. You can email queries or concerns to mfgaustralia@deloitte.com.au with the subject title, "F.A.O. Creditors' Committee". I will ensure that all of these queries are collated and directed to the Committee.

Q. Can I access the minutes of the creditors committee meeting?

A. A number of the matters discussed at the meeting will be highly confidential and commercially sensitive in nature. All Committee members have signed confidentiality agreements. We will issue updates via the website in relation to matters that are discussed at the Committee meetings and summary minutes will be lodged with ASIC.

Q. How will I be notified of my close out position when it has been determined? Are all clients affected by lack of data available?

A. We are reliant on information from third parties in order to calculate the closing value of open positions held at the date of my appointment. As set out in the presentation given at the First Creditors' Meeting, MFGA has many different counterparties. Depending on the flow of information from these counterparties, it is possible that we may be able to provide certain clients with information sooner than others.

Q. Why can't I deal directly with the relevant hedge counterparty or futures exchange?

A. The nature of any CFD, Margin FX or Online FX transaction that you may have entered into with MFGA was one of principal-to-principal, between you and MFGA. This means that MFGA's counterparties, such as Deutsche Bank, have no direct relationship with you.

In terms of futures positions, MFGA acted as your agent in dealing with relevant exchanges or offshore affiliates. There are rules regarding the ability of end clients to deal with exchanges which generally require such dealings to be via a participant of that exchange, such as MFGA (or, in the case of offshore exchanges, the relevant offshore affiliate of MFGA).