

## **Notice to clients**

13 February 2012

### **MF Global Australia Limited (administrators appointed) (MFGA)**

Dear client

#### **1. Court proceedings – Cross Border Insolvency Act 2008**

As previously communicated to clients, the Administrators have had continuing discussions with the UK Special Administrator of MF Global UK Limited (MFGUK) with respect to disputed funds currently being held by the ASX Clear (Futures) in the amount of c.\$34m.

On Wednesday 8 February 2012 the Federal Court made an order recognising the UK Special Administration of MFGUK as a "foreign main proceeding" under the Cross-Border Insolvency Act 2008 (Cth).

As an automatic consequence of that order, a stay now applies to the commencement or continuation of any legal proceedings in Australia against MFGUK unless the Court grants leave to proceed with any particular claim.

The Administrators of MFGA have filed an application for leave to commence proceedings against MFGUK in relation to its claim that MFGUK will hold the ASX Clear (Futures) funds, in its capacity as MFGA's clearer, on trust for MFGA. By agreement with the UK Special Administrator the application has been adjourned until 23 March 2012.

In the interim the Administrators of MFGA continue to progress discussions with the UK Special Administrator in order to reach a resolution without the requirement for further legal action.

#### **2. Court proceedings – Court directions**

In previous correspondence the Administrators indicated a number of matters will need to be referred to the Court for determination. As detailed in our update dated 6 February 2012, the Administrators' application to the Supreme Court of NSW has been "stood over" until 27 February 2012.

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The Administrators and their legal advisers are currently identifying potential representative clients as part of the Court process.

Representative clients and their legal advisers may present arguments in relation to the key questions that could determine the outcome.

Should additional clients or creditors wish to participate, you should advise the Administrators by email to [mfgaustralia@deloitte.com.au](mailto:mfgaustralia@deloitte.com.au). You may be able to join to one of the identified representative clients or if applicable, appear in person at your own cost including cost of legal representation.

We will update clients in more detail once this matter has progressed.

### **3. Section 439A Report and Second Meeting**

The second meeting of creditors has been tentatively set to take place on the morning of Friday 2 March 2012. We are finalising the venue and time which will be circulated to clients and creditors shortly.

The Section 439A report will be distributed to all clients and creditors prior to the meeting. Court approval has been received to send the Section 439A report via an email link.

### **4. Committee of Creditors – 4<sup>th</sup> meeting**

A 4<sup>th</sup> meeting of the Committee of Creditors and clients will be held on 24 February 2012.

### **5. Client account statements issued in January 2012**

All known clients of MFGA have been issued account statements, either electronically where a valid email address is held by MFGA or by post where no email address is recorded. Clients who have not yet received their account statement should email the Administrators immediately with their account details to [mfgaustralia@deloitte.com.au](mailto:mfgaustralia@deloitte.com.au)

On Friday 10 February 2012 the Administrators placed advertisements in The Australian, the Australian Financial Review and the Financial Times (Asia Pacific Edition) notifying clients of the claims process.

### **6. Proving Process**

Approximately 45% of client statements issued with an Online Client Claim Statement (OCCS) link have submitted their claim either by confirming or not confirming their GLV balance. Of the 45% of clients who have completed the OCCS 98.9% have agreed their account statement GLV.

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Of the approximately 45 formal disputes logged via the OCCS, the Administrators have received correspondence from 35 clients. Reasons for disputed amounts fall into the following broad categories:

- **Estimated balances:** some clients have disagreed with the valuation of their estimated position where actual close out information has not been received from third parties.
- **Post 31 October 2011 deposits:** We have been notified some deposits made around the 1 November 2011 have not been processed by MFGA. These are currently being investigated.
- **Client no longer wishes to dispute:** A number of clients have requested their non-confirmation be altered to confirm.
- **Valuation:** Clients in this category do not agree with the calculation method used which includes factors such as price, exchange rate, timing of close out valuation, commissions & charges and rebates.

The OCCS **will close on 29 February 2012** and clients are encouraged to advise the Administrators of their position as early as possible. If you do not complete the OCCS either by confirming or rejecting the GLV or Estimated GLV, this will delay consideration of your claim by the Administrators. While this may not jeopardise your ultimate claim, it may delay distribution of funds.

In addition the Administrators intend to use the information collated from the OCCS to assist in our assessment of proofs of debt for voting purposes at the second meeting of creditors and clients.

## 7. Recoveries

The recovery of client funds from counterparties and clearing houses has not materially changed from the position previously outlined in the client notice dated 20 January 2012.

Yours faithfully,

**Chris Campbell**  
**Joint Administrator of MF Global Australia Limited (Administrators Appointed)**