

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)**

THE HONOURABLE MR.) MONDAY, THE 14TH DAY
JUSTICE COLIN L. CAMPBELL) OF NOVEMBER, 2011

**IN THE MATTER OF THE BANKRUPTCY OF
MF GLOBAL CANADA CO.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**ORDER
(RE CUSTOMER REPRESENTATIVE COUNSEL)**

THIS MOTION made on shortened notice by KPMG Inc., in its capacity as the trustee in bankruptcy (the “Trustee”) of MF Global Canada Co. (“MF Global Canada”) was heard on Monday, November 14, 2011 at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Trustee and on hearing the submissions of counsel for the Trustee and the proposed Customer Representative Counsel (as defined below):

1. **THIS COURT ORDERS** that the time for service of the notice of motion and the motion record is abridged, service of notice of motion material and the motion record is validated, all such that this motion is properly returnable on November 14, 2011.
2. **THIS COURT ORDERS** that, subject to further Order of the Court, Callidus Capital Corporation, ^{AND XL FOODS INC. (CONNECTIVE), *uo*} the “Customer Representative”) is hereby appointed to represent all “customers” (as such term is defined in the *Bankruptcy and Insolvency Act* (Canada) (the

“BIA”)) of MF Global Canada as at November 4, 2011, other than MF Global Inc. (collectively, the “Customers”) in all matters relating to MF Global Canada’s proceedings under the BIA (collectively, the “Proceedings”).

3. **THIS COURT ORDERS** that Stikeman Elliott LLP is hereby appointed as counsel (the “Customer Representative Counsel”) to represent the Customers in respect of all matters affecting the Customers in the Proceedings.
4. **THIS COURT ORDERS** that any individual Customer who does not wish to be represented by the Customer Representative Counsel and to be bound by this Order and all other related orders which may subsequently be made in these proceedings shall by December 14, 2011, notify the Customer Representative Counsel and the Trustee in writing by facsimile, mail or delivery, in the form attached as **Schedule “A”** hereto, and shall thereafter not be so represented and shall represent themselves as an independent individual party to the extent they wish to appear in the Proceedings.
5. **THIS COURT ORDERS** that, subject to further Order of the Court, the Customer Representative Counsel shall have no obligation to consult with or seek instructions from the Customers other than the Customer Representative.
6. **THIS COURT ORDERS** that pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Trustee is hereby authorized and directed to provide to the Customer Representative Counsel as soon as possible after the granting of this Order, without charge,
 - (a) all available information from the books and records of MF Global Canada under the Trustee’s control with respect to the names, last known addresses, last known phone numbers and e-mail addresses (if any) of all Customers. The Customer Representative Counsel shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it only for the purpose of facilitating its communications with the customers; and

(b) upon request of the Customer Representative Counsel, such documents and data as the Customer Representative Counsel deems necessary or desirable in order to perform its role as counsel to the Customers in the Proceedings. The Customer Representative Counsel is authorized to provide information obtained under this paragraph to the Customer Representative for the purpose of seeking and obtaining instructions in connection with carrying out its responsibilities as Customer Representative Counsel.

7. **THIS COURT ORDERS** that any Customer whose personal information is provided to the Customer Representative Counsel by the Trustee pursuant to this Order is deemed to have consented to such provision for the purposes of any applicable privacy legislation to the Trustee providing such information, and to the collection, use, and disclosure by the Customer Representative Counsel of such information, provided that such information will be used or disclosed by the Customer Representative Counsel solely for the purposes of representing the Customers' interests in the Proceedings.
8. **THIS COURT ORDERS** that the reasonable legal fees of and incidental fees and disbursements incurred by the Customer Representative and Customer Representative Counsel shall be paid by the Trustee on a periodic basis, forthwith upon the rendering of accounts (redacted to preserve any claim for privilege) to the Trustee and that, in the event of any disagreement regarding such fees and disbursements, such matters may be remitted to this Court for determination.
9. **THIS COURT ORDERS** that, subject to further order of the Court, and without limitation to any other right or protection in favour of the Customer Representative Counsel: (a) the Customer Representative Counsel shall not be required to take any step or action if it reasonably believes that there will not be sufficient funds available to it to complete such step or action; and (b) Stikeman Elliott LLP may apply to be discharged from its role as Customer Representative Counsel at any time in its sole discretion, including, without limitation, on the basis that it reasonably believes that there are

insufficient funds available to it to carry out the terms of this Order or otherwise fulfill its role as Customer Representative Counsel.

10. **THIS COURT ORDERS** that Callidus Capital Corporation ^{AND XL FOODS INC. *che*} may resign as Customer Representative at any time in its sole discretion and that in the event of ^{either *che*} Callidus Capital Corporation's ^{OR XL FOODS INC.} resignation, the Trustee may appoint another Customer as the Customer Representative to replace Callidus Capital Corporation, ^{OR XL FOODS INC. *ENC. che*}
11. **THIS COURT ORDERS** that the Trustee shall provide notice of this Order to the Customers by: (a) publishing a notice in the form attached as **Schedule "B"** hereto (the "**Notice**") in the national edition of *The Globe and Mail* and in *La Presse* (in French) as soon as practicable after the granting of this Order; (b) e-mailing or mailing a copy of the Notice, together with the Notice of Bankruptcy required by Section 102(c) of the BIA and a copy of this Order, after the granting of this Order to the Customers to the e-mail or physical address of the Customer as last shown in the books and records of MF Global Canada; and (c) posting a copy of the Notice on the Trustee's website as soon as practicable after the granting of this Order.
12. **THIS COURT ORDERS** that the Customer Representative and the Customer Representative Counsel are hereby authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body and other government ministry, department or agency, and to take all such steps as are necessary or incidental thereto.
13. **THIS COURT ORDERS** that the Customer Representative and the Customer Representative Counsel shall have no liability as a result of their appointment or the fulfillment of their duties in carrying out the provisions of this Order, save and except for any gross negligence or unlawful misconduct on their part and that no action or other proceedings shall be commenced against the Customer Representative and/or the Customer Representative Counsel relating to their acting as such, except with prior leave of this Court to be obtained on at least seven (7) days' notice to the Customer

Representative and/or the Customer Representative Counsel and upon further order in respect of security for costs, to be given by the plaintiff for the costs on a substantial indemnity basis, of the Customer Representative and/or the Customer Representative Counsel in connection with any such action or proceeding.

14. **THIS COURT ORDERS** that the Customer Representative and the Customer Representative Counsel shall be at liberty and are authorized at any time to apply to this Honourable Court for advice and directions in the discharge or variation of their powers and duties.
15. **THIS COURT ORDERS** that in the event that this Order is later amended by further Order of the Court, the Trustee may post such further Order on the Trustee's website and such posting shall constitute adequate notice to the Customers of such amended Order.



SCHEDULE "A"

Court File No. 31-0R-207854-T

**ONTARIO
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(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE BANKRUPTCY OF
MF GLOBAL CANADA CO.,
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

OPT-OUT LETTER

KPMG Inc.,
Trustee in Bankruptcy of
MF Global Canada Co.
333 Bay Street, Suite 4600
Bay Adelaide Centre
Toronto, Ontario
M5H 2S5

Attention: Elizabeth Murphy
Telephone: (416) 777-8500
Fax: (416) 777-8818
elizabethmurphy@kpmg.ca

STIKEMAN ELLIOTT LLP
Barristers and Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Ontario
M5L 1B9

Attention: Maria Konyukhova
Telephone: (416) 869-5230
Fax: (416) 947-0866
mkonyukhova@stikeman.com

I, _____, am a Customer of MF Global Canada Co., as defined in the Order of Mr. Justice Campbell dated November 14, 2011 (the "**Order**").

Under paragraph 4 of that Order, Customers who do not wish Stikeman Elliott LLP to act as their representative counsel may opt out.

I hereby notify Stikeman Elliott LLP and the Trustee that I do not wish to be bound by the Order and will be represented as an independent individual party at my own expense to the extent I wish to appear in these proceedings.

Date

Signature

SCHEDULE "B"

On November 1, 2011, an Application for Bankruptcy Order was issued by the Canadian Investor Protection Fund against MF Global Canada Co. ("**MF Canada**"). On November 4, 2011 MF Canada consented to the immediate making of a Bankruptcy Order and KPMG Inc. was appointed as trustee in bankruptcy of MF Canada (the "**Trustee**"). As a result, the Trustee has a mandate to administer the estate of MF Canada in accordance with Part XII of the *Bankruptcy and Insolvency Act* (the "**BIA**").

Pursuant to an order of the Ontario Superior Court of Justice dated November 14, 2011, Callidus Capital Corporation (the "**Customer Representative**") was appointed as representative of all "customers" (as such term is defined in the BIA) of MF Canada as at November 4, 2011, other than MF Global Inc. (collectively, the "**Customers**") in all matters relating to MF Canada's proceedings under the BIA (collectively, the "**Proceedings**"). Stikeman Elliott LLP was appointed as representative counsel for the Customers ("**Customer Representative Counsel**").

The reasonable legal fees of and incidental fees and disbursements incurred by the Customer Representative and Customer Representative Counsel shall be paid by the Trustee on a periodic basis. Accordingly, **you are not required to contribute to the fees of the Customer Representative Counsel.**

If you do not wish to be bound by this order, you must notify the Trustee, KPMG Inc. and Stikeman Elliott LLP, in writing, by mail, e-mail or delivery on or before **December 14, 2011**. Your notice that you do not wish to be bound by this order must be in the form of a fully completed "Opt-Out Letter" substantially in the form attached as Schedule "A" to the Order dated November 14, 2011 and available on the Trustee's website at www.kpmg.ca/mfglobalcanada.

Additional information concerning the Proceedings, including previous orders granted in the Proceedings, can be found on the Trustee's website at www.kpmg.ca/mfglobalcanada.

Customers may contact Stikeman Elliott LLP in confidence directly at – mkonyukhova@stikeman.com or by telephone to Ms. Maria Konyukhova at 416-869-5230.

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PROCEEDINGS COMMENCED AT TORONTO

**ORDER
(RE CUSTOMER REPRESENTATIVE COUNSEL)**

BORDEN LADNER GERVAIS LLP
Barristers and Solicitors
Scotia Plaza
40 King Street West
Toronto, Ontario M5H 3Y4

CRAIG J. HILL
Direct Phone: 416-367-6156
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Lawyers for KPMG Inc.,
in its capacity as trustee in bankruptcy of
MF Global Canada Co.