

**STATEMENT OF MR. GERALD F. CORCORAN
CHAIRMAN AND CHIEF EXECUTIVE OFFICER OF R.J. O'BRIEN & ASSOCIATES**

**SPEAKING ON BEHALF OF R.J. O'BRIEN AND ON BEHALF OF
THE COMMODITY MARKETS COUNCIL, WASHINGTON, D.C.**

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE

REGARDING THE EXAMINATION OF THE MF GLOBAL BANKRUPTCY

THURSDAY, DECEMBER 8, 2011

ORAL TESTIMONY

Chairman Lucas, Members of the Committee, good morning. My name is Gerry Corcoran, and I am the Chairman and Chief Executive Officer of R.J. O'Brien & Associates. Today I am honored to speak on behalf of both RJO and the Commodity Markets Council. I would like to thank you for hosting this critical hearing and for including RJO and the CMC.

The CMC is a trade association bringing together commodity exchanges with their industry counterparts. The activities of CMC members represent the complete spectrum of commercial users of all futures markets. CMC member firms trade regularly through the CME Group, ICE Futures U.S., the Kansas City Board of Trade and Minneapolis Grain Exchange.

At R.J. O'Brien, we are especially proud of our agricultural roots, our commitment to the agricultural community and our leadership in the futures industry. Personally, I am passionate about this business and the important role we play in helping individuals, farmers, agribusiness, corporations and institutions manage their risk.

Founded in 1914, RJO is a privately owned futures commission merchant. With our origins in the cash butter and egg business, today we are the oldest and largest independent futures brokerage and clearing firm in the United States. We are the only remaining founding member of the Chicago Mercantile Exchange, and our Chairman Emeritus, Robert J. O'Brien, served on its Board during the years when agricultural futures products blossomed and the financial futures markets were born. Throughout our history, RJO has stood side by side with our clients, exchanges and regulators during every significant market event this industry has seen.

Since the MF Global bankruptcy filing and default, RJO has worked hand in hand with the CME Group and the other domestic exchanges to provide a home for a substantial number of MF Global accounts and brokers. In a matter of a few days, we assumed a bulk transfer of 20,000 accounts without incident, and our shareholders provided an infusion of approximately \$50 million of capital to ensure that we would be sufficiently capitalized for this unexpected event. At the same time, we worked very hard to ensure that our long-standing clients continued to receive the outstanding service to which they are accustomed. Our management and staff worked literally around the clock for 25 days straight in a massive effort that involved

coordination of systems, processes and people, and sometimes working with incomplete data and rapidly changing circumstances. We fully recognized that the clients of MF Global had just experienced a traumatic event, and we did everything we could to provide vehicles for addressing their questions and providing reassurances as soon as we had answers. This effort included tripling the size of our client services staff, creating a dedicated hotline to answer questions from incoming clients and brokers, and establishing a website with continuous updates on the changing circumstances.

Unfortunately, these efforts, along with those of the Trustee, the CFTC and DSROs, have not mitigated the substantial loss of trust and confidence by market participants as a result of the MF Global bankruptcy. I believe that FCMs, exchanges and regulators alike would acknowledge that trust in the futures industry has been severely impaired. In the past five weeks, at our firm alone, we've received more requests from clients for our financial data than we have in the last three years combined. We have addressed more than 1,000 inquiries seeking assurances that this won't happen at our firm. We continue to witness cash withdrawals to remove excess balances because there is a lack of confidence in the system as a whole.

So while the investigation continues into the causes of the MF Global bankruptcy and the whereabouts of segregated assets, I am certain, very certain of this: we CANNOT let this event destroy the long-term trust and confidence upon which market participants rely. This is an industry that is vitally important not only to the interests of the agricultural community, but to the world. In order to restore trust, we strongly encourage the MF Global Bankruptcy Trustee to conclude its investigation and facilitate the prompt return of all available customer segregated funds as soon as possible. We also believe the industry must move quickly to restore trust and confidence but in a measured and thoughtful fashion. It is incumbent on all interested parties – whether you are a legislator, a regulatory organization, an exchange, an FCM or even a customer – to work together to strengthen the financial safeguards of the futures industry.

To that end, I am going to briefly offer several ideas for consideration and discussion. My written statement goes into greater detail. It is not our intention at this stage to endorse any specific proposal but rather to offer ideas for further consideration in restoring confidence in our system.

On this first point, I am speaking strictly on behalf of RJO, which operates on an “agency” only model and does not engage in proprietary trading. This model has served our customers well for almost 100 years and should be considered as the model employed throughout the industry. Although proprietary trading by FCMs may contribute to the liquidity of the futures markets, it should not be at the expense of customer protection. Therefore, we at RJO suggest that those FCMs who want to conduct proprietary trading utilize other FCMs or create a separately capitalized special purpose FCM for this activity. Doing so will require the same oversight afforded to customer accounts, including proper margining at all times. Simply put, an FCM that is restricted from trading for its own account would not place its customers at risk due to losses from proprietary trading.

The remainder of my testimony reflects the views of both RJO and CMC. While this point does not directly relate to the MF Global situation, it is worth considering in the context of the financial stability of FCMs. Significant losses by a customer of an FCM can also result in

catastrophic losses to the FCM itself. Improved customer collateral management could potentially be achieved by ensuring the adequate maintenance of customer collateral levels. An idea we offer for deliberation is to require accounts which exceed certain margin thresholds on an intra-day basis to fund their account through direct wire transfer, thereby ensuring intra-day margin calls are met.

We should also consider ways to improve the FCM net capital regime. Specifically, we must address the “double counting” of funds to satisfy capital requirements by entities dually registered as FCMs and broker-dealers.

Another possible improvement would be to require that a certain portion of an FCM’s capital be placed in a customer-segregated account. This would facilitate an additional financial safeguard for customers. By requiring an FCM to place its capital in a customer-segregated funds account, funds will then also be afforded the protections that CFTC Rule 1.25, as amended, would provide.

Additionally, we believe it is important for the industry to look at enhanced monitoring and reporting requirements with respect to FCM segregation practices. As we are required to prepare customer segregation reports on a daily basis, regulatory agencies should consider requiring FCMs to provide these reports daily to the CFTC, the NFA, or the firm’s designated self-regulatory organization that detail how the firm is currently holding customer segregated assets.

Finally, we believe the industry has spent considerable time discussing full physical segregation of customer accounts. While such a concept is worthy of study, it is too complicated to help in the near term, and resources would be better spent on solutions that are achievable and deployable in relatively short order to increase the safety and stability of the market today.

Mr. Chairman, we compliment you and the Committee’s efforts. CMC and RJO thank the House Agriculture Committee for the opportunity to testify on this important matter, and we look forward to working with you and answering any questions that you may have.