National Grain and Feed Association

News Release

1250 Eye St., N.W., Suite 1003, Washington, D.C. 20005-3922
Phone: (202) 289-0873, FAX: (202) 289-5388, E-Mail: ngfa@ngfa.org, Web Site: http://www.ngfa.org

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NGFA, 18 Other Ag, Lending Groups Urge Congress to Review Consequences of MF Global Bankruptcy

…Bankruptcy Trustee Urged to Give First Priority to Customer Funds in Asset Distribution…

WASHINGTON -- The National Grain and Feed Association (NGFA) spearheaded a joint letter submitted to Congress on Nov. 30 that urged lawmakers to review the protections that were believed to be in place for customer-segregated funds found to be missing following the MF Global Inc. bankruptcy.

In a nearly identical letter to the Commodity Futures Trading Commission on Nov. 30, the NGFA also urged the agency to review the adequacy of purported protections believed to exist for such customer-segregated accounts. Established in 1896, the NGFA is the nation's largest trade association comprising commercial hedgers of grains, oilseeds, feed ingredients and grain products. It comprises more than 1,050-member companies that operate more than 7,000 facilities and handle more than 70 percent of the U.S. grain and oilseed crop.

The NGFA-authored letter to Congress – signed by 18 other national trade associations, banks and lending organizations – also urged members of the House and Senate Agriculture Committees to assist in ensuring that customers' commodity-segregated funds receive the highest priority in the hierarchy of claims as the bankruptcy trustee distributes funds, and that such customers not be considered unsecured creditors.

"Our goals are two-fold: pursue all possible actions that will ensure that assets of MF Global customers will be returned quickly, and make sure this situation never recurs," the organizations wrote.

The bankruptcy trustee responsible for identifying assets of MF Global's commodity brokerage business continues to investigate the extent of the shortage – currently estimated to be in the range of $600 million to $1 billion – that exists in supposedly customer-segregated accounts. MF Global filed for bankruptcy protection on Oct. 31.

The NGFA and other groups said in their letter to Congress that the aftermath of the MF Global bankruptcy has presented a major challenge in restoring confidence in the future use of exchange-traded risk-management tools. "Producers and agribusiness firms that rely on exchange-trading to facilitate risk management, as well as lending institutions that support them, have had their confidence shaken…," the letter said. "We always have believed that the risk to customer funds when trading on exchanges was virtually zero. Now, we see that is not the case."

The groups also posed questions about whether it might be more appropriate to vest responsibility for holding and safeguarding customer funds in an entity other than exchanges' clearing firms – such as the exchange itself or some other independent third party. "Weaknesses in customer protections brought to light by MF Global's failure have left customers unsure of whether segregated funds will continue to be fully available at other clearing firms," they said. The groups also said that perhaps insurance provided through the Securities Investor Protection Corp. (SIPC) should be expanded to provide coverage for commodities, as well as securities.

In addition, the NGFA and the other signatories urged the House and Senate Agriculture Committees – which have oversight of futures trading – to dig into issues surrounding the adequacy of protections for customer-segregated accounts. Such issues include how frequently customer accounts were audited, by whom, and who was responsible for enforcement, as well as whether requirements were administered in a proper and timely way immediately prior to the MF Global bankruptcy filing. In addition, the letter asked the House and Senate Agriculture Committees to examine whether changes are needed in the way segregated customer funds are allowed to be invested, and whether exchanges should bear some legal responsibility for customer funds "lost" in a bankruptcy and/or through malfeasance by a clearing member.

"The U.S. agricultural sector relies heavily on regulated exchanges for risk management," the letter concluded. "The ability of both commercial and producer hedgers to use futures markets…depends on lenders agreeing to meet margin calls, which demands full confidence by all lenders in the safety of those funds. We must be confident the system works, that it properly safeguards customer funds, and that customers can have full confidence in continuing to utilize exchange-traded (risk-management) tools."

In addition to the NGFA, other groups signing the letter were: AgriBank FCB; AgStar Financial Services, ACA; American Farm Bureau Federation; CoBank, ACB; Commerce Bank; Commodity Markets Council; Farm Credit Services of America; Independent Community Bankers of America; KeyBank Agribusiness; National Association of Wheat Growers; National Barley Growers Association; National Chicken Council; National Corn Growers Association; National Pork Producers Council; National Sunflower Association; Pet Food Institute; and U.S. Canola Association.

The NGFA's membership encompasses all sectors of the industry, including country, terminal and export elevators; feed and feed ingredient manufacturers; biofuels companies; cash grain and feed merchants; end users of grain and grain products, including processors, flour millers, and livestock and poultry integrators; commodity futures brokers and commission merchants; and allied industries. The NGFA also has strategic alliances with the North American Export Grain Association and Pet Food Institute. Affiliated with the NGFA are 26 state and regional grain and feed trade associations.

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For further information, contact:

Randy Gordon, vice president, communications and government relations
National Grain and Feed Association; 202-289-0873, ext. 12; rgordon@ngfa.org

Todd Kemp, director of marketing/treasurer, NGFA, 202-289-0873, ext. 16; tkemp@ngfa.org