



**TESTIMONY OF DANIEL J. ROTH
PRESIDENT AND CHIEF EXECUTIVE OFFICER
NATIONAL FUTURES ASSOCIATION**

**BEFORE THE OVERSIGHT AND INVESTIGATIONS SUBCOMMITTEE OF THE
COMMITTEE ON FINANCIAL SERVICES OF THE
U.S. HOUSE OF REPRESENTATIVES**

March 28, 2012

My name is Daniel Roth and I am the President and Chief Executive Officer of National Futures Association. NFA is the industrywide, self-regulatory organization for the futures industry. Our 4,000 Member firms include futures commission merchants, commodity pool operators, commodity trading advisors and introducing brokers. The recent demise of MF Global has dealt a severe blow to the public's confidence in the financial integrity of our futures markets. This is much more than an academic argument. Thousands of customers have suffered and continue to suffer from a breakdown in the regulatory protections they have come to expect. Their frustration with the situation is completely understandable. Reestablishing the public's confidence is essential to our futures markets, which, in turn, are an essential part of our nation's economy.

All of us involved in the regulatory process have to work to restore that confidence and that effort must begin with identifying and implementing regulatory changes to try to prevent such insolvencies from occurring. At NFA we began that process by identifying a broad range of possible responses. Those possible responses fell into three categories: changes that would require coordination with other self-regulatory organizations, changes which we could accomplish by amending NFA rules and changes that would require action by either the CFTC or by Congress.

To deal with the first category of possible regulatory changes we formed a committee of futures industry self-regulatory organizations. The committee included representatives of NFA, the CME Group, the InterContinental Exchange, the Kansas City Board of Trade and the Minneapolis Grain Exchange. Over a period of three months, the committee held a number of intensive and thought provoking meetings. Two weeks ago, we announced our initial recommendations, which called for significant safeguards in the way that we monitor our members for compliance with duties regarding customer segregated funds. Those recommendations include:

- Requiring all Futures Commission Merchants ("FCMs") to file daily reports concerning their segregated and secured funds. This will provide SROs with an additional means of monitoring firm compliance with segregation and secure amount requirements and a risk management tool to track trends or fluctuations in the amount of customer funds firms are holding and the amount of excess segregated and secured funds maintained by the firms.
- Requiring all FCMs to file Segregation Investment Detail Reports reflecting how customer segregated and secured funds are invested and where those funds are held. These reports would be filed bimonthly and will enhance monitoring of how FCMs are investing customer segregated and secured funds.
- Performing more frequent periodic spot checks to monitor FCM compliance with segregation and secured requirements. FCMs are already audited each year by both their Designated Self-Regulatory Organization and their outside accountant. Supplementing those audits with periodic, surprise testing focused on segregation requirements will increase regulatory scrutiny in this most critical area.
- Requiring a principal of the FCM to approve any disbursements of customer segregated or secured funds not made for the benefit of customers and that exceed 25% of the firm's excess segregated or secured funds. The firm would also be required to provide immediate notice to its SROs.

Certain of these recommendations will be implemented within the next few weeks. Others will require rulemaking. We expect to present rule proposals implementing these changes at our next Board meeting in May. Any changes to NFA's rules would then be submitted to the CFTC for its approval. We would hope that all of these recommendations can be implemented by early summer. In the meantime, the SRO Committee will continue its work and consider other possible regulatory changes.

For those issues that can be addressed by changing NFA rules or by developing recommendations for either the CFTC or Congress, NFA appointed a Special Committee for the Protection of Customer Funds. This committee consists of the public directors on NFA's Board. We are blessed with public directors that combine a wide range of experiences and a deep expertise in financial markets. Our public directors include a former chairperson of the CFTC, two former presidents of the Chicago Federal Reserve Bank, a former congressman, several academics and a former chief economist for a futures exchange. The Special Committee's initial focus has been on making it easier for small customers to do meaningful due diligence on an FCM before opening an account. Customers should not have to wade through 40 pages of footnotes to financial statements to find material financial information about any FCM.

The Committee is attempting to identify the basic information that would be helpful to small customers, such as the FCM's capital requirement, its excess capital, the amount of customer segregated funds the firm holds, the amount of the firm's excess segregated funds, how much leverage the firm employs, how the firm invests customer segregated funds, whether the custodial bank that holds customer funds is an affiliate of the FCM and whether the firm trades as a principal in any non-hedged transactions. We anticipate that when the Special Committee finalizes its list of information that should be disclosed to customers, we will require firms to file that information with NFA and will then post it on our website to allow customers to make comparisons. We hope that the Special Committee's recommendations in this area will also be presented to our May Board meeting. The Special Committee will then take up a number of other issues, including possible changes that should be made to the bankruptcy code to deal with insolvencies by firms that are both FCMs and broker-dealers.

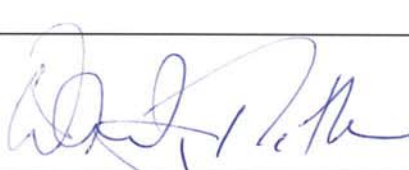
The initial recommendations of the SRO Committee and NFA's Special Committee mark a beginning, not an end, to the process of improving regulatory protections for customer funds. Until MF Global, the futures industry had an unblemished reputation for financial integrity. The process of restoring that reputation must balance the need for a prompt response with the need to avoid hasty decisions that could in the long term do more harm than good. I recognize that no system of regulation can in every instance prevent people intent on breaking the law from doing so, but we can make improvements and the initial recommendations I have outlined above are an important first step in that direction.

We look forward to working with the industry, the CFTC and with Congress to ensure that what emerges is a better regulatory model.

**United States House of Representatives
Committee on Financial Services**

“TRUTH IN TESTIMONY” DISCLOSURE FORM

Clause 2(g) of rule XI of the Rules of the House of Representatives and the Rules of the Committee on Financial Services require the disclosure of the following information. A copy of this form should be attached to your written testimony.

1. Name: Daniel J. Roth	2. Organization or organizations you are representing: National Futures Association
3. Business Address and telephone number: 	
4. Have <u>you</u> received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify? ☐ Yes☒ No	5. Have any of the <u>organizations you are representing</u> received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify? ☐ Yes☒ No
6. If you answered .yes. to either item 4 or 5, please list the source and amount of each grant or contract, and indicate whether the recipient of such grant was you or the organization(s) you are representing. You may list additional grants or contracts on additional sheets. 	
7. Signature: 	

Please attach a copy of this form to your written testimony.