NEW ENGLAND FUEL INSTITUTE
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November 29, 2011

Senator Debbie Stabenow, Chairwoman
Committee on Agriculture, Nutrition & Forestry
United States Senate
Washington, DC 20510

Senator Pat Roberts, Ranking Member
Committee on Agriculture, Nutrition & Forestry
United States Senate
Washington, DC 20510

Congressman Frank Lucas, Chairman
Committee on Agriculture
U.S. House of Representatives
Washington, DC 20515

Congressman Collin Peterson, Ranking Member
Committee on Agriculture
U.S. House of Representatives
Washington, DC 20515

RE: MF Global Collapse and the Affect on Home Heating Oil Retailers

Dear Chairwoman Stabenow, Chairman Lucas and Ranking Members Roberts and Peterson:

We write to you today regarding the collapse of commodity brokerage firm MF Global and the subsequent affect on the home heating oil industry. We also urge necessary legislative and regulatory actions that might serve to avert such crises in the future.

For 70 years, the New England Fuel Institute has represented the home heating industry in the New England region and nationally with our partners at the Petroleum Marketers Association of America. Today, NEFI represents approximately 1,200 retailers or "dealers" of home heating fuels, including heating oil, Bioheat®, kerosene and propane. Most fuel dealers are small, multi-generational family owned- and operated-businesses.

Many home heating oil companies engage in energy futures and swaps in order to hedge against unanticipated price swings and to insulate their businesses and customers from price volatility. They rely on functional and secure commodity markets in order to keep their businesses viable and competitive. Significant consequences can result when the integrity of these markets is jeopardized.

After MF Global filed for Chapter 11 bankruptcy in federal court on October 31, 2011, as much as $1.2 billion or 22 percent of total client funds were found to be "missing." Customer account activity was frozen, preventing home heating oil companies with hedging positions or other financial assets at MF Global from accessing much-needed financial capital. Since that time, we have worked with some of these companies and with federal regulators and bankruptcy trustees where necessary to help get back as much of their money as possible.

It is important to stress that the impact of this situation is limited to MF Global clients. Given the progress made in recent weeks, we do not anticipate that this situation will in any way affect heating oil supply, availability or service to customers. We are confident that all fixed price, pre-pay and other consumer delivery contracts will be honored. However, it is essential that regulators and the Congress take the necessary steps to make sure that such a crisis is not repeated and that commodity brokerage clients are afforded adequate protections in the future.

We are pleased to learn that Commodity Futures Trading Commission (CFTC) Chairman Gary Gensler has called for a December 5th meeting of Commissioners to revisit proposed modifications to Rule 1.25 relating to segregation of customer funds. Shortly after passage of the Commodity Futures Modernization Act in 2000, revisions to the rule may have allowed brokerage firms to use customer funds that should have been segregated for problematic and risky investments, such as the purchasing securitized debt obligations. Segregated customer accounts should have been fiercely guarded from such practices and the Commission should act quickly to make necessary changes to Rule 1.25.

Second, we believe the Congress should ensure adequate bankruptcy protections for commodity clients. The Securities Investor Protection Act of 1970 (Pub.L.91-598) was enacted to afford such safeguards but because commodity trading and hedging were not as widespread at the time commodities brokerage accounts were overlooked. Given the importance and relative complexity of such investments today and the recent experience of MF Global clients, it can no longer be ignored.

The MF Global collapse is yet another example of the importance of adequate transparency and accountability in the derivatives markets. Our association was a strong supporter of commodity derivative market reforms included in Title VII of last year's Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub.L.111-203). Critics of the new law have recently cited the collapse as "evidence" of its failings. We caution against such rhetoric, especially given that regulators have yet to fully implement and enforce necessary market reforms.

We also question the wisdom of criticizing the historically under-resourced CFTC for not adequately monitoring firms like MF Global while simultaneously threatening to slash federal funding necessary for market oversight. The Congress recently sustained Fiscal Year 2011 funding levels for the CFTC through Fiscal Year 2012. Additional funding must be provided in the years to come if the CFTC is to adequately enforce new and existing commodity market trading rules, conduct market surveillance and restore the confidence of market participants.

Thank you for your consideration and for taking this crisis seriously. If you have any additional questions please feel free to contact me at (617) 924-1000 or by email at michael.trunzo@nefi.com.

Sincerely,

Michael C. Trunzo

Michael C. Trunzo, President & CEO
The New England Fuel Institute

cc: Gary Gensler, Chairman, U.S. Commodity Futures Trading Commission
Jill Sommers, Commissioner, U.S. Commodity Futures Trading Commission
Bart Chilton, Commissioner, U.S. Commodity Futures Trading Commission
Scott O'Malia, Commissioner, U.S. Commodity Futures Trading Commission
Mark Wetjen, Commissioner, U.S. Commodity Futures Trading Commission