

## Trustee's Status Report of December 1, 2017

The Chapter 7 bankruptcy case (the "Case") of Peregrine Financial Group, Inc. ("PFG") was commenced on July 10, 2012 (the "Petition Date"). Ira Bodenstein was appointed as the successor Chapter 7 trustee (the "Trustee") on July 12, 2012. On August 8, 2013, the Trustee posted his *Trustee's Status Report of August 8, 2013*, providing a description of some of the more significant tasks undertaken and completed by the Trustee and his professionals since the inception of the Case, and the Trustee's planned course of action moving forward. On September 29, 2014, the Trustee posted his *Trustee's Status Report of September 29, 2014*, providing a description of the significant tasks undertaken and completed by the Trustee and his professionals in the year since posting his first status report. On June 8, 2015, the Trustee posted his *Trustee's Status Report of June 8, 2015*, providing a description of the significant tasks undertaken and completed by the Trustee and his professionals since September 2014. On June 1, 2016, the Trustee posted his *Trustee's Status Report of June 1, 2016*, providing a description of the significant tasks undertaken and completed by the Trustee and his professionals since June 2015. In this report, the Trustee will give an overview of the tasks and goals achieved since June 2016, a current report on the financial status of the PFG bankruptcy estate (the "Estate"), and a summary of the pending and yet to be completed tasks that remain for the Estate.

### I. SIGNIFICANT TASKS ADDRESSED BY THE TRUSTEE SINCE JUNE 2016:

- a. Operating the business of the Debtor on a limited basis to, among other things, perform accounting functions, collect debit accounts, and compile the required information to file the 2016 tax returns.

- b. Fielding calls and providing responses to inquiries from customers, brokers, creditors and former employees about their respective accounts/claims and the Case in general.
- c. Negotiating and entering into a settlement agreement to resolve the remaining adversary proceeding filed to avoid and recover preferential transfers, resulting in the collection and recovery of funds. All recoveries from transferees of preferential and fraudulent transfers have been deposited in the Trustee's Undesignated Funds Account, subject to further order of the Court.
- d. Prosecuting lawsuits to pursue the avoidance and recovery of transfers against recipients of fraudulent transfers of funds from the Debtor's operating accounts or funds diverted from a PFG customer segregated account (the "Seg. Account"). The Trustee and his professionals have resolved all but 4 of the adversary proceedings originally filed to avoid and recover fraudulent transfers.
- e. After seeking and being granted Bankruptcy Court approval, the Trustee made a seventh interim distribution of segregated cash to 4d claimants in the amount of approximately \$13 million. The funds for the distribution were comprised of (i) 4d segregated funds that the Trustee has been holding; and (ii) 30.7 segregated funds that the Trustee has been holding. This interim distribution represented a return of approximately an additional 3% to claimants with domestic futures accounts (4d) and brought the approximate total recovery to date to 63% for 4d claimants.
- f. The following chart summarizes the distributions to date:

<b>Distribution</b>	<b>Amount Distributed (Appx.)</b>	<b>Percent Return to Account Holders</b>	<b>Total Recovery to Account Holders as of Distribution</b>
First Interim Distribution through Vision Financial	\$123,000,000	30% to domestic futures accounts (4d) 40% to foreign futures accounts (30.7)	30% to domestic futures accounts (4d) 40% to foreign futures accounts (30.7)
Second Interim Distribution	\$38,000,000	7% to domestic futures accounts (4d) 45% to foreign futures accounts (30.7)	37% to domestic futures accounts (4d) 85% to foreign futures accounts (30.7)
Third Distribution (“Catch-Up”)	\$700,000	Varied	37% to domestic futures accounts (4d) 85% to foreign futures accounts (30.7)
Fourth Interim Distribution	\$31,000,000	7% to domestic futures accounts (4d) 15% to foreign futures accounts (30.7)	44% to domestic futures accounts (4d) 100% to foreign futures accounts (30.7)
Fifth Interim Distribution	\$19,000,000	5% to domestic futures accounts (4d)	49% to domestic futures accounts (4d)
Sixth Interim Distribution	\$40,000,000	11% to domestic futures accounts (4d)	60% to domestic futures accounts (4d)
Delivery Class Claimants	\$675,000	100% to delivery accounts	100% to delivery accounts
Forex Distribution to Claimants Who Accepted the Trustee’s Settlement	\$3,445,000	30% to Forex and/or OTC Metals accounts	30% to Forex and/or OTC Metals accounts
Physical Metals Claimants Who Accepted Trustee’s Settlement	\$436,000	65% to Physical metals accounts	65% to Physical metals accounts
Seventh Interim Distribution	\$13,000,000	3% to domestic futures accounts (4d)	63% to domestic futures accounts (4d)

- g. Continuing to reconcile the filed proofs of claim of claimants with administrative, domestic or foreign futures claims with the books and records of PFG through the filing of written objections.

II. CURRENT FINANCIAL STATUS OF THE ESTATE.

- See Cash Investment Summary as of November 30, 2017 attached as Exhibit "A".

III. PENDING/FUTURE ITEMS TO BE ADDRESSED BY THE TRUSTEE.

- a. Pursuant to authority granted by the Bankruptcy Court, the Trustee is attempting to reach consensual resolutions with all customers who owe debit balances on their respective customer accounts. In the absence of an agreed resolution, the Trustee will be initiating litigation against customers who reside within the United States and have a debit balance in their respective customer accounts.

IV. THE CLAIMS PROCESS AND FUTURE DISTRIBUTIONS.

- a. One of the principal remaining tasks for the Trustee is the distribution of additional funds to claimants. Over 14,000 proofs of claim asserting over \$738 million in claims have been filed. To date approximately 10,000 proofs of claim have been reconciled and the claims pool has been reduced by approximately \$343 million. Including the initial bulk transfer through Vision Financial, there have been seven distributions totaling approximately \$235 million to 4d claimants with allowed claims, and approximately \$28 million to 30.7 claimants with allowed claims. In order to make further distributions to claimants, the claims resolution process must be completed. There are approximately 10 filed domestic

futures claims which remain to be reconciled.<sup>1</sup> There are no known unresolved foreign futures claims to reconcile. The Trustee is working to reconcile the remaining futures claims by June 2018.

- b. The Trustee is currently holding an additional approximately \$ 4 million in his 4d account and \$1.6 million in his 30.7 account that will eventually be available to disburse to 4d claimants. The Trustee plans to request authority to make a eighth interim distribution to claimants with domestic futures accounts (4d) in the first half of 2018.
- c. There are unresolved legal issues respecting the relative priorities (the order in which they get paid) among the various classes of unpaid claimants. One of the key legal issues is the proper treatment to be afforded to the deficiency claims of domestic and foreign futures claimants and how those deficiency claims are treated relative to the claims of other classes of claimants and general unsecured creditors. These legal issues must be resolved by the Bankruptcy Court before a final distribution can be made.

## V. THE IRS EXAMINATION

The Internal Revenue Service (“IRS”) has filed 3 proofs of claim, including a Third Amended Claim filed after the claims bar date. However, pursuant to Section 726 of the Bankruptcy Code (the “Code”), the IRS asserts that in a chapter 7 case such as this one, governmental entities are allowed to file late proofs of claim and still receive their applicable distributions. Accordingly, absent the filing of an objection by the Trustee (or another party in interest), the IRS has a deemed allowed pre-petition priority unsecured claim under Section

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<sup>1</sup> Given the pendency of the legal issues identified in section IV.c., the Trustee has not begun a full reconciliation of the proofs of claim filed by the other classes of claimants or the general unsecured creditors.

726(a)(1) of the Code in the amount of \$26,715,583.66 and a deemed allowed pre-petition general unsecured claim under Section 726(a)(4) of the Code in the amount of \$17,078,166.50. The Trustee and his professionals have examined the various IRS claims and their current belief is that they are allowable in the amounts filed.

The Trustee explored with the IRS the possibility of the IRS' voluntary subordination of some or all of its deemed allowed claims to unpaid claims with an equal or lower priority, but was unable to reach an agreement with the IRS on this point.

## VI. FOREX LITIGATION

### a. Secured Leverage Group Litigation

In August 2016, the United States District Court for the Northern District of Illinois upheld the Bankruptcy Court's ruling denying the relief requested by the Plaintiffs. Plaintiffs then appealed the decision to the United States Court of Appeals for the Seventh Circuit. On August 7, 2017, the Seventh Circuit upheld the District Court's ruling in favor of the Trustee. The time to seek either a rehearing in the Seventh Circuit or on appeal before the Supreme Court has expired, and the Trustee considers the matters at issue resolved.

### b. Forex Class Action

The United States District Judge presiding over the Secured Leverage appeal previously entered an Order authorizing the reassignment of the Forex Class Action appeal to his Court. Accordingly, in August 2016, the United States District Court upheld the Bankruptcy Court's entry of an order dismissing the Forex Action. The Forex Plaintiffs then appealed the decision to the United States Court of Appeals for the Seventh Circuit. On August 7, 2017, the Seventh Circuit upheld the District Court's ruling in favor of the Trustee. The time to seek either a rehearing in the Seventh Circuit or on appeal before the Supreme Court has expired, and the Trustee considers the matters at issue resolved.

c. **Disposition of Forex Funds**

Now that all appeal periods have expired, the Trustee will begin consultation with the CFTC to formulate an appropriate distribution of the forex funds.

VII. LITIGATION REGARDING PREFERENTIAL AND FRAUDULENT TRANSFERS

There are currently four adversary proceedings pending in the Bankruptcy Court for the Northern District of Illinois that were initiated by the Trustee to avoid and recover fraudulent transfers. As of this report, the Trustee has explored reaching a potential settlement with the defendants in two of the proceedings. The parties are currently proceeding with fact discovery in the remaining two proceedings.