PUBLICATIONS

Direct Loss Requirement in Fidelity Insurance Bonds

December 29, 2014

On the evening of Feb. 26, 2008, a commodities broker affiliated with MF Global's Memphis office began trading commodities futures on the Chicago Mercantile Exchange (CME) from his personal trading account using MF Global's electronic trading system. The broker entered into a large number of sell contracts for May wheat, far exceeding his authorized margin credit. When trading opened again in the morning, the final loss on the transactions was in excess of $141 million. Under the rules of the CME, as a clearing member, MF Global was legally obligated to cover the loss. MF Global transferred sufficient funds from its settlement bank to the CME Clearing House to cover the loss and then recorded a $141 million loss on its books as a bad debt. MF Global submitted a claim to its insurers to recover the loss under the terms of its fidelity insurance bond. The primary and excess insurers denied coverage and ultimately commenced a lawsuit against MF Global seeking an order confirming their disclaimer position. In this article, SRZ partner Howard B. Epstein and special counsel Theodore A. Keyes examine the MF Global case and discuss the direct loss requirements in fidelity insurance bonds.

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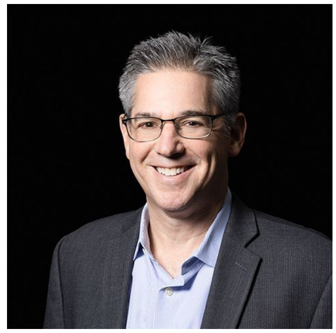

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