

*In Re: Platinum And Palladium Commodities Litigation*

This Document Relates To:

Platinum/Palladium Futures Action

MASTER FILE  
No. 10 Civ. 3617 (WHP)

**PROOF OF CLAIM AND RELEASE**

If you are a member of the futures class as defined below, then, in order to be entitled to a distribution, **you must complete, sign, notarize and mail this proof of claim and necessary supporting documentation to the settlement administrator at the following address such that it is received no later than April 29, 2015:**

**PLATINUM AND PALLADIUM LITIGATION SETTLEMENT—FUTURES ACTION**

c/o A.B. DATA, LTD.

PO BOX 170500

MILWAUKEE, WI 53217-8091

**Do not submit your claim to the Court.**

**The Futures Class.** The Futures Class<sup>1</sup> is defined as: All Persons that purchased or sold a NYMEX platinum futures contract or a NYMEX palladium futures contract during the period from June 1, 2006 through April 29, 2010, inclusive.

Excluded from the Futures Class are (i) the Settling Defendants, MF Global, Inc., any co-conspirators alleged in the Complaint or any subsequent amended complaint filed prior to the Exclusion Bar Date, Alan Craig Kleinstein, Dominick Frank Terrone, Richard Peter Trifoglio Sr., Frederick Charles Ferriola, Peter Michael Venus, Lawrence Frasca Favuzza, and John Anthony Sakulich and any NYMEX floor brokers or NYMEX floor traders who refuse to execute the certification in the Proof of Claim attesting that they were not co-conspirators, or aiders or abettors of the Settling Defendants or Non-Settling Defendants, and (ii) Opt Outs.

Only members of the Futures Class may participate in the Settlement.

If you are a member of the Futures Class as described above, then, by properly filling out, signing, having notarized and returning this Proof of Claim and furnishing the required supporting documentation, you may be entitled to share in the proceeds from the Net Settlement Fund. However, submission of this Proof of Claim does not ensure that you will share in any of the proceeds of the Net Settlement Fund.

Omission of necessary information and/or supporting documents will make your claim defective so that it may be rejected, in which case you will be notified of such rejection and given an opportunity to remedy same. You must include all trade information for transactions in Class Contracts<sup>2</sup> during the Class Period for all accounts you own or control.

If you are a member of the Futures Class and you fail to submit a valid and timely Proof of Claim pursuant to the instructions set forth herein you may be precluded from any recovery from the Net Settlement Fund. However, unless you validly exclude yourself from the Futures Class, you will be bound by the terms of any judgment entered in the Action **whether or not you submit a Proof of Claim.**

The completed Proof of Claim, and the information submitted therewith, will be treated as confidential and will be used solely for purposes of administering the Settlement. Knowingly submitting inaccurate or incomplete information may subject you to civil or criminal penalties.

**IF YOU HAVE ANY QUESTIONS CONCERNING THIS PROOF OF CLAIM, WRITE TO, CALL, OR GO ON-LINE AT:**  
PLATINUM AND PALLADIUM LITIGATION SETTLEMENT—FUTURES ACTION, c/o A.B. DATA, LTD., PO BOX 170500, MILWAUKEE, WI 53217-8091,  
[www.PlatinumPalladiumFuturesLitigation.com](http://www.PlatinumPalladiumFuturesLitigation.com)

**DO NOT CONTACT THE COURT IF YOU HAVE QUESTIONS CONCERNING THIS PROOF OF CLAIM.**

<sup>1</sup> Unless otherwise stated, capitalized terms used herein shall have the same meanings as set forth in the Settlement Agreement dated March 17, 2014.

<sup>2</sup> “Class Contract” shall mean NYMEX platinum futures contracts and NYMEX palladium futures contracts traded between June 1, 2006 through April 29, 2010, inclusive.

For official use only



In Re: Platinum And Palladium Commodities Litigation  
MASTER FILE No. 10 Civ. 3617 (WHP)  
**PROOF OF CLAIM AND RELEASE**  
Please print or type

MUST BE RECEIVED NO LATER THAN

APRIL 29, 2015

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

\_\_\_\_\_, being duly sworn, deposes and says:

**Item 1—Claimant Identification**

1. Please provide the following information for you and your affiliates<sup>3</sup> that transacted in Class Contracts at any time during the Class Period:

Claimant Name(s) (“Claimant”):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Individual     Corporation     Estate     Other (specify) \_\_\_\_\_

Name of Person Executing Claim:

\_\_\_\_\_  
\_\_\_\_\_

Capacity of Person Executing Claim:

\_\_\_\_\_  
\_\_\_\_\_

Claimant Address:

\_\_\_\_\_  
\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Foreign Province \_\_\_\_\_ Foreign Postal Code \_\_\_\_\_ Foreign Country \_\_\_\_\_

Claimant Daytime Phone Number

( \_\_\_\_\_ ) \_\_\_\_\_ — \_\_\_\_\_

Claimant Social Security, Employer Identification, or Federal Tax Identification Number:

\_\_\_\_\_ — \_\_\_\_\_ — \_\_\_\_\_ or \_\_\_\_\_ — \_\_\_\_\_

Claimant Email Address:

\_\_\_\_\_  
\_\_\_\_\_

<sup>3</sup> “Affiliates” means any other person or entity that you control, either directly or through one or more intermediaries, or any person or entity that is controlled by or is under common control with such intermediary person or entity.

Nature of the Claimant's Business

If you require additional space on this or any other section of the Proof of Claim, append an additional page to the end of the claim form. Do not submit multiple Proofs of Claim.

If you are unable to identify all transactions in Class Contracts by any affiliates of yours, who, to your knowledge, made any transactions in Class Contracts during the Class Period, then please list below the names of such affiliates.

If you leave the above line blank, then by executing this Proof of Claim, you are affirming that, to the best of your knowledge, you have no affiliates who made transactions in Class Contracts during the Class Period that are not reflected in this Proof of Claim.

**Item 2—List of Futures Commission Merchants**

2. Please list all futures commission merchants (“FCMs”) through which you maintained accounts wherein you traded NYMEX platinum futures contracts or NYMEX palladium futures contracts during the Class Period (*i.e.*, June 1, 2006 – April 29, 2010).

**Item 3—List of Account Names and Account Numbers**

3. Please provide a list of all account names and account numbers for each FCM you listed in response to “Item 2” above wherein you traded NYMEX platinum futures contracts or NYMEX palladium futures contracts during the Class Period (*i.e.*, June 1, 2006 – April 29, 2010).

**Item 4—Proof of Qualifying Transactions**

4. Please provide proof of all transactions in Class Contracts you made during the Class Period by, for example, enclosing photocopies of daily brokerage confirmations, monthly account statements, and other documents evidencing purchases and/or sales reflecting any and all transactions in Class Contracts. Each Claimant must provide sufficient documentation to allow the Settlement Administrator to determine whether a transaction in NYMEX platinum futures contracts or NYMEX palladium futures contracts qualifies as a transaction in a Class Contract. Such documentation must reflect the date, price, quantity and the time of all such transactions in Class Contracts (see Item 6 below). It is highly likely that **the most efficient method for Claimants to support their claims is to produce records reflecting all NYMEX platinum futures contract and NYMEX palladium futures contract transactions during the Class Period.**

You should provide proof for each and every transaction in a Class Contract regardless of whether such transaction resulted in a gain or a loss.

If any such documents are not in your possession, please obtain them or their equivalent from your broker or tax advisor or other sources if it is possible for you to do so.

If you have this information in an electronic form, you are strongly encouraged to submit the information electronically along with a hard copy printout of your trading records in order to expedite the treatment of your Proof of Claim. The following formats are acceptable: ASCII, MS Excel, MS Access, and dBase.

**Item 5—Instructions for List of Transactions In Class Contracts**

5. The Settlement Administrator will determine each Claimant’s Net Artificiality Paid and Net Loss (as set forth in the Plan of Allocation) by analyzing each Claimant’s transactions in Class Contracts. Claimants are required to list each transaction in Class Contracts in the form provided in Item 6 below. If additional space is necessary, or if Claimants wish to use a Microsoft Excel format, please go to [www.PlatinumPalladiumFuturesLitigation.com](http://www.PlatinumPalladiumFuturesLitigation.com) to obtain an electronic filing template.

In listing the information requested in Item 6 below, you should always use trade dates, not settlement dates. Do not average prices of separate transactions, including transactions within a given date. It is important that you supply the information requested to the fullest extent that you are able to do so.

**Item 6—List of Transactions in Class Contracts**

6(a). If you purchased or sold a NYMEX platinum futures contract during the Class Period (*i.e.*, June 1, 2006 – April 29, 2010), then you must provide the information set forth in the Table I below for all such transactions.

**TABLE I—PURCHASE(S) AND SALE(S) OF NYMEX PLATINUM FUTURES CONTRACTS DURING THE CLASS PERIOD**

<b>Date of Transaction</b>	<b>Time of Execution of Transaction (if known)<sup>4</sup></b>	<b>Contract Month</b>	<b>Number of Contracts In Transaction</b>	<b>Transaction Price</b>	<b>Purchase or Sale</b>	<b>Brokerage Firm and Account Number in Which Transaction Was Made</b>	<b>Hedging Transaction? (Yes or No)<sup>5</sup></b>
/ /				.			
/ /				.			
/ /				.			

6(b). The Settlement Administrator needs to determine any open positions (long or short) in NYMEX platinum futures contracts that you held as of the start of the Class Period on June 1, 2006 or the end of the Class period on April 29, 2010. This determination shall be based on trade dates, not settlement dates.

<b>Open Positions in NYMEX Platinum Futures Contract Prior to June 1, 2006 (Identify Contract Month)</b>	<b>Short Position (Insert the number of contracts)</b>	<b>Long Position (Insert the number of contracts)</b>

<sup>4</sup> To the extent known, please provide for purchase and sale transactions between November 19, 2007 and June 18, 2008, inclusive, whether the time of day of the execution for each transaction was at or prior to 1:05 p.m.

<sup>5</sup> Hedging Transactions are defined as any offsetting exposures held or acquired by you or any of your affiliates in the cash, spot, or physical platinum or palladium markets, or other off-exchange markets related to platinum or palladium, that operated as a hedge (in whole or in part) against your transaction(s) in Class Contracts listed in Section 6(a) or 6(c).

<b>Open Positions in NYMEX Platinum Futures Contract On April 29, 2010 (Identify Contract Month)</b>	<b>Short Position (Insert the number of contracts)</b>	<b>Long Position (Insert the number of contracts)</b>

6(c). If you purchased or sold a NYMEX palladium futures contract during the Class Period (*i.e.*, June 1, 2006 – April 29, 2010), then you must provide the information set forth in the Table II below for all such transactions.

<b>TABLE II—PURCHASE(S) AND SALE(S) OF NYMEX PALLADIUM FUTURES CONTRACTS DURING THE CLASS PERIOD</b>							
<b>Date of Transaction</b>	<b>Time of Execution of Transaction<sup>6</sup> (if known)</b>	<b>Contract Month</b>	<b>Number of Contracts In Transaction</b>	<b>Transaction Price</b>	<b>Purchase or Sale</b>	<b>Brokerage Firm and Account Number in Which Transaction Was Made</b>	<b>Hedging Transaction? (Yes or No)</b>
/ /				.			
/ /				.			
/ /				.			

6(d). The Settlement Administrator needs to determine any open positions (long or short) in NYMEX palladium futures contracts that you held as of the start of the Class Period on June 1, 2006 or the end of the Class period on April 29, 2010. This determination shall be based on trade dates, not settlement dates.

<b>Open Positions in NYMEX Palladium Futures Contract Prior to June 1, 2006 (Identify Contract Month)</b>	<b>Short Position (Insert the number of contracts)</b>	<b>Long Position (Insert the number of contracts)</b>

<sup>6</sup> To the extent known, please provide for purchase and sale transactions between November 1, 2007 and June 18, 2008, inclusive, whether the time of day of the execution for each transaction was at or prior to 1:00 p.m. Eastern standard time.

Closed Positions in NYMEX Palladium Futures Contract On April 29, 2010 (Identify Contract Month)	Short Position (Insert the number of contracts)	Long Position (Insert the number of contracts)

6(e). For any line in which you stated Hedging Transactions in 6(a) or 6(c) above, were all of the transactions in that line Hedging Transactions? YES \_\_\_\_ or NO \_\_\_\_\_. If your answer is NO, please list all of your Hedging Transactions in that line that were not Hedging Transactions.

---



---

6(f). Were any of the transactions you listed in 6(a) or 6(c) above conducted by you as a “Swap Dealer”? A Swap Dealer is any person who (i) holds itself out as a dealer in swaps (ii) makes a market in swaps, (iii) regularly enters into swaps with counterparties as an ordinary course of business for its own account, or (iv) engages in activity causing itself to be commonly known in the trade as a dealer or market maker in swaps. If your answer is YES, please list all of your transactions as a Swap Dealer in the space provided below.

---



---

7. Futures Lead Counsel and the Settlement Administrator reserve the right to seek further information from you regarding your Proof of Claim.

8. If you were a NYMEX floor broker or NYMEX floor trader between October 17, 2007 and June 6, 2008, inclusive, by executing this Proof of Claim you are certifying that you were not a co-conspirator or aider or abettor of the Settling Defendants or Non-Settling Defendants.

9. It is important that you accurately disclose all transactions in Class Contracts open at the start of or made during the Class Period. The Claimant expressly consents to the release to the Settlement Administrator of any and all documents reflecting the Claimant’s transactions in Class Contract that may be obtained from third parties, including, but not limited to, your brokerage firm(s), the Commodity Futures Trading Commission (“CFTC”) and the NYMEX. By executing this Proof of Claim, the Claimant hereby permits the Settlement Administrator to request from the NYMEX the Claimant’s account and relevant trade information prior to receiving a payment from the Net Settlement Fund.

10. The Claimant certifies that reasonable efforts have been made to locate all information requested in Items 1-6 above and that all information supplied in connection with this Proof of Claim is true, correct and complete.

11. The Claimant understands that the information provided herein is subject to verification and the Claimant agrees to cooperate in any such verification including by furnishing additional information to support this claim and by assisting the Settlement Administrator if requested to do so.

12. The Claimant understands that the Settlement Administrator will determine the adequacy of the Claimant’s Proof of Claim and supporting documentation. The foregoing is subject to the Settling Defendants’ right to object and the ultimate power of the Court to determine whether your Proof of Claim and supporting documentation are adequate.

13. The Claimant consents to the jurisdiction of the Court with respect to this Proof of Claim and for purposes of enforcing the terms of the Settlement Agreement or any order or judgment of the Court.

14. The Claimant agrees to the terms of the Settlement as set forth in the Settlement Agreement and acknowledges being bound by and subject to the terms of any order or judgment that may be entered in the Futures Action, including the Final Judgment.

15. Each Claimant must execute a release and covenant not to sue in conformity with Section 6 of the Settlement Agreement in order to receive his/her/its *pro rata* share of the Net Settlement Fund. The Claimant agrees that the submission of this Proof of Claim constitutes a full release of and covenant not to sue on the Released Claims against the Released Parties as set forth in the Settlement Agreement and at the end of this Proof of Claim.

16. The Claimant certifies that it is not subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code because: (a) the Claimant is exempt from backup withholding, or (b) the Claimant has not been notified by the Internal Revenue Service (the "I.R.S.") that the Claimant is subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the I.R.S. has notified that Claimant that the Claimant is no longer subject to backup withholding.

This Proof of Claim was executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ in \_\_\_\_\_, \_\_\_\_\_  
(City/Province) (State/Country)

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Capacity of Person Signing (e.g., President, Trustee, Custodian, etc.)

If you are acting for an entity, please submit proof of your authority (e.g., corporate resolution, trust agreement, etc.).

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

## RELEASES AND COVENANT NOT TO SUE

(a) In addition to the effect of any final judgment entered in accordance with this Settlement Agreement, and provided that the Court approves this Settlement Agreement, effective upon the Effective Date each and every Futures Class member, all of their past, present or future parents, subsidiaries, divisions, affiliates, shareholders, general or limited partners, attorneys, spouses, insurers, beneficiaries, employees, officers, directors, legal and equitable owners, members, predecessors in interest, successors in interest, legal representatives, trustees, associates, heirs, executors, administrators and/or assigns and each and any of their respective shareholders, parents, subsidiaries, divisions, affiliates, shareholders, general or limited partners, assigns, attorneys, insurers, beneficiaries, employees, officers, directors, legal and equitable owners, members, predecessors in interest, successors in interest, legal representatives, trustees, associates, heirs, executors, administrators and/or assigns (together the “Releasing Parties”), releases and forever discharges, to the fullest extent permitted by law, the Released Parties from and against any and all present, past, or future claims, demands, debts, damages, losses, offsets, obligations, warranties, costs, fees, penalties, expenses, whenever incurred, rights of action, suits, and causes of action of every kind and nature whatsoever, whether based on contract, tort, federal, state or foreign law, statutory, or other legal or equitable theory of recovery, liabilities of any nature and kind whatsoever, whether known or unknown, suspected or unsuspected, existing, or claimed to exist, and whether arising in the past or future, in law or in equity, that each and every Futures Class member ever had, now has, or hereafter can, shall or may have, directly, representatively, derivatively or in any other capacity, in any way arising from or related to, in full or in part, any transactions in Class Contracts, whether or not asserted in the Futures Action, or from any losses incurred, in whole or in part, as a result of such transactions. Notwithstanding any other provision of this Settlement (i) the foregoing release shall not include any claims which a Futures Class member may have in its capacity as a member of any class that may be certified with respect to the claims asserted in the Complaint in the Physical Action, and (ii) as to Defendant Welsh only, the foregoing release shall not include, shall not apply to, shall have no effect whatsoever on, and shall not release in any way, the negligence and the negligent conduct or omissions as alleged, and relief that may be obtained on, the Futures Plaintiffs’ fifth claim in the Complaint. Welsh is released as to the non-negligence claims (including the Futures Plaintiffs’ claims in the Complaint for violations of the Commodity Exchange Act and the Sherman Act) as previously set forth above in this Section 6(a).

(b) In addition, each Releasing Party hereby expressly waives and releases any and all provisions, rights, and benefits conferred by § 1542 of the California Civil Code, which reads:

**Section 1542. General release extent. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**

From the Effective Date each Releasing Party also expressly waives and releases any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code. Each Releasing Party may hereafter discover facts other than or different from those which he, she or it knows or believes to be true with respect to the claims which are the subject matter of this Section 6 but each Releasing Party, through this Settlement Agreement, and with the ability to seek independent advice of counsel, expressly waives and fully, finally and forever settles and releases, as of the Effective Date any known or unknown, suspected or unsuspected, contingent or non-contingent claim that would otherwise fall within the definition of Released Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. From the Effective Date, the releases herein given by the Releasing Parties shall be and remain in effect as full and complete releases of the claims set forth in the Futures Action, notwithstanding the later discovery or existence of any such additional or different facts relative hereto or the later discovery of any such additional or different claims that would fall within the scope of the release provided in Section 6(a) of this Settlement Agreement, as if such facts or claims had been known at the time of this release. Notwithstanding any of the provisions of the Final Judgment or any provisions of this Settlement Agreement or otherwise, the Futures Plaintiffs and the Futures Class do not release or dismiss and shall not release or dismiss Defendant Welsh from the Futures Plaintiffs’ fifth claim in the Complaint for negligence against Defendant Welsh.