

**Customer Funds Protection for  
the USA Futures Industry:  
Client Safety at Newedge USA, LLC**

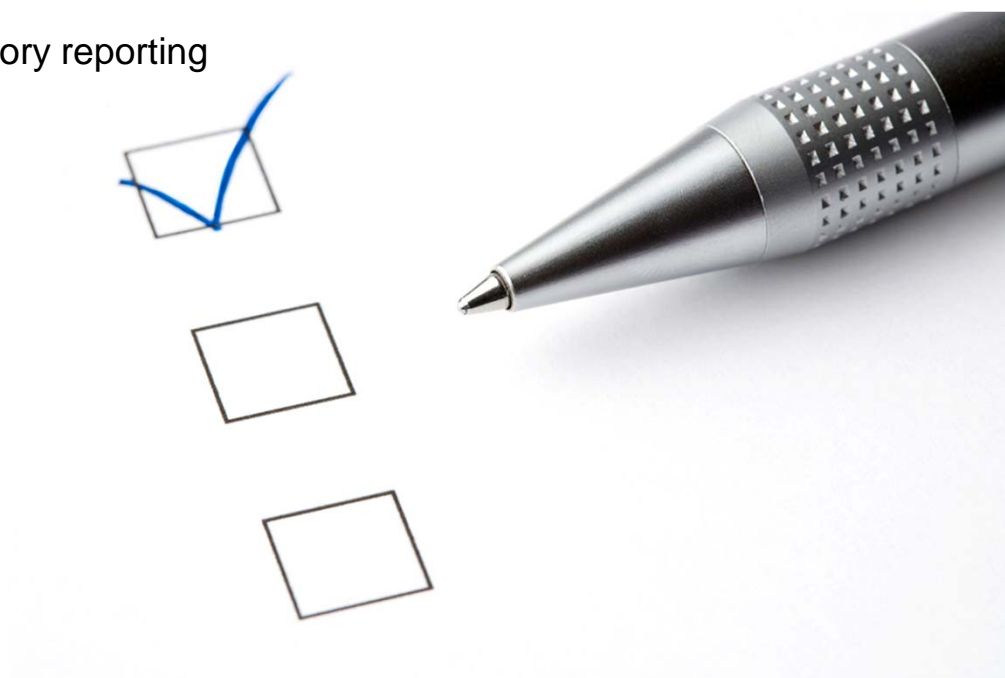
**3 November 2011**



## Overview

**The foundation for protecting customer property when customer's trade is three-fold:**

- Segregation
- Capital requirements and regulatory reporting
- Audits and inspections



## I. SEGREGATION

Newedge USA is registered as a Futures Commission Merchant with the Commodity Futures Trading Commission, and is a clearing member of all major US futures exchanges. The Commodity Exchange Act and the regulations of the CFTC strictly dictate how Newedge USA must maintain its customers' positions and the funds and/or securities to margin them (Customer Property).

Newedge USA must account for and segregate Customer Property separately from its own assets. To accomplish this Newedge USA holds Customer Property in customer segregated accounts on its books, at its banks, and the clearing houses. Technically funds to support customers' US positions and non-US positions are maintained in separate accounts for the exclusive benefit of all customers.

Every business day, as required by CFTC rules, Newedge USA calculates the amount of customer cash or securities it must have on deposit in its segregated accounts to meet margin requirements for their futures and options on futures positions. Newedge USA routinely supplements these accounts with its own assets. As part of its procedures, Newedge USA reviews and reconciles source third party statements where its customer funds are held against its own calculation of funds required to be set aside for futures customers in segregation. The reconciliations are maintained as part of the regular books and records of the Firm.



## I. SEGREGATION (cont'd)

For example, as of September 30, 2011, Newedge USA calculated its segregated funds holding and requirements as follows:

	<u>U.S. Segregation</u>	<u>Secured</u>
Amount Required:	\$20,455,381,452	\$6,433,999,143
Amount Available:	<u>\$20,930,797,656</u>	<u>\$6,927,738,715</u>
Excess:	\$ 475,416,204	\$ 493,739,572



## II. CAPITAL REQUIREMENTS, REGULATORY REPORTING, AND INVESTMENT OF CUSTOMER FUNDS

Newedge USA must maintain adjusted net capital in excess of the greatest of:

- \$5,000,000;
- CFTC minimum regulatory capital requirements. The CFTC risk-based minimum capital requirement is computed as 8% of Newedge USA's customers and non-customer margin requirements for all U.S. and foreign futures and options on futures contracts on our books; or
- SEC minimum regulatory capital requirements.



## II. CAPITAL REQUIREMENTS, REGULATORY REPORTING, AND INVESTMENT OF CUSTOMER FUNDS (cont'd)

For example, as of September 30, 2011, Newedge USA recorded the following daily net capital:

September 30, 2011

Net Capital	2,267,907,568
Excess Net Capital	892,196,725
Net Capital in Excess of Early Warning (120%)	617,054,556
Excess Funds in Segregation	475,416,204
Excess Secured Funds	493,739,572

## II. CAPITAL REQUIREMENTS, REGULATORY REPORTING, AND INVESTMENT OF CUSTOMER FUNDS (cont'd)



Newedge USA's regulatory capital requirements are met through equity and subordinated loan agreements with its parent, Newedge Group. Subordinated loans may not be called before maturity without prior regulatory approval.

Newedge USA must file a monthly financial FOCUS report with the CFTC and The CME Group, as well as the SEC, FINRA, and the Federal Reserve Bank of New York.

If Newedge USA ever had an issue regarding the adequacy of its capital or the amount of Customer Property in segregation, according to CFTC rules, it would be required to advise the CFTC promptly.

The CFTC strictly restricts how FCMs can invest Customer Property. However, Newedge USA invests Customer Property typically in a manner that is more conservative than authorized by the CFTC.

### III. AUDITS AND INSPECTIONS

As an FCM, (and broker-dealer), Clearing Member of all U.S. futures exchanges, and member of the Newedge Group, Newedge USA is subject to the following formal annual inspections/reviews by the following entities:

- The CME Group



- FINRA, in connection with the Firm's Broker-Dealer registration



- Ernst & Young LLP, our external auditors



### III. AUDITS AND INSPECTIONS (cont'd)

In addition,

- The Autorité de Contrôle Prudentiel, the French regulator of Newedge Group, has a right to inspect Newedge USA.
- Société Générale and Crédit Agricole CIB have the right to audit any Newedge company at any time.
- On a periodic basis, Newedge USA meets with the Federal Reserve Bank of New York to review financial and internal controls, among other matters.
- The FRB also conducts periodic, targeted reviews of different aspects of Newedge USA as part of its oversight of Société Générale's and Crédit Agricole CIB's U.S. branches.



## IV. SUMMARY OF APPLICATION OF BANKRUPTCY RULES

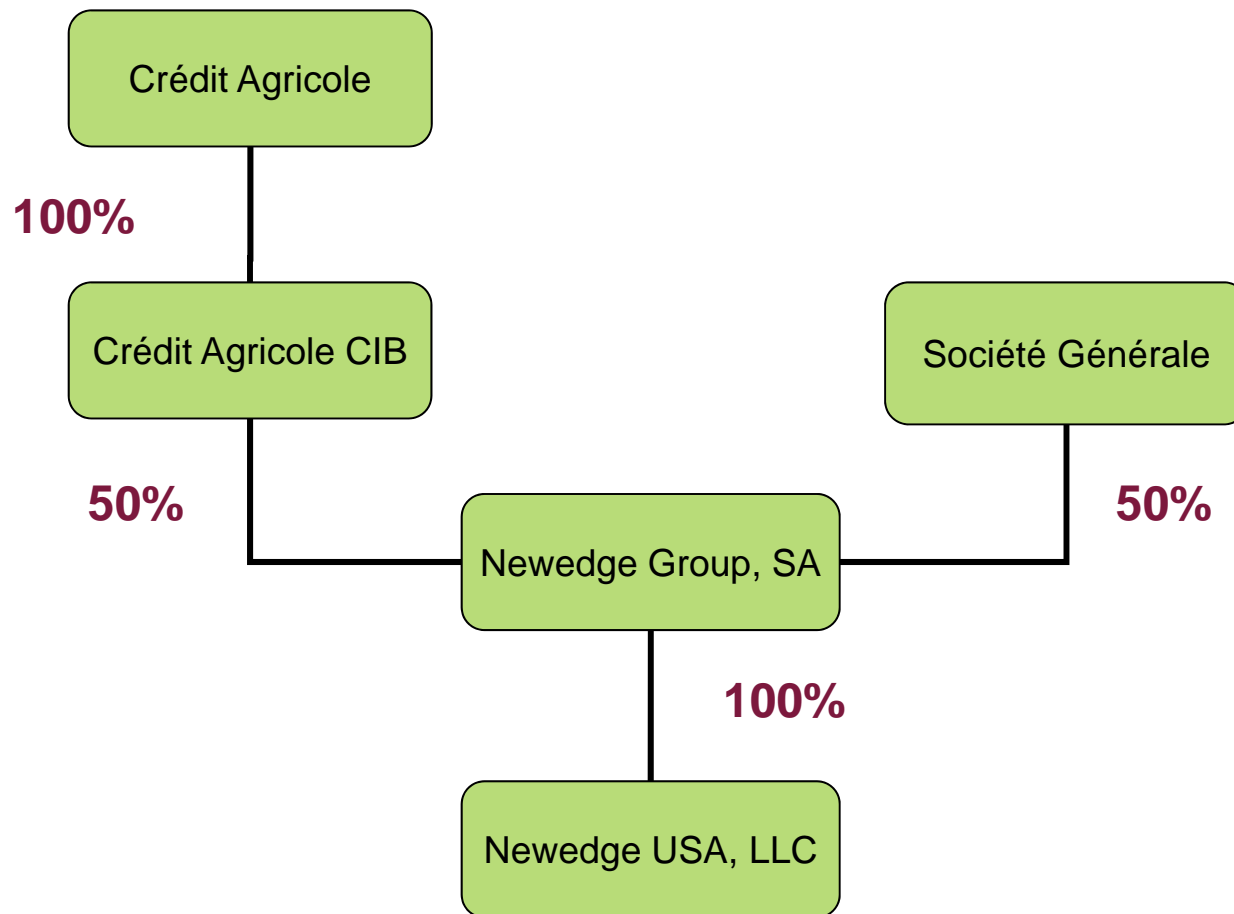
- In the event of Newedge USA's bankruptcy, if the Customer Property held in the segregated accounts (including amounts supplemented by the Firm) is "whole," then Customers will receive 100% of their cash, securities and positions.
- If the amount held in segregated accounts is inadequate, then the segregated accounts will be "topped-up" by any other Newedge USA assets not held in segregation (capital, house positions or other assets) to make Customers 100% whole.
- If the amount held in segregated accounts and other assets of Newedge USA are not adequate, customers will receive their pro-rata share distribution before proprietary accounts (including affiliates and other trade creditors), although the applicable CFTC bankruptcy regulations governing this have been challenged in court.



## V. EVALUATING RISKS TO SEGREGATED CUSTOMER PROPERTY

- **Fraud.** This risk is mitigated by Newedge USA's internal control governance and the number and frequency of external audits to which it is subject. The internal control structure includes vigorous programs for regulatory Finance and Accounting, Treasury, Front Office, Clearing Operations, Compliance, Financial Crime Prevention/AML, Internal Audit, Permanent Supervision, and Operational Risk. The Firm's internal control procedures are reviewed annually by its external auditors.
- **Proprietary Trading.** This risk is mitigated as Newedge USA does not engage in any significant proprietary trading activities (other than to the extent that the CFTC-permitted investment of customer funds is considered proprietary trading activity and certain other Treasury and customer facilitation activities).
- **Default by Another Customer.** This risk is mitigated by Newedge USA's vigorous procedures for approving and monitoring clients, and the daily and prompt collection of margins. Moreover, Newedge USA's exchange maintenance margin requirements are dispersed among its customers; as of October 31, 2011, no more than approximately 6% of customers' margin obligations were attributable to any one customer, excluding Newedge Group affiliates' customer omnibus accounts.

## VI. STRUCTURE OF NEWEDGE



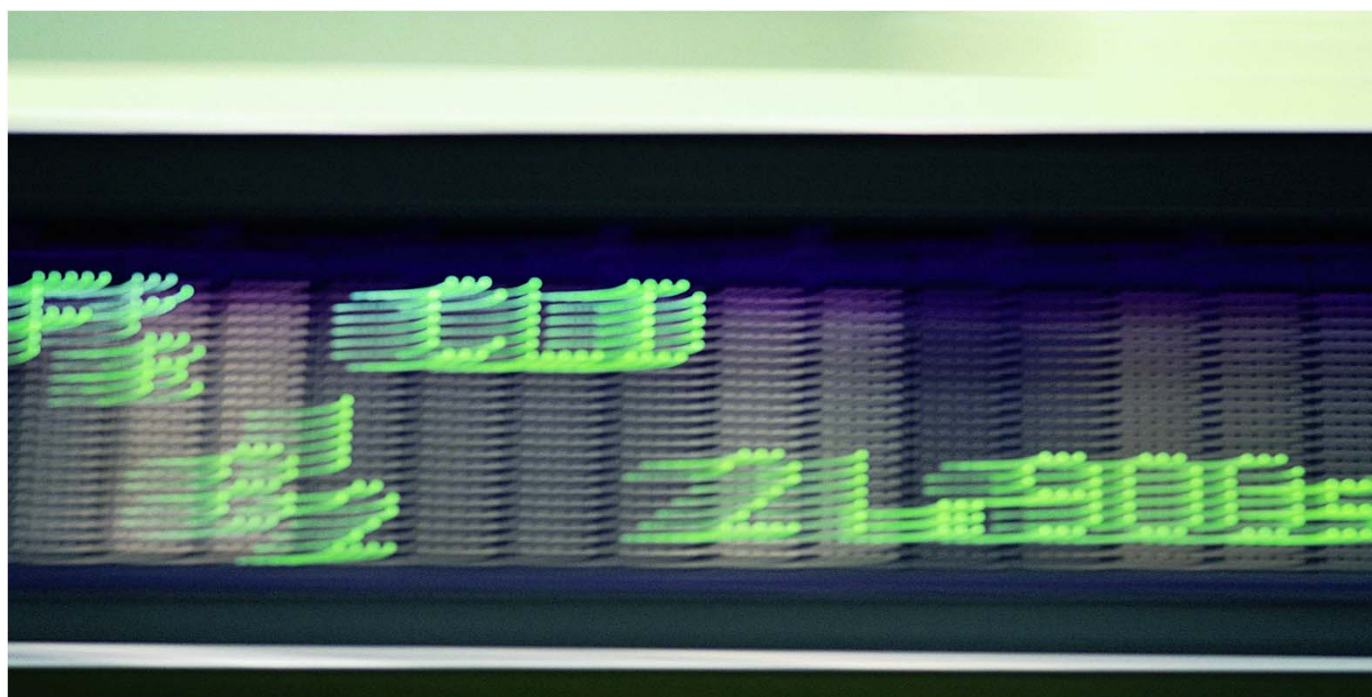
## VII. NEWEDGE GROUP SA, A FRENCH BANK OWNED BY CREDIT AGRICOLE CIB AND SOCIÉTÉ GÉNÉRALE

- Crédit Agricole CIB and Société Générale are two of the world's largest banks. As at the date of this note, Crédit Agricole CIB is AA- and Société Générale A+ long term credit rated by Fitch, Crédit Agricole CIB and Société Générale are also rated A by Standard and Poor's and Aa3 by Moody's. In turn, Newedge Group SA is the owner (direct or indirect) of all affiliate entities around the world bearing the name "**Newedge**" in their corporate names.
- Newedge Group SA, the holding company of Newedge, is a French limited liability company (société anonyme) registered under Paris RCS number 353 020 936 with its head office at 52/60 avenue des Champs-Élysées, 75008 Paris, France.
- Newedge Group SA is licensed in France as a bank by the Comité des Etablissements de Crédit et des Entreprises d'Investissement (Banque de France) and lead regulated by the Autorité de Contrôle Prudentiel and the Autorité des Marchés Financiers for the conduct of investment services.



## VIII. NEWEDGE'S CONSOLIDATED CAPITAL

- Newedge, like its shareholders Crédit Agricole CIB and Société Générale, is subject to strict capital adequacy requirements. As of 31 December 2010, the audited consolidated capital structure of Newedge was €1,256 M (calculated in accordance with IFRS rules). Consolidated regulatory capital of Newedge as of 31 December 2010 was €1,304M (calculated in accordance with French banking regulation).



## IX. CONCLUSION

- Newedge USA manages the Customer Protection regime for trading on U.S. futures exchanges in a robust and efficient manner.
- This management is back stopped by regular reviews and reconciliations, both internally and externally, by third party auditors and regulators.
- Newedge USA is part of a strong organization subject to unique French rules.



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