10-001
COMMENT
CL-01060

**From:** Edison Pérez <jhedison@gmail.com>
**Sent:** Wednesday, January 20, 2010 5:16 PM
**To:** secretary <secretary@CFTC.gov>
**Cc:** cftcfeedback@fxdd.com; help@ibfx.com
**Subject:** Regulation of Retail Forex

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RIN 3038-AC61

Dear Secretary of the CFTC,

I am writing to express my dismay at the proposed regulation contained in the Food, Conservation, and Energy Act of 2008, also know as the "Farm Bill" to limit leverage on retail forex accounts to a 10:1 maximum level. I strongly urge you not to impose these new stringent regulations on currency futures brokers located in the United States.

I understand that the intent of the new regulations is to protect the average retail forex trader from themselves as well as to send a strong message to Forex brokers that unscrupulous and unfair practices will not be tolerated. I applaud the spirit in which these regulations were written. The small, individual retail trader is at the mercy of the broker. There have been many documented instances of fraud and abuse. I applaud and support the proposed new rules by the CFTC:

o To clarify the scope of the CFTC´s anti-fraud authority with respect to retail off-exchange foreign currency transactions;
o To provide the CFTC with the authority to register entities wishing to serve as counterparties to retail forex transactions as well as those who solicit orders, exercise discretionary trading authority and operate pools with respect to retail off-exchange foreign currency transactions; and
o To mandate minimum capital requirements for entities serving as counterparties to such transactions.

The new rule that requires FCMs (Futures Commodity Merchants) and RFEDs (Retail Foreign Exchange Dealers) to maintain a net capital of $20 million plus 5% of outstanding trade liabilities is, on the surface a good thing. This rule will have the effect though of limiting open competition by requiring new brokers to raise $20 million to begin to solicit new customers. Many innovations toward clarity and openness by some of the newest brokers would be stifled. As an example, tight spreads and straight through order processing would not be allowed to come to market. I would propose instead a form of scaling in of the capital requirements as a new firm's client base expands.

The proposed new leverage rule of 10:1 is misguided and very damaging to the average small

trader, however. In now maxing out 10:1 on the broker side will, I worry, subject me to margin calls much more readily. The prudent trader should only risk 1% -2% on any given position of their net capital. On a $10,000 trading account, assuming a generous 50 pip stop loss and 2% risk, a trader should not prudently risk more than 4 mini-lots. As the trade continues in one's favor, additional positions are then taken as "scale-ins" in order to squeeze more out of a given move. A 10:1 leverage limit will not allow additional scale-ins beyond 1 additional position of 4 mini lots before the trader is subject to a margin call should the trade begin to move against the trader, even slightly. A more generous 100:1 leverage limit allows for temporary draw downs necessary to see a trade through to its successful conclusion.

The likely effect of this new regulation will be that U.S. traders will find offshore brokers to trade with that are not subject to these regulations. We have already seen this happening with the NFA's anti-hedging rule and FIFO rules implemented last summer. Moving capital away from our shores surely has the effect of costing jobs in the U.S. as well as adding to the current destructive trade imbalance.

Sincerely,

Jhon Edison Perez Agudelo

Medellin, Colombia