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Sent: Tuesday, January 26, 2010 4:09 PM
To: secretary <secretary@CFTC.gov>
Subject: Public Comment Form

Below is the result of your feedback form. It was submitted by
(nathan@nathanbybee.com) on Tuesday, January 26, 2010 at 16:09:23

commenter_subject: Regulation of Retail Forex

commenter_frdate: Jan 20, 2010

commenter_frpage: 75 FR 3281

commenter_comments: As an American, and a retail forex trader for over
three years, let me first say that I wholeheartedly
appreciate and support the CFTC's proposal to
require registration of all U.S.-based currency
dealers and brokers as a way to tame fraud in this
burgeoning, but critical, industry.

Despite having many off-shore broker options
available, and though I must comply with far more
restrictive anti-hedging rules promulgated by the
National Futures Association by doing so, I have
always preferred to keep my currency trading
accounts with U.S.-based, NFA-registered brokers. I
do so on the (perhaps misguided) assumption that
even though current rules and laws provide little
guarantee of protection against fraud, I would at
least be able to file legitimate complaints with
the U.S. government and access the U.S. judicial
system if legal action were ever required to pursue
and prosecute fraudulent brokers.

Thankfully that has never been the case for me and
I have found the U.S.-based dealers I've worked
with to be generally fair and reputable. In essence
though, my concern for fraud protection has always
outweighed my desire for more open trading rules,
which makes the CFTC's proposed registration
requirements and clarification of jurisdiction very
welcome.

I view the CFTC's proposed new minimum capital
requirements for FCMs and RFEDs in much the same
light, as a trade-off between smart fraud

protection at the retail level outweighing the obvious barrier it imposes at the corporate level to legitimate new and smaller brokerage firms increasing competition to the ultimate betterment of the industry as a whole.

However, I fear these great steps forward in investor protection will be completely obviated if the CFTC then follows through with the additional proposal limiting retail forex investor leverage to 10:1.

At a time we're repairing economic damage caused by massive corporate and consumer over-leverage, the 10:1 limit appears logical and reasonable on face. However, there is a clear distinction between too much corporate debt which presents a systemic risk to the economy and too much consumer debt which is driven by consumption on one hand, as opposed to the legitimate use of leverage to fund growth-producing investment activity by retail investors on the other.

While a retail investor exposes himself to personal risk by over-leveraging his positions, he does not impose a systemic risk to the economy by doing so. Nor does he even present a systemic risk to his broker assuming the NFA's current and CFTC's proposed minimum capital requirements are enforced. As with all investing activity, it should be left to the investor to decide what is the appropriate amount of risk to take, and suffer the consequences of those decisions whether good or ill.

More importantly, the practical effect of the 10:1 restriction is that it will raise the cost of currency investing too high for average retail investors like myself to continue participating.

Under 10:1, it would take an individual investor just over \$10,000 to open one trade for 1 single lot of a USDxxx pair. If the trade went just a few pips against the investor, even that sizable \$10,000 wouldn't be enough to prevent a margin call. If the trade went immediately in the investor's favor, it would still need to generate another \$10,000 in equity just to allow for opening a second 1-lot trade, making it impossible to scale into a good position. Even at the mini-lot level the 10:1 rule would require \$1,000 cash and equity on-hand to open each individual trade.

This may be an adequate cost structure for very large investors or corporate accounts, but it would be impossible for me and many other retail investors to continue trading with U.S.-based brokers under these circumstances. My desire, and I believe my right, to access international currency markets would now outweigh my concern for fraud protection.

I would not only be forced to move my money and accounts outside the U.S. to off-shore brokers who would then reap the economic benefits of my trading activity, I would also be forced to subject myself to the very risks of fraud the CFTC's other very worthy proposals seek to remedy. And, by dealing with non-registered off-shore brokers, my risk of being a victim of fraud would actually be even higher than it is today without the proposed rules. I simply cannot believe this is what the CFTC is seeking in terms of protecting American investors and I urge the Commission to reconsider the 10:1 maximum leverage proposal.

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