From: Jason Macko <jasonjmacko@gmail.com>
Sent: Wednesday, January 27, 2010 4:30 PM
To: secretary <secretary@CFTC.gov>
Subject: In regards to the Energy Act of 2008, Pub. L. No. 110-246, 122 Stat. 1651, 2189-2204 (2008)

I'm an investor in foreign currency through a U.S. dealer. I am very concerned about the proposed rules from the CFTC. The CFTC's recent rule proposal, which would limit customer trading leverage to 10 to 1, would be a crippling blow to the U.S. Forex industry. This unsustainable rule would drive U.S. Forex dealers, which brings tens of millions of dollars into the U.S. banking industry each day, offshore into the hands of foreign competitors. It would encourage fraud both at home and abroad as customers seeking to trade retail Forex would have no other legitimate domestic alternative. As an investor, I would be forced to take my business outside of the United States.

To whom it may concern at the CFTC:

In regards to your proposal to for new capital requirements, in the Forex/spot market, for US based traders.

First, in previous rulings, you have decided for me which contract I would need to close first (FIFO), if I had multiple contracts in one trade - this one is a nuisance because it makes it difficult to maintain a position throughout a trend, where the idea is to leave one contract at the very bottom or top, and allow it to gradually increase in value, while using the other contracts to chase price much more closely, thereby generating short term income. This also makes adding to and subtracting from a position a lot less flexible. I am still adjusting to this rule, and find it to be without merit.

Next leverage was lowered from 400:1 to 100:1, this was acceptable to me as I rarely abuse leverage and rarely violate my own account percentage/per trade rule.

Now, with the new proposal, leverage is to lower again, this time to 10:1, "to protect the client."

What this does is dramatically reduce the amount of flexibility for any open position, for a limited capital trader. This change seems (in my opinion) tailor made for large institutions that have the capital that we (as limited capital traders) do not, which means they will have much more relative flexibility. Trading is a full contact sport and as such small capital investors will be even more dramatically outclassed, and much more vulnerable.

The claim of protecting the small investor is dubious at best. An undisciplined and reckless trader will liquidate their account regardless of the margin they are allotted, 400:1, 100:1, 10:1, 5:1, 1:2, whatever; leverage is irrelevant if someone is exposing more than an acceptable percentage of their account (This would be a less terrible idea in fact - a regulation to limit the total stop loss setting on any particular trade as based on your account size, and it would actually protect a newer trader). However, I'm am opposed to any additional regulation that affects investors because I do not think that government should dictate what I do with my capital or what you do with yours. Apart from regulation designed to limit or eliminate fraud, please refrain from deciding my level of safety in the market.

The only way to protect new traders/investors is to have them to learn how to operate in the market, invest with discipline, instruct them to limit their exposure, or tell them to invest elsewhere.

This also serves to limit the gains of small investors that have learned to use leverage carefully and only when the proper opportunity appears. Leverage is a means making the most of a trader's careful study and account management. This proposed leverage reduction makes it more difficult to start with a small amount of capital (as I have) and increase the size of said account to the point at which it can be used to generate steady income. Do not be under the illusion that this will help small investors in the United States; rather, it will act as a barrier for newer traders to the Forex market.

I'm trying to imagine what comes next if this one goes through, other than the massive sucking sound of cash leaving the States as all the small players transfer their capital offshore ~ my broker has a UK division. At this time, I am already watching the currency market for an opportunity to convert my USD into GBP, and you can wager that other traders are thinking along the same lines. In fact, many traders have already moved their capital, from what I have read. As a result this proposal will damage and possibly eliminate the retail Forex industry in the United States, which is a shame because I enjoy the (relative) stability and safety of the United States Dollar.

Jason Macko, January 27, 2010