

From: Mike Heffley <mikeh@mikeheffley.com>
Sent: Saturday, January 30, 2010 6:50 PM
To: questions <questions@CFTC.gov>
Cc: secretary <secretary@CFTC.gov>
Subject: Public comments regarding RIN 3038-AC61 not posted for 1 week ?

I had submitted public comment regarding the CFTC's over reaching proposal to destroy the Forex markets by implementing several alarming requirements. Why are these comments as well as those of many others not available on the site? No updates happened since 20 January 2010, and there seems to be a big gap in dates even posted?

Sincerely,

Michael D. Heffley
Concerned Citizen

p.s. my original response is below.

RE: RIN 3038-AC61

Mr. Stawick

This email is regarding the above proposal, in particular, the overall reduction leverage on Retail Forex customers from 100:1 to 10:1 as stated on the section below from RIN 3038-AC61:

"The Proposal would also implement the \$20 million minimum net capital standard established in the CRA for registering as an RFED or offering retail forex transactions as an FCM; propose an additional volume-based minimum capital threshold calculated on the amount an FCM or RFED owes as counterparty to retail forex transactions; and require RFEDs or FCMs engaging in retail forex transactions to collect security deposits in a minimum amount in order to prudentially limit the leverage available to their retail customers on such transactions at 10 to 1"

Most retail Forex traders can appreciate the government's goal of wanting to protect traders. However, we did not ask for this overbearing intrusion as most of us are very independent minded and do not want nor need the government to protect us from ourselves. That is our job. If we make bad choices, we will learn from them just like any business person. If we do not learn, we will leave trading. What is different about this scenario than any other profession?

Your organization is proposing coming in to an already hurt U.S. industry (due to the overreaching NFA requirements recently enacted) and driving the final nail in the coffin of this once wonderful business opportunity for the average small retail investor to learn to trade for a living. What I respectfully believe the CFTC has not taken into account is that retail Forex traders that have stayed around for more than six (6) months have either learned to respect leverage or have decided this is not for them.

I am a retail trader who has been studying the market, practicing, trading with money I can afford to lose, and dare I say turning the corner in my trading business to where I am close to being able to actually trade for a living after 4 years of hard work. Your bill will destroy that opportunity for me. No small part of this ability to trade for a living is the smart use of leverage learned through experience. Without leverage, the returns on the amount of capital an average person can afford to commit to trading is not

capable of providing a decent enough return to trade for a living. This has the smell of an "elitist we know better" approach which I personally find repugnant and infuriating.

I have to scratch my head over this and wonder if anyone in your organization has actually been a SUCCESSFUL retail trader (who took the time to study and learn his or her craft), or has actually talked to some of us? It seems you are rushing in to further impose a "nanny state" mindset into the lives of the most independent minded and self accountable people in this country, the individual trader! We do not need you to arbitrarily create "limited risk" to protect those that cannot think for themselves and by doing so ruin a legitimate career for many of us.

I urge you to consider that this is the United States of America sir, and until recently used to be the land of the free, home of the brave, and a country much more free and business friendly than the socialist democracy's of western Europe, where private citizens and private Forex dealers were free to conduct business as they saw fit. Sure, there were a few bad apples (REFCO), and yes, many people who enter the FOREX market do not fully understand trading, however, it is their choice to give it a shot and try. How many first year Med Students should be performing surgery? I was raised to believe that hard work (in this case diligent study and practice of one's trade) was the key to success, and that the harder the endeavor, the fewer people there would be that master it, and the greater the reward. Trading is definitely a skill that must be learned. Losses are part of that learning process. Why ruin the living of thousands of people just to protect a few idiots who jumped in without any consideration? What happened to freedom in this once great country?

I have been involved personally and have friends involved in business startups. The statistics for a small business still being in business after 5 years are very poor; perhaps 5 in 100 make it according to the SBA. If the SBA were to follow your logic, they would not give out loans nor even allow private loans to would be business owners unless those business owners perhaps had 5 times the loan amount in their savings account. This way no one would get hurt! This clearly is absurd and so is your proposed regulation. It will destroy careers and dreams drive money off shore, and in the end be another example of one of the worst times in American politics and business history.

I will be sending a copy of this letter to my congressmen as well as other key congressmen that I believe will be able to see this for what it is. Government over reach with many unintended consequences that will end up hurting the very people you propose to protect and coddle. The naive trader who will now go overseas into unregulated countries for leverage and not understand the risks involved in choosing that type of broker.

Sincerely,

**Michael D. Heffley
Retail Forex Trader**