

From: Sara Steindamm <steindam1@web.de>
Sent: Saturday, February 27, 2010 1:10 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Dear Secretary Stawick,

By now you have no doubt been inundated with e-mails pointing out the reasons why limiting leverage of retail forex to 10:1 would not accomplish the CFTC's said goals of improving trader safety. I do agree with these views very strongly, however rather than repeat what was already said, I would like instead to touch upon some of the other parts of CFTC proposal RIN 3038-AC61, better known as "Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries" which are perhaps more subtle, but whose long-term unintended effects could be just as damaging both to the industry, and to the safety of the very traders you are seeking to protect.

While regulating intermediaries may at first seem like a good idea, my feeling is that there is NO reason for IBs to be regulated, capitalized, or audited since we do not handle or have access to client funds. It is also essentially double-regulation, since the brokers we work with are already registered, and we review each web page and each piece of marketing material quite closely with their legal and compliance departments in order to maintain a proper and professional standard. As we are paid by the broker a commission on the clients' trading, our interests are aligned with those of the client - to do everything we can to ensure their success. Also, please do not forget that many of us are already being regulated in our home countries as well.

If an IB ever goes bankrupt (which keep in mind is rare since our income does not derive from market exposure), how would it affect their clients? The answer is not at all. Their money is with the broker, and the broker's bank - we do not have any access to it, nor do we need to. So why the capitalization requirements? \$40K is not a lot of money, but I fail to see why I must be forced to keep it in US Dollars (which have been declining in value), or even in a US bank (which have been failing at an alarming rate as of late). What if based upon my professional judgement and understanding of current market conditions I prefer to keep my capitalization in gold bars at a private, undisclosed location? Is not choosing what I do with my money not within my rights?

And how about the audits? Will the CFTC provide (and pay) their own auditors, or is this yet another expense and burden (much like the required membership itself) which we must be forced bear? And why must we open our books to a foreign organization? We small companies with limited staff and resources would much rather put our time and attention to educating our clients for safer trading, and providing them with value-added (free) services in order to increase their chances of success as much as possible. I view us not as intermediaries, but as advocates on the client's behalf - and I believe we fulfil a very necessary and needed role. Our clients certainly believe so. Brokers have certainly commended us, for in return they get users who know how to trade, who consume less support resources, and whose accounts have staying power. And isn't the safety of traders what we are both after?

So, please, require us to submit all marketing materials for review if you wish - we have no problem with it because we want them to be accurate, informative, and helpful just as you do. But to force a RFED to "guarantee" their IB not only goes against the core of free market principles (asking one firm to be responsible for another), but it virtually guarantees that no broker will. IBs will simply cease to exist overnight. Also, please do not forget, that it is precisely our independence from a broker which provides the most objective benefit to a client.

And while there is no denying that the added membership revenue must be a significant motivation for you, please consider that we currently have clients in 43 different countries - it is madness to expect small companies like ours (we are not Lehman Brothers with an entire floor of lawyers dedicated to compliance - nor did all that compliance really help them in the end) to be regulated by 43 different regulators. Yet that is essentially what your precedent is asking us to do - join every organization in every country where we might have a client. In today's online world, we have clients from everywhere, and we have no way control who sees our website and who not.

Most of the US clients we speak with are already fed up with the NFA due to all the unfair and unreasonable trading restrictions recently put in place by them (regulation is meant to keep financial institutions in line and markets fair, not to tell investors how they can or cannot trade). At a time of economic recovery it seems absurd to send good American jobs and investment capital offshore, which is obviously what will result when conditions become no longer favourable for traders at home.

And once we start telling them we can no longer do business with them nor provide support, I suspect (hope?) the public outcry will only grow louder. For it is far easier for us to simply to focus on other markets, than to comply with unreasonable and unfairly burdensome regulations. The CFTC might take its example from the UK's FSA, which does not do "one size fits all" regulation, but rather regulates each entity as is appropriate to their business model and the activities they conduct.

In closing, I would like to remind you that the Regulatory Flexibility Act ("RFA") of 1997 requires that agencies, in proposing rules, consider the impact of those rules on small businesses. Have you? How about the impact of those small business no longer existing, and no longer providing the value-added services they have developed to educate traders and to help keep them safe?

Thank you for your time and consideration,

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