From: Longines1@aol.com
Sent: Monday, March 15, 2010 1:11 PM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex - comment

RIN 3038-AC61

Dear Members of the CFTC,

In response to release 5772 -10 of Jan 13, 2010 concerning the proposal to restrict retail forex customers to leverage of 10:1, I wish to register my strong objection to the proposal.

I understand that the overall objective of the various measures proposed is to provide additional consumer protection to users of retail forex services. However, whilst proposals to enhance the procedures, reporting and risk capital required of retail forex providers themselves are welcome, the proposal to restrict retail customer leverage so drastically from currently prevailing standards will cause harm to individual retail customers:-

1. Customers will have to increase the amount of capital placed at risk with their futures commission merchant (FCM) or retail foreign exchange dealer (RFED), in order to maintain an existing level of business. In view of the modest financial scale of many such retail forex providers, even with the capital enhancements envisaged in these proposals, the risk to retail customers would be increased rather than decreased by requiring them to place up to 10 times more capital on deposit with their provider.

2. It is likely that many retail forex customers would effectively be 'disenfranchised' by this proposal, as they would be unable to meet the deposit requirements needed for the typical minimum forex transaction size if leverage was to be increased to 10:1.

At the least, without substantially increasing their capital at risk, retail customers would be severely restricted in the number of forex transactions they could have outstanding at any one time, which, given the nature of the forex market, is likely to increase their risk of loss from market fluctuations.

3. If the purpose of the proposed reduction in retail forex leverage is to 'protect customers from themselves', then,
i) that does not seem an appropriate matter for legislation/regulation - customers should take their own responsibility;
ii) reduced leverage may well in practise increase rather than decrease the level of losses experienced by retail customers, as they will be forced to put more risk capital on deposit and thus available for loss through trading. A considerable merit of what may appear to be very high levels of leverage currently prevailing is precisely that retail customers can gain experience of trading with only modest amounts of capital at risk - they may lose their deposit, but it need not be a large amount under current leverage norms.

4. If the purpose of the proposed reduction in leverage is to protect retail forex providers themselves from unexpected and unsustainable loss as a consequence of unhedged lossmaking customer activity, then a sliding scale of leverage requirements would seem appropriate, adjusted according to size of the customer transaction and the capital resources of the FCM or RFED.

So, for example, a forex provider with net capital of $20m might be allowed to grant leverage of up to 100:1, as currently, for a customer transaction size of say $100k, but be limited to granting leverage of only 10:1 for customer deals of say $1m. An FCM or RFED at a higher net capital band, say, $100m, would be allowed to grant leverage at 100:1 for concomitantly larger customer deals, say $500k, but would be limited to 10:1 leverage for customer trades of $10m. Etc.

Such a sliding scale would help maintain service provider capital integrity in a way that would still allow small providers to compete with larger, (since the present proposals are likely to see a migration of business towards bigger providers as customers seek to minimize their potentially 10 times increased deposit risk exposure by moving away from small firms), and would ensure smaller retail customers would not be excluded form a chosen investment activity simply by reason of not being able to afford proposed deposit requirements.

I hope these comments might be taken into consideration. Thank you.

Matthew Paine
129 Haverstock Hill
London,
NW3 4RU,
U.K.

(As background - I am a longstanding user of retail foreign exchange services, from both a US based FCM and a large non-US commercial bank)