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Sent: Tuesday, March 16, 2010 12:29 PM
To: secretary <secretary@CFTC.gov>
Cc: cftcfeedback@fxdd.com
Subject: RE: Regulation of Retail Forex

To the CFTC:

OPINION

Your recent proposal to reduce the maximum leverage for retail Forex trading in US accounts raises cause for concern. While reasonable regulation is appropriate, *RIN 3038-AC61* effectively proposes to end retail trading within the scope of US regulated trading. The movement in Forex issues makes 10:1 leverage a dead market that will not be competitive for trained traders.

If your goal is to stop retail trading in the US, then this proposal will succeed. If your goal is to add some safety to this market, then this proposal will fail, since knowledgeable traders will simply move to accounts in countries that understand the practical and useful nature of Forex trading. This will result in a flight of capital out of the US. If pushing capital offshore is the goal, then *RIN 3038-AC61* will succeed.

Personally I already have established an offshore account to protect myself against such dictatorial moves in the US. There are multiple civilized countries that work in the financial markets to provide well regulated opportunities for educated traders. These markets are appropriately supervised as well as the brokers that service them. I have hoped to be able to continue to trade domestically within the background of freedom to operate a business in the US. However, increasingly that seems to be at cross purposes with this regime in Washington.

Long ago determined that having employees and providing jobs in the US was an irrational approach to doing business. Fortunately not every country has these aggressively anti-employer attitudes toward businesses.

DISCUSSION

Every market needs some form of regulation. The US Supreme Court has noted that the power to tax is the power to kill. Regulation possesses the same powers, although not directly as a monetary medium. Every regulating body must recognize the power that they wield and use appropriate discretion to avoid overstepping from needed regulation into the realm of killing markets. Appropriate regulation will restrain the irresponsible without harming the freedom of the responsible. The dishonest participants will be punished without removing the opportunities for the decent and honest practitioners.

Leverage in the Forex market is essential simply because the day to day movement in pricing is too small to allow reasonable expectation of profit for traders without direct access to very large sums. The effect of *RIN 3038-AC61* is to forbid retail Forex trading in the US and force it offshore.

PROPOSED ALTERNATIVES

If safety is the expectation, then require training of traders and allow appropriate leverage. Another reasonable approach would be to have brokers use a stepped method of allowing traders access to leverage. First prove you can trade by either by submitting past results or passing a reasonable barrier of profit in a 'paper trade' account. Next allow 10:1 trading in a live account, followed by increasingly higher leverage up to a reasonable maximum of 200:1 or 400:1, whatever is similar to regulated foreign Forex markets.

There do exist competent trainers for trading technicals in markets that provide accurate charting. There exist many more charlatans who call themselves trainers and provide either tools that guarantee failure in a market or employ methods that fail to work in many markets.

A needed reform is to require those who present trading packages for sale to prove that an average user can consistently make a reasonable return using them in most market conditions (up, down, and sideways markets for example), or specify which markets they do work in. Like trainers there are groups providing packages that are useful in the hands of those that accept training. Such groups should not be penalized for the actions of the irresponsible.

CONCLUSION

As in any market, /caveat emptor/ should remain the basis of conduct. Those that are irresponsible should be subject to recovery from those they take advantage of as customers as well as punitive judgments by the regulator. Likewise the user, or retail trader, that fails to heed reasonable warnings should be held responsible for their personal results. BUT appropriate regulation never prevents those who learn and practice from using their skills, nor does it prevent the competent from passing on their skills and tools to new users.

Please consider these remarks as intent to assist in moving the reasonable regulation of Forex in the US toward a useful and profitable result that is fair to all.

Best Regards,
Jack Gammon, Jr.