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COMMENT
CL-08578

From: Mark R Diehl <markrdiehl@msn.com>
Sent: Friday, March 19, 2010 4:17 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

Re: RIN 3038-AC61

Gentlemen:

I am writing to comment on the CFTC's proposed new retail forex industry regulations.

First, let me commend you on your past success in curbing fraud and abuse in the retail forex industry. Over the five years that I have been trading spot forex, I have seen tremendous improvement in the conduct of brokers, IB's, fund managers, and forex educational organizations. Their advertising, in particular, has been dramatically cleaned up over the past five years. And these improvements are due entirely to sound, and measured, regulatory oversight and enforcement.

Most important, in my view, has been the strengthening of the internal finances of retail forex brokers. The recent incremental increases in forex broker capitalization have strengthened the better brokers, and driven out those brokers who were too weak to survive. These successes are due entirely to the CFTC's wise and prudent use of regulatory power. Again, I commend you.

In my view, that same wise and prudent use of regulatory power is evident throughout the current proposed regulations, referenced above, with one exception; the exception is the proposed new margin requirement for retail forex. I believe that increasing the required margin on retail trades to 10% of notional value would be counter-productive. Worse, I believe that it would undermine the retail forex industry in this country to such an extent that the industry likely would not survive.

Most retail forex traders here, and elsewhere in the world, commit margin of 1% (or less) of notional value to each trade. Some traders enjoy even lower margin requirements. The problem with a 10-fold (or greater) increase in required margin --- as currently proposed --- is that it drastically increases the cost, to the trader, of engaging in retail forex trading, without reducing his risk, or providing any other benefit to him.

If the current proposed increase in margin becomes law, I believe that many U.S. forex traders --- possibly, most U.S. forex traders --- will find that trading through a U.S.-based broker is no longer cost-effective.

Foreign exchange trading is dispersed worldwide; in this regard, it is more global than any other form of trading. Because traders can have instant, electronic access to the worldwide forex market from anywhere in the world, and can easily trade through brokers who are half a world away, I fear that hindering their trading activities here in the U.S. will simply drive their accounts off-shore, to less restrictive locales. Specifically, I fear a mass exodus of retail trading accounts to Britain, or Cyprus, or any of a dozen countries competing for the business which America will have lost. In a worst-case scenario, such a mass exodus could irreparably harm, or even bankrupt, U.S.-based forex brokers.

I trade retail forex full-time, as my livelihood. My first retail forex account, opened in 2005, was with a U.S. broker; and I have remained with that broker to this day. Going forward, I would like to be confident that U.S. forex brokers will be the strongest, most trustworthy and best regulated forex brokers in the world. But, instead, I fear that the current proposed 10% margin requirement --- if it were to become law --- will drive them out of business.

Recently, the National Futures Association (NFA) has adopted, as limits, 100:1 leverage (1% margin) on trades involving major currencies, and 25:1 leverage (4% margin) on trades involving all other currencies. These limits now apply to NFA-member brokers, including my own broker. In my view, these limits are a bit too restrictive.

I would like to suggest that the CFTC amend its proposed margin requirement to 1% of notional value (corresponding to 100:1 leverage) for all retail forex trades.

Thank you for your consideration of my comments.

Very truly yours,

Mark Diehl
Baltimore, Maryland