

From: Ryan O'Keefe <ryan@ryanokeefe.com>
Sent: Sunday, March 21, 2010 1:58 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex

David Stawick
Secretary, Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

Regarding: RIN 3038-AC61

Dear Mr. Stawick,

I am writing to voice my position on the CFTC's proposed regulations for off-exchange retail foreign exchange transactions. The proposed regulations offer many consumer protections, and represent a well intentioned plan to regulate what has long been considered the "wild west" of financial markets. Unfortunately I believe some of the proposed regulations will have drastic consequences on the market, and ultimately unravel every consumer protection the CFTC is trying to achieve. Enclosed are my comments on each proposed regulation I believe should not be adopted, or should be modified within Federal Register RIN 3038-AC61.

Regulation 5.8 – Aggregate Retail Forex Assets

The proposal to require RFEDs and FCMs to segregate the net credit balance deposited by retail forex customers is well intentioned, but falls short of truly protecting clients funds in a bankruptcy scenario. Segregated accounts offer the only true protection for client funds, as the CFTC points out in this proposed rule. I believe the bankruptcy code should be modified to protect segregated accounts off-exchange as they are on-exchange. Achieving a change in the bankruptcy code would allow the CFTC to enforce real deposit protections by requiring RFEDs and FCMs to segregate client funds. I believe the CFTC should adopt this proposed rule as something is better than nothing, but I'm confident some off-exchange retail clients will misinterpret disclosures related to these capital balances as some form of guaranteed deposit protection.

Regulation 5.9 – Security Deposits for Retail Forex Transactions

I am strongly opposed to the maximum 10:1 leverage limit. I understand the CFTC's concern regarding the negative effects of high leverage however; leverage is an essential tool for off-exchange retail currency traders. Traders who understand how to manage the risks of leverage through sound money management should not be limited to 10:1. Limiting leverage will reduce the professional trader's ability to maximize the use of risk capital. On a matter of principal, I do not believe it is the role of government to mandate which tool a professional should be able to use.

The National Futures Association has set leverage limits at 100:1, which had already been adopted as standard operating leverage by most off-exchange currency traders. I believe the 10:1 leverage limit is unnecessary as the congressional record through the Farm Bill never intended for the CFTC to regulate leverage. The intent of the Farm Bill was to bring transparency and oversight to a traditionally unregulated financial market, not to crush the future of the industry limiting its leverage ability. Furthermore, the maximum loss in off-exchange currency trading regardless of leverage is drastically less than the currency futures market. I see little or no benefit to leverage restrictions from a maximum loss perspective. I encourage the CFTC to address its concerns about leverage through trader educational programs, or enhanced

disclosure documentation for off-exchange currency traders.

I also believe the adoption of this rule will invalidate every consumer protection proposed by the CFTC. Many traders have already moved their accounts offshore in response to the NFA's leverage and hedging actions. If the CFTC adopts a 10:1 leverage restriction the majority of U.S. based retail currency accounts will move overseas. Some overseas dealers currently offer leverage higher than 100:1, and operate outside the CFTC's jurisdiction which renders useless any consumer protections offered in the proposed regulations. I believe the adoption of Regulation 5.9 will dramatically affect U.S. based currency dealers by driving many out of business as clients move their accounts overseas. What we are really talking about with Regulation 5.9 is crushing a \$1 billion dollar industry that provides high paying jobs, and tax revenue, for the sake of protecting some traders from their own ignorance. Traders are already properly disclosed on the risks related to trading on high margin. I stand alongside the Forex Dealers Coalition, the IB Coalition and thousands of retail currency traders in staunch opposition to Regulation 5.9.

I appreciate the opportunity to comment on these proposed regulations. I sincerely hope the CFTC considers my comments, and the comments it has already received from currency traders around the world opposing Regulation 5.9

Kind Regards,

Ryan O'Keefe
Carnation, WA
March 20, 2010