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COMMENT
CL-08819

From: RiskRwrd@aol.com
Sent: Monday, March 22, 2010 2:50 AM
To: secretary <secretary@CFTC.gov>
Subject: Proposed CFTC Regulation of Retail Forex - RIN 3038-AC61

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In regards to the proposal to increase margin tenfold, I believe this will increase the risk to small investors for a variety of reasons. Other than the obvious inability to provide protection to forex traders and investors who move their accounts overseas, many domestic traders will trade options on the forex ETFs as a substitute. Since most small traders in need of the current margin levels to make a living in forex fall below the $25,000 threshold for allowing daytrading in the equity markets, the ability to control risk will be complicated by forcing these traders to carry positions overnight to meet the daytrading restrictions. The forex ETFs and their options do not trade 24 hours a day as cash forex does, so traders in these vehicles will lose the ability to maintain continuous stop orders to limit their risk. These traders will be exposed to large gaps in the underlying vehicles, as these markets will continue to move overnight due to events overseas.

Small retail equity traders have lost money and the ability to best control risk because of the reactionary day trading limitations put in place on accounts under $25,000 after the dot-com bubble burst in 2001. During the volatile markets of the past couple years, small traders were forced to shorten the time to maturity of the options they could afford to trade due to increases in implied (and actual) volatility. Time decay in these short maturities posed considerable risk. If a trader purchased options in the morning that reached or exceeded their price appreciation targets later that day, they were barred from taking a profit and forced to hold positions overnight by these ill conceived regulations. At a time of extreme volatility when moves that used to take months would occur in hours, the regulations prevented small traders from making the numerous profitable trades available to others. By being forced to hold positions overnight, long option traders were forced to lose money to time decay and were needlessly exposed to news events and directional risk.

Many small traders hampered by equity day trading restrictions migrated to the foreign currency markets where they could not only take advantage of multiple significant intra-day trading opportunities without penalty, but could also maintain better control of risk with 24 hour continuous stop orders. They also could control risk by limiting the amount of money kept with these forex brokers (which would increase ten fold if the proposed regulations are enacted) and by the policy of most brokers to automatically stop traders out of positions if their account balances fell below margin. When these traders are left with the choice of finding a new line of work in a difficult job market, or attempting to continue trading forex through forex ETF options, many of them will chose the latter (if they don't just move their accounts overseas). The limited liquidity and wider markets in the forex ETF options will cost these small traders money that will flow to the big moneyed traders and market makers in these options. They will lose additional capital to time decay. The will take on considerably more risk by being unable to trade their positions for the 17.5 hours of the trading day that the rest of the world will have access to the forex markets.

If you enact this extreme margin increase, you will have increased the risk to small forex traders, raised the barrier to access for those looking to make a living trading the markets and needlessly put many out of work.

Once an unwise regulation like this is enacted it is very difficult for small traders, without the financial clout and lobbying power of the larger financial institutions, to effectively lobby to undue a mistake. The equity day trading limitation is a case in point. It's been nearly a decade since this counter productive regulation was enacted, yet it remains on the books. Therefore I urge you not to act impulsively on a regulation that could indefinitely harm small traders and the forex industry.

Regards,

Mark K