

From: Michael Fritz <michaelfritz@gmail.com>
Sent: Monday, March 22, 2010 11:47 AM
To: secretary <secretary@CFTC.gov>
Subject: Regulation of Retail Forex 75 FR 3281

Mr. David Stawick
Secretary
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581

Re: RIN 3038-AC61 75 FR 3281

Dear Mr. Stawick:

As you know, the commission serves at the pleasure of Congress and you ultimately answer to them. The Farm Bill of 2008 authorized you to write “reasonably necessary” regulations to regulate the off exchange Forex Industry. I feel that the commission has far exceeded its “reasonably necessary” instructions on several issues.

The recent changes in Forex rules, including the prohibition of hedging, increased margin requirements, and proposed new regulations are destroying the US Forex industry. Traders are choosing to flee these regulations and move their accounts to the United Kingdom, Malta, Switzerland, and Australia where regulations are more advantageous and reasonable. As a consequence, thousands of high paying US jobs are being lost.

Off exchange foreign currency trading vendors are available worldwide and American citizens want to trade currencies. The real question is, do we want them to trade with US regulated entities, or do we want them to trade with foreign or even worse unregulated companies? The choice is really yours to decide, by either writing reasonable or unreasonable regulations.

I have read and fully agree with the issues raised in the March 10,2010 letter you received from the IB-Coalition.org. The letter they wrote to you is available at: <http://www.ib-coalition.org/our-letter-to-the-cftc> . Please consider the contents of that letter included in this one.

If I had to select one regulation to be the most obviously unreasonable in the proposed regulations, besides the 10:1 leverage issue, it would be the blatant discrimination toward Forex Introducing Brokers, with respect to **only** offering a **Guaranteed Introducing Broker** option.

To put this matter in perspective, in the insurance industry, this ruling would be the equivalent of restricting independent agents to represent only one insurance company. Not only would the insurance agent be limited to one insurance provider, but the insurance company with which the agent is affiliated would be jointly and severally liable for all of his or her violations of insurance regulations. Unlike the 300,000 independent insurance agents who have the lobbying support of a national association, *The Independent Insurance Agents & Brokers of America*, Forex Introducing Brokers have no such entity to lobby on their behalves. Forex Introducing Brokers are independent small businesses that lack access to a national lobbying presence. As such, these businesses frequently fall victim to extreme and unchallenged

government regulation.

The following reasons are why I believe the proposed regulations allowing only a Guaranteed Introducing Broker option should be changed:

- The regulation harms customers, as they would not be able to choose the best RFED/FCM to support their specific trading requirements under the new ruling. Each RFED/FCM offers a unique combination of spreads, leverage, and trading platforms, making it unique. Differences in customer trading styles and preference for long vs. short term or large vs. small trade sizes require a variety of RFED/FCMs. It therefore seems logical, and clearly in customers' best interests to offer a choice of RFED/FCMs.
- The regulation puts Forex IBs at a competitive disadvantage to Futures IBs; the later can chose to operate as either an Independent or Guaranteed IB. A Futures IB can represent as many FCMs as needed to service its customers properly. Restricting Forex IBs to a single RFED/FCM punishes their business and their customers alike.
- 85% of Futures Brokers have chosen to be Independent IBs rather than Guaranteed IBs. It therefore seems unreasonable to force Forex IBs to adopt a practice that has been systematically rejected by 85% of Futures IBs.
- Under the new regulation, Guaranteed IBs may be less likely to follow commission rules and regulations given that the RFED/FCMs with whom they've solely affiliated are held jointly and severally liable for their wrongdoings. Forcing RFED/FCMs to be jointly and severally responsible for the IBs wrongdoing could inadvertently encourage the Guaranteed IBs to be less attentive in following rules and regulations.
- The regulation harms the ability of small IBs to perform profitably, allowing them to only attract customers who might benefit from the specific RFED/FCM with whom they've affiliated. Offering multiple RFED/FCMs is critical to the service provided by IBs, as each RFED/FCM has different product offerings and unique advantages.
- There is no evidence which suggests that limiting IBs to a single RFED/FCM would, in any way, make it safer for clients to transact with them. The commission's claim that there is currently fraud in the unregulated Forex broker business is to be expected since it is not regulated at all. To conclude from this that more regulation is needed above the current future's broker regulation, which is heavily regulated, is wrong. It has been proven that the current regulation of Futures Brokers is very effective at controlling fraud and it can be expected to be just as effective for Forex Brokers too. No additional measures are needed or justified. The Independent IB options should be offered to Forex Brokers too.
- It typically takes 4 different FCM/RFEDs to offer an optimal set of choices needed to cover the best interests of all retail customers. The Guaranteed IB can only offer a single choice. A non-optimal FCM/RFED could harm the retail customer's ability to get the best value from a given Introducing Broker.
- The regulation puts American RFED/FCMs at a competitive disadvantage to their counterparts abroad. No other country prevents its IBs from representing multiple companies. At a time when American businesses are facing unprecedented global competition, it hardly seems constructive to handicap them by unnecessary and highly restrictive government regulations.

- In forcing IBs to operate as Guaranteed IBs, an inherent conflict of interest arises. The IB no longer represents the best interest of its customers, but rather the commercial interest of the dealer on which it is forced to exclusively rely.
- Under the proposed regulation, banks and other non-CFTC regulated Forex dealers, though still permissible counterparties, will lose their abilities to employ Forex IBs. RFED/FCMs will insist on exclusivity in order to provide the joint and several liability guarantees. This will force banks to stop using CFTC regulated solicitors and instead migrate towards unregistered or foreign companies.

I am therefore asking you to offer an Independent Introducing Broker option as you currently do for Futures Introducing Brokers.

Respectfully submitted,

Michael Fritz
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