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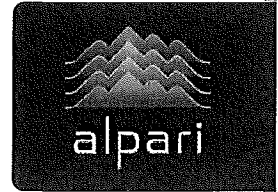

March 3, 2010

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David Stawick
Secretary
Commodity Futures Trading Commission
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COMMENT

Dear Mr. Stawick,

Alpari (US), LLC ("Alpari"), a Commodity Futures Trading Commission ("CFTC") registered Futures Commission Merchant ("FCM"), is respectfully submitting for your review its comments to the proposed Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries, 75 FR 3281, published on January 20, 2010.

In the infancy of the retail Forex industry, anyone could have solicited, collected client funds and acted as a dealer without registration and with little government oversight. Fraudulent sales practices, Ponzi schemes and loss of customer funds were commonplace. Over the last decade, however, the CFTC has implemented through the National Futures Association ("NFA") a wave of essential initiatives to curtail fraud and eliminate abusive industry practices, which Alpari has wholeheartedly supported. The changes that have been implemented under the current regime have curbed industry abuse immensely. One only has to read the notices issued by the Division of Enforcement and posted regularly by the CFTC and NFA to see the outstanding job performed by the agencies in enforcing vital US regulations.

Alpari appreciates the opportunity to comment on the most recent reforms proposed by the CFTC and would like to voice several concerns with the proposed changes.

Security Deposits

Alpari begins its comments with rule 5.9, a rule proposing a radical and hotly contested amendment to the security deposit required by retail customers. Alpari ***strongly objects*** to lowering the existing level of leverage. The CFTC appears to be under the misguided impression that decreased leverage would somehow protect individual clients from losing their life savings.

An examination of the context in which the security deposit requirement was enacted is extremely telling. When the NFA first required security deposits, the capital requirement for Forex Dealer Members ("FDMs") was only $500,000. The NFA encouraged the collection of security deposits based on the following philosophy: like margin deposits, the security deposit is *not* intended to protect the customer who posts it. Rather, the security deposit is intended to protect *the FDM* from absorbing the losses of defaulting customers that, if significant enough, could make the FDM insolvent and put the funds of its other customers at risk. This philosophy could not be further from the truth.

The reality is that, as a dealer, the FDM is the *counterparty* to the customer's trade; therefore, if the customer loses money, the FDM makes money.

The context in which the security deposit first operated has also changed. Defaulting customers are of little concern or threat to the FDM today. Virtually 100% of all retail forex trading platforms auto liquidate the customer's positions at the market when the margin deposit is depleted and before a debit balance occurs. This means that the customer can only lose the risk capital on deposit or an amount close to it. This has little or no impact on the FDM and should have no impact on the client's lifestyle, as the client can only lose the security deposit he or she was willing to risk. Raising the security deposit requirement to 10% only forces clients to deposit larger sums of money and puts the client at risk of losing larger sums of money.

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Thus, 10 to 1 leverage strips the general public of the right to invest small amounts of money. More problematically, when 100 to 1 leverage was introduced last year, many US clients, concerned over the effects of lowered leverage, voiced objections to having their trading ability and choices limited by this administration. Record numbers of US clients then moved their accounts overseas, where leverage ranges from 200 to 1 thru 400 to 1.

Forex is very popular among small investors who want to trade mini contracts. Ten (10) to 1 leverage, if passed, would create a mass exodus of US traders moving their accounts offshore. Once offshore, US residents will receive little or no protection from unregulated dealers who may perpetrate fraud, operate unethical dealing desks, or have insufficient capital to return client funds - all major impetuses of the wide-sweeping reforms promulgated by the CFTC earlier in this decade.

Alpari believes the CFTC should give the NFA leverage rule of 100 to 1, which became effective only on November 30th of last year, more time to properly assess the protections it offers. When that change went into effect last year, US-based FDMs lost many customers to offshore dealers. By tinkering with leverage yet again, this trend will continue, and US Forex dealers will not be able to compete internationally. They will be forced to close their doors, causing increased job loss in a country already plagued by record unemployment levels.

Alpari urges the CFTC to keep traders protected by keeping them in the USA. Keep free enterprise alive; allow US Forex dealers to compete with dealers internationally on an ethical and fair level and through the protections already in place within the current regime.

Registration

Alpari generally supports proposed rule 5.3, mandating the registration of Forex IBs, CTAs and CPOs. However, the rule has one serious shortcoming. The proposed rule effectively eliminates the independent Forex IB from operating within the United States. It requires an FDM to guarantee all Forex IBs in order for them to operate viably, placing a huge burden and expense on the FDM. This also shifts the oversight responsibility from the NFA, a self-regulatory organization supported by member dues and empowered legislatively with the responsibility of monitoring the activities of its members, to the FDM.

A fundamental tenet of the proposed rules is to enact comparable regulations in both the Forex and Futures industries. Futures IBs may be either guaranteed or independent. Alpari believes that the same freedom of choice should be afforded to Forex IBs.

The activities permitted by guarantors of IBs who introduce both Futures and Forex business are also ambiguous; the rule seems to raise more questions than answers. It is not clear whether a Retail Forex Dealer ("RFED") is permitted to guarantee an IB involved in both industries or whether such an RFED would be responsible for overseeing both as individual lines of the IB's business.

Capital Requirements

Alpari supports proposed rules 5.6 and 5.7 regarding minimum capital requirements for FDMs. Alpari acknowledges the important CFTC concern over thinly capitalized firms dealing with and holding client funds.

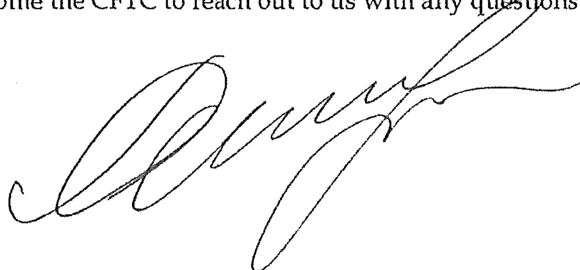
Proposed rules 5.6 and 5.7 codify a practice already positively embraced by the Forex industry. NFA currently requires FDMs to maintain $20 million in excess net capital, after haircuts and over and above what is due to customers. This minimum capital requirement is 20 times greater than the requirement for Futures FCMs.

The net capital requirement is also in line with the spirit of other crucial safeguards in the Forex industry. FDMs must maintain separate bank accounts for customer funds and are required to file weekly reports, which show customer fund liability by comparison to customer funds on deposit, similar to the daily segregation report required for participants in the Futures industry. Via the weekly filing requirement, the NFA is empowered with the ability of monitoring a firm's stability, as an FDM must regularly report information pertaining to its market exposure and related capital charges. Proposed rules 5.6 and 5.7 combine with these safeguards to ensure that the FDM has sufficient capital set aside in a separate account to meet its obligations to customers.

In Alpari's view, however, these regulations can be further strengthened by a rule mandating the segregation of Forex customer funds. The CFTC has indicated that the protection of customer funds is of paramount importance. In such a context, the US Bankruptcy Code should be reformed; funds held by customers of FDMs (which are currently held in separate accounts) should be offered the same safeguards as segregated funds held pursuant to Rule 1.20 of the Commodity Exchange Act. In the event of an FDM's bankruptcy, this would afford Forex customers the same level of security as Futures customers. These rules, taken together, could then truly accord customers with the protections desired by the CFTC.

We would like to thank the CFTC once again for the opportunity to comment on its proposed regulations. As it carefully considers the comments raised by Alpari and other industry participants over the coming weeks, we welcome the CFTC to reach out to us with any questions or concerns.

Sincerely yours,



Olga Rybalkina
Chief Executive Officer