10-001
COMMENT
CL-08999

10-1
(211)

easy forex®
ready.trade

10 South Riverside Plaza, Suite 760
Chicago, Illinois 60606
USA
www.easy-forex.com/us

Phone: 312-234-9110
Toll Free Phone: 877-532-7939
Fax: 312-234-9112
CFTC registered; NFA member 0358754

March 22, 2010

Received CFTC
Records Section
4/2/2010

Mr. David A. Stawick
Office of the Secretariat
Commodity Futures Trading Commission
1155 21st Street NW
Washingtion, DC 20581

COMMENT

C.F.T.C.
OFFICE OF THE SECRETARIAT
2010 APR 2 PM 2 02

RE: RIN 3038-AC61
Regulation of Retail Forex

Dear Mr. Stawick:

This comment letter is submitted to CFTC by Easy Forex US, Ltd. ("Easy Forex"). Easy Forex is currently a registered Futures Commission Merchant that does business as a Forex Dealer Member of the National Futures Association. Easy Forex wholly supports CFTC in its efforts to ensure that forex transactions are subject to fair and reasonable regulations. Easy Forex has no objection to most of the regulations proposed by CFTC in connection with its efforts to regulate the forex markets.

However, Easy Forex does believe that one component of those regulations – the new proposed reduction in permissible leverage, from 100 to 1 to 10 to 1 – is ill-advised and would carry with it a number of unforeseen consequences. A number of these issues have already been addressed in the many hundred of comment letters submitted to CFTC. Easy Forex submits that chief among the potential negative consequences of the proposed leverage reduction from 100:1 to 10:1 is the fact that these new leverage requirements would likely force a significant percentage of the forex accounts held by US customers to offshore entities. Easy Forex fears, then, that the proposal – intended to protect the US account holders - would actually create more risk, by subjecting investors who would desire or require additional leverage and who would open accounts with offshore unregulated forex dealers, to potential greater problems and risks by opening such accounts and utilizing unlicensed overseas firms, outside of CFTC jurisdiction, that offer higher leverage.

Easy Forex believes that choices related to suitable leverage levels should be decided by the individual accountholder based on his or her personal risk tolerance. An accountholder should have access to higher leverage, such as the leverage that is available to institutional clients, if so they so choose. Most do not choose to employ the full measure of 100:1 leverage. However, they frequently decision where to open an account, and in connection with devising an overall trading strategy. By imposing such a low ceiling on leverage for such transactions, customers will, at best, be stripped of the ability to manage their forex trading the way they deem best and, at worst, may be inclined to trade with unregulated counterparties that provide no assurances of compliance with customer protection protocols.

When viewed across the entire forex trader community, the concept of protecting clients from themselves is fundamentally flawed. This is analogous to setting the speed limit to an unreasonably low level for all drivers, because beginning drivers might not be trusted to drive at the maximum speed. Easy Forex believes that the best way to protect accountholders and the trading public from destructive or ill-advised trading habits is through enhanced, meaningful risk disclosures – these should be required in the forex industry just as they are mandated with options trading. Informed and knowing acceptance of disclosed risk is far superior to simply attempting to remove all risk (and reward) via legislation. If the concern is that individuals will simply acknowledge and sign off on risk disclosure without reading or understanding - simply completing the paperwork in a rush to begin trading - then an alternative measure should be implemented to make these risks clear and understood. Sufficient leverage is necessary and proper to efficient risk management in forex trading. A failure of the customer to read and understand the risks associated with forex trading, whether the fault of the customer or the firm, should not be countenanced in any case, at whatever leverage levels. Attempting to minimize losses by simply reducing the customer's potential losses is, at best, a poor "band-aid" in this situation.

Similarly, not all customers are the same and trade the same. The reality is that there are different types of "retail clients," each with different levels of sophistication and risk tolerance. Accordingly, flexible leverage proportional to the size of the account or investing experience of the individual should be considered. This determination should be up to the customer, working with his or her account representative. An across-the-board leverage limitation cannot and should not operate as a substitute for good customer/account representative interactions, in which risk, reward, sophistication and net worth are closely evaluated, considered, and discussed.

These concepts hold true in other trading forums. For example, retail option clients are allowed to sell short option positions. Even though the exchange model requires minimum margins requirements for this transaction, the client has unlimited exposure. If the market moves dramatically against the seller, his margin will be depleted and the client will be put in a deficit position and have unlimited liability until the position is liquidated. There have been no attempts to limit this risk by reducing margin or simply "outlawing" this. Rather, effective risk assessment and account management plays a fundamental role to protecting the options-trading customer. Easy Forex believes that forex trading can and should be subject to similar protocols.

Moreover, it should not be forgotten that it is only the *customer's* funds that are at risk in forex transactions. Losses resulting from significant price swings coupled with substantial leverage are not a customer loss if the customer does not meet his obligations to the counterparty. When a customer goes debit, then the counterparty suffers as well. Accordingly, FDMs currently use permissible mechanisms, such as auto-liquidation, to manage their own risk and ensure that a customer cannot suffer a catastrophic loss. This mechanism often operates as a ceiling on leverage and a loss limitation – but one that may be flexibly applied based on the actual circumstances, rather than a hard-and-fast rule applying to all customers for all transactions at all times.

Moreover, the likely outcome of these regulations, as is made abundantly clear (to varying degrees of civility) by the many retail customers who have commented on these proposed rules, may be a tremendous outflow of US customers to foreign counterparties who offer higher leverage ratios and operate deliberately outside US regulations. Easy Forex submits that entities who offer such leverage but do not bother to obtain RFED status under the jurisdiction of the CFTC pose a greater risk to the well-being of US customers than does 100:1 leverage.

In sum, Easy Forex supports reasonable efforts to protect customers in the forex markets, and agrees that forex counterparties to US retail customers should be registered with CFTC and subject to reasonable regulatory control. A one-size-fits-all leverage cap is not a reasonable step. It will simply operate to drive customers away from these regulated entities. The determination of appropriate security deposit levels should be left to be determined the parties to the relationship – the FDM and the customer – based on full disclosure of risk, reward, loss tolerability, net worth, and a host of other important factors.

Thank you in advance for your consideration of the foregoing.

Sincerely,
Easy-Forex US, Ltd

Anthony C. Siragusa

Anthony C. Siragusa
Senior Vice-President