

Derivatives - USA

CFTC approves rules enhancing protections for retail forex customers

Contributed by **Shearman & Sterling LLP**

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On August 27 2015 the US Commodity Futures Trading Commission (CFTC) approved rule amendments and a new interpretive notice⁽¹⁾ filed by the National Futures Association, ⁽²⁾ strengthening protections for retail customers of National Futures Association forex dealer members (FDMs). Among other things, the rule amendments:

- impose additional capital requirements on FDMs;
- require FDMs to collect security deposits for off-exchange foreign currency transactions from both eligible contract participant counterparties and retail counterparties;
- require FDMs to adopt and implement more stringent risk management programmes; and
- require FDMs to provide additional market disclosures and firm-specific information on their websites.

Statements issued by Chairman Timothy Massad⁽³⁾ and Commissioner Sharon Bowen ⁽⁴⁾ emphasised the heightened risks faced by retail customers investing in the foreign exchange market, including the losses that retail investors face as a result of minor price movements in the market. In her statement, Bowen further stated that the CFTC should consider imposing additional regulations on retail foreign exchange dealers (RFEDs), including:

- imposing concentration charges on RFEDs if they are overly exposed to a particular currency pair or liquidity provider, to incentivise them to balance their – and their retail counterparties' – positions;
- requiring RFEDs to get the best possible prices for their retail counterparties; and
- requiring or incentivising RFEDs to clear, in order to lower the credit risks that retail foreign exchange investors face.

For further information on this topic please contact [Donna M Parisi](#), [Geoffrey B Goldman](#) or [Azam H Aziz](#) at Shearman & Sterling LLP by telephone (+1 212 848 4000) or email (dparisi@shearman.com, geoffrey.goldman@shearman.com or aaziz@shearman.com). The Shearman & Sterling website can be accessed at www.shearman.com.

Endnotes

(1) The CFTC press release is available at "[CFTC Approves National Futures Association Rules Enhancing Protections for Retail Forex Customers](#)".

(2) The National Futures Association's rule submission to the CFTC is available at "[National Futures Association: Proposed Amendments to NFA Compliance Rule 2-36 Regarding Requirements for Forex Transactions and Final](#)".

(3) The text of Massad's statement is available at "[Statement of Chairman Timothy Massad on Enhancing Protections for Retail Forex Customers](#)".

(4) The text of Bowen's statement is available at "[Statement of Commissioner Sharon Y. Bowen on Enhancing Protections for Retail Forex Customers](#)".

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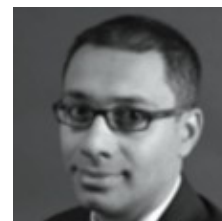
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