Commodity Futures Trading Commission

§ 5.3 Registration of persons engaged in retail forex transactions.

(a) Subject to paragraph (b) of this section, each of the following is subject to the registration provisions under the Act and to part 3 of this chapter:

(1) Any affiliated person of a futures commission merchant, as defined in § 5.1(a) of this part, which affiliated person:
   (i) Solicits or accepts orders from any person that is not an eligible contract participant in connection with any retail forex transaction; or
   (ii) Accepts money, securities, or property (or extends credit in lieu thereof) in connection with such solicitation or acceptance of orders in order to engage in any retail forex transaction, is required to register as a retail foreign exchange dealer; and

(2) Any associated person of an affiliated person of a futures commission merchant, as defined in §5.1(c) of this part, which affiliated person:
   (i) Solicits or accepts orders from any person that is not an eligible contract participant in connection with any retail forex transaction; or
   (ii) Accepts money, securities, or property (or extends credit in lieu thereof) in connection with such solicitation or acceptance of orders in order to engage in any retail forex transaction, is required to register as a retail foreign exchange dealer; and

§ 5.2 Prohibited transactions.

(a) Scope. The provisions of this section shall be applicable to any retail forex transaction.

(b) Fraudulent conduct prohibited. It shall be unlawful for any person, by use of the mails or by any means or instrumentality of interstate commerce, directly or indirectly, in or in connection with any retail forex transaction:

(1) To cheat or defraud or attempt to cheat or defraud any person;

(2) Willfully to make or cause to be made to any person any false report or statement or cause to be entered for any person any false record; or

(3) Willfully to deceive or attempt to deceive any person by any means whatsoever.

(c) Acting as counterparty and exercising discretion prohibited. (1) No person who acts as the counterparty for any retail forex transaction may do so for an account for which the person or any affiliate of the person is authorized (by contract, power of attorney or otherwise) to cause transactions to be effected without the client’s specific authorization.

(2) For purposes of this paragraph (c), an “affiliate” of a person means a person controlling, controlled by or under common control with, the first person.