

## **Discussion of New Forex Registration Requirements**

Forex hedge funds have escaped registration requirements so far, but that is expected to change very shortly. Yesterday the NFA released a report which provided some detail on the proposed new Forex registration requirements. While the NFA notes that the CFTC has not yet published its proposed forex rules, the NFA is still getting prepared for the Forex registrations. The NFA specifically stated that managers of forex account (including hedge fund managers) will need to register with the CFTC and be a member of the NFA. From the report: The legislation also requires firms that solicit retail forex customers, manage retail forex accounts or operate pools for retail customers to register with the CFTC and be Members of NFA. FCMs, IBs, CPOs and CTAs whose activities involve retail forex will be designated Forex FCMs, Forex IBs, Forex CPOs and Forex CTAs, while APs of those firms will be designated as Forex Associated Persons.

### **New Series 34 Exam**

The NFA also announced that there will be a new exam which forex managers will need to pass in order to be a Forex CPO and a Forex AP. According to the release, the NFA's Vice President of Registration Greg Prusik said "We have developed a new proficiency examination specific to retail forex activity, called the Series 34 exam, and have recommended to the CFTC that its forex rules require any individual applying for registration as a Forex AP to take and pass both the Series 3 exam and the Series 34."

For information on the likely Series 34 exam topics, please see Series 34 exam topics.

Other HFLB articles:

NFA Begins Regulating Forex

NFA Increase Capital Requirements for Forex Dealers

CFTC Announces Forex Fraud Task Force

\*\* Please note that this release is different from the NFA release of last week (see NFA Begins Regulating Forex above). The release from last week alerted managers who are already registered with the CFTC as CPOs or CTAs that, if they also provide advice to clients regarding off-exchange forex, they will need provide such clients with a disclosure document. Previously the registered CPOs and CTAs did not need provide clients with a disclosure document if the trading program focused only on spot forex.

Posted by [Stranger](#) at [1:26 AM](#) [No comments:](#)

### **Forex Hedge Funds – Forex Commodity Pools**

This is a guide for those managers who want to start a forex hedge fund. It provides information on forex hedge fund structures, an overview of the registration requirements, and a discussion of the process of forming a forex hedge fund. For the purpose of this article we are focusing on spotforex transactions, but much of this information also applies to those managers who trade foreign currency futures and forwards contracts.

### **Background - Growth of Forex Hedge Funds**

While there are no statistics on the number of forex hedge funds or the amount of assets under management, anecdotal evidence suggests a rather large influx of

capital into forex hedge funds and certainly managers are deciding to start [forex](#) hedge funds in record numbers. It is not hard to understand why. Spot forex has been a popular investment choice for both the retail and institutional investor who are looking to generate investment returns which do not mirror the stock markets. Many of these managers have been managing their own accounts, prop accounts, or the accounts of their friends and family and now these same managers are starting their own [forex](#) hedge funds (also known as [forex](#) commodity pools) to bring their strategy to a larger group of investors.

### **Structural Considerations for Forex Funds**

Forex hedge funds or commodity pools are a little bit different than traditional hedge funds because of the extreme liquidity which is a characteristic of the off-exchange foreign currency markets. Because of the liquidity and ease of getting into and out of positions without moving the markets, the structure is typically more flexible and “investor friendly” than other funds.

Specifically, some of the central structural characteristics of [forex](#) funds include: generally no lock-up (although some managers may have very short lock-ups of 3 or 6 months)

generally monthly liquidity with notice as short as a week (HFLB note: while many managers would have the ability to allow more frequent redemptions, we do not recommend this practice unless the manager has a good back office which can efficiently handle redemption requests)

generally monthly performance reporting and some managers even provide more frequent performance reporting

usually management fees of 1% to 2% and performance fees of 20% or some other sort of [“tiered” or “graduated” performance fee](#) structure

### **Risk Management for Forex Hedge Funds**

It is imperative that [forex](#) managers have robust risk management procedures. Because of the highly leveraged nature of spot [forex](#) transactions, there are unique risks which a manager must be aware of and which the manager must address. Managers will need to discuss their risk management programs with their attorneys. Institutional investors, especially, will make sure that hedge fund management companies have strict risk management structures in place - this is likely to be a hot topic during the hedge fund due diligence process.

### **Registration Requirements for Forex Funds**

Until this year the CFTC and the NFA had no authority to regulate managers who only traded in the spot [forex](#) markets. Congress passed the Farm Bill which provided the CFTC and the NFA with a mandate to register [forex](#) managers and associated persons. While final rules have not yet been promulgated, they will likely require all active owners and associated persons to have both a Series 3 exam license and a Series 34 exam license (there may be a grandfathering provision for those persons who were registered as APs prior to the passage of the Farm Bill).

[Forex](#) managers will also need to have their disclosure documents approved by the NFA – this requirement will apply to both managers who have separately managed account programs as well as [Forex](#) commodity pools. It is also likely

that [Forex](#) managers will need to institute some sort of NFA compliance program and the manager's lawyer or compliance firm can help design a Forex compliance program based on the firm's specific structure.

### **Timeline**

Because of the registration requirements and the disclosure document submission procedures, the time it takes to establish a [Forex](#) fund going forward is likely to be at least a couple of months from the date the manager passes the Series 34 exam. Additionally, based on the manager's situation the timeline may be longer or shorter – the manager's [Forex](#) lawyer or compliance firm will be able to provide more in depth guidance once the facts of the fund have been determined.

### **Forex Hedge Fund Prices**

Like other hedge fund strategies, [forex](#) hedge fund pricing will be similar to other types of futures programs. For many managers, the best choice will be to go with a boutique law firm who will be able to draft the [Forex](#) offering documents as well as guide the manager through the Forex registration process. Depending on the law firm and the investment program the cost for establishing the Forex hedge fund will be anywhere from \$15,000 to \$20,000 or more. These costs may or may not include the registration process. If a manager chooses to go with a larger national law firm the costs will likely start at \$25,000 or higher.

### **Offshore Forex Hedge Funds**

Because of the worldwide popularity of off-exchange foreign currency trading, there are many [Forex](#) managers which are located in offshore jurisdictions and many non-U.S. investors who would like to invest in these programs. Many managers would like to create programs which are available for both U.S. and non-U.S. investors. Depending on the facts of the situation the manager may or may not need to go through the [Forex](#) registration process.

Posted by [Stranger](#) at [1:25 AM](#) [No comments:](#)

### **[Introduction to Forex Hedge Fund Registration](#)**

Thank you for visiting our site devoted to all information on [forex](#) fund registration. This site will be devoted to all of the information on [forex registration](#) as it happens. We will also focus on many questions devoted to [forex](#) hedge fund formation for [forex](#) managers.

### **Forex Managers**

We will provide all information necessary for forex managers to navigate the forex regulatory and compliance maze. This information will include how to register as a [forex](#) manager with the CFTC, how to take the Series 34 exam, and how to go through the NFA Membership registration process. We also will provide access to forex lawyers who can provide guidance on forex laws and regulations.

### **Forex Introducing Brokers**

[Forex](#) introducing brokers are generally those persons or firms who provide advice regarding forex trading firms (also known as [forex](#) dealer members or futures commission merchants). These brokers provide guidance to forex managers and other [forex](#) introducing brokers and will be able to provide access to industry

insiders. Forex introducing brokers are key to making strategic decisions regarding a forex business.

### **Forex Hedge Fund Formation**

Forex managers will need a lawyer to help draft all of the forex hedge fund offering documents. The forex hedge fund process can take 3-6 weeks depending on a number of items including whether the manager needs to register with the CFTC. Generally the hedge fund lawyer will provide the manager with the following documents:

Prospectus or offering memorandum

LP Agreement

Subscription documents

Additionally, the hedge fund attorney can help with other items like forex side letters. The forex attorney will help you establish your forex accounts as well.

### **Raising Capital for Forex Hedge Funds**

In certain instances we will help forex managers raise capital for their hedge fund. Generally a manager will need to show a strong back office and a tested, proved forex investment strategy. If you are interested, please send us a copy of your returns and your offering documents.

### **Contact us for a Free Forex Consultation**

Please contact us and we will discuss all of the important forex fund registration considerations.

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### **Discussion about Forex Registration and the Series 34 Exam**

#### **Creating Series 34 Exam Prep Materials**

One central issue in the investment management industry is increases in regulation of previously unregulated or lightly regulated activities. The major area which will see direct regulation within the next 12 months is the retail off-exchange foreign currency industry. As we have discussed, forex managers and those parties which solicit retail forex investors are expected to have to register with the NFA as forex CPOs, forex CTAs or forex introducing brokers. As part of this process, individuals subject to registration are going to need to pass the Series 34 exam. This article will discuss the exam and the new exam prep materials I have been creating to help managers pass the exam.

#### **Overview of the Series 34 Exam**

The Series 34 exam is a brand new test created by the NFA at the very end of last year. I have talked with the National Futures Association (which is the self regulatory organization in charge of the forex registration process) and they have told me that individuals can now take the Series 34 exam. To take this exam individuals are going to need to submit a Form U-10, pay the \$70 testing fee and sign up with either Pearson Vue or Prometric to actually take the exam. The exam is 60 minutes long, has 40 questions and requires 70% correct answers for successful completion. ([www.series34exam.com](http://www.series34exam.com))

#### **Series 34 Exam Preparation Materials**

There are very few Series 34 materials out there for managers to study from. I have talked with many different groups and they are planning on potentially releasing a Series 34 exam study guide, but these groups will be waiting until they are able to judge the demand for such a product. Of course we cannot know the demand for the product until the CFTC proposes its [forex](#) registration rules, but it is a safe bet that many forex managers will need to take the exam. Accordingly, I have started creating *a free series 34 exam study guide* for the general public.

The free series 34 exam study guide will provide an explanation of all of the major concepts that the NFA has stated will be covered in the exam. I have provided in depth explanations on the concepts through my own research through many available online resources. I believe that these materials will be strong, especially with regard to the regulatory requirements for [forex](#) managers – I have been reporting on these requirements now for over 6 months and have been able to cull together great resources.

In addition to the free guide, I will also have premium materials available for purchase. These materials will include an outline, notecards, and practice questions.

The **series 34 outline** will be similar to an outline that you might see prepared for a law school exam – I have taken numerous exams (including many FINRA sponsored exams – Series 3, Series 7, Series 24, Series 63, Series 65) and have found that an outline is a great way to make sure all of the basic concepts are ingrained prior to taking the exam.

The **series 34 notecards** will be an exact replica of the notecards which I will use to study. You can either print out the notecards and cut them out or you can copy the information onto individual notecards yourself. I would recommend you write out the information onto individual notecards – in this way you enforce the learning process. Probably my favorite way of studying is through notecards. I can take them with me anywhere I am going and then study them when I am in line at a store, on a bus, during a TV commercial, etc.

The **series 34 practice questions** will be similar in style to the questions which you will expect to see on the exam. I am going to write practice exam questions before I take the exam based on what material I think will be covered in the exam. I am going to try to write toward areas of expected weakness so I anticipate the questions will be more difficult than those to be seen on the exam. Additionally, I plan to go back and add more questions after I take the exam to best reflect the nature and difficulty of the questions on the exam.

### **Information on How to Study for the Series 34 Exam**

The ultimate goal of the above exam prep materials is to provide [forex](#) managers with the tools they need in order to pass the test on the first try. It is a waste of time and money to study and then not pass the test on the first time because of lack of preparation or study materials. If the manager does not pass the exam on the first try, they will need to wait 30 days before they can take it again; if a manager does not pass the exam on the second try, they will need to wait 60 days before they can take it again.

As I have coached managers through the test taking process numerous times before I understand what is needed to pass on the first time – it is simply not enough to only read an exam prep guide. You must read an exam prep guide and proactively study the concepts which will be tested. Very smart [people](#) have failed the regulatory exams because of not properly studying. You will need to over-study. A common joke in the industry is that the perfect score is 70% because it means that you didn't study too much to pass. If someone else is paying for you to take the exam, and if you are still considered “on the clock” if you take time off of work to go take the exam, then this thinking may be fine (if you don't mind taking tests) – however, for busy [forex](#) managers your time is too valuable to waste by not passing on the first try. You should go into the test confident that you will pass and not hoping that you studied “just enough” to pass.

### **Series 3 Exam – A Pre-Requisite**

While anyone can take the Series 34 exam, [forex](#) managers will likely need to have passed the Series 3 in addition to the Series 34 exam. [Note: the CFTC has not promulgated rules on this issue so this is not a for sure requirement yet.] I have taken the Series 3 exam and passed and provided more information here (general guidelines on how to study for a FINRA exam can be found here) – please review these articles in addition to the other resources linked on this page.

### **Timing of Materials Release**

I should be able to release the materials later on this week. I am currently planning to take the exam sometime this week. I will update this article once the materials have been posted on our other websites. In the meantime, please feel free to contact us with any questions you might have.

Posted by [Stranger](#) at [1:24 AM](#) [No comments:](#)

### **[Effective Date of Amendments to NFA Financial Requirements Sections 11 and 12 and the Interpretive Notice Regarding Forex Transactions](#)**

NFA has received notice that the Commodity Futures Trading Commission has approved changes to NFA Financial Requirements Sections 11 and 12 and related changes to the Interpretive Notice titled “[Forex](#) Transactions.” The amendments adopt an alternative net capital requirement for Forex Dealer Members (FDMs) and eliminate the existing exemption from the security deposit requirement. These changes will become effective on November 30, 2009.

The amendments to Section 11 revise the existing alternative net capital requirement that is based on an FDM's liabilities to customers.<sup>1</sup> As of November 30, 2009, the alternative requirement is \$20 million plus 5% of the amount of customer liabilities over \$10 million. FDMs that exclusively use straight-through-processing for their customer transactions are exempt from this alternative requirement and need only maintain the \$20 million minimum (unless the firm is subject to a higher requirement under FR Section 1).

The amendments to Section 12 eliminate the existing security deposit exemption for FDMs that maintain 150% of their required net capital. This means that, beginning on November 30, 2009, all FDMs must collect a customer security

deposit of at least 1% for the currencies listed in Section 12 and at least 4% for all other currencies.<sup>2</sup>