

**FILED**

**JAN 23 2008**

**NATIONAL FUTURES ASSOCIATION  
BEFORE THE  
BUSINESS CONDUCT COMMITTEE**

**NATIONAL FUTURES ASSOCIATION  
LEGAL DOCKETING**

In the Matter of: )  
)  
IFX MARKETS, INC. )  
(NFA ID #327627), ) NFA Case No. 08-BCC-001  
)  
Respondent. )

**COMPLAINT**

Having reviewed the investigative report submitted by the Compliance Department of National Futures Association ("NFA"), and having found reason to believe that NFA Requirements are being, have been or are about to be violated and that the matter should be adjudicated, NFA's Business Conduct Committee ("BCC") issues this Complaint against IFX Markets, Inc. ("IFX").

**ALLEGATIONS**

**JURISDICTION**

1. At all times relevant to this Complaint, IFX was an NFA Member futures commission merchant with its main office located in London, England and a branch office in Boston, Massachusetts.

**BACKGROUND**

2. IFX has been an NFA Member since August 2003 and its business primarily consists of offering off-exchange foreign currency futures ("forex") to retail customers as a Forex Dealer Member ("FDM").
3. In June 2006, NFA commenced an examination of IFX. During the examination, NFA found deficiencies with IFX's promotional materials, and also with the

promotional materials used by some of the unregistered firms that solicit customers on IFX's behalf. These promotional material deficiencies constituted violations of NFA's rules and also evidence a failure on the part of IFX to adequately supervise the firm's use of promotional material.

#### **APPLICABLE RULES**

4. NFA Compliance Rule 2-36(b)(1) provides, in pertinent part, that no FDM or Associate of an FDM shall cheat, defraud or deceive, or attempt to cheat, defraud, or deceive any other person.
5. NFA Compliance Rule 2-36(c) provides that FDMs and their Associates shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of their foreign currency futures and options business.
6. NFA Compliance Rule 2-36(e) provides that each FDM shall diligently supervise its employees and agents in the conduct of their foreign currency futures and options activities for or on behalf of the FDM. Each Associate of an FDM who has supervisory duties shall diligently exercise such duties in the conduct of that Associate's foreign currency futures and options activities for or on behalf of the FDM.

#### **COUNT I**

#### **VIOLATION OF NFA COMPLIANCE RULES 2-36(b) AND (c): USING MISLEADING PROMOTIONAL MATERIAL AND FAILING TO OBSERVE HIGH STANDARDS OF COMMERCIAL HONOR AND JUST AND EQUITABLE PRINCIPLES OF TRADE.**

7. The allegations contained in paragraphs 1 through 5 are realleged as paragraph 7.
8. Under NFA Compliance Rule 2-36(d), an FDM that is a counterparty to retail customers' forex transactions is subject to discipline for the activities of any

person that solicits or introduces a customer to the Member, unless the person is an NFA Member or Associate.

9. In June 2006, IFX had approximately twenty non-Member introducing firms soliciting U.S. customers on behalf of IFX.
10. NFA reviewed the websites of several of these non-Member solicitors and found numerous deficiencies. For example, the website of Lancaster Capital Management LLC ("LCM"), a non-Member introducing solicitor located in Campbell, California, contained numerous statements discussing the possibility of profit without equally prominent statements regarding the risk of loss.
11. LCM's website claimed, "Through constant training and consistent successful results, LCM is able to offer its clients a unique opportunity for increasing their Wealth through the FOREX." LCM's website also stated its primary mission is to "provide an opportunity to achieve significant returns on our clients' capital..." and "We manage and trade Forex fund accounts for high net worth individuals striving to achieve exceptional annual returns."
12. LCM's website also included numerous testimonials that touted the tremendous profits that could be achieved trading the forex market. Examples of these testimonials include:
  - "...I couldn't find the means to save for...college tuition – until you introduced me to forex trading through Lancaster Capital... You've helped make dreams come true."
  - "I just wanted you to know how grateful I am to you for introducing me to the Forex. What a great tool for independence and wealth. Being a single mom it is comforting to know that I can make a lot better return on my money than just sticking it in the bank. You guys are great!"

13. The foregoing profit claims were misleading in that they presented an exaggerated picture of the potential for making profits trading forex and, in the case of the testimonials, also failed to include the warning that past success is not necessarily indicative of future performance or success.
14. Additionally, LCM's website discussed customers' ability to trade "with the big boys," and included a testimonial which read "...it is comforting to know that we have access to this huge trillion dollar market 24 hours a day." These statements implied customers would be trading in the interbank market. However, IFX offsets its forex exposure with its parent company, IFX Ltd., and the spread charged to IFX customers is widened from the spread on the prices that IFX Ltd. receives from its counterparties. Therefore, statements implying that customers are trading in the same market as banks and similar institutions are misleading.
15. Similarly, the website for Spectrum Trading Group, Inc., ("Spectrum"), a non-Member introducing solicitor located in Palm Harbor, Florida, also contained several statements that exaggerated the profit potential of trading forex without including equally prominent statements regarding the risk of loss. For example, the website included the following statements:
  - "Why choose the FOREX? Can you achieve Financial Freedom working for someone 9 to 5? Can you achieve Quality of Life in your current job/position? Can you have enough set aside with Social Security and your IRA for retirement in the future?"
  - "You can learn to trade currencies, part or full time, with the goal of exceeding your present income in a very short time. Trading an average of 2 hours a day of properly executed trades you can earn as much as \$2,000 to \$100,000 per month."
  - "Why is the FOREX the Ideal Business? You can make money trading currencies. You can achieve financial security and change your lifestyle."

16. Spectrum's website also included testimonials that emphasized profit potential without disclosing the risk of loss. These testimonials also failed to indicate that they were not indicative of future performance or success. Examples of these testimonials include:
- "...I entered your class three weeks ago with absolutely NO background of any kind trading foreign currency. I completed my 50 trades in a row without a loss within 7 days of the completion of my first class, with a profit of \$19,800 during those 50 trades."
  - "Here are my totals for the EUR/USD for the bounce trade...I got in 96 successful trades...Profit \$74,190."
17. At the time of NFA's examination, IFX also solicited customers through its own website, brochures, advertisements in various periodicals, a PowerPoint presentation, and various handouts that the firm distributed at trade shows.
18. Some of these promotional materials of IFX contained misleading statements that emphasized profit potential without providing a balanced disclosure of the risk of loss. For example, an IFX's brochure, "Welcome to Online FX Trading," stated, "Our plans for developing the business and the integrity of our business practices are the intangible factors that make trading with us both profitable and reliable." In addition, a handout the firm distributed at a Las Vegas trade show claimed, "Tight Stops & Long Gains = PROFITS" and "Add analysis to increase % of profitable trades."
19. The IFX brochure also claimed, "Investing in the Forex market with IFX allows you to buy or sell currencies in the spot market for profit, in a way banks and institutions have for years." It also stated, "The forex market is based on millions of buyers and sellers across the globe, including major banks and institutions,

continuously making a market.” These statements were misleading as IFX’s customers do not trade directly in the interbank market and are charged wider spreads than firms trading in that market.

20. In addition, one page of the IFX brochure, titled “The Forex Markets,” discussed reasons why traders choose the forex markets, such as 24-hour market liquidity, low transaction costs, profitability, market transparency and margin rates. However, there were no disclosures concerning risk of loss to balance these claims.
21. By reason of the foregoing acts and omissions, IFX is charged with violations of NFA Compliance Rules 2-36(b)(1) and 2-36(c). Pursuant to NFA Compliance Rule 2-36(d), IFX is also subject to discipline for the misleading promotional material, cited above, of its non-Member solicitors.

## COUNT II

### VIOLATION OF NFA COMPLIANCE RULE 2-36(e): FAILURE TO SUPERVISE.

22. The allegations contained in paragraphs 1 through 3 and 6 are realleged as paragraph 22.
23. IFX failed to adequately supervise IFX’s promotional material and failed to either detect or remedy the numerous deficiencies contained in these materials.
24. IFX also failed to adequately supervise the promotional material of IFX’s solicitors. Among other things, IFX failed to conduct frequent and thorough reviews of IFX’s solicitors’ websites; or take any steps to verify the veracity of the testimonials and other profit claims touted in the solicitors’ websites.
25. By reason of the foregoing acts and omissions, IFX is charged with violations of NFA Compliance Rule 2-36(e).

## **PROCEDURAL REQUIREMENTS**

### **ANSWER**

You must file a written Answer to the Complaint with NFA within thirty days of the date of the Complaint. The Answer shall respond to each allegation in the Complaint by admitting, denying or averring that you lack sufficient knowledge or information to admit or deny the allegation. An averment of insufficient knowledge or information may only be made after a diligent effort has been made to ascertain the relevant facts and shall be deemed to be a denial of the pertinent allegation.

The place for filing an Answer shall be:

National Futures Association  
200 West Madison Street  
Suite 1600  
Chicago, Illinois 60606-3447  
Attn: Legal Department-Docketing

Failure to file an Answer as provided above shall be deemed an admission of the facts and legal conclusions contained in the Complaint. Failure to respond to any allegation shall be deemed an admission of that allegation. Failure to file an Answer as provided above shall be deemed a waiver of hearing.

### **POTENTIAL PENALTIES, DISQUALIFICATION AND INELIGIBILITY**

At the conclusion of the proceedings conducted as a result of or in connection with the issuance of this Complaint, NFA may impose one or more of the following penalties:

- (a) expulsion or suspension for a specified period from NFA membership;
- (b) bar or suspension for a specified period from association with an NFA Member;
- (c) censure or reprimand;

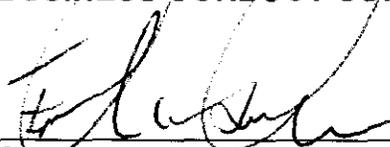
- (d) a monetary fine not to exceed \$250,000 for each violation found; and
- (e) order to cease and desist or any other fitting penalty or remedial action not inconsistent with these penalties.

The allegations in this Complaint may constitute a statutory disqualification from registration under Section 8a(3)(M) of the Commodity Exchange Act. Respondents in this matter who apply for registration in any new capacity, including as an associated person with a new sponsor, may be denied registration based on the pendency of this proceeding.

Pursuant to the provisions of CFTC Regulation 1.63 penalties imposed in connection with this Complaint may temporarily or permanently render Respondents who are individuals ineligible to serve on disciplinary committees, arbitration panels and governing boards of a self-regulatory organization, as that term is defined in CFTC Regulation 1.63.

**NATIONAL FUTURES ASSOCIATION  
BUSINESS CONDUCT COMMITTEE**

Dated: 1-23-08

By:   
Chairperson

**AFFIDAVIT OF SERVICE**

I, Nancy Miskovich-Paschen, on oath state that on January 23, 2008, I served a copy of the attached Complaint, by sending such copy in the United States mail, first-class delivery, and by overnight mail, in envelopes addressed as follows:

IFX Markets, Inc.  
c/o Norm Connelly, Esq.  
419 Boylston Street  
Suite 700  
Boston, MA 02116

  
Nancy Miskovich-Paschen

Subscribed and sworn to before me  
on this 23rd day of January 2008.

  
\_\_\_\_\_  
Notary Public

