

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

U. S. COMMODITY FUTURES  
TRADING COMMISSION,

Plaintiff,

v.

FORINVEST GROUP A/K/A  
FORINVESTS GROUP LLC,

Defendant.

No. 11 C 564  
Judge James B. Zagel

**DEFAULT JUDGMENT ORDERING A PERMANENT INJUNCTION AND OTHER  
ANCILLARY RELIEF AGAINST FORINVEST GROUP  
A/K/A FORINVESTS GROUP LLC**

On January 26, 2011, Plaintiff, the Commodity Futures Trading Commission (“CFTC”), filed a complaint seeking injunctive relief, civil monetary penalties and other equitable relief against Defendant, ForInvest Group a/k/a ForInvests Group LLC (“ForInvest”), for violations of certain registration provisions of the Commodity Exchange Act (“the Act”), as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 (“CRA”)), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), to be codified at 7 U.S.C. § 1 *et seq.*, and the Commission Regulations (“Regulations”) promulgated thereunder, 17 C.F.R. § 1.1 *et seq.* In an order entered on February 25, 2011, this Court found ForInvest in default under Federal Rule of Civil Procedure (“Fed. R. Civ. P.”) 55(a). Pursuant to Fed. R. Civ. P. 55(b), this matter now comes before the Court on the CFTC’s motion for default judgment. This Court has considered the entire record in this matter, including the CFTC’s motion, memorandum in support of its motion and the exhibits attached thereto, and

finds that good cause exists for entry of the relief requested. Accordingly, the CFTC's motion is granted, as detailed below.

**THE COURT HEREBY FINDS:**

1. This Court has jurisdiction over the CFTC's action pursuant to Section 6c of Act, 7 U.S.C. § 13a-1 (2006), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation or order thereunder.

2. The Court has jurisdiction over the conduct and transactions at issue in this case pursuant to Section 6c of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13a-1, and Section 2(c)(2) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2).

3. Venue properly lies with the Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e), in that ForInvest transacts business in this District and certain transactions, acts, practices, and courses of business alleged in the CFTC's Complaint occurred, are occurring, or are about to occur within this District.

4. The CFTC is an independent federal regulatory agency charged by Congress with the responsibility for administering and enforcing the provisions of the Act, as amended, to be codified at 7 U.S.C. § 1 *et seq.*, and the Regulations promulgated under it, 17 C.F.R. § 1.1 *et seq.* (2010).

5. ForInvest is a Delaware limited liability company that solicits and accepts orders for off-exchange foreign currency ("forex") transactions.

6. On January 26, 2011, the CFTC filed a Complaint against ForInvest seeking injunctive and other equitable relief for violations of the Act. That same day, the CFTC also moved for a preliminary injunction and other ancillary relief in this matter.

7. On February 2, 2011, the CFTC properly served ForInvest, pursuant to Fed. R. Civ. P. 4(h)(1)(B), by delivering copies of the summons, Complaint, Motion for Preliminary Injunction, and Memorandum in Support of Plaintiff's Motion for Preliminary Injunction to ForInvest's registered agent, The Company Corporation, in Wilmington, Delaware.

8. On February 8, 2011, this Court issued an Order for Preliminary Injunction and Other Ancillary Relief against ForInvest and set a status hearing for February 25, 2011.

9. ForInvest failed to plead or otherwise defend as to the complaint within the time permitted by Fed. R. Civ. P. 12(a)(1). On February 25, 2011, this Court entered a default against ForInvest pursuant to Fed. R. Civ. P. 55(a).

10. The allegations of the complaint are well-pled and hereby taken as true. This Order is supported by the following facts.

**The CFTC Has Jurisdiction Over ForInvest's Forex Transactions**

11. The CFTC has jurisdiction over ForInvest's forex transactions because: (1) the transactions are offered or entered into (i) with a person that is not an eligible contract participant and (ii) on a leveraged or margined basis; (2) the transactions do not result in actual delivery within two days or otherwise create an enforceable obligation to make or take delivery in connection with the parties' line of business; and (3) ForInvest, the counterparty to the transactions with the non-eligible contract participant, is not one of certain enumerated persons. Section 2(c)(2)(C) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C).

**ForInvest's Failure to Register Violates Section 2(c)(2)(C)(iii)(I)(aa) of the Act and Regulation 5.3(a)(6)(i)**

12. On October 18, 2010, the CFTC enacted new regulations implementing certain provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act"), Pub. L. No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010), §§701-774, 124 Stat. 1376 (enacted July 21, 2010), and the CRA, to be codified at 7 U.S.C. § 1 *et seq.*, with respect to off-exchange forex transactions.

13. Pursuant to Section 2(c)(2)(C)(iii)(I)(aa) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C)(iii)(I)(aa), and Regulation 5.3(a)(6)(i), to be codified at 17 C.F.R. § 5.3(a)(6)(i), an entity must be registered if it wants to solicit or accept certain orders in connection with off-exchange forex transactions.

14. ForInvest has never been registered with the CFTC in any capacity or applied for registration (or an exemption from registration).

15. Nonetheless, after October 18, 2010, ForInvest solicited or accepted orders from non-eligible contract participants ("non-ECPs") in connection with margined or leveraged forex transactions as a retail foreign exchange dealer ("RFED"). ForInvest is not one of the persons exempt from the registration requirements applicable to this conduct enumerated in Section 2(c)(2)(C)(iii)(I)(aa) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C)(iii)(I)(aa). Therefore, ForInvest has violated Section 2(c)(2)(C)(iii)(I)(aa) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C)(iii)(I)(aa).

16. Moreover, ForInvest acted as an RFED, as defined in Regulation 5.1(h)(1), to be codified at 17 C.F.R. § 5.1(h)(1). Because ForInvest has failed to register as an RFED, it has violated Regulation 5.3(a)(6)(i), to be codified at 17 C.F.R. §5.3(a)(6)(i).

**Permanent Injunctive and Other Ancillary Equitable Relief Is Warranted**

17. The CFTC has shown that ForInvest has engaged, is engaging, and is about to engage in acts and practices which violate Section 2(c)(2)(C)(iii)(I)(aa) of the Act, as amended by the CRA, and Regulation 5.3(a)(6)(i). Notwithstanding its default, the totality of the circumstances establish that, unless restrained and enjoined by this Court, there is a reasonable likelihood that ForInvest will continue to engage in the acts and practices alleged in the Complaint and in similar acts and practices in violation of the Act. In addition, the imposition of other ancillary equitable relief is required to comply with the basic objectives of the Act. Furthermore, the nature of ForInvest's violations and the need to deter others from committing similar violations of the Act and Regulations warrants the imposition of a civil monetary penalty.

**THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED**

that Defendant, ForInvest, has violated Section 2(c)(2)(C)(iii)(I)(aa) of the Act, as amended by the CRA, and Regulation 5.3(a)(6)(i). Therefore, judgment shall be and hereby is entered in favor of the Plaintiff CFTC and against Defendant ForInvest as follows:

**Prohibition on Violations of Section 2(c)(2)(C)(iii)(I)(aa) of the Act and Regulation**

**5.3(a)(6)(i)**

18. ForInvest, all persons and entities insofar as they are acting in the capacity of agents, servants, employees, successors, assigns, or attorneys of ForInvest, and all persons and entities insofar as they are acting in concert or participation with ForInvest who receive actual

notice of this order by personal service or otherwise, shall be permanently prohibited, enjoined and restrained from directly or indirectly:

- a. engaging in any conduct in violation of Section 2(c)(2)(C)(iii)(I)(aa) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2)(C)(iii)(I)(aa), including, but not limited to, soliciting or accepting orders from any person that is not an ECP in connection with forex transactions; and
- b. engaging in any conduct in violation of Regulation 5.3(a)(6)(i), to be codified at 17 C.F.R. § 5.3(a)(6)(i), including, but not limited to, offering to be the counterparty to its customers' forex transactions.

**Removal of Website**

19. ForInvest, all persons and entities insofar as they are acting in the capacity of agents, servants, employees, successors, assigns, or attorneys of ForInvest, and all persons and entities insofar as they are acting in concert or participation with ForInvest who receive actual notice of this order by personal service or otherwise, shall remove or cause to be removed from the Internet all webpages posted or authorized by them to be posted in which they solicit or accept orders or accounts from non-ECPs in connection with forex transactions or offer to be the counterparty to customers' forex transactions whether through [www.forinvest.net](http://www.forinvest.net) and/or [www.forinvests.net](http://www.forinvests.net), the Uniform Resource Locators ("URLs") associated with such domain names, and/or any other domain name or URL created, operated, hosted and/or authorized by ForInvest, in whole or in part. This includes, but is not limited to, submitting a removal request of the domain names associated with the aforementioned conduct and corresponding URLs to the appropriate web-host provider and/or domain registration company.

20. Any person or entity providing web-hosting or domain name registration services in the United States (including, without limitation, SoftLayer Technologies Inc., as successor by

merger with The Planet, and its parent, subsidiaries, affiliates, employees, agents and representatives) for any website, domain name or affiliated URL under the ownership of ForInvest, in whole or in part, which ForInvest uses to solicit or accept orders or accounts from non-ECPs in connection with forex transactions at ForInvest, or offers to be the counterparty to customers' forex transactions, including, but not limited to, www.forinvest.net and/or www.forinvests.net, the URLs associated with such domain names, and/or any other domain name or URL created, operated, hosted and/or authorized by ForInvest, in whole or in part, who receives actual notice of this Order by personal service or otherwise shall:

- a. remove or cause to be removed from the Internet all webpages within their control, which are posted or authorized or to be posted or authorized by ForInvest or any persons and entities insofar as they are acting in the capacity of agents, servants, employees, successors, assigns, or attorneys of ForInvest, in which ForInvest: (i) solicits or accepts orders or accounts from non-ECPs in connection with forex transactions at ForInvest; or (ii) offers to be the counterparty to customers' forex transactions;
- b. preserve all documents related to any website operated, in whole or in part, under the names www.forinvest.net and/or www.forinvests.net, as well as any website that is substantially identical in appearance to that website; and
- c. immediately notify counsel for the CFTC of any other web page or website operated or controlled by or on behalf of ForInvest.

### **Trading Prohibition**

21. ForInvest, all persons and entities insofar as they are acting in the capacity of agents, servants, employees, successors, assigns, or attorneys of ForInvest, and all persons and entities insofar as they are acting in concert or participation with ForInvest who receive actual notice of this order by personal service or otherwise, shall be permanently prohibited, enjoined and restrained from directly or indirectly:

- a. trading on or subject to the rules of any registered entity (as that term is defined in Section 1a of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 1a);
- b. entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Regulation 32.1(b)(1), 17 C.F.R. § 32.1(b)(1) (2010)) (“commodity options”), and/or foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, as amended by the CRA, to be codified at 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i)) (“forex contracts”), for their own personal account or for any account in which they have a direct or indirect interest;
- c. controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity futures, options on commodity futures, commodity options, and/or forex contracts;
- d. soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, and/or forex contracts;
- e. applying for registration or claiming exemption from registration with the CFTC in any capacity, and engaging in any activity requiring such registration or exemption from registration with the CFTC except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2010); and
- f. acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2010)), agent, or any other officer or employee of any person registered, exempted from registration or required to be registered with the CFTC except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2010).

**Civil Monetary Penalty**

22. ForInvest shall pay to the Commission a civil monetary penalty of \$280,000, plus post-judgment interest.

23. Post-judgment interest shall accrue beginning on the date of entry of this Order and shall be determined by using the U.S. Treasury Bill rate prevailing on that day, pursuant to 28 U.S.C. § 1961(a).

24. ForInvest shall pay the civil monetary penalty by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. Unless the payment is made by electronic funds transfer, it shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission  
Division of Enforcement  
Attn: Ms. Marie Bateman – AMZ-300  
DOT/FAA/MMAC  
6500 S. MacArthur Blvd.  
Oklahoma City, OK 73169  
Telephone: (405) 954-6569

If ForInvest chooses to make the payment by electronic funds transfer, it shall contact Ms. Marie Bateman or her successor at the above address to receive payment instructions and shall fully comply with those instructions. ForInvest shall submit its payment with a cover letter that identifies it and the name and docket number of this proceeding. Copies of the cover letter and the form of payment shall be simultaneously transmitted to Mr. David Meister, Director, Division of Enforcement, Commodity Futures Trading Commission, at the following address: Three Lafayette Centre, 1155 - 21<sup>st</sup> Street, N.W., Washington, D.C. 20581; and to Ms. Rosemary Hollinger, Regional Counsel, Division of Enforcement, Commodity Futures Trading Commission, at the following address: 525 W. Monroe Street, Suite 1100, Chicago, IL 60661.

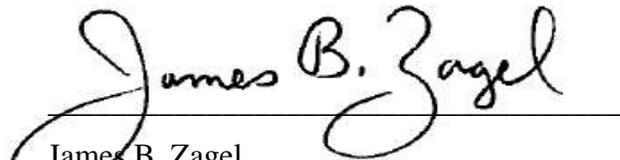
**IT IS FURTHER ORDERED** that copies of this Order may be served by any means, including facsimile transmission, e-mail, United Parcel Service and Federal Express, upon ForInvest or any other entity or person that may be subject to any provision of this Order. Messrs. Barry Blankfield, Ken Hampton, John Wilson and William Janulis, all employees of the

CFTC, are hereby specially appointed to serve process, and/or effectuate service of process, including this Order and all other papers in this cause.

**IT IS FURTHER ORDERED** that Defendant shall serve all pleadings, correspondence, notices and other materials required by this Order on Plaintiff CFTC by delivering a copy to Mr. Barry Blankfield, Senior Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 525 W. Monroe, Suite 1100, Chicago, Illinois 60661.

**IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this cause to assure compliance with this Order and for all other purposes related to this action.

ENTER:

  
James B. Zagel  
United States District Judge

DATE: June 17, 2011