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CFTC Sues Futures Commission Merchant Forex Liquidity LLC Alleging Undercapitalization in Excess of \$11.6 Million

美國商品期貨管理委員會控告期貨經紀商美通銀行，堅稱該公司股權資本不足額高達一千一百六十萬美元

Washington, DC - The U.S. Commodity Futures Trading Commission (CFTC) announced today that on December 13, 2007, it sued **Forex Liquidity LLC** (Forex Liquidity), a registered Futures Commission Merchant (FCM) in Santa Ana, California, charging it with being undercapitalized in excess of \$11.6 million and also with failing to maintain required books and records.

華盛頓特區訊——美國商品期貨管理委員會（U.S. Commodity Futures Trading Commission，簡稱CFTC）今日宣布已於二〇〇七年十二月十三日對登記於加州聖塔安納（Santa Ana）的期貨經紀商（Futures Commission Merchant；FCM）美通銀行¹（Forex Liquidity LLC，簡稱Forex Liquidity）提出訴訟，指控該公司不但股權資本不足額高達一千一百六十萬美元，而且未妥善保管相關所需之帳務資料與紀錄。

On December 14, 2007, the CFTC won an asset freeze and other emergency relief that will enable the Commission to freeze the remaining assets for Forex Liquidity and safeguard the interests of its customers.

二〇〇七年十二月十四日，CFTC 取得了資產凍結與其他緊急救濟許可，得以凍結美通銀行剩餘資產，保護該公司客戶的權益。

According to the CFTC complaint, as of November 30, 2007, and perhaps earlier, Forex Liquidity's net capitalization was below the minimum required by the Commission. As a Forex Dealer Member of the National Futures Association (NFA) offering to be the counterparty to retail customer foreign currency transaction, Forex Liquidity is required to have a minimum adjusted net capital of \$1 million; instead, according to the complaint, as of December 7, 2007, it had an adjusted net capital deficit of approximately \$11.6 million.

根據 CFTC 二〇〇七年十一月三十日為止或更早之前的控告，美通銀行的淨資本額少於該委員會的最低要求。身為提供零售客戶外匯買賣相對人服務的美國全國期貨公會外匯交易成員，美通銀行至少必須具備一百萬美元的調整淨資本額（adjusted net capital），然而根據十二月七日為止的控告內容，該公司的調整淨資本虧損約一千一百六十萬美元。

¹ 譯註: Forex Liquidity在中國使用之名稱為Multibank (美通銀行) FX。

Forex Liquidity is also alleged to have been unable to produce required financial documentation regarding its assets and liabilities. For example, according to the CFTC's complaint, Forex Liquidity represented in reports and discussions with NFA that its assets at one time included a \$35 million ABN-AMRO bond located in Switzerland. The complaint further alleges that Forex Liquidity represented to the NFA that the ABN-AMRO bond (or its proceeds) were transferred to a U.S. registered broker dealer, Commonwealth Financial Network (CFN); however, CFN does not have an account for Forex Liquidity and the account number that the defendant provided to NFA was fictitious.

另，美通銀行遭控無法針對其資產與負債提出必要的財務文件。舉例而言，根據 CFTC 之控訴內容，美通銀行在提供給美國全國期貨公會的報告內以及與美國全國期貨公會討論的內容中，曾提及其資產一度包含價值三千五百萬美元存於瑞士的荷蘭銀行債券。內容進一步指稱美通銀行向美國全國期貨公會表示，荷蘭銀行債券（或其收益）已移轉給一家美國註冊在案的經紀自營商 Commonwealth Financial Network（簡稱 CFN），但 CFN 卻沒有任何美通銀行的帳戶資料，被告美通銀行所提供的帳號也不存在。

Accordingly, the CFTC also charged Forex Liquidity with failure to maintain books and records of its business transactions, specifically, current ledgers that accurately reflect its assets and liabilities.

CFTC 因此控告美通銀行未能妥善保管其交易的帳務資料與紀錄，特別是確實反應該公司當前資產與負債狀況的會計總帳冊。

In the ongoing action in the U.S. District Court for the Central District of California, the CFTC seeks an order of permanent injunction against the defendant, monetary penalties, and other relief. The Honorable Cormac J. Carney, U. S. District Judge, issued the restraining order freezing the assets of Forex Liquidity and prohibiting the defendant from destroying documents or denying CFTC staff access of books and records.

美國加州中央區地方法院目前正就此案進行審理，CFTC 試圖取得針對被告、罰金和其他救濟措施之永久禁制令。地方法院 Cormac J. Carney 法官已發出命令，除凍結美通銀行之資產外，也禁止被告損毀文件或拒絕 CFTC 人員取得相關帳務資料與記錄。

The CFTC appreciates the assistance of the National Futures Association in this action.

CFTC 感謝美國全國期貨公會對本案的協助。

The following CFTC Division of Enforcement staff members are responsible for this matter: Peter Haas, Richard Foelber, Paul Hayeck, and Joan Manley.

CFTC 執法處 (Division of Enforcement) 負責本案的人員為：Peter Haas, Richard Foelber, Paul Hayeck, 與 Joan Manley。

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