

98-24

secretary

From: Mike Reese [mreese@hbk.com]
 Sent: Monday, August 17, 1998 9:24 AM
 To: 'secretary@cftc.gov'
 Cc: David Haley
 Subject: Comments about Concept Release on Performance Data and Disclosure for CTAs and CPOs

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> Secretary of the Commission
 > Commodity Futures Trading Commission
 >
 > Re: Concept Release on Performance Data and Disclosure for CTAs and
 > CPOs
 >

> As a 4.7 exempt CPO, much of the 18 pages in the concept release will
 > not be applicable to our operation. This release highlights a
 > position that I have held since discovering several years ago that our
 > "investment partnership" is deemed to be a "commodity pool" which is
 > that we should not be deemed to be a "commodity pool". We invest in
 > securities on a world wide basis and use commodities to hedge various
 > risks inherent in our securities portfolio. The fact that most of the
 > matters mentioned in the Concept Release would not apply to our
 > operation even absent the 4.7 exemption cause me to raise the
 > following question to the Commission: Why isn't there a basic
 > recognition and complete exemption for an investment partnership who
 > only incidentally uses commodities (in our case well under 1% of our
 > total assets are used as initial margin). Since this Concept Release
 > is predicated on looking at the basics, I respectfully request that
 > the Commission consider a basic concept that "having outside owners"
 > and "investing in a commodity contract" does not create a commodity
 > pool as envisioned by the existing rules nor those being considered in
 > the Concept Release.

COMMENT

> In any event, I offer the following brief comments about certain
 > sections of the Concept Release:

> II. A. One of our pools is organized as a limited partnership
 > and the other is an offshore corporation. Neither provide for partial
 > funding. I suspect that most investment partnerships which are not
 > really commodity pools fall into this category. Therefore the current
 > practice of using the GAAP basis of accounting and calculating ROR
 > based on the NAV at the beginning of the month plus or minus additions
 > and withdrawals continues to make the most sense. The rest of the
 > ideas are the equivalent of a foreign language in our paradigm.

> II. C. If the notional or partial funding concept is adopted,
 > and it does not apply in a circumstance such as ours, I can visualize
 > that there might be a requirement to make a statement to that effect.
 > That could have a deleterious effect in that it would only raise a
 > question of "why don't we offer such a partial payment opportunity?"
 > I strongly urge that negative statements not be required. If it
 > doesn't apply, it simply is not addressed.

> III. The whole area of margin requirements makes little or no
 > sense in the context of a limited partnership where no additional
 > capital calls may be made. And as the CFTC comments suggest, it is
 > questionable whether this information is enlightening or obfuscatory.

> "Allocation to CTAs" is not an applicable concept in a
 > securities investment partnership, nor is a nominal account size.

> IV. D. Information about performance by CTAs also seems to be
 > more confusing than enlightening. If one were to use multiple CTAs
 > then it seems that the principle of diversification and its
 > application to risk would be more important than the specific
 > performance of a specific CTA during a specific period. The rationale
 > behind diversification is that one will be up and another down which
 > reduces correlation and thus is less volatile.

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> IV. F. Instead of one or three or five largest drawdowns,
> consider the possibly more useful information of defining narrow
> ranges of monthly ROR (whatever seems appropriate for the particular
> fund) and to show the number of months falling within each range over
> the history of the fund (pool). It might be useful to use the same
> format to show "last 5 years", "last 3 years" and "last 12 months".
> If shown graphically, this is much more informative about risk than
> relatively obscure terms such as drawdown, notional amounts in
> relation to margin, etc.
>
> IV. G. For investment partnerships as opposed to real commodity
> pools, fees and commissions to FCMs, etc are generally not applicable
> since accounts for individual investors are not applicable. The
> overall management fee and incentive fee are separately spelled out
> and they are not prone to burning up an investors capital by churning
> the account as in a real commodity pool or separately managed
> accounts. This is particularly true in our case where the management
> company does not earn any commissions nor participate in any soft
> dollar arrangements.
>
> Again from our perspective, the most basic point we can make is that
> the whole Concept Release points out the futility and frustration of
> trying to fit a round peg into a square hole and label an investment
> partnership as a commodity pool. We would appreciate consideration to
> this even more basic concept.
>
> Respectfully submitted,
> HBK Investments, L.P. (NFA # 0268336)
>
> By: H. Michael Reese
> Chief Financial Officer