



## U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Swap Dealer and  
Intermediary Oversight

Gary Barnett  
Director

CFTC Letter No. 14-101  
Exemption  
June 2, 2014  
Division of Swap Dealer and Intermediary Oversight

**RE: Request for relief on behalf of “A”, registered commodity pool operator for “B”**

Dear :

This letter is in response to your letter dated February 11, 2014, to the Division of Swap Dealer and Intermediary Oversight (“Division”) of the Commodity Futures Trading Commission (“Commission”), and subsequent emails to Division staff. You request relief on behalf of “A”, the commodity pool operator (“CPO”) for “B” (the “Pool”). Specifically, you request an exemption from the requirement of Regulations 4.7(b)(3) and 4.22(d) to have an independent public accountant audit the financial statements in the Pool’s Annual Report for the fiscal year ending on December 31, 2013.

Based upon the representations made in your correspondence, we understand the relevant facts to be as follows. The Pool began operations in January 2011, and until it ceased trading on January 10, 2014, the Pool was operated pursuant to an exemption under Regulation 4.7. The Pool had six participants, excluding the Managing Member, four of which are principals or affiliates of the Managing Member. You have attached to your request waivers from the six participants, consenting to the exemptive relief you request and the distribution of an unaudited Annual Report for the 2013 Fiscal Year, in lieu of the certified Annual Report required by Regulations 4.7 and 4.22(d). The net asset valuation of the Pool as of December 31, 2013, was approximately \$. As of January 10, 2014, when the Pool ceased trading, the net asset valuation was \$. You also represent that the CPO plans to prepare an unaudited report for the period from January 1, 2014 through January 10, 2014. Finally, you represent that a final distribution of Pool assets to its participants will be completed within 14 days of the date of this letter.

Regulation 4.7(b)(3) provides a CPO an exemption from filing and distributing an Annual Report in accordance with Regulation 4.22(c) with respect to an exempt pool it operates in accordance with Regulation 4.7; provided, that the CPO files with the National Futures Association (“NFA”) and distributes to each participant an Annual Report for the exempt pool that complies with Regulation 4.7(b)(3) within 90 calendar days of the end of the exempt pool’s fiscal year. Regulation 4.22(d) requires, among other things, financial statements in such annual

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reports be audited by an independent public accountant. The principal purpose of financial reporting required by Regulations 4.7(b)(3) and 4.22(d) is to ensure that pool participants receive accurate, fair and timely information on the overall trading performance and financial condition of the pool.

Based upon the representations made in your letter, the Division believes that granting your request is neither contrary to the purposes of Regulations 4.7(b)(3) and 4.22(d) nor to the public interest. Accordingly, pursuant to the authority delegated by Regulations 140.93 and 4.12(a), the Division hereby grants exemptive relief to the CPO from the requirement to audit the financial statements in the Pool's Annual Report for the fiscal year ending on December 31, 2013; provided, that the CPO files with NFA and distributes to the Pool participants an Annual Report that is otherwise in compliance with Regulations 4.7(b)(3) and 4.22(d), and that consistent with its representations, the CPO completes the final distribution of Pool assets within 14 days of the date of this letter. The Division further notes that the CPO may distribute and file unaudited financial statements for the period of January 1, 2014, to January 10, 2014, provided that it does so in accordance with the requirements of Regulation 4.22(c)(7).

This relief is based upon the representations that you have made to the Division. Any different or omitted facts may result in a different determination and may render any relief set forth in this letter void. Therefore, you must notify the Division immediately in the event that the operations or activities described herein change in any material way from those represented to the Division. This relief shall not excuse the CPO from compliance with any other applicable requirements contained in the Commodity Exchange Act or in the Commission's regulations issued thereunder, including, but not limited to, Part 4 of the Commission's regulations. Moreover, this letter represents the views of the Division, and does not necessarily represent the views of the Commission or any other division or office of the Commission.

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If you have any questions regarding this letter, please contact Amanda Olear, Associate Director, at 202-418-5283 or aolear@cftc.gov, or Elizabeth Groover, Special Counsel, at 202-418-5985 or egroover@cftc.gov.

Very truly yours,

Gary Barnett  
Director  
Division of Swap Dealer and  
Intermediary Oversight