



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Swap Dealer and
Intermediary Oversight

Gary Barnett
Director

CFTC Letter No. 14-142
Exemption
November 6, 2014
Division of Swap Dealer and Intermediary Oversight

Re: Exemptive Relief Request Concerning Quarterly Account Statements Required by Regulation 4.7(b)(2) on Behalf of “A”, the Commodity Pool Operator for “B” and “C”, and “D”, the Commodity Pool Operator for “E”

Dear:

This is in response to your letter dated September 20, 2013, to the Division of Swap Dealer and Intermediary Oversight (the “Division”) of the Commodity Futures Trading Commission (the “Commission” or “CFTC”). You request on behalf of “A”, the commodity pool operator (“CPO”) of numerous commodity pools (collectively, the “A Pools,” and listed individually in Appendix A) that invest in one or more other collective investment vehicles operated by unaffiliated CPOs (“Funds of Funds” or “FOF”) and “D” (“D”, together with “A”, the “CPOs”), the CPO of numerous commodity pools (the “D Pools,” listed individually in Appendix A, and, together with the “A” Pools, the “Pools”), which are also Funds of Funds, relief from the 30-day period for distribution of quarterly account statements to participants under Commission regulation 4.7(b)(2). You propose instead to provide the information required under Commission regulation 4.7(b)(2) on a monthly basis within 45 days of the month end.

Based upon your letter, the Division understands the relevant facts to be as follows. You state that in order for the CPOs to prepare the quarterly account statements for the Pools, they must first obtain account statements for the underlying funds. Once that information is received, you state that the CPOs then incorporate that information into the account statements of the Pools. You state that if an investee pool is operated by a registered CPO, then the investee pools’ CPO is required to distribute its account statements within 30 days of the end of the applicable reporting period. You state that often such reports are not distributed to the Pools until the last few days of that period. You further state that the Pools also may invest a portion of their assets with funds that are not subject to Commission regulation, which further complicates the CPOs’ efforts to comply with the time period prescribed in Commission regulation 4.7. You state that, due to the facts as represented by you above, it is difficult for the CPOs to process the received data from those statements into the Pools’ account statements and distribute those statements to the Pools’ participants within the 30 day period prescribed by Commission regulation 4.7(b)(2).

You state that despite the fact that Commission regulation 4.7(b)(2) only requires the CPOs to distribute periodic account statements on a quarterly basis, the CPOs provide the account statements to the participants in the Pools on a monthly basis. You state that as such, the participants in the Pools receive more frequent information about their investments in the Pools than participants in other pools operated pursuant to Commission regulation 4.7. In support of your request, you cite to a 2001 letter from the staff of the Division of Trading and Markets granting relief under similar circumstances.¹

Based upon the facts as represented by you, the Division concludes that if the CPOs are permitted to provide monthly account statements to participants as proposed, the CPO will, on balance, be providing more current financial information to its participants than required by Commission regulation 4.7(b)(2). Specifically, the participants in the Pools would receive two-thirds of financial information provided in account statements earlier than they would otherwise, and one-third later than they would if the CPOs were to comply with the quarterly account statement requirements under Commission regulation 4.7(b)(2).

In consideration of the foregoing, the Division concludes that your request is neither contrary to the purposes of Commission regulation 4.7(b)(2) nor the public interest. Therefore, pursuant to the authority under Commission regulation 4.12(a), as delegated to the Division under Commission regulation 140.93, the Division hereby grants relief to the CPOs with respect to the operation of the Pools, as identified individually in Appendix A. This exemption is conditioned upon the following:

1. The CPOs must distribute to participants within 45 calendar days after the end of each month an account statement that includes all of the information required to be included in a Commission regulation 4.7(b)(2) quarterly account statement and that is signed and affirmed in accordance with Commission regulation 4.22(h); and
2. The CPOs must inform current and prospective participants in the Pools that account statements will be provided within 45 days after the end of the covered month.

The exemptive relief provided in this letter is applicable to the CPOs solely with respect to the Pools identified in Appendix A. Moreover, the relief issued by this letter does not excuse persons relying on it from compliance with any other applicable requirements contained in the Commodity Exchange Act or in the Commission regulations issued thereunder. Further, this letter, and the relief contained herein, is based upon the representations made to the Division. Any different, changed or omitted material facts or circumstances might render this interpretation void.

¹ See CFTC Staff Letter 01-90 (Dec. 11, 2001) (permitting the CPO of a fund of fund to distribute account statements 45 days after the close of the covered period, provided that the CPO distributed such statements to participants on a monthly basis and that the CPO disclose this relief to prospective and current participants).

Should you have any questions, please do not hesitate to contact Amanda Olear, Associate Director, at 202-418-5283.

Very truly yours,

Gary Barnett
Director
Division of Swap Dealer and
Intermediary Oversight

Appendix A

POOLS OPERATED BY "D"

Feeder Name
"F"

NFA ID

POOLS OPERATED BY "A"

Feeder Name
"G"

NFA ID

POOLS OPERATED BY "A" (cont.)

Feeder Name
"G"

NFA ID