



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Swap Dealer and
Intermediary Oversight

Gary Barnett
Director

CFTC Letter No. 14-159
No-Action
December 17, 2014
Division of Swap Dealer and Intermediary Oversight

Re: Request for relief from registration as a commodity pool operator pursuant to section 4m(1) of the Commodity Exchange Act for “A” with respect to its operation of “B”

Dear :

This is in response to your letter (the “Letter”), dated May 19, 2014, to the Division of Swap Dealer and Intermediary Oversight (the “Division”) of the U.S. Commodity Futures Trading Commission (the “Commission” or “CFTC”). In the Letter, on behalf of “A”, you requested no-action relief from registration as a commodity pool operator (a “CPO”) pursuant to section 4m(1) of the Commodity Exchange Act (the “Act”)¹ in connection with “A’s” role as general partner and operator of “B”.

Background Facts

Based on the representations made in the Letter and other supplemental correspondence (the “Correspondence”), the Division understands the facts to be as follows. You state that “A” is the general partner and CPO for “B”. You state that “B” was organized in March 2012 to serve as a trading vehicle to incubate systematic currency trading strategies exclusively using the capital of “C”, trusts for the benefit of his children, and his close business associates. You state that “B” has six owners—the general partner and five limited partners—which are as follows:

1. “A”, which is the general partner and operator of “B”. You state that “A” is solely owned by “C”. You state that neither “A” nor “C” are subject to statutory disqualification pursuant to section 8a(2) or 8a(3) of the Act.
2. “D”, which is “C’s” family investment vehicle. You state that “C” owns a majority of the beneficial interests in the vehicle and that the remaining beneficial interests are owned by trusts for the benefit of “C’s” children. You also state that the grantor(s) of these trusts were “C”, his former spouse, or both. Furthermore, you state that “A” currently operates

¹ 7 U.S.C. § 1 *et seq.*

“D” pursuant to the no-action relief provided in CFTC Staff Letter No. 12-37 to operators of a Family Office (within the meaning and intent of 17 CFR § 275.202(a)(11)(G)-1) and is not required to be registered with the Commission as a CPO with respect to its operation of “D”.

3. “E”, who was a co-founder, along with “C” and “F”, of “G”, which was formed in 2003 and dissolved in 2013. You state that he was also a principal and an associated person of “G” from its inception to its dissolution. Furthermore, you state that he has spent years developing and implementing “B’s” trading algorithm with “C”.
4. “F”, who was a co-founder of “G” with “C” and “E”. You state that he was also a principal and an associated person of “G” from its inception to its dissolution. Furthermore, you state that he has spent years developing and implementing “B’s” trading algorithm with “C”.
5. “H”, who was a senior researcher at and an equity owner of “G”. You state that he is the son of “E”. You state that he is currently a senior researcher at “B”. Furthermore, you state that he has spent years developing and implementing “B’s” trading algorithm with “C”.
6. “I”, who was a senior researcher at and an equity owner of “G”. You state that she is currently a senior researcher at “B”. Furthermore, you state that she has spent years developing and implementing “B’s” trading algorithm with “C”.

You state that “B” has not and will not engage in any marketing or solicitation or publish performance records. You also state that “B” will not admit any “outsiders” as additional limited partners. In addition, you state that the existing limited partners are unable to transfer their limited partnership interests without the consent of “A”, and that “A” will not permit transfers to anyone except to existing limited partners, or similar changes that would not result in a new beneficial owner (*e.g.*, a trust for the benefit of an existing owner). Furthermore, you also state that “A” does not charge “B” management or incentive fees.

In support of your relief request, you have referenced a number of CFTC staff letters that granted relief to operators of pools that consist of investors who are family members, close friends, close business associates, or trusts of such people.² You argue that “A”, with respect to “B”, is similarly situated as the operators of such pools.

Relief Granted

Based upon the representations made in the Correspondence, the Division believes that your request has merit. Accordingly, the Division will not recommend that the Commission take

² Some of the CFTC Staff Letters that were referenced are: 93-46; 94-26; 94-70; 95-21; 96-11; 97-50; 97-56; and 99-43.

“A”

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an enforcement against “A” for failure to register as a CPO pursuant to section 4m(1) of the Act solely as a result of its role as general partner and operator of “B”; provided, that only the existing limited partners and the existing beneficial owners of “D” have beneficial ownership of “B”.

This letter, and the positions taken herein, represents the view of this Division only, and does not necessarily represent the position or view of the Commission or of any other office or division of the Commission. The relief issued by this letter does not excuse persons relying on it from compliance with any other applicable requirements contained in the 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 letter void. Finally, the Division retains the authority to condition further, modify, suspend, terminate, or otherwise restrict the terms of the relief provided herein, in its discretion.

Should you have any questions, please do not hesitate to contact Amanda Olear, Associate Director, at 202-418-5283, or Chang Jung, Special Counsel, at 202-418-5202.

Very truly yours,

Gary Barnett
Director
Division of Swap Dealer and
Intermediary Oversight