



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Swap Dealer and
Intermediary Oversight

Thomas J. Smith
Acting Director

CFTC Letter No. 15-09
Exemption
January 28, 2015
Division of Swap Dealer and Intermediary Oversight

RE: “A”, a registered commodity pool operator for “B”, “C”, and “D”

Dear :

This letter is in response to your letter dated December 5, 2014, to the Division of Swap Dealer and Intermediary Oversight (“Division”) of the Commodity Futures Trading Commission (“Commission”), as supplemented by subsequent emails with Division staff. You request on behalf of “A”, the commodity pool operator (“CPO”) for the “B” (“Master Fund”), the “C” (“Offshore Feeder”), and the “D” (“Onshore Feeder”) (collectively, the “Pools”), relief from Commission Regulation 4.7(b)(3), which requires that the CPO distribute to its participants, and file with the National Futures Association (“NFA”), an Annual Report within 90 days of the close of the Pools’ fiscal year. Instead, you propose to file a 16-month Annual Report for the Pools for the period from September 2, 2014, the date upon which the Pools began trading, through December 31, 2015, the close of the Pools’ 2015 fiscal year.

Based upon the representations made in your letter, we understand the relevant facts to be as follows. You request, on behalf of the CPO and Pools, an exemption from the requirements of Commission Regulation 4.7(b)(3) that the CPO distribute and file an Annual Report within 90 days of the close of the Pools’ fiscal year. The Pools began trading on September 2, 2014, and at the end of their 2014 fiscal year (December 31, 2014), the values of the Pools were as follows: Master Fund – \$, Offshore Feeder – \$, and Onshore Feeder – \$. The Master Fund has as its only two participants the other two Pools, and the Offshore Feeder and Onshore Feeder have 27 and 20 participants, respectively. Your request for relief is limited in that you request that the Annual Report requirement not be waived entirely. Rather, you request permission for the CPO to combine information that would be contained in the Pools’ 2014 Annual Report with the Pools’ 2015 Annual Report, creating a 16-month combined Annual Report covering the period from the Pools’ inception of trading, September 2, 2014, through December 31, 2015.

In support of your request, you have indicated that the offering memorandum for the Pools stated that the first fiscal year would end on December 31, 2015, and that participants would receive an annual report and audited financial statements 90 days after that date, in compliance with Commission regulations. All of the participants were required to submit to the

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CPO signed subscription documents acknowledging the terms of the offering memorandum, including the CPO's intent to distribute a 16-month Annual Report for the first fiscal year. Division staff believes this constitutes sufficient evidence of the participants' intent to waive their rights to a 2014 Annual Report, and instead receive a 16-month Annual Report after December 31, 2015.

Commission Regulation 4.7(b)(3) requires each registered CPO to file an Annual Report with NFA and distribute copies to the pool participants within 90 calendar days of the end of the pool's fiscal year or the permanent cessation of trading. The principal purpose of financial reporting required by Commission Regulation 4.7 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 the request of the CPO to file an Annual Report for the Pools for the 16-month period from September 2, 2014 to December 31, 2015 is neither contrary to the purposes of Commission Regulation 4.7 nor to the public interest. Accordingly, pursuant to the authority delegated by Commission Regulations 140.93 and 4.12(a), the Division will grant the CPO's request for relief from the Annual Report requirement of Regulation 4.7(b)(3), thereby permitting it to file an Annual Report for the Pools for the 16-month period from September 2, 2014 to December 31, 2015.

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 of the CPO or the Pools 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. Further, the relief granted in this letter is conditioned on the distribution to the Pools' participants and the filing with NFA of an Annual Report containing combined financial information for the period beginning September 2, 2014 and ending December 31, 2015, in full compliance with Commission Regulation 4.7(b)(3).

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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,

Thomas J. Smith
Acting Director
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