



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
Telephone: (202) 418-5326
eflaherty@cftc.gov

Division of Swap Dealer and
Intermediary Oversight

Eileen T. Flaherty
Director

CFTC Letter No. 16-49
Exemption
March 21, 2016
Division of Swap Dealer and Intermediary Oversight

Re: Relief from the annual report requirement of Commission regulation 4.7(b)(3) for “A” with respect to “B”

Dear :

This is in response to your letter dated March 10, 2016 to the Division of Swap Dealer and Intermediary Oversight (the “Division”) of the Commodity Futures Trading Commission (the “Commission”). You request on behalf of “A”, the general partner and commodity pool operator (the “CPO”) for “B” (the “Pool”), relief from the requirement in Commission regulation 4.7(b)(3) to file with the National Futures Association (“NFA”) and distribute to each Pool participant an annual report for fiscal year 2015 within 90 calendar days after the Pool’s 2015 fiscal year and an annual report for fiscal year 2016 within 90 calendar days after the Pool’s permanent cessation of trading. Instead, you propose to file and distribute a report for the Pool that covers the period of time from January 1, 2015 to March 31, 2016 that otherwise satisfies the requirements of Commission regulation 4.7(b)(3).

Based upon the representations made in your letter and other email correspondence (the “Correspondence”), we understand the facts to be as follows. You state that “A” operated the Pool pursuant to Commission regulation 4.7, and the Pool had a fiscal year end date of December 31. You state that, on March 3, 2016, the Pool permanently ceased trading and liquidated its holdings. You state that the Pool had a net asset value of \$ on March 3, 2016. You state that between December 31, 2015 and March 3, 2016, the Pool had just two investors, which were “A” and one outside investor. You state that the outside investor has waived his right to receive an audited annual report for the Pool for fiscal years 2015 and 2016, provided that he receive an audited annual report covering the period of time from January 1, 2015 to March 31, 2016. You have provided a copy of this waiver to the Division.

Commission regulation 4.7(b)(3) provides a CPO an exemption from filing and distributing an annual report in accordance with Commission regulation 4.22(c) with respect to an exempt pool it operates in accordance with Commission regulation 4.7; provided, that the CPO files with NFA and distributes to each participant an annual report for the exempt pool that complies with Commission regulation 4.7(b)(3) within 90 calendar days after the end of the

“A”

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exempt pool’s fiscal year or the permanent cessation of trading, whichever is earlier. The principal purpose of financial reporting required by Commission regulations 4.7(b)(3) 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 the Correspondence, the Division believes that granting relief is neither contrary to the purpose of Commission regulation 4.7(b)(3) nor to public interest. Accordingly, pursuant to the authority delegated by Commission regulations 140.93 and 4.12(a), “A” is hereby granted relief from the requirement in Commission regulation 4.7(b)(3) to file with NFA and distribute to the outside Pool participant an annual report within 90 calendar days after the Pools’ 2015 fiscal year and an annual report for fiscal year 2016 within 90 calendar days after the Pool’s permanent cessation of trading; provided, that “A” files with NFA and distributes to the outside Pool participant a report pursuant to Commission regulation 4.7(b)(3) that covers the period of time covering the period of time from January 1, 2015 to March 31, 2016 that otherwise satisfies the requirements of Commission regulations within 90 calendar days after the Pool’s permanent cessation of trading.

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 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,

Eileen T. Flaherty
Director
Division of Swap Dealer and
Intermediary Oversight