



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Swap Dealer and
Intermediary Oversight

Eileen T. Flaherty
Director

CFTC Letter No. 16-53
Exemption
April 28, 2016
Division of Swap Dealer and Intermediary Oversight

Re: Exemptive Relief Request Concerning Quarterly Account Statements Required by Commission Regulation 4.7(b)(2) on Behalf of “A”

Dear :

This is in response to your letter, dated April 5, 2016, 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” that “A” receive the relief provided in CFTC Letter No. 15-44¹ with respect to the additional pools listed in Appendix A (the “Additional Pools”) for which “A” serves as their registered commodity pool operator (“CPO”).

Specifically, with respect to the Additional Pools, you request relief from the requirement in Commission regulation 4.7(b)(2) for a CPO to distribute to pool participants quarterly account statements within 30 days of the end of the quarter. Instead, you propose to: (1) distribute to all Additional Pool 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) inform current and prospective Additional Pool participants that account statements will be provided within 45 days after the end of the covered month.

You state that the representations that “A” had made in CFTC Staff Letter No. 15-44 with respect to the applicable pools in that letter apply to the Additional Pools as well. Specifically, the Additional Pools invest in other collective investment vehicles operated by unaffiliated CPOs. Also, the Additional Pools often do not receive the results of the operations of its investment in the underlying collective investment vehicles until almost 30 days after the end of a quarter, which makes meeting the reporting deadline to participants in the Additional Pools difficult.

¹ CFTC Letter No. 15-44 (May 6, 2015). This letter is available on the Commission’s website, www.cftc.gov. Furthermore, “A” received the same relief provided in CFTC Letter No. 15-44 with respect to certain pools in CFTC Letter No. 15-58 (Oct. 9, 2015).

“A”

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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 “A” with respect to the operation of the Additional Pools, as identified individually in Appendix A. This exemptive relief is conditioned upon the following:

1. “A” must distribute to all Additional Pool 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. “A” must inform current and prospective Additional Pool participants 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 “A” solely with respect to the Additional 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 letter void. The Division also 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

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Appendix A

“B”
“C”