



## U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Swap Dealer and  
Intermediary Oversight

Eileen T. Flaherty  
Director

CFTC Letter No. 16-63  
Exemption  
July 11, 2016  
Division of Swap Dealer and Intermediary Oversight

**RE: “A”, the registered commodity pool operator for the “B”**

Dear :

This letter is in response to your letter dated April 15, 2016, to the Division of Swap Dealer and Intermediary Oversight (“Division”) of the Commodity Futures Trading Commission (“Commission”). You request on behalf of “A”, the commodity pool operator (“CPO”) for “B” (the “Pool” or “Feeder Fund”), 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 Pool’s fiscal year. Instead, you propose to file a 15-month Annual Report for the Pool for the period from January 1, 2015, through March 31, 2016, due to a change in the Pool’s fiscal year end made pursuant to Commission Regulation 4.22(g)(3).

Based upon the representations made in your letter, we understand the relevant facts to be as follows. The Pool is the Feeder Fund portion of a master-feeder structure that invests substantially all of its investable assets in the “C” (the “Master Fund,” and together with the Feeder Fund, the “D Pools”), which is also operated by the CPO pursuant to Commission Regulation 4.7(b).<sup>1</sup> You state that as of March 31, 2016, the net asset valuation of the structure is \$, and the Feeder Fund has 20 participants, six of whom are third-party investors. The “D” Pools are private limited companies incorporated in Jersey, and are regulated as collective investment funds in that jurisdiction. Pursuant to Commission Regulation 4.7(b)(3), the CPO would be required to file an Annual Report, including audited financial statements, for the “D” Pools for the period from January 1, 2015 through December 31, 2015.<sup>2</sup>

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<sup>1</sup> The CPO also operates four additional pools. Two of these pools are also operated pursuant to Commission Regulation 4.7(b), and the CPO claims the registration exemption under Regulation 4.13(a)(3) with respect to the remaining two pools.

<sup>2</sup> You state that since the Master Fund is not investor-facing, a separate Annual Report is not filed or distributed for it; rather, its financial statements are routinely appended to the Annual Report of the Feeder Fund when that report is filed with NFA and distributed to the participants. To that end, your request and the relief provided herein solely pertain to the Annual Report requirement applicable to the Feeder Fund.

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You state that the participants of the "D" Pools, in consultation with the CPO, determined it would be in the best interest of the "D" Pools and the participants in the Feeder Fund to privatize the "D" Pools, meaning the CPO would not enter into any new positions in those pools and would not accept any new participants. In connection with this decision, the participants also unanimously agreed to change the fiscal year-end from December 31 to March 31.<sup>3</sup> As a result of this decision, and to make the fiscal year change effective going forward, you are requesting exemptive relief that would permit the CPO to file a 15-month Annual Report for the Feeder Fund covering the period from January 1, 2015 through March 31, 2016.<sup>4</sup> In support of your request, you have also submitted waivers from all participants, indicating their consent to receive this 15-month Annual Report, in lieu of the 12-month Annual Report otherwise due to them under Regulation 4.7(b)(3).

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 Pool for the 15-month period from January 1, 2015 to March 31, 2016 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 and distribute an Annual Report for the Pool for the 15-month period from January 1, 2015 to March 31, 2016.

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.

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<sup>3</sup> Regulation 4.22(g)(3) permits a CPO to change the fiscal year of its pool, provided that the CPO provides written notice to all participants and files such notice with NFA 90 days before the change, and NFA does not disapprove of the change within 30 days after filing.

<sup>4</sup> Future Annual Reports for the Feeder Fund will cover the 12-month period from April 1 to March 31.

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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,

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