



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Swap Dealer and
Intermediary Oversight

Eileen T. Flaherty
Director

CFTC Letter No. 17-44
Exemption
July 27, 2017
Division of Swap Dealer and Intermediary Oversight

Re: Exemptive Relief Request Concerning Quarterly Account Statements Required by Commission Regulation 4.7(b)(2)

Dear :

This is in response to your letter, dated June 26, 2017, to the Division of Swap Dealer and Intermediary Oversight (“Division”) of the Commodity Futures Trading Commission (“Commission” or “CFTC”). You request that “A”, the commodity pool operator (“CPO”) of two commodity pools, receive relief from the requirement in Commission regulation 4.7(b)(2) to distribute quarterly account statements to their participants within 30 days after the end of each quarter. Instead, you propose that “A” will provide the quarterly account statement information required under Commission regulation 4.7(b)(2) on a monthly basis within 45 days after the end of each month.

Based on your letter, the Division understands the relevant facts to be as follows. You state that “A” operates the following two commodity pools (collectively, “Pools”) pursuant to Commission regulation 4.7:

1. “B”
2. “C”

You state that each Pool is a “fund of funds,” in that it invests all of its assets in other unaffiliated collective investment vehicles. You state that in order to provide accurate periodic account statements, “A” must first receive the account statements from the underlying collective investment vehicles. You state that, often times, “A” has not received the account statements from the underlying collective investment vehicles until a few days prior to the reporting period deadline under Commission regulation 4.7(b)(2). As a result, you state that it is not administratively feasible for “A” to process the data from the received account statements into the Pools’ account statements within 30 days after the end of each quarter pursuant to Commission regulation 4.7(b)(2).

As a result, you request that “A” receive relief from the requirement in Commission regulation 4.7(b)(2) that a CPO distribute to pool participants quarterly account statements

“A”

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within 30 days of the end of each quarter with respect to each Pool. Instead, you propose that “A” will: (1) distribute to all 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 Pool participants that such account statements will be provided within 45 days after the end of the covered month. In support of your request, you also reference CFTC Staff Letter No. 15-44.¹

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 to 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 the requested relief to “A” with respect to the operation of the Pools. This exemptive relief is conditioned upon the following:

1. “A” must distribute to all 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 Pool participants that such account statements will be provided within 45 calendar days after the end of the covered month.

The exemptive relief provided in this letter is applicable to “A” solely with respect to the Pools. 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

¹ May 6, 2015. This letter is available on the Commission’s website, www.cftc.gov.