



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Swap Dealer and
Intermediary Oversight

Matthew B. Kulkin
Director

CFTC Letter No. 18-25
Exemption
August 21, 2018
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 7, 2018, 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 “B” (“Pool”), receive relief from the requirement in Commission regulation 4.7(b)(2)¹ to distribute quarterly account statements to the participants of the Pool 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 Pool pursuant to Commission regulation 4.7. You state that the Pool is a “fund of funds,” in that it invests all of its assets in an unaffiliated collective investment vehicle. You state that in order to provide accurate periodic account statements, “A” must first receive the account statements from the underlying collective investment vehicle. You state that “A”, at times, receives the account statements from the underlying collective investment vehicle only a few days prior to the reporting period deadline under Commission regulation 4.7(b)(2) and has no control over when the account statements are actually received. As a result, you state that it is not administratively feasible for “A” to always process the data from the received account statements into the Pool’s 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 within 30 days of the end of each quarter with respect to the Pool. Instead, you propose that “A” will: (1) distribute to all participants in the Pool 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

¹ Commission regulations referred to herein are found at 17 C.F.R. Ch.I (2017).

“A”

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accordance with Commission regulation 4.22(h); and (2) inform current and prospective participants in the Pool that such account statements will be provided within 45 calendar days after the end of the covered month. In support of your request, you also reference CFTC Staff Letter No. 18-06.²

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 Pool. In addition to complying with all other applicable requirements contained in the Commodity Exchange Act and the Commission regulations issued thereunder, “A” must:

1. Distribute to all participants in the Pool 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) within 45 calendar days after the end of each month; and
2. Inform current and prospective participants in the Pool 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 Pool. 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.

² CFTC Staff Letter No. 18-06 (March 5, 2018), available at <https://www.cftc.gov/sites/default/files/idc/groups/public/@llettergeneral/documents/letter/2018-03/18-06.pdf>. This and other Commission letters are available on the Commission’s website, www.cftc.gov.

“A”

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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,

Matthew B. Kulkin
Director
Division of Swap Dealer and
Intermediary Oversight