



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Swap Dealer and
Intermediary Oversight

Matthew B. Kulkin
Director

CFTC Letter No. 19-03 Exemption February 22, 2019

October 2, 2018

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 August 27, 2018, to the Division of Swap Dealer and Intermediary Oversight (the “Division”) of the Commodity Futures Trading Commission (the “Commission” or “CFTC”). You request that “A”, the commodity pool operator (the “CPO”) of numerous commodity pools operated pursuant to Commission regulation 4.7 (collectively, the “Pools,” and listed individually in Appendix A) that invest in one or more other collective investment vehicles operated by unaffiliated CPOs, receive relief from the 30-day period for distribution of quarterly account statements to participants under Commission regulation 4.7(b)(2).¹ You propose instead to provide the information required under Commission regulation 4.7(b)(2) on a monthly basis within 45 days of the month end.

Based on your letter, the Division understands the relevant facts to be as follows. You state that “A” operates the Pools pursuant to Commission regulation 4.7. You state that each Pool is a “fund of funds,” in that it invests either directly or indirectly in other unaffiliated collective investment vehicles. You state that in order to provide accurate periodic account statements, “A” and its administrator must first receive financial information from the underlying collective investment vehicles. You state that, historically, and despite its best efforts, “A” and its administrator have not received this financial information in sufficient time to prepare the Pools’ periodic reports within 30 days after the end each reporting period. You state that, as such, it has been very difficult to distribute quarterly account statements to participants within 30 days after the end of each quarter as required by Commission regulation 4.7(b)(2).

¹ 17 CFR 4.7(b)(3). Commission regulations referred to herein are found at 17 C.F.R. Ch.I (2018). The Commodity Exchange Act, Commission regulations, and any staff letters cited herein may be accessed through the Commission’s website, <http://www.cftc.gov>.

“A”

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Accordingly, you request that the Division provide “A” relief from the requirement in Commission regulation 4.7(b)(2) that a CPO prepare and distribute to pool participants quarterly account statements 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 prior instances several CFTC Staff Letters have provided similar relief.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 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 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.

If you have any questions regarding this letter, please contact Amanda Olear, Associate Director, at 202-418-5283, or aolear@cftc.gov, or Peter Sanchez, Special Counsel, at 202-418-5237, or psanchez@cftc.gov.

Very truly yours,

Matthew B. Kulkin
Director

² See, CFTC Staff Letters 15-44, 15-58, 16-53, 16-54 and 16-67.

Appendix A

Fund of Funds:

1. “B”
2. “C”
3. “D”
4. “E”
5. “F”
6. “G”