



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
Telephone: (202) 418-5000

Division of Swap Dealer and
Intermediary Oversight

Joshua B. Sterling
Director

Re: No-Action Positions for Commodity Pool Operators in Response to the COVID-19 Pandemic

Ladies and Gentlemen:

This letter is in response to a request received by the Division of Swap Dealer and Intermediary Oversight (“**DSIO**”) of the Commodity Futures Trading Commission (“**CFTC**” or “**Commission**”) from multiple market participants regarding regulatory obligations of persons that are registered with the Commission as commodity pool operators (“**CPOs**”). Each CPO is referred to herein as a “registrant.”

The World Health Organization declared the coronavirus disease 2019 (“**COVID-19**”) outbreak a global pandemic on March 11, 2020. DSIO understands from registrants and their representatives that the COVID-19 pandemic may present challenges in timely meeting certain of their obligations under the Commodity Exchange Act (“**CEA**”) and Commission regulations. These registrants may have significant operations in affected areas or areas that may become affected by the COVID-19 pandemic. Disruptions in transportation and limited access to facilities and support staff as a result of the COVID-19 pandemic could hamper efforts of registrants to meet their regulatory obligations. In light of these developments, DSIO is issuing this letter to assist affected registrants with responding to the COVID-19 pandemic by providing temporary relief from certain obligations under the CEA and Commission regulations.

In connection with an industry-wide response to the COVID-19 pandemic, no-action relief has been requested for failure to comply with certain Commission regulations where compliance is anticipated to be particularly challenging or impossible because of displacement of registrant personnel from their normal business sites due to community non-pharmaceutical interventions such as social distancing and closures in response to the COVID-19 pandemic.

I. DSIO No-Action Positions

In order to support an orderly response to the COVID-19 pandemic, DSIO believes that the no-action positions set forth herein are warranted. Registrants relying on the relief

provided by this letter are expected to establish and maintain a supervisory system that is reasonably designed to supervise the activities of personnel while acting from an alternative or remote location during the COVID-19 pandemic.¹ DSIO further expects that as COVID-19-related risks decrease, registrants will return to compliance with all regulatory obligations from which relief has been provided.

DSIO will not recommend that the Commission take an enforcement action against any CPO for the failure to comply with the following Commission regulations, subject to the applicable conditions stated below:

- (1) ***Filing of Form CPO-PQR under Commission regulation 4.27.*** Any requirement that a Small or Mid-Sized CPO file an annual report on Form CPO-PQR pursuant to Commission regulation 4.27, provided that such filing is made by **May 15, 2020**; or any requirement that a Large CPO file a quarterly report on Form CPO-PQR for Q1 2020 pursuant to Commission Regulation 4.27, provided that such filing is made by **July 15, 2020**.
- (2) ***Pool Annual Reports under Commission Regulations 4.7(b)(3) and 4.22(c).*** Any requirement that a CPO with a pool annual report due on or before April 30, 2020 file such report pursuant to Commission regulations 4.7(b)(3) or 4.22(c), provided that the annual certified financial statements for its operated commodity pools are filed with the National Futures Association and distributed to pool participants no later than **45 days** after the due date for such report. This relief does not foreclose a CPO from requesting an additional extension of time not to exceed a total of 180 days from the end of the pool's fiscal year consistent with Commission regulation 4.22(f).
- (3) ***Pool Periodic Account Statements under Commission Regulations 4.7(b)(2) or 4.22(b).*** Any requirement that a CPO distribute periodic account statements to pool participants on either a monthly or quarterly basis under Commission regulations 4.7(b)(2) or 4.22(b)(3) provided that such statements are distributed to participants within **45 days** of the end of the reporting period for all reporting periods ending on or before April 30, 2020.

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¹ DSIO notes that the National Futures Association (“NFA”) has issued a notice to its members (“Members”) regarding the applicability of “branch office requirements” to Members responding to the COVID-19 pandemic. Pursuant to the notice, NFA has stated that it will not pursue a disciplinary action against a Member that permits associated persons (“APs”) to temporarily work from locations not listed as a branch office and without a branch manager provided that the Member implements and documents alternative supervisory methods to adequately supervise the APs' activities and meet its recordkeeping requirements. See NFA Notice I-20-12 Coronavirus Update—NFA Branch Office Requirements, available at: <https://www.nfa.futures.org/news/newsNotice.asp?ArticleID=5214>.

II. Conclusion

DSIO recognizes that registrants and other affected market participants may require additional or different relief in their efforts to comply with the requirements of the CEA and Commission regulations. As a result, any registrants that require other relief are encouraged to contact DSIO staff. DSIO staff will address issues on a case-by-case basis in light of the requesting registrant's particular fact and circumstances.

This letter and the positions taken herein represent the views of DSIO only, and do not necessarily represent the position or view of the Commission or of any other office or division of the Commission. The relief issued by this letter does not excuse persons relying on it from compliance with any other applicable requirements contained in the CEA or in Commission regulations. Further, this letter and the positions taken herein are based upon the facts and circumstances presented to DSIO. Any different, changed, or omitted material facts or circumstances might render the relief provided by this letter void.

Finally, as with all staff letters, the DSIO retains the authority to condition further, modify, suspend, terminate, or otherwise restrict the terms of relief provided herein, in its discretion.

If you have any questions concerning this correspondence, please contact Amanda Olear, Deputy Director, DSIO, at aolear@cftc.gov.

Very truly yours,

Joshua B. Sterling
Director
Division of Swap Dealer and Intermediary Oversight

cc: Regina Thoele, Compliance
National Futures Association, Chicago



March 19, 2020

Via Electronic Mail

Josh Sterling
Director
Division of Swap Dealer and Intermediary Oversight
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Regulatory Relief for CPOs

Dear Director Sterling:

Managed Funds Association¹ (“**MFA**”) is writing to seek COVID-19 related relief on behalf of commodity pool operators (“**CPOs**”) registered with the Commodity Futures Trading Commission (“**Commission**”) with respect to upcoming filing deadlines for Form CPO-PQR, pool annual reports, and periodic account statements. As you are aware, in response to the COVID-19 epidemic, many companies have directed their employees to work from home. Our members are working toward making their upcoming filings, coming due as early as March 31. However, some members are finding that meeting their upcoming filing deadlines may prove challenging as legal, compliance and technology resources are being diverted to address unexpected European regulatory actions (*i.e.*, short sale bans) and business operations relating to the current remote-work circumstance.

We are requesting that the staff grant CPOs a filing extension of 45 days, consistent with the timeframe which the Securities and Exchange Commission has granted investment advisers with respect to Form PF, to make the following filings:

- Form CPO-PQR, pursuant to Commission regulation 4.27;
- Pool Annual Reports, pursuant to Commission regulation 4.7(b)(3) and 4.22(c); and
- Pool periodic account statements, pursuant to Commission regulations 4.7(b)(2) or 4.22(b).

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¹ MFA represents the global alternative investment industry and its investors by advocating for sound industry practices and public policies that foster efficient, transparent, and fair capital markets. MFA, based in Washington, DC, is an advocacy, education, and communications organization established to enable hedge fund and managed futures firms in the alternative investment industry to participate in public policy discourse, share best practices and learn from peers, and communicate the industry’s contributions to the global economy. MFA members help pension plans, university endowments, charitable organizations, qualified individuals and other institutional investors to diversify their investments, manage risk, and generate attractive returns over time. MFA has cultivated a global membership and actively engages with regulators and policy makers in Asia, Europe, North and South America, and many other regions where MFA members are market participants.

Director Sterling
March 19, 2020
Page 2 of 2

MFA appreciates your consideration of our request for relief on behalf of CPO registrants. We would be pleased to speak with you or your staff if you have questions or comments. Please do not hesitate to call the undersigned at (202) 730-2600.

Sincerely,

/s/ Jennifer W. Han

Jennifer W. Han
Associate General Counsel