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**Request for Exemption from  
17 CFR §§ 4.7(b)(4) and  
4.22(c)(7)**

February 21, 2024

**By Email to: aolear@cftc.gov**

Amanda Olear  
Director, Market Participants Division  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, D.C. 20581

Re: Request for Exemption From Audited Annual Financial Statements Requirement  
for III Capital Management Pursuant to Rule 140.99(a)(1)

Dear Ms. Olear:

This is a request for an exemptive letter (or such other type of relief that might be appropriate) submitted to the Market Participants Division (the “Division”) on behalf of our client, III Capital Management (NFA ID# 0250468), a Nevada general partnership, 777 Yamato Road, Suite 300, Boca Raton, FL 33431, Telephone No. (561) 544-4400.

Commodity Futures Trading Commission (“Commission or CFTC”) staff may obtain additional information from Nathan A. Howell at nhowell@sidley.com or at the address and telephone number shown above, or from Karen Hansen, General Counsel of III Capital Management, at 777 Yamato Road, Suite 300, Boca Raton, FL 33431, Telephone No. (561) 544-4450.

### Relief Requested

We request, on behalf of III Capital Management, that the Division issue an “exemptive letter,” as defined in Commission Regulation 140.99(a)(1),<sup>1</sup> pursuant to which III Capital Management, as commodity pool operator (“CPO”) of III Alpha One Convexity Fund Ltd. (NFA ID# P169924) (the “Pool”), would be permitted, within 90 days of the Cessation Date (as defined below) to deliver to the Participant (as defined below) and file electronically with the National Futures Association (“NFA”), an audited report (the “Alternative Report”) for the Pool for the period beginning January 1, 2023 and ending on the date on which the Pool permanently ceased

<sup>1</sup> All references herein to Commission regulations refer to the regulations as codified in 17 CFR Chapter 1.

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trading, which occurred on January 31, 2024 (the “Cessation Date”), in lieu of delivering and filing separate audited Annual Reports for (a) the fiscal year ending December 31, 2023 and (b) the period from January 1, 2024 through the Cessation Date, pursuant to Commission Regulations 4.7(b)(4) and 4.22(c). The Alternative Report would be prepared pursuant to the Commission’s Part 4 regulations, but for the time period to be covered by the Alternative Report, which would be 13 months.

### Facts and Analysis

The Pool is operated by III Capital Management pursuant to Commission Regulation 4.7. The Pool has a single participant (the “Participant”). The Pool will have operated continuously from January 1, 2023 through its permanent cessation of trading and the effective date of the final redemption, which occurred on January 31, 2024. The Net Asset Value of the Pool following such final redemption on January 31, 2024 was zero.

Commission Regulations 4.7(b)(3) and 4.22(c) require a CPO to distribute to the participants in a commodity pool operated pursuant to Commission Regulation 4.7, and file with NFA, an Annual Report within 90 calendar days after the end of the Pool’s fiscal year or the permanent cessation of trading, whichever is earlier. This Annual Report must include, among other things, financial statements for the Pool, which must be audited by an independent public accountant pursuant to Commission Regulation 4.22(d). Commission Regulation 4.22(c)(7) allows a CPO, as an alternative to the Annual Report required by Commission Regulation 4.7(b)(4), to provide a “liquidation statement” for a pool that has ceased operation prior to, or as of, the end of the fiscal year, within 90 days of the permanent cessation of trading.

But for the relief requested herein, III Capital Management would be required to prepare, deliver, and submit to NFA two separate sets of financial statements: (1) an audited Annual Report pursuant to Commission Regulation 4.7(b)(3) for the fiscal year ending December 31, 2023, and (2) an audited Annual Report pursuant to Commission Regulation 4.7(b)(3) or a liquidation statement pursuant to Commission Regulation 4.22(c)(7) for the period from January 1, 2024 to the Cessation Date.

III Capital Management is proposing to instead prepare, deliver to the Participant, and submit to NFA a single **audited** report pursuant to Commission Regulation 4.7(b)(4) for the period from January 1, 2023 until the Cessation Date. The Participant and NFA would receive substantially the same financial information as would otherwise be required under Commission Regulation 4.7(b)(4), but for the period of January 1, 2023 to the Cessation Date as opposed to separate reports, one for 2023 and one for the first month of 2024. Preparing and arranging for the audit of two separate reports instead of a single report would entail significant additional

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expense. Such additional expense, as provided in the constituent documents for the Pool, would be paid by the Pool itself, and therefore would result in an equivalent reduction in the ultimate redemption value of the Participant's interest in the Pool. III Capital Management has discussed this matter with the Participant and both parties agree that it is in the Pool's and the Participant's best interest to not incur this additional expense.

The Commission's Division of Swap Dealer and Intermediary Oversight ("DSIO"), the predecessor to the Division, has granted relief under similar circumstances for a commodity pool operator in respect of Annual Reports prepared pursuant to Commission Regulations 4.7(b)(3) and 4.22(c).<sup>2</sup> Similar to III Capital Management, the commodity pool operator in Letter 17-20 requested relief with respect to the financial statements of a liquidating commodity pool operated pursuant to Commission Regulation 4.7. In that case, the commodity pool ceased trading 31 days after the end of the pool's fiscal year. DSIO granted the commodity pool operator exemptive relief, allowing the commodity pool operator to deliver and file to the pool's participants a report containing combined audited financial statements for the 13 month period ending with the cessation of trading. In issuing the relief under Letter 17-20, DSIO explained that the commodity pool had only five participants, all of whom had agreed to waive the right to separate annual reports, and the additional cost associated with producing separate reports would not have served the participants' interests. The rationale set forth in Letter 17-20 was that the principal purpose of the reporting required by Commission Regulations 4.7 and 4.22 is to ensure that pool participants receive accurate, fair and timely information on the overall trading performance and financial condition of the pool, which would not have been violated by granting the requested relief. The same rationale applies here. There is a single Participant in the Pool and such Participant has agreed to waive its right to receive separate reports. The receipt of a single audited report instead of two separate audited reports will not materially diminish the accuracy, fairness or timeliness of the information in the report.

### Conclusion

We therefore respectfully request, on behalf of III Capital Management, that the Division provide it with an exemptive letter pursuant to Commission Rule 140.99(a)(1) allowing III Capital Management to prepare and distribute to the Participant, and file with NFA, a report pursuant to Commission Regulation 4.7(b)(4) for the period from January 1, 2023 through the Cessation Date in lieu of preparing separate audited financial statements for 2023 and for the period from January 1, 2024 until the Cessation Date. Should the Division desire any additional

<sup>2</sup> CFTC Staff Letter No. 17-20 ("Letter 17-20").

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information in support of this request, we would appreciate an opportunity to discuss with the Division these matters prior to the issuance of a response.

Very truly yours,



Nathan A. Howell

cc: Karen Hansen, III Capital Management  
Zach Paterick, Sidley Austin LLP

## CERTIFICATION

In accordance with the requirements of the Commodity Futures Trading Commission (“CFTC”) Regulation 140.99(c)(3),<sup>3</sup> I hereby certify that the material facts set forth in the letter dated February 21, 2024 from Nathan A. Howell of Sidley Austin LLP to Amanda Olear, Director of the Market Participants Division of the Commodity Futures Trading Commission, to which this certification is attached, are true and complete to the best of my knowledge. Further, I will undertake to ensure that the staff at the CFTC is informed promptly in writing if any material fact or circumstance described in that letter ceases to be true and complete prior to issuance of the letter requested. Additionally, if a material change in any material fact or circumstance described in that letter occurs subsequent to issuance of the letter requested, I will undertake to ensure that the staff at the CFTC is informed promptly in writing.

Dated: February 21, 2024



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Karen Hansen  
General Counsel  
III Capital Management

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<sup>3</sup> 17 CFR § 140.99(c)(3).