



## U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Swap Dealer and  
Intermediary Oversight

Matthew B. Kulkin  
Director

CFTC Letter No. 19-01  
Exemption  
January 28, 2019  
Division of Swap Dealer and Intermediary Oversight

**RE: Exemptive Relief Request Concerning Quarterly Account Statements Required by Regulation 4.7(b)(2) on Behalf of “A” and Several Commodity Pools**

Dear :

This is in response to your letter dated December 3, 2018, to the Division of Swap Dealer and Intermediary Oversight (“Division”) of the Commodity Futures Trading Commission (“Commission” or “CFTC”). You request on behalf of “A”, the commodity pool operator (“CPO”) of the commodity pools listed in the attached Appendix A (the “Pools”), relief from the requirement in 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 to provide the information required to be contained in a quarterly account statement by Regulation 4.7(b)(2) on a monthly basis, and 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 the CPO operates the Pools pursuant to an exemption under Regulation 4.7. You state that each Pool invests directly or indirectly in other unaffiliated, third-party collective investment vehicles. You state that in order to provide accurate account statements, the CPO must first receive financial information from the underlying collective investment vehicles. You additionally state that this information is frequently not distributed to the CPO until the last remaining days of the 30-day period following the end of a reporting period. As such, you state that it has been difficult for the CPO to process the information received, include it in the Pools’ account statements, and distribute those statements to participants within the 30-day period prescribed by Regulation 4.7(b)(2).

Accordingly, you request that the Division provide the CPO exemptive relief from the requirement in 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 the CPO will: (1) distribute to all Pool participants within 45 days after the end of each month an account statement that includes all of the information required to be included in a Regulation 4.7(b)(2) quarterly account statement, and that is signed and affirmed in accordance with Regulation 4.22(h), and (2) inform current and prospective Pool participants

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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 several CFTC Staff Letters that have provided similar relief.<sup>1</sup>

In consideration of the foregoing, the Division concludes that your request is neither contrary to the purposes of Regulation 4.7(b)(2) nor to the public interest. Therefore, pursuant to the authority under Regulation 4.12(a), as delegated to the Division by the Commission under Regulation 140.93, the Division hereby grants the requested relief to the CPO with respect to the operation of the Pools. This exemptive relief is conditioned upon the following:

1. The CPO 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 Regulation 4.7(b)(2) account statement and that is signed and affirmed in accordance with Regulation 4.22(h); and
2. The CPO 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 the CPO solely with respect to the operation of 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’s regulations issued thereunder. Further, this letter, and the relief contained herein, is based upon the representations made to the Division. 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.

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<sup>1</sup> See CFTC Staff Letters 16-53, 16-54, 16-67, 16-83, 17-44, 18-05, 18-06, and 18-17 (granting exemptive relief to CPOs to permit such CPOs to provide monthly account statements to participants within 45 days of the month-end, rather than quarterly account statements within 30 days of the quarter-end).

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If you have any questions regarding this letter, please contact Amanda Olear, Associate Director and Acting Deputy Director, at 202-418-5283 or aolear@cftc.gov, or Elizabeth Groover, Special Counsel, at 202-418-5985 or egroover@cftc.gov.

Very truly yours,

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

**Appendix A: Pools Receiving Exemptive Relief**

**“B”**  
**“C”**  
**“D”**  
**“E”**  
**“F”**  
**“G”**  
**“H”**  
**“I”**  
**“J”**  
**“K”**  
**“L”**  
**“M”**  
**“N”**  
**“O”**  
**“P”**  
**“Q”**