



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Swap Dealer and
Intermediary Oversight

Gary Barnett
Director

CFTC Letter No. 14-100
Exemption
May 13, 2014
Division of Swap Dealer and Intermediary Oversight

Re: “A”, a registered commodity pool operator for “B”

Dear :

This is in response to your correspondence dated April 27, 2014, to the Division of Clearing and Intermediary Oversight (“Division”) of the Commodity Futures Trading Commission (“Commission”). You request on behalf of “A”, the commodity pool operator (“CPO”) for “B” (the “Pool”), an exemption from the requirement of Regulation 4.7(b)(3) that the Pool files its Annual Report within 90 days of the end of the Pool’s fiscal year.¹ Instead, you propose to file an 14-month Annual Report for the period from January 1, 2013 through the Pool’s liquidation date of February 28, 2014.

Based upon the representations made in your correspondence, we understand the facts to be as follows. You request, on behalf of the CPO and Pool, an exemption from the requirements of Regulation 4.7(b)(3) that the CPO distribute and file the Annual Report within 90 days of the close of the Pool’s fiscal year. You instead request that you be permitted to file an Annual Report for the Pool for the 14-month period from January 1, 2013 through the Pool’s liquidation date of February 28, 2014. You have provided documentation stating that the National Futures Association has granted the CPO an extension for filing the Pool’s annual report to May 15, 2014. You state that the net asset value of the Pool as of February 28, 2014 was \$. You state that the funds will be returned to participants by May 15, 2014. You further state that the CPO has retained a portion of the assets as a holdback for expenses including accounting fees, legal expenses, and brokerage fees and software, among others. You state that this holdback will be returned as each bill is finalized and expect the balance to be returned to participants by June 30, 2014. You state that the Pool has 3 participants, and you have attached waivers from the participants evidencing their intention of waiving their rights to receive an Annual Report for fiscal year 2013 and accepting the provision of a 14-month final liquidation statement.

¹ Commission Regulations referred to herein are found at 17 C.F.R. Ch. I (2014).

Regulation 4.7(b)(3) requires each registered CPO to file a certified Annual Report with the Commission and distribute copies to the pool participants within 90 calendar days after the end of the pool's fiscal year or the permanent cessation of trading. The principal purpose of financial reporting required by Regulation 4.7 is to ensure that pool participants receive accurate, fair and timely information on the overall trading performance and financial condition of the pool. Based upon the representations made in your letter, the Division believes that granting the request of "A" is neither contrary to the purpose of Regulation 4.7 nor to the public interest. Accordingly, pursuant to the authority delegated by Regulations 140.93 and 4.12(a), you are hereby granted relief from the Annual Report requirements of Regulation 4.7(b)(3) for the Pool such that you are instead permitted to file an Annual Report for the Pool for the 14-month period from January 1, 2013 to February 28, 2014.

The relief granted herein is conditioned upon the inclusion of a detailed discussion in the footnotes to the financial statements of the Annual Reports regarding the funds held back and the CPO's plan regarding the return of any unused funds to participants. This exemption does not relieve the CPO from any other applicable requirements of Part 4 of the Commission's Regulations. Further, this letter, and the relief contained herein, is based upon the representations provided to us. Any different, changed or omitted material facts or circumstances might render this letter void.

Should you have any questions, please do not hesitate to contact Amanda Olear, an Associate Director, at (202) 418-5283.

Very truly yours,

Gary Barnett
Director
Division of Swap Dealer and
Intermediary Oversight