



## U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Clearing and  
Intermediary Oversight

Ananda Radhakrishnan  
Director

CFTC Letter No. 10-37  
Exemption  
November 17, 2010  
Division of Clearing and Intermediary Oversight

Re: Regulations 4.23 and 4.33 – Request for Exemption from Books and Records  
Location Requirement

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Dear :

This is in response to your letter dated October 4, 2010 to the Division of Clearing and Intermediary Oversight (the “Division”) of the Commodity Futures Trading Commission (the “Commission”). By your letter, you seek, on behalf of “A”, a registered commodity pool operator (“CPO”) and commodity trading advisor (“CTA”), exemption from the requirement set forth in Commission Regulations 4.23 and 4.33 that a CPO and CTA, respectively, maintain certain books and records at its main business office and in accordance with Commission Regulation 1.31.<sup>1</sup>

Based upon representations made in your letter, we understand the relevant facts to be as follows. “A” is a Cayman Islands company that maintains its main office in the Cayman Islands.<sup>2</sup> “A” maintains a branch office in Monaco, which is also the location of “B”, a registered CPO and CTA.<sup>3</sup> “A” and “B” are both owned by “C”, and they have common management and employees, both located in Monaco. “B” provides back office support for “A”, including market research, daily tracking of positions and other administrative functions. You are requesting that “A” be exempted from the location requirement of Regulations 4.23 and 4.33, so that “A” may maintain the records required by the regulations at its branch office in Monaco.

Based upon the representations contained in your letter, the Division believes that granting the requested exemption would not be contrary to the public interest and the purposes of

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<sup>1</sup> Commission Regulations may be found at [www.cftc.gov](http://www.cftc.gov).

<sup>2</sup> The full address of “A’s” office in the Cayman Islands is “D”, Cayman Islands.

<sup>3</sup> The full address of “A’s” branch office, which is also “B’s” main office, is “E” Monaco.

Regulations 4.23 and 4.33.<sup>4</sup> Accordingly, by the authority delegated to it under Commission Regulation 140.93(a)(1), the Division hereby exempts “A” from the books and records location requirement of Regulations 4.23 and 4.33, such that it may maintain the books and records required under these rules at its branch office in Monaco. This relief is, however, subject to the conditions that: (1) “A” notifies the Division if the location of any books and records required by Regulations 4.23 and 4.33 changes from that as represented to the Division; (2) “A” remains responsible for ensuring that all books and records required by Regulations 4.23 and 4.33 are maintained in accordance with Regulation 1.31 and for assuring the availability of such records in accordance with the Commodity Exchange Act (the “Act”)<sup>5</sup> and Commission regulations; (3) within forty-eight hours after a request by a representative of the foregoing, “A” will obtain the original books and records from its branch office in Monaco and provide them for inspection at “A’s” main business office in the Cayman Islands or elsewhere as provided for in Regulations 4.23 and 4.33 (*e.g.*, in the United States); and (4) “A” discloses in its CPO and CTA Disclosure Documents that all books and records required under Regulations 4.23 and 4.33 are kept in the branch office in Monaco.

The relief issued by this letter does not excuse “A” from compliance with any other applicable requirements contained in the Act or in the Commission’s regulations issued thereunder. For example, “A” remains subject to all antifraud provisions of the Act and the Commission’s regulations, as well as the reporting requirements for traders set forth in Parts 15, 18 and 19 of the Commission’s regulations, and all applicable provisions of Part 4.

This letter, and the exemption granted herein, is based upon the representations made to us and is subject to compliance with the conditions stated above. Any different, changed or omitted material facts or circumstances might render the exemption void. In this regard, you must notify the Division immediately in the event that the operations or activities of “A” or “B”, including the location of “A’s” books and records, change in any material respect from those as represented to us.

If you have any questions concerning this correspondence, please contact me or Zachary J. King, an attorney on my staff, at (202) 418-5364.

Very truly yours,

Ananda Radhakrishnan  
Director

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<sup>4</sup> See, CFTC Interpretive Letter No. 02-20 [2002-2003 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 28,953 (Feb. 27, 2002); CFTC Interpretive Letter No. 00-60 [1999-2000 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 28,134 (Apr. 28, 2000).

<sup>5</sup> 7 U.S.C. §1 *et seq.* The Act may similarly be accessed through the Commission’s website at [www.cftc.gov](http://www.cftc.gov).