



## U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre  
1155 21st Street, NW, Washington, DC 20581  
Telephone: (202) 418-5977  
Facsimile: (202) 418-5407  
*gbarnett@cftc.gov*

Division of Swap Dealer and  
Intermediary Oversight

Gary Barnett  
Director

CFTC Letter No. 14-11  
Exemption  
January 31, 2014  
Division of Swap Dealer and Intermediary Oversight

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

Dear :

This is in response to your letter, dated December 23, 2013, to the Division of Swap Dealer and Intermediary Oversight (the “Division”) of the U.S. Commodity Futures Trading Commission (the “Commission”). You request on behalf of “A”, the commodity pool operator (the “CPO”) for “B” (the “Feeder Fund”) and “C” (the “Master Fund”, and together with the Feeder Fund, the “Pools” and each, a “Pool”), an exemption from the requirement to have an independent public accountant audit the financial statements of each Pool’s annual report pursuant to Commission regulations 4.7(b)(3)(i) and 4.22(d) for the fiscal year ending on December 31, 2013.

Based upon the representations made in your letter and other telephone and email correspondence with your counsel (the “Correspondence”), we understand the facts to be as follows. You request, on behalf of “A”, an exemption from the requirement to have an independent public accountant audit the financial statements of each Pool’s annual report pursuant to Commission regulations 4.7(b)(3)(i) and 4.22(d) for the fiscal year ending on December 31, 2013. You state that the Pools are segregated portfolios in two separate segregated portfolio companies organized under the laws of the Cayman Islands with limited liability amongst the segregated portfolios. You state that both Pools commenced trading on October 1, 2013. You state that the Feeder Fund has two participants and has a net asset value of \$ as of December 3, 2013. You state that the Master Fund has only one participant, its Feeder Fund, and has a net asset value of \$ as of December 3, 2013. You state that all participants in each of the Pools have agreed to waive their right receive an annual report with audited financial statements covering the period from October 1, 2013 to December 31, 2013 and you have provided copies of such waivers to the Division. Furthermore, you state that “A” will:

1. File and distribute an unaudited annual report that otherwise complies with Commission regulation 4.7(b)(3)(i) for the period from October 1, 2013 to December 31, 2013; and

“A”

Page 2

2. File an audited annual report for the 15-month period from October 1, 2013 to December 31, 2014.

Commission regulation 4.7(b)(3) provides a CPO an exemption from filing and distributing an annual report in accordance with Commission regulation 4.22(c) with respect to an exempt pool it operates in accordance with Commission regulation 4.7; provided, that the CPO files with the National Futures Association (“NFA”) and distributes to each participant an annual report for the exempt pool that complies with Commission regulation 4.7(b)(3) within 90 calendar days after the end of the exempt pool’s fiscal year or the permanent cessation of trading, whichever is earlier. Commission regulation 4.22(d) requires, among other things, financial statements in such annual reports to be audited by an independent public accountant. The principal purpose of financial reporting required by Commission regulations 4.7(b)(3) and 4.22(d) 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 the Correspondence, the Division believes that granting the request of “A” is neither contrary to the purpose of Commission regulations 4.7(b)(3) and 4.22(d) nor to public interest. Accordingly, pursuant to the authority delegated by Commission regulations 140.93 and 4.12(a), “A” is hereby granted relief from the requirement to file and distribute an annual report with audited financial statements to participants of each Pool pursuant to Commission regulations 4.7(b)(3) and 4.22(d); provided, that:

1. “A” files with NFA and distributes to participants of each Pool an annual report with unaudited financial statements that otherwise complies with the entirety of Commission regulations 4.7(b)(3) and 4.22(d) that covers the period from October 1, 2013 to December 31, 2013; and
2. Within 90 calendar days after the end of the pool’s fiscal year in 2014, “A” files with NFA and distributes to the participants of each Pool an annual report with audited financial statements that covers the period from October 1, 2013 to December 31, 2014 that complies with the entirety of Commission regulations 4.7(b)(3) and 4.22(d).

This letter, and the positions taken herein, represent the view of this Division 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 Commodity Exchange Act or in the Commission regulations issued thereunder. Further, this letter, and the relief contained herein, is based upon the representations made to the Division. Any different, changed or omitted material facts or circumstances might render this interpretation void.

“A”

Page 3

Should you have any questions, please do not hesitate to contact Amanda Olear, Associate Director, at 202-418-5283, or Chang Jung, Attorney-Advisor, at 202-418-5202.

Very truly yours,

Gary Barnett  
Director  
Division of Swap Dealer and  
Intermediary Oversight