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UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

Cillian Holdings LLC and Jeremy R. O'Friel,

v.

National Futures Association.

CFTC Docket No. CRAA 20-03

OPINION AND ORDER

Cillian Holdings LLC and Jeremy R. O'Friel ("Petitioners") have filed a petition (the "Petition") requesting that the CFTC issue a 90 day stay of the portion of a National Futures Association ("NFA") order requiring that Petitioners repay $295,141.87 in unpaid and impermissible commodity pool loans by November 30, 2020. NFA issued the order in June 2020 in connection with a November 2019 disciplinary action. Petitioners do not challenge NFA's decision on the merits.

Commission Rule 171.22 provides that "any aggrieved party may seek from the Commission a stay pending consideration of the merits of an appeal by filing and serving an appropriate petition." 17 C.F.R. § 171.22(b)(1). However, Petitioners are not seeking a review of any NFA decision, and "are in agreement with and acceptance of the majority of the Decision." (Petition at 1.) Petitioners seek only to stay the deadline by which they must repay the balances on the impermissible commodity pool loans. (*Id*. at 1-2.) Such a stay, by itself, is not contemplated by Rule 171.22. Moreover, the Rule places the burden on Petitioners to demonstrate "[t]he likelihood that a challenge to the merits of the decision will be successful," among other factors. 17 C.F.R. § 171.22(b)(1) & (c). Because Petitioners have not challenged the merits of any NFA decision, much less demonstrated a likelihood of success in such a challenge, they cannot meet the criteria for a stay of the NFA's order.

To the extent the Petition may be construed as a challenge to NFA's chosen sanction, Petitioners do not meet their burden to show the deadline is "excessive or oppressive," as required under the Commodity Exchange Act. *See* 7 U.S.C. § 21(i)(2). Petitioners offer only their concern that they "will [] have a situation where the firm will be suspended for roughly 90 days before then being reinstated" under the terms of the NFA's order, and their conclusory statement that this "will create undue hardship and anguish for the pool participants for the period, whilst ultimately not increasing or decreasing any risk that they may have." (Petition at 2.) Beyond these conclusory allegations, Petitioners do not provide, for example, details as to their current funds available for payment on the loans and how they would fully repay the loans if the Commission were to modify the NFA's penalty by extending the repayment due date. Indeed, the over five-month period allowed by NFA is significantly more lenient than the Commission's usual practice of ordering enforcement defendants to pay monetary sanctions within 10 to 30 days. *See, e.g.*, *In re JPMorgan Chase & Co.*, CFTC No. 20-69, 2020 WL 5876730, at *12-14 (CFTC Sept. 29, 2020); *In re A&A Trading, Inc*., CFTC No. 20-77, 2020 WL 5876726, at *8-9 (CFTC Sept. 30, 2020); *In re Catalyst Cap. Advisors LLC*, CFTC No. 20-13, 2020 WL 468028, at *7-9 (CFTC Jan. 27, 2020); *In Re ARB Trading Grp. LP*, CFTC No. 20-74, 2020 WL 5876727, at *5 (CFTC Sept. 30, 2020). Under these circumstances, the order to repay the loan is not excessive or oppressive.

The Petition for stay is accordingly denied.

CONCLUSION

For the foregoing reasons, we deny the Petition.

IT IS SO ORDERED.

By the Commission (Chairman TARBERT and Commissioners QUINTENZ, BEHNAM, STUMP, and BERKOVITZ).

Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission

Dated: November 30, 2020