



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Swap Dealer and
Intermediary Oversight

Matthew B. Kulkin
Director

CFTC Letter No. 18-17
Exemption
May 1, 2018
Division of Swap Dealer and Intermediary Oversight

Re: Exemptive Relief Request Concerning Quarterly Account Statements Required by Commission Regulation 4.7(b)(2) on Behalf of “A” and “B”

Dear :

This is in response to your letter, dated March 20, 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” that “A” receive the relief provided in CFTC Staff Letter Nos. 14-142¹ and 16-83² with respect to the additional pool listed in Appendix A (“A Additional Pool”) for which “A” serves as its registered commodity pool operator (“CPO”). Similarly, you also request on behalf of “A” and “B” that “A” and “B” receive the relief provided in CFTC Staff Letter Nos. 14-142 and 16-83 with respect to the additional pool listed in Appendix A (“A and B Additional Pool,” together, with “A” Additional Pool, “Additional Pools”) for which “A” and “B” serve as its registered co-CPOs.

Specifically, with respect to the Additional Pools, you request relief from the requirement in Commission regulation 4.7(b)(2)³ for a CPO to distribute to pool participants quarterly account statements within 30 days of the end of the quarter. Instead, you propose to: (1) distribute to all participants in the Additional Pools 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 Commission regulation 4.7(b)(2) quarterly account statement and that is signed and affirmed in accordance with Commission regulation 4.22(h); and (2) inform current and prospective participants in the Additional Pools that account statements will be provided within 45 calendar days after the end of the covered month.

You state that the representations that “A” and “B” had made in CFTC Staff Letter Nos. 14-142 and 16-83 with respect to the pools subject to those letters apply to the Additional Pools

¹ CFTC Staff Letter No. 14-142 (November 6, 2014), available at <https://www.cftc.gov/sites/default/files/idc/groups/public/@lrllettergeneral/documents/letter/14-142.pdf>. This and other Commission letters are available on the Commission’s website, www.cftc.gov.

² CFTC Staff Letter No. 16-83 (October 27, 2016), available at <https://www.cftc.gov/sites/default/files/idc/groups/public/@lrllettergeneral/documents/letter/16-83.pdf>.

³ Commission regulations referred to herein are found at 17 C.F.R. Ch.I (2017).

“A”

“B”

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as well. Specifically, the Additional Pools invest in other collective investment vehicles operated by unaffiliated CPOs. Also, the Additional Pools often do not receive the results of their investment in the underlying collective investment vehicles until almost 30 days after the end of a quarter, which makes meeting the reporting deadline to participants in the Additional Pools difficult. Furthermore, the Additional Pools may invest a portion of their assets with funds that are not subject to Commission regulation, which further complicates efforts to comply with the 30 day deadline in Commission regulation 4.7(b)(2).

In consideration of the foregoing, the Division concludes that your request is neither contrary to the purposes of Commission regulation 4.7(b)(2) nor to public interest. Therefore, pursuant to the authority under Commission regulation 4.12(a), as delegated to the Division under Commission regulation 140.93, the Division hereby grants relief to “A” or “A” and “B”, as applicable, with respect to the operation of the Additional Pools, as identified individually in Appendix A. In addition to complying with all other applicable requirements contained in the Commodity Exchange Act and the Commission regulations issued thereunder, “A” or “A” and “B”, as applicable, must:

1. Distribute to all participants in the Additional Pools an account statement that includes all of the information required to be included in a Commission regulation 4.7(b)(2) quarterly account statement and that is signed and affirmed in accordance with Commission regulation 4.22(h) within 45 calendar days after the end of each month; and
2. Inform current and prospective participants in the Additional Pools that 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 “A” and “B”, as appropriate, solely with respect to the Additional Pools identified in Appendix A. 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 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 letter void. 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.

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

Very truly yours,

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

“A”

“B”

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Appendix A

Pool Operated Solely by “A”

“C”

Pool Operated by “B” and “A”

“D”