MANAGED FUNDS ASSOCIATION
The Voice of the Global Alternative Investment Industry
WASHINGTON, DC | NEW YORK

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Via Electronic Mail: http://comments.cftc.gov

David A. Stawick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Proposal to Rescind Sections 4.13(a)(3) and (a)(4); RIN 3038-AD30

Dear Mr. Stawick:

Managed Funds Association ("MFA")[1] appreciates the opportunity to provide comments to the Commodity Futures Trading Commission (the "Commission" or "CFTC") on its notice of proposed rulemaking on amendments to compliance obligations for commodity pool operators ("CPOs") and commodity trading advisors ("CTAs") (the "Release").[2] In this letter, we provide comments on the Commission's proposal to rescind sections 4.13(a)(3) and (a)(4) of the Commission's regulations. We are also submitting comments under separate cover on the Commission's other proposed amendments and regulations on CPO and CTA reporting and compliance obligations in the Release.

I. Proposed Amendments to Rescind the Sections 4.13(a)(3) and (a)(4) Exemptions from Registration

The Commission proposes to rescind certain exemptions from registration provided in sections 4.13(a)(3) and (a)(4) (together, the "Private Pool Exemptions").[3] From the Release, we understand that the Commission believes this action would be consistent with the tenor of the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act").[4] We, however, believe

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[1] MFA is the voice of the global alternative investment industry. Its members are professionals in hedge funds, funds of funds and managed futures funds, as well as industry service providers. Established in 1991, MFA is the primary source of information for policy makers and the media and the leading advocate for sound business practices and industry growth. MFA members include the vast majority of the largest hedge fund groups in the world who manage a substantial portion of the approximately $1.9 trillion invested in absolute return strategies. MFA is headquartered in Washington, D.C., with an office in New York.

[2] 76 FR 7976 (Feb. 11, 2011).

[3] 76 FR 7976, 7985. Section 4.13(a)(3) provides that a person is exempt from registration as a CPO if the interests in the pool are exempt from registration under the Securities Act of 1933 and offered only to qualified eligible persons ("QEPs"), accredited investors, or knowledgeable employees, and the pool's aggregate initial margin and premiums attributable to commodity interests do not exceed five percent of the liquidation value of the pool's portfolio. 17 CFR 4.13(a)(3). Section 4.13(a)(4) provides that a person is exempt from registration as a CPO if the interests in the pool are exempt from registration under the Securities Act of 1933 and the operator reasonably believes that the participants are all QEPs. 17 CFR 4.13(a)(4).

[4] 76 FR 7976, 7978. The Dodd-Frank Act, Pub. L. No. 111-203, 124 Stat. 1376.

that with respect to certain entities: (1) rescission of the Private Pool Exemptions is unnecessary to achieve the public policy objectives of the Dodd-Frank Act; (2) the preservation of the Private Pool Exemptions is consistent with and embedded in current law and inter-agency comity; and (3) the Commission will still receive information it needs from the SEC and exchanges even if the Private Pool Exemptions are retained. We are concerned that rescission of the Private Pool Exemptions would: increase dramatically (for our members and for other participants in the U.S. futures markets) the cost of responsibly operating an investment adviser in the United States; decrease the competitiveness of U.S.-based advisers *vis-à-vis* their European and Asian-based competitors by imposing unnecessary costs and negligible benefits to the marketplace; and provide limited incremental regulatory benefit to the Commission and the other federal marketplace regulators.

We note the significant fiscal constraints facing the Commission, the pressing new regulatory obligations imposed by the Dodd-Frank Act on the Commission, and the President's Executive Order on Improving Regulation and Regulatory Review[5] which, while not directly applicable to the Commission, encourages every agency to consider eliminating unnecessary or duplicative regulations. Given the significance of these pressures, we suggest that the Commission's proposal to eliminate long-standing exemptions without compelling findings or failure in the current regime seems like a poor use of scarce regulatory resources.

A detailed discussion follows as we respectfully suggest that the Commission should retain the exemption in: (1) section 4.13(a)(4) for investment advisers who are or will be registered with the Securities and Exchange Commission ("SEC") (or their commonly controlled affiliates);[6] and (2) section 4.13(a)(3) for SEC-registered investment advisers whose underlying fund does not "engage primarily" in trading commodity interests.

A. Rescission of the Private Pool Exemptions is Unnecessary to Achieve the Public Policy Objectives of the Dodd-Frank Act

The Dodd-Frank Act enhanced the Commission's rulemaking and enforcement authorities by expanding the scope of its regulatory jurisdiction to include swaps and by creating new financial regulatory entities.[7] Accordingly, the Commission has stated that one of the primary purposes of the Dodd-Frank Act is to promote transparency with respect to the activities of market participants;[8] and that it wants to implement a parallel registration and reporting regime for pooled investment vehicles and their operators and/or advisors as the SEC has implemented for investment advisers under the Dodd Frank Act.[9] We appreciate the Commission's initiative to amend its regulations in the spirit of the Dodd-Frank Act and would like to offer a number of suggestions and comments to further those objectives without hampering our members' competitiveness or ability to focus on managing investors' assets.

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[5] Executive Order – Improving Regulation and Regulatory Review, dated January 18, 2011, *available at:* http://www.whitehouse.gov/the-press-office/2011/01/18/improving-regulation-and-regulatory-review-executive-order.

[6] Oftentimes, private investment funds are structured such that the general partner or commodity pool operator is a separate legal entity from the adviser entity that registers with the SEC. We believe that if the private investment fund is advised by an SEC-registered adviser, then under section 4.13(a)(4) the private investment fund's adviser or general partner should not have to also register as a CPO.

[7] *See* Title VII of the Dodd-Frank Act.

[8] 76 FR 7976, 7985.

[9] 76 FR 7976, 7978.

MFA has consistently supported intelligent and well-informed regulation of the U.S. securities and futures markets.[10] From the beginning of the 2009-2010 legislative process, we took an early and unambiguous stand in favor of mandatory investment adviser registration, which in many respects has been codified in the Dodd Frank Act. We also consistently have endorsed the notion that our regulators need a necessary amount of market and participant information and appropriate funding to discharge their regulatory responsibilities effectively. MFA members have met with numerous legislators and regulators in an effort to strengthen the current regulatory framework and to make proposed reforms workable.

However, we do not believe that rescission of the Private Pool Exemptions for entities registered with the SEC under the Investment Advisers Act of 1940 ("registered advisers"), which is not a step mandated (or, in our reading, even expressly contemplated) by the Dodd-Frank Act, is necessary to achieve the public policy objectives of the Dodd-Frank Act. In fact, we are very concerned that such a rescission would increase costs, reduce our members' competitiveness with respect to non-U.S. advisers, and cause unnecessary, duplicative and burdensome regulation.

1. Amending Section 4.13(a)(4) – Sophisticated Investor Exemption

The current registration exemption under section 4.13(a)(4) provides relief from CPO registration for a CPO if the interests in the pool are exempt from registration under the Securities Act of 1933 (the "Securities Act") and the participants are all qualified eligible persons, *i.e.,* highly sophisticated investors. The Commission adopted section 4.13(a)(4) and other provisions providing relief from registration in 2003 "to encourage and facilitate participation in the commodity interest markets by additional collective investment vehicles and their advisers, with the added benefit to all market participants of increased liquidity."[11] We believe section 4.13(a)(4) serves that objective and we are concerned that repeal of the exemption would require the adviser (or its commonly controlled affiliates) to go to the unnecessary expense of registering with the CFTC. As a consequence the repeal of the exemption could discourage market participants from participation in the commodity interest markets. As discussed in more detail in the sections below, dual registration is inefficient, unnecessary and costly, and provides investors with little additional benefit. Currently section 4.13(a)(4) is available to any market participant, regardless of whether that market participant is registered with the SEC. To address the Commission's concern that through its section 4.13(a)(4) exemption market participants could fall outside of the oversight of any regulators, we recommend that the Commission retain the current exemption provided in section 4.13(a)(4) provided that the pool has an investment adviser registered or that will be registered with the SEC.[12] In this way, the Commission would ensure that the adviser was subject to regulatory oversight

[10] *See,* MFA's website for written statements before Congressional hearings and regulatory comment letters: www.managedfunds.org. *See e.g.,* Testimony of the Hon. Richard Baker, President and Chief Executive Officer, MFA before the Subcommittee on Capital Markets, Insurance, and Government Sponsored Entities, Committee on Financial Services, U.S. House of Representatives, May 7, 2009 at 5, *available at:* http://www.managedfunds.org/downloads/FINAL%20Written%20Testimony%20for%20May%207%20hearing.pdf.

[11] 68 FR 47221, 47223 (August 8, 2003).

[12] *See* letter from Robert E. Plaze, Associate Director, SEC, to David Massey, President, North American Securities Administrators Association, Inc., dated April 8, 2011 (stating that the Commission is considering providing investment advisers with more time to come into compliance with the registration requirements under the Dodd-Frank Act) *available at:* http://www.sec.gov/rules/proposed/2010/ia-3110-letter-to-nasaa.pdf.

and the Commission would have access to information on private funds investing in commodity interests without unduly burdening the market.[13]

2. Amending Section 4.13(a)(3) – Not "Engaged Primarily" in Trading Commodity Interests

The current registration exemption under section 4.13(a)(3) provides relief from CPO registration for a CPO if the interests in the pool are exempt from registration under the Securities Act and offered only to qualified eligible persons, accredited investors, or knowledgeable employees, and the pool's aggregate initial margin and premiums attributable to commodity interests do not exceed five percent of the liquidation value of the pool's portfolio. We propose that the Commission amend section 4.13(a)(3) to provide pool operators with relief from registration in a manner consistent with the Dodd-Frank Act. In our view, consistent with the Dodd-Frank Act, as discussed further below, a pool operator should not have to register with the CFTC as a CPO if its commodity pool is not "engaged primarily" in trading commodity interests.[14] We respectfully urge the Commission to coordinate with the SEC as it develops further guidance on the meaning of "engaged primarily" and for the Commissions to harmonize registration and compliance requirements to the extent possible to lessen the burden on those firms that are required or choose register with both regulators.

We propose the Commission adopt guidance providing that a commodity pool will not be presumed to be "engaged primarily" in trading commodity interests if its initial margin and premiums required to establish the commodity interest positions do not exceed 20% of the pool's average annual net asset value (net of any debt), measured on a rolling quarterly basis (a "20% Test");[15] and accordingly, that such CPO would not have to register with the Commission. The Commission could also stipulate that in order for such exemption to apply to a CPO, the commodity pool must have an investment adviser registered with the SEC.

While there may be a few different logical formulas for analyzing whether a commodity pool is "engaged primarily" in trading commodity interests, we favor a 20% Test as it would provide market participants with a "bright-line" test that is practical to administer. For the sake of comparison, the SEC staff, through No-Action letters, has provided guidance on the meaning of being "engaged primarily" in the business of investing securities for purposes of determining whether an entity is an investment company.[16] In its analysis of determining whether an entity was otherwise engaged primarily in the business of investing in securities so as to be an investment company, the SEC considered the composition of the entity's assets, the sources of its income, the area of business in which it anticipated realization of the greatest gains and exposure to the largest risks of loss, the activities of its officers and employees, its representations, its intentions as revealed by its operations, and its historical development

[13] *See infra* discussion in section C.

[14] *See, e.g.,* Section 749 of the Dodd-Frank Act (defining "engaged primarily").

[15] *Cf.* Section 3(a)(C) of the Company Act (defining an "investment company" to be an issuer which is in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value **exceeding 40 percentum** of the value of such issuer's total assets . . . .).

[16] Section 3(b)(1) of the Investment Company Act of 1940 excludes from the definition of investment company any issuer engaged primarily in a business or businesses other than investing, reinvesting, owning, holding or trading in securities, either directly or through wholly-owned subsidiaries.

(the "Peavey Test").[17] Previously, we have supported and endorsed with respect to advisers,[18] the SEC's approach for determining the meaning of "engaged primarily" for purposes of determining whether an entity is an investment company. We have determined, however, that a 20% test is superior to the Peavey Test for analyzing whether an entity is engaged primarily in trading commodity interests because it provides market participants with greater regulatory certainty and is a less subjective test. We believe a framework based on the 20% Test would promote efficiency, reduce overlap, help prioritize regulatory resources, and reduce compliance cost to advisers and their customers. Accordingly, we recommend the Commission adopt a 20% Test in presuming that a commodity pool is not "engaged primarily" in trading commodity interests.

B. The Preservation of the Private Pool Exemptions is Consistent with and Embedded in Current Law and Inter-Agency Comity

We believe that MFA's position on the preservation and amendment of the Private Pool Exemptions is consistent with the spirit and letter of the Dodd-Frank Act, and is very much in keeping with the amicable division of responsibilities between the Commission and the SEC that Congress intended.

The section 4.13(a)(4) exemption operates under the same rationale and principle as Regulation D under the Securities Act and section 3(c)(7) of the Investment Company Act of 1940 (the "Company Act")—that sophisticated investors have the ability to fend for themselves and do not require the protections of registration under the federal securities laws.[19] The Dodd-Frank Act left these provisions intact and rather than amend the Company Act, Congress chose to achieve regulatory oversight of private funds through investment advisers registered with the SEC. We believe this is indicative of Congress's intent for the regulatory framework to continue to provide relief from registration with respect to private offerings and to maintain a private offering framework. Rescission of section 4.13(a)(4) would be inconsistent with the private offering framework established under the Securities Act as it would eliminate the availability of a private offering with respect to an investment vehicle investing in commodity interests—singling out commodity investment vehicles from all other types of investments.

Prior to enactment of the Dodd-Frank Act, as an acknowledgment to the burdens and redundancy of dual registration, both the CEA and Advisers Act contained exemptions to avoid dual registration as an adviser.[20] During the Dodd-Frank legislative process policy makers again considered this division of

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[17] *See* Peavey Commodity Futures Fund, SEC No-Action Letter (pub. avail. June 2, 1983), 1983 SEC No-Act. LEXIS 2576 ("Peavey") (determining the primary engagement of a fund for purposes of the Investment Company Act of 1940). *See also,* Tonopah Mining Co. of Nevada, 26 S.E.C. 426 (1947) (adopting a five factor analysis for determining an issuer's primary business for purposes of assessing the issuer's status under the Investment Company Act of 1940).

[18] *See* letter from Richard H. Baker, CEO and President, MFA, to Elizabeth M. Murphy, Secretary, SEC, and David A. Stawick, Secretary, CFTC, on September 25, 2009 in relation to "Harmonization of Regulation; File No. 4-588", *available at:* http://www.managedfunds.org/downloads/MFA%20response%20to%20SEC.CFTC.9.25.09.pdf.

[19] *See* Section 4(6) of the Securities Act; *SEC v. Ralston Purina Co,*, 346 U.S. 119 (1953) (indicating that the application of the non-public offering exemption depended on whether the offerees were able to fend for themselves and had access to the same kind of information that would be disclosed in registration); *and* Securities Exchange Act Release 8041 (Dec. 19, 2001), Defining the Term "Qualified Purchaser" under the Securities Act of 1933, *available at:* http://www.sec.gov/rules/proposed/33-8041.htm.

[20] *See* Section 4m(3) of the CEA; *and* section 203(b)(6) of the Advisers Act.

labor between the Commissions and the burden on registrants as earlier drafts of the Dodd-Frank Act sought to repeal the availability of section 203(b)(6) of the Advisers Act, an exemption for registered CTAs from registration as an investment adviser, for an adviser to a private fund.[21] Section 203(b)(6) exempts from registration any investment adviser that is registered with the Commission as a CTA whose business does not consist primarily of acting as an investment adviser (and does not act as an investment adviser to a registered investment company or a business development company).

Ultimately, the Congress chose not only to retain the exemption from registration under section 203(b)(6) of the Advisers Act, but to amend the section to exempt from registration any investment adviser that is registered with the Commission as a CTA and advises a private fund, provided that, if after the date of enactment of the Private Fund Investment Advisers Registration Act of 2010, the business of the advisor should become predominately the provision of securities-related advice, then such adviser shall register with the SEC.[22] Simultaneously, Congress amended CEA section 4m(3) to provide that registration as a CTA (amended language in italics):

> . . . shall not apply to any commodity trading advisor that is registered with the Securities and Exchange Commission as an investment adviser whose business does not consist primarily of acting as a commodity trading advisor, as defined in section 1a of this title, and that does not act as a commodity trading advisor *to any commodity pool that is engaged primarily in trading commodity interests.*
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> *. . . a commodity trading advisor or a commodity pool shall be considered to be 'engaged primarily' in the business of being a commodity trading advisor or commodity pool if it is or holds itself out to the public as being engaged primarily, or proposes to engage primarily, in the business of advising on commodity interests or investing, reinvesting, owning, holding, or trading in commodity interests, respectively.*[23]

If it were the intention of Congress to require dual registration, the Dodd-Frank Act would have repealed the respective exemptions under the CEA and the Advisers Act. The fact that Congress preserved the exemptions and exempted from registration a CTA advising any commodity pool that is not "engaged primarily" in trading commodity interests is indicative of its intent to maintain a regulatory framework that reduces duplicative regulation. In the same vein, we believe the amended language is evidence that Congress did not intend for an operator of a commodity pool not engaged primarily in trading commodity interests to be registered as a CPO. Otherwise, Congress would not have exempted from registration CTAs advising such entities.

Without the availability of the Private Pool Exemptions, it is unclear whether the operating entity of a private fund that engages in even the lowest level of hedging through the use of futures or swaps would have toregister as a CPO. The Dodd-Frank Act defines "commodity pool" as any investment trust, syndicate, or similar form of enterprise operated for the purpose of trading in commodity interests, including any commodity for future delivery, security futures product, or swap.[24] Rescinding the Private Pool Exemptions would require an entity (or its commonly controlled affiliates) that is registered with the

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[21] *See e.g.,* Section 5003 of H.R. 4173 EH, 111th Cong. (2009).

[22] Section 203(b)(6) of the Advisers Act.

[23] Section 749 of the Dodd-Frank Act.

[24] Section 721(a)(5) of the Dodd-Frank Act.

SEC as an investment adviser with a pool consisting of only highly sophisticated investors or that does not primarily trade commodity interests to register as a CPO. Title VII of the Dodd-Frank Act also brings under the Commissions' regulatory regimes entities that trade swaps and security-based swaps. Many fund advisers will find that without an exemption from registration they will need to register with both Commissions and be subject to duplicative regulation. Thus, rescission of the Private Pool Exemptions would likely require many investment advisers to dually register as CPOs and potentially frustrate the intention of the Dodd-Frank Act to limit duplicative regulation.

Given that the Commission will have access to a great deal of information on private pools through Form PF and other forms of reporting, we believe the costs associated with rescission of the Private Pool Exemptions would greatly exceed the limited benefits from dual registration. Based upon conversations with the National Futures Association, MFA understands that there have been almost 4,500 exemptions filed under section 4.13(a)(3) and over 20,000 exemptions filed under section 4.13(a)(4). Rescission of the Private Pool Exemptions would likely increase significantly the number of registrants and further strain the Commission's resources to oversee registrants effectively and monitor markets. In light of the uncertainty over Congressional funding and the Commission's concern with limited resources,[25] we believe the Commission should extend section 4.13(a)(4) to registered advisers (or their commonly controlled affiliates) that advise commodity pools with only highly sophisticated investors and section 4.13(a)(3) to registered advisers that are not engaged primarily in trading commodity interests; and focus its resources in other areas to best protect the public, such as oversight of swaps regulation.

C. The Commission will still Receive Information it needs from the SEC and the Exchanges even if the Private Pool Exemptions are Retained

We acknowledge that registration with an agency has the potential of providing many public benefits. However, we believe dual registration can be redundant and excessively burdensome for registrants; and that regulators have alternative tools to assist with effective industry oversight. We believe it is not necessary for the Commission to repeal the Private Pool Exemptions for investment advisers registered with the SEC to have effective regulatory oversight of an adviser's pool that is currently exempt under the Private Pool Exemptions. The Commissions have proposed new rules and new Form PF under the Commodity Exchange Act ("CEA") and the Advisers Act to collect extensive information from advisers of private funds with respect to the size, strategies and positions of large private funds.[26] The Dodd-Frank Act requires the SEC to share such information with the Commission.[27] As such, the Commission will have access to information on registered advisers trading commodity interests through Form PF and will be able to use information obtained through Form PF to assist with its regulatory programs. This information should address the Commission's concern over any feared lack of accountability with respect to private pools advised by a registered adviser.

Further, as the Dodd-Frank Act mandates the reporting and recordkeeping of both cleared and uncleared swaps,[28] the Commission will have detailed transaction-level information on swaps as well as

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[25] *See* Testimony of Chairman Gary Gensler Before the U.S. Senate Committee on Agriculture, Nutrition & Forestry, March 3, 2011, *available at:* http://www.cftc.gov/PressRoom/SpeechesTestimony/opagensler-72.html; *and* Opening Statement of Commission Michael V. Dunn, Public Meeting on Proposed Rules under Dodd Frank Act, February 24, 2011, *available at:* http://www.cftc.gov/PressRoom/SpeechesTestimony/dunnstatement022411.html.

[26] 76 FR 8068, 8069 (February 11, 2011).

[27] Section 404 of the Dodd-Frank Act.

[28] *See* Section 729 of the Dodd-Frank Act, Reporting and Recordkeeping.

futures. The Commission will also have information on systemically important entities trading swaps as such entities will have to register with the Commission as "major swap participants";[29] and it will receive regular reports from large swap traders.[30]

D. The Registrations Required by the Removal of the Private Pool Exemption are Costly for Managers

Registration as a CPO and the corresponding compliance requirements represents a significant undertaking in terms of financial expense and the number of employee-hours needed for compliance, even if an entity is already registered in another capacity. CPO registration has its own set of required forms, documents and compliance standards, including fingerprinting and proficiency requirements for CPO principals and employees; and is not synonymous with adviser registration. Firms that are dually registered with the SEC and CFTC often find that separate compliance manuals are necessary in order to comply with inconsistent regulatory requirements with respect to policies and procedures.

The compliance and regulatory requirements are burdensome and costly for private businesses and take time away from their primary focus of managing investor assets. Finally, firms will undoubtedly need to hire new regulatory counsel and/or consultants to assist them with registration and compliance matters. For registered entities, taking on a new registration requirement could double legal and compliance expenses with little additional benefit.

E. The Registrations Required by the Removal of the Private Pool Exemptions Handicap U.S. Managers with Respect to Foreign Rivals, who May Have Less Burdensome Obligations

We are concerned that rescission of the Private Pool Exemptions would handicap U.S. managers with respect to costs associated with meeting regulatory burdens. As markets have become more global, so has competition for investment business. The U.S. financial industry continues to be an important source for jobs and economic growth for this country. Investors invest through on- and off-shore entities, and it would be just as easy for foreign sovereign and U.S. tax-exempt investors to subscribe to non-U.S. managed funds with a more cost-efficient and streamlined regulatory process. In other jurisdictions, such as the U.K., Hong Kong and Singapore, fund managers have a single registration regime, which simplifies registration and compliance and greatly reduces the time and costs associated with compliance. Again, MFA has been and is supportive of ***a*** registration regime for fund managers, but we do not believe duplicative regulation, along with doubling the costs of compliance, will protect investors any better or be the most efficient use of taxpayer funds.

Rescission of the Private Pool Exemptions would require registered advisers in the U.S. to expend proportionately greater time and money on compliance than their foreign competitors, putting them at a competitive disadvantage as less money is dedicated to reinvestment in the business. As noted, registration and compliance is burdensome and costly for registrants and investors, and in the aforementioned scenarios, of little added benefit to investors.

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[29] Section 731 of the Dodd-Frank Act.

[30] Section 730 of the Dodd-Frank Act, Large Swap Trader Reporting.

II. Conclusion

MFA appreciates the opportunity to provide comments on the Commission's proposal to rescind the Private Pool Exemptions. As discussed, we believe the Commission should preserve and amend the exemption in: (1) section 4.13(a)(4) for an investment adviser who is registered with the SEC (or its commonly controlled affiliate); and (2) section 4.13(a)(3) for an SEC-registered investment adviser (or its commonly controlled affiliates) whose underlying fund does not engage primarily in trading commodity interests. We believe these limited exemptions from CPO registration are consistent with the objectives of the Dodd-Frank Act, allow the Commission to have access to pertinent information relating to a commodity pool, and reduce unnecessary duplicative regulation, and the time and cost burdens associated with compliance for managers and investors.

We would be happy to discuss our comments or any other issues raised in the Release at greater length with the Commission or its staff. If staff has any questions, please do not hesitate to call Jennifer Han or the undersigned at (202) 730-2600.

Respectfully submitted,

/s/ Stuart J. Kaswell

Stuart J. Kaswell
Executive Vice President & Managing Director,
General Counsel

Cc:

The Hon. Chairman Gary Gensler
The Hon. Commissioner Michael Dunn
The Hon. Commissioner Bart Chilton
The Hon. Commissioner Jill Sommers
The Hon. Commissioner Scott O'Malia
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