

KOZUSKO

HARRIS

DUNCAN

RECEIVED
CFTC

2012 APR 19 AM 10:46

OFFICE OF THE
SECRETARY

Washington, DC

◇
New York, NY

◇
New Haven, CT

◇
Chicago, IL

April 10, 2012

VIA U.S. MAIL

Mr. David A. Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Regulation 4.5 Harmonization

Dear Mr. Stawick:

COMMENT

The Commodity Futures Trading Commission ("CFTC" or "Commission") has requested comment on its proposed harmonization provisions. Specifically, the Commission indicated that it "is considering adopting a family office exemption from CPO registration akin to the exemption adopted by the SEC."¹

We respectfully request that the CFTC adopt a single family office exemption under the definitions of Commodity Pool Operator ("CPO") and Commodity Trading Adviser ("CTA"). Further, under these two new family office exemptions, it should be clear that anyone qualifying under them would also be exempt from any notice filing, disclosure and recordkeeping requirements, including, without limitation, Rules 4.13(a)(5) and (6), 4.13(b), 4.13(c), 4.21, 4.23, 4.31 and 4.32 or any other such requirements.

With respect to the definition of family office, it should, at a minimum, be broad enough to accommodate the wide variety of structures currently employed by and clientele currently served by single family offices. Moreover, the definition of family office should include, but not be limited to, the scope and extent of prior CFTC interpretive relief provided with respect to family investment vehicles.

¹ 77 FR 11348 (February 24, 2012).

KOZUSKO HARRIS VETTER WARE DUNCAN LLP
A PARTNERSHIP THAT INCLUDES A PROFESSIONAL CORPORATION

575 Madison Avenue, Suite 7B, New York, NY 10022 Tel. 212.980.0010 Fax 212.751.0084 www.kozlaw.com

{00166704.DOCX / }

The adoption of a family office exemption under CPO and CTA definitions is consistent with both the CFTC's own prior interpretive relief as well as the Congressional mandate under Section 409 the Dodd-Frank Wall Street Reform Act to alleviate family offices from the regulatory burdens of investment adviser registration. We believe the adoption of a single family office exemption under the CFTC's rules governing CPO and CTA registration will appropriately harmonize the treatment of single family offices across federal financial market regulatory schemes.

Finally, we support the analysis and conclusions of other commentators on this topic, including, without limitation, the following:

- (a) Letter to David Stawick, Secretary, CFTC, dated April 12, 2011, from Mark D. Young, Skadden, Arps, Slate, Meagher & Flom LLP;
- (b) Letter to David Stawick, Secretary, CFTC, dated April 12, 2011 from Martin L. Lybecker, Perkins Coie LLP; and
- (c) Letter to David Stawick, Secretary, CFTC, dated April 12, 2011 from Thomas D. Balliett, Kramer Levin Naftalis & Frankel LLP.

We appreciate the opportunity to comment on this proposal and look forward to working with the Commission throughout the rulemaking process.

Sincerely,

A handwritten signature in black ink, appearing to read "Rebecca H. Dent", with a stylized flourish extending to the right.

Rebecca H. Dent, Esq.