



September 20, 2016

Mr. Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: RIN 3038-AE47: Commodity Pool Operator Annual Report

Dear Mr. Kirkpatrick:

National Futures Association (NFA) appreciates the opportunity to comment on the Commodity Futures Trading Commission's (CFTC or Commission) proposed amendments to the Commodity Pool Operator (CPO) Annual Report requirements in Commission Regulation 4.22. While NFA supports the proposed amendments, we request that the Commission consider the following comments.

Commission Regulation 4.22(d) currently requires a CPO to present and compute the financial statements in the Annual Report of any pool that it operates using United States generally accepted accounting principles (GAAP). For pools that are organized under the laws of a foreign jurisdiction, Regulation 4.22(d) also provides that the CPO may elect to compute and present the financial statements in the Annual Report in accordance with International Financial Reporting Standards (IFRS) provided that certain specified conditions are met, and the CPO files a notice with NFA containing specified representations.

The Commission's proposal amends Regulation 4.22(d) to expand the alternative accounting standards/practices that a CPO may use to present and compute the financial statements in the Annual Report of a pool organized in a foreign jurisdiction to include the accounting principles, standards or practices in the U.K., Ireland, Luxembourg, and Canada, provided that certain conditions are met and subject to the CPO filing the required notice with NFA. As the Commission notes in the proposing release, CFTC staff has been granting CPOs relief to use these alternative accounting standards/practices on a case-by-case basis, and NFA fully supports the Commission's proposal to codify this relief in Regulation 4.22(d).

NFA requests that the Commission also consider specifically extending this same relief to the requirement in Regulation 4.27(c)(2), which requires a CPO to present all financial information included in a pool's quarterly report in accordance with



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GAAP. NFA understands that for practical reasons and to maintain consistent books and records across its various reports and filings, a CPO would like to be able to rely on the same set of accounting standards when preparing the financial information in a pool's Annual Report and quarterly reports. Moreover, NFA believes that allowing CPOs to use the same accounting standards/principles to prepare the Annual Report and quarterly reports will assist NFA and CFTC staff in carrying out their regulatory oversight responsibilities when comparing the information in these filings. Accordingly, NFA encourages the Commission to consider amending Regulation 4.27(c) to also allow CPOs, with respect to a pool organized in a foreign jurisdiction, to present financial information in pool quarterly reports in accordance with the same accepted accounting principles/standards used to prepare the pool's Annual Report (i.e., IFRS, as well as the accounting principles, standards or practices in the U.K., Ireland, Luxembourg, and Canada).

In addition, NFA believes that to assist pool participants in comparing the information in a pool's periodic account statements and the Annual Report, this relief should further extend to all periodic account statements that CPOs are required to distribute to pool participants under Regulation 4.7(b)(2). We note that while Regulation 4.22(a)(6) extends the Commission's proposed relief to periodic account statements distributed by CPOs by allowing a CPO that meets the requirements of Regulations 4.22(d)(2)(i) and 4.22(d)(2)(ii) to follow the same accounting standards used by the CPO to compute and present the Annual Report in computing and presenting its periodic account statements, 4.7(b)(2)(v) specifically identifies IFRS as the only permitted alternative accounting standard. Therefore, NFA encourages the Commission to consider extending the proposed relief to CPOs with pools claiming a 4.7 exemption by amending Regulation 4.7(b)(2)(v) to make it consistent with Regulation 4.22(a)(6).

NFA also supports the Commission's proposed amendments to Regulation 4.22(g) to provide relief to CPOs from the audited Annual Report requirement for a pool whose first fiscal year end is a period of three months or less from the date of the pool's formation. In those instances, under the proposed amendments, the CPO would be permitted to prepare an unaudited Annual Report subject to certain specified conditions, including the CPO filing a notice with NFA certifying that it has received a required written waiver from each participant in the pool and other specified representations. As the Commission notes in the proposing



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release, Commission staff has issued exemptions from the audited Annual Report requirement in similar circumstances over the years, and NFA fully supports the amendments to codify this relief.

NFA notes, however, that recent staff relief from the Annual Report requirement under these circumstances has generally considered the date that a pool commenced trading in determining whether it was appropriate to grant this relief. The Commission noted in the proposing release that it proposed the formation of the pool as the starting point for determining eligibility for this relief in order to ensure that all CPOs and their pool participants are on a level playing field with respect to both the information that must be in the Annual Report and the requirement that the information be audited. While NFA agrees that all CPOs should be using the same starting date for determining eligibility for this relief, NFA encourages the Commission to carefully consider the comments of industry participants on whether the appropriate start date is the date of the pool's formation or the date the pool commences trading. In particular, the Commission may want to consider whether using the formation date rather than the date the pool commences trading is consistent with the Commission's prior relief in this area and unduly restricts a CPO's ability to avail itself of this relief.

If you have any questions concerning this letter, please do not hesitate to contact the undersigned at (312) 781-1413 or ts Sexton@nfa.futures.org or Carol Wooding at (312) 781-1409 or cwooding@nfa.futures.org.

Very truly yours,

A handwritten signature in blue ink, which appears to read "Thomas W. Sexton, III", is written over a blue circular scribble.

Thomas W. Sexton, III
Senior Vice President,
General Counsel and Secretary