FRIED FRANK

To Our Clients and Friends

Memorandum

March 23, 2020

CFTC Staff Issues Temporary No-Action Relief for Commodity Pool Operators Impacted by COVID-19

On March 20, 2020, the staff of the Commodity Futures Trading Commission (the "CFTC")'s Division of Swap Dealer and Intermediary Oversight ("DSIO") issued temporary no-action relief to registered commodity pool operators (each, a "CPO") impacted by COVID-19, in response to a request from multiple market participants.[1] The no-action relief relates to several requirements applicable to CPOs under the CFTC's Part 4 Rules: (i) Filing of Form CPO-PQR under CFTC Rule 4.27; (ii) Pool Annual Reports under CFTC Rules 4.7(b)(3) and 4.22(c); and (iii) Pool Periodic Account Statements under CFTC Rules 4.7(b)(2) and 4.22(b).

Specifically, DSIO will not recommend enforcement action against any CPO for failure to comply with the following requirements, subject to the conditions set forth below:

1. Form CPO-PQR. Any requirement under CFTC Rule 4.27 that a Small or Mid-Sized CPO file an annual Form CPO-PQR, provided that the filing is made by May 15, 2020, or any requirement that a Large CPO file a quarterly Form CPO-PQR for the first quarter of 2020, provided that the filing is made by July 15, 2020.

2. Pool Annual Reports. Any requirement that a CPO file a pool annual report due on or before April 30, 2020, pursuant to CFTC Rules 4.7(b)(3) or 4.22(c), provided that the pool annual certified financial statements are filed with the National Futures Association ("NFA") and distributed to pool participants no later than 45 days after the due date for such report. DSIO noted that this relief does not preclude a CPO from requesting an additional extension of time not to exceed 180 days from the end of the pool's fiscal year in accordance with CFTC Rule 4.22(f).

3. Pool Periodic Account Statements. Any requirement that a CPO distribute periodic account statements to pool participants monthly or quarterly under CFTC Rules 4.7(b)(2) or 4.22(b), provided such statements are distributed to participants within 45 days of the end of the reporting period for all reporting periods ending on or before April 30, 2020.

DSIO noted that CPOs relying on the relief granted in this letter are expected to establish and maintain a supervisory system that is reasonably designed to supervise the activities of personnel acting from a

[1] See CFTC Letter No. 20-11 (March 20, 2020).

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remote location during the COVID-19 pandemic.[2] DSIO also expects that as COVID-19 risks decrease, registrants will return to compliance with the requirements from which relief is being granted.

In conclusion, DSIO indicated its willingness to continue to address requests for additional or different relief from complying with the requirements of the Commodity Exchange Act and CFTC Rules to assist affected registrants and other market participants in responding to the COVID-19 pandemic.

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This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its contents. If you have any questions about the contents of this memorandum, please call your regular Fried Frank contact or an attorney listed below:

[2] DSIO noted further that NFA recently issued a notice to its members ("Members") regarding the applicability of "branch office requirements" to Members, including CPOs and commodity trading advisors, responding to the COVID-19 pandemic. See NFA Notice I-20-12.

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