



September 14, 2009

Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, DC 20581
Attn: Office of the Secretariat
Facsimilie: 202-418-5521
Secretary@cftc.gov

Re: Harmonization of Regulation

To Whom It May Concern:

HedgeOp Compliance, LLC ("HedgeOp") welcomes the opportunity to offer our comments regarding the harmonization of regulation with respect to the Securities and Exchange Commission (the "SEC") and the Commodity Futures Trading Commission (the "CFTC"). In response to a request for comment pursuant to *Joint Meetings on Harmonization of Regulation*, Release No. 34-60539; File No. 4-588, giving notice of the joint meetings to be held by the SEC and the CFTC and requesting public comments, HedgeOp respectfully submits this letter for consideration.

HedgeOp provides outsourced compliance support to investment managers, thereby providing tools and support necessary to help them successfully implement and maintain a compliance infrastructure. Founded in 2001, our main focus is assisting investment managers with the ever-changing regulatory environment. Some HedgeOp clients manage private fund-of-funds vehicles, several of which have filed, with the NFA, claims of exemption pursuant to Section 4.7 of the Rules of the CFTC. We are submitting this comment on an issue that we believe is relevant and important to those fund-of-funds managers as well as in line with the notion of harmonizing the regulatory framework under which they fall.

We suggest that the CFTC, through the NFA, consider changing the deadlines for delivery of account statements and audited financial statements required to be delivered to investors by commodity pool operators ("CPOs") where such pools are operated as fund-of-funds ("FOF").

Calculation of FOF performance and change in NAV is directly related to the receipt of detailed information from underlying managers. As a result of this, we have found in our experience that it is difficult for a CPO operating a FOF to meet the requirement for delivery of audited financial statements within 90 days of the end of the pool's fiscal year. Currently there is an alternate due date available to FOF, however in order to avail itself of such alternate due date, the CPO must file an extension request each year. It is equally difficult for account statements to be provided within 30 days of the month-end as the preparation of those statements is also directly related to the

receipt of financial information from the underlying managers. Unlike the delivery of audited financial statements, the NFA does not grant extension requests for account statements. As such, in order to meet the deadline, FOFs are often required to prepare statements using estimated data. The NFA's approach differs from that of the SEC, which has seemingly acknowledged that additional time will be necessary for preparation of such financial statements and has built special treatment and extended time periods for FOFs into their rules and regulations.

To accommodate the need for additional time, certain of the SEC regulations have specific carve-outs or are applied differently in the FOF context in order to ensure the applicability of the SEC's rules and regulations to the FOFs is consistent with their structure and operation. One example is the application of certain aspects of the custody rule under the Investment Advisers Act of 1940, as amended (the "Advisers Act"). Pursuant to Advisers Act Rule 206(4)-2, a SEC-registered hedge fund manager is required to deliver audited financial statements of its fund to its investors by a certain deadline to avoid certain consequences under the rule. Rule 206(4)-2 requires a manager of a DIF to deliver audited financial statements to its investors within 120 days of the fund's fiscal year end, however FOF managers are required to deliver such audited financial statements within 180 days of the fund's fiscal year.

We believe that a change in the CPO reporting deadlines relating to pools operating as FOFs that is similar to those of the SEC under the custody rule will not only lead to the provision of accurate financial reports to a fund's investors, but also demonstrates clear consistency in the regulatory framework and is just one of the minor adjustments that can be made to assist in the harmonization of between the CFTC and SEC.

Thank you for the opportunity to submit this comment. If you have any questions at all about this letter, please feel free to call me at (212) 515-2800.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Mulligan", with a long horizontal flourish extending to the right.

William G. Mulligan
HedgeOp Compliance, L.L.C.

Cc: rule-comments@sec.gov – File Number 4-588