

CFTC Letter No. 00-13**February 1, 2000****Exemption****Division of Trading & Markets**

Dear X:

On January 13, 2000, the Division of Trading and Markets received your correspondence dated January 12, 2000, requesting exemptive relief from Commodity Futures Trading Commission ("CFTC") Rule 4.22. The request is filed by XX, the commodity pool operator ("CPO") for Y (the "Fund"). Instead, you propose to provide participants with an unaudited Annual Report for 1999 that otherwise complies with Rule 4.22(c) and to include this information in the Annual Report for the period ending December 31, 2000, thus providing pool participants with a certified Annual Report for a 18-month period.

Based upon the representations made in your correspondence, we understand the relevant facts to be as follows. The Fund began trading on July 6, 1999 with \$225,000 and seven investors. As of December 31, 1999, there were still seven investors. There were no additions made during the period. There was a withdrawal of \$23,000 which left an ending Net Asset Value of \$199,802. The CPO is one of the seven investors and the CPO's investment equals approximately 25% of the total partner's' capital in the Fund. You state that the Fund has only been trading for six months and the cost for the certified audit is the responsibility of the pool participants. As such, the fee to perform an audit would be very costly at this time. You have submitted statements in support of this exemption from each of the seven participants. You have also submitted a non-certified annual report for the period ended December 31, 1999.

Rules 4.22(c) and (d) require each registered CPO to file a certified Annual Report with the Commission and distribute copies to the pool participants within 90 calendar days of the end of the pool's fiscal year. The principal purpose of financial reporting required by Rule 4.22 is to ensure that pool participants receive accurate, fair and timely information on the overall trading performance and financial condition of the pool. Based upon the representations made in your letter, the Division believes that granting the request on behalf of the Fund is neither contrary to the purposes of Rule 4.22 nor to the public interest. Accordingly, pursuant to the authority delegated by Rule 140.93(a)(1) but subject to the conditions set forth below, the Fund is hereby granted relief from the certification requirement of Rule 4.22(d) for the pool's fiscal year ending December 31, 1999.

The relief granted in this letter is conditioned on [1] the distribution of an unaudited annual report for 1999 that otherwise complies with 4.22(c) and (d), and [2] the future filing on behalf of Y, of a certified Annual Report for the period July 6, 1999 through December 31, 2000 in accordance with Rule 4.22 (c) and (d). Moreover, this letter applies solely with respect to the exemption from compliance with the certification requirement of Section 4.22(d) for the fiscal year ending December 31, 1999 and this in no way shall excuse XX or Y, from compliance with any other applicable requirements contained in the Act or in the Commission's regulations issued thereunder, including but not limited to the requirements of Sections 4.22(a) and (b) regarding the distribution of quarterly or monthly Account Statements of the pool.

This letter is based on the representation you have made to us. Any different, changed or omitted facts or conditions might cause us to reach a different conclusion. This letter represents the position of the Division of Trading and Markets only. It does not necessarily reflect the views of the Commission or any other office or division of the Commission. If you have any questions regarding this letter, please contact me or Z. Patricia Ross, Futures Trading Specialist on my staff, at (202) 418-5469.

Very truly yours,

Kevin P. Walek

Assistant
Director

cc: Anthony Gialanella, Compliance

National Futures Association