

## **CFTC Letter No. 00-76**

**June 13, 2000**

**Exemption**

**Division of Trading & Markets**

Dear X:

On March 14, 2000, the Division of Trading and Markets received your correspondence dated March 5, 2000, and your subsequent correspondence dated June 8, 2000. The correspondence requests exemptive relief from the requirement of Commodity Futures Trading Commission ("Commission") Rules 4.22(c) and (d) that the commodity pool operator ("CPO") distribute and file a certified Annual Report for the pool's fiscal year ending December 31, 1999. The rule requires the filing of an Annual Report on behalf of XX, the commodity pool operator ("CPO") for Y (the "Fund").

In support of your request, in your letter dated June 8, 2000, you state that the Fund started operations in May 1993. As of December 1, 1999, there were three participants in the Fund. The total Net Asset Value of the Fund as of November 30, 1999, the month-end prior to the date the Fund ceased operations, was \$549,927. You have submitted statements in support of this exemption from each of the three 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 letters, the Division believes that granting the request to XX or Y 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, XX is hereby granted relief from the certification requirement of Rule 4.22(d) for the Fund's fiscal year ending December 31, 1999.

The relief granted in this letter is conditioned on the distribution of an unaudited Annual Report for 1999 that otherwise complies with 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.

This letter, and the relief contained herein, is based upon the representations provided to us. Any different, changed or omitted material facts or circumstances might render this letter void. You must notify us immediately in the event that the operations or activities of the Fund change in any material

respect from those represented to us.

If you have any questions concerning this letter, please contact me at (202) 418-5463 or Z. Patricia Ross, Futures Trading Specialist, at (202) 418-5469.

Sincerely,

Kevin P. Walek  
Assistant Director

cc: Anthony Gialanella  
National Futures Association