

**CFTC Letter No. 01-04****January 25, 2001****Exemption****Division of Trading & Markets**

Dear:

This is in response to your letter dated January 11, 2001, and subsequent correspondence received by electronic mail on January 22, 2001, in which you request on behalf of XX, an exemption from the requirements of Rules 4.22(d) that the commodity pool operator ("CPO") file a certified Annual Report for the pool's fiscal year ending December 31, 2000.

In support of your request you state, among other things, that Y ("the Pool") had only one participant during the operating period and that participant was the sponsor/manager of the Pool. The sole participant subscribed for the Pool on July 6, 2000 and redeemed the holdings in full on October 27, 2000. You further request relief from providing a financial report to the sole participant in the Pool. The CPO proposes that since no unaffiliated investors had an interest in the Pool during the operating period, and considering the short operating period, the Pool be granted an exemption from filing an audited report as of the date of discontinuance.

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 Pool 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 Pool is hereby granted relief from the certification requirement of Rule 4.22(d) for the pool's fiscal year ending December 31, 2000.

Generally, an original, signed waiver statement in support of an exemption request is required from each participant in the Pool. Similarly, an uncertified financial report is required for the period of time of the request. However, in unique circumstances such as the proprietary nature of this Pool, with the sponsor/manager as the only participant, a waiver statement will not be necessary for this exemption request and the CPO will not be required to distribute a copy of an uncertified report.

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. 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: Jane Pfieffer, Compliance  
National Futures Association