

**CFTC Letter No. 01-09****February 23, 2001****Exemption****Division of Trading & Markets**

Dear:

This is in response to your correspondence dated February 5, 2001 requesting exemptive relief from the requirements of Commodity Futures Trading Commission ('CFTC') Rule 4.22 that commodity pool participants be provided with an audited Annual Report. The request is filed on behalf of 'X', the commodity pool operator ('CPO') for 'Y' (the 'Partnership'). You propose to provide participants in the Partnership with an unaudited Annual Report for 2000 that otherwise complies with Rule 4.22.

In support of your request you state, among other things, that the Partnership was organized in September and commenced trading as of November 20, 2000. The Partnership had a total of seven (7) limited partners. As of December 31, 2000, the total partner's capital was approximately \$1,872,871. You have submitted statements in support of this exemption from each of the seven limited partners. You have also submitted a non-certified annual report for the period ended December 31, 2000. You request exemption from filing an audited financial report for 2000, due to the time and expense of providing a certified Annual Report.

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

The relief granted in this letter is conditioned on [1] the distribution of an unaudited Annual Report for 2000 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 November 20, 2000 through December 31, 2001 in accordance with Rules 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, 2000 and this in no way shall excuse 'X' or 'Y' from compliance with any other applicable requirements contained in the Act or in the Commission's regulations issued thereunder.

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