

**CFTC Letter No. 01-17**

**March 19, 2001**

**Exemption**

**Division of Trading and Markets**

Dear:

This is in response to your letter dated February 3, 2001, and your subsequent correspondence received March 16, 2001, in which you requested exemptive relief from the requirements of Commodity Futures Trading Commission ("CFTC") Rule 4.22. The request is filed on behalf of XX, the commodity pool operator ("CPO") for Y (the "Pool"). You request an exemption from the requirement of Rule 4.22(d) that the financial statements prepared for the Annual Report be certified by an independent public accountant. Instead, you propose to provide participants with an unaudited Annual Report for 2000 that otherwise complies with Rule 4.22(c) and to include this information in the certified Annual Report for the period ending December 31, 2001, thus providing the Pool participants with a certified Annual Report for a 16-month period.

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.

In support of your request you state, among other things, that the Pool commenced operation on September 1, 2000. The Pool had four (4) participants. The net asset value of the Pool at December 31, 2000 was \$215,141. You have submitted statements in support of this exemption from each of the four participants. You have also submitted a non-certified annual report for the period ended December 31, 2000. You are requesting exemption from filing an audited financial report for 2000 due to the short length of time that would be included in the report and costs associated with an audited report.

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), the Pool is hereby granted relief from the distribution and certification requirements of Rules 4.22(c) and (d) for the pool's fiscal year ending December 31, 2000.

The relief granted in this letter is conditioned on the following: First, the CPO must distribute to the participants an unaudited Annual Report for 2000 that otherwise complies with Rules 4.22(c) and (d). The unaudited Annual Report should be filed with the Commission and National Futures Association

within 90 calendar days of the end of the pool's fiscal year. Second, the future filing on behalf of Y must present a certified Annual Report for the period September 1, 2000 through December 31, 2001 in accordance with Rules 4.22(c) and (d).

This letter applies solely with respect to the exemption from compliance with the certification requirement of Rule 4.22(d) for the fiscal year ending December 31, 2000 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 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 Pfeiffer, Compliance  
National Futures Association

Bob Agnew  
Kansas City Regional Office