

CFTC Letter No. 01-18

March 13, 2001

Exemption

Division of Trading and Markets

Dear:

This is in response to your letter dated February 27, 2001, to the Division of Trading and Markets ("Division") of the Commodity Futures Trading Commission ("Commission") requesting that the Division exempt Firm X from the requirement that it file a certified Form 1-FR-FCM for its fiscal year ending December 31, 2000.

Rule 1.10(b)(1)(ii) provides that a futures commission merchant ("FCM") must file a Form 1-FR-FCM within ninety days of the close of its fiscal year. Rule 1.16 requires that such year-end financial reports be certified by an independent public accountant. Rule 1.16(f)(3) further provides that the Commission may conditionally or unconditionally exempt an FCM from any of the certified financial reporting requirements. This exemption authority has been delegated to the Director of the Division pursuant to Rule 140.91(a)(5).

Based upon the representations made in your letter and in subsequent telephone conversations, we understand the relevant facts to be as follows. Firm X is a registered FCM, commodity pool operator, and commodity trading advisor. Firm X has never carried individual customer accounts and is not engaged in activities that require registration as an FCM under the Commodity Exchange Act or Commission regulations. Firm X has filed with the Commission an unaudited Form 1-FR-FCM for its fiscal year ending December 31, 2000, which supports its representations that it does not carry customer accounts and is not engaged in activities requiring registration as an FCM.

On February 26, 2001, the Firm X Board of Directors voted to withdraw Firm X's registration as an FCM with the Commission. Firm X subsequently filed a Form 7-W on February 27, 2001 with the National Futures Association ("NFA") requesting that Firm X's registration as an FCM be withdrawn. Firm X's withdrawal request is currently pending before the Commission and NFA.

Based upon the relevant facts, including that Firm X has no customer accounts, is not engaged in activities that require registration as an FCM, and has requested that NFA and the Commission withdraw its registration as an FCM, the Division believes that exempting Firm X from the requirement of filing a certified Form 1-FR-FCM for the year ending December 31, 2000, is neither contrary to the purposes of Rules 1.10 and 1.16 nor to the public interest. Accordingly, pursuant to the authority delegated by Rule 140.91(a)(5), Firm X is exempt from filing a certified Form 1-FR-FCM for its fiscal year ending December 31, 2000.

This letter is based upon the representations you have made to the Division. Any different, changed or omitted material facts or circumstances might render this exemption void. If you have any questions regarding this letter, please contact Thomas Smith, Special Counsel, at (202) 418-5495.

Very truly yours,

John C. Lawton
Acting Director