

CFTC Letter No. 01-24

March 29, 2001

Exemption

Division of Trading and Markets

Dear:

This is in response to your correspondence dated March 21, 2001, and subsequent telephone conversations with staff, requesting that Y, the commodity pool operator (“CPO”) for YY (“the Partnership”) be permitted to file a final Annual Report that covers the period from January 1, 2000 until liquidation which is anticipated to occur sometime prior to May 31, 2001.

Rule 4.22(c)^[1] requires each registered CPO to file an 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 or upon the permanent cessation of trading by the pool. Rule 4.22(d) requires that the financial statements in the Annual Report must be prepared in accordance with generally accepted accounting principles and certified by an independent public accountant. 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. Absent the relief requested, Y would be required to prepare, distribute and file two certified Annual Reports — one for the fiscal year ending December 31, 2000 and a second for the period from January 1, 2001 until the pool’s liquidation.

In support of your request you state, among other things, that the Partnership has ceased trading and is in the process of settling accounts with brokers. Additionally the Partnership is in the process of determining the final valuation of pool interests and expects to finally terminate and make a final distribution to the pool participants prior to May 31, 2001. The final Annual Report will be filed with the Commission and National Futures Association (“NFA”) by May 31, 2001. As the CPO notes, “having one final audit is in the best interest of pool participants because it will obviate the unnecessary expense of conducting two audits for the same pool within a short timeframe.”

Based upon these representations, the Division believes that granting the request on behalf of the CPO 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), Y is hereby granted relief from the requirement of Rules 4.22 (c) and (d) with respect to the Partnership for the fiscal year ending December 31, 2000, subject to the condition that the CPO prepare, distribute and file with the Commission and NFA a certified Annual Report for the 17-month period from January 1, 2000 through May 31, 2001, that complies with Rules 4.22(c) and (d).

This letter applies solely with respect to the exemption from compliance with the requirements of Rule

4.22 discussed above and this in no way shall excuse Y or YY (“the Partnership”) 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.

Very truly yours,

Kevin P. Walek
Assistant Director

cc: Jane Pfeiffer, Compliance
National Futures Association

[\[1\]](#) Commission rules referred to herein are found at 17 C.F.R. Ch. 1 (2000).