

CFTC Letter No. 01-28

March 29, 2001

Exemption

Division of Trading and Markets

Dear:

This is in response to your letter dated March 22, 2001, in which you provided additional information and materials to support your February 7, 2001 request for exemptive relief from the certification requirement of Commodity Futures Trading Commission (“CFTC”) Rule 4.22.

In your request, filed on behalf of Y (“Y”), the commodity pool operator (“CPO”) for YY (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 Rules 4.22(c) and (d).

4.22(c) requires each registered CPO to file an Annual Report with the Commission and to distribute copies to the pool participants within 90 calendar days of the end of the pool’s fiscal year. 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.

Based on the representations you have submitted in support of your request, it appears that the Partnership commenced trading commodity interests on April 15, 1992. As of December 31, 2000, the Partnership had dissolved and, thus, had no participants and no assets. The Partnership was comprised of only three investors, the principal of the CPO, the CPO’s former spouse, and the principal of the CTA. The Partnership will not solicit any new participants. You have submitted a signed statement in support of this exemption from each of the participants.

Based upon the representations made in your letter, as supplemented, 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), the CPO 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 upon the CPO distributing to each participant an unaudited

Annual Report for 2000 that otherwise complies with Rules 4.22(c) and (d). The Division notes that the CPO has already complied with this requirement of timely filing the unaudited Annual Report for 2000 with the Commission and National Futures Association.

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 Y or YY from compliance with any other applicable requirements or prohibitions 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

Bob Agnew
Kansas City Regional Office