

CFTC Letter No. 01-29

March 30, 2001

Exemption

Division of Trading and Markets

Dear:

This is in response to your letter dated March 26, 2001, filed on behalf of XX the commodity pool operator (“CPO”) for Y (the “Pool”), seeking relief from the requirement of Commodity Futures Trading Commission (“CFTC”) Rule 4.22(d) that the CPO file a certified Annual Report for the Pool’s fiscal year ended December 31, 2000. You propose, instead, to include this information in a certified Annual Report for the 16-month period ended December 31, 2001.

Rule 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.

Your request for relief is based upon the short period of time that would be included in the report and the proprietary nature of the Pool. In support of your request, you state that the Pool commenced operations on September 1, 2000 and that its sole participant was the Pool sponsor/manager, XXX.

Generally, an original, signed waiver statement in support of an exemption request is required from each participant in the pool. Similarly, an uncertified financial report, covering the period of relief, is required in lieu of the certified report. However, given the proprietary nature of the Pool, with the sponsor/manager as the only participant, it will not be necessary to submit a waiver statement from the sponsor/manager participant, nor will it be necessary to distribute a copy of an uncertified Annual Report for 2000 to the sponsor/manager participant.

Based upon the representations made in your letter, the Division believes that granting the request on behalf of the Fund 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 and distribution requirements of Rules 4.22(c) and 4.22(d) for the pool’s fiscal year ending December 31, 2000.

The relief granted in this letter is conditioned on the CPO’s future filing, on behalf of the Pool, a

certified Annual Report for the 14-month period November 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 distribution and certification requirement of Rules 4.22(c) and (d) for the fiscal year ending December 31, 2000 and shall not excuse XX or Y 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