

**CFTC Letter No. 01-32**

**April 3, 2001**

**Exemption**

**Division of Trading and Markets**

Dear:

This is in response to your letter dated March 28, 2001, and a subsequent telephone conversation with your accountant on March 29, 2001, in which you requested exemptive relief from the requirements of Commodity Futures Trading Commission (“CFTC”) Rule 4.22 on behalf of XX the commodity pool operator (“CPO”) for Y (the “Partnership”). You request an exemption from the requirement of Rules 4.22(c) and (d) that the CPO must distribute an Annual Report certified by an independent public accountant.

Rule 4.22(c) 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. 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.

In support of your request you state, among other things, that the Partnership commenced operations on September 13, 2000. The Partnership had three (3) participants. The net asset value of the Partnership at December 31, 2000 was approximately \$95,000. The only partners of the partnership were the CPO, its principal and the pool’s analyst. You have submitted statements in support of this exemption from each of the participants. Further, as indicated by your accountant, you filed a notice of exemption under Commission Rule 4.7 on February 14, 2001. Finally, you indicate that providing such an annual report serves no practical purpose, and represents an unnecessary cost burden.

Based upon these representations, the Division believes that granting the request on behalf of the Partnership 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 Partnership is hereby granted relief from the requirements of Rules 4.22(c) and (d) for the pool’s fiscal year ending December 31, 2000. However, you are reminded that the future filings of financial information on behalf of XX must be made pursuant to Commission Rule 4.7.

This letter applies solely with respect to the exemption from compliance with the requirements of Rule 4.22(c) and (d) requested herein 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 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.

Very truly yours,

Kevin P. Walek  
Assistant Director  
(202) 418-5463

cc: Jane Pfeiffer, Compliance  
National Futures Association