

CFTC Letter No. 01-43

May 16, 2001

Exemption

Division of Trading and Markets

Dear:

This is in response to your letter dated February 8, 2001 received by our Office on April 16, 2001, and the subsequent information received by our office on May 14, 2001, in which you requested exemptive relief from the requirements of Commodity Futures Trading Commission ("CFTC") Rule 4.22. You filed the request as the commodity pool operator ("CPO") for Y (the "Fund"). You request an exemption from the requirement of Rule 4.22(d) that the financial statement prepared for the Annual Report be 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 Fund commenced operating on January 1999. The Fund had three (3) participants until it terminated trading as of October 31, 2000 and as of December 31, 2000 the Fund had one (1) participant. The net asset value of the Fund at December 31, 2000 was \$95,180. You have submitted statements in support of this exemption from each of the three participants as of October 31, 2000. You have also submitted a non-certified annual report for the period ended December 31, 2000. You are requesting exemption from filing an audited financial report for year 2000 to avoid reducing each participant's ownership interest due to year-end audit fees.

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 Fund is hereby granted relief from the certification requirement of Rule 4.22(d) for the pool's fiscal year ending December 31, 2000.

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 X or Y 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 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