

CFTC Letter No. 01-78
September 10, 2001
Exemption
Division of Trading and Markets

Re: Request for Exemption from Rules 4.21 and 4.22

Dear :

This is in response to your letter dated August 9, 2001, to the Division of Trading and Markets ("Division") of the Commodity Futures Trading Commission ("Commission"), as supplemented by telephone conversations with Division staff. By your correspondence, you request that "X", a registered commodity pool operator ("CPO") and CPO of the "Master Fund", a British Virgin Islands international business company, be granted an exemption from the periodic and annual reporting requirements and the delivery of disclosure documents of Rules 4.21 and 4.22.^[1]

Based upon your representations, we understand the facts to be as follows. In addition to the Master Fund, "X" serves as the CPO of "Feeder Fund I", a Delaware limited liability company, and "Feeder Fund II", a British Virgin Islands international business company. The Master Fund has as its only participants Feeder Fund I and Feeder Fund II (collectively the "Feeder Funds").

Rules 4.21 and 4.22 require that a CPO provide participants with certain disclosure documents and periodic and annual reports, as set forth in the Rules. Therefore, absent the requested exemption, "X" as the CPO of the Master Fund would be required to provide disclosure documents, periodic reports, and an annual report to itself as the CPO of the Feeder Funds.

Based upon the representations contained in your letter, the Division believes that granting the requested exemption would not be contrary to the public interest and the purposes of Rules 4.21 and 4.22.^[2]

Accordingly, by the authority delegated to it under Rule 140.93(a)(1), the Division hereby exempts "X" from the disclosure requirement and the periodic and annual reporting requirements of Rules 4.21 and 4.22, in connection with its operation of the Master Fund. This relief is subject to the conditions that: (i) "X" remain the CPO of the Master Fund and the Feeder Funds; (ii) participation in the Master Fund is limited to the Feeder Funds; and (iii) the annual reports of the Feeder Funds contain financial statements that include, among other information, the fees associated with the operation of the Master Fund.^[3]

The exemption granted by this letter does not excuse "X" from compliance with any other applicable requirements contained in the Commodity Exchange Act ("Act")^[4] or the Commission's regulations issued thereunder. For example, "X" remains subject to all antifraud provisions of the Act and the Commission's regulations issued thereunder, the reporting requirements for traders set forth in Parts 15, 18, and 19 of the Commission's regulations and to all other applicable provisions of Part 4. Moreover,

this letter is applicable to "X" solely in connection with its operation of the Master Fund.

This letter, and the exemption granted herein, is based upon the representations that have been made to us. Any different, changed, or omitted facts or conditions might render the exemption void. You must notify us immediately in the event the operations or activities of "X", the Master Fund, or the Feeder Funds change in any material way from those represented to us.

If you have any questions concerning this correspondence, please contact Michael A. Piracci, an attorney on my staff, at (202) 418-5430.

Very truly yours,

John C. Lawton
Acting Director

^[1] Commission rules referred to herein are found at 17 C.F.R. Ch. 1 (2001).

^[2] See, CFTC Interpretative Letter No. 01-63, [Current transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 28,576 (June 19, 2001); CFTC Interpretative Letter No. 00-87, [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 28,246 (September 11, 2000).

^[3] See, letter from John C. Lawton, Acting Director, Division of Trading and Markets, to all registered CPOs (January 12, 2001) (<http://www.cftc.gov/tm/tmcpoannualreport2000.htm>). (Stating that "[a]t a minimum, the pool's financial statements should disclose, for each major investee fund: (1) the name of the fund; (2) the carrying value of the instrument; (3) liquidity information (such as limitations on withdrawals from the investee fund); and (4) the summary income statement information discussed in Regulation 4.22(e). This should include fees paid by the investee pool expressed in dollars.").

^[4] 7 U.S.C. § 1 *et seq.* (1994), *as amended by* Pub. L. No. 106-554, 114 Stat. 2763 (to be codified as amended in scattered sections of 7 U.S.C.).