

CFTC Letter No. 01-79
September 24, 2001
Exemption
Division of Trading and Markets

Dear:

This is in response to your letter dated August 31, 2001, filed on behalf of XX the commodity pool operator ("CPO") for Y (the "Fund"). You requested exemptive relief from the requirements of Commodity Futures Trading Commission ("Commission") Rule 4.22(d) that the financial statement prepared for the Annual Report for 2001 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 trading March 1987 and ended trading prior to June 30, 2001. The Fund had a total of seven (7) participants upon closing. The net asset value as of June 30, 2001 was \$50,901. Subsequent to closing the Fund, all limited partners received their final distribution. You have submitted statements in support of this exemption from each of the seven participants. You have also submitted the most recent month-end Account Statement for the month ended June 30, 2001. You state that the Fund's participants are responsible for the cost of the certified financial statement and it is not cost efficient to prepare an audited report. Therefore, you are requesting exemption from filing an audited financial report for 2001. Further, your letter states that XX will comply with all of the other requirements pertaining to the Annual Report as set forth in Rules 4.22(c)(1) through (5) if granted this exemption.

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) and subject to the following conditions, the Fund is hereby granted relief from the certification requirements of Rules 4.22(d) for the Fund's closing financial report for 2001.

The relief granted in this letter is conditioned on the CPO complying with the requirements set forth in Rules 4.22(c)(1) through (5). The CPO must distribute to the participants an unaudited Annual Report for 2001 that otherwise complies with Rules 4.22(c) and (d). The CPO must also file a copy of the unaudited 2001 Annual Report with the Commission and National Futures Association. Based on

today's conversation between your attorney and Division staff, the CPO is allowed until October 15, 2001 to distribute and file the uncertified financial report for 2001 as required by the regulation.

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, 2001 and this in no way shall excuse XX 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 Pfeiffer, Compliance
National Futures Association