

CFTC Letter No. 01-81
October 24, 2001
Exemption
Division of Trading and Markets

Re: Request for Exemption from Rules 4.7(b)(2) and 4.7(b)(3)

Dear:

This is in response to your letter dated September 11, 2001, to the Division of Trading and Markets ("Division") of the Commodity Futures Trading Commission ("Commission"). By your correspondence, you request that "X", a registered commodity pool operator ("CPO") and commodity trading advisor ("CTA") and the CPO of the "Master Fund", be granted an exemption from the periodic and annual reporting requirements of Rule 4.22, as modified by Rules 4.7(b)(2) and 4.7(b)(3).^[1]

Based upon your representations, we understand the facts to be as follows. The Master Fund is an exempted business company incorporated with limited liability in the Cayman Islands. In addition to the Master Fund, "X" serves as the CPO of "Feeder Fund I", a Delaware limited liability company, and "Feeder Fund II", an exempted business company incorporated with limited liability in the Cayman Islands. The Master Fund will have as its only participants Feeder Fund I and Feeder Fund II (collectively the "Feeder Funds"). "X" has previously claimed relief under Rule 4.7 with respect to the Master Fund, Feeder Fund I, and Feeder Fund II.

Rules 4.7(b)(2) and 4.7(b)(3) require that a CPO of a pool operated under Rule 4.7 comply with certain periodic and annual reporting requirements, as set forth in the Rule. Therefore, absent the requested exemption, "X" as the CPO of the Master Fund would be required to provide 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 4.7(b)(2), 4.7(b)(3), and 4.22.^[2] Accordingly, by the authority delegated to it under Rule 140.93(a)(1), the Division hereby exempts "X" from the periodic and annual reporting requirements of Rules 4.7(b)(2), 4.7(b)(3), and 4.22, in connection with its operation of the Master Fund. This relief is subject to the conditions that: (i) "X" remains the CPO of the Master Fund and the Feeder Funds; (ii) "X" limits participation in the Master Fund 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, it 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] All Commission rules cited herein are found at 17 C.F.R. Ch. 1 (2001).

^[2] See, CFTC Interpretative Letter No. 01-19, [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 28,501 (March 23, 2001); CFTC Interpretative Letter No. 00-85, [1999-2000 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 28,223 (August 9, 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.).