

**CFTC Letter No. 02-09**  
**February 14, 2002**  
**Exemption**  
**Division of Trading and Markets**

Dear:

This is in response to your letter dated November 28, 2001 received by our Office on January 11, 2002, and the subsequent information received by our office on February 13, 2002, in which you requested exemptive relief from the requirements of Commodity Futures Trading Commission (“CFTC”) Rule 4.22. You filed the request on behalf of XX, the commodity pool operator (“CPO”) for YY (the “Pool”). 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 Pool commenced operating on January 5, 2000. The Pool had one (1) participant and terminated the Pool as of April 2001. The participant’s investment was distributed when the Pool closed. You have submitted a statement in support of this exemption from the participant. You have also submitted a non-certified annual report for the period ended April 30, 2001.

Based upon the representations made in your letter, the Division believes that granting the request on behalf of the Pool 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 Pool is hereby granted relief from the certification requirement of Rule 4.22(d) for the pool’s fiscal year ending December 31, 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 participant 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.

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 YY 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