

CFTC letter No. 02-109

October 30, 2002

Interpretation

Division of Clearing and Intermediary Oversight

Re: Request for Exemption from Commission Rules 4.21 and 4.22

Dear:

This is in response to your letter, dated September 25, 2002, to the Division of Clearing and Intermediary Oversight (“Division”) of the Commodity Futures Trading Commission (“Commission”).

^[1] By your correspondence, you request that the Division exempt “X”, a New Jersey limited liability company and a registered commodity pool operator (“CPO”) and commodity trading advisor (“CTA”), from the Disclosure Document delivery requirements and the periodic and annual reporting requirements of Rules 4.21 and 4.22, respectively.^[2]

Based upon the representations made in your correspondence, we understand the facts to be as follows. “U” and “V” are exempted companies organized under the laws of the Cayman Islands. “W” is a Delaware limited partnership. “X” is the CTA of the “W” Fund and is the CTA and CPO of the “U” Fund and “V” Fund. “Y”, a Delaware limited liability company “Y” and registered CPO, is the CPO of the “W” Fund. The “U” Fund conducts all trading activities for the “W” Fund and “V” Fund (collectively, the “Feeder Funds”). The only participants in the “U” Fund are the Feeder Funds. “X” and “Y” are separate legal entities, but have identical ownership and management.

Rules 4.21 and 4.22 require that a CPO provide its participants with certain Disclosure Documents as well as periodic and annual reports, as set forth in the Rules. Therefore, absent the requested exemption, “X” as the CPO of the “U” Fund would be required to provide Disclosure Documents, periodic reports, and an annual report to itself as the CPO of the “V” Fund. Without the exemption “X” would effectively also be required to provide the same documentation to itself with respect to the “W” Fund, because “X” and “Y” are the CPOs of the “U” Fund and 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.

Accordingly, by the authority delegated to it under Rule 140.93(a)(1), the Division hereby exempts “X” from the Disclosure Document requirement and the periodic and annual reporting requirements of Rules 4.21 and 4.22, respectively, in connection with its operation of the “U” Fund. This relief is subject to the conditions that: (i) “X” remains the CPO of the “U” Fund and the “V” Fund; (ii) “X” and “Y” retain identical management and ownership; (iii) “Y” remains the CPO for the “W” Fund; (iv) participation in the “U” Fund is limited to the Feeder Funds, and any fund for which either “X” or “Y”, or both, are the sole CPOs; and (v) the annual reports of the Feeder Funds contain financial statements that include, among other information, the fees associated with the operation of the “U” Fund expressed in dollars

and a detailed schedule of investments made by 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 (the "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 "U" Fund.

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

If you have any questions regarding this correspondence, please contact Peter Sanchez, an attorney on my staff, at (202) 418-5430.

Very truly yours,

Jane Kang Thorpe
Director

^[1] As of July 1, 2002, a reorganization of Commission staff became effective. For purposes of this letter, the term "Division" includes the Division of Clearing and Intermediary Oversight and its predecessor, the Division of Trading and Markets, as the context requires.

^[2] Commission rules cited herein are found at 17 C.F.R. Ch. 1 (2002).

^[3] See, letter from John C. Lawton, Acting Director, Division of Trading and Markets, to all CPOs (February 1, 2002) (<http://www.cftc.gov/files/tm/tmcpoannualreport2001.pdf>) (stating that "detailed income, fee and liquidity information for material investee pools and in total for all investee pools [are] 'material information,' " required to be disclosed in a pool's annual report, and further stating that, "the schedule of investments at the investor pool level should contain the details of the investments carried by the investee pool. A schedule of investments at the investor pool level which simply lists the name of the investee pool is not sufficient.").

^[4] 7 U.S.C. § 1 *et seq* (2000).>