

**CFTC Letter No. 02-25**

**March 13, 2002**

**Exemption**

**Division of Trading and Markets**

Dear:

This is in response to your correspondence dated March 4, 2002, received by the Division of Trading and Markets ("Division") on March 8, 2002, in which you requested exemptive relief from the requirements of Commodity Futures Trading Commission ("CFTC") Rule 4.22. The request is filed on behalf of X, L.P., the commodity pool operator ("CPO") for Y, L.P. (the "Partnership"). You request an exemption from the requirement of Rule 4.22(d) that the financial statements 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 Partnership was organized in September 2001, capitalized in December 2001, and commenced operation in January 2002. The Partnership has three (3) participants. The net asset value of the Partnership at December 31, 2001 was \$X. You have submitted statements in support of this exemption from each of the three participants. You have also submitted a non-certified annual report for the period ended December 31, 2001. You are requesting exemption from filing an audited financial report for 2001 due to the short length of time that would be included in the report and costs associated with an audited report.

Based upon the representations made in your letter, the Division believes that granting the request on behalf of the Partnership 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 Partnership is hereby granted relief from the distribution and certification requirements of Rules 4.22(c) and (d) for the Partnership's fiscal year ending December 31, 2001.

The relief granted in this letter is conditioned on the following: First, the CPO must distribute to the participants an unaudited Annual Report for 2001 that otherwise complies with Rules 4.22(c) and (d). The unaudited Annual Report should be filed with the Commission and National Futures Association within 90 calendar days of the end of the pool's fiscal year. Second, the future filing on behalf of Y, LP must present a certified Annual Report for the period December 31, 2001 through December 31, 2002 in

accordance with Rules 4.22(c) and (d).

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 X, L.P. or Y, L.P. from compliance with any other applicable requirements contained in the Commodity Exchange 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: Regina Thoele, Compliance  
National Futures Association