

CFTC Letter No. 02-28

March 25, 2002

Exemption

Division of Trading and Markets

Dear:

This is in response to your letter dated March 19, 2002 and fax of March 22, 2002 received by our Office on March 22, 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 X, the commodity pool operator (“CPO”) for Y (the “Pool”). You request an exemption from the requirements of Rule 4.22 that commodity pool participants be provided with an Annual Report and an independent public accountant certify the Annual Report.

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 in August 2000. The Pool has one (1) participant other than X and that is Z, the sole shareholder of X, and that Mr. Z waived his right to receive a certified annual report. You stated Pool has never had any other participants.

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 requirements of Rules 4.22(c) and (d) for the pool’s fiscal year ending December 31, 2001.

This letter applies solely with respect to the exemption from compliance with the requirements of Rules 4.22(c) and (d) for the fiscal year ending December 31, 2001 and this in no way shall excuse X 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, Donald Bass, Futures Trading Specialist on my staff, at (202) 418-5462.

Very truly yours,

Kevin P. Walek
Assistant Director

cc: Regina Thoele, Compliance
National Futures Association