

CFTC Letter No. 02-34

April 4, 2002

Exemption

Division of Trading and Markets

Dear:

This is in response to your letter dated March 20, 2002 to the Division of Trading and Markets (“Division”) of the Commodity Futures Trading Commission (“CFTC”), requesting an exemption from filing an audited financial report for the year ending December 31, 2001, and as the pool has permanently ceased trading, file a certified annual report covering the period June 18, 2001 to March 31, 2002 for the Y. (the “Fund”). The request is filed on behalf of X Fund Management, the commodity pool operator, (“CPO”), for the Fund.

Rules 4.22(c) and (d) require each registered CPO to file a certified 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. 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 your request you represent that the Fund was formed on June 16, 2000, and did not begin trading until June 18, 2001. Further, you state that the Fund permanently ceased trading on January 31, 2002 and will be liquidated prior to March 31, 2002. You stated that if the exemption request is granted a certified Annual Report, covering the period June 18, 2001 to March 31, 2002 the entire operating history of the Fund, would be issued to all participants and filed with the Commission and National Futures Association.

In light of the representations made in your letter, the Division believes that granting the request on behalf of the Fund 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 CPO is hereby granted relief with respect to the Fund from the Annual Report requirement of 4.22 (c) and the certification requirement of Rule 4.22(d) for the Fund’s fiscal year ending December 31, 2001.

The relief granted in this letter is conditioned on the CPO distributing unaudited financial statements to the Fund participants which comply with 4.22(a) and (b), and the CPO must file a certified Annual Report covering the period June 18, 2001 to March 31, 2002, on behalf of the Fund by April 30, 2002, in accordance with Rule 4.22(c) and (d).

This letter in no way shall excuse X, or the Fund 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 representations 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 Theole, Compliance
National Futures Association