

CFTC Letter No. 02-76

June 12, 2002

Exemption

Division of Trading and Markets

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Dear X:

This is in response to your letters dated February 15 and March 4, 2002 to the Division of Trading and Markets of the Commodity Futures Trading Commission, (Commission) filed on behalf of Y, the commodity pool operator (“CPO”) for YY (the “Fund”). You are requesting exemptive relief from the requirements of Commodity Futures Trading Commission (“CFTC”) Rule 4.22 that commodity pool participants be provided with an audited Annual Report.

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.

You request exemption from filing an audited financial report for 2001 due to the expense of providing a certified Annual Report compared to the size of the Fund, the small number of participants, and the fact that the pool did not begin trading until November 2001. You further state that if the exemption request is granted that a certified annual report covering the 14-month period ending December 31, 2002 will be issued to all participants and filed with the Commission.

In support of your request, you state that the Fund commenced trading commodity interests in November 2001. The Fund is comprised of three (3) participants as of December 31, 2001 and at this time. You have submitted statements in support of this exemption from each of the three participants. You have also submitted unaudited financial statements for the quarter ended December 31, 2001.

In light of the representations made in your letter, in particular those relating to the small number of participants in the Fund, and the fact that the Fund has no new participants to date, 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 Fund is

hereby granted relief from 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 an audited annual report for fiscal year 2002, which covers the 14-month period November 1, 2001 to December 31, 2002.

This letter in no way shall excuse Y 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 Donald Bass, Futures Trading Specialist, on my staff, at (202) 418-5462.

Very truly yours,

Kevin P. Walek
Assistant Director
(202) 418-5463

cc: Regina Thoele, Compliance
National Futures Association