

CFTC Letter No. 02-98**August 23, 2002****Interpretation****Division of Clearing and Intermediary Oversight**

Re: Commission Rule 4.22; Request for Exemption from Rules 4.7(b)(2) and 4.7(b)(3)

Dear :

This is in response to your letter dated July 26, 2002, to the Division of Clearing and Intermediary Oversight ("Division") of the Commodity Futures Trading Commission ("Commission"), in which you request that "T", a registered commodity pool operator ("CPO") and the CPO of the "Master Fund", be granted an exemption from the periodic and annual reporting requirements of Rule 4.22, as modified by Rules 4.7(b)(2) and 4.7(b)(3).^[1]

Based upon your representations, we understand the facts to be as follows. "T" operates the Master Fund, which has as its sole participants three feeder funds, "Feeder Fund I", "Feeder Fund II", and "Feeder Fund III" (collectively the "Feeder Funds"). "T" serves as the CPO of Feeder Fund I and Feeder Fund II. The registered CPO of Feeder Fund III is "U". "T" and "U" have the same owners. Relief pursuant to Rule 4.7 as been claimed with respect to the Master Fund, Feeder Fund II, and Feeder Fund III.

Rules 4.7(b)(2) and 4.7(b)(3) require that a CPO comply with certain periodic and annual reporting requirements, as set forth in the Rules. Therefore, absent the requested exemption, "T" as the CPO of the Master Fund would: (i) be required to provide periodic reports and an annual report to itself as the CPO of Feeder Fund I and Feeder Fund II,^[2] and (ii) with respect to Feeder Fund III, would effectively also be required to provide periodic reports and an annual report to itself since the owners of "T" and "U", the CPO of Feeder Fund III, are the same.

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 4.7(b)(2), 4.7(b)(3), and 4.22.^[3] Accordingly, by the authority delegated to it under Rule 140.93(a)(1), the Division hereby exempts "T" from the periodic and annual reporting requirements of Rules 4.7(b)(2), 4.7(b)(3), and 4.22, in connection with its operation of the Master Fund. This relief is subject to the conditions that: (i) "T" remains the CPO of the Master Fund and Feeder Fund I and Feeder Fund II, "U" remains the CPO of Feeder Fund III, and the owners of both "T" and "U" continue to be the same; (ii) "T" limits participation in the Master Fund to the Feeder Funds; and (iii) the annual reports of the Feeder Funds contain financial statements that include, among other information, the fees associated with the operation of the Master Fund expressed in dollars and a detailed schedule of investments made by the Master Fund.^[4]

The exemption granted by this letter does not excuse "T" from compliance with any other applicable requirements contained in the Commodity Exchange Act (the "Act")^[5] 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 "T" solely in connection with its operation of the Master 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 "T", "U", the Master Fund, Feeder Fund I, Feeder Fund II, or Feeder Fund III change in any material way from those represented to the Division.

If you have any questions concerning this correspondence, please contact Michael A. Piracci, an attorney on my staff, at (202) 418-5430.

Very truly yours,

John C. Lawton
Deputy Director and Chief Counsel

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

^[2] Pursuant to a letter from Commission staff dated February 27, 1995, with respect to Feeder Fund I, "T" is exempt from, among other things, compliance with the reporting requirements of Rule 4.22. You have represented, however, that participants in Feeder Fund I receive audited annual reports of the fund.

^[3] See, CFTC Interpretative Letter No. 01-85, [2000-2002 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 28,690 (November 21, 2001).

^[4] 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.").

[\[5\]](#) 7 U.S.C. § 1 *et seq.* (2000).