

CFTC letter No. 03-23**May 5, 2003****Exemption****Division of Clearing and Intermediary Oversight**Re: Request for Exemption from Rules 4.7(b)(1), 4.7(b)(2) and 4.7(b)(3)

Dear :

This is in response to your letter dated March 25, 2003, to the Division of Clearing and Intermediary Oversight (the "Division") of the Commodity Futures Trading Commission (the "Commission"), as supplemented by emails dated April 10, 2003, April 24, 2003 and telephone conversations with Division staff. By your correspondence, you request that "X", a registered commodity pool operator ("CPO") and the CPO of "Master Fund", be granted an exemption from the disclosure and the periodic and annual reporting requirements of Rules 4.7(b)(1), 4.7(b)(2) and 4.7(b)(3).^[1]

Based upon the representations made in your correspondence, we understand the facts to be as follows. In addition to the Master Fund, "X" serves as the CPO of "Feeder Fund I", and an affiliate of "Y", with the same ownership and management as "X", serves as the CPO of Feeder Fund II" (collectively, the "Feeder Funds"). The Feeder Funds (and other feeder funds that may be formed by "X" or "Y" at a future date for which "X" or "Y" will be the sole CPOs) are the only investors in the Master Fund. "X" has previously claimed relief pursuant to Rule 4.7 with respect to the Master Fund and Feeder Fund I and "Y" has claimed relief with respect to Feeder Fund II pursuant to the same rule.

Rules 4.7(b)(1), 4.7(b)(2) and 4.7(b)(3) require that a CPO comply with certain disclosure requirements and periodic and annual reporting requirements, as set forth in those rules. Therefore, absent the requested exemption "X" as the CPO of the Master Fund: (i) would be required to provide certain disclosures and periodic and annual reports to itself as the CPO of Feeder Fund I; and (ii) with respect to Feeder Fund II, would effectively be required to provide certain disclosures and periodic and annual reports to itself since the owners and management of "X" and "Y", the CPO of Feeder Fund II, 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)(1), 4.7(b)(2) and 4.7(b)(3).^[2] Accordingly, by the authority delegated to it under Rule 140.93(a)(1), the Division hereby exempts "X" from the disclosure and the periodic and annual reporting requirements of Rules 4.7(b)(1), 4.7(b)(2) and 4.7(b)(3) in connection with "X's" operation of the Master Fund. This relief is subject to the conditions that: (i) "X" remains the CPO of the Master Fund and Feeder Fund I; (ii) "Y" Remains the CPO of Feeder Fund II; (iii) participation in the Master Fund is limited to the Feeder Funds, and any fund for which "X" or "Y" is the sole CPO; and (iv) the annual reports of the Feeder Funds contain financial statements that include, among other information, detailed income and fees associated with the

operation of the Master Fund expressed in dollars.^[3]

The exemption granted by this letter does not excuse “X” from compliance with any other applicable requirements contained in the Commodity Exchange Act (the “Act”),^[4] or in the Commission’s regulations issued thereunder. For example, “X” remains subject to all antifraud provisions of the Act^[5] and the Commission's regulations, to 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. Finally, this letter is applicable to “X” solely in connection with its operation of the Master Fund.

This letter, including the exemptions provided herein, are based upon the representations you have made to the Division. Any different, changed or omitted material facts or circumstances might render this exemption void. You must notify the Division immediately in the event the activities or operations of “X”, “Y”, the Master Fund or the Feeder Funds change in any material way from those represented to the Division.

If you have any questions concerning this correspondence, please contact Peter Sanchez, an attorney on my staff, at (202) 418-5432.

Very truly yours,

Jane Kang Thorpe
Director

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

^[2] See CFTC Interpretive Letter No. 01-86, [2000-2002 Transfer Binder] Comm. Fut. Law. Rep. (CCH) ¶28961 (Nov. 21, 2001). See also, Additional Registration and Other Regulatory Relief for Commodity Pool Operators and Commodity Trading Advisors, 68 Fed. Reg. 12622, 12638-39 (March 17, 2003) (proposing to amend Rules 4.21 and 4.22 to exclude from the definition of “participant” commodity pools that are operated by a pool operator that is the same as, or that controls, is controlled by, or is under common control with, the pool operator of a pool in which the commodity pool has invested. If this proposal were to be adopted by the Commission, “X” would not be required to distribute disclosure and periodic and annual financial reports for the Master Fund to the Feeder Funds).

^[3] See letter from Jane Kang Thorpe, Director, Division of Clearing and Intermediary Oversight, to all CPOs (March 6, 2003) (<http://www.cftc.gov/files/tm/tmcpoannualreport2002.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).

[4] 7 U.S.C. §1 *et seq.* (2000)

[5] *See, e.g.,* 7 U.S.C §§6b and 6o.