



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Clearing and
Intermediary Oversight

Kevin P. Walek
Assistant Director

CFTC Letter No. 09-06
Exemption
April 29, 2009
Division of Clearing and Intermediary Oversight

Re: "X," a registered commodity pool operator for "A"

Dear:

This is in response to your letter dated April 14, 2009 to the Division of Clearing and Intermediary Oversight ("Division") of the Commodity Futures Trading Commission ("Commission"), as well as additional communications with Division staff via email. You request on behalf of "X," the commodity pool operator ("CPO") for "A" (the "Pool"), confirmation that the Annual Report filed for the period from January 1, 2008 through October 31, 2008, and styled as a report "in liquidation," constitutes the final liquidation report for the Pool required under Commission Regulation 4.7(b)(3).¹

Based upon the representations made in your correspondence, we understand the facts to be as follows. You request, on behalf of the CPO and Pool, confirmation that the financial report for the period from January 1, 2008 through October 31, 2008, and styled as a report "in liquidation," constitutes the final liquidation report for the Pool required under Commission Regulation 4.7(b)(3). As background for your request, you state that the Pool ceased trading as of October 31, 2008 and that all proceeds, excluding those retained for the satisfaction of outstanding liabilities, were distributed to participants except for two positions that were illiquid at that time.

You state that the two investments are entitlements to potential distributions in the event that "Y" and "Z" emerge from their respective bankruptcy proceedings. Additionally, you state that the two investments constitute X.XX% of the Pool's net asset value as of the date of liquidation. You represent that these assets are neither tradable nor transferrable and therefore, the Pool cannot divest itself of those interests. You further state that any potential distribution from the assets is highly uncertain and subject to the resolution of the ongoing bankruptcy proceedings.

Regulation 4.7(b)(3) requires that each registered CPO file an Annual Report with the Commission and distribute copies to the pool participants within 90 calendar days of a pool's permanent cessation of trading. The principal purpose of financial reporting required by

¹ Commission rules referred to herein are found at 17 C.F.R. Ch. I (2009).

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Regulation 4.7 is to ensure that pool participants receive accurate, fair and timely information on the overall trading performance and financial condition of the pool. Based upon the representations made in your letters, the Division believes that you have complied with your obligations under Part 4 and that the Annual Report for the period from January 1, 2008 through October 31, 2008 is properly considered a final liquidation report for the Pool under Regulation 4.7(b)(3).

This conclusion is based upon the representations that you have made to the Division. Any different or omitted facts may result in a different determination. Should you have any questions, please do not hesitate to contact me at (202) 418-5463 or Amanda Olear, an attorney on my staff, at (202) 418-5283.

Very truly yours,

Kevin P. Walek

cc: Regina Thoele, Compliance
National Futures Association