



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Clearing and
Intermediary Oversight

Kevin P. Walek
Assistant Director

CFTC Letter No. 09-09
Exemption
June 16, 2009
Division of Clearing and Intermediary Oversight

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

Dear:

This is in response to your correspondence dated June 10, 2009, to the Division of Clearing and Intermediary Oversight ("Division") of the Commodity Futures Trading Commission ("Commission"). You request on behalf of "A," the commodity pool operator ("CPO") for "X" (the "Pool"), an exemption from the requirement of Regulation 4.22(c) that the Pool file a certified Annual Report within 90 days of the end of the fiscal year on December 31, 2008.¹ You propose instead that you be permitted to file a single, certified Annual Report for the Pool for the 16-month period from January 1, 2008 to April 30, 2009, upon which date the Pool ceased trading and began distributing its funds to its participants. Additionally, you request an extension of the 90-day filing period from July 29, 2009 to September 30, 2009.

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, an exemption from the requirements of Regulation 4.22(c) that the CPO distribute and file a certified Annual Report within 90 days of the close of the Pool's fiscal year. You instead request that you be permitted to file a single, certified Annual Report for the Pool for the 16-month period from January 1, 2008, to the cessation of trading on April 30, 2009.

Regulation 4.22(c) requires each registered CPO to file a certified Annual Report with the Commission and distribute copies to the pool participants within 90 calendar days after the end of the pool's fiscal year or the permanent cessation of trading. The principal purpose of financial reporting required by Regulation 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. Based upon the representations made in your letter, the Division believes that granting the request of "A" to file a single, certified Annual Report for the Pool for the 16-month period from January 1, 2008 to April 30, 2009 is neither contrary to the purposes of Regulation 4.22 nor to the public interest. Accordingly, pursuant to the authority delegated by Regulations 140.93 and 4.12(a), you

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

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are hereby granted relief from the Annual Report requirement of Regulation 4.22(c) for the Pool's fiscal year ending December 31, 2008 such that you are instead permitted to file a single, certified Annual Report for the Pool for the 16-month period from January 1, 2008 to April 30, 2009.

Division staff is cognizant of the need for pool participants to obtain financial information in a timely manner so that they may make informed investment decisions. Failing to deliver an Annual Report within 90-days from April 30, 2009 is not in the public interest. Therefore, we are denying the request for relief with respect to the filing period and the CPO must meet its obligation to comply with the 90-day period set forth in Regulation 4.22(c).

This exemption does not relieve the CPO from any other applicable requirements of Part 4 of the Commission's Regulations. Further, this letter, and the relief contained herein, is based upon the representations provided to us. Any different, changed or omitted material facts or circumstances might render this letter void.

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, Chicago