



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Clearing and
Intermediary Oversight

Kevin P. Walek
Assistant Director

CFTC Letter No. 09-20
Exemption
February 25, 2009
Division of Clearing and Intermediary Oversight

Re: Exemptive Relief From the Certification of the Annual Report for "A"

Dear :

This is in response to your correspondence dated February 9, 2009, to the Division of Clearing and Intermediary Oversight ("Division") of the Commodity Futures Trading Commission ("Commission") on behalf "X," the commodity pool operator ("CPO") for the "A" (the "Pool"). By your letter you request exemptive relief from the requirement of Regulation 4.22(d),¹ which requires that the Pool's financial statement prepared for the period ending December 31, 2008 be certified by an independent public accountant, due to the Pool's nominal amount of assets and the presence of only one non-proprietary participant.

Based upon the representations made in your correspondence, we understand the facts to be as follows. The Pool began operations in August of 2008 and currently has four participants, three of whom are principals of the CPO and the fourth is an experience futures trader who is a member of a futures exchange. The Pool's total capital contributions are \$3XX,XXX and the Pool's total net asset value as of December 31, 2008 was approximately \$3XX,XXX (the additional \$1X,XXX was the Pool's net income from inception through December 31, 2008). You have further attached waivers executed by the Pool's four participants evidencing their consent to the exemption from the certified annual report requirement.

Regulations 4.22(c) and (d) require that each registered CPO 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 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. Accordingly, pursuant to the authority delegated by Regulations 140.93 and 4.12(a), the Division believes that granting the request on behalf of the "A" is neither contrary to the purposes of Regulation 4.22 nor to the public interest. Therefore, "X" is hereby granted relief from the certification requirement of Regulation 4.22(d) for the Pool's fiscal year ending December 31, 2008.

¹ Commission Regulations referred to herein are found at 17 C.F.R. Ch. I (2008).

The relief granted in this letter is conditioned on the distribution of an unaudited annual report for 2008 that otherwise complies with Regulations 4.22(c) and (d) and filing of the same with NFA. This in no way shall excuse "X" or "A" from compliance with any other applicable requirements contained in the Commodity Exchange Act or in the Commission's Regulations issued thereunder, including but not limited to Part 4 of the Regulations.

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.

Very truly yours,

Kevin P. Walek

cc: Regina Thoele, Compliance
National Futures Association, Chicago