



## U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Clearing and  
Intermediary Oversight

Kevin P. Walek  
Assistant Director

CFTC Letter No. 09-31  
Exemption  
June 22, 2009  
Division of Clearing and Intermediary Oversight

Re: "A," a registered commodity pool operator for "W," "X," "Y," and "Z"

Dear:

This is in response to your correspondence dated June 19, 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 "W," "X," "Y," and "Z" (the "Pools"), an exemption from the requirement of Regulation 4.7(b)(3) that the Pools file Annual Reports within 90 days of the end of the period from October 1, 2008 through September 30, 2009, the Pools' former fiscal year.<sup>1</sup> Instead, you propose to file 15-month Annual Reports for the period from October 1, 2008 through December 31, 2009, in light of the CPO's decision to change the Pools' fiscal year end from September 30<sup>th</sup> to December 31<sup>st</sup>, beginning in fiscal year 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 Pools, an exemption from the requirements of Regulation 4.7(b)(3) that the CPO distribute and file Annual Reports within 90 days of the close of the Pools' former fiscal year, September 30<sup>th</sup>. You instead request that you be permitted to file Annual Reports for the Pools for the 15-month period from October 1, 2008 through the end of the Pools' new fiscal year, December 31, 2009. You state that you have informed the National Futures Association ("NFA") of the change of the Pools' fiscal year end and that all participants in the Pools will be notified of the change not less than 90 days prior to it becoming effective, with a copy of the notice being filed with NFA consistent with the provisions of Regulation 4.22(g).

Regulation 4.7(b)(3) requires each registered CPO to file an 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 4.7 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 letter, the Division believes that granting the request of

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

Page 2

“A” to file Annual Reports for the Pools for the 15-month period from October 1, 2008 to December 31, 2009 is neither contrary to the purposes of Regulation 4.7 nor to the public interest. Accordingly, pursuant to the authority delegated by Regulations 140.93 and 4.12(a), you are hereby granted relief from the Annual Report requirement of Regulation 4.7(b)(3) such that you are instead permitted to file Annual Reports for the Pools for the 15-month period from October 1, 2008 to December 31, 2009.

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