



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Clearing and
Intermediary Oversight

Kevin P. Walek
Assistant Director

CFTC Letter No. 09-38
Exemption
July 30, 2009
Division of Clearing and Intermediary Oversight

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

This is in response to your correspondence dated July 29, 2009, to the Division of Clearing and Intermediary Oversight ("Division") of the Commodity Futures Trading Commission ("Commission") and subsequent email to Division staff. You request on behalf of "X," the commodity pool operator ("CPO") for "A" (the "Pool"), an exemption from the requirement of Regulation 4.7(b)(3) that the Pool file an Annual Report within 90 days of the end of the period from July 1, 2008 through June 30, 2009, the Pool's fiscal year.¹ Instead, you propose to file a 13-month final Annual Report for the period from July 1, 2008 through July 24, 2009, the date upon which the Pool liquidated.

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 4.7(b)(3) that the CPO distribute and file an Annual Report within 90 days of the close of the Pool's fiscal year, June 30th. You instead request that you be permitted to file a final Annual Report for the Pool for the 13-month period from July 1, 2008 through July 24, 2009, the date upon which the Pool liquidated. You state that as of July 24, 2009 the Pool's NAV was \$6x,xxx and that all investors except for one voting share required for liquidation have been redeemed.

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 "X" to file a final Annual Report for the Pool for the 13-month period from July 1, 2008 to July 24, 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

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

Mr.
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hereby granted relief from the Annual Report requirement of Regulation 4.7(b)(3) such that you are instead permitted to file a final Annual Report for the Pool for the 13-month period from July 1, 2008 to July 24, 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