



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Clearing and
Intermediary Oversight

Kevin P. Walek
Assistant Director

CFTC Letter No. 10-17
Exemption
April 6, 2010
Division of Clearing and Intermediary Oversight

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

Dear :

This is in response to your correspondence dated March 31, 2010, to the Division of Clearing and Intermediary Oversight ("Division") of the Commodity Futures Trading Commission ("Commission"), as well as your subsequent email communications with Division staff. You request on behalf of "X", the commodity pool operator ("CPO") for "A" and "B" (collectively, the "Pools"), an exemption from the requirement of Regulation 4.22(c) that the Pools file their Annual Reports within 90 days of the end of the Pools' fiscal year.¹ Instead, you propose to file a 14-month Annual Report for the period from November 1, 2009, the date upon which the Pools began trading, through December 31, 2010, the close of the Pool's 2010 fiscal year.

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 4.22(c) that the CPO distribute and file their Annual Reports within 90 days of the close of the Pools' fiscal year. You instead request that you be permitted to file an Annual Report for the Pools for the 14-month period from November 1, 2009 through the end of the Pools' fiscal year, December 31, 2010. You state that the Pools collectively had three participants in 2009, and have attached waivers from the participants evidencing their intention of waiving their rights to receive an Annual Report for fiscal year. Additionally, you state that the net asset value for "A" as of December 31, 2009 was \$3,XXX,XXX and the net asset value for "B" as of December 31, 2009 was \$5X,XXX,XXX.

Regulation 4.22(c) 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 4.22 is to ensure that pool participants receive accurate, fair and timely information on the overall trading performance and financial condition of the pool. Based

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

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upon the representations made in your letter, the Division believes that granting the request of “X” is neither contrary to the purpose of Regulation 4.22 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 requirements of Regulation 4.22(c) such that you are instead permitted to file an Annual Report for the Pools for the 14-month period from November 1, 2009 to December 31, 2010.

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