

**CFTC Letter No. 97-70****August 19, 1997****Division of Trading & Markets**

Re: Request for Relief from Disclosure, Reporting and Recordkeeping Requirements under Rules 4.21, 4.22 and 4.23(a)(10) and (a)(11)

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Dear :

This is in response to your letter dated July 25, 1997, to the Division of Trading and Markets ("Division") of the Commodity Futures Trading Commission ("Commission"), as supplemented by telephone conversations with Division staff. By your correspondence, you request relief from the disclosure, reporting and recordkeeping requirements of Rules 4.21, 4.22 and 4.23(a)(10) and (a)(11)<sup>1</sup> with regard to the "Fund", a commodity pool for which you serve as the sole general partner and commodity pool operator ("CPO").

Preliminarily, we note that, by letter dated June 24, 1997 ("Prior Relief Letter"), the Division granted you relief from the requirement in Rule 4.22(d) that the financial statements in the Annual Report that a registered CPO must prepare and distribute be certified by an independent public accountant in connection with your operation of the Fund. You now request the additional relief set forth above.

In support of the instant request, you represent that interests in the Fund will be offered exclusively to members of your immediate family and your wife's immediate family ("Family Members").<sup>2</sup> You further represent that you will continue to prepare and distribute to all limited partners unaudited monthly reports and annual tax returns ("Statements"), as discussed in the Prior Relief Letter.

Based upon your representations, we believe that it would not be contrary to the public interest to grant the relief you have requested. Accordingly, pursuant to the authority delegated by Rule 140.93(a)(1), the Division hereby exempts you from compliance with Rules 4.21, 4.22 and 4.23(a)(10) and (a)(11) in connection with your operation of the Fund, subject to the condition that you continue to furnish each limited partner with Statements.

You also have requested relief from the disclosure requirement of Rule 4.31 on behalf of X , the Fund's registered commodity trading advisor ("CTA"), in connection with providing commodity interest trading advice to the Fund. In support of this request, you state that you are listed as X's

sole principal and registered as its sole associated person. Thus, you claim that no purpose would be served in effectively requiring you to give a disclosure document to yourself. The Division agrees. Accordingly, pursuant to the authority delegated by Rule 140.93(a)(1), the Division exempts X from compliance with Rule 4.31 in connection with providing commodity interest trading advice to the Fund.

We note that this letter relieves you solely from compliance with the disclosure, reporting and recordkeeping requirements of Rules 4.21, 4.22 and 4.23(a)(10) and (a)(11) and X solely from compliance with the disclosure requirements of Rule 4.31. This letter does not excuse you or X from compliance with any other applicable requirements contained in the Commodity Exchange Act ("Act")<sup>3</sup> or the Commission's regulations issued thereunder. For example, you and X remain subject to the antifraud provisions of Section 4o of the Act,<sup>4</sup> the reporting requirements for traders set forth in Parts 15, 18 and 19 of the Commission's regulations, and all other applicable requirements of Part 4. Further, this letter is applicable to you and X solely in connection with the operation of the Fund.

This letter is based upon the representations you have made to us. Any different, changed or omitted facts or circumstances might require us to reach a different conclusion. In this regard, we request that you notify us immediately in the event that the operations or activities of the Fund, including the composition of its investors, change in any way from those as represented to us.

If you have any questions concerning this correspondence, please contact me or Natalie A. Markman, an attorney on my staff, at (202) 418-5450.

Very truly yours,

Susan C. Ervin

Acting Director

<sup>1</sup> Commission rules referred to herein are found at 17 C.F.R. Ch. I (1997).

<sup>2</sup> The Prior Relief Letter was based, in part, upon your representation that the participants in the Fund were: you; A , your mother; B and C , your sister and brother; D , your aunt; and E , F and G , your father-in-law, brother-in-law and sister-in-law, respectively. By letter dated July 7, 1997, you indicated that your 14 year-old son invested \$1,000 in the Fund in June 1997 and your 12 year-old daughter may wish to invest in the Fund at some point in the future. You also stated that other Family Members periodically have expressed a desire to participate in the Fund.

<sup>3</sup> 7 U.S.C. § 1 et seq. (1994).

47 U.S.C. § 60 (1994).