

CFTC Letter No. 98-24**March 24, 1998****Division of Trading & Markets****Re: Rule 4.21 -- Request for Relief from Disclosure Document Delivery Requirement**

Dear :

This is in response to your letter dated December 16, 1997, to the Division of Trading and Markets ("Division") of the Commodity Futures Trading Commission ("Commission"), in which you request on behalf of "T", a registered commodity pool operator ("CPO"), that the Division exempt "T" from the requirement in Commission Rule 4.21¹ that "T" provide a Disclosure Document to the participants of "U", a commodity pool for which "T" serves as the general partner and CPO thereof.

Based upon the representations made in your letter, we understand the relevant facts to be as follows. As noted above, "T" is registered with the Commission as a CPO. "U" has been formed as a "master" fund for two commodity pool "feeder funds" for which "Y" serves as the general partner and CPO. These two commodity pools are "V" and "W". The only investors in "U" other than "V" and "W" may be one or more additional commodity pools for which "T" would serve as the CPO (the "Other Feeder Funds"). In support of your request for relief from Rule 4.21 on behalf of "T", you represent that "T" will include relevant disclosures in the Disclosure Documents for "V" and "W" and any Other Feeder Funds regarding "T's" investing the assets of these funds in "U".²

As you are aware, Commission Rule 4.21 generally requires that, prior to soliciting, accepting or receiving funds or other property from a prospective pool participant, a CPO deliver to such prospective pool participant a Disclosure Document that contains specified information. Thus, absent the relief requested herein, "T", as the CPO of "U" would be required to deliver a Disclosure Document to itself as the CPO of and acting on behalf of the participants in "V", "W" and the Other Feeder Funds.

Based upon the foregoing, it appears that granting the requested relief would not be contrary to the public interest or the purposes of Rule 4.21. Specifically, we note that: (1) "T" is or will be the general partner and serve as the CPO of each of "U", "V", "W" and the Other Feeder Funds; and (2) the only investors in "U" will be "V", "W" and any Other Feeder Funds. Accordingly, under the authority delegated to it by Rule 140.93(a)(1), the Division hereby exempts "T" from Rule 4.21 to the extent that it would be required to provide itself, as the CPO of "V", "W" or an Other Feeder, a Disclosure Document for "U". This relief is, however, subject to the conditions that: (1) "U" remains the general partner and registered CPO of "U", "V" and "W" and any Other Feeder

Fund; and (2) "T" notifies the Division in writing of the names of any Other Feeder Fund within 15 days after the fund commences operations.

The exemption granted by this letter does not excuse "T" from compliance with any applicable requirements contained in the Commodity Exchange Act, as amended (the "Act"),³ or in the Commission's regulations issued thereunder. For example, it remains subject to the antifraud provisions of Section 4o of the Act⁴ to the reporting requirements for traders set forth in Parts 15, 18 and 19 of the Commission's regulations and to all other applicable provisions of Part 4, including Rules 4.22 and 4.23. Moreover, this letter is applicable to "T" solely in connection with its acting as the CPO of "U".

This letter, and the exemption granted herein, are based both upon the representations you have made to us and compliance with the conditions stated above. Any different, changed or omitted material facts or circumstances might render this exemption void. You must notify us immediately in the event that the operations of "U", "V", "W" or any Other Feeder Fund change in any material way from those represented to us.

If you have any questions concerning this correspondence, please contact Lawrence T. Eckert, an attorney on my staff, at (202) 418-5450.

Very
truly
yours,

I. Michael
Greenberger

Director

¹ Commission rules referred to in this letter are found at 17 C.F.R. Ch. I (1997).

² You note that these disclosures will include disclosures regarding any additional costs, risk factors and conflicts of interest resulting from "T's" investment of the assets of "V", "W" and the Other Feeder Funds in "U".

³ 7 U.S.C. § 1 et seq. (1994).

⁴ 7 U.S.C. 6o (1994).