



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Clearing and
Intermediary Oversight

Kevin P. Walek
Assistant Director

CFTC Letter No. 10-28
Exemption
July 20, 2010
Division of Clearing and Intermediary Oversight

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

Dear:

This is in response to your letter dated July 16, 2010, to the Division of Clearing and Intermediary Oversight ("Division") of the Commodity Futures Trading Commission ("Commission"). You request on behalf of "X", the commodity pool operator ("CPO") for "A" (the "Pool"), an exemption from the requirements of Commission Regulation 4.22(c)¹ that the CPO distribute and file a certified Annual Report for the 8-month period from the Pool's inception of trading on November 1, 2009 through the Pool's permanent cessation of trading on June 30, 2010.

Based upon the representations made in your correspondence, we understand the facts to be as follows. You request, on behalf the CPO and Pool, an exemption from the requirements of Regulation 4.22(c) that the CPO distribute and file a certified Annual Report for the 8-month period from the Pool's inception of trading on November 1, 2009 through the Pool's permanent cessation of trading on June 30, 2010. In support of your request, you state that the Pool began trading on November 1, 2009 and that the Pool terminated its activities and closed on June 30, 2010. You note that the Pool had previously been granted relief from the requirement that the CPO distribute and file a certified Annual Report for fiscal year 2009, and that the Division agreed to accept, in lieu thereof, a 14-month Annual Report for the period from November 1, 2009 through December 31, 2010. The Pool has yet to file an Annual Report, and, as a result of the cessation of trading on June 30, 2010, you request an exemption from the requirements of Regulation 4.22(c) that the CPO distribute and file a certified Annual Report for the 8-month period from the Pool's inception of trading on November 1, 2009 through the Pool's permanent cessation of trading on June 30, 2010. You state that the estimated net asset value of the Pool is \$4,XXX,XXX as of June 30, 2010. You further state that each of the investors in the Pool has waived the right to receive certified Annual Reports and you provide letters demonstrating this waiver.

Rules 4.22(c) and (d) require each registered CPO file a certified Annual Report with the Commission and distribute copies to the pool participants within 90 calendar days of the end of

¹ Commission rules referred to herein are found at 17 C.F.R. Ch. I (2010).

the pool's permanent cessation of trading. The principal purpose of financial reporting required by Rules 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 upon the representations made in your letters, the Division believes that granting the request on behalf of "A" is neither contrary to the purposes of Rule 4.22 nor to the public interest. Accordingly, "A" is hereby granted relief from the certification requirement of Rule 4.22(d) with respect to the Annual Report for the 8-month period from the Pool's inception of trading on November 1, 2009 through the Pool's permanent cessation of trading on June 30, 2010.

The relief granted in this letter is conditioned on the filing of an unaudited annual report for the period from November 1, 2009 through June 30, 2010 with NFA that otherwise complies with 4.22(c) and (d) and GAAP. This in no way shall excuse "X" or "A" from compliance with any other applicable requirements contained in the Act or in the Commission's regulations issued thereunder, including but not limited to Part 4 of the Regulations.

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.

If you have any questions concerning this letter, please 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