

CFTC Letter No. 00-47

April 3, 2000

Exemption

Division of Trading and Markets

Dear :

This is in response to your letter dated February 23, 2000. You state that XX ("XX") is the general partner and Commodity Pool Operator of Y ("Y") and YY ("YY"), two separate commodity pools. You request exemptive relief from Commodity Futures Trading Commission ("Commission") Rule 4.22(a) and (c) to the extent that they require XX to distribute and file financial information on behalf of each commodity pool separately. XX seeks to avoid the cost and burden of providing duplicative information to participants. Accordingly, XX is requesting exemption from the requirement that it distribute periodic account statements and distribute and file Annual Reports for Y and YY separately. Instead, XX is requesting that it be permitted to file periodic account statements on behalf of Y only, and file certified Annual Reports for Y only. These statements and reports will represent the combined activities of Y and YY.

Based upon the representations made in your correspondence and subsequent telephone call with Commission staff, we understand the relevant facts to be as follows. Y is the only limited partner in YY. Y invests substantially all of its assets in YY, and owns 99% of YY. YY has two general partners, XX and W (W), who in the aggregate own 1% of YY. W provides recordkeeping and clearing services for YY. YY invests directly in commodity interests.

Rule 4.22(a) requires each commodity pool operator registered or required to be registered under the Commodity Exchange Act to periodically distribute to each participant in each pool that it operates an account statement for the prescribed period. Rule 4.22(c) provides that each commodity pool operator must distribute an Annual Report to each participant in each pool that it operates, and must file the Annual Report with the Commission. The principal purpose of the financial reporting required by Rule 4.22 is to ensure that the 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 and telephone calls, the Division believes that granting the request of XX is neither contrary to the purposes of Rule 4.22 nor contrary to the public interest. Accordingly, pursuant to the authority delegated by Rule 140.93(a)(1), but subject to the conditions set forth below, XX is hereby exempted from (1) the requirement of Rule 4.22(a) that a periodic account statement be distributed to each participant in YY and (2) the requirement of Rule 4.22 (c) that a certified Annual Report be prepared and distributed to each participant in YY and to the Commission.

The relief granted is subject to the following conditions: (1) The Annual Reports filed and distributed by Y shall represent the combined activities of Y and YY; (2) The periodic account statements filed and distributed by Y shall represent the combined activities of Y and YY; (3) XX must obtain and file with the Commission an acknowledgement from W that it understands and agrees to the omission of the financial reporting requirements for YY. The relief granted in this letter applies solely with respect to the exemption from compliance with the distribution of periodic and annual reporting requirements of Rule 4.22(a) and (c) and this in no way shall excuse XX or YY from compliance with any other applicable requirements contained in the Act or in the Commission's regulations issued thereunder. This exemption shall remain effective as long as the current ownership structure of YY remains in place. The admission of any other equity interest in YY might require full compliance with all of the Commission's Rules.

This letter, and the exemption granted herein, is based on the representations you have made to us and is subject to 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 XX, Y and YY change in any material way from those represented to us. If you have any questions regarding this letter, please contact me or Z. Patricia Ross, Futures Trading Specialist on my staff, at (202) 418-5469.

Very truly yours,

Kevin P. Walek
Assistant Director

cc: Anthony Gialanella
National Futures Association