

CFTC Letter No. 00-85**August 9, 2000****Exemption****Division of Trading & Markets**

Re: Rules 4.7(b)(2), 4.7(b)(3) and 4.22; Request for Relief from Reporting Requirements

Dear :

This is in response to your letter dated June 19, 2000, to the Division of Trading and Markets ("Division") of the Commodity Futures Trading Commission ("Commission"), as supplemented by your letter dated July 14, 2000 and telephone conversations with Division staff. By your correspondence, you request on behalf of "P", a registered commodity pool operator ("CPO"), in connection with "P's" operation of "Q" and "R" (collectively, the "Sub-Funds") that the Division exempt "P" from the requirement in Rule 4.22, as modified by Rule 4.7(b)(2) and (b)(3),¹ that "P" distribute periodic account statements and annual reports to each participant in the Sub-Funds.²

Based upon representations contained in your correspondence, it appears that granting your request would not be contrary to the public interest or the purposes of Rules 4.7(b)(2), 4.7(b)(3) and 4.22. Specifically, we note that: (1) "P" is the CPO of the Sub-Funds, the Offshore Feeder Funds and the Onshore Feeder Funds; and (2) "P" limits participation in the Sub-Funds to itself and the Offshore and Onshore Feeder Funds, thereby prohibiting individual investors from participating in the Sub-Funds. Accordingly, by the authority delegated to it under Rule 140.93(a)(1), the Division hereby exempts "P" from Rules 4.7(b)(2), 4.7(b)(3) and 4.22 to the extent that "P" would have to provide periodic reports and an annual report to the participants in the Sub-Funds. This relief, however, is subject to the conditions that: (1) "P" remains the CPO of the Sub-Funds and the Offshore and Onshore Feeder Funds; (2) "P" limits participation in the Sub-Funds to itself and the Offshore and Onshore Feeder Funds; and (3) the annual reports of the Offshore and Onshore Feeder Funds contain financial statements that include, among other required information, the fees associated with the operation of the respective Sub-Fund.³

This letter does not excuse "P" from compliance with any other applicable requirements contained in the Commodity Exchange Act⁴ ("Act") and the Commission's regulations issued thereunder. For example, "P" remains subject to all of the antifraud provisions of the Act and the Commission's regulations, the reporting requirements for traders set forth in Parts 15, 18, and 19 of the Commission's regulations and all otherwise applicable provisions of Part 4. Moreover, this relief is applicable to "P" solely in connection with its operation of the Sub-Funds.

This letter, and the exemption granted herein, are based upon the representations you have made to us and are subject to compliance with the conditions stated above. Any different, changed or omitted material facts or circumstances might render the exemption void. You must notify us immediately in the event the operations or activities of "P", Sub-Funds, or an Offshore or Onshore Feeder Fund changes in any material way from those as represented to us.

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

Very
truly
yours,

John C.
Lawton
Acting
Director

1 "P" filed notices of claim of exemption under Rule 4.7(a) with respect to each of the Sub-Funds on _____. The Commission has recently revised Rule 4.7. *See* 65 Fed. Reg. 47848 (August 4, 2000). All other references to Commission rules cited herein are found at 17 C.F.R. Ch.1 (2000).

2 In addition to "P", investors in "Q" include "S" and "T" (collectively, the "Offshore Feeder Funds"), and investors in "R" include "U" and "V" (collectively, the "Onshore Feeder Funds").

3 *See* letter from Henry J. Matecki, CFTC Acting Chief Accountant, dated January 19, 2000 to all registered CPOs. <http://www.cftc.gov/tm/tmcpoannualreport1999.htm>. The letter states that "[a]t a minimum, the pool's financial statements should disclose, for each major investee fund: (1) the name of the fund; (2) the carrying value of the instrument; (3) liquidity information (such as limitations on withdrawals from the investee fund); and (4) summary income statement information, which should identify fees paid by the investee pool to its CPO and CTAs *expressed in dollars.*"

4 7 U.S.C. § 1 *et seq.* (1994).