

CFTC Letter No. 02-83
July 2, 2002
Interpretation
Division of Trading and Markets

Re: Section 4m(1); Request for Relief from Registration as a Commodity Pool Operator and a Commodity Trading Advisor

Dear :

This is in response to your letter dated March 13, 2002, to the Division of Trading and Markets ("Division") of the Commodity Futures Trading Commission ("Commission"),^[1] as supplemented by telephone conversations with Division staff. By your correspondence, you request that the Division grant "X", an investment adviser registered with the Securities and Exchange Commission ("SEC"), relief from having to register as a commodity pool operator ("CPO") and a commodity trading advisor ("CTA") pursuant to Section 4m(1) of the Commodity Exchange Act (the "Act")^[2] in connection with its acting as the general partner of "Y". "Y" is the only fund that "X" advises that trades commodity interests.

In support of your request for relief from CPO registration, you claim that relief is appropriate because, among other things, "Y" currently invests approximately ten percent of its assets in a commodity pool that in turn trades commodity interests. However, there is currently no exception to the obligation to register as a CPO based solely on the amount of its assets a pool commits to commodity interest trading. Accordingly, the Division is unable to grant your request for relief from CPO registration.

With regard to your request for relief from CTA registration, Commission Rule 4.14(a)(4) provides that a person is not required to register as a CTA if it "is registered under the Act as a [CPO] and the person's commodity trading advice is directed solely to, and for the sole use of, the pool or pools for which it is so registered."^[3] Since "X" must register as a CPO in connection with its acting as the general partner of "Y", and "Y" is the only fund that "X" advises that trades commodity interests, upon "X's" registration as a CPO it would be exempt from registering as a CTA, pursuant to Rule 4.14(a)(4).

If you have any questions concerning this correspondence, please contact Michael A. Piracci, an attorney on my staff, at (202) 418-5430.

Very truly yours,

Jane Kang Thorpe
Director

[1] Pursuant to a restructuring of the offices and divisions of the Commission, effective July 1, 2002, the Division of Trading and Markets was reorganized as the Division of Clearing and Intermediary Oversight.

[2] 7 U.S.C. § 6m(1) (2000).

[3] 17 C.F.R. § 4.14(a)(4).