

**CFTC letter No. 03-14**  
**March 25, 2003**  
**Exemption**  
**Division of Clearing and Intermediary Oversight**

Re: Request for Exemption from Rule 4.22

Dear :

This is in response to your letter dated February 13, 2003, to the Division of Clearing and Intermediary Oversight ("Division") of the Commodity Futures Trading Commission ("Commission"),<sup>[1]</sup> as supplemented by e-mail dated March 17 and March 18, 2003, and telephone conversations with Division staff. By your correspondence, you request that "X", a registered commodity pool operator ("CPO") and the CPO of the "Master Fund", be granted an exemption from the periodic and annual reporting requirements of Rule 4.22.<sup>[2]</sup>

Based upon your representations, we understand the facts to be as follows. In addition to the Master Fund, "X" serves as the CPO of "Feeder Fund I", "Feeder Fund II", "Feeder Fund III" and "Feeder Fund IV" (collectively the "Feeder Funds"). The Master Fund has as its sole participants the Feeder Funds.

Rule 4.22 requires that a CPO comply with certain periodic and annual reporting requirements, as set forth in those rules. Therefore, absent the requested exemption, "X", as the CPO of the Master Fund, would be required to provide certain disclosures and periodic and annual reports to itself, as the CPO of the Feeder Funds.

Based upon the representations contained in your letter, the Division believes that granting the requested exemption would not be contrary to the public interest and the purposes of Rule 4.22.<sup>[3]</sup> Accordingly, by the authority delegated to it under Rule 140.93(a)(1), the Division hereby exempts "X" from the periodic and annual reporting requirements of Rule 4.22, in connection with its operation of the Master Fund. This relief is subject to the conditions that: (i) "X" remains the CPO of the Master Fund and the Feeder Funds; (ii) "X" limits participation in the Master Fund to the Feeder Funds; and (iii) the annual reports of the Feeder Funds contain financial statements that include, among other information, detailed income and fees associated with the operation of the Master Fund expressed in dollars.<sup>[4]</sup>

The exemption granted by this letter does not excuse "X" from compliance with any other applicable requirements contained in the Commodity Exchange Act (the "Act")<sup>[5]</sup> or the Commission's regulations issued thereunder. For example, it remains subject to all antifraud provisions of the Act and the Commission's regulations issued thereunder, 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. Moreover, this letter is applicable to "X" solely in connection with its operation of the Master Fund.

This letter, including the exemption granted herein, is based upon the representations that have been made to the Division. Any different, changed, or omitted facts or conditions might render the exemption void. You must notify the Division immediately in the event the operations or activities of "X", the Master Fund, or the Feeder Funds change in any material way from those represented to the Division.

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

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<sup>[1]</sup> As of July 1, 2002, a reorganization of Commission staff became effective. For purposes of this letter, the term "Division" includes the Division of Clearing and Intermediary Oversight and its predecessor, the Division of Trading and Markets, as the context requires.

<sup>[2]</sup> Commission rules cited herein are found at 17 C.F.R. Ch. 1 (2002).

<sup>[3]</sup> See CFTC Interpretative Letter No. 01-86, [2000-2002 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 28,691 (Nov. 21, 2001). See also, *Additional Registration and Other Regulatory Relief for Commodity Pool Operators and Commodity Trading Advisors*, 68 Fed. Reg. 12622, 12638-39 (Mar. 17, 2003) (proposing to amend Rule 4.22 to exclude from the definition of "participant" commodity pools that are operated by a pool operator that is the same as, or that controls, is controlled by, or is under common control with, the pool operator of a pool in which the commodity pool has invested. If this proposal were to be adopted by the Commission, "X" would not be required to distribute periodic and annual financial reports for the Master Fund to the Feeder Funds).

<sup>[4]</sup> See letter from Jane Kang Thorpe, Director, Division of Clearing and Intermediary Oversight, to all CPOs (March 6, 2003) (<http://www.cftc.gov/files/tm/tmcpoannualreport2002.pdf>) (stating that "detailed income, fee and liquidity information for material investee pools and in total for all investee pools [are] 'material information,' " required to be disclosed in a pool's annual report).

<sup>[5]</sup> 7 U.S.C. § 1 *et seq.* (2000).