



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Clearing and
Intermediary Oversight

Kevin P. Walek
Assistant Director

CFTC Letter No. 10-11
Exemption
March 10, 2010
Division of Clearing and Intermediary Oversight

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

Dear :

This is in response to your correspondence dated February 25, 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 "Y" (the "Pool"), an exemption from the requirement of Regulations 4.22(c) and 4.7(b)(3) that the Pool file an Annual Report within 90 days of the end of the Pool's fiscal year.¹ Instead, you propose to file a 16-month Annual Report for the period from September 2009, the date upon which the Pool began trading, through December 31, 2010, the close of the Pool's 2010 fiscal year. Additionally, you request relief from the certification requirement for the financial information for the period from September 2009 through December 31, 2009, which was prior to the CPO claiming exemptive relief under Regulation 4.7.

Based upon the representations made in your correspondence, we understand the facts to be as follows. You request, on behalf of the CPO and Pool, an exemption from the requirements of Regulations 4.22(c) and 4.7(b)(3) that the CPO distribute and file an Annual Report within 90 days of the close of the Pool's fiscal year. You instead request that you be permitted to file an Annual Report for the Pool for the 16-month period from September 2009 through the end of the Pool's fiscal year, December 31, 2010. Additionally, you request relief from the certification requirement for the financial information for the period from September 2009 through December 31, 2009. You state that the Pool has seven participants, three of which are proprietary, and have attached waivers from the nonproprietary participants evidencing their intention of waiving their rights to receive an Annual Report for fiscal year 2009 and to receive certified financial information for the same period. Additionally, you state that the Pool's net asset value as of December 31, 2009 was \$1,XXX,XXX.

Regulations 4.22(c) and 4.7(b)(3) require each registered CPO to file an Annual Report with the Commission and distribute copies to the pool participants within 90 calendar days after

¹ Commission Regulations referred to herein are found at 17 C.F.R. Ch. I (2009).

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the end of the pool's fiscal year or the permanent cessation of trading. The principal purpose of financial reporting required by Regulations 4.22 and 4.7 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 letter, the Division believes that granting the request of "X" is neither contrary to the purposes of Regulations 4.22 and 4.7 nor to the public interest. Accordingly, pursuant to the authority delegated by Regulations 140.93 and 4.12(a), you are hereby granted relief from the Annual Report requirements of Regulations 4.22(c) and 4.7(b)(3) such that you are instead permitted to file an Annual Report for the Pool for the 16-month period from September 2009 to December 31, 2010 and such Annual Report may be uncertified.

This exemption does not relieve the CPO from any other applicable requirements of Part 4 of the Commission's Regulations. Further, 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.

Should you have any questions, please do not hesitate to 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, Chicago