

CFTC Letter No. 00-34**March 7, 2000****Exemption****Division of Trading & Markets**

Dear :

This is in response to your correspondence dated February 4, 2000 requesting exemptive relief from the requirements of Commodity Futures Trading Commission ("CFTC") Rule 4.22. The request is filed by XXX, commodity pool operator ("CPO") for Y (the "Fund"). You request an exemption from the requirements of Rules 4.22(c) that the CPO distribute and file an unaudited Annual Report for the pool's fiscal year ending December 31, 1999 that otherwise complies with Rule 4.22(c).

Based upon the representations made in your correspondence, we understand the relevant facts to be as follows. The Fund began trading on October 1, 1999 with total gross contributions of \$310,000. As of December 31, 1999, total member's equity was approximately \$312,891 and there were six investors. There were no withdrawals made during the period. The CPO is one of the six investors in the pool. You state that due to the short time span of existence, small amount of assets and members involved, and due to the cost of a certified audit in relation to the ending investments of the members, you request exemption from a certified audit for 1999. You have submitted statements in support of this exemption from each of the six participants. You have also submitted a non-certified annual report for the period ended December 31, 1999.

Rules 4.22(c) and (d) require each registered CPO to file a certified Annual Report with the Commission and distribute copies to the pool participants within 90 calendar days of the end of the pool's fiscal year. The principal purpose of financial reporting required by Rule 4.22 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 on behalf of the pool is neither contrary to the purposes of Rule 4.22 nor to the public interest. Accordingly, pursuant to the authority delegated by Rule 140.93(a)(1) but subject to the conditions set forth below, the pool is hereby granted relief from the certification requirement of Rule 4.22(d) for the pool's fiscal year ending December 31, 1999.

The relief granted in this letter is conditioned on [1] the distribution of an unaudited Annual Report for 1999 that otherwise complies with 4.22(c) and (d), and [2] the future filing on behalf of Y, of a certified Annual Report for the period October 1, 1999 through December 31, 2000 in accordance with Rule 4.22 (c) and (d). Moreover, this letter applies solely with respect to the exemption from compliance with the certification requirement of Section 4.22(d) for the fiscal year ending December 31, 1999 and this in no way shall excuse XXX or Y, from compliance with any other applicable requirements contained in the Act or in the Commission's regulations issued thereunder, including but not limited to the requirements of Sections 4.22(a) and (b) regarding the distribution of quarterly or monthly Account Statements of the pool.

This letter is based on the representation you have made to us. Any different, changed or omitted facts or conditions might cause us to reach a different conclusion. This letter represents the position of the Division of Trading and Markets only. It does not necessarily reflect the views of the Commission or any other office or division of the Commission. 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, Compliance
National Futures Association