

CFTC Letter No. 00-40**March 16, 2000****Exemption****Division of Trading & Markets**

Dear :

This is in response to your correspondence dated February 8, 2000, and your subsequent response dated March 10, 2000. Your correspondence requested exemptive relief from the requirements of Commodity Futures Trading Commission ("CFTC") Rule 4.22. XX file the request, commodity pool operator ("CPO") for Y (the "Fund"). Instead, you propose to provide participants with an unaudited Annual Report for 1999 that otherwise complies with Rule 4.22(c) and to include this information in the Annual Report for the period ending December 31, 2000, thus providing Fund participants with a certified Annual Report for a 16-month period.

Based upon the representations made in your correspondence, we understand the relevant facts to be as follows. The Fund began trading on September 6, 1999 with total gross contributions of \$290,000.00. As of December 31, 1999, there were fourteen investors. There was a \$40,000 contribution in January 2000 and no withdrawals during the period. The Net Asset Value of the Fund as of February 29, 2000 was \$313,739.30. You state that in light of the limited time the Fund traded in 1999, you request exemption from filing an audited financial report. You have submitted statements in support of this exemption from each of the fourteen participants.

Rules 4.22(c) and (d) require each registered CPO to file a certified Annual Report with the Commission and distribute copies to the Fund participants within 90 calendar days of the end of the Fund'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 Fund 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 Fund is hereby granted relief from the certification requirement of Rule 4.22(d) for the Fund'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 September 6, 1999 through December 31, 2000 in accordance with Rule 4.22 (c) and (d). This exemption is granted with the further provisos that XX files an unaudited annual report for Y for 1999 with the Commission and with National Futures Association. 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 XX, 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 Fund.

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