

CFTC Letter No. 00-66**May 9, 2000****Exemption****Division of Trading & Markets**

Re: Rules 4.7, 4.21 and 4.22: -- Request for exemption from CPO disclosure and reporting requirements in connection with registered CPOs' operation of certain investee funds solely for the purpose of facilitating the trading of commodity pools operated by those CPOs.

Dear :

This is in response to your letter dated February 12, 2000, to the Division of Trading and Markets (the "Division") of the Commodity Futures Trading Commission (the "Commission"), as supplemented by your letter dated April 10, 2000 and by telephone conversations with Division staff. By your correspondence, you request on behalf of your client "P" that the Division exempt "P" from: (1) the reporting requirements of Commission Rule 4.7(a)(2)(ii) and (iii)¹ with respect to four investment vehicles operated by "P" (the "Sub-Funds") of which all the participants are other funds operated by "P" (the "Feeder Funds"); and (2) the reporting requirements of Commission Rules 4.7(a)(2)(ii) and (iii), or the Disclosure Document delivery and financial reporting requirements of Rules 4.21 and 4.22 (as may be applicable)² with respect to funds similar to the Sub-Funds that "P" may operate in the future.

Based upon the representations made in your correspondence, we understand the relevant facts to be as follows. "P" is registered as a commodity pool operator ("CPO"). The Sub-Funds were organized to serve as centralized trading vehicles for the Feeder Funds. Two of the existing Sub-Funds ("Q" and "R", also referred to as the "Roll-up Funds") serve to permit Feeder Funds to access a single commonly-used trading advisor by investing in the relevant Roll-up Fund instead of opening a separate account to be managed by that trading advisor. The remaining existing Sub-Funds ("S" and "T") are organized to consolidate the trading of paired domestic and offshore Feeder Funds.³ Each of these Sub-Funds may also invest in one or more of the Roll-up Funds.

Although "P" has claimed exemption under Rule 4.7(a) with respect to each of the existing Sub-Funds and Feeder Funds, each of the Feeder Funds provides periodic unaudited reports and annual audited reports to investors in which the financial information regarding the performance of the Sub-Funds is incorporated. Because there are no participants in any Sub-Fund other than Feeder Funds (and potentially, one or more of the other Sub-Funds), the only person to whom the CPO of one of the Sub-Funds is required to issue financial reports is itself (as the CPO of each of the Sub-Fund's participants).

Based upon the foregoing representations, we believe that the requested exemption is appropriate with respect to the operation by "P" of the existing Sub-Funds. Accordingly, under the authority delegated to it by Rule 140.93(a), the Division hereby exempts "P" from the requirements of Rule 4.7(a)(2)(ii) and (iii) in connection with the operation of the existing Sub-Funds. This exemption is granted only with respect to the existing Sub-Funds, and subject to the following conditions: (1) that the only participants in the Sub-Funds continue to be Feeder Funds operated by "P"; and (2) that each of the Feeder Funds continues to provide annual audited reports incorporating the financial performance of each Sub-Fund in which the Feeder Fund is a participant.

This letter, and the exemption provided herein, are based upon the representations you have made to us. Any different, changed or omitted material facts or circumstances might render this exemption void. You must notify us immediately in the event the activities or operations of "P" or any Feeder Fund or Sub-Fund changes in any material way from those represented to us. Further, this letter does not excuse "P" from compliance with any other applicable requirements contained in the Commodity Exchange Act (the "Act"),⁴ or in the Commission's regulations issued thereunder. For example, each remains subject to all antifraud provisions of the Act and the Commission's regulations, to 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. Finally, this letter is applicable to "P" solely in connection with the operation of the existing Sub Funds. In the event that "P" establishes one or more additional Sub-Funds, it may not consider such new Sub-Funds to be covered by this letter without a written statement to that effect by the Division.

If you have any questions concerning this correspondence, please contact Chris Cummings an attorney on my staff at (202) 418-5445.

Very truly yours

John C. Lawton
Acting Director

1 Commission rules referred to herein are found at 17 C.F.R. Ch. I (1999).

2 "P" has filed notices of claims of exemption under Rule 4.7(a) with respect to each of the Sub-Funds. You note, however, that "P" may operate Sub-Funds or Feeder Funds in the future for which it does not claim exemption under Rule 4.7(a).

3 For tax and securities law purposes, separate Feeder Funds are organized to use the same trading strategies for U.S. participants and for non-U.S. participants.

4 7 U.S.C. § 1 et seq. (1994)