

CFTC Letter No. 01-36

April 17, 2001

Exemption

Division of Trading and Markets

Dear:

This is in response to your correspondence dated March 20, 2001, and based on a subsequent conversation with staff on April 12, 2001, in which you requested exemptive relief from the requirements of Commodity Futures Trading Commission (“CFTC”) Rule 4.22 that commodity pool participants be provided with an Annual Report. The request is filed on behalf of YY, the commodity pool operator (“CPO”) for Y (the “Pool”).

Rule 4.22(c) requires each registered CPO to file an 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.

In support of your request, you state among other things, that during the year ended December 31, 2000 and up to the present, the Pool’s sole investors have been its general partners, YY and Z (“Z”) and a member of Z. You represented in a conversation with staff that the principals of Z are affiliated with the CPO and Z is co-general partner of the Pool. You also represent that the Pool operates pursuant to a Rule 4.7 exemption.

In light of the representations made in your letter, in particular the “proprietary” relationship among the Pool’s participants, 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), the Pool is hereby granted relief from the requirement of Rule 4.22(c) for the Pool’s fiscal year ending December 31, 2000. However, you are reminded that the future filings of financial information on behalf of YY must be made pursuant to Commission Rule 4.7.

This letter applies solely with respect to the exemption from compliance with the requirements of Rules 4.22(c) requested herein for the Pool’s Annual Report for 2000 and this letter in no way shall excuse YY or Y from compliance with any other applicable requirements or prohibitions contained in the Act or in the Commission’s regulations issued thereunder.

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. 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: Jane Pfeiffer, Compliance
National Futures Association