

CFTC Letter No. 99-12**March 12, 1999****Exemption****Division of Trading & Markets**

Dear :

This is in response to your letter dated November 20, 1998, in which you request on behalf of X (the "Partnership"), an exemption from the requirements of Rules 4.22(c) and (d) that Y, the commodity pool operator ("CPO") distribute and file a certified Annual Report for the year end audit for 1998. Instead, you propose to provide participants with an unaudited Annual Report for 1998 that otherwise complies with Rule 4.22(c).

Under regulation 4.22(c), 17 C.F.R. §4.22(c)(1998), a CPO registered under the Commodity Exchange Act ("Act") must distribute an annual report to each participant in each pool that it operates, and must file two copies of the report with the Commission within 90 calendar days after the end of the pool's fiscal year, and after the permanent cessation of trading, whichever is earlier. Under Regulation 4.22(d), 17 C.F.R. §4.22(d) (1998), the financial statements in the reports must be presented and computed in accordance with generally accepted accounting principles consistently applied and must be certified by an independent public accountant.

In support of your request, in your letter dated November 20, 1998, you state that the Partnership was organized in October 8, 1985 and was in the process of liquidation as of October 31, 1998. The last audited financial statements dated December 31, 1997 included an unqualified opinion from the independent auditors. As of October 31, 1998, the total partners' capital was approximately \$1,019,288.01 and 6 limited partners remained. There were withdrawals made during 1998 by partners of approximately \$19,200.29. As of October 31, 1998, the total partners' capital was approximately \$1,019,288.01 and 6 limited partners remained. There were withdrawals made during 1998 by partners of approximately \$19,200.29. Unaudited monthly account statements required under Regulation 4.22 of the Act were distributed for each period in 1998 and you have enclosed the statement for the period ended October 31, 1998. You have enclosed signed consents waiving the annual certified audit report from each limited partner in the Partnership. The limited partners are responsible for the cost of the certified audit.

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 Partnership 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 condition set forth below, the Partnership is hereby granted relief from the certification requirement of Rule 4.22(d) for the pool's fiscal year ending December 31, 1998.

The relief granted in this letter is conditioned on the distribution of an unaudited Annual Report for 1998 that otherwise complies with 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 year end audit for 1998 and this in no way shall excuse Y or the Partnership from compliance with any other applicable requirements contained in the Act or in the Commission's regulations issued thereunder.

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. You must notify us immediately in the event that the operations or activities of the Partnership change in any material respect from those represented to us.

If you have any questions concerning this letter, please contact me at (202) 418-5463 or Z. Patricia Ross, Futures Trading Specialist, at (202) 418-5469.

Very truly yours,

Kevin P. Walek

Assistant Director

(202) 418-5463

cc: Anthony Gialanella, NFA

Marvin Jackson, New York Region