

CFTC Letter No. 99-66**December 22, 1999****Exemption****Division of Trading & Markets**

Dear:

This is in response to your letter dated December 13, 1999, in which you request on behalf of XX, an exemption from the requirements of Rules 4.22(c) and (d) that the commodity pool operator ("CPO") distribute and file a certified Annual Report for the pool's fiscal year ending December 31, 1999. 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, 1999, thus providing pool participants with a uncertified Annual Report for a 15-month period.

In support of your request, you state that the pool commenced operations on W, has only three participants, not including yourself who is also a member, has not grown since its inception and has net assets of \$39,351. You have submitted statements in support of this exemption from each of the three participants. You represent the participants of the pool are responsible for any expense incurred for a certified audit. You state that the enormous expense of the certified audit would be unjustified and that all parties have decided that it would be in their best interests to close the pool.

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, or after the permanent cessation of trading, whichever is earlier. 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 XX 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, XX 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 the distribution of an unaudited Annual Report for 1999 that otherwise complies with 4.22(c) and (d). That Annual Report must include the entire period from W through December 31, 1999 in accordance with Rules 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 1999 and this in no way shall excuse X or XX 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 X or XX 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.

Sincerely,
Kevin P. Walek
Assistant Director

cc:

National Futures Association