

CFTC letter No. 04-23

August 25, 2004

Interpretation

Division of Clearing and Intermediary Oversight

Re: “X” and “Y”:

Request for Interpretation under Rule 4.10(d)

Dear :

This is in response to your letter dated February 18, 2004, to the Division of Clearing and Intermediary Oversight (the “Division”) of the Commodity Futures Trading Commission (the “Commission”), by which you request, on behalf of “X” and its subsidiary trust companies (collectively, the “Y” Companies), an interpretation that various “Family Entities,” as described in the letter, are not “commodity pools” within the meaning of Commission Rule 4.10(d).^[1]

By letter dated March 16, 2004, Division staff asked you to provide definitive criteria in support of your request. By letter dated April 14, 2004, you responded to our letter. However, your response did not provide such criteria.^[2] Accordingly, the Division is unable to proceed further with its consideration of your request.

If you have any questions concerning this correspondence, please contact me or Christopher W. Cummings, Special Counsel, at (202) 418-5445.

Very truly yours,

James L. Carley
Director

^[1] Commission rules referred to herein are found at 17 C.F.R. Ch. I (2004).

^[2] For example, with respect to eligible categories of family members, you stated that “the family structures are as varied as the families that have established them.” Similarly, with respect to eligible “long-term” employees and advisors, you stated that “the range of variations is very broad, and each family addresses these matters in ways that are unique to that family.” By way of contrast, the letters you cited in your request had definitive criteria for these two situations.