

CFTC Letter No. 01-38

April 20, 2001

Exemption

Division of Trading and Markets

Re: Y, YY and YYY

Dear X:

This is in response to your letter dated March 29, 2001, supplemented by additional correspondence dated April 19, 2001, from your counsel, in which you requested an extension of time in which to file the December 31, 2000 Annual Report for the above named pools on behalf of XX the commodity pool operator ("CPO"). You requested an extension until April 30, 2001 to file the pools' 2000 Annual Report.

Your counsel represents that YY and YYY invest only in Y. No "outside" funds are involved. The CPO has all of the information needed to calculate the value of the investments for all of the funds; however, as the auditors have been unable to obtain the opinion letters regarding absence of pending litigation or claims from the attorneys outside of the United States, they are not permitted (under accounting rules) to certify the audited financial statements. Although you believe that nothing in such opinions will materially alter the pools financial statements, the auditors cannot issue an opinion on the financial statements until they have reviewed the legal opinions. Therefore, you request an extension of time to file the audited report on or before April 30, 2001.

Rule 4.22(f)(1) allows a CPO to request an extension in the event that the CPO cannot distribute an Annual Report for a pool that it operates within 90 days after the end of the pools' fiscal year without substantial undue hardship. Such request must include detailed supporting documentation to justify the need for the extension. The CPO must also provide a letter from the pool's independent public accountant addressing certain questions specified in Rule 4.22(f)(1).

Based upon the need for these opinion letters and the accountant's representation that the availability of such information has been delayed due to no fault of the CPO, the Division believes that granting the request on behalf of the CPO 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), CPO is hereby granted an extension of time to file the Annual Reports for Y, YY and YYY until April 30, 2001. This letter applies solely with respect to the extension of time for the Annual Reports for 2000 and this in no way shall excuse XX, Y, YY or YYY 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 representations 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
(202) 418-5463

cc: Jane Pfieffer, Compliance
National Futures Association