

**CFTC letter No. 02-110**  
**October 24, 2002**  
**Exemption**  
**Division of Clearing and Intermediary Oversight**

Re: Rule 4.22 (f)(1) Exemption Request

Dear X:

This is in response to your letters dated October 17 and October 22, 2002, to the Division of Trading and Markets, now the Division of Clearing and Intermediary Oversight (“Division”) of the Commodity Futures Trading Commission (“Commission”), requesting an extension of time until October 31, 2002, to file the fiscal year 2002 Annual Report for Y (the “Pool”). The request is filed on behalf of XXX, the commodity pool operator (“CPO”) for the Pool.

Rule 4.22(f)(1)<sup>[1]</sup> allows a CPO to request an extension in the event that the CPO cannot distribute the Annual Report for a pool that it operates within 90 days after the end of the pool’s fiscal year, as required by Rule 4.22(c), without substantial undue hardship. The 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).

In support of your request you state that you have been notified by the Pool’s auditors that they will not be able to complete the audit in time for Y to make a timely filing. You have submitted a letter from PricewaterhouseCoopers, the independent accountant selected to audit the Pool, indicating that certain required financial information has not been received from Z, the offshore administrator for the fund. Specifically, the letter from PricewaterhouseCoopers stated that they were waiting on responses to final queries in respect to the audit and they do not expect a final audit report can be issued until the end of October 2002. The letter from PricewaterhouseCoopers also stated, based on the audit findings to date, that they have no indication of any material inadequacies in the accounting system or procedures for safeguarding the assets of the Pool.

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 light of the representations made in your letter, 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), XXX. is hereby granted an extension until October 31, 2002 to file the 2002 Annual Reports for Y.

This letter applies solely with respect to the extension of time to file the Pool’s Annual Report for the fiscal year ending June 30, 2002 and in no way shall excuse XXX or Y from compliance with any other applicable requirements contained in the Commodity Exchange Act<sup>[2]</sup> or in the Commission’s

regulations issued thereunder.

This letter, and the exemption granted herein, is based on the representations that have been made to the Division. Any different, changed or omitted facts or conditions might render the exemption void. You must notify the Division immediately in the event the operations of the CPO or the Pool change in any material way from those represented to us.

If you have any questions regarding this letter, please contact me or Don Bass, a Futures Trading Specialist on my staff, at (202) 418-5462.

Very truly yours,

Kevin P. Walek  
Assistant Director  
(202) 418-5463

cc: Regina Thoele, Compliance  
National Futures Association

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<sup>[1]</sup> Commission rules referred to herein are found at 17 C.F.R. Ch. I (2001).

<sup>[2]</sup> 7 U.S.C. § 1 *et seq.* (2000).