

CFTC Letter No. 02-18

March 5, 2002

Exemption

Division of Trading and Markets

Dear:

This is in response to your correspondence dated January 25, 2002, received by facsimile on February 21, 2002, and subsequent information received from your office by email on February 28, 2002, filed on behalf of X, the commodity pool operator ("CPO") for Y and Z, (the "Pools). You request exemptive relief from the requirement of Rule 4.7(b)(3), which requires that within 90 calendar days after the end of the pool's fiscal year, the CPO must distribute to the investors and file with the Commodity Futures Trading Commission ("Commission") and National Futures Association ("NFA") the Pools' annual report. Further, you request that the CPO be permitted to file final Annual Reports for each of the pools that cover the period from February 1, 2001 to January 16, 2002.

Our records indicate that the CPO relies on the exemption under Rule 4.7 for each of the pools. Absent the relief requested, X would be required to prepare, distribute and file two Annual Reports – one for the fiscal year ending December 31, 2001 and a second for the period from January 1, 2002 until the Pool's termination on January 16, 2002.

In support of your request you state, among other things, that the Pools entered into their final trades, terminating the Pools on January 10, 2002 and all trades were settled as of January 16, 2002. You indicate that the balance of each terminating Pool's assets will be distributed to investors following completion of the final audit. X requests relief to have a single and final audit for each pool for the period February 1, 2001 through January 16, 2002 to save investors the costs of two separate audits as well as providing for greater efficiency in the dissolution process. X also request that it be permitted to file the Annual Reports 90 calendar days after January 16, 2002 rather than December 31, 2001.

Based upon the relatively short period of trading in January 2002 and the information submitted in support of this request, the Division believes that granting this request to the CPO is neither contrary to the purposes of Rule 4.7 nor to the public interest. Accordingly, pursuant to the authority delegated by Rule 140.93(a)(1), the Division grants your request conditioned upon the following: (1) the CPO prepare, distribute and file with the Commission and NFA a certified Annual Report for each pool for the period from February 1, 2001 through January 16, 2002, that complies with Rules 4.22(c) and (d); and (2) these reports must be distributed no later than 90 days after January 16, 2002.

This letter is applicable solely with respect to the exemption from compliance with requirements of Rule 4.7 discussed above and this in no way shall excuse X, Y or Z) from compliance with any other applicable requirements or prohibitions contained in the Commodity Exchange Act or in the Commission's regulations issued thereunder.

This letter is based on the representation you have 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 Pfeiffer, Compliance
National Futures Association