

CFTC Letter No. 02-19

March 5, 2002

Exemption

Division of Trading and Markets

Dear:

This is in response to your correspondence dated January 2, 2002, and subsequent correspondence received by this office on February 13, 2002 filed with Division of Trading and Markets (“Division”) staff regarding X., the commodity pool operator (“CPO”) for Y., (the “Fund”). You requested an extension of time until February 27, 2002 to file the Fund’s 2001 Annual Report. By correspondence dated February 27, 2002, you requested additional time to file the Annual Report until March 15, 2002.

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).

In support of your request you state, among other things, that the Fund began a liquidation process in March 2000. As of September 30, 2001, all liquidation distributions had not been distributed to investors. The CPO’s administrator indicates that due to internal administrative and procedural issues there were delays in the preparation of the books and records. The auditor indicates that the administrator has provided information of all trading activity and other supporting information; however the auditor has not been provided information to support substantive testing of the drafted financial statements. Therefore, you request an extension of time to file the audited report until March 15, 2002.

Based upon the need for this supportive financial information and the auditor’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 Report for the Fund until March 15, 2002.

This letter applies solely with respect to the extension of time for the Annual Report for 2001 and this in no way shall excuse the CPO or the Fund 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 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 Pfeiffer, Compliance
National Futures Association