

**CFTC Letter No. 02-30**

**April 4, 2002**

**Exemption**

**Division of Trading and Markets**

Dear:

This is in response to your letter dated March 28, 2002 to the Division of Trading and Markets (“Division”) of the Commodity Futures Trading Commission (“Commission”), requesting an extension of time until June 30, 2002 to file the December 31, 2001 Annual Report for Y, (the “Pool”). The request is filed on behalf of X the commodity pool operator (“CPO”) for the Pool.

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. 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, among other things, that, the Issuer is a Luxembourg entity that began operations on September 24, 2001. The Issuer has previously issued other notes linked to non-commodity related investments. This is the first issue of commodity-related notes. X has never used this format or jurisdiction for a pool and is working with a new administrator in a new jurisdiction. You also represent that certain records are kept in London as well as Luxembourg and New York. You also provide that X has claimed an exemption for the pool under Rule 4.7 but has an independent responsibility to provide audited financial reports to its investors. Thus, as indicated in the accompanying letter from the Pool’s independent auditor, the time needed to prepare financial reports based in Luxembourg accounting principles and U.S. GAAP and to prepare for an external audit of those financial reports using U.S. GAAP has exceeded that necessary to meet the requirements of 4.22(c).

Therefore, based upon 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), X is hereby granted an extension of time to file the audited Annual Report for the Pool until June 30, 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 X and the Pool 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 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 Donald Bass of my staff on 202-418-5462.

Very truly yours,

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

cc: Regina Theole, Compliance  
National Futures Association