

**CFTC Letter No. 02-60****May 31, 2002****Exemption****Division of Trading and Markets**

Dear X:

This is in response to your letters dated April 24, May 7, and May 28, 2002 filed on behalf of XXX, the commodity pool operator (“CPO”) for Y (the “Pool”). XXX operates the Pool pursuant to the exemption available under Commission Rule 4.7.<sup>[1]</sup> Rule 4.7(b)(2) requires that an account statement containing certain financial information be distributed to pool participants at least quarterly and within 30 calendar days after the end of the reporting period. You request exemptive relief to permit the CPO to distribute to the Pool’s participants the quarterly report for the Pool within 45 days after the end of each reporting period.

In support of your request you state, among other things, that the Pool is organized as a “fund of funds” with investments in one or more collective investment vehicles. Specifically, the Pool is invested in 34 different underlying funds. Ten of the underlying funds have difficulty in reporting within 30 days of a quarter end. These ten sub-funds represent approximately 25% of the Pool’s total valuation. The financial information received from these sub-funds does not arrive early enough to allow the CPO time to prepare and distribute quarterly reports within 30 days after the end of each quarter. Despite the best efforts of the CPO and sub-funds’ administrators to obtain information by phone, fax or electronic mail, the actual quarterly financial information cannot be obtained quickly enough to meet the 30-day requirement. The CPO accepts estimates for monthly valuations but uses quarterly valuations for the Pool’s subscription and redemption activity; thus, estimates are not acceptable for the quarterly information. You represent that participants may redeem their interests quarterly, with 65 days written notice. The requested extension of time to provide the quarterly reports will not affect the timeliness of the information that participants will have available in order to decide whether to redeem their interests in the Pool.

Based upon the information submitted in support of this request and the authority delegated by Rule 140.93(a)(1), the Division hereby grants your request. This exemption is conditioned upon the CPO informing current and prospective participants in the Pool that the Pool’s quarterly reports will be distributed within 45 calendar days of the end of each quarter. This exemption is applicable to XXX solely with respect to Y. This exemption applies solely with respect to the extension of time to file quarterly reports and shall not excuse XXX or Y from compliance with any other applicable requirements or prohibitions contained in the Commodity Exchange Act or in the Commission’s regulations issued thereunder. You must notify us immediately in the event that the activities or operations of the Pool change in any material respect from those as represented to us.

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, 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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[\[1\]](#) Rule 4.7 provides an exemption from certain disclosure, reporting and recordkeeping requirements to CPOs with respect to pools that are offered solely to Qualified Eligible Participants as defined in Rule 4.7(a).