

**CFTC Letter No. 02-79**

**June 21, 2002**

**Exemption**

**Division of Trading and Markets**

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

Dear X:

This is in response to your letter dated March 20, 2002 as supplemented on June 19, 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 fiscal year 2001 Annual Report for Y, YY, and YYY (the “Pools”). The request is filed on behalf of XX (“XX”), the commodity pool operator (“CPO”) for the Pools.

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 Z, the independent accountant selected to audit the Pools, that they will not be able to complete the audits in time for XX to make a timely filing. Their letter indicates that because certain investment funds audited financial information will not likely be available until after May 31, 2002, they will not be able to complete the audited financial report for the Pools until June 30, 2002. Z’s letter states that the Pools have investments in one or more collective investment vehicles including other offshore pools.

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), XX is hereby granted an extension until June 30, 2002 to file the 2001 Annual Reports for Y, YY and YYY.

This letter applies solely with respect to the extension of time to file the Pools’ Annual Reports for the fiscal year ending December 31, 2001 and in no way shall excuse XX or Y, YY and YYY 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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[\[1\]](#) Commission rules referred to herein are found at 17 C.F.R. Ch. I (2001).

[\[2\]](#) 7 U.S.C. § 1 *et seq.* (2000).