

**CFTC Letter No. 01-46**

**May 24, 2001**

**Exemption**

**Division of Trading and Markets**

Re: Y and YY

Dear :

On March 21, 2001, the Division of Trading and Markets received your correspondence submitted by facsimile dated March 16, 2001 requesting an extension of time in which to file the December 31, 2000 Annual Report for Y ("Y") and YY ("YY"). The request was submitted by XX ("XX"), the commodity pool operator ("CPO"). On or about April 18, 2001, Division staff contacted you and requested additional information. You submitted additional information by facsimile on May 16, 2001 to support your earlier requests. You requested an extension until June 30, 2001 to file the 2000 Annual Report for the pools.

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 XX has investments in one or more collective investment vehicles. You have submitted a letter from the General Partner of the Z ("Z") that indicates it will not be able to submit to you Z's final audited annual statements until May 30, 2001. You have submitted a letter from the General Partner of the W ("W") that indicates it will not be able to submit W's final audited statements until May 31, 2001. Both Z and W have invested assets in YY and Y. You have submitted a statement from O, the independent accountant selected to audit Y and YY indicating that the audited financial statements of these collective investments are required in order for them to complete their audit.

The Division has reviewed the letters submitted from the underlying investment vehicles indicating that their audited financial statements should be completed on or before May 31, 2001 and the accountant's representation that because certain investment funds audited financial information will not be available until June 2001, the accountant will not be available to complete the audited financial report for the CPO until June 30, 2001. In consideration of your request, the Division notes that the CPO has been allowed 150 days beyond its 2000 year end to provide and distribute the audited financial information; however, the CPO is requesting an additional 31 days, to extend the filing period through June 30, 2001. If the

accountant is provided the remaining financial information (the audited reports of the investee funds) by May 31, 2001, the accountant should be able to complete the audit of the reports for Y and YY within 15 additional days.

Based on the information that has been provided, the Division finds no basis for granting any additional period of time to file the Annual Reports beyond June 15, 2001. The Division believes that granting this request to this extent 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 Reports for Y and YY until June 15, 2001.

This letter applies solely with respect to the extension of time for the Annual Reports for 2000 and this in no way shall excuse XX, Y and YY 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 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 Pfieffer, Compliance  
National Futures Association