

CFTC Letter No. 02-17

February 27, 2002

Exemption

Division of Trading and Markets

Dear:

This is in response to your correspondence dated November 15, 2001, your subsequent correspondence received by this office on February 14, 2002 dated February 8, 2002, and your email received February 14, 2002 filed with Division of Trading and Markets (“Division”) staff regarding X, the commodity pool operator (“CPO”) for The Y (the “Pool”). You request exemptive relief from the timing requirement of Rule 4.7 to permit the CPO to distribute to the Pools’ investors the quarterly report for the Pool within 45 days after the end of each reporting period, rather than 30 days after quarter-end as required by Rule 4.7(b)(2).

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. The CPO is unable to provide participants with these reports within 30 calendar days after the end of the quarter due to reasons beyond its control. Specifically, the sub-funds causing the delay are located offshore, and are regulated by other jurisdictions with different financial reporting requirements. 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-fund’s administrators to obtain information by phone, fax or email, the actual quarterly financial information cannot be obtained quickly enough to meet the 30-day requirement. Therefore, you are requesting permission for the CPO to distribute the quarterly reports for the Pool to its participants within 45 days after the end of the quarter.

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 investors in the Pool that the Pools’ quarterly reports will be distributed and filed within 45 calendar days of the end of each quarter. This exemption is applicable to X, solely with respect to The Y. This exemption applies solely with respect to the extension of time to file quarterly reports and shall not excuse X or The 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 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