

CFTC Letter No. 00-69**May 22, 2000****Exemption****Division of Trading & Markets**

Re: Rule 4.7(a)
Rules 4.21, 4.22, 4.23(a)(3), 4.23(a)(10) and (a)(11)

Dear :

This is in response to your letter dated March 31, 2000, to the Division of Trading and Markets ("Division") of the Commodity Futures Trading Commission ("Commission"). By your correspondence, you request on behalf of "X" and "A", registered commodity pool operators, that the Division permit "X", in connection with its operation of the "Fund", to continue to treat the "Partnership" as if it satisfies the qualified eligible participant ("QEP") criteria of Rule 4.7(a)¹ for the purposes of the participation of the Partnership in the Fund and to permit "A" to continue to claim relief from Rules 4.21, 4.22, 4.23(a)(3), 4.23(a)(10) and (a)(11) in connection with "A's" operation of the Partnership, notwithstanding the addition of two non-QEP investors to the Partnership.² Specifically, the non-QEP investors are "B", Director of Research for "X" since April of 1998, and "C", Managing Trader for "X" since August of 1998.

Based upon representations contained in your correspondence, including a representation that the non-QEP investors are "knowledgeable employees" as that term is defined in Rule 3c-5 under the Investment Company Act of 1940, it appears that granting your request would not be contrary to the public interest or the purposes of Rule 4.7(a)³ or Rules 4.21, 4.22, 4.23(a)(3), 4.23(a)(10) and (a)(11). Accordingly, by the authority delegated under Rule 140.93(a)(1), the Division hereby confirms that "X" may continue to claim relief pursuant to Rule 4.7(a) with respect to the Fund, notwithstanding the participation of the two non-QEP investors in the Partnership. Further, by the authority delegated under Rule 140.93(a)(1), "A" may also continue to claim relief from the specific requirements of Rules 4.21, 4.22, 4.23(a)(3), 4.23(a)(10) and (a)(11) in connection with "A's" operation of the Partnership.

This letter does not excuse "X" or "A" from compliance with any other applicable requirements contained in the Commodity Exchange Act ("Act")⁴ and the Commission's regulations issued thereunder. For example, "X" and "A" remain subject to all of the antifraud provisions of the Act and the Commission's regulations, the reporting requirements for traders set forth in Parts 15, 18, and 19 of the Commission's regulations and all otherwise applicable provisions of Part 4. Moreover, this relief is applicable to "X" solely in connection with its operation of the Fund and to "A" solely in connection

with his operation of the Partnership, as discussed above.

This letter, and the relief provided by this letter, are based upon the representations you have made to us. Any different, changed or omitted material facts or circumstances might render the relief provided by this letter void. You must notify us immediately in the event the operations or activities of "X", "A", the Fund, or the Partnership, including the composition of participants, change in any material way from those as represented to us.

If you have any questions concerning this correspondence, please contact Matthew W. Lisle, an attorney on my staff, at (202) 418-5450.

Very truly yours,

John C. Lawton
Acting Director

1 Commission rules referred to herein are found at 17 C.F.R. Ch.1 (1999).

2 "X" filed a Notice of Claim of Exemption pursuant to Rule 4.7(a) on behalf of the Fund on _____. By letter dated August 17, 1998, the Division permitted "X" to continue to claim relief pursuant to Rule 4.7(a) in connection with its operation of the Fund, notwithstanding the investment of the Partnership in the Fund and permitted "A" to claim relief from the specific requirements of Rules 4.21, 4.22, 4.23(a)(3), 4.23(a)(10) and (a)(11) in connection with "A's" operation of the Partnership, notwithstanding the presence of four non-QEP investors in the Partnership.

3 The Commission recently has proposed to amend Rule 4.7 to include in the QEP definition such additional persons as "knowledgeable employees" as defined in Rule 3c-5. *See* 65 Fed. Reg. 11253, 11258-59 (March 2, 2000). For the purposes of this letter, the Division is accepting as true, and is not making any independent finding, that the non-QEP investors are "knowledgeable employees."

4 7 U.S.C. § 1 *et seq.* (1994).