



## U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre  
1155 21st Street, NW, Washington, DC 20581  
Telephone: (202) 418-5430  
Facsimile: (202) 418-5547  
[aradhakrishnan@cftc.gov](mailto:aradhakrishnan@cftc.gov)

Division of Clearing and  
Intermediary Oversight

Ananda Radhakrishnan  
Director

CFTC Letter No. 10-04  
No-Action  
February 1, 2010  
Division of Clearing and Intermediary Oversight

Re: IB Registration

Dear :

This is in response to your letter to the Division of Clearing and Intermediary Oversight (“Division”) of the Commodity Futures Trading Commission (“Commission”) dated September 30, 2009, as supplemented by your email dated November 4, 2009 (collectively, “correspondence”). By the correspondence, you request relief on behalf of “A” from the introducing broker (“IB”) registration requirements of Section 4d(1) of the Commodity Exchange Act (“Act”).<sup>1</sup> Specifically, you request relief to allow branches of “A” located outside the United States (“Foreign Branches”) to introduce commodity futures and option customers located outside of the United States (“Foreign Customers”) to “B”, an affiliate of “A”, without “A” registering as an IB.<sup>2</sup>

Based upon the representations made by you in the correspondence, we understand the relevant facts to be as follows. “B” is a registered futures commission merchant (“FCM”) and an affiliate of “A”, a national banking association chartered under the federal laws of the United States and regulated by the Office of the Comptroller of the Currency (“OCC”).

“A’s” United States offices do not engage in any conduct requiring registration with the Commission. However, the Foreign Branches have Foreign Customers that wish to enter into commodity interest transactions on designated contract markets located in the United States (“DCMs”). The Foreign Branches wish to introduce these customers to “B”, which would then serve as the FCM of these accounts. Because “B” would compensate the Foreign Branches for their referrals, the Foreign Branches would be acting as IBs.

Section 4d(1) of the Act requires all persons who act as IBs to register as such. In support of relief from this registration requirement, you represent that: (1) “A” is a national banking

---

<sup>1</sup> 7 U.S.C. §1 *et seq.* The Act can be accessed through the Commissions website at [www.cftc.gov](http://www.cftc.gov).

<sup>2</sup> You are a vice president of “A” and authorized to represent “A” in connection with making the instant request.

association regulated by the OCC; (2) “A’s” offices in the United States will not engage in any activities subject to regulation by the Commission; (3) “A” will identify to the National Futures Association (ATTN: Vice-President, Registration) the Foreign Branches that will engage in the above-described conduct; (4) “B” will be jointly and severally liable with “A”, both to the clients referred to “B” and to the Commission, for any violations of the Act or the Commission’s regulations issued thereunder arising from or relating to the Foreign Branches’ referral activities; (5) the Foreign Branches will do no more than refer Foreign Customers who want to enter into commodity interest transactions on DCMs to “B”, and “B” will then be responsible for the transactions; and (6) the Foreign Branches are subject to regulation by the relevant regulatory authorities in the countries in which they are located.

Accordingly, based upon the foregoing and consistent with prior practice in this area,<sup>3</sup> the Division will not recommend that the Commission commence any enforcement action against “A”, “B”, or the Foreign Branches if the Foreign Branches act as IBs without registering as such.

This letter does not excuse “A”, “B”, or the Foreign Branches from compliance with any other applicable requirements contained in the Act or the Commission’s regulations. For example, “A”, “B”, and the Foreign Branches remain subject to the antifraud provisions of the Act and Commission Regulations 21.02 and 21.03 (which concern special calls for information).<sup>4</sup> In addition, you should be mindful that Regulation 1.37 requires an FCM to know the true owner of every account it carries.

The position taken in this letter is based upon the representations that you have made to us and is strictly limited to those representations. Any different, changed or omitted facts or conditions might require us to reach a different conclusion. In this connection, we request that you notify us immediately in the event the operations, activities or ownership of “A”, “B”, or the Foreign Branches change in any way from those as represented to us. Further, the position taken herein represents the position of this Division only and does not necessarily reflect the views of the Commission or any other division or office of the Commission.

If you have any questions concerning this correspondence, please contact Barbara S. Gold, Associate Director of the Division, at (202) 418-5441.

Very truly yours,

Ananda Radhakrishnan  
Director

---

<sup>3</sup> CFTC Interpretive Letter 00-44 [2000-2002 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶28,095 (Mar. 31, 2000).

<sup>4</sup> 17 C.F.R. §§ 21.02 and 21.03 (2009). The Commission’s regulations similarly may be accessed at [www.cftc.gov](http://www.cftc.gov).