

Commodity Futures Archive - Selected materials, CFTC Interpretative Letter No. 76-21 (Foreign Commodity Trading Advisors and Pool Operators), ¶20,222, Commodity Futures Trading Commission, (Aug. 15, 1976)

¶20,222. Commodity Futures Trading Commission, Office of General Counsel. August 15, 1976. Staff reply in full text.

Commodity Pool Operators: Foreign: Registration Not Required.— A commodity pool operator who operates commodity pools outside of the territorial United States is not required to register pursuant to Sec. 4m of the Commodity Exchange Act, when: he confines his pool activities to areas outside of the territorial United States, none of the participants is a resident or citizen of the United States, and none of the funds or capital contributed to the pools are from United States sources.

See ¶7725 and 7760, "Registration" division.

Commodity Trading Advisors: Foreign: Registration Not Required.— A commodity trading advisor located outside the territorial United States who provides advice as to the advisability of trading futures contracts on domestic and foreign exchanges is not required to register when he confines its advisory services to areas outside of the territorial United States, and none of his clients is a citizen or resident of the United States.

See ¶7601 and 7625, "Registration" division.

Reference is made to your letter of July 20, 1976, in which you request the views of this Office relating to the registration of certain persons as commodity trading advisors and commodity pool operators, respectively, under the Commodity Exchange Act, as amended ("Act"), 7 U. S. C. 1 *et seq.*

From your letter and a telephone conversation with this Office, we understand the facts to be as follows: Certain persons located outside the territorial United States operate commodity pools. Each of these persons confines its commodity pool activities to areas outside the territorial United States. None of the participants in the pools is a resident or citizen of the United States, nor are any funds or other capital contributed to the pools from United States sources. The pools trade through the London office of your company, which is a futures commission merchant registered with the Commission. Trades are executed for the pools on both foreign commodity exchanges and on United States contract markets.

Certain other persons located outside the territorial United States provide commodity advisory services. These advisors provide advice as to the value of commodities or as to the advisability of trading in commodities for future delivery on both foreign commodity exchanges and United States contract markets. Each of these advisors confines its advisory services to areas outside the territorial United States. None of the clients advised by these advisors is a citizen or resident of the United States.

Based upon the foregoing, this Office will not recommend any enforcement action to the Commission, based solely on the failure of any of the persons operating the commodity, pools under the circumstances described above to register with the Commission as a commodity pool operator. Also, this Office will not recommend any enforcement action to the Commission, based solely on the failure of any of the persons who renders commodity trading advice under the circumstances described above to register with the Commission as a commodity trading advisor.

Because these positions are based upon the facts and representations contained in your letter and telephone conversations, it should be noted that any different, omitted or changed facts or conditions might require a different conclusion.