

TJM 86-24

COMMODITY FUTURES TRADING COMMISSION
2033 K STREET, N.W., WASHINGTON, D.C. 20581



DIVISION OF
TRADING AND MARKETS

October 1, 1986

Re: Request for relief from regulation as a commodity trading advisor

Dear Mr. :

This is in response to your letter dated June 18, 1986, as supplemented by telephone conversations with Division staff held on July 24, 1986 and August 1, 1986, wherein you requested our opinion that "A" and certain of its wholly owned subsidiaries (the "Subsidiaries") would not be subject to regulation as a "commodity trading advisor" ("CTA"), as that term is defined in Section 2(a) (1) (A) of the Commodity Exchange Act (the "Act"), 7 U.S.C. §2 (1982), if they provide commodity interest trading advice under the circumstances described below. 1/

Based upon the representations made in your letter, as supplemented, we understand the facts applicable to "A" in general to be as follows:

"A" is a mutual insurance company organized under State law. . . . It is licensed to do insurance business in every state, Puerto Rico, the Virgin Islands and Canada. . . . The core business of an insurance company such as "A" has for many years been the issuance of life insurance and annuity contracts and the administration and management of pension plans. In many facets of this business "A" performs investment management services. "A" is registered as an investment adviser with the Securities and Exchange Commission ("SEC") under the Investment Advisers Act of 1940. . . .

1/ With respect to those subsidiaries not subject to your request, we note in particular that your letter excludes "B," which is registered as a futures commission merchant ("FCM") under the Act. In this regard, you concluded that the firm's commodity interest advisory services are "solely incidental" to the conduct of its business as an FCM and, thus, that it qualifies for the exclusion from the CTA definition in Section 2(a) (1) (A) of the Act. For the purpose of this letter it has not been necessary for us to independently confirm your conclusion.

"A"'s investment management activities are many and varied [and] include management of the securities portfolios which comprise certain of its separate accounts. . . . "A" also manages securities portfolios as investment adviser to a number of independent mutual funds 2/ and to certain employee benefit plans the assets of which are held in trust.

As you are aware, in connection with its recent consideration of amendments to the Act, the House of Representatives Committee on Agriculture considered a proposal by the life insurance industry to exclude certain persons from the CTA definition. As the Committee Report states:

Representatives of the life insurance industry have proposed that the definition of "commodity trading advisor" in the Act be amended to exclude any investment adviser registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940 whose advice concerning commodity interests is solely in connection with the management of institutional securities portfolio[s]. The life insurance industry urged that such an exclusion is necessary to avoid duplicative and inappropriate regulation, and to put institutional investment advisers such as insurance companies on a par with banks and trust companies, which are already excluded from the definition of commodity trading advisor if their commodity advisory activities are solely incidental to the conduct of their business as banks and trust companies. Other witnesses supported the insurance companies' proposal. H.R. Rep. No. 624, 99th Cong., 2d Sess. 46-47 (1986).

The Committee Report then noted the Commission's objections to the breadth of the proposal. It further noted the Commission's questioning of the need for a statutory amendment to the CTA definition in light of existing authority in Section 2(a) (1) (A) of the Act, 3/ and the Commission's prior

2/ "B" also serves as the distributor of most of those mutual funds. In this regard, the Commission has stated that the activities in which such persons typically engage would not make such persons subject to regulation as a commodity pool operator ("CPO"). See 50 Fed. Reg. 15868 at 15871 (April 23, 1985).

3/ Section 2(a) (1) (A) provides the Commission with authority to exclude or exempt from the CTA definition "such [other] persons not within the intent of this definition as the Commission may specify by rule, regulation, or order."

responsiveness and stated preparedness to insurance companies regarding some of the problems that would have been addressed by the proposed amendment.

In light of the foregoing, the Committee declined to adopt the proposed amendment. Instead, the Committee urged the Commission to issue regulations in this regard. As the Committee Report states:

The Committee believes that any insurance company subject to regulation by State insurance departments (including any wholly owned subsidiary or employee thereof), provided its commodity advisory activities are solely incidental to the conduct of the business of the insurance company as such, generally is not within the intent of the definition of the term "commodity trading [advisor]." The Committee similarly believes that any person who is excluded from the definition of the term "commodity pool operator" by Commission Rule 4.5 [, 17 C.F.R. §4.5 (1986) ,] should be excluded from the commodity trading advisor definition, provided its commodity advisory activities are solely incidental to its operation of those trading vehicles for which Rule 4.5 provides relief. Relatedly, where the advisor advises an entity that is excluded from registration as a commodity pool under Rule 4.5 or is a Rule 4.5 qualifying entity and such advisor is subject to appropriate regulation under the Investment Advisers Act, that advisor should ordinarily be exempted from commodity trading advisor registration if its commodity advice is solely incidental to its business of providing securities advice to such entity and the advisor is not otherwise holding itself out as a commodity trading advisor. Therefore, the Committee urges the Commission to exercise its authority to adopt regulations in regard to these matters.

. . . .

The Committee understands that rulemaking addressing these concerns may take some time for the Commission to develop and promulgate. Individual requests for exclusions or exemptions, consistent with the above guidelines, however, should be processed by the Commission as expeditiously as practicable. The Commission's experience with individual cases should facilitate the formulation of more general rulemaking. Id. at

47-48. 4/

In light of the language in the House Committee Report and with respect to the particular activities set forth below, our opinions with respect to relief from regulation as a CTA for "A" and the Subsidiaries are as follows:

Exclusion from the definition of the term "commodity trading advisor."

"A"'s Insurance Business.

Your letter explains that life insurance companies such as "A" are in the business of issuing contracts or policies with different insurance and investment features which, from an investment standpoint, can be divided into two classes: general account contracts and separate account contracts. With respect to the former class of contract, your letter explains that the insurer promises benefits based on a guaranteed minimum or discretionary excess rate of return and that the promise is backed by the insurance company's general corporate assets. As your letter notes, the Division

4/ The Committee Report also provides:

Should the Commission determine that registration as a commodity trading advisor is required, the Committee expects that the Commission will use its existing authority to consider other appropriate relief. In this regard, the Committee is aware that the Commission has exercised its authority to limit, by exemption, those employees of otherwise regulated entities who must register as an associated person of a commodity trading advisor. The Committee further understands that the Commission has coordinated its activities with the Securities and Exchange Commission to eliminate duplicative requirements, for example, by deeming in appropriate cases compliance with SEC disclosure, recordkeeping, and reporting requirements as sufficient compliance with the Commission's corresponding commodity pool operator requirements. The Committee intends that the Commission will continue to provide this and such other relief as may be appropriate to applicants for registration as a commodity trading advisor or in any other registration category.

On the other hand, the Committee does not expect the Commission to grant exempted commodity trading advisors any relief from the antifraud provisions of section 4o of the Act. Id.

previously has indicated that in providing commodity interest trading advice for the purpose of hedging liabilities to its general account contract holders an insurance company would not appear to come within the CTA definition in Section 2(a)(1)(A) of the Act. 5/ With respect to the latter class of contract your letter explains:

Under separate account contracts, the values under the contract vary according to the investment experience of a segregated portfolio of assets established and held by the insurer under state law. . . . The separate accounts have been established to hold assets underlying "A"'s variable contracts, including group pension and annuity contracts, individual variable annuity contracts, and individual variable life insurance contracts. [Those contracts, which may be issued by a subsidiary insurance company, consist of "single customer accounts" and "commingled accounts." 6/] All of the single customer accounts and certain of the commingled accounts are exempt from registration under the Investment Company Act of 1940 pursuant to Section 3(c)(11) thereof. . . . The other commingled accounts, representing the assets underlying variable contracts issued to individuals and certain small benefit plans, are registered with the SEC as investment companies under the Investment Company Act of 1940. The assets

-
- 5/ Division of Trading and Markets Interpretative Letter No. 85-16, [1984-1986 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶22,737 (August 15, 1985). Specifically, in that letter the Division reasoned that the insurance company would not be engaged "in the business of advising others" but, rather, would be providing commodity interest trading advice to itself.
- 6/ Your letter further explains that the variable life contracts and some variable annuity contracts are issued by certain Subsidiaries and are funded by separate accounts of those companies. Those accounts, which are registered as unit investment trusts under the Investment Company Act of 1940, in turn invest in a series mutual fund which is advised by "A." In light of the fact that the shares of that fund are available only to separate account customers of "A" and its affiliated insurance companies, and as you have requested, the opinion provided below with respect to CTA regulation also would be applicable to "A" in the event one or more series of the mutual fund traded commodity interests. See Division of Trading and Markets Interpretative Letter No. 86-18, Comm. Fut. L. Rep. (CCH) ¶23,201 (July 23, 1986). In this regard, we note that like the mutual fund at issue in that letter, you have represented that any such series of the instant fund will comply with Rule 4.5 in the event it trades commodity interests.

of all these accounts are invested either in portfolios of securities or in shares of registered investment companies managed by "A" which are sold only to separate accounts of "A" and its subsidiaries to fund variable contracts. "A" may use futures and related options incidental to the management of the securities portfolios held in certain of its single customer and commingled separate accounts. 7/

In light of the foregoing, you have represented that in providing commodity interest trading advice "A"'s activities would be "solely incidental to the conduct of the business of the insurance company as such" in issuing and administering separate account contracts. In this regard, we note that such advice would be provided to persons to whom "A" (or a subsidiary insurance company) has issued a variable insurance contract and, thus, with whom "A" (or a subsidiary insurance company) has established a relationship through the issuance of that contract. 8/ Accordingly, based upon your representations, and in the spirit of the House Committee Report, it is our opinion that in providing commodity interest trading advice as set forth above "A" would not come within the spirit and intent of the definition of the term "commodity trading advisor" in Section 2(a) (1) (A) of the Act. 9/

7/ We caution that for the purpose of this letter we have not made any independent finding on, but rather are presuming as correct, your representations that any commodity interest trading advice to be provided by "A" and the Subsidiaries to the trading vehicles discussed herein will be "incidental" to their providing securities advice. In this regard, the Division previously found the similar "incidental" requirement of Rule 4.5(c) (2) (i) to be absent where --

[T]he trading of commodity interests is essential -- not incidental -- to the conduct of the operation of [the trading vehicle at issue]. Simply stated, the trading strategy of [the trading vehicle] is so dependent on the use of commodity interests that, absent that use, that strategy could not be pursued. Division of Trading and Markets Interpretative Letter No. 85-10 [1984-1986 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶22,730 at 31,069 (July 22, 1985).

8/ See n.12, infra.

9/ Based upon the language of the House Committee Report, and as your letter urges, another basis upon which to find that "A" is excluded from the CTA definition in connection with the foregoing activities is that it is a "person who is excluded from the definition of the term 'commodity pool operator' by Commission Rule 4.5" -- i.e., a State-regulated insurance

This opinion is, however, subject to compliance with certain conditions set forth at the conclusion of this letter.

"C"

Your letter explains that "C," a Subsidiary, is a trust company organized pursuant to the State Banking Code. Its Collective Employee Benefit Trust, a common trust fund for employee benefit plans, has several subaccounts, each with a separate investment objective. Currently, one of the Subsidiaries ^{10/} serves as the investment adviser to one of the subaccounts and "A" serves as investment adviser to the other subaccounts. "C" may in the future establish other such accounts which may be advised by "A" or other Subsidiaries pursuant to investment advisory contracts with "C." Specifically, those contracts will provide that --

"A" or the subsidiary has the discretion to make purchases and sales of securities and, where appropriate, futures, subject to the supervision of the Board of Directors of "C." However, under all such contracts, "C" is responsible for the exclusive management and control of all assets held under the collective employee benefit trust.

(Footnote continued)

company, and "its commodity advisory activities are solely incidental to the operation of those trading vehicles for which Rule 4.5 provides relief" -- i.e., a separate account of such an insurance company. Such a finding presumes compliance with Rule 4.5 and the Division's interpretations thereunder. See, e.g., Division of Trading and Markets Interpretative Letter No. 86-5A, [1984-1986 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶22,990 (November 6, 1985), wherein we stated that the subject insurance company would not have to file a Notice of Eligibility to claim the exclusion from the "pool" definition available under Rule 4.5(a)(4)(i), (ii) or (iii) in connection with the operation of single-customer separate accounts each of which was funded by such Rule 4.5(a)(4) "non-pools."

This alternate basis for relief would not, however, be applicable to "A" in connection with providing commodity interest trading advice to the series fund, discussed at note 6, supra. This is because under Rules 4.5(a)(1) and (b)(1), respectively, the fund would be both the "eligible person" and "qualifying entity." "A," as the fund's investment adviser, then, would not be the fund's CPO. See 50 Fed. Reg. 15868 at 15871.

^{10/} As is noted below, each Subsidiary is (or will be) registered as an investment adviser under the Investment Advisers Act of 1940.

As your letter notes, Rules 4.5(a)(3) and (b)(3) provide an exclusion from the CPO definition for a trust company subject to regulation as such under State law with respect to its management of "any trust, custodial account or other separate unit of investment for which it is acting as a fiduciary and for which it is vested with investment authority." In light of the fact that "C" remains "responsible for the exclusive management and control" of all assets held under the trust, we agree with your assertion that it is, therefore, entitled to file a Notice of Eligibility pursuant to Rule 4.5 in the event it should decide to use futures in connection with the management of the securities portfolios held in such accounts.

We further note that, in light of its responsibilities, "C" would appear to be a person who is eligible for exclusion from the CPO definition under Rule 4.5 whose "commodity advisory activities are solely incidental to its operation of those trading vehicles for which Rule 4.5 provides relief." Accordingly, based upon your representations, and in the spirit of the House Committee Report, it is our opinion that in providing commodity interest trading advice as set forth above "C" would not come within the spirit and intent of the definition of the term "commodity trading advisor" set forth in Section 2(a)(1)(A) of the Act. ^{11/} This opinion similarly is subject to compliance with the conditions set forth below.

Exemption from registration as a CTA.

With respect to other activities in which "A" and the Subsidiaries engage, and for which relief from regulation as a CTA is being sought under the House Committee Report language, your letter explains them as follows:

"A"'s Non-Separate Account Pension Advisory Business

In addition to the pension plan assets which "A" manages through its separate account business, "A" also manages certain pension plan securities portfolios pursuant to an investment advisory contract between "A" and each plan. These portfolios are held by a bank trustee or custodian. "A" may wish to use futures incidental to the management of such securities portfolios. . . .

^{11/} Section 2(a)(1)(A) also provides an exclusion from the CTA definition for any bank or trust company, provided that the furnishing of commodity interest advisory services is solely incidental to the conduct of its business. We interpreted this "solely incidental" proviso in Division of Trading and Markets Interpretative Letter No. 86-23, to be reprinted in Comm. Fut. L. Rep. (CCH) (June 16, 1986) and 83-2 [1982-1984 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶21,788 (March 18, 1983).

"A"'s Mutual Fund Advisory Business

In addition to its insurance business, "A" serves as the investment adviser to a number of independent mutual funds with a broad variety of investment objectives. The funds are registered with the SEC under the Investment Company Act of 1940. . . . [C]ertain of these funds have, or may develop, investment policies which permit the use of futures in connection with the management of the fund's portfolio of securities. . . . 12/

"D"

In 1984, as part of a reorganization of its investment function, "A" established "D" as a wholly owned subsidiary and transferred to "D" many or most of "A"'s investment personnel. 13/ Like "A," "D" is also registered with the SEC as an investment adviser

12/ We previously acknowledged the potential for relief from registration as a CTA with respect to such mutual fund advisory business in Division of Trading and Markets Interpretative Letter No. 86-18, supra n.6. Specifically, we stated:

The Division is aware that certain State-regulated insurance companies (or a wholly-owned subsidiary thereof) have established and serve as the registered investment adviser to a mutual fund complex into which persons who are not policyholders of the insurance company and who have no other relationship with the company may invest. We do not believe that in providing commodity interest trading advice to such a mutual fund the activities of the insurance company would be "solely incidental" to the conduct of the insurance company as such. Depending on the circumstances, however, relief from CTA regulation may be appropriate -- e.g., through relief from CTA registration based upon the language, and pursuant to the terms and conditions of, the House Committee Report. P. 32,531, n.6.

13/ In your July 24, 1986 telephone conversation you further explained that this reorganization was designed to help improve the accountability of investment advisory personnel and to help attract qualified portfolio managers and additional clients.

pursuant to the Investment Advisers Act of 1940. Pursuant to service agreements between "A" and "D," "D" furnishes such services, including advice concerning financial futures and related options, as "A" may require in managing its separate accounts and in performing its obligations under its investment advisory contracts with its mutual fund and pension clients. "A" continues to have responsibility for all investment advisory services undertaken by it in its investment advisory agreements and supervises "D"'s provision of services. . . .

In addition . . . "D" also manages the securities portfolios of certain pension plans pursuant to investment advisory agreements between "D" and such pension plans. "D" may expand its advisory services to other entities and may find it advantageous to use futures incidental to the management of the securities portfolios of such entities. . . .

Other "A" Investment Subsidiaries

"A" has several other wholly owned subsidiaries which are registered [or are in the process of registering] as investment advisers with the SEC in connection with their management of securities portfolios. . . . While none of these subsidiaries currently uses futures in the management of client securities portfolios, they may in the future do so.

In connection with the instant request your letter represents that with respect to the foregoing trading vehicles the use of commodity interests by "A" or any Subsidiary will be solely incidental to the management of those trading vehicles' securities portfolios. Your letter further represents that each such trading vehicle will be either a "non-pool" under Rule 4.5(a)(4)(i), (ii) or (iii) or a qualifying entity under Rule 4.5(b) which is operated in compliance with the requirements of Rule 4.5(c).

Unlike the activities in which "A" engages with respect to its insurance business and for which we believe "A" should be excluded from the CTA definition in Section 2(a)(1)(A) of the Act, the other activities in which "A" and the Subsidiaries engage with respect to their other businesses do not appear to depend on the issuance of an insurance contract -- e.g., a variable contract such as a group pension or annuity contract -- for a relationship between "A" or a Subsidiary and an advisee to exist. Thus, we do not believe these other activities are "solely incidental to the conduct of the business of the insurance company as such" and we are unable to conclude that "A" and the Subsidiaries similarly should be excluded from the CTA definition with respect thereto.

We do, however, believe that certain relief from CTA regulation is appropriate, subject to compliance with the conditions set forth below and based upon the representations you have made to us. In particular, we note your representations that: (1) "A" and the Subsidiaries are (or will be) registered as an investment adviser under the Investment Advisers Act of 1940; (2) they will provide commodity interest trading advice solely to trading vehicles that are Rule 4.5 qualifying entities or for which Rule 4.5 provides an exclusion from the "pool" definition; and (3) such advice will be solely incidental to the business of providing securities advice to any such entity. Accordingly, based upon your representations, and in the spirit of the House Committee Report, the Division will not recommend that the Commission take any enforcement action against "A" or any of its wholly owned subsidiaries named above if any such person fails to register as a CTA under the Act in connection with providing commodity interest trading advice as set forth above. 14/ Further in the spirit of the House Committee Report, the Division will not recommend that the Commission take any enforcement action against any associated person of "A" or a Subsidiary if it fails to register as such. 15/

Specifically, the opinions and "no-action" positions we have issued herein are subject to compliance with the following conditions: (1) "A" and the Subsidiaries will act in a manner "solely incidental" to the conduct of the business of the insurance company with respect to the exclusion from the CTA definition which has been issued herein; (2) neither "A" nor any Subsidiary will otherwise "hold itself out" as a CTA with respect to those activities for which a "no-action" position from CTA registration has been issued herein; (3) with respect to any position based upon the fact that commodity interest trading advice will be provided to a Rule 4.5 "qualifying entity," that such entity will comply with Rule 4.5, and in particular, will

14/ Prior to the issuance of the House Committee Report, the Division previously had taken a "no-action" position with respect to CTA registration based upon, among other things, the fact that a registered investment adviser sought to provide commodity interest trading advice to only one registered investment company that had filed a Notice of Eligibility under Rule 4.5. Division of Trading and Markets Interpretative Letter No. 85-21, [1984-1986 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶22,795 (November 8, 1985). In light of the fact that, and in accordance with the House Committee Report, the "no-action" position we have taken above would be applicable where "'A' serves as the investment adviser to a number of independent mutual funds" which will be "managed so as to comply with the requirements of Rule 4.5," our prior position on this issue effectively has been rendered obsolete.

15/ See Section 4k(3) of the Act, 7 U.S.C. §6k(3) (1982) and Rule 3.16, 17 C.F.R. §3.16 (1986).

file (where necessary) a Notice of Eligibility; and (4) "A" and the Subsidiaries will comply with whatever regulations the Commission may adopt to implement the foregoing House Committee Report. Moreover, the relief we have issued herein is strictly limited to the facts as represented above.

As for the second condition in particular -- i.e., that neither "A" nor any Subsidiary will otherwise hold itself out as a CTA with respect to those activities for which a "no-action" position from CTA registration has been issued herein -- we believe that further discussion is necessary and appropriate to ensure compliance with that condition. 16/ In this regard, you asserted that "A" or any Subsidiary "should, however, be allowed to describe to existing and potential clients the limited commodities advice it may provide in accordance with the terms of this letter and how it believes that such advice may be used to benefit its clients" -- which, you noted, would parallel the disclosures the Commission has said would be appropriate for the purpose of the "marketing" representation under Rule 4.5. See 50 Fed. Reg. 15868 at 15879. We further note that in discussing this representation the Commission stated that it --

intends the term "marketing" to include oral, written and electronic promotional materials and that an entity would be "marketing participations" in a manner inconsistent with the required representation if it was actively promoted as "a hybrid -- e.g., a securities and a commodities --- trading vehicle or as an investment vehicle in which commodity futures and options trading was particularly significant and critical to the growth of its assets, as opposed to being incidental to protecting those assets against a decline in value." Id.

Thus, the marketing materials to be used should state, with respect to transactions in commodity interests, only that strategies consistent with eligibility status under Rule 4.5 may be used. These strategies may, of course, be described in the marketing materials. Further in this regard, we believe that "A" or a Subsidiary: (1) should market its ability to manage an actual or prospective client's securities portfolio, not a commodity interest

16/ This is not intended to be an all inclusive discussion but, rather, an attempt to identify activities which we believe would be consistent -- or inconsistent -- with the "holding out" condition of the House Committee Report. As we gain more experience in this area, we expect to identify other such activities. Moreover, we expect that the Commission will construe the "holding out" issue when it proposes rules based upon the House Committee Report language.

trading vehicle; and (2) should not represent that it has any unique expertise or ability in providing commodity interest trading advice. 17/

You should be aware that this letter does not excuse "A" or any Subsidiary from compliance with any otherwise applicable requirements contained in the Act or in the Commission's regulations thereunder. For example, each remains subject to the antifraud provisions of Section 4b of the Act, 7 U.S.C. §6b (1982), and the reporting requirements for traders set forth in Parts 15, 18 and 19 of the Commission's regulations, 17 C.F.R. Parts 15, 18 and 19 (1986). 18/

The relief issued herein is based upon the representations that you have made to us, as stated above. Any different, changed or omitted facts or conditions might require us to reach different conclusions. In this connection, we request that you notify us immediately in the event the operations and activities of "A" or any Subsidiary change in any way from that as represented to us. Moreover, we note that the Futures Trading Act of 1986, to which the above-quoted House Committee Report language relates, has not yet been enacted into law. Should a different approach to the treatment of insurance companies as CTAs ultimately be reached by Congress, we request that you seek further guidance from the Division at that time. Finally, this position is that of the Division of Trading and Markets and does not

17/ The Securities and Exchange Commission recently had occasion to consider the parameters of a "marketing" criterion in connection with the adoption of Rule 151, which establishes a "safe harbor" for certain forms of annuity contracts such that those contracts will not be deemed to be subject to the Federal securities laws. See 51 Fed. Reg. 20254 (June 4, 1986). With respect to that criterion that Commission stated:

[T]he manner in which a contract is primarily marketed is a significant factor which must be considered. . . . In [a prior case, SEC v. United Benefit Life Ins. Co., 387 U.S. 202, (1967),] the insurer advertised its product by "emphasizing the possibility of investment return and the experience of United's management in professional investing." The Supreme Court found this activity to be highly relevant in concluding that the contract does not fall within the [exclusion for certain insurance contracts from the provisions] of the Securities Act of 1933. Id. at 20260.

18/ In addition, "A," the Subsidiaries, and the associated persons thereof remain subject to the antifraud provisions of Section 4o of the Act, 7 U.S.C. §6o (1982), with respect to those activities discussed above for which we have concluded that a "no-action" position from CTA registration -- and not a total exclusion from the CTA definition -- is appropriate.

Page 14

necessarily represent the views of the Commission or any other office or division of the Commission.

If you have any questions about the positions adopted in this letter, please feel free to contact me or Barbara R. Stern, the Division's Assistant Chief Counsel, at 202/254-8955.

Very truly yours,

Andrea M. Corcoran
Director