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

DIVISION OF
TRADING AND MARKETS

T&M 88-5

February 2, 1988

Re: Application of Rule 4.14(a)(8) to CTA of Foreign Funds

Dear :

This is in response to your letter dated December 15, 1987, as supplemented by your letter dated January 13, 1988, whereby on behalf of "A" and "B" (collectively the "Advisers") you requested relief from commodity trading advisor ("CTA") registration.

Based upon the representations made in your letters, we understand the facts to be as follows: Each Adviser is registered with the Securities and Exchange Commission ("SEC") as an investment adviser under the Investment Advisers Act of 1940, has its principal place of business in the United States, and primarily is engaged in the business of acting as investment adviser to a number of investment companies registered as such with the SEC under the Investment Company Act of 1940. Certain of these companies have filed a notice of eligibility for exclusion from the definition of the term "commodity pool operator" under Rule 4.5, 17 C.F.R. §4.5 (1987), and prior to providing commodity interest trading advice to any such investment company an Adviser will file a notice of exemption from CTA registration under Rule 4.14(a)(8), 52 Fed. Reg. 41975 (November 2, 1987). As required by that rule, the notice must represent that the person claiming relief thereunder qualifies to take such action -- i.e., that it is a registered investment adviser -- and that it will comply with the criteria of the rule such that: (1) its commodity interest trading advice will be directed solely to, and for the sole use of, Rule 4.5 trading vehicles; (2) its commodity interest trading advice will be solely incidental to its business of providing securities advice to each such trading vehicle; and (3) it will employ only such strategies as are consistent with eligibility status under Rule 4.5. Further, the person may not otherwise hold itself out as a CTA.

In addition, the Advisers intend to provide securities and commodity interest trading advice to various investment companies which are organized under the laws of, and maintain their principal places of business in, the Grand Duchy of Luxembourg (the "Funds"). It is with respect to these Funds that the Advisers seek relief from CTA registration.

In support of this request by your letters you further represented that: (1) the governing documents of each Fund will prohibit ownership of the Fund's shares, either directly or indirectly, by any "United States

person"; 1/ (2) each Fund will be operated pursuant to the criteria of Rule 4.5(c)(2), although because of its foreign nature the Fund will not (and absent an exemption from the SEC cannot) register as an investment company under the Investment Company Act of 1940 and therefor the Fund is not an eligible person or qualifying entity under Rule 4.5(a) or (b); and (3) an Adviser will provide commodity interest trading advice in a manner solely incidental to its business of providing securities advice to a Fund. Based upon the foregoing, and as previously noted above the registration of each Adviser as an investment adviser and the foreign nature of each Fund, the Division will not recommend that the Commission take any enforcement action for failure to register as a CTA against either "A" or "B" in connection with its providing commodity interest trading advice to a Fund. This position is, however, subject to compliance with the conditions that: (1) neither Adviser otherwise holds itself out as a CTA to a Fund or the prospective and actual investors therein; 2/ and (2) each Adviser will submit to such special calls as the Division may make of it to demonstrate compliance with the terms and conditions of this "no-action" position.

We note that this letter does not excuse any Adviser from compliance with any other applicable requirements contained in the Commodity Exchange Act or in the Commission's regulations thereunder. For example, each would remain subject to the anti-fraud provisions of Section 4o of the Act, 7 U.S.C. §6o (1982), and to 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 (1987). Further, the position we have taken herein is solely applicable to an Adviser in connection with its involvement in the activities of a Fund.

This letter is based upon the representations that have been made to us and is subject to compliance with certain conditions set forth above. 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

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1/ You defined this term to include "a citizen or resident of the United States as well as a partnership, corporation, estate or trust organized or existing under the laws of the United States or any state."

2/ Cf. Rule 4.14(a)(8), which makes an exemption from CTA registration available to a registered investment advisor to a Rule 4.5 trading vehicle -- e.g., a registered investment company -- under criteria similar to those set forth above. 52 Fed. Reg. 41975 (November 2, 1987).

immediately in the event the operations of any Adviser or a Fund, including a Fund's shareholder composition and operating criteria, change in any way from that as represented to us.

Very truly yours,

Andrea M. Corcoran
Director

BSG/mad

cc: Daniel A. Driscoll, National Futures Association