



COMMODITY FUTURES TRADING COMMISSION

2033 K Street, NW, Washington, DC 20581

(202) 254 - 8955

(202) 254 - 8010 Facsimile

93-8

DIVISION OF
TRADING AND MARKETS

February 3, 1993

Re: A -- Request for Relief Under Rule 4.7

Dear :

This is in response to your letter dated January 13, 1993, as supplemented by telephone conversations with Division staff, in which, on behalf of A, a registered commodity pool operator ("CPO"), you request relief under Rule 4.7(a)^{1/} as set forth herein, in connection with A's operation of the Funds.

Based upon the representations made in your letter, as supplemented, we understand the pertinent facts to be as follows. A is the CPO of the Funds. The Funds are "exempt pools" as defined in Rule 4.7(a)(1)(i) and all their participants are qualified eligible participants ("QEPs") as defined in Rule 4.7(a)(1)(ii). B and C and D, three of A's directors, are not QEPs but wish to invest in the Funds. You represent that each of the three directors is listed as a principal of A, is an accredited investor as defined in Rule 501 of Regulation D under the Securities Act of 1933, 17 C.F.R. 230.501 (1992), and has consented to being treated as a QEP. In addition, you represent that: (1) B was employed for eight years as Vice President, corporate lending officer and head of a merger and acquisitions group for a major U.S. bank. B joined A and its affiliates in 1989 and is managing director of E; (2) C is an attorney with extensive experience in banking and swap trading. C has been with A and its affiliates since June of 1992; (3) D has been employed in the securities industry since 1985, most recently in positions as vice president with responsibility for convertible securities sales and vice president with responsibility for institutional sales of global equity derivatives. D has been with A and its affiliates since January of 1992; and (4) C and D are registered with the National Association of Securities Dealers as registered representatives of an affiliate of A and intend to become registered as associated persons of A.

^{1/} Upon the filing of a notice of claim for exemption, Rule 4.7(a), recently adopted by the Commission at 57 Fed. Reg. 34853 (August 7, 1992), provides relief from certain Part 4 requirements to, among others, registered CPOs in connection with specified pools sold only to "qualified eligible participants" as defined in the rule.

Based on the foregoing and in accordance with prior practice,^{2/} the Division will not recommend that the Commission take any enforcement action against A if the Funds continue to operate as Rule 4.7 exempt funds after B and C and D make an investment in the Funds.

This letter is based on the representations that have been made to us. Any different, changed or omitted facts or circumstances might require us to reach a different conclusion. In this connection, we request that you notify us immediately in the event the operations or activities of A or the Funds change in any way from those represented to us.

This letter is applicable to A solely in connection with its operation of the Funds. Further, this letter does not excuse A from compliance with any other applicable requirements contained in the Commodity Exchange Act ("Act") or in the Commission's regulations thereunder. For example, A remains subject to the antifraud provisions of Section 40 of the Act, 7 U.S.C. § 60 (1988), as amended by the Futures Trading Practices Act of 1992, 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 (1992), and to all other applicable provisions of Part 4.

This letter represents the views of this Division only and does not necessarily represent the views of the Commission or of any other office or division of the Commission.

If you have any questions concerning this correspondence, please contact me or France M.T. Maca, an attorney on my staff, at (202) 254-8955.

Very truly yours,

Susan C. Ervin
Chief Counsel

FMIM/bgb

cc: Daniel A. Driscoll
National Futures Association

^{2/} See Division of Trading and Markets Interpretative Letter No. 93-2 [Current Transfer Binder], Comm. Fut. L. Rep. (CCH) ¶ 25,532, (December 10, 1992).