



DIVISION OF
TRADING AND MARKETS

COMMODITY FUTURES TRADING COMMISSION

2033 K Street, NW, Washington, DC 20581

(202) 254 - 8955

(202) 254 - 8010 Facsimile

March 8, 1993

93-14

Re: Rule 1.10(j)(7)/Request for No-Action

Dear :

This is in response to your letter to the Division of Trading and Markets ("Division") of the Commodity Futures Trading Commission ("Commission") dated December 29, 1992, as supplemented by telephone conversations with Division staff, in which you request the Division to confirm that it will not recommend that the Commission take any enforcement action against "A", a guaranteed introducing broker ("IBG") of "B", a registered futures commission merchant ("FCM"), if A introduces customer accounts to a firm other than B, its current guarantor. The other firm to whom accounts would be introduced is "C", a registered FCM.

Based upon the representations made in your letter, as supplemented, we understand the facts concerning A's operations to be as follows. As noted above, A is an IBG guaranteed by B.^{1/} A has developed a special hedging program for farmers and ranchers who require assistance with marketing. You represent that A has a long-standing business relationship with C. In addition to introducing customers to C, A also has trained C and certain of C's other IBs to use the hedging program developed by A.^{2/} A would like to continue its relationship with C because it believes C has been particularly aggressive in marketing A's hedging program.^{3/}

Commission Rule 1.10(j)(7) provides generally that an IB may not simultaneously be a party to more than one guarantee agreement. Based, however, upon the above representations and compliance with the condition discussed below, the Division will not

^{1/} Prior to December 30, 1992 A was an independent introducing broker clearing through B, C and X. A decided to become an IBG of B because the majority of A's business is with B. Nonetheless, A wishes to maintain its business relationship with C.

^{2/} You represent that A currently has approximately 50 accounts with C. You also represent that all accounts that A introduces to C are introduced directly to C.

^{3/} We note that by letter to A dated December 29, 1992, B agreed to permit A to continue clearing business through C to allow A's customers "to take advantage of the hedging program offered at C."

Page 2

recommend that the Commission take any enforcement action under Rule 1.10(j)(7) against A if it becomes party to a guarantee agreement with C as well as B and introduces customers to both firms. This relief, however, is subject to the condition that A obtains and delivers to the Division written acknowledgments from both B and C stating that each firm acknowledges and agrees to accept joint and several liability for all of A's obligations under the Commodity Exchange Act, as it may be amended from time to time, and the rules, regulations and orders which have been or may be promulgated thereunder with respect to the solicitation of transactions involving commodity customer, option customer, foreign futures customer and foreign options customer accounts of A, without regard to which firm carries the introduced accounts.^{4/} This position is based upon, among others, your representation that A and C have been involved in a unique and long-standing business relationship and the fact that both B and C have agreed in writing to an arrangement permitting A to introduce customers to both firms.

The position taken herein is based on the representations that have been made to us and is subject to the condition stated above. Any different, changed or omitted facts or circumstances might require us to reach a different conclusion. In this regard, we request that you notify us immediately in the event the operations and activities of A, C or B change in any way from those represented to us. Additionally, this position does not affect any other duties or responsibilities of any of the above-referenced entities.

Finally, this letter represents the position of the Division of Trading and Markets only. It does not necessarily reflect the views of the Commission or of any other office or division of the Commission.

If you have any questions regarding this letter, please contact me or Lawrence Eckert, an attorney on my staff, at (202) 254-8955.

Very truly yours,

Susan C. Ervin
Chief Counsel

^{4/} Additionally, we note that the language of the standard guarantee agreement, such as the one currently in effect between A and B, makes the guarantor jointly and severally liable for all of A's regulatory obligations with respect to its customers, without regard to which firm carries the accounts introduced.