



COMMODITY FUTURES TRADING COMMISSION

2033 K Street, NW, Washington, DC 20581

(202) 254 - 8955

(202) 254 - 8010 Facsimile

95-14

DIVISION OF
TRADING AND MARKETS

February 15, 1995

Re: Section 4m(1) -- Relief from Registration for Co-CPO of
Rule 4.12(b) Pool

Dear :

This is in response to your letter dated December 15, 1994, as supplemented by telephone conversations with Division staff, in which you request that the Division of Trading and Markets ("Division") of the Commodity Futures Trading Commission ("Commission") grant relief from registration as a commodity pool operator ("CPO") to "A" in connection with "A's" anticipated association as a general partner of (the "Partnership"), a Delaware limited partnership.

Based upon the representations made in your letter, as supplemented, we understand the relevant facts to be as follows. The Partnership is a private investment limited partnership which currently has two general partners: "B" and "C" (the "General Partners"). The General Partners are registered as CPOs. The Partnership is not marketed as a commodity pool and will not commit more than ten percent of the fair market value of its assets to establish commodity interest positions. A claim for exemption pursuant to Rule 4.12(b) has been filed for the Partnership.^{1/}

Although "A" will be a general partner of the Partnership, you represent that she will not exercise discretion, supervision or control over or participate in: (1) the solicitation, acceptance or receipt of funds or property to be used for purchasing interests in the Partnership, or (2) the investment, use or disposition of funds or property of the Partnership. Rather, her responsibility will be to serve as chief accounting officer. Her involvement with the Partnership will be limited to back office activities, such as effecting transfers of funds to accounts held by limited partners and other accounting duties. In further support of your request, you represent that "A" is not subject to a statutory disqualification under Sections 8a(2) or 8a(3) of the Commodity Exchange Act ("Act"), 7 U.S.C. §§12a(2) or 12a(3) (1988 & Supp. IV 1992).

^{1/} Commission rules referred to herein are found at 17 C.F.R. Ch. I (1994).

Based upon the foregoing, the Division will not recommend that the Commission take any enforcement action against "A" if she fails to register as a CPO in connection with her serving as a general partner of the Partnership. This relief, however, is subject to the conditions that within thirty days of the date of this letter: (1) "A" provides the Division with a written and dated acknowledgment whereby she accepts joint and several liability for any violation of the Act or the Commission's regulations issued thereunder involving or resulting from the General Partners' activities as general partners and CPOs of the Partnership; and (2) the General Partners provide the Division with written and dated acknowledgments whereby each of the General Partners accepts joint and several liability for any violation of the Act or the Commission's regulations thereunder involving or resulting from "A's" activities as a general partner and CPO of the Partnership.

The relief issued by this letter does not excuse "A" from compliance with any otherwise applicable requirements contained in the Act or the Commission's regulations. For example, she remains subject to the antifraud provisions of Section 40 of the Act, 7 U.S.C. §60 (1988 & Supp. IV 1992), to the reporting requirements for traders set forth in Parts 15, 18 and 19 of the Commission's regulations, and to all other provisions of Part 4.

This letter is based on the representations you have made to us and is subject to compliance with the conditions stated above. Any different, changed or omitted facts or conditions might require us to reach a different conclusion. In this regard, we request that you notify us immediately in the event the activities of the Partnership, including the extent of its commodity interest trading or the responsibilities of "A" with respect thereto, change in any way from those as represented to us. 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 any other office or division of the Commission. If you have any questions regarding this letter, please contact me or Myra Silberstein, an attorney on my staff, at (202) 254-8955.

Sincerely,

Susan C. Ervin
Chief Counsel