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U.S. COMMODITY FUTURES TRADING COMMISSION
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DIVISION OF
TRADING & MARKETS

August 13, 1996

Re: Request to treat Investor as a Qualified Eligible Participant under Rule 4.7

Dear :

This is in response to your letter dated July 31, 1996 to the Division of Trading and Markets ("Division") of the Commodity Futures Trading Commission ("Commission"), as supplemented by telephone conversations with Division staff. By your correspondence, you request on behalf of "X", a registered commodity pool operator ("CPO"): (1) relief from Rule 4.7(a)[1/] in connection with its operation of "the Fund"[2/] such that it may treat "A" as a qualified eligible participant ("QEP") as defined in the rule and (2) relief from the restriction in Rule 4.7(a)(1)(ii)(B)(2)(xi) on the percentage of assets that the Fund may invest in other Rule 4.7 exempt pools, where, as here, not all of the investors in the Fund will be QEPs.

Based upon the representations made in your correspondence, we understand the relevant facts to be as follows. "X" wishes to permit "A", who is not a QEP, to invest in the Fund. "A" is the sister of "B", a principal of (the "Advisor"), a registered commodity trading advisor ("CTA"), which is the fund's CTA. In support of your request, you represent that "A": (1) is a medical doctor and accredited investor as defined in Regulation D of the

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1/ Commission rules referred to herein are found at 17 C.F.R. Ch. I (1996).

2/ "X" filed a Notice of Claim for Exemption pursuant to Rule 4.7 on behalf of the Fund which became effective on January 16, 1996. Pursuant to this exemption, interests in the Fund may only be sold to QEPs.

Securities Act of 1933,[3/] as amended; (2) currently has over $300,000 invested in two other investment funds managed by the Advisor; (3) is fully familiar with the investment activities of the funds managed or advised by the Advisor, and (4) consents to being treated as a QEP.

Based upon the foregoing, it appears that granting the requested relief would not be contrary to the public interest and the purposes of Rule 4.7(a). Accordingly, the Division will not recommend that the Commission take any enforcement action against: (1) "X" for failure to comply with Rule 4.7(a) if it continues to claim relief pursuant to Rule 4.7(a), notwithstanding an investment in the Fund by "A", and treats "A" as a QEP; and (2) "X" or the CPO of any Rule 4.7 exempt pool in which the Fund is or becomes a participant based solely upon the Fund's investment of more than ten percent of its assets in a Rule 4.7 exempt pool.

This letter is based on the representations made in your correspondence. 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 or activities of the Fund, including the composition of its investors, change in any way from those represented to us. This letter represents the position of this Division only and does not necessarily represent the views of the Commission or any other office or division of the Commission.

This letter is applicable to "X" solely in connection with its operation of the Fund and to the CPOs of Rule 4.7 exempt pools in which the Fund is or becomes a participant. The relief issued by this letter does not excuse "X" from compliance with any other applicable requirements contained in the Commodity Exchange Act ("Act")[4/] or the Commission's regulations issued thereunder. For example, "X" remains subject to the antifraud provisions of Section 4o of the Act[5/], to the reporting requirements for traders set forth in Parts 15, 18 and 19 of the Commission's regulations and to all other applicable provisions of Part 4.

3/ 17 C.F.R. §230.501 (1996).

4/ 7 U.S.C. §1 et seq. (1994)

5/ 7 U.S.C. §6o (1994)

If you have any questions concerning this correspondence, please contact me or Monica S. Amparo, an attorney on my staff, at (202) 418-5450.

Very truly yours,

Susan C. Ervin
Chief Counsel