

CFTC Letter No. 98-18**March 12, 1998****Division of Trading & Markets**Re: Section 4m(1) of the Commodity Exchange Act

Dear:

This is in response to your letter dated October 1, 1997, to the Division of Trading and Markets (the "Division") of the Commodity Futures Trading Commission (the "Commission"), as supplemented by your letters dated November 26, 1997 and February 11, 1998 and by telephone conversations with Division staff. By your correspondence, you request that the Division not recommend that the Commission commence any enforcement action for failure to comply with Section 4m(1) of the Commodity Exchange Act¹ against: (1) "A" or "X" if they withdraw from registration as commodity pool operators ("CPOs"); (2) "A" if he withdraws from registration as a commodity trading advisor ("CTA"); or (3) "B", "C" or "D" if they do not register as CPOs and/or as CTAs in connection with serving as general partners of certain commodity pools as to which "A" and "X" also serve as general partners and (currently) as registered CPOs. You also seek such relief with respect to "future investment entities or managed accounts." The Division is unable to grant your request.

As you know, there is currently no exception to the obligation to register as a CPO or CTA based solely on the fact that the pool makes, or the CTA recommends, only de minimis investments in the futures markets. In light of the important customer protection issues at stake, Division staff believe that notice and comment rulemaking is the appropriate procedure for evaluating whether some type of de minimis exception to the CPO or CTA registration requirements is consistent with the intent of the Act and is otherwise in the public interest. To that end, we invite you to file a petition for rulemaking on this issue or to comment on any future rulemaking initiated by the Commission or by another industry participant.

If you have any questions concerning this correspondence, please contact David Battan or Chris Cummings of my staff.

Very truly yours

I. Michael Greenberger

Director

¹ 7 U.S.C. § 6m(1) (1994).