

**CFTC Letter No. 98-75****November 12, 1998****Division of Trading & Markets**

November 12, 1998

**Request for Exemptive Relief to Treat Five Trusts as Qualified Eligible Participants ("QEPs") and to Treat a Pool as a QEP**

Dear :

This is in response to your letter dated June 16, 1998 to the Division of Trading and Markets ("Division") of the Commodity Futures Trading Commission ("Commission"), as supplemented by your facsimile transmission dated June 23, 1998 and by telephone conversations with Division staff. By your correspondence, you request an exemption from Rule 4.7(a) on behalf of "X", a registered commodity pool operator ("CPO") and the CPO of the "Pool", so that it may treat five trusts as if they satisfy the qualified eligible participant ("QEP") criteria of Rule 4.7(a).<sup>1</sup> In addition, you request confirmation of your view that "X" may treat the Pool as if it satisfies the QEP criteria of Rule 4.7(a)(1)(ii)(D).

Based upon the representations made in your correspondence, we understand the facts to be as follows. The Pool is operated pursuant to the criteria of Rule 4.7(a).<sup>2</sup> "X" now wishes to admit as participants in the Pool five generation skipping trusts established under Article Fourth of the Will of "A" for the benefit of her minor grandchildren. No trust qualifies as a QEP because none has assets in excess of \$5 million.<sup>3</sup> In support of your request you represent, among other things, that the grantor and the trustee of the trusts are QEPs.

Based on the facts as presented to us, the Division is unable to grant the requested exemption.

If you have any questions concerning this correspondence, please contact Barbara S. Gold, Assistant Chief Counsel, at (202) 418-5450.

Very truly yours,

I. Michael Greenberger

Director

<sup>1</sup> Although your letter was styled as a request for a “no-action” position, we are treating it as a request for exemptive relief. Commission rules referred to herein are found at 17 C.F.R. Ch. I (1997).

<sup>2</sup> “X” filed a Notice of Claim for Exemption pursuant to Rule 4.7(a) with respect to the Pool effective June 30, 1997. Thus, interests in the Pool may only be sold to QEPs.

<sup>3</sup> See Rule 4.7(a)(1)(ii)(B)(2)(xi).

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Updated March 23, 2006