

**CFTC Letter No. 99-50****November 30, 1999****Exemption****Division of Trading & Markets**

Re: Rule 4.7(a); -- Request for Exemptive Relief so that a CPO May Treat an Employee as a Qualified Eligible Participant.

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Dear :

This is in response to your letter dated January 25, 1999 to the Division of Trading and Markets ( Division ) of the Commodity Futures Trading Commission ( Commission ), as supplemented by your facsimile transmission dated June 29, 1999 and telephone conversations with Division staff. By this correspondence, you request on behalf of X , a registered commodity pool operator ( CPO ), that the Division permit X , in connection with its operation of the Fund , to treat an independent contractor employed by X as a qualified eligible participant ( QEP ) as that term is defined in Rule 4.7(a)<sup>1</sup>.

Based upon the representations made in your correspondence, we understand the facts to be as follows. X serves as the CPO and sole general partner of the Fund. Pursuant to a Notice of Claim for Exemption filed in accordance with Rule 4.7(a), interests in the Fund may be sold only to QEPs.<sup>2</sup> X now wishes to admit A , a non-QEP, as a participant in the Fund. A is employed by X as a senior analyst dealing in equity securities, with responsibilities to review all portfolio purchases for the Fund. He has been employed by X either directly or as an independent contractor for the last seven years.

The purpose of Rule 4.7 is to reduc[e] unnecessary regulatory prescriptions for CPOs offering pool participations only to persons who, based upon the qualifying criteria in the . . . rule, do not appear to need the full protections offered by the Part 4 framework.<sup>3</sup>

Based upon the foregoing representations, it appears that granting the requested relief would not be contrary to the public interest or the purposes of Rule 4.7(a). Accordingly, by the authority delegated under Rule 140.93(a)(1), the Division hereby grants X an exemption permitting it to treat A as a QEP and to continue to claim relief pursuant to Rule 4.7(a) with respect to the Fund, notwithstanding A s investment in the Fund.

The relief granted by this letter does not excuse X from compliance with any other applicable requirements contained in the Commodity Exchange Act (the Act<sup>4</sup>) and in the Commission's regulations issued thereunder. For example, it remains subject to all antifraud provisions of the Act and the Commission's regulations, to the reporting requirements for traders set forth in Parts 15, 18, and 19 of the regulations and to all other provisions of Part 4. Moreover, this exemption is applicable to X solely in connection with its operation of the Fund.

This letter, and the exemption granted herein, are based upon the representations that have been made to us. Any different, changed, or omitted material facts or circumstances might render this exemption void. You must notify us immediately in the event the operations or activities of X or the Fund, including the composition of the investors in the Fund, change in any material way from those represented to us.

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

Very truly yours,

John C. Lawton

Acting Director

<sup>1</sup> Commission rules referred to herein are found at 17 C.F.R. Ch. I (1999).

<sup>2</sup> X filed a Notice of Claim for Exemption pursuant to Rule 4.7(a) on behalf of the Fund on \_\_\_\_\_.

<sup>3</sup> 57 Fed. Reg. 3148 at 3150 (January 28, 1992). Among other things, Part 4 specifies disclosure, reporting and recordkeeping requirements for CPOs (and commodity trading advisors, too).

<sup>4</sup> 7 U.S.C. § 1 *et seq.* (1994).