COMMODITY FUTURES TRADING COMMISSION
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DIVISION OF
TRADING AND MARKETS

91-7

June 28, 1991

Re: Relief from Commodity Trading Advisor Registration

Dear :

This is in response to your letter dated April 17, 1991, as supplemented by telephone conversations with your counsel, , and Division staff, whereby on behalf of you requested relief from commodity trading advisor ("CTA") registration.

Based upon the representations made in your letter, as supplemented, we understand the facts to be as follows:

> is registered with the Securities and Exchange Commission ("SEC") as an investment adviser under the Investment Advisers Act of 1940, has its principal place of business in the United States, and primarily is engaged in the business of acting as an investment adviser to a number of investment companies registered as such with the SEC under the Investment Company Act of 1940. Certain of these companies have filed a notice of eligibility for exclusion from the definition of the term "commodity pool operator" under rule 4.5,[1/] and has filed a notice of exemption from the CTA registration requirements under Rule 4.14(a)(8).
>
> [ ] currently provides securities trading advice to ("Foreign Subsidiary"), a wholly-owned subsidiary of ("Foreign Insurance Company"). Foreign Sub-

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1/ Commission rules referred to herein are found at 17 C.F.R. Ch. I (1990).

> sidiary is organized under the laws of, and maintains its principal place of business in, the Cayman Islands. Foreign Insurance Company is organized under the laws of, and maintains its principal place of business in, Japan.

intends to provide commodity interest trading advice to Foreign Subsidiary and, in this connection, seeks relief from CTA registration.

In support of this request you further represent that: (1) the shares of Foreign Subsidiary and Foreign Insurance Company are not owned either directly or indirectly by any citizen or resident of the United States; (2) Foreign Subsidiary will be operated pursuant to the criteria of Rule 4.5(c)(2); and (3) will provide commodity interest trading advice in a manner solely incidental to its business of providing securities advice to Foreign Subsidiary. Based upon the foregoing and consistently with our prior practice in this area,[2/] the Division will not recommend that the Commission take any enforcement action for failure to register as a CTA against in connection with its providing commodity interest trading advice to Foreign Subsidiary. This position is, however, subject to compliance with the conditions that: (1) does not otherwise hold itself out as a CTA to Foreign Subsidiary or the prospective and actual investors therein; and (2) will submit to such special calls as the Division may make of it to demonstrate compliance with the terms and conditions of this "no-action" position.

We note that this letter does not excuse from compliance with any other applicable requirements contained in the Commodity Exchange Act (the "Act") or in the Commission's regulations thereunder. For example, would remain subject to the anti-fraud provisions of Section 4o of the Act, 7 U.S.C. §6o (1988), and to the reporting requirements for traders set forth in Parts 15, 18 and 19 of the Commission's regulations. Further, the position we have taken herein is solely applicable to in connection with providing commodity interest trading advice to Foreign Subsidiary.

This letter is based upon the representations that have been made to us and is subject to compliance with certain conditions set forth above. Any different, changed or omitted facts or con-

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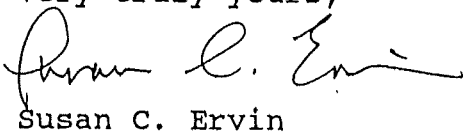
2/ See, e.g., Division of Trading and Markets Interpretative Letter No. 88-5 [1987-1990 Transfer Binder] Comm. Fut. L. Rep. ¶ 24,166 (February 2, 1988).

ditions might require us to reach a different conclusion. In this connection, we request that you notify us immediately in the event the operations of or Foreign Subsidiary, including Foreign Subsidiary's ownership composition or operating criteria, change in any way from those as represented to us. Further, this letter represents the positions 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.

Very truly yours,



Susan C. Ervin
Chief Counsel