**COMMODITY FUTURES TRADING COMMISSION**
2033 K Street, NW, Washington, DC 20581
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DIVISION OF
TRADING AND MARKETS

93-44

NOTE: NO INCOMING
ORAL REQUEST

COMMODITY FUTURES TRADING COMMISSION
RECEIVED FOR PUBLIC RECORD
MAY 21 3 00 PM '93

April 29, 1993

Re: Relief Under Rule 4.7

Dear :

By letter dated December 24, 1992, the Division permitted "X", a registered commodity pool operator ("CPO"), to file a claim for exemption under Rule 4.7(a)[1/] with respect to "Y" notwithstanding the fact that two of the participants in "Y" were not qualified eligible participants ("QEPs") as defined in Rule 4.7. This relief was subject to the conditions, among others, that only QEPs be accepted as new participants in "Y" and that participants existing at the time of the Rule 4.7 claim for exemption ("Existing Participants") continue to receive the Disclosure Document amendments required by Rule 4.21(b)(1)(i) and the financial reports required by Rule 4.22. A notice of claim for exemption under Rule 4.7 was filed for "Y" on December 18, 1992.

On February 12, 1993 you orally requested relief from providing the Rule 4.21 Disclosure Document amendments and Rule 4.22 financial reports to the Existing Participants. You represent that no Existing Participant objected to the filing of the Rule 4.7 claim for exemption and that each Existing Participant — including the Existing Participants who are not QEPs — has consented to not receiving these disclosures and reports. With respect to the two non-QEPs you also represent that they are, respectively: (1) the financial general partner of "Y", a limited partnership of which "X", "Y"'s CPO, is the general partner; and (2) a non-QEP who invested in "Y" upon the recommendation of her husband who is a registered representative of a

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1/ Rule 4.7(a), 57 Fed. Reg. 34853 (August 7, 1992), provides that registered CPOs may claim relief from certain Part 4 requirements in connection with specified pools sold only to "qualified eligible participants" as that term is defined in the rule.

registered investment adviser, a limited partner of "Y"'s financial general partner and a close associate of "X"[2/].

Based on the foregoing, the Division will not recommend that the Commission take any enforcement action against "X", if "X" complies with the applicable requirements of Rule 4.7(a) and does not provide "Y"'s Existing Participants with the Disclosure Document amendments required under Rule 4.21(b)(1)(i) or the financial reports required by Rule 4.22.

We note that this letter relieves "X" solely from certain Part 4 requirements as set forth herein and does not otherwise excuse him from compliance with any applicable requirements contained in the Commodity Exchange Act ("Act"), 7 U.S.C. §§ 1-24 (1988), as amended by the Futures Trading Practices Act of 1992, Pub. L. No. 102-546, 106 Stat. 3590 (October 28, 1992), or in the Commission's regulations thereunder. For example, "X" remains subject to the antifraud provisions of Section 4o of the Act, 7 U.S.C. §6o (1988), to the reporting requirements for traders set forth in Parts 15, 18 and 19 of the Commission's regulations, 17 C.F.R. Parts 15, 18 and 19 (1992), and to all other applicable provisions of Part 4.

This letter is based on the representations that you have made to us. Any different, changed or omitted facts or circumstances might require us to reach a different conclusion. In this connection, we request that you notify us immediately in the event the operations or activities of "X" or "Y" change in any way from those represented to us. This letter represents the views of this Division and does not necessarily represent the views of the Commission or of any other office or division of the Commission.

If you have any questions concerning this correspondence, please contact me or France M.T. Maca, an attorney on my staff, at (202) 254-8955.

Sincerely,

Susan C. Ervin
Chief Counsel

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2/ You also represent that the funds contributed to "X" by this non-QEP are jointly held by the non-QEP and her husband although, for estate planning purposes, the investment is in her name alone.