



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
Telephone: (202) 418-5430
Facsimile: (202) 418-5536

96-13

DIVISION OF
TRADING & MARKETS

January 24, 1996

Re: Request to be Treated as Qualified Eligible
Participants for Purposes of Rule 4.7

Dear :

This is in response to your letter dated December 8, 1995, to the Division of Trading and Markets ("Division") of the Commodity Futures Trading Commission ("Commission"), as supplemented by telephone conversations with Division staff, in which you request that "A", "B" and "C" be treated as qualified eligible participants ("QEPs") under Rule 4.7.^{1/} The decision to treat "A", "B", and "C" as QEPs is necessary to allow "U" to claim relief under Rule 4.7 notwithstanding the participation of "A", "B" and "C" in the "Pool".

Based upon the representations made in your correspondence, we understand the pertinent facts to be as follows. "U" will be the registered commodity pool operator ("CPO") of the Pool. The Pool will pursue various fixed income, arbitrage and derivative strategies through investments in emerging country debt instruments and related derivatives (including commodity interest contracts). All of the proposed investors in the Pool meet the definition of QEP with the exception of "A", "B", and "C". In support of your request to treat "A", "B", and "C" as QEPs, you state that they will be registered as associated persons of "U", will be responsible for managing the pool, have extensive experience in the financial industry and have a level of financial sophistication at least as great as that of persons qualifying as QEPs under Rule 4.7. Moreover, you state that each is an accredited investor within the meaning of Rule 501(a) under the Securities Act of 1933, as amended. Additionally, you state that "A", "B" and "C" will each consent in writing to be treated as a QEP.

^{1/} Commission rules referred to herein are found at 17 C.F.R. Ch. I (1995), amended by 60 Fed. Reg. 38146 (July 25, 1995).

Specifically, you state with respect to "A" that he, along with "B", is a founder of "U's" fixed income department and has been directly and personally involved in all of "U's" fixed income investment management activities. "A" joined "U" in 1993 and currently is Managing Director, Fixed Income, where he is responsible for the global fixed income group. Prior to joining "U", from 1991 to 1993, he worked at "W", heading the firm's global fixed income research, marketing and management efforts. From 1985 to 1991, he worked at "V", where, among other things, he formed the institutional fixed income department, which under his direction increased its assets to more than \$1.5 billion. As Executive Vice President and Director at "V", he was actively involved in the management of the Trust Company. Further, you state that "A" has taught professional classes in fixed income analysis and portfolio management.

With respect to "B", you further state that he has been directly and personally involved in all of "U's" fixed income investment management activities. You further state that "B" joined "U" in 1993 and currently is a Managing Director responsible for "U's" global fixed income effort and oversees the use of fixed income derivatives. Prior to joining "U", he was at "W", where he helped launch a quantitative global fixed income group. Prior to that, from 1990 until 1992, he worked at "T", where he was in charge of the quantitative fixed income portfolio group, managing \$1.5 billion in institutional portfolios. As a member of "T's" internal international strategy committee, "B" introduced risk control, derivatives, and return enhancement strategies to the domestic and international portfolio management process.

Lastly, with respect to "C", you represent that he joined "U" in June 1995 and is currently a portfolio manager. Prior to joining "U", from 1990 through 1995, he worked at "X" in the "Y" Group, where he was a vice president. At "X" he was responsible for generating trading strategies and the valuations of futures, options and other derivatives products. Prior to that, from 1984 through 1990, he worked at "Z", where he was responsible for the development of analytical trading tools for the proprietary trading desk.

"A", "B" and "C" currently manage an open-end investment company (after which the pool was modeled), which invests almost exclusively in emerging country debt securities and which, as of September 30, 1995, had assets of nearly \$540 million. As of September 30, 1995, "A", "B", and "C" were directly responsible for managing over \$1.25 billion of assets (including the above-mentioned investment company). Moreover, each has complete access to all of "U's" records regarding the Pool.

Based upon the representations made in your correspondence, the Division believes that your request has merit. Accordingly, the Division will not recommend that the Commission take any enforcement action against "U" for failure to comply with the QEP criteria of Rule 4.7 with respect to "A", "B", and "C". This letter is based on the representations made in your letter, as supplemented. Any different, changed or omitted facts or circumstances might require us to reach a different conclusion. In this regard, we request that you notify us immediately in the event the operations or activities of "U" or the Pool change in any way from those represented to us.

We note that this letter relieves "U" solely from the QEP criteria of Rule 4.7 with respect to the participation of "A", "B", and "C" in the Pool and does not excuse it from compliance with any other applicable requirements contained in the Commodity Exchange Act, 7 U.S.C. § 1 et seq. (1994) ("Act"), or in the Commission's regulations issued thereunder. For example, it remains subject to the antifraud provisions of Section 4o of the Act, 7 U.S.C. § 6o (1994), to the reporting requirements for traders set forth in Parts 15, 18 and 19 of the Commission's regulations and to all other applicable provisions of Part 4.

Further, this letter represents the views of this Division only 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 Gary L. Goldsholle, an attorney on my staff, at (202) 254-8955.

Very truly yours,

Susan C. Ervin
Chief Counsel