

CFTC Letter No. 99-42**August 11, 1999****Exemption****Division of Trading & Markets**

Re: Rule 4.7(a); Request to Treat "A" as a Qualified Eligible Participant

Dear :

This is in response to your letter dated May 14, 1999 to the Division of Trading and Markets ("Division") of the Commodity Futures Trading Commission ("Commission"), whereby on behalf of "X", a registered commodity pool operator, you request an exemption from Rule 4.7(a) such that "X" may treat "A" as if he satisfies the qualified eligible participant ("QEP") criteria of the rule.[1](#)

Based upon the representations you have made in your correspondence, we understand the facts applicable to "A" to be as follows. "A" is an accredited investor under Regulation D of the Securities Act of 1933. He currently is the chief financial officer of a pharmaceutical company. Before that, he was employed at a major accounting firm managing, among others, the audit engagements of brokerage/investment banking clients (including some in the commodity brokerage business) and a brokerage firm specializing in the trading of derivative mortgage-backed instruments. However, the aggregate market value of the securities that "A" owns is \$1.8 million, or \$200,000 less than that required for a natural person QEP. Moreover, "A" is not an officer or principal of "X" nor is he otherwise employed by "X".

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

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