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TUDOR INVESTMENT CORPORATION

File 4-476

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July 3,2003

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OFFICE OF THE SECRETARY

Mr. Jonathan G. Katz
Secretary
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-0609

Re: Securities and Exchange Commission Hedge Fund Roundtable

Dear **Mr.** Katz:

As one of the largest private hedge fund managers operating in the United States, we wish to commend the Securities and Exchange Commission for sponsoring its May 14-15 hedge fund roundtable and for arranging the participation of a diverse and highly qualified group of panelists. We strongly believe the Commission's ongoing fact-finding efforts in this area will improve the general understanding and knowledge of hedge funds among regulators, investors and other market participants.[1]

At the conclusion of the roundtable, Chairman Donaldson invited further public comment, and this letter is intended to provide the Commission and its staff with our views on the question whether registration of hedge fund managers with the Commission **as** investment advisers under the Investment Advisers **Act** of 1940 is necessary or desirable public regulatory policy. We respectfully submit that such an extension of the Commission's regulatory responsibilities is *not* necessary or desirable, either to protect the interests of hedge fund investors or to fill **a** regulatory information gap, when the manager is subject, as **is** Tudor Investment Corporation, to registration, oversight and regulation by another U.S. federal regulator. SEC registration in such **a** case would amount to nothing more than another layer **of** regulation that in our judgment would provide only limited benefits to investors relative to the costs imposed.

In the discussion that follows **we** first describe our business and the regulatory schemes to which we are subject. We then set out our views as to why SEC registration of an otherwise federally-regulated entity falls short of passing a cost-benefit analysis.

[1] We use the term "hedge fund" in this letter as it is used among industry professionals and the press, that is, a pooled investment vehicle that would, but for the "private fund" exclusions under Sections 3(c)(1) or 3(c)(7) of the Investment Company Act of 1940, be subject to registration with the Commission under that Act.

Tudor Investment Corporation

Tudor **was** founded in 1980 as an independent floor brokerage firm by Paul Tudor Jones, who was at the time a cotton trader on the floor of the New York Cotton Exchange. In 1983, Mr. Jones left his floor trading career and established Tudor Investment Corporation as an asset management firm. Today, the Tudor Group of companies is recognized among the premier alternative asset management firms in the United States. More than 290 employees support Tudor's trading, research, technological, operations and administrative demands from offices in Greenwich, Connecticut, Boston, Surrey, U.K., New York City and Washington, D.C. With Mr. Jones as controlling shareholder, Tudor is wholly owned by key employees.

Since 1984, Tudor Investment Corporation has been continuously registered with the Commodity Futures Trading Commission as **a** commodity trading adviser and commodity pool operator and has been a member of the National Futures Association in those capacities for the same period.[2] In addition, Tudor's U.K. subsidiary is registered with and subject to regulation and oversight by the Financial Services Authority **(FSA),** the United Kingdom's principal financial services regulator.[3] Tudor's Japanese operations, which were closed in 2002, were in the **past** subject to similar regulation by the Japanese Financial Services Agency, Japan's principal financial services regulator. In this regard, we wish to note that in each country in which we do business, including, to date, the United States, Tudor has been subject to primary oversight by a single financial services regulator.

Tudor and its affiliates currently manage approximately $8.4 billion across ten customer funds in the futures, forward, options and securities markets for a U.S. and international clientele. Investors in Tudor's customer funds are based in 35 countries and include high net worth individuals **and** families, private bank portfolios, funds-of-funds, employee benefit plans, endowments, foundations and trusts. These investors are carefully selected to ensure that their participation in the customer funds (and thus in Tudor's sophisticated trading and investment strategies) is appropriate; they are solicited on a private basis, and Tudor does not hold itself out to the public as an investment adviser. Significant proprietary capital also is invested directly in Tudor customer funds or in accounts traded in parallel with those funds.

Tudor has taken a long-standing interest in the development of **a** stable and well-managed hedge fund industry. To this end, Tudor, together with four of its **peer** firms, issued a report in February 2000, "Sound Practices for Hedge Fund Managers," containing 34 "best practice'? recommendations designed to assist the industry in developing prudent risk-management processes.

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[2] Tudor is not **registered** with the Commission as an investment adviser in reliance on Section 203(b)(3) of the Investment Advisers **Act** of 1940.

[3] The comprehensive nature of the **FSA's** regulatory regime was described in detail at the Commission's roundtable. See comments of Christina Sinclair, Head of the **FSA's** Department of Business Standards, before Panel **7** ("Assessment of the Current Regulatory Framework," May 15,2003).

We recognize that some hedge fund managers operate below all regulatory radar screens. We acknowledge the concern expressed by some that knowing very little about the operations of completely unregulated hedge fund managers could compromise the Commission's role as regulator of the U.S. securities market. By virtue of being regulated comprehensively by another federal regulator, however, Tudor and other similarly situated entities clearly present no such concern for the Commission.

Balancing the costs of additional regulation given the purposes of the federal securities laws

The principal purposes of the federal securities laws are the protection of the investing public and the development and maintenance of fair, efficient and stable securities markets. Congress and federal regulators have established a **legal** framework designed to achieve these purposes while encouraging growth and innovation through the entrepreneurial efforts of market participants. Achieving all of these goals necessarily involves balancing the likely systemic benefits of regulation against its likely systemic costs including the costs of committing public resources to funding such regulation. Along with a number of panelists, Chairman Donaldson reminded roundtable participants of the importance of this cost-benefit analysis several times over the two days of the roundtable.

In meeting these public policy considerations, Congress and federal regulators traditionally have been reluctant to disturb private contractual relationships among sophisticated parties. The exceptions for these types of relationships embedded into the various **federal** laws affecting securities and commodities businesses recognize that certain classes of persons and transactions properly require less regulatory oversight than others, thereby permitting regulators to commit their resources fully to their core public service mission of protecting **the** investing public.[4]

As noted above, the investors in our customer funds are solicited on a private basis and are carefully screened to ensure they are within those categories of investors long recognized as outside the primary purview of the federal securities laws.[5] We strongly believe, in light of this central element of our business model, that subjecting Tudor and other similar hedge fund managers to additional regulation in the form of mandatory re istration with the Commission would be an inefficient use of scarce governmental resources![6] **We** are not alone in our view; the President's Working Group on Financial Markets (consisting of the Secretary of the Treasury

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[4] **We** acknowledge, **as** was made clear throughout the roundtable, that all U.S. securities market participants are appropriately subject to some level of regulation, especially with regard to the various federal antifraud prohibitions and certain carefully tailored transaction and position reporting requirements.

[5] We agree with the views advanced by some roundtable participants that imposing tougher "accreditation" standards on investors seeking to come within those categories may be the least disruptive means of addressing any investor protection concerns raised by the Commission with respect to hedge funds.

[6] The Commission staff's increasingly "risk-based" adviser examination program implicitly acknowledges the limits of existing staff resources. We submit that the addition to the examination roles of **what is** likely to be in the thousands of hedge fund managers following a variety of complex investment strategies could well overwhelm the program and, **in** any event, could stretch the time between examinations considerably.

and the Chairs of the Board of Governors of the Federal Reserve, the Commission and the CFTC) reached the same conclusion in 1999, a conclusion we believe holds true today.[7]

We believe SEC registration of hedge fund managers would have significant and detrimental effects on a business almost uniformly hailed by roundtable participants as thriving and highly beneficial to its investors. While some commentators have said that the only burden of registration is submission to the Commission's examination and review process, we see this as a substantially increased burden. **It** would, for example, require extensive additional record-keeping.[8] It also would require participating in the periodic examinations themselves, which demand considerable attention from senior management and investment, accounting and legal personnel. These requirements would be especially burdensome for hedge fund managers already subject to CFTC/NFA examination (referred to in the remainder of this letter **as** "CFTC-Registered Managers"), which would then be subject to two sets of routine examinations.

Moreover, regulation under the Advisers Act likely would limit hedge fund managers' ability to continue to develop the innovative trading and investment techniques and creative operational structures that have characterized the industry to date. We share the widespread concern that this could weaken U.S. hedge fund managers' competitive position internationally, perhaps even driving some established **U.S.** managers and promising entrepreneurs overseas.[9]

<u>Balancing the costs of additional regulation given the existence of an effective, alternate federal regulatory regime</u>

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[7] **As** the Working Group said: "Requiring hedge fund managers to register **as** investment advisers would not seem an appropriate method to monitor hedge fund activity. Like the Investment Company Act's private fund exclusions, Section 203(b)(3) [of the Advisers Act] evidences a Congressional determination that clients of an adviser that **has** relatively few clients do not need the substantive protections of the Investment Advisers Act. These clients (particularly the sophisticated investors that typically invest in hedge funds) may be in a position to protect their own interests ..." ***Hedge** Funds, **Leverage** and **the** Lessons of **Long-Term** Capital **Management,*** Report of the President's Working Group on Financial Markets **(April** 1999) at page B-16. **In** deciding not to recommend additional direct regulation of hedge funds **and** their managers, the Working Group also considered the "formidable challenges in terms of cost and effectiveness" associated with such regulation. ***Id.*** at 42.

[8] The Advisers Act imposes a "one size fits all" regime that inevitably will require maintaining records ***of*** some materials not currently provided for by a manager's individual policies. Similarly, although CFTC and NFA rules currently require Tudor and other managers registered with the CFTC to maintain various records, their rules are not uniformly congruent with Advisers Act requirements.

[9] Many informed observers and market participants have expressed this concern. See, e.g., *President's **Working** Group **Report*** at 42 ("directly regulating [hedge funds] could drive some of them offshore"); testimony of William McDonough, President of the Federal Reserve Bank of New York and Chairman of the Basel Committee on Banking Supervision, before the *Subcommittee on Financial Institutions and Consumer **Credit** of the **House** Committee on Banking and Financial Services,* 106th Cong. (1999) ("direct regulation of hedge funds would require a high level of coordination involving the political, legislative and judicial bodies of many countries"). See also comments of Afsaneh Beschloss, CEO and Chief Investment Officer, Carlyle Asset Management Group before Panel 5 ("Hedge Fund Strategies and Market Participation"), and **Mark** Anson, Chief Investment Officer, California Public Employees Retirement System (CalPERS), John Gaine, President, Managed **Funds** Association, and Robert Pozen, Visiting Professor, Harvard Law School, before Panel 7 ("Assessment of the Current Regulatory Framework").

Congress has long recognized the inefficiency embodied in parallel regulatory schemes.” The Commission, in our view, should follow the lead of Congress and apply a cost-benefit analysis in evaluating whether to subject hedge fund managers to Advisers Act registration. Subjecting a CFTC-Registered Manager such as Tudor, which already complies with comprehensive CFTC and NFA regulatory schemes, to the Advisers **Act** simply does not pass the cost-benefit test. **(A** summary of significant CFTC and NFA registration and regulatory obligations is included as Appendix **A** to this letter.)

A recurring theme at the roundtable was the issue of whether new Commission authority to examine hedge funds and their managers would deter fraud. **As** described at the roundtable, however, existing CFTC registration and examination requirements (as administered by the NFA) appear to be strong deterrents to misbehavior among CFTC-Registered Managers. The CFTC's General Counsel noted, for **example,** that “the vast majority” of the CFTC's hedge fund fraud actions have been taken against unregistered pool operators and that registered pool operators largely maintain clean, compliance-oriented operations.” We find the General Counsel's statement compelling evidence that imposing parallel and burdensome Commission registration and examination requirements to CFTC-Registered Managers would be, at best, of only marginal value in protecting investors. Roundtable testimony suggests it **is** unclear to what extent **the** Commission's adviser examination staff would have **the** resources to provide regular and meaningful oversight of new registrants.[12]

It bears noting on this point that the CFTC General Counsel estimated at the roundtable that problems with hedge funds “over the last five years” represented only 2 to 3% of combined Commission and CFTC enforcement actions for that period and that, **for** large commodity pools of the type managed by Tudor, the CFTC receives “maybe two [fraud] complaints a year.” Put plainly, this apparently minimal incidence of fraud simply does not justify, in our view, the commitment of substantial new Commission and industry resources to developing and implementing a regulatory regime for a class of persons already subject to federal oversight and regulation. The General Counsel also pointed out in this regard that the CFTC's enforcement **group** coordinates its efforts with those of the Commission staff, assuring that enforcement issues of interest to the Commission uncovered during the CFTC/NFA examination process are subject to Commission review. We believe broader coordination of this nature **may be** the most efficient application of regulatory resources with respect to CFTC-Registered Managers.

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[10] An example of recent Congressional efforts to limit duplicative regulation and efficiently apply government resources is the division ***of*** labor between the Commission and state regulators embodied in the National Securities Markets Improvement Act of 1996 (NSMIA). Among other things, that Act amended the Advisers Act by adding Section 203A, placing larger advisers under Commission jurisdiction and smaller advisers under state jurisdiction. Shortly before enactment of **NSMIA,** Gene Gohlke, Associate Director of the Office of Compliance, Inspections and Examinations, noted that, given the paucity **of** Commission resources, advisers registered with the Commission could expect a routine examination as infrequently as every 22 years. ***SEC's New Approach to*** *Examination of* ***Advisers*** *Focuses on* ***Risk to Clients,*** 27 Sec. Reg. & L. Rep. **(BNA)** 1704, 1704-5 (Oct. 27, 1995).

[11] See comments **of** Patrick J. McCarty, General Counsel of the CFTC, before Panel 6 (“Enforcement/Fraud Concerns,” May 15,2003).

[12] It is commonly estimated that SEC-registered advisers are currently examined every 24 to 60 months. In his **remarks,** the CFTC General Counsel noted, in contrast, that the CFTC/NFA examination process reaches CFTC registrants approximately every 30 to 36 months.

Some speakers at the roundtable suggested that Advisers **Act** registration of hedge fund managers was necessary to keep the Commission abreast of the operations of hedge funds. Registration may well fill a **gap** with respect to hedge fund managers subject to no direct form **of** federal regulation and oversight. To our minds, however, roundtable testimony made clear that no such **gap** needs to be filled for CFTC-Registered Managers. Both the CFTC's General Counsel and **the** Director of its Division of Clearing and Intermediary Oversight, for example, described extensive information about CFTC-Registered Managers that is gathered **and** made publicly available by the NFA.[13] Significantly, the General Counsel noted that *55* of the 100 largest hedge fund managers are CFTC-registered.[14] Assuming any similar proportion of hedge fund managers generally are so registered, that represents a considerable body of information already available.

The CFTC panelists were seconded moreover by panelists from two large diligence firms representing hedge fund investors who expressed satisfaction with the information about individual CFTC-Registered Managers available in **NFA** databases? The availability of NFA information to **the** Commission and hedge fund investors, we submit, makes it unnecessary **for** the Commission to require registration of CFTC-Registered Managers ***to*** enhance understanding of the hedge fund business.

Conclusion

Leaving aside the question of whether the Commission has the authority to require mandatory registration of hedge fund managers," we have focused in this letter only on whether such a requirement would be an efficient regulatory response to the concerns identified by the Commission. Approaching that question from a cost-benefit **perspective,** we believe registration is not warranted in the case of CFTC-Registered Managers like Tudor. Rather, the regulatory

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[13] See comments by Mr. McCarty before Panel 6 ("Enforcement/Fraud Concerns," May 15,2003) and by Jane Kang Thorpe, Director of the CFTC's Division of Clearing and Intermediary Oversight, before Panel 7 ("Assessment of the Current Regulatory Framework," May 15,2003). **As** Ms. Thorpe explained, this information is developed during the course of regular CFTC/NFA examinations and through the registration process, which requires registrants to provide (and update regularly) detailed information regarding their firms, firm principals and activities.

[14] See comments by Mr. McCarty before Panel 6 ("Enforcement/Fraud Concerns," May 15,2003). According to the annual *Institutional* ***Investor*** 'Hedge Fund 100" survey, the 100 largest hedge fund managers managed 55% of total single-manager hedge fund assets at year-end 2002 (49% at year-end 2001). See ***The*** *Hedge fund 100, Institutional Investor*, June 2003 at 40.

[15] See comments by Thomas Fedorek, Senior Managing Director **at** Citigate Global Intelligence & Securities, and Pamela J. Parizek, Associate Managing Director at Kroll, Inc., before Panel 6 ("Enforcement/Fraud Concerns," May 15,2003).

[16] **As** the Cornmission is well aware, mandating that hedge fund managers register under the **Advisers** Act would require reversing substantial and consistent precedent developed by the Commission and its staff as to the proper interpretation of a hedge fund manager's "clients" for purposes of Section 203(b)(3) of the Advisers Act. **We** believe current practice reflected in Rule 203(b)(3)-1 under the Advisers Act (i.e., defining an investment fund as the client, rather than its individual limited partners), is supported by the practical realities of the 'relationship: the fund's objectives and restrictions guide the advice **given** while the specific **and** varying interests of the limited partners are not considered.

benefits would be extremely limited when compared with the costs to such managers, their investors and other stakeholders, to the Commission itself and to taxpayers of imposing new regulation on a segment of the market already subject to credible, effective federal oversight and examination.

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Thank you again for providing this opportunity to comment during the Commission's evaluation of these important issues. Should the Commission or its staff require further information or comment from Tudor, please contact Andrew S. Paul, Tudor's Managing Director, Secretary and General Counsel, at (203) 863-6704.

Very truly yours,

Mark F. Dalton

Mark F. Dalton

cc: Ms. Jean A. Webb
Secretary, Commodity Futures Trading Commission

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APPENDIX A - CFTC/NFA REGULATION

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Generally speaking, a hedge fund manager that acts directly or indirectly on behalf of U.S. persons, whether they are U.S. funds or U.S. investors in a **U.S.** or non-U.S. fund operated or advised by the manager, is required to register in an appropriate capacity with the Commodity Futures Trading Commission in connection with **U.S.** or non-U.S. "commodity interest" transactions. (Exchange-traded commodity futures contracts and/or commodity option contracts are collectively referred to in this Appendix **as** "commodity interests".)

Because hedge fund managers often cause the funds they manage to trade in commodity interests, hedge fund managers often register with the CFTC as a commodity pool operator (CPO) and/or commodity trading advisor **(CTA).** Accordingly, certain CPO registration requirements are summarized below, followed by a brief review of the principal ongoing regulatory requirements generally applicable to CPOs.[1] In view of the fact that CPOs of hedge funds commonly rely on the exemption under CFTC Rule 4.7 from certain aspects of these regulations, the summary of ongoing regulatory requirements generally relates to CPOs relying on CFTC Rule 4.7.[2]

A. <u>When CFTC Registration Requirements **Apply**</u>

In general, **a** hedge fund is considered to be a "commodity pool" and its manager is considered subject to CFTC regulation if the fund transacts in commodity interests to any extent. Thus, even **a** fund that is predominantly a vehicle for investment in securities and makes use of commodity interests only for hedging purposes is deemed to be a "commodity pool" under CFTC regulations.[3] Absent an applicable exemption, a hedge fund manager may not operate, and its employees or other agents may not solicit investors for, **a** commodity pool without registration in an appropriate capacity with the CFTC.

B. <u>Registration as **a** Commodity Pool Operator</u>

1. Registration Generally

In order **to** become registered as a CPO, a hedge fund manager must file with the National Futures Association an application **for** registration with the CFTC. The initial application far registration as a CPO generally consists of the following materials (which

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[1] Similar regulatory requirements relate to CTAs.

[2] Rule 4.7 allows firms registered with the CFTC as CPOs to comply with somewhat less burdensome disclosure, reporting **and** recordkeeping requirements than otherwise on the grounds that investors in the commodity pool are "qualified eligible persons." Qualified eligible persons include, among others, persons who or that are "accredited investors'' for purposes of **the** Securities Act of 1933 **and posess** an investment portfolio with a market value of at least $2 million. In order to claim the exemption, the hedge fund manager must file a notice with the National Futures Association on **a** pool-by-pool basis.

[3] The CFTC **has** proposed, but has not yet adapted, a de minimis exemption from CPO registration.

collectively request detailed background information regarding the CPO and its principals and associated persons):

- An application form to register the hedge fund manager;[4]
- An application form to register or sponsor each natural person who is an associated person **(as** described below) of the hedge fund manager;
- Proof of **passage** of a qualifying examination **for** each associated person of the hedge fund manager (discussed more fully below); and
- **A** fingerprint card €or each natural person who **is** a principal or an associated person of the hedge fund manager.

2. Annual Filings and Keeping the Registration Current

A registered CPO must file an annual questionnaire with the **NFA** providing updated information on the CPO. Additional, specific requirements apply with respect to keeping the CPO's registration forms current (such that an update must **be** filed each time certain information changes, including the firm's name, address, disciplinary history or principals).

3. Principals and Associated Persons

As noted above, each natural person who is a principal or an associated person of the hedge fund manager generally is required to complete a form and submit a fingerprint card in connection with the manager's application for registration. Generally, a "principal" would include, among others: (i) any general partner, director, chief executive officer, chief financial officer or chief operating officer (or any person occupying a similar status or performing similar functions); **(ii)** any other person having the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the activities of the applicant that **are** subject to CFTC regulation; (iii) any holder or beneficial owner of 10% or more of the outstanding shares of any class of stock; or (iv) any person who has contributed 10% or more of the capital of the applicant unless such capital contribution consists of certain subordinate debt. The term "associated person" is defined to include partners, officers, employees or agents of the hedge fund manager (or any natural person occupying a similar status or performing similar functions) who, in any non-clerical capacity, solicit participation in the hedge fund or **supervise** any persons engaged in such activities.

4. Proficiency Testing arid Ethics Training

Generally, associated persons are required to take and pass the National Commodity Futures (Series 3) Examination prepared by the NFA and administered by the National Association of Securities Dealers, Inc. In addition, all registered CPOs are required to establish ongoing, mandatory ethics training programs for their associated persons. The CFTC has issued a Statement of Acceptable Practices with Respect to Ethics Training that offers **general** guidelines for determining the nature and extent of appropriate ethics training for a CPO's associated persons.

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[4] The same form is used to register a person or firm *as* a CTA.' **Applicants** often register as a CPO and **CTA** concurrently.

C. <u>Disclosure Requirements</u>

CPOs relying on the Rule 4.7 exemption with respect to a given fund that constitutes a commodity pool are not subject to substantive disclosure requirements with respect to the fund, but are subject to general anti-fraud prohibitions and must include in applicable fund documentation mandated language disclosing that the CPO has filed a claim for exemption under the Rule. Other registered CPOs that do not rely on Rule 4.7 with respect to a given fund may be subject to additional, specific disclosure requirements, including the preparation of a comprehensive, standardized disclosure document for such fund.

D. <u>Reporting Requirements</u>

1. Quarterly Statements

A CPO relying on Rule 4.7 with respect to a given fund is required to prepare quarterly statements for distribution to investors in the fund. The statements must be prepared and distributed within **30** days after the end of each quarter. Each statment must contain: **(a)** the fund's net asset value as of the end of the quarter; (b) the change in net asset value from the end of the previous quarter; and (c) the net asset value per outstanding interest at the end of the quarter. The quarterly statement must contain a signed affirmation by the **chief** executive officer or chief financial officer of the CPO that the information in the statement is accurate and complete to the best of the knowledge and belief of the person making the affirmation. More frequent and detailed periodic statements are required with respect to funds for which no Rule 4.7 exemption has been claimed.

2. Annual Reports

A registered CPO generally also is required to prepare annual reports for each of its funds that constitute commodity pools (regardless of whether it relies on Rule 4.7 with respect to the funds). The reports generally must be filed with the CFTC and the NFA and distributed to investors within 90 days of the end of the relevant fund's fiscal year. The annual report must: (a) contain a statement of financial condition as of the close of the fiscal year, **a** statement of income (loss) for the year, and appropriate disclosure of any other material information; (b) be prepared in accordance with generally accepted accounting principles; and, if applicable, (c) include **a** legend on the cover **page** disclosing that the CPO has filed a claim for exemption under Rule 4.7 for the fund. The annual report also must contain the signed affirmation as described above under "Quarterly Statements". Finally, the annual report must either be certified by an independent public accountant or must contain a statement on the cover page of the report that a certified audit will be provided upon request of a majority in interest of the fund's investors who are unaffiliated with the CPO. **(All** annual reports for funds for which no claim for Rule 4.7 relief has been made must be so certified.)

E. <u>Recordkeeping</u>

A CPO relying on Rule 4.7 with respect to a given fund must maintain copies of all quarterly and annual reports and all books and records prepared in connection with operating the fund (including any records regarding qualifications of investors as "qualified eligible persons," any promotional materials, and records substantiating performance information). Records must be kept fur five years and must be readily available for at least the first two **years.**

F. Firm Procedures

1. Compliance Procedures

The **NFA** requires **a** CPO to have in place written supervisory procedures to ensure that applicable CFTC and NFA requirements are adhered to. These procedures should include, inter alia, those related to review of marketing materials, trade aggregation ("bunching") and allocation, and documentation and treatment of customer complaints.

2. Impermissible Business Relationships

A CPO must have in place procedures to ensure that it does not **engage** in commodity interest-related business with any person who is required to be registered with the CFTC and to be a member of **NFA** and who is not so registered or not an NFA member in good standing.

3. Annual Self-Examination

A self-examination must be completed annually using the NFA's Self-Examination Checklist. Upon completion of the review, which covers numerous CFTC and NFA regulatory requirements, the compliance officer must sign **a** written attestation to be maintained in the firm's records €or at least five years (and in a readily accessible place for the most recent two years).

G. Periodic On-Site Audits

CPOs registered with the CFTC generally **also** must become members of the **NFA** and submit to periodic on-site audits by the **NFA** for purposes of determining their genera1 compliance with applicable CFTC and NFA rules.

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