UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

DIVISION OF
TRADING AND MARKETS

January 19, 2011

W. John McGuire
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Mr. McGuire:

In your letter dated January 19, 2011, as supplemented by conversations with the staff of the Division of Trading and Markets ("Division"), AdvisorShares Trust (the "Trust") on behalf of itself, the Active Bear ETF (the "Fund"), any national securities exchange or national securities association on or through which the shares issued by the Fund ("Shares") may subsequently trade, and persons or entities engaging in transactions in Shares, requests exemptions from, or interpretive or no-action advice regarding Section 11(d)(1) of the Securities Exchange Act of 1934, as amended ("Exchange Act"), and Rules 10b-10, 11d1-2, 15c1-5, and 15c1-6 thereunder, in connection with secondary market transactions in Shares and the creation or redemption of Creation Units as discussed in your letter.

We have enclosed a photocopy of your letter. Each defined term in this letter has the same meaning as defined in your letter, unless we note otherwise.

Response:

Based on the facts and representations set forth in your letter, and without necessarily agreeing with your analysis, the Division will not recommend enforcement action to the Commission if a broker-dealer treats shares of the Fund, for purposes of the relief from Section 11(d)(1) of the Exchange Act and Rules 10b-10, 11d1-2, 15c1-5, and 15c1-6 provided in the Letter re: Derivative Products Committee of the Securities Industry Association (November 21, 2005) ("Class Relief Letter"), as shares of a Qualifying ETF (as defined in the Class Relief Letter). In granting this relief, we note in particular your representations that each of the Prior ETFs held by the Fund will have either met all conditions set forth in the Class Relief Letter, will have individual relief from the Commission, or will be able to rely on individual relief even though they are not named parties, and that in no case will the Fund hold securities (other than Underlying ETFs or government securities as defined in Section 3(a)(42)(A), (B), or (C) of the

Exchange Act) issued by a single issuer in excess of 20% of the Fund's portfolio holdings. Accordingly, with respect to shares of the Fund, to the extent that a broker-dealer satisfies the other conditions in the Class Relief Letter, it could rely on the exemptive and no-action relief contained therein.

The foregoing no-action positions taken under Section 11(d)(1) of the Exchange Act, and Rules 10b-10, 11d1-2, 15c1-5, and 15c1-6 thereunder, are based solely on your representations and the facts presented to the Division, and are strictly limited to the application of those to transactions involving the shares of the Fund under the circumstances described above and in your letter.

Sincerely,

Joseph Furey
Acting Co-Chief Counsel

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January 19, 2011

Joseph Furey, Esq.
Division of Trading and Markets
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: Request of AdvisorShares Trust for Exemptive, Interpretive or No-Action Relief from Section 11(d)(1) of the Securities Exchange Act of 1934 and Rules 10b-10, 11d1-2, 15c1-5 and 15c1-6 thereunder

Dear Mr. Furey:

AdvisorShares Trust (the "Trust") is an open-end management investment company organized on July 30, 2007 as a Delaware statutory trust. The Trust is currently comprised of ten series, the Active Bear ETF ("Active Bear ETF" or the "Fund"), Cambria Global Tactical ETF, Emerald Rock Low Priced Focused Growth ETF, Emerald Rock Dividend Growth ETF, Mars Hill Global Relative Value ETF ("Mars Hill ETF"), Peritus High Yield ETF, WCM/BNY Mellon Focused Growth ADR ETF, SIM Dynamic Allocation Diversified Income ETF, SIM Dynamic Allocation Growth Income Growth ETF and Dent Tactical ETF ("Original Fund").

Summary of Previously Granted Relief

In September 2009, the Trust listed the individual shares of a portfolio of the Trust, the Original Fund, on the NYSE Arca, Inc. ("NYSE Arca"). Prior to such time, the Trust requested relief[1] on behalf of itself, the Original Fund, any national securities exchange or national securities association on or through which the exchange-traded shares of the Trust ("Dent ETF Shares") would subsequently trade, and persons or entities engaging in transactions in Dent ETF Shares, from the staff of the Division of Trading and Markets ("Staff") with respect to Rule 10b-17 and Rules 101 and 102 of Regulation M in connection with secondary market transactions in Shares and the creation or redemption of aggregations of 25,000 shares ("Creation Units"). The Staff granted such relief ("Existing Relief") in the letter addressed to John McGuire, dated September 14, 2009. Subsequently, the Trust received similar relief in connection with the Mars Hill ETF[2] and the Cambria Global Tactical ETF.[3]

The Trust on behalf of itself, the Fund, and any national securities exchange or national securities association on or through which the shares subsequently trade (each such market being an "Exchange"), and persons or entities engaging in transactions in shares issued by the Fund ("Shares"), as applicable, requests that the Securities and Exchange Commission (the "Commission" or the "SEC") grant exemptive, interpretive or no-action relief from Section 11(d)(1) of the Exchange Act and Rules 10b-10, 11d1-2, 15c1-5 and 15c1-6 thereunder, in connection with secondary market transactions in Shares and the creation and redemption of Creation Units, as discussed below.

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1 *See*, the request letter from W. John McGuire dated September 14, 2009 with respect to the Trust.

2 Letter from Josephine J. Tao, Assistant Director, Division of Trading and Markets, to W. John McGuire dated July 2, 2010(the "Mars Hill Letter"). This letter also provided relief for the Mars Hill ETF and the Original Fund from Section 11(d)(1) of the Securities Exchange Act of 1934 (the "Exchange Act"), and Rules 10b-10, 11d1-2, 15c1-5 and 15c1-6 thereunder.

3 *See*, letter from Paula Jenson to W. John McGuire, dated October 20, 2010(the "Cambria Global Letter").

The Fund and its Investment Objective

AdvisorShares Investments, LLC (the "Manager") will serve as the investment adviser to the Active Bear ETF. The Fund is sub-advised by Ranger Alternative Management, L.P. ("Ranger"). The Fund's investment objective is capital appreciation through short sales of domestically traded equity securities. The investment objective of the Active Bear ETF is "non-fundamental" and may be changed upon 60 days' written notice to shareholders. The Trust will issue and redeem Shares of the Fund in Creation Unit aggregations of at least 25,000 Shares, with a minimum market value of $625,000.

In selecting equity securities for the Fund to sell short, Ranger seeks to achieve the Fund's investment objective by using a bottom-up, fundamental, research driven security selection process that seeks to identify securities with low earnings quality or aggressive accounting that may be intended, on the part of company management, to mask operational deterioration and bolster the reported earnings per share over a short time period. In addition to these issues, Ranger seeks to identify earnings driven events that may act as a catalyst to the price decline of a security, such as downwards earnings revisions or reduced forward guidance.

Short positions in exchange-traded funds ("ETFs") or other exchange-traded products ("ETPs" and collectively with the ETFs in which the Fund invests, "Underlying ETFs") may be utilized to manage exposure to broad indexes or certain sectors. When utilized these positions will typically range between ten percent (10%) and fifteen percent (15%) per position and may represent up to 100% of the Fund's portfolio. ETFs and ETPs may be used to gain exposure in instances when Ranger has a more bearish posture with respect to the broad market. The only

ETFs in which the Fund invests will be organized in the United States, registered under the 1940 Act and listed on an Exchange. The ETPs in which the Fund invests will issue equity securities and be listed on an Exchange. In addition, all Underlying ETFs will either meet all conditions set forth in the Equity ETF Class Relief Letter[4] and the SIA Letter[5], or the ETV Class Relief Letter[6], respectively, or will have received individual relief from the Commission, or will be able to rely on individual relief even though they are not named parties ("Prior ETFs"). Other than Underlying ETFs, no single holding will represent more than 20% of the assets of the Fund, except in a period when the Fund adopts a temporary defensive position, during which the Fund may invest more than 10% of its assets in the securities of a single issuer provided the securities are government securities as defined in Section 3(a)(42)(A), (B), or (C) of the Exchange Act.

The Fund's portfolio will generally consist of 20 to 50 short positions in equity securities, with a position size generally between two and seven percent of the portfolio. Assuming a $50,000,000 portfolio, the Fund would have $50,000,000 in cash and money-market instruments representing the monies it received for the Creation Units it had issued,[7] $50,000,000 in cash and money-market instruments representing the proceeds of the securities sold short which is held

4 Letter from James A. Brigagliano, Acting Associate Director, Division of Market Regulation, to Clifford Chance US LLP, dated October 24, 2006.

5 Letter from Catherine McGuire, Esq., Chief Counsel, Division of Market Regulation, to the Securities Industry Association Derivative Products Committee, dated November 21, 2005 (the "SIA Letter"). The Fund's Board of Trustees has authorized a Distribution and Service Plan ("Plan") pursuant to Rule 12b-l under the 1940 Act, but no such fee is currently being paid by the Fund and the Board has not approved any payments for the current fiscal year. We understand that the exemptive and no-action relief under Section 11(d)(1) would not be available to any broker-dealer that received 12b-1 fees under the Plan. *See* SIA Letter.

6 Letter from Racquel L. Russell, Branch Chief, Office of Trading Practices and Processes, Division of Market Regulation, to George T. Simon, Esq., Foley & Lardner LLP, dated June 21, 2006.

7 Due to issues presented in transferring short positions, Creation Units are currently only issued on an all-cash basis.

separately as collateral for the Fund's obligation to cover its short sales. The collateral required will decrease or increase on an aggregate basis depending on whether the short sales are successful (i.e., the total value of the securities sold short declines) or are unsuccessful (i.e., the total value of the securities sold short increases). As discussed in the prior paragraph, in certain circumstances, Ranger may substitute short positions in ETFs or ETPs for short positions in individual equity securities.

Availability of Information

On each day the Fund is open (a "Business Day"),[8] before commencement of trading in Shares on the Exchange, it will disclose on its website the identities and quantities of the securities and other assets (collectively, "Portfolio Securities") held by the Fund that will form the basis for its calculation of net asset value ("NAV") at the end of the Business Day. The website and information will be publicly available at no charge. The Exchange or other market information provider will disseminate every 15 seconds throughout the trading day through the facilities of the Consolidated Tape Association an amount (the "IIV") representing on a per Share basis, the sum of the current value of the Portfolio Securities to be used in calculating the Fund's NAV at the end of the Business Day.

Arbitrage Process

The Shares will be listed and traded on the Exchange. Shares will be freely tradable on the Exchange throughout the trading session. The price of Shares trading on the Exchange will be based on a current bid/offer market. The trading market on the Exchange affords investors the

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8 A Business Day is any day on which the Exchange is open for business.

opportunity to assume and liquidate positions in Shares at their discretion, permitting them to take advantage of prices at any time during the trading day. This combination of intraday liquidity with the Creation Unit purchase and redemption features creates potential arbitrage opportunities that, in turn, should and historically have proven to mitigate pricing inefficiencies. Indeed, the high degree of historical and expected correlation between ETFs' NAVs and their share prices contrasts with the case of shares of closed-end equity funds which, not having the ability to create and redeem at the fund level, typically trade at a material discount (or premium) to their underlying NAVs.

The arbitrage mechanism will be facilitated by the transparency of the Fund's portfolio and the availability of the IIV, the liquidity of its Portfolio Securities and the ability to access those securities, as well as the arbitrageurs' ability to create workable hedges. As discussed above, there will be disclosure on each Business Day of the Fund's Portfolio Securities and the IIV will be disseminated every 15 seconds throughout the trading session. The Fund will invest in Portfolio Securities with liquidity levels that will facilitate an effective and efficient arbitrage mechanism and the ability to create workable hedges. For these reasons, we expect arbitrageurs to be able to take advantage of price variations between the Fund's market price and its NAV. Thus, we expect a close alignment between the market price and the NAV.

Precedents

The SEC staff ("Staff') has previously issued the relief requested herein to other actively-managed ETFs.[9] The Mars Hill and Cambria Global Letters provided relief specific to the funds described therein and, therefore, the Trust and the Fund are not entitled to rely on the Mars Hill Letter for relief. The Trust and Fund note, however, that their proposal—the creation and issuance by an actively-managed investment company of shares that individually trade on an Exchange, but that can only be purchased from and redeemed with the issuing investment company in large aggregations—is no longer novel. The Commission has in the past sixteen years considered and approved many similar proposals. Some of the index-based products for which relief has been granted have been trading publicly for years, and the Trust is not aware of any abuses associated with them. Indeed, several of the index-based products have been so embraced by investors that they are routinely among the highest volume securities on the exchanges on which they trade.

The SIA Letter identifies certain ETFs as "Qualifying ETFs." Qualifying ETFs must meet the following three conditions:

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9 *See* Letter from Josephine Tao to Wisdom Tree Trust, dated May 9, 2008 (the "Wisdom Tree Letter") and the Mars Hill and Cambria Global Letters. The Mars Hill Letter involved an ETF which primarily held long and short positions in other ETFs. The Cambria Global Letter involved an ETF which primarily held long positions in other ETFs and ETPs. The Wisdom Tree Letter involved ETFs and ETPs which held direct investments in a product, e.g., a currency, or securities issued by an operating company as opposed to holding interests in a pooled-vehicle such as an ETF or ETP. The Wisdom Tree Letter stated that the Staff would not respond to requests for relief under Section 11(d)(1) or Rules l0b-l0, 11dl-2, 15c1-5, and 15c1-6 relating to ETFs that are not managed to track a particular index unless they present novel or unusual issues. Because neither the Wisdom Tree Letter nor any subsequent letter provided class relief to ETFs, such as the Fund, which have substantial investments in ETFs and ETPs, we are requesting relief from the provisions addressed in the Wisdom Tree Letter.

1. The ETF shares are issued by an open-end investment company or unit investment trust registered with the Commission under the Investment Company Act;

2. The ETF shares are listed and trade on a market that has obtained approval from the Commission pursuant to Section 19(b) of the Exchange Act of a rule change regarding the listing and trading of the ETF shares on the market (or that is relying on Rule 19b-4(e) to list and trade the ETF shares); and

3. The ETF (a) consists of a basket of twenty or more Component Securities, with no one Component Security constituting more than 25% of the total value of the ETF, and is managed to track a particular index all of the components of which are publicly available; or (b) solely for purposes of the exemptive relief for Broker-Dealer APs from Section 11(d)(1) of the Exchange Act, is an ETF with respect to which the staff of the Division of Market Regulation ("Staff") has granted Non-AP Broker-Dealers (as defined below) relief from the requirements of Section 11(e)(1) in a letter dated prior to the date of this letter, provided that the ETF has not changed in such a way as to materially affect any of the facts or representations in such prior letter.

The Fund will meet the first two conditions and Condition 3(b) is unavailable. While the Fund cannot meet condition 3(a) because it is not an index ETF and because it may not hold twenty or more securities at all times, each Underlying ETF in which the Fund invests will have received individual exemptive relief from the provisions covered by the SIA letter or will be able to rely on the SIA Letter.

Section 11(d)(1) of the Securities Exchange Act of 1934 and Rules 10b-10, 11d1-2, 15c1-5 and 15c1-6 thereunder

Rule 10b-10

Rule 10b-10 requires a broker or dealer effecting a transaction in a security for a customer to give or send written notification to such customer disclosing the information specified in paragraph (a) of Rule 10b-10, including the identity, price and number of shares or units (or principal amount) of the security purchased or sold. The Trust requests that the Commission grant an exemption from Rule 10b-10, as discussed below, with respect to the creation (*i.e.*, issuance) or redemption of Creation Units. The Trust is not requesting exemptive or interpretive relief from Rule 10b-10 in connection with purchases and sales of shares of the Fund in the secondary market. The Trust proposes that broker-dealers acting for their customers in either purchasing or redeeming Creation Units of the Fund be permitted to provide such customers with a statement of the number of Creation Units created or redeemed without providing a statement of the identity, number and price of shares of each individual securities constituent of the Creation List or the Redemption List used in calculating the NAV for the customer's transaction (the "Creation List" and "Redemption List," respectively). The Creation Lists and the Redemption Lists for the Fund will be made available by the Fund's custodian or the Manager, through the National Securities Clearing Corporation, immediately prior to the opening of business on the Exchange on each Business Day. We anticipate that any institution or broker-dealer engaging in creation or redemption transactions would have done so only with knowledge of the composition of the applicable securities, so that specific information in the Rule 10b-10 notification would be redundant.

The Trust agrees that any exemptive relief under Rule 10b-10 with respect to creations and redemptions will be subject to the following conditions:

(1) Confirmation statements of creation and redemption transactions for the Fund will contain all of the information specified in paragraph (a) of Rule 10b-10 other than identity, price, and number of shares of each individual securities constituent of the Creation List or the Redemption List used in calculating the NAV for the customer's transaction;

(2) Any confirmation statement of a creation or redemption transaction for the Fund that omits the identity, price, or number of shares of each individual securities constituent of the Creation List or the Redemption List used to calculate the NAV for the transaction will contain a statement that such omitted information will be provided to the customer upon request; and

(3) All such requests will be fulfilled in a timely manner in accordance with paragraph (c) of Rule 10b-10.

<u>Section 11(d)(1); Rule 11d1-2</u>

Section 11(d)(1) of the Exchange Act generally prohibits a person who is both a broker and a dealer from effecting any transaction in which the broker-dealer extends credit to a customer on any security which was part of a new issue in the distribution of which he participated as a member of a selling syndicate or group within thirty days prior to such transaction. Rule 11d1-2 provides an exemption from Section 11(d)(1) for securities issued by a registered open-end investment company or unit investment trust with respect to transactions by a broker-dealer who extends credit on such security, provided the person to whom credit has been extended has owned the security for more than thirty days. [10]

The Trust hereby requests that the Staff, consistent with and subject to the same conditions as the Wisdom Tree Letter, provide relief under Section 11(d)(1) and Rule 11d1-2. The Trust believes that application of the thirty-day restriction in Rule 11d1-2 to broker-dealers engaging exclusively in secondary market transactions in Shares does not further the purposes of Section 11(d)(1) or Rule 11d1-2. The only compensation a broker-dealer will receive for representing a customer in purchasing Shares is the commission or asset-based brokerage account fee charged to that customer, which in all likelihood is the same compensation the broker-dealer would receive in connection with any stock purchase by a customer. There is no special financial incentive to a broker-dealer, other than the broker-dealer's regular commission, to engage in secondary market transactions in Shares, either as principal or agent.

Rule 15c1-5 and 15c1-6

Rule 15c1-5 requires a broker or dealer controlled by, controlling, or under common control with, the issuer of a security who induces the purchase or sale by a customer of a security, to disclose the existence of such control before entering into a contract with or for such customer for the purchase or sale of such security. Rule 15c1-6 requires a broker or dealer to send a customer written notification of its participation in the primary or secondary distribution

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10 Applicants note that broker-dealers that engage in both creation of Creation Units of shares of the Fund and secondary market transactions in such shares and that meet the requirements of Rule 11d1-1 may be covered by the exemptions provided in such rule.

of any security in which it effects any transaction in or for such customer's account or induces the purchase or sale of such security by such customer.

The Trust believes that disclosure by a broker-dealer of a control relationship with the issuer of a security held in the Fund's portfolio (a "Portfolio Security") or of a participation in the distribution of a Portfolio Security would impose an unnecessary and unjustifiable burden on broker-dealers engaging in transactions in shares of the Fund for their customers. There is no realistic potential for manipulating the market price of a Portfolio Security by transactions in Shares. Application of the rules could adversely affect the attractiveness of Shares and to broker-dealers and thereby affect market liquidity of the Fund. The Trust, therefore, requests that the Staff grant no-action relief from application of the rules with respect to creations and redemptions of Shares and secondary market transactions therein.

Conclusion

Based on the foregoing, we respectfully request that the Commission and the Staff grant the relief requested herein. The forms of relief requested are substantially similar to those actions that the Commission and the Staff have taken in similar circumstances, most notably in the Wisdom Tree, Mars Hill and Cambria Global Letters. If you have any questions please call me at (202) 739-5654 or my colleague Michael Berenson at (202) 739-5450.

Sincerely,

W. John McGuire

W. John McGuire

cc: Darren Vieira, Esq.
Michael Berenson, Esq.