CDIAC WEBINAR:
Investment Structures and Risk Management of the Public Investment Portfolio
March 28, 2012

POST WEBINAR QUESTIONS AND ANSWERS

Question (1)

One question though, I think it was Sarah who said 144A securities can't be bought by Municipalities but I know of entities that buy them. Can you tell me what restriction there is? Why can't you buy them under the CGC for CP or Corporates? Maybe it was a misspoken fact. It has been awhile but weren't all the SIVs that counties were buying 144A securities???? (reference slide 40)

Answer (A): Debbie Higgins, Higgins Capital
SEC has a list and if not on it, you can't do it. A copy of the QIB Certification Form we sign for Higgins Capital & referred to Annex A for the list is included on CDIAC's website.

Answer (B): Nancy Jones, PFM
It's worrisome when someone thinks something is okay because others are doing it. Rule 144A of the Securities Act of 1933 defines a qualified institutional buyer as follows:
(i) **Any of the following entities**, acting for its own account or the accounts of other qualified institutional buyers, that in the aggregate owns and invests on a discretionary basis at least $100 million in securities of issuers that are not affiliated with the entity:
(A) Any insurance company as defined in section 2(13) of the Act;
(B) Any investment company registered under the Investment Company Act or any business development company as defined in section 2(a)(48) of that Act;
(C) Any Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958;
(D) Any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions**, for the benefit of its employees;**
(E) Any employee benefit plan within the meaning of title I of the Employee Retirement Income Security Act of 1974;
(F) Any trust fund whose trustee is a bank or trust company and whose participants are exclusively plans of the types identified in paragraph (a)(1)(i) (D) or (E) of this section, except trust funds that include as participants individual retirement accounts or H.R. 10 plans.
(G) Any business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940;
(H) Any organization described in section 501(c)(3) of the Internal Revenue Code, corporation (other than a bank as defined in section 3(a)(2) of the Act or a savings and loan association or other institution referenced in section 3(a)(5)(A) of the Act or a foreign bank or savings and loan association or equivalent institution), partnership, or Massachusetts or similar business trust; and
(I) Any investment adviser registered under the Investment Advisers Act.
(ii) Any dealer registered pursuant to section 15 of the Exchange Act, acting for its own account or the accounts of other qualified institutional buyers, that in the aggregate owns and invests on a discretionary basis at least $10 million of securities of issuers that are not affiliated with the dealer,

Provided, That securities constituting the whole or a part of an unsold allotment to or subscription by a dealer as a participant in a public offering shall not be deemed to be owned by such dealer;

(iii) Any dealer registered pursuant to section 15 of the Exchange Act acting in a riskless principal transaction on behalf of a qualified institutional buyer;

Note : A registered dealer may act as agent, on a non-discretionary basis, in a transaction with a qualified institutional buyer without itself having to be a qualified institutional buyer.

(iv) Any investment company registered under the Investment Company Act, acting for its own account or for the accounts of other qualified institutional buyers, that is part of a family of investment companies which own in the aggregate at least $100 million in securities of issuers, other than issuers that are affiliated with the investment company or are part of such family of investment companies. Family of investment companies means any two or more investment companies registered under the Investment Company Act, except for a unit investment trust whose assets consist solely of shares of one or more registered investment companies, that have the same investment adviser (or, in the case of unit investment trusts, the same depositor), Provided That, for purposes of this section:

(A) Each series of a series company (as defined in Rule 18f-2 under the Investment Company Act [17 CFR 270.18f-2]) shall be deemed to be a separate investment company; and

(B) Investment companies shall be deemed to have the same adviser (or depositor) if their advisers (or depositors) are majority-owned subsidiaries of the same parent, or if one investment company's adviser (or depositor) is a majority-owned subsidiary of the other investment company's adviser (or depositor);

(v) Any entity, all of the equity owners of which are qualified institutional buyers, acting for its own account or the accounts of other qualified institutional buyers; and

(vi) Any bank as defined in section 3(a)(2) of the Act, any savings and loan association or other institution as referenced in section 3(a)(5)(A) of the Act, or any foreign bank or savings and loan association or equivalent institution, acting for its own account or the accounts of other qualified institutional buyers, that in the aggregate owns and invests on a discretionary basis at least $100 million in securities of issuers that are not affiliated with it and that has an audited net worth of at least $25 million as demonstrated in its latest annual financial statements, as of a date not more than 16 months preceding the date of sale under the Rule in the case of a U.S. bank or savings and loan association, and not more than 18 months preceding such date of sale for a foreign bank or savings and loan association or equivalent institution.

(2) In determining the aggregate amount of securities owned and invested on a discretionary basis by an entity, the following instruments and interests shall be excluded: bank deposit notes and certificates of deposit; loan participations; repurchase agreements; securities owned but subject to a repurchase agreement; and currency, interest rate and commodity swaps.

(3) The aggregate value of securities owned and invested on a discretionary basis by an entity shall be the cost of such securities, except where the entity reports its securities holdings in its financial statements on the basis of their market value, and no current information with respect to the cost of those securities has been published. In the latter event, the securities may be valued at market for purposes of this section.

(4) In determining the aggregate amount of securities owned by an entity and

invested on a discretionary basis, securities owned by subsidiaries of the entity that are consolidated with the entity in its financial statements prepared in accordance with generally accepted accounting principles may be included if the investments of such subsidiaries are managed under the direction of the entity, except that, unless the entity is a reporting company under section 13 or 15(d) of the Exchange Act, securities owned by such subsidiaries may not be included if the entity itself is a majority-owned subsidiary that would be included in the consolidated financial statements of another enterprise.

(5) For purposes of this section, riskless principal transaction means a transaction in which a dealer buys a security from any person and makes a simultaneous offsetting sale of such security to a qualified institutional buyer, including another dealer acting as riskless principal for a qualified institutional buyer.

(6) For purposes of this section, effective conversion premium means the amount, expressed as a percentage of the security's conversion value, by which the price at issuance of a convertible security exceeds its conversion value.

(7) For purposes of this section, effective exercise premium means the amount, expressed as a percentage of the warrant's exercise value, by which the sum of the price at issuance and the exercise price of a warrant exceeds its exercise value.

(b) Sales by persons other than issuers or dealers. Any person, other than the issuer or a dealer, who offers or sells securities in compliance with the conditions set forth in paragraph (d) of this section shall be deemed not to be engaged in a distribution of such securities and therefore not to be an underwriter of such securities within the meaning of sections 2(11) and 4(1) of the Act.

(c) Sales by Dealers. Any dealer who offers or sells securities in compliance with the conditions set forth in paragraph (d) of this section shall be deemed not to be a participant in a distribution of such securities within the meaning of section 4(3)(C) of the Act and not to be an underwriter of such securities within the meaning of section 2(11) of the Act, and such securities shall be deemed not to have been offered to the public within the meaning of section 4(3)(A) of the Act.

(d) Conditions to be met. To qualify for exemption under this section, an offer or sale must meet the following conditions:

(1) The securities are offered or sold only to a qualified institutional buyer or to an offeree or purchaser that the seller and any person acting on behalf of the seller reasonably believe is a qualified institutional buyer. In determining whether a prospective purchaser is a qualified institutional buyer, the seller and any person acting on its behalf shall be entitled to rely upon the following non-exclusive methods of establishing the prospective purchaser's ownership and discretionary investments of securities:

(i) The prospective purchaser's most recent publicly available financial statements, Provided That such statements present the information as of a date within 16 months preceding the date of sale of securities under this section in the case of a U.S. purchaser and within 18 months preceding such date of sale for a foreign purchaser;

(ii) The most recent publicly available information appearing in documents filed by the prospective purchaser with the Commission or another United States federal, state, or local governmental agency or self-regulatory organization, or with a foreign governmental agency or self-regulatory organization, Provided That any such information is as of a date within 16 months preceding the date of

sale of securities under this section in the case of a U.S. purchaser and within 18 months preceding such date of sale for a foreign purchaser;
(iii) The most recent publicly available information appearing in a recognized securities manual, Provided That such information is as of a date within 16 months preceding the date of sale of securities under this section in the case of a U.S. purchaser and within 18 months preceding such date of sale for a foreign purchaser; or
(iv) A certification by the chief financial officer, a person fulfilling an equivalent function, or other executive officer of the purchaser, specifying the amount of securities owned and invested on a discretionary basis by the purchaser as of a specific date on or since the close of the purchaser's most recent fiscal year, or, in the case of a purchaser that is a member of a family of investment companies, a certification by an executive officer of the investment adviser specifying the amount of securities owned by the family of investment companies as of a specific date on or since the close of the purchaser's most recent fiscal year;
(2) The seller and any person acting on its behalf takes reasonable steps to ensure that the purchaser is aware that the seller may rely on the exemption from the provisions of section 5 of the Act provided by this section;
(3) The securities offered or sold:
(i) Were not, when issued, of the same class as securities listed on a national securities exchange registered under section 6 of the Exchange Act or quoted in a U.S. automated inter-dealer quotation system; Provided, That securities that are convertible or exchangeable into securities so listed or quoted at the time of issuance and that had an effective conversion premium of less than 10 percent, shall be treated as securities of the class into which they are convertible or exchangeable; and that warrants that may be exercised for securities so listed or quoted at the time of issuance, for a period of less than 3 years from the date of issuance, or that had an effective exercise premium of less than 10 percent, shall be treated as securities of the class to be issued upon exercise; and Provided further, That the Commission may from time to time, taking into account then-existing market practices, designate additional securities and classes of securities that will not be deemed of the same class as securities listed on a national securities exchange or quoted in a U.S. automated inter-dealer quotation system; and
(ii) Are not securities of an open-end investment company, unit investment trust or face-amount certificate company that is or is required to be registered under section 8 of the Investment Company Act; and
(4)(i) In the case of securities of an issuer that is neither subject to section 13 or 15(d) of the Exchange Act, nor exempt from reporting pursuant to Rule 12g3-2(b) (§ 240.12g3-2(b) of this chapter) under the Exchange Act, nor a foreign government as defined in Rule 405 (§ 230.405 of this chapter) eligible to register securities under Schedule B of the Act, the holder and a prospective purchaser designated by the holder have the right to obtain from the issuer, upon request of the holder, and the prospective purchaser has received from the issuer, the seller, or a person acting on either of their behalf, at or prior to the time of sale, upon such prospective purchaser's request to the holder or the issuer, the following information (which shall be reasonably current in relation to the date of resale under this section): a very brief statement of the nature of the business of the issuer and the products and services it offers; and the issuer's most recent balance sheet and profit and loss and retained earnings statements, and similar financial statements for such part of the two preceding fiscal years as the issuer has been in operation (the financial statements

should be audited to the extent reasonably available).
(ii) The requirement that the information be reasonably current will be presumed to be satisfied if:
(A) The balance sheet is as of a date less than 16 months before the date of resale, the statements of profit and loss and retained earnings are for the 12 months preceding the date of such balance sheet, and if such balance sheet is not as of a date less than 6 months before the date of resale, it shall be accompanied by additional statements of profit and loss and retained earnings for the period from the date of such balance sheet to a date less than 6 months before the date of resale; and
(B) The statement of the nature of the issuer's business and its products and services offered is as of a date within 12 months prior to the date of resale; or
(C) With regard to foreign private issuers, the required information meets the timing requirements of the issuer's home country or principal trading markets.
(e) Offers and sales of securities pursuant to this section shall be deemed not to affect the availability of any exemption or safe harbor relating to any previous or subsequent offer or sale of such securities by the issuer or any prior or subsequent holder thereof.

CERTIFICATE OF RULE 144A QUALIFIED INSTITUTIONAL BUYER AND SECTION 3(C)(7) QUALIFIED PURCHASER

Revised 7/2009

Fax: 212.577.4506
E-Mail: compliancemanager@dealogic.com

I. In connection with a purchase or purchases of privately offered securities pursuant to Rule 144A under the Securities Act of 1933, the undersigned certifies that it is familiar with Rule 144A, agrees that persons selling securities to the undersigned in reliance upon Rule 144A may rely on the information contained in this certificate and represents and warrants that:

(i) It is a Qualified Institutional Buyer ("QIB") (as described in Annex A hereto) of the following type: _____ *[Insert type of institution as it appears in bold in Annex A hereto (e.g., insurance company, investment adviser, etc.)]*

(ii) as of _____, 20____ *[Insert a specific date]*, the undersigned owned or invested on a discretionary basis $_____ million *(Insert a specific dollar amount.)* of "eligible securities" (as set forth in Annex A);

(iii) if the amount specified in clause (ii) above is less than US$100 million but not less than US$10 million the undersigned is a dealer registered under Section 15 of the Securities Exchange Act of 1934 (the "Exchange Act");

(iv) if the amount specified in clause (ii) above is less than US$10 million, the undersigned is a dealer registered pursuant to Section 15 of the Exchange Act acting in a riskless principal transaction on behalf of a QIB;

(v) if the undersigned decides to purchase Rule 144A securities for the accounts of others, it will only purchase Rule 144A securities for accounts that independently qualify as QIBs as defined in Rule 144A; and

(vi) the undersigned's current fiscal year ends on _____, 20_____ .

II. The undersigned certifies that it has read and agrees to Attachments 1, 2 and/or 3, as applicable, and that it is a "Qualified Purchaser" as defined in Sections 3(c)(7) and 2(a)(51) and the related rules of the Investment Company Act of 1940, as amended (the "Investment Company Act"), and further represents and warrants that:

(i) it is not a:

"dealer" described in (ii) of Annex A that owns and invests on a discretionary basis less than US$25 million in "eligible securities" (excluding securities constituting the whole or part of an unsold allotment to or subscription as a participant in a public offering); or

"plan" described in (f) or (g) of Annex A or a "trust fund" described in (h) of Annex A that holds assets for such a plan, the investment decisions of which are made by the beneficiaries of the plan and not solely by the fiduciary, trustee or sponsor of the plan;

(ii) the undersigned is not an entity that was formed for the specific purpose of investing in Section 3(c)(7) securities (or if it was formed for such purpose, then each beneficial owner of its securities is a Qualified Purchaser);

(iii) if the undersigned was formed prior to April 30, 1996 and is an investment company excepted from the Investment Company Act pursuant to Section 3(c)(1) or Section 3(c)(7) thereof, then its treatment as a Qualified Purchaser has been consented to (in the manner required by Section 2(a)(51)(C) of the Investment Company Act and rules thereunder) by its beneficial owners who acquired their interests on or before April 30,1996; and

(iv) each of the sub-accounts listed and attached hereto can independently make the representations and warranties in this Part II. If the undersigned decides to purchase securities for an account of another that is designated QIB/QP or 3(c)(7), it will only purchase for accounts which can, and each such account will be deemed to, make the representations and warranties in Part I(i) above and this Part II. (An insurance company may purchase for one or more of its separate accounts without regard to whether such separate account could independently make those representations and warranties.)

III. The undersigned agrees to promptly advise you if any of the representations or warranties in this certificate ceases to be true.

IV. The undersigned certifies that the undersigned is the institution's chief financial officer, a person fulfilling an equivalent function, or other executive officer of the purchaser. If the institution is a member of a "family of investment companies", the certification must be submitted by an executive officer of such institution's investment advisor. The undersigned acknowledges and agrees that this Certification and the information contained herein may be shared with brokers, dealers and other third parties, including via a secure data base or electronic platform established by Dealogic.

Institution Name	**Address, City, State, Zip**	
Name of Authorized Signatory	**Tax ID / EIN / Reg No**	**Includes affiliates and wholly owned subsidiaries (check if applicable)** ☐
Title of Authorized Signatory	**Telephone**	
Signature of Authorized Signatory	**Email Address**	

This Certificate will be deemed valid for the Institution named above. If there are additional institutions (e.g. subaccounts, mutual funds or affiliates) to be designated as Qualified Institutional Buyers by this Certificate, please provide a list of such Institutions.

I. Qualified Institutional Buyer ("QIB") means any of the following institutions:

(i) **An institution referred to in any of clauses (a) through (m) below that owns or invests on a discretionary basis at least US$100 million in "eligible securities"(defined in (B) below), provided that such institution is buying for its own account or for the accounts of other QIBs.**

(a)	**Insurance Company**	An insurance company as defined in Section 2(13) of the Securities Act of 1933 (the "Act"). A purchase by an insurance company for one or more of its separate accounts (as defined in Section 2(a)(37) of the Investment Company Act of 1940 (the "Investment Company Act")), which separate accounts are not required to be registered under the Investment Company Act, is deemed to be a purchase by the insurance company.
(b)	**Investment Company**	An investment company registered under the Investment Company Act.
(c)	**Investment Adviser**	An investment adviser registered under the Investment Advisers Act of 1940 (the "Investment Advisers Act").
(d)	**Corporation**	A Corporation (other than a bank as defined in Section 3(a)(2) of the Act of a savings and loan association or other institution referenced in Section 3(a)(5)(A) of the Act of a foreign bank or savings and loan association equivalent institution).
(e)	**Partnership**	A partnership or similar business trust.
(f)	**Plan**	A plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions for the benefit of its employees.
(g)	**Employee Benefit Plan**	An employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974.
(h)	**Trust Fund**	A trust fund whose trustee is a bank or trust company and whose participants are exclusively plans of the types identified in paragraph (f) or (g) above, except trust funds that include as participants individual retirement accounts or H.R. 10 plans.
(i)	**Organization**	An organization described in Section 501(c)(3) of the Internal Revenue Code.
(j)	**Business Development Company, Section 2(a)(48)**	A business development company as defined in Section 2 (a)(48) of the Investment Company Act.
(k)	**Business Development Company, Section 202(a)(22)**	A business development company as defined in Section 202 (a)(22) of the Investment Advisers Act.
(l)	**Small Business Investment Company**	A Small business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958.
(m)	**Bank**	A bank as defined in Section 3(a)(2) of the Act, a savings and loan association or other institution as referenced in Section 3(a)(5)(A) of the Act or a foreign bank or savings and loan association or equivalent institution that has an audited net worth of at least US$25 million in its latest annual financial statements.

(ii)	**Dealer**	A dealer registered pursuant to section 15 of the Securities Exchange Act of 1934 (the "Exchange Act") acting for its own account or the accounts of other QIBs, that in the aggregate owns or invests on a discretionary basis at least US$10 million of securities of issuers that are not affiliated with the dealer, provided that securities constituting the whole or a part of an unsold allotment to or subscription by a dealer as a participant in a public offering shall not be deemed to be owned by such dealer.
(iii)	**Dealer acting in a riskless principal transaction**	A dealer registered pursuant to Section 15 of the Securities Exchange Act, acting in a riskless principal transaction on behalf of a QIB.
(iv)	**Investment Company, part of a family**	An investment company registered under the Investment Company Act, acting for its own account or for the accounts of other QIBs, that is part of a family of investment companies (as defined in Rule 144A) which own in the aggregate at least US$100 million in eligible securities.
(v)	**Entity, all of the equity owners of which are QIBs**	Any entity, all of the equity owners of which are QIBs, acting for its own account or the accounts of other QIBs.

II. Eligible securities

In determining the aggregate amount of securities owned or invested on a discretionary basis by an entity, the following instruments and interests shall be excluded: securities issued by issuers that are affiliated with the purchaser or, if the purchaser is an investment company seeking to qualify as a QIB pursuant to (A)(iv) above, are part of that purchaser's "family of investment companies"; bank deposit notes and certificates of deposit; loan participations; repurchase agreements; securities owned but subject to a repurchase agreement; and currency, interest rate and commodity swaps.

The value of eligible securities must be calculated based on cost (or on the basis of market value if (a) the entity reports its securities holdings in its financial statements on the basis of their market value and (b) no current information with respect to the cost of those securities has been published).

In determining the aggregate amount of securities owned by an entity or invested by the entity on a discretionary basis, securities owned by subsidiaries of the entity that are consolidated with the entity in its financial statements prepared in accordance with generally accepted accounting principles may be included if the investments of such subsidiaries are managed under the direction of the entity, except that, unless the entity is a reporting company under Section 13 or 15(d) of the Exchange Act, securities owned by such subsidiaries may not be included if the entity itself is a majority-owned subsidiary that would be included in consolidated financial statements of another enterprise.

ATTACHMENT 1

Restrictions on Sales of Book-Entry Securities
Designated QIB/QP or 3(c)(7)

The Investment Company Act of 1940, as amended (the "Investment Company Act") requires that all holders of the outstanding securities of an issuer relying on Section 3(c)(7) (or, in the case of a non-U.S. issuer, all holders that are U.S. Persons) be "qualified purchasers" ("QPs") as defined in Section 2(a)(51)(A) of the Investment Company Act and related rules. Under the rules, the issuer must have a "reasonable belief" that all holders of its outstanding securities (or, in the case of a non-U.S. issuer, all holders that are U.S. Persons), including transferees, are QPs. Consequently, all sales and resales of the securities (or, in the case of non-U.S. issuers, all sales and resales in the United States or to U.S. Persons) must be made pursuant to Rule 144A under the Securities Act of 1933, as amended (the "Securities Act"), solely to purchasers that are "qualified institutional buyers" ("QIBs") within the meaning of Rule 144A and are also QPs ("QIB/QPs"). Each purchaser of a security designated QP or 3(c)(7) will be deemed to represent at the time of purchase that: (i) the purchaser is a QIB/QP: (ii) the purchaser is not a broker-dealer which owns and invests on a discretionary basis less than US$25 million in securities of unaffiliated issuers; (iii) the purchaser is not a participant-directed employee plan such as a 401(k) plan; (iv) the QIB/QP is acting for its own account, or the account of another QIB/QP; (v) the purchaser is not formed for the purpose of investing in the securities of an issuer relying on Section 3(c)(7); (vi) the purchaser, and each account for which it is purchasing, will hold and transfer at least the minimum denomination of securities; and (vii) the purchaser will provide notice of the transfer restrictions to any subsequent transferees.

The charter, bylaws, organizational documents or securities issuance documents of an issuer relying on Section 3(c)(7) of the Investment Company Act and Rule 144A of the Securities Act with respect to an offering of securities typically provide that the issuer will have the right to (i) require any holder of securities (or in the case of a non-U.S. issuer, any holder that is a U.S. Person) that is determined not to be both a QIB and a QP to sell the securities to a QIB that is also a QP or (ii) redeem any securities held by such holder on specified terms. In addition, such an issuer typically has the right to refuse to register or otherwise honor a transfer of securities to a proposed transferee (or, in the case of a non-U.S. issuer, a proposed transferee that is a U.S. Person) that is not both a QIB and a QP. As used herein, the terms "United States" and "U.S. Person" have the meanings given such terms in Regulation S under the Securities Act.

ATTACHMENT 2

Restrictions on Sales of Securities
Designated "Non-U.S. ETFs"

The securities of exchange-traded funds organized outside of the United States ("non-U.S. ETFs") may be offered and sold in the United States or to U.S. persons only to the extent exemptions are available from registration requirements under the U.S. Securities Act of 1933, as amended (the "Securities Act") and the U.S. Investment Company Act of 1940, as amended (the "Investment Company Act"). Non-U.S. ETFs are not, and will not be, registered under the Securities Act, and an issuer of non-U.S. ETFs (the "Issuer") is not, and will not be, registered under Investment Company Act.

In order to transact in non-U.S. ETFs, the prospective purchaser of a non-U.S. ETF must be BOTH a "qualified institutional buyer" as defined in Rule 144A under the Securities Act AND a "qualified purchaser" as defined in Sections 3(c)(7) and 2(a)(51) of the Investment Company Act and the rules thereunder.

Non-U.S. ETFs may not be reoffered, resold, pledged or otherwise transferred except (i) to a prospective purchaser that is not a U.S. person (as defined in Regulation S under the Securities Act) in an offshore transaction complying with Rule 904 of Regulation S and in accordance with an available exemption under the Investment Company Act or (ii) in a transaction with the broker-dealer of the account in which the transferor holds such non-U.S. ETFs. In each case, such offer, sale, pledge or transfer must be made in accordance with any applicable securities laws of any state of the United States.

An offering circular or prospectus will not be provided or prepared in connection with the sale of non-U.S. ETFs, nor will any other material be provided regarding non-U.S. ETFs or the Issuer prepared by the Issuer or any other person relating to any offer or sale of the non-U.S. ETFs. Prospective purchasers of non-U.S. ETFs may not rely on any investigation that any other person may conduct with respect to non-U.S. ETFs or the Issuer. Prospective purchasers of non-U.S. ETFs should make independent investment decisions regarding non-U.S. ETFs based on knowledge (and information it may have or which is publicly available) with respect to the Issuer and the non-U.S. ETFs.

ATTACHMENT 3

Restrictions on Sales of Non-U.S. Listed Options
Designated QIB/QP or 3(c)(7)

Options listed on exchanges outside the United States are sold to U.S. persons in the United States pursuant to no-action relief provided to such exchanges ("Approved Exchanges") by the U.S. Securities and Exchange Commission ("Approved Options"). In order to purchase Approved Options a U.S. person must be a:

(a) Qualified Broker-Dealer that owns and invests on a discretionary basis at least US$10 million worth of securities eligible under Rule 144A,

(b) Qualified Institution that owns and invests on a discretionary basis at least US$100 million worth of securities eligible under Rule 144A,

(c) Qualified Institution that is a bank, savings and loan association or other thrift institution that also has a net worth of not less than US$25 million, or

(d) Qualified Institution that is a registered investment adviser, which owns at least US$100 million worth of securities eligible under Rule 144A, and is acting on behalf of a discretionary client that is not a registered investment company or a non-U.S. person within the meaning of Rule 902(k)(2)(i) of Regulation S under the Securities Act.

Transactions in Approved Options must be for purchaser's own account or for the account of another Qualified Broker-Dealer or Qualified Institution or for the managed account of a non-U.S. person within the meaning of Rule 902(k)(2)(i) of Regulation S under the Securities Act . The Approved Options are not, and will not be, registered under the Securities Act and may not be reoffered, resold, pledged or otherwise transferred. Purchaser may only cause the disposition of an Approved Option outside the United States on an Approved Exchange by instruction to a member of the applicable Approved Exchange with whom the purchaser or its agent (a broker) has a contract in respect of the Approved Option, and that the disposition of the Approved Option shall be effected only on the applicable Approved Exchange and, by the action of the member directly or indirectly, there shall be settlement of the Approved Options at the clearinghouse for such Approved Exchange. It acknowledges that broker is responsible solely for the execution, clearing and/or carrying of Approved Contracts in accordance with this Attachment 3 and all other agreements between broker and Customer, and that broker shall not be liable for any loss, liability, expense, fine or taxes caused directly or indirectly by any event beyond the control of broker, including without limitation any suspension or termination of trading or the failure or delay by any Approved Exchange to enforce its rules or to pay or return any amounts owed to broker with respect to any Approved Options executed and/or cleared for Customer's account.

If it is a Qualified Broker-Dealer or Qualified Institution acting on behalf of another Qualified Broker-Dealer or Qualified Institution that is not a managed account, it has obtained from the other written representations to the same effect as these representations and will provide it to broker upon demand. It acknowledges that it will have obtained all information that it considers material with respect to options generally and any transactions in Approved Options entered into by it (including without limitation information regarding any securities or indices underlying such Approved Options) and that it will make any decision to enter into a transaction in Approved Options solely on the basis of such information. It will enter into a transaction in or exercise any cash-settled Approved Option only in connection with a hedging transaction or otherwise in the ordinary course of its business or investment activities.

A Qualified Broker-Dealer or Qualified Institution is a U.S. entity in either of the following categories:

1. A Qualified Broker-Dealer is a U.S. entity that (i) is registered as a broker-dealer with the Securities and Exchange Commission ("SEC"), (ii) in the aggregate owns and invests on a discretionary basis, at least US$10 million of securities (excluding securities of issuers affiliated with such broker-dealer and the following "excluded instruments": Bank deposit notes and certificates of deposit, loan participations, repurchase agreements and securities subject to repurchase agreements, and interest rate, currency and commodity swaps) and (iii) has had prior actual experience with traded options in the U.S. options market.

2. A Qualified Institution is a U.S. entity that (i) in the aggregate owns and invests on a discretionary basis at least US$100 million in securities (excluding securities of issuers affiliated with such institution and the "excluded instruments" as defined for Qualified Broker-Dealers above), (ii) has had prior actual experience with traded options in the U.S. options market and (iii) falls within one of the following categories:

(a) an ***insurance company*** as defined in Section 2(13) of the Securities Act of 1933 (the "Act"), including a purchase for a separate account;

(b) an ***investment company*** registered under the Investment Company Act of 1940, acting for its own account or for accounts of other qualified institutional buyers that are part of a ***family of investment companies*** (as defined in Rule 144A) which family of investment companies own in aggregate at least US$100 million in eligible securities;

(c) an ***investment advisor*** registered under the Investment Advisors Act of 1940;

(d) a ***corporation*** (other than a bank as defined in Section 3(a)(2) of the Act or a savings and loan association or other institution referenced in Section 3(a)(5)(A) of the Act or a foreign bank or savings and loan association or equivalent institution);

(e) a ***partnership*** or similar business trust;

(f) a ***plan established and maintained by a state,*** its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees;

(g) an ***employee benefit plan*** within the meaning of Title I of the Employee Retirement Income Security Act of 1974;

(h) any ***trust fund*** whose trustee is a bank or trust company and whose participants are exclusively plans of the types identified in paragraph (f) or (g) above, except ***trust funds*** that include as participants individual retirement accounts or H.R. 10 plans;

(i) a ***not-for-profit organization*** described in Section 501(c)(3) of the Internal Revenue Code;

(j) a ***bank*** as defined in Section 3(a)(2) of the Act, a savings and loan association or other institution as referenced in Section 3(a)(5)(A) of the Act, or a foreign bank or savings and loan association or equivalent institution, that has audited net worth of at least US$25 million (and US$100 million in eligible securities) in latest annual financial statements;

(k) a ***business development company*** as defined in Section 2(a)(48) of the Investment Company Act of 1940;

(l) a ***business development company*** as defined in Section 202(a)(22) of the Investment Advisors Act of 1940;

(m) a ***Small Business Investment Company*** licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958;

(n) any entity, all of the equity owners of which are qualified institutional buyers.

3. The value of eligible securities must be calculated based on cost (or on the basis of market value if the entity reports its securities holdings in its financial statements on the basis of their market value, and no current information with respect to the cost of those securities has been published).

In determining the aggregate amount of securities owned by an entity and invested on a discretionary basis, securities owned by subsidiaries of the entity that are consolidated with the entity in its financial statements prepared in accordance with generally accepted accounting principles may be included if the investments of such subsidiaries are managed under the direction of the entity, except that, unless the entity is a reporting company under Section 13 or 15(d) of the Securities Exchange of 1934, securities owned by such subsidiaries may not be included if the entity itself is a majority-owned subsidiary that would be included in consolidated financial statements of another enterprise.

4. “Separate account” for purposes of this certification means a separate account as defined by Section 2(a)(37) of the Investment Company Act of 1940 that is neither registered under Section 8 of such Act nor required to be so registered.

It will notify broker immediately of any change in the foregoing representations prior to placing any order for any Approved Option, and the foregoing representations and warranties will be deemed to be repeated with respect to each transaction in Approved Options with broker.