

February 24, 1992

Janet R. Zimmer, Esq. Seward & Kissel

818 Connecticut Avenue, N.W. Washington, D.C. 20006

Dear Ms. Zimmer:

This is in response to your letters dated May 6, 1991 and September 27, 1991 on behalf of Sanwa-BGK Securities Co., L.P. ("Sanwa-BGK"), wherein you request that the Division of Market Regulation (the "Division") recommend no-action to the Securities and Exchange Commission (the "Commission") if Sanwa-BGK treats certain negotiable certificates of deposit issued by Cayman Islands branches of foreign banks as allowable assets for purposes of Rule 15c3-1 under the Securities Exchange Act of 1934 (the "Exchange Act") (17 C.F.R. § 240.15c3-1).

I understand the pertinent facts to be as follows: Sanwa-BGK is a government securities broker-dealer registered with the Commission pursuant to Section 15C of the Exchange Act. You have advised us that Sanwa-BGK proposes to offer and sell to its customers negotiable certificates of deposits ("CDs") that are issued by the branches of foreign banks ("Banks") located in the Cayman Islands ("Cayman Branches"). The CDs are unconditionally guaranteed ("Guarantee") by each Bank's New York branch or agency ("Guarantor"). Sanwa-BGK will maintain positions in the CDs with the intent of selling them to its customers. This will require Sanwa-BGK occasionally to hold the CDs for periods of one day to several weeks.

Paragraph (c)(2)(iv) of Rule 15c3-1 requires broker-dealers to deduct from net worth assets not readily convertible into cash in determining net capital. With respect to offshore CDs, the Division has taken the position that broker-dealers may not treat offshore CDs as allowable assets unless they are issued by a major money market financial institution with net assets of at least \$ 100 million which is subject to supervision by the authorities of a sovereign national government. You have requested that Sanwa-BGK be permitted to include the CDs described herein as allowable assets for the purposes of calculating net capital pursuant to Rule 15c3-1.

Based on the foregoing facts and representations, the Division will not recommend any action to the Commission if Sanwa-BGK treats CDs issued by Cayman Branches

of Banks as described herein as allowable assets for the purposes of Rule 15c3-1 if the following conditions are satisfied:

1. The CDs are rated in one of the three highest categories for CDs by at least two nationally recognized statistical ratings organizations;
2. The CDs are issued by Banks with shareholder equity in excess of \$ 500 million which are subject to supervision by authorities of a sovereign national government other than the Cayman Islands;
3. The CDs are unconditionally guaranteed by a Bank's New York branch or agency. Each Guarantor is regulated and supervised by both the Superintendent of Banks of the State of New York and the Board of Governors of the Federal Reserve System. The CD and the Guarantee may not be transferred independently of each other. The Guarantee unconditionally guarantees payment of all amounts payable under the CD, without any requirement that the holder first proceed against the Cayman [\*4] Branch;
4. The CDs are payable (a) to bearer upon presentation by the Bank in Tokyo, Japan or London, England, as well as in the Cayman Islands; or (b) payable under the Guarantee by the New York branch or agency in New York; and
5. The CDs are in denominations of at least \$ 100,000, and are issued on an interest bearing or discount basis with maturities of seven days to one year.

The position expressed above is a staff position with respect to enforcement only and does not express any legal conclusion. The Division's position is confined to the facts as you have represented them; any material change therein may warrant a different result and should be brought to our attention.

If you have any further questions, please feel free to contact us.

Sincerely,

Michael A. Macchiaroli

Assistant Director

Michael A. Macchiaroli, Esq.

Assistant Director Compliance and Financial Responsibility

Division of Market Regulation

Securities and Exchange Commission

450 Fifth Street, N.W. Washington, D.C. 20549

Dear Mr. Macchiaroli:

As you requested at our September 23 meeting, we are enclosing herewith on behalf of Sanwa-BGK Securities Co., L.P., an outline of the minimum standards that would be satisfied by the Cayman certificates of deposit ("CDs") we discussed. We would be happy to provide any additional information you may require for a prompt resolution of this matter.

Very truly yours,

Janet R. Zimmer

#### CAYMAN CDs

1. The CDs would be evidenced by negotiable certificates of deposit issued by the Cayman Islands branches of various Japanese banks that have net assets greater than \$ 100 million and that would be subject to supervision by Japanese regulatory authorities, including the Japanese Ministry of Finance (each, a "Bank").
2. The CDs would be issued on either a discount or interest-bearing basis in minimum denominations of at least U.S.\$ 100,000 (typically U.S.\$ 1 million or more), with maturities ranging from seven days to one year.
3. Each CD would be either (a) payable by the Bank in Tokyo, Japan or in London, England as well as the Cayman Islands and would constitute the irrevocable and unconditional obligation of the Bank subject to United Kingdom or Japan country risk without Cayman [\*6] Islands country risk or (b) irrevocably and unconditionally guaranteed by the Bank or by the Bank's New York Branch or Agency (the "Guarantor"),

where the Guarantee would be subject to United States or Japan country risk without Cayman Islands country risk. CDs payable under (a) above might also be guaranteed by the Bank or by the Bank's New York Branch or Agency.

4. Each CD and related Guarantee would be governed by New York law, and each CD would be issued and paid pursuant to an issuing and paying agency agreement.
5. The CDs would be issued and sold on a continuing basis to U.S. institutional investors through U.S. commercial paper and certificate of deposit dealers who also make a secondary market in the CDs.
6. The CDs would be rated in one of the three highest investment grade categories for commercial paper or short-term obligations by one or more nationally recognized statistical rating services.
7. Each Cayman Branch would operate under an off-shore Class "B" license in the Cayman Islands.
8. Each Cayman Branch would be subject to supervision by Japanese authorities, including the requirement to obtain Ministry of Finance approval for issuance of the CDs.
9. The CDs would be offered and sold based on the credit of the Bank and/or the Guarantor and as not subjecting a holder to the sovereign risk of the Cayman Islands.