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By Email Delivery

Douglas J. Scheidt, Esq.
Associate Director and Chief Counsel
Division of Investment Management
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Adams Diversified Equity Fund Inc.

Dear Mr. Scheidt:

We are writing on behalf of Adams Diversified Equity Fund Inc., previously The Adams Express Company, ("**ADX**") an internally-managed, closed-end management investment company, registered under the Investment Company Act of 1940, as amended (the "**Act**"), to request assurance that the staff of the Division of Investment Management (the "**Staff**") will not recommend enforcement action to the Commission against ADX under Section 12(d)(3) of the Act if it organizes, and wholly owns and controls a subsidiary that will operate as an investment adviser ("**Adviser Sub**"), providing advisory services to a wide array of clients including U.S. and non-U.S. registered and unregistered investment companies, institutional investors, separate accounts and private clients (together, "**Clients**"), and to be registered under the Investment Advisers Act of 1940 ("**Advisers Act**").[1]

BACKGROUND

One of the oldest companies listed on the New York Stock Exchange ("**NYSE**"), ADX, a Maryland corporation, has been structured as a closed-end fund since 1929 and is registered as such

[1] At the outset, Adviser Sub will provide investment advice to a European investment fund organized in Luxembourg, established in accordance with the UCITS Directive (or "undertakings for the collective investment in transferable securities") and regulated by the European Union. Adviser Sub will not register under the Advisers Act during the period when it qualifies as an Exempt Reporting Adviser by virtue of the Private Fund Adviser Exemption under Section 203(m) of the Advisers Act or other exemption. It is intended that Adviser Sub will provide investment advice to additional clients over time and will register under the Advisers Act when appropriate under the terms of that Act.

with the SEC.[2] ADX is an internally-managed diversified equity fund. It is managed under a conservative investment philosophy intended to generate solid returns with lower-than-market risk for long-term investors. Investments are made with an eye toward capital protection and generation of dividends and capital gains.

ADX's board of directors ("**Board**") and officers desire to expand the scope of their advisory activities beyond the management of ADX's portfolio to, among other things, allow them to offer investors small cap stock investments, among other things. However, unlike most investment advisers that are legally separate from the investment companies that they manage and therefore are able to provide advisory services to multiple funds and other clients, ADX is internally-managed, making it significantly more difficult to expand and diversify advisory services.

ADX's Board and officers have determined that providing advisory services through an investment adviser entity that is wholly-owned and controlled by ADX would be the most beneficial to ADX's shareholders. Among other benefits of this approach, it would allow ADX to use its current resources – *e.g.*, its investment professionals – to increase ADX's gross revenue and income, while at the same time allow an expansion of advisory personnel and advisory activities. It also would allow ADX to shield itself from potential liabilities associated with such advisory activities to which ADX would be exposed were it to engage in those activities directly.[3] In addition, from a practical standpoint, the new investment options that ADX would like to offer may be less marketable to potential new investors if those investments are directly managed by a registered, closed-end investment company. Moreover, as the advisory business grows, creating a separate subsidiary of ADX to provide advisory services and receive investment management fee income would avoid concerns that ADX might fail to satisfy the source-of-income requirement necessary to maintain its regulated investment company ("**RIC**") status under Subchapter M of the Internal Revenue Code of 1986, amended (the "**Code**").[4]

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[2] *See* SEC File No. 811-00248.

[3] Acting as an investment adviser could expose an investment company to claims of fiduciary breach from its advisory clients and other potential liabilities arising from its advisory activities.

[4] ADX has made an election to be treated for tax purposes as a RIC, and intends to continue to make such election in the future. As a RIC, ADX generally will not pay corporate-level federal income taxes on any net ordinary income or capital gains that it distributes to its shareholders as dividends. To maintain its RIC status, ADX must meet specified source-of-income and asset diversification requirements and distribute annually at least 90 percent of its net ordinary income and realized net short-term capital gains in excess of realized net long-term capital losses, if any. ADX will satisfy the source-of-income test for purposes of qualifying as a RIC if it derives in each taxable year at least 90 percent of its gross income from dividends, interest, payments with respect to certain securities, loans, gains from the sale of stock or other securities, net income from certain "qualified publicly traded partnerships," or other income derived with respect to its business of investing in such stock or securities (referred to herein as **"Good RIC Income"**). Importantly, investment management fee income received in connection with the provision of investment advisory services, such as would be generated under an investment advisory contract, does not constitute Good RIC Income (and is referred to herein as **"Bad RIC Income"**), although any dividends

Adviser Sub will be organized as a limited liability company under Maryland law and elect to be treated as a taxable entity taxed at corporate tax rates. ADX has obtained shareholder approval of its proposal to enter into the business of providing advisory services to Clients through Adviser Sub. ADX will capitalize Adviser Sub with an amount of money and assets reasonably necessary to cover Adviser Sub's organizational expenses, and Adviser Sub will utilize certain employees and facilities of ADX to meet the investment advisory requirements of Clients. It is expected that, initially, a number of the officers and employees of ADX will hold similar positions as officers and employees of Adviser Sub.

In light of the benefits the wholly-owned and controlled investment adviser subsidiary option offers to ADX's shareholders, we believe that ADX's ownership of Adviser Sub as an investment adviser registered under the Advisers Act raises none of the concerns underlying Section 12(d)(3) of the Act.

APPLICABLE LAW

Section 12(d)(3) of the Act

Section 12(d)(3) of the Act generally provides that it is unlawful for a registered investment company to purchase or otherwise acquire any security issued by a person who is a broker, dealer, underwriter, or " an investment adviser of an investment company or an investment adviser registered under [the Advisers Act]."[5] Section 12(d)(3)(A) and (B) of the Act carve out of this prohibition ownership by a registered investment company of a wholly-owned subsidiary "primarily engaged in the business of underwriting and distributing securities issued by other persons, selling securities to customers, or any one or more of such *or related activities*, and the gross income of such person normally is derived principally from such business *or related activities* [emphasis added]."

ADX's ownership of Adviser Sub would be prohibited by Section 12(d)(3) unless the phrase "related activities" highlighted in the above quote encompasses Adviser Subs' investment advisory activities. We believe that both the policies underlying Section 12(d)(3) and the legislative history of Section 12(d)(3) support interpreting the phrase "related activities" in the carve-out of Section 12(d)(3) to include acting as investment adviser and registering as such under the Advisers Act.

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paid by Adviser Sub to ADX would constitute Good RIC Income. The utilization of Adviser Sub as a tax "blocker" entity in such a manner is a lawful method of tax planning under the Code. Therefore, in order for ADX to maintain its RIC status and also assure it can benefit from engaging in an investment advisory business, ADX believes it is in its best interests and those of its shareholders to operate the advisory business from Adviser Sub.

[5] Although Adviser Sub initially will qualify for an exemption from registration under the Advisers Act, it will be providing investment advice to an investment company and thus trigger the prohibitions of Section 12(d)(3). *See* note 1, *supra*.

Policies Underlying Section 12(d)(3)

The Commission has stated that Section 12(d)(3) was intended (i) "principally to prevent investment companies from exposing their assets to the entrepreneurial risks of securities related businesses" and (ii) together with other provisions of the Act, "to prevent investment companies from being organized, operated, managed, or their portfolio securities selected in the interests of brokers, dealers, underwriters, and investment advisers, whether or not those entities are affiliated persons of the companies."[6] Much of the concern regarding entrepreneurial risk stemmed from the fact that, in 1940 when Section 12(d)(3) was adopted, most securities-related businesses were organized as privately-held general partnerships.[7] If such a business failed, an investment company holding general partnership interests could have been held accountable for the general partnership's liabilities.[8]

As with the Act in general, Section 12(d)(3) was also intended to prevent potential conflicts of interest and situations in which brokers, securities dealers and other financial intermediaries were in a position to dominate investment companies.[9] The *Report on the Study of Investment Trusts and Investment Companies* (the "**Study**"), prepared by the Commission prior to the passage of the Act, described several such concerns involving the overreaching of investment companies by their securities-related business affiliates.[10] For example, the Study described concerns that investment company sponsors, such as investment banks, were using affiliated investment companies as a receptacle for illiquid and distressed securities,[11] that investment banks were using the investment

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6 *See* Exemption for Acquisition by Registered Investment Companies of Securities Issued by Persons Engaged Directly or Indirectly in Securities Related Businesses, Investment Company Act Release. No. 13725, 29 S.E.C. Docket 793 (Jan. 17, 1984) ("**1984 Proposing Release**"); Section 1(b)(2) of the Act. See also Exemption of Acquisitions of Securities Issued by Persons Engaged in Securities-Related Businesses, Investment Company Act Release No. 19716, 54 S.E.C. Docket 2190 at 6 (Sept. 16, 1993); Exemption of Acquisitions of Securities Issued by Persons Engaged in Securities Related Businesses, Investment Company Act Release No. 19204, 53 S.E.C. Docket 432 (Jan. 4, 1993).

7 *See* Exemption of Acquisitions of Securities Issued by Persons Engaged in Securities Related Businesses, Investment Company Act Release No. 19204, 53 S.E.C. Docket 432 (Jan. 4, 1993).

8 This same concern is reflected in Rule 12d3-1, adopted by the Commission in 1984, which provides relief from the prohibitions of Section 12(d)(3) by permitting limited ownership of securities-related businesses, but maintains the Section 12(d)(3) prohibitions if such ownership is in the form of general partnership interests. *See* Rule 12d3-1(c)(1). Rule 12d3-1 under the Act provides a conditional exemption from the prohibitions of Section 12(d)(3) under certain circumstances, which are inapplicable with regard to the Adviser Sub.

9 *See* 1984 Proposing Release.

10 *See* REPORT ON THE STUDY OF INVESTMENT TRUSTS AND INVESTMENT COMPANIES, H.R. Doc. No. 707, 75th Cong., 3d Sess. (1938).

11 *See id.*, part I, at 76-77.

companies to acquire securities that were subject to the investment banks' underwriting endeavors in an effort to increase the banks' underwriting capacity,[12] and that an affiliated securities-related business could take advantage of its control and influence over an investment company by forcing the investment company to purchase or otherwise acquire the outstanding securities of the affiliated securities-related business, regardless of its value, in an effort to prop up the value of the affiliate's stock.[13] The concerns raised in the Study, however, would not apply in the case of ADX's ownership of Adviser Sub because most of the specific concerns identified by Congress relate to an investment company's ownership of a brokerage or underwriting business, rather than ownership of an advisory business.[14]

Legislative History

Including investment advisory activities in the "related activities" carve-out in Section 12(d)(3) is supported by the focus in the legislative history related to this section exclusively on a registered investment company's ownership of brokerage and underwriting businesses.[15] This exclusive focus on brokerage and underwriting businesses is exemplified in statements of David Schenker, the

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[12] *See id.*

[13] *See id.*, part III, at 131. This concern is evident in Rule 12d3-1, which permits limited investment by a registered investment company in securities-related businesses, but specifically prohibits a registered investment company from acquiring securities of its investment adviser, or an affiliated person of its investment adviser. *See* Rule 12d3-1(c)(3). The Commission stated that the purpose of this prohibition was to prevent potential conflicts of interest, but recognized that such potential conflicts are also addressed under Sections 17(a) and 17(d). *See* 1984 Proposing Release, n. 27 ("an investment company would be required to apply for exemptive relief from section 17, as well as section 12(d)(3) of the Act, when contemplating the purchase of such securities directly from, or as a joint participant with, the company's investment adviser, promoter, principal underwriter or their affiliated persons").

[14] *Compare* Section 12(c)(2)(B), H.R. 8935, 76th Cong. (3d Sess. 1940) (**"House Bill"**), S. 3580, 76th Cong. (3d Sess. 1940) at 30 (**"Senate Bill"**), *and* Investment Trusts and Investment Companies: Hearings on S. 3580 before the Subcomm. on Securities and Exch. Of the Senate Comm. On Banking and Currency, 76th Cong. (3d Sess. 1940), pt. 1, at 10 (**"Senate Hearings"**) *with* Section 12(d)(3)(B) of the 1940 Act. *See also* H.R. Rep. No. 76-2639, at 16 (1940); S. Rep. No. 76-1775, at 15-16 (1940); Senate Hearings at 243.

[15] The language in the original version of Section 12(d)(3)(B) (originally Section 12(c)(2)(B)) provided that a registered investment company could purchase interests in a wholly-owned subsidiary, if "the business of such person is confined to activities in which such registered company itself may lawfully engage," and a registered investment company itself was lawfully permitted to act as an investment adviser. *See* House Bill at 30; Senate Bill at 10; Senate Hearings at 10. In subsequent drafts of the provision, the language in the carve-out was changed to its current form, carving out persons "primarily engaged in the business of underwriting and distributing securities issued by other persons, selling securities to customers, or any one or more of such or related activities." H.R. 10065, 76th Cong., 3d Sess., at 56 (1940). There is no testimony or explanation in the legislative history of Section 12(d)(3) to explain the changes to the carve-out language. Nevertheless, it is reasonable to conclude that the revised

principal draftsman of the bill, during Senate hearings in which he explained that the section prohibits an investment company from buying interests in "a brokerage firm, a distributing company, or an investment banking house. It goes further and says that if it is engaged in the underwriting business itself – if engaged in that business through a wholly-owned subsidiary – it is permissible to do so."[16] This focus was also evident in the House Report which stated that the section "prohibits investment companies from acquiring securities of persons engaged in the brokerage business or in the business of underwriting and dealing in securities unless the investment company will, after such acquisition, own all outstanding securities of such person and the principal business of such company is that of underwriting securities."[17]

Given this focus on brokerage and underwriting activities, it makes sense that the drafters of the provision wanted to clarify in the revised Section 12(d)(3) carve-out that registered investment companies could themselves engage in brokerage and underwriting activities and therefore also could do so through a wholly-owned subsidiary. Within this context, it also makes sense that the drafters would include in the revised language a new catch-all phrase, "related activities," to maintain the scope of the original language which, as noted, was intended to cover any activities performed by brokers, dealers, underwriters, or investment advisers in which a registered investment company could itself engage. For these reasons, the legislative history supports an interpretation of "related activities" in the Section 12(d)(3) carve-out that includes advisory activities.

Commission Staff Precedents

The Commission Staff on two recent occasions has granted no-action relief in situations similar to those involved in this request. Most recently, in *Main Street Capital Corporation*,[18] (**"Main Street"**) the Staff granted no-action relief to an internally-managed business development company that itself was operating as a registered investment adviser to unaffiliated third-party clients. In order to meet the source-of-income standards under the Code, and limit its income to Good RIC Income, the company sought to assign its third-party advisory agreement to its wholly-owned subsidiary, which had been managing the day-to-day operational and investment activities of the company and its subsidiaries but prior thereto had not entered into third-party advisory arrangements. In order for the subsidiary to accept the assignment of the third-party agreement, it would have been required to

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language in the Section 12(d)(3) carve-out was intended to encompass all activities that a registered investment company could itself engage in, and that the phrase "related activities" in the revised language was intended to maintain an exclusion for wholly-owned subsidiaries that engaged solely in investment advisory activities.

16 Senate Hearings at 243.

17 H.R. Rep. No. 76-2639, at 15-16 (1940). The exclusive focus on brokerage and underwriting activities was also evident in the Senate Report accompanying a subsequent version of the bill. *See* S. Rep. No. 76-1775, at 16 (1940) (referring only to brokerage and underwriting activities in connection with Section 12).

18 Main Street Capital Corporation, SEC No-Action Letter, 2013 WL 5955377 (Nov. 7, 2013).

register under the Advisers Act and thereby triggering the prohibition of Section 12(d)(3). The Staff, in granting the relief requested, referenced the legal arguments supporting the request and, in particular, that (a) the entrepreneurial risks of concern to Congress in enacting the section are not present where an advisory subsidiary is a limited liability company, rather than a partnership of the type common in 1940, and (b) the conflicts of interest and reciprocal practices Congress sought to prevent in enacting the section are not present because (i) the subsidiary is wholly-owned and is overseen by the parent company's board of directors, (ii) the parent company could provide the advisory services directly and would be conducting the activities through the subsidiary for bona fide tax planning purposes and (iii) Congress had raised these concerns primarily with respect to an investment company's ownership of a brokerage or underwriting business and not an advisory business.

In another situation, the Staff granted no-action relief, in *ASA Limited,*[19] to an internally-managed closed-end investment company located in Bermuda which was registered under the Act by virtue of an exemptive order under Section 7(d) of the Act and operated under a number of subsequent exemptive orders. The Bermudian entity sought to expand the scope of its advisory activities to offer investors additional investment options through a wholly-owned investment adviser subsidiary. In granting the requested relief, the Staff noted that the parent entity would continue to be subject to the Act and to oversight by the Commission and had also agreed to operate subject to a number of representations designed to limit conflicts of interest in the operation of the advisory subsidiary. The Staff also referenced the arguments in the request letter that (a) establishing the subsidiary as a wholly-owned limited liability company would insulate the parent entity's shareholders by injecting a layer of liability protection from entrepreneurial risks from the subsidiary's advisory activities and (b) most of the specific concerns identified as underlying the Section 12(d)(3) restrictions relate to an investment company's ownership of a brokerage or underwriting business and not an advisory business.[20]

ANALYSIS

In light of this interpretation, we believe ownership by ADX of Adviser Sub should be permitted for the following reasons. ADX's proposal to enter into the advisory business through a wholly-owned and controlled subsidiary will benefit ADX's shareholders by allowing them to share in the profits from the new advisory business, by allowing that advisory business to be more marketable than if provided directly by ADX, by allowing ADX to add advisory personnel such as additional portfolio managers and investment analysts who will be available to provide advisory services both to ADX and to the Clients of Adviser Sub, and by limiting any potential liabilities arising from Adviser Sub's provision of advisory services.

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[19] ASA Limited, SEC No-Action Letter, 2010 WL 2917292 (July 23, 2010).

[20] The staff also referred to the representations made by the Bermudian parent, such as annual board review and adoption of policies and procedures, as being designed to ensure the absence of conflicts of interest or reciprocal practices against which Section 12(d)(3) was intended to guard.

In addition, the potential for conflicts of interest or overreaching is mitigated due to the fact that ADX will remain internally managed and will wholly-own and control Adviser Sub and that this concern in the context of Section 12(d)(3) was raised by Congress primarily with respect to an investment company's ownership of a brokerage or underwriting business, and not the ownership of an advisory business. ADX's ownership of a wholly-owned and controlled adviser subsidiary will not disadvantage any of Adviser Sub's Clients because Adviser Sub will be a fiduciary of its clients, will be subject to the anti-fraud provisions of the Advisers Act and the other federal securities laws and will be subject to and will comply with all of the duties and responsibilities required of a registered investment adviser under the Advisers Act. Also, Adviser Sub's Clients that are investment companies – whether registered or not – will be represented by a board of directors or similar entity or person that will be responsible for protecting the Client's interests vis-à-vis Adviser Sub.

Moreover, by providing advisory services through Adviser Sub, ADX ensures that with respect to such advisory services, shareholders of ADX will be protected from Bad RIC Income through bona fide tax planning and yet receive the benefit of the advisory arrangement.

Finally, the Commission has previously granted similar Section 12(d)(3) relief to permit registered, internally-managed, closed-end investment companies to establish wholly-owned investment adviser subsidiaries.[21]

CONDITIONS

ADX proposes to organize and operate the Adviser Sub in accordance with the following representations, which are designed to ensure that ADX's ownership and operation of the Adviser Sub involve no conflicts of interest that would disadvantage ADX's shareholders or the Adviser Sub's clients:

1. ADX will wholly own and control the Adviser Sub. ADX will not have an investment adviser within the meaning of section 2(a)(20) of the Act. Only persons acting in their capacities as directors, officers or employees of ADX will provide advisory services to ADX.

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[21] *See* Main Street Capital Corporation, SEC No-Action Letter (Nov. 7, 2013), note 18, *supra*; ASA Limited, SEC No-Action Letter (July 23, 2010), note 19, *supra*. *See also* General American Investors Company, Inc., Investment Company Act Release Nos. 11345, 20 S.E.C. Docket 1457, (Sept. 10, 1980) (notice) and 11396, 21 S.E.C. Docket 195 (Oct. 10, 1980) (order). As was the case in the no-action letter precedents, because Adviser Sub is a limited liability company, the proposed arrangement provides a level of insulation for the shareholders of ADX from the entrepreneurial risks of concern to Congress in enacting Section 12(d)(3). Adviser Sub will be wholly-owned and controlled by ADX, and the ADX Board will oversee the advisory business conducted by Adviser Sub. Moreover, because ADX will remain internally-managed and will not engage an external third-party investment adviser, there is no potential for conflicts of interest involving any such external third-party investment adviser. Finally, ADX could provide the advisory services directly and would be conducting the advisory activities through Adviser Sub for bona fide tax planning purposes.

2. The determination to enter into the advisory business through Adviser Sub has been made by a vote of at least a majority of ADX's directors who are not "interested persons" as defined in section 2(a)(19) of the Act.

3. In addition to information communicated to shareholders in seeking shareholder approval of the proposed arrangement, in each of its annual reports to shareholders, ADX will discuss the existence of the Adviser Sub and the provision by the Adviser Sub of outside advisory services as well as include an assessment of whatever risks, if any, are associated with the existence of the Adviser Sub and its provision of such services.

4. The Adviser Sub will not make any proprietary investment that ADX would be prohibited from making directly under ADX's investment objectives, policies and restrictions or under any applicable law.

5. In assessing compliance with the asset coverage requirements under Section 18 of the Act, ADX will deem the assets, liabilities and indebtedness of the Adviser Sub as its own.

6. The Board will review at least annually the investment advisory business of the Adviser Sub to determine whether such business should be continued and whether the benefits derived by ADX from the Adviser Sub's business warrant the continued ownership of the Adviser Sub and, if appropriate, approve (by a vote of at least a majority of its directors who are not "interested persons" as defined in the Act) at least annually such continuation. In determining whether the investment advisory business of the Adviser Sub should be continued and whether the benefits derived by ADX from the Adviser Sub's business warrant the continued ownership of the Adviser Sub, ADX's Board will take into consideration, among other things, the following: (a) the compensation of the officers of ADX and of the Adviser Sub; (b) all investments by and investment opportunities considered for ADX that relate to any investments by or investment opportunities considered for a client of the Adviser Sub; and (c) the allocation of expenses associated with the provision of advisory services between ADX and the Adviser Sub.[22]

CONCLUSION

For the reasons discussed above, we request the Staff's assurance that, if ADX organizes and acquires the securities issued by Adviser Sub, a wholly-owned and controlled subsidiary, under the circumstances described in this letter, the Staff will not recommend enforcement action to the Commission against ADX under Section 12(d)(3) of the Act.

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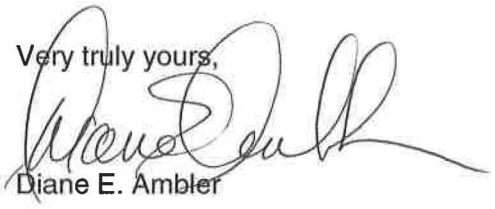
[22] Such expenses may include: administration and operating expenses; investment research expenses; sales and marketing expenses; office space and general expenses; and direct expenses, including legal and audit fees, directors' fees and taxes.

Please contact the undersigned at (202) 778-9886 with any questions regarding the relief requested herein.

Very truly yours,



Diane E. Ambler

cc: Lawrence L. Hooper, Jr., Adams Diversified Equity Fund Inc.
Kaitlin C. Bottock, Securities and Exchange Commission
Daniele Marchesani, Securities and Exchange Commission