



Commodity Futures Trading Commission

Office of Public Affairs

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Q & A – Final Rule on Amendments to Compliance Obligations of Commodity Pool Operators and Commodity Trading Advisors

What is the goal of this rulemaking?

In order to better monitor the systemic risks posed by the commodities markets, the Commission is requiring the collection of data from CPOs and CTAs. It is additionally amending part 4 to rescind previous exemptions as well as modify additional part 4 provisions.

Why are these changes being made?

As stated in the Proposal, Congress enacted the Dodd-Frank Act in response to the financial crisis of 2007 and 2008. That Act requires the reporting of certain information by investment advisers related to potential systemic risk. Such information facilitates oversight of the investment activities of funds within the context of the rest of a discrete market or the economy as a whole.

The sources of risk delineated in the Dodd-Frank Act are also presented by commodity pools. To provide the Commission with similar information to address these risks, the Commission has determined to require registration of certain previously exempt CPOs and to further require reporting of information comparable to that required by the Act. To implement this enhanced oversight, the Commission proposed, and has now determined to adopt, the revision and rescission of certain discretionary exemptions that it previously granted.

What are the changes to registration and compliance that this rule makes?

The Commission is adopting new data collections for CPOs and CTAs that are consistent with a data collection required under the Dodd-Frank Act for entities registered with both the Commission and the Securities and Exchange Commission. The adopted amendments to part 4 will: rescind the exemption from registration provided in § 4.13(a)(4); rescind relief from the certification requirement for annual reports provided to operators of certain pools offered only to qualified eligible persons (“QEPs”) under § 4.7(b)(3); modify the criteria for claiming relief under § 4.5; and require the annual filing of notices claiming exemptive relief under several sections of the Commission’s regulations. Finally, the adopted amendments include new risk disclosure requirements for CPOs and CTAs regarding swap transactions.

Notably however, the final Rule differs from the Proposal with respect to the following:

- The marketing restriction in § 4.5 no longer contains the clause “(or otherwise seeking investment exposure to)”;
- § 4.5 will be amended to include an alternative trading threshold test based on the net notional value of a registered investment company’s derivatives positions;
- Annual notices for exemptions and exclusions will be filed on an annual calendar year end basis rather than on the anniversary of the filing date; and
- Changes have been made to the substance of Forms CPO-PQR and CTA-PR and the filing timelines for both forms.