

6351-01-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

RIN Number 3038-AE98

Amendments to Compliance Requirements for Commodity Pool Operators on Form CPO-PQR

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (CFTC or Commission) is proposing amendments to Regulation 4.27 and Form CPO-PQR, as codified at appendix A to part 4 of the Commission's regulations. Specifically, the proposal would: (1) eliminate the pool-specific reporting requirements in existing Schedules B and C of Form CPO-PQR, other than the pool schedule of investments, and (2) amend the information in existing Schedule A of the form to request Legal Entity Identifiers (LEIs) for commodity pool operators (CPOs) and their operated pools that have them, and to eliminate questions regarding pool auditors and marketers. All CPOs would be required to file the resulting amended Form CPO-PQR quarterly, but would also be allowed to file NFA Form PQR, a comparable form required by the National Futures Association (NFA), in lieu of filing the revised Form CPO-PQR. Relatedly, the Commission would also no longer accept filing Form PF in lieu of the revised Form CPO-PQR. The Commission preliminarily believes that these amendments would focus Form CPO-PQR on data elements that facilitate the Commission's oversight of CPOs and their pools in connection with its use of other

Commission data streams and regulatory initiatives while reducing overall data collection requirements for market participants.

DATES: Comments must be received on or before June 15, 2020.

ADDRESSES: You may submit comments, identified by RIN number 3038-AE98, by any of the following methods:

- CFTC Comments Portal: <https://comments.cftc.gov>. Select the “Submit Comments” link for this rulemaking and follow the instructions on the Public Comment Form.

- Mail: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, DC 20581.

- Hand Delivery/Courier: Follow the same instructions as for Mail, above.

Please submit your comments using only one of these methods. Submissions through the CFTC Comments Portal are encouraged.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <https://comments.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (FOIA), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in Commission Regulation 145.9.¹

¹ 17 CFR 145.9. The Commission’s regulations are found at 17 CFR Ch. I (2019).

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <https://comments.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Joshua B. Sterling, Director, at 202-418-6700 or jsterling@cftc.gov; Amanda Lesher Olear, Deputy Director, at 202-418-5283 or aolear@cftc.gov; Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street, N.W., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 1a(11) of the Commodity Exchange Act (CEA or the Act)² defines the term “commodity pool operator” (CPO), as any person³ engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise, and who, with respect to that commodity pool, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in commodity

² 7 U.S.C. 1, *et seq.* (2019). The Act is accessible through the Commission’s website, <https://www.cftc.gov>.

³ *See* 17 CFR 1.3 (defining “person” to include individuals, associations, partnerships, corporations, and trusts).

interests.⁴ CEA section 4m generally requires each person who satisfies the CPO definition to register as such with the Commission.⁵ CEA section 4n requires registered CPOs to maintain books and records and file such reports in such form and manner as may be prescribed by the Commission.⁶

In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)⁷ amended the Investment Advisers Act of 1940 (Advisers Act)⁸ to require advisers to large private funds⁹ to register with the Securities and Exchange Commission (SEC).¹⁰ Congress further directed the SEC to adopt rules requiring registered private fund advisers¹¹ to file reports containing such information as is deemed necessary and appropriate in the public interest and for investor protection and for the assessment of systemic risk.¹² Pursuant to section 204 of the Advisers Act, as amended, those records and reports must include, among other things, a description of the amount of assets under management, use of leverage, counterparty credit risk exposure, and

⁴ 7 U.S.C. 1a(11).

⁵ 7 U.S.C. 6m(1).

⁶ 7 U.S.C. 6n(3)(A). Registered CPOs have regulatory reporting obligations with respect to their operated pools. *See* 17 CFR. 4.22.

⁷ Pub. L. 111-203, 124 Stat. 1376 (2010).

⁸ 15 U.S.C. 80b-1 *et seq.* (2019).

⁹ Section 202(a)(29) of the Advisers Act defines the term “private fund” as “an issuer that would be an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3), but for section 3(c)(1) or 3(c)(7) of that Act.” *See* 15 U.S.C. 80ab-2(a)(29).

¹⁰ *See* Dodd-Frank Act section 403 of the (amending Advisers Act 203(b), 15 U.S.C. 80b-3(b), to incorporate private fund adviser registration); Dodd-Frank Act sections 402, 407, 408 (establishing certain exemptions from private fund adviser registration); Advisers Act section 202(a)(29), 15 U.S.C. 80a-3 (defining “private fund”).

¹¹ As used in this release, the term “private fund adviser” refers to any investment adviser that is: (i) registered or required to be registered with the SEC (including any investment adviser that is also registered or required to be registered with the CFTC as a CPO or CTA); and (ii) advises one or more private funds (including any commodity pools that satisfy the definition of “private fund”).

¹² *See* Dodd-Frank Act section 404; Advisers Act section 204, 15 U.S.C. 80b-4(b)(5). *See also* 15 U.S.C. 80b-4(b)(1) (authorizing the SEC to require each investment adviser to a private fund to file reports containing such information as the SEC deems necessary and appropriate in the public interest or for the protection of investors or for the assessment of systemic risk by the Financial Stability Oversight Council).

trading and investment positions for each private fund advised by the adviser.¹³ These records and reports must also be made available to the Financial Stability Oversight Counsel (FSOC).¹⁴ Through these requirements, Congress sought to make available to the SEC and FSOC information regarding the size, strategies, and positions of large private funds, which Congress believed could be crucial to regulatory attempts to deal with a future crisis.¹⁵

Pursuant to Advisers Act section 211, as amended, rules establishing the form and content of reports filed by private fund advisers that are dually registered with the SEC and the CFTC (together, the Commissions) must be promulgated jointly by both agencies after consultation with FSOC.¹⁶ Accordingly, in 2011 the Commissions jointly adopted sections 1 and 2 of Form PF.¹⁷ In adopting Form PF, the Commissions stated that the form was designed to provide FSOC empirical data from which it may make a determination about the extent to which the activities of private funds or their advisers pose systemic risk.¹⁸ The SEC added that the policy judgements implicit in the Form PF reporting requirements reflected FSOC's role as the primary user of the reported information and that the SEC would not necessarily have required the same scope of reporting if the information reported on Form PF were intended solely for the SEC's

¹³ 15 U.S.C. 80b-4(b)(3).

¹⁴ 15 U.S.C. 80b-4(b)(7).

¹⁵ Commodity Pool Operators and Commodity Trading Advisors: Amendments to Compliance Obligations, 76 FR 7976, 7977 (Form CPO-PQR Proposal) (Feb. 11, 2011) (citing S. Conf. Rep. No. 111-176, at 38 (2010)).

¹⁶ 15 U.S.C. 80b-11(e).

¹⁷ See Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors on Form PF, 76 FR 71128 (Nov. 16, 2011) (Form PF Final Rule). Sections 3 and 4 of Form PF were adopted solely by the SEC. *Id.*

¹⁸ *Id.* at 71129.

use.¹⁹

Following the adoption of Form PF, and on its own initiative, the Commission adopted its own new reporting requirement for CPOs: Form CPO-PQR and Regulation 4.27, which requires certain CPOs to report on Form CPO-PQR.²⁰ The Commission proposed this new reporting requirement after reevaluating its regulatory approach to CPOs in light of the 2008 financial crisis and the purposes and goals of the Dodd-Frank Act so as to determine the necessary level of regulation in the then-current economic environment. The amendments to Part 4, including this new reporting requirement, were intended to: (1) align the Commission’s regulatory structure for CPOs with the purposes of the Dodd-Frank Act; (2) encourage more congruent and consistent regulation of similarly situated entities among Federal financial regulatory agencies, such as dually registered CPOs required to file Form PF; (3) improve accountability and increase transparency of the activities of CPOs and the commodity pools that they operate or advise; and (4) facilitate a data collection that would potentially assist FSOC.²¹ To that end, the requirements of Form CPO-PQR were modeled closely after those of Form PF.²²

In adopting Form CPO-PQR, the Commission indicated that the collected data would be used for several broad purposes, including: increasing the Commission’s understanding of its registrant population; assessing the market risk associated with

¹⁹ *Id.* at 71129-30.

²⁰ *See* Commodity Pool Operators and Commodity Trading Advisors: Compliance Obligations, 77 FR 11252 (Feb. 24, 2012) (Form CPO-PQR Final Rule); 17 CFR pt. 4 app. A; 17 CFR 4.27.

²¹ Form CPO-PQR Proposal, 76 FR at 7978.

²² *Id.* at 7978 (“The Commission proposes [Form CPO-PQR] to solicit information that is generally identical to that sought through Form PF ...”). Regulation 4.27 further provides for the filing of Form PF in lieu of Commission filing requirements (*i.e.*, Form CPO-PQR) for CPOs that are dually registered with the SEC. *See* 17 CFR 4.27(d).

pooled investment vehicles under its jurisdiction; and monitoring for systemic risk.²³ Specifically, the Commission was interested in receiving information regarding the operations of CPOs and their pools, including their participation in commodity interest markets, their relationships with intermediaries, and their interconnectedness with the financial system at large.²⁴ In proposing the majority of the more pool-specific questions in the form in particular, the Commission believed the incoming data would assist the Commission in monitoring commodity pools in such a way as to allow the Commission to identify trends over time, including a pool's exposure to asset classes, the composition and liquidity of a commodity pool's portfolio, and a pool's susceptibility to failure in times of stress.²⁵ Although the Commission recognized that the data had some limitations, it believed that, in light of the 2008 financial crisis and the sources of risk delineated in the Dodd-Frank Act with respect to private funds, the detailed, pool-specific information to be provided in Form CPO-PQR was necessary and appropriately balanced to assess the risks posed by a pool or a CPO's operations as a whole.²⁶

After seven years of experience with Form CPO-PQR, the Commission is reassessing the scope of Form CPO-PQR and how it aligns with the Commission's current regulatory priorities. The Commission's ability to make full use of the more detailed information collected under Form CPO-PQR has not met the Commission's initial expectations. At the same time, however, the Commission has devoted substantial resources to developing other data streams and regulatory initiatives designed to enhance its ability to broadly surveil financial markets for risk posed by all manner of market

²³ See Form CPO-PQR Final Rule, 77 FR 11252.

²⁴ *Id.* at 11266.

²⁵ Form CPO-PQR Proposal, 76 FR at 7981.

²⁶ *Id.*

participants, including CPOs and their operated pools.

Under these circumstances, and as further explained in discussion that follows, the Commission preliminarily believes that Form CPO-PQR could be revised in a way that would support the Commission's ability to exercise its oversight of CPOs and their operated pools while reducing reporting burdens for market participants, thereby further promoting the integrity, resilience, and vibrancy of the U.S. derivatives markets.

II. Overview of Current Form CPO-PQR

The amount of information that a CPO is currently required to disclose on Form CPO-PQR varies depending on the size of the operator and the size of the operated pools.²⁷ The form identifies three classes of filers: Large CPOs, Mid-Sized CPOs, and Small CPOs. The thresholds for determining Large and Mid-Sized CPOs generally align with those in Form PF:²⁸ a Large CPO is a CPO that had at least \$1.5 billion in aggregated pool assets under management (AUM)²⁹ as of the close of business on any day during the reporting period; a Mid-Sized CPO is a CPO that had at least \$150 million, but less than \$1.5 billion, in aggregated pool AUM as of the close of business on any day during the reporting period. Although not defined in Form CPO-PQR, "Small CPO," as used herein, refers to a CPO that is not a Large CPO or a Mid-Sized CPO, *i.e.*, a CPO that had less than \$150 million in aggregated pool AUM during the entire reporting period. The reporting period for Large CPOs is any of the individual calendar

²⁷ See 17 CFR pt. 4 app. A.

²⁸ See Instructions to Form PF, available at <http://www.sec.gov/about/forms/formpf.pdf>. Private fund investment advisers with "regulatory AUM," as that term is defined in Form PF, of at least \$150 million are required to file Section 1 of Form PF; private fund investment advisers with regulatory AUM equal to or exceeding \$1.5 billion are required to file Sections 1 and 2 of Form PF. *Id.*

²⁹ AUM refers to the amount of all assets that are under the control of the CPO. See 17 CFR pt. 4 app. A.

quarters (ending March 31, June 30, September 30, and December 31); for Small and Mid-Sized CPOs, the reporting period is the calendar year-end.

Form CPO-PQR consists of three schedules: Schedules A, B, and C. Schedule A requires all CPOs to disclose basic identifying information about the CPO (Part 1) and about each of the CPO's pools and the service providers they used (Part 2). Large CPOs submit Schedule A on a quarterly basis; all other CPOs submit it annually. Schedule B requires additional detailed information for each pool operated by Mid-Sized and Large CPOs regarding each pool's investment strategy; borrowings and types of creditors; counterparty credit exposure; trading and clearing mechanisms; value of aggregated derivative positions; and a schedule of investments. Large CPOs submit Schedule B on a quarterly basis, whereas Mid-Sized CPOs submit it annually.

Schedule C requires further detailed information about the pools operated by Large CPOs on an aggregate and pool-by-pool basis. Part 1 of Schedule C requires aggregate information for all pools operated by a Large CPO, including (1) a geographical breakdown of the pools' investment on an aggregated basis and (2) the turnover rate of aggregate portfolio of pools. Part 2 of Schedule C requires certain detailed information for each Large Pool the Large CPO operates, where a "Large Pool" is defined as a commodity pool that has a net asset value (NAV)³⁰ individually, or in combination with any parallel pool structure,³¹ of at least \$500 million as of the close of business on any day during the reporting period.³² Specifically, Part 2 requires

³⁰ The term "net asset value" has the same meaning as in Commission regulation 4.10(b). *See id.*

³¹ The term "parallel pool structure" means any structure in which one or more pools pursues substantially the same investment objective and strategy and invests side by side in substantially the same assets as another pool. *See id.*

³² *Id.*

information with respect to each Large Pool the Large CPO operates during the given reporting period, including information regarding the Large Pool's: (1) identity; (2) liquidity; (3) counterparty credit exposure; (4) risk metrics; (5) borrowing; (6) derivative positions and posted collateral; (7) financing liquidity; (8) participant information; and (9) the duration of its fixed income assets. Large CPOs submit Schedule C on a quarterly basis and a separate Part 2 of Schedule C on a quarterly basis for each Large Pool they operate during the reporting period.

If a CPO is dually registered with the SEC as an Investment Adviser and is required to file Form PF regarding its advisory services to private funds³³ during the reporting period, the CPO is deemed to have satisfied its Schedule B and Schedule C filing requirements by completing and filing certain questions in Form PF.³⁴

In addition to Form PF and Form CPO-PQR, in 2010 NFA implemented its form PQR (NFA Form PQR) to elicit data in support of a risk-based examination program for CPOs.³⁵ Pursuant to NFA Rule 2-46, all CPO NFA members, which include all CPOs registered with the Commission, must file NFA Form PQR on a quarterly basis.³⁶ By rule, NFA accepts the filing of Form CPO-PQR, but not Form PF, in lieu of filing its form for any quarter in which a Form CPO-PQR filing is required under Regulation 4.27. As such, dually-registered CPOs that file Form PF in lieu of a Form CPO-PQR filing are currently required to file NFA Form PQR with NFA quarterly.

III. Proposed Regulations

³³ The term "private fund" has the same meaning as the definition of "private fund" in Form PF. 17 CFR pt. 4, app. A.

³⁴ *See id.*

³⁵ NFA Rule 2-46 (2010).

³⁶ *Id.* All registered CPOs are required to be NFA members pursuant to 17 CFR 170.17.

As indicated above, the Commission is proposing amendments to Form CPO-PQR that would reduce the amount of reporting required thereunder while still supporting the Commission's ability to oversee the activities of CPOs and their operated pools. Specifically, the proposal would eliminate the pool-specific information currently required to be reported in Schedules B or C of the form, with the exception of the pool schedule of investments (question 6 of Schedule B). The information required in current Schedule A would remain with a few amendments, notably the addition of questions regarding LEIs. The retained reporting requirements – the reporting requirements in current Schedule A, as proposed to be amended, plus the schedule of investments from Schedule B – would be combined to form the entirety of Form CPO-PQR, referred to herein as “Revised Form CPO-PQR.” The proposal would require all CPOs to file Revised Form CPO-PQR on a quarterly basis, but would permit CPOs to file a comparable form required by NFA, NFA Form PQR, in lieu of Revised Form CPO-PQR. As a corollary, the Commission would also revise Regulation 4.27(d) to eliminate the ability of dually regulated CPOs that are required to file Form PF with respect to one or more of their operated private funds to file Form PF in lieu of filing current Form CPO-PQR, while retaining Form PF as the Commission's form. The sections that follow explain these proposed changes in further detail.

A. Elimination of Pool-Specific Reporting Requirements in Schedules B and C

As mentioned above, the Commission is proposing to eliminate the majority of the information required to be reported in current Schedules B and C of Form CPO-PQR. The eliminated data elements include detailed, pool-specific information, provided on both the individual and aggregate level, such as questions about investment strategy and

counterparty credit exposure, asset liquidity and concentration of positions, clearing relationships, risk metrics, financing, and investor composition.

In adopting Form CPO-PQR, the Commission was interested in receiving information regarding the operations of CPOs and their operated pools, including their participation in commodity interest markets, their relationships with intermediaries, and their interconnectedness with the financial system at large.³⁷ In proposing the majority of the elements in Schedules B and C in particular, the Commission believed they would assist the Commission in monitoring commodity pools in such a way as to allow the Commission to identify trends over time, including a pool's exposure to asset classes, the composition and liquidity of a commodity pool's portfolio, and a pool's susceptibility to failure in times of stress.³⁸

After seven years of experience with Form CPO-PQR, however, the Commission acknowledges that challenges with the data collected in Schedules B and C, combined with resource constraints in the face of broader Commission priorities, have frustrated the Commission's ability to fully realize that vision. To begin, in an effort to take into account the different ways CPOs maintain information, the Commission allowed CPOs flexibility in how they calculated and presented certain of the data elements.³⁹ For example, Form CPO-PQR gives Large CPOs the option of reporting the duration, weighted average tenor, or 10-year equivalents of fixed income portfolio holdings, understanding that Large CPOs may use a wide range of metrics to measure interest rate

³⁷ Form CPO-PQR Final Rule, 77 FR at 11266.

³⁸ Form CPO-PQR Proposal, 76 FR at 7981.

³⁹ Form CPO-PQR Final Rule, 77 FR at 11271.

sensitivity. As a result, the Commission's ability to identify trends across CPOs or pools using Form CPO-PQR data has been substantially challenged.

Additionally, taking into account the volume and complexity of the data it was requesting, the Commission determined not to require the data to be provided in real-time but rather only mandated post hoc quarterly or annual filings. The Commission acknowledged the limitations of this filing schedule at the time but also recognized the time it would take to produce the requested information and concluded that Form CPO-PQR struck an appropriate balance in addressing the Commission's need for timely information and providing CPOs sufficient time to prepare it.⁴⁰ As the Commission has reviewed the data over the years, however, it has become apparent that the infrequent and delayed nature of such reporting has made it difficult to assess the impact of CPOs and their operated pools on markets as conditions and that relative CPO risk profiles may have changed, potentially significantly, by the time Form CPO PQR is filed with the Commission.

Part of the Commission's rationale for promulgating Schedules B and C was a need for additional information about CPOs that are non-dual registrants to "identify significant risk to the stability of the derivatives market and the financial market as a whole."⁴¹ In making the assessment that the information then available about the operations of CPOs and their operated firms was insufficient, the Commission focused primarily on the limited data that it received under other provisions of Part 4, such as the annual pool financial statements under Regulation 4.22, which it believed was not well suited for the stated purpose of identifying risk to the either stability of the derivatives

⁴⁰ *Id.* at 11267.

⁴¹ *Id.* at 11266.

markets or the financial markets in general.⁴² Moreover, the Commission did not at the time believe that it had the capability to use that information to assess the relationship between a large position held by a pool and the rest of the pool's other derivatives positions and securities investments.⁴³

However, in the ten years since the Dodd-Frank Act was passed, the Commission has devoted significant resources to regulatory initiatives and data streams designed to enhance the Commission's ability to broadly surveil financial markets for risk posed by all manner of market participants, including CPOs. These data streams include extensive information related to trading, reporting, and clearing of swaps. Notably, the Commission has developed a regime requiring the reporting of detailed swap transaction information to swap data repositories (SDRs), including for those transactions entered into by CPOs and the pools they operate.⁴⁴ Specifically, swap transaction data related to both over-the-counter and exchange traded swaps is required to be reported to SDRs,⁴⁵ and consequently, swaps entered into by CPOs and pools, whether on an exchange or over-the-counter, are reported to SDRs and included in the data set that Commission staff can use to conduct broader market surveillance.

The Commission has also maintained, and in some instances enhanced, its daily reporting regime for derivatives clearing organizations (DCOs), clearing members, designated contract markets (DCMs), futures commission merchants (FCMs), swap dealers, and large traders. Commission regulations require DCOs to make extensive

⁴² Form CPO-PQR Proposed Rule, 76 FR at 7978 (“The information that the Commission currently receives is limited, not designed to measure systemic or market risk in any meaningful way, and is only submitted by registered CPOs on an annual basis.”).

⁴³ Form CPO-PQR Final Rule, 77 FR at 11268.

⁴⁴ See 17 CFR pts. 45; App. 1 to pt. 45, 49.

⁴⁵ 17 CFR pt. 45.

daily reports, containing information on the positions and activities of clearing members and customers, including commodity pools, to the Commission.⁴⁶ Commission regulations also require reporting by clearing members and large traders themselves.⁴⁷ Through this data, the Commission can analyze positions and risks at the DCO, clearing member, or customer level, including customer positions at more than one clearing member, and clearing member positions at more than one DCO.

The Commission's risk surveillance program focuses on identifying, quantifying, and monitoring the risks to the financial system posed by DCOs, clearing participants, and other market participants – including CPOs and their operated pools. To this end, on a daily basis, Commission staff work to: (1) identify positions in cleared products that pose significant financial risk; and (2) confirm that these risks are being appropriately managed. Staff undertakes these tasks at the customer level, the firm level, and the DCO level. That is, staff identifies both the customers that pose risks to clearing members and clearing members that pose risks to DCOs.

Importantly, most of the transaction and position information the Commission uses for its surveillance activities is available on a more timely and frequent basis than the data received on the current iteration of Form CPO-PQR. Furthermore, Commission programs to conduct surveillance of exchanges, FCMs, and DCOs already include CPOs and do not rely on the information contained in Schedules B and C of Form CPO-PQR.

Taken together, these efforts have enhanced the Commission's ability to broadly and actively surveil financial markets, including with respect to the activities of CPOs and the pools they operate. In general, the Commission's alternate data streams provide a

⁴⁶ 17 CFR 39.19.

⁴⁷ 17 CFR pt. 18.

more timely, standardized, and reliable view into relevant market activity than that provided under Form CPO-PQR, which make them much easier to combine into a holistic surveillance program. Although none of the Commission's current data streams offers a substitute for the more detailed, pool-specific type of information set forth in Schedules B and C of Form CPO-PQR, the Commission preliminarily believes that, taking into account the Commission's current priorities and resource availabilities, a Revised Form CPO-PQR that could be more easily integrated with these existing and more developed data streams would enable the Commission, with some additional data analysis, to oversee and assess the impact of CPOs and their operated pools in the commodity interest markets in an effective manner. The inclusion of the LEIs for the CPO and its operated pools, as explained more fully below, would be key to helping facilitate this integration with respect to CPOs and pools that engage in the swaps markets. The Commission also preliminarily believes that this improved data integration would mitigate the need to engage in a more extensive, and likely more burdensome, effort to improve the utility of the data fields requested in current Schedules B and C.

The Commission notes that more than half of the largest CPOs and pools are captured within the statutory definitions of private fund investment advisers and private funds and as such are required to report on Form PF.⁴⁸ Other large asset managers that are registered as CPOs and file Form CPO-PQR are sponsors or advisers to investment companies registered under the Investment Company Act of 1940,⁴⁹ which, by definition,

⁴⁸ Based on the data received for the reporting period of September 30, 2017, for example, eight out of the ten largest CPOs filed Form PF in lieu of Form CPO-PQR.

⁴⁹ 15 U.S.C. 80a-1, et seq.

are not private funds.⁵⁰ Many of those registered investment companies are also commodity pools that trade commodity interests to a meaningful degree as part of their investment strategies; as a result, those investment companies' principal investment advisers have registered with the Commission as CPOs.⁵¹ Registered investment companies are subject to a comprehensive scheme of periodic financial reporting under the federal securities laws, and most of that data is publicly available on the SEC's website through its EDGAR filing system.⁵² In addition, all CPOs file annual certified financial statements for their commodity pools with NFA pursuant to the Commission's regulations.⁵³ NFA reviews the information in commodity pool annual certified financial statements, uses it as an input for determining the frequency and scope of its examinations of CPOs in combination with the data that it collects on its NFA Form PQR, and communicates frequently with Commission staff regarding its examination of CPOs, as informed by its review of such financial statements and data filings.

The Commission acknowledges that a determination to no longer routinely collect the pool-specific data in Schedules B and C would result in this information not being readily available to FSOC upon request, which was part of the Commission's envisioned purpose for Form CPO-PQR when it was first promulgated. As well, the Commission notes that many dually registered CPOs currently include commodity pools that are not private funds in data that they report on Form PF, in lieu of a filing on Form CPO-PQR

⁵⁰ 15 U.S.C. 80b-2(29).

⁵¹ 17 CFR 4.5(c); 17 CFR 4.12(c).

⁵² For instance, registered management investment companies – a category that includes those investment companies that are also commodity pools – file with the SEC annual reports on Form N-CEN, quarterly reports of their portfolio holdings on Form N-PORT, and information about their liquidity on Form N-LIQUID. Management investment companies that are regulated as money market funds are subject to different reporting, as are other registered investment companies that are organized as unit investment trusts, business development companies, and face-amount certificate companies.

⁵³ 17 CFR 4.7(b); 4.22(c) and (d).

for such pools, pursuant to Regulation 4.27(d), and that if the amendments proposed herein are adopted as final, these CPOs could decide to stop including these pools in their Form PF filing. The Commission understands that this could result in less information relevant to commodity pools being available to FSOC from Form PF. However, given that FSOC is otherwise provided with comparable data for the sizeable number of dually registered CPOs via Form PF, the Commission preliminarily believes FSOC's monitoring should not be materially affected compared to its current state.

B. Revised Form CPO-PQR

With the proposed elimination of the majority of the data fields set forth in Schedules B and C of current Form CPO-PQR, the resulting Revised Form CPO-PQR would consist of the information currently reported in Schedule A of Form CPO-PQR, with a couple deletions discussed below; the pool schedule of investments, currently reported under question 6 of Schedule B; and new questions to solicit LEIs for each CPO and its operated pools. All CPOs would be required to report all of this information quarterly, regardless of their AUM. As intimated above, the Commission preliminarily believes that this information, when integrated with other data streams available to the Commission, would provide an effective and efficient way for the Commission to oversee and assess the impact of CPOs and their operated pools in the commodity interest markets.

Current Schedule A provides the Commission basic identifying information about the CPO and its operated pools and the service providers they used, including the custodians and brokers used by the CPO with respect to some or all of the operated pools' assets and the pools' monthly rate of return. The Commission preliminarily believes that

this basic, demographic information is useful in providing context with respect to the more granular information it receives regarding the positions held by commodity pools from other sources.

At the moment, the data currently collected in Form CPO-PQR cannot be easily aggregated with other market information that the Commission collects, and, as such, has not been integrated into the Commission's market oversight function, which limits its utility to the Commission. Specifically, the lack of LEI information for CPOs and their operated pools makes it challenging to align it with the data received from DCOs, DCMs, SDRs, and FCMs to compile a view into the operations of CPOs and pools and the various roles such entities inhabit within the commodity interest markets. The Commission is therefore proposing to amend Form CPO-PQR to include a question seeking the CPO's and the operated pools' LEIs, to the extent they have them. The inclusion of existing LEIs within this smaller data set on Revised Form CPO-PQR should enable the Commission to more efficiently and accurately synthesize the various Commission data streams on an entity-by-entity basis. Furthermore, inclusion of LEIs may permit better use of SDR and other data to illuminate the risk inherent in pools and pool families. The Commission also anticipates that the inclusion of LEIs would greatly facilitate the aggregation of data from commodity pools under different levels of common control.

Although the Commission is proposing to continue to receive the majority of the information currently collected in Schedule A of Form CPO-PQR, it is also proposing to eliminate the questions regarding the pool's auditors and marketers. The Commission and NFA receive information regarding the independent certified public accountants that

all CPOs are required to engage to prepare certified annual reports, including audited financial statements, for their operated commodity pools through other means, which the Commission preliminarily believes obviates the need for obtaining this information through Revised Form CPO-PQR.⁵⁴ With respect to a pool's marketers, staff generally accesses this information through sources other than Form CPO-PQR, such as registration records for APs associated with the offered pool's CPO or through the disclosure document for the pool. For example, persons soliciting for pool participation units are typically either associated persons of the CPO⁵⁵ or registered representatives of a broker dealer.⁵⁶ Such persons are subject to regulation by either the Commission and NFA, or the SEC and the Financial Industry Regulatory Authority (FINRA). As such, the Commission preliminarily believes that it readily has the means to learn who such persons are with respect to the offering of participation units in a particular commodity pool without requiring that information to be reported on Form CPO-PQR.

At present, most CPOs are only required to submit the information in Schedule A of Form CPO-PQR on an annual basis; only Large CPOs submit this information quarterly. In order to fully integrate the information reported on Revised Form CPO-PQR into the Commission's ongoing oversight of the derivatives markets and commodity pool industry, the Commission preliminarily believes that the reporting of this basic information on a more frequent quarterly basis would be necessary. The Commission therefore preliminarily believes that requiring reporting of this basic information on a

⁵⁴ 17 CFR 1.16.

⁵⁵ 17 CFR 1.3, *associated person*; 17 CFR 3.12.

⁵⁶ 17 CFR 3.12(h)(ii).

more frequent quarterly basis would play an important role in facilitating Commission's ability to monitor trends in the commodity pool industry.

The pool schedule of investments, currently in Schedule B, provides the Commission a fairly detailed breakdown of how the pool's investments are allocated by asset category (cash, equities, alternative investments, fixed income, derivatives, options, and funds). Although under the current iteration of Form CPO-PQR only Mid-Sized and Large CPOs are required to submit any information in Schedule B, and Mid-Sized CPOs only submit it annually, the Commission preliminarily believes that obtaining a pool schedule of investment from all CPOs with respect to their operated pools on a regular, quarterly basis would assist the Commission in understanding the composition of a pool's portfolio with a limited, if any, increase in their filing burden, as the Commission notes that NFA Form PQR currently requires all CPOs regardless of size to file a pool schedule of investments each quarter.

C. NFA Form PQR

As proposed, Revised Form CPO-PQR would generally align with NFA Form PQR. NFA Form PQR was implemented in 2010 to elicit data to implement NFA's risk-based examination program for CPOs.⁵⁷ The form requests basic identifying information for CPOs and their operated pools, and a schedule of investments, and requires all CPOs to report this information quarterly. As a whole, current NFA Form PQR is essentially identical to current Schedule A of Form CPO-PQR combined with the pool of

⁵⁷ NFA Form PQR assists NFA in assessing risks, identifying trends, and assigning audit priorities in its oversight of CPOs. See National Futures Association: CPO Quarterly Reporting Requirements – Proposed Adoption of Compliance Rule 2-46, https://www.nfa.futures.org/news/PDF/CFTC/CR2_46_CPO_Quarterly_Report_082009.pdf (last visited Dec. 30, 2019).

investments question from Schedule B. The Commission also understands that NFA has plans to include questions regarding LEIs in NFA Form PQR. If Revised Form CPO-PQR is adopted as proposed, and NFA's amendments to include LEIs are also finalized, the forms will be substantively identical. Under those circumstances, the Commission would permit a CPO to file NFA Form PQR in lieu of Revised Form CPO-PQR, offering CPOs additional filing efficiencies without compromising the Commission's ability to obtain affected data.

As a corollary, the Commission is also proposing to revise Regulation 4.27(d), which currently permits dually regulated CPOs required to file Form PF with respect to one or more of their operated private funds to file Form PF in lieu of filing current Form CPO-PQR with respect to any commodity pools that are not private funds.⁵⁸ The Commission believes that this provision would be redundant in light of the proposed provision to accept NFA Form PQR and would frustrate an intended purpose of this proposed rulemaking, which is to allow the Commission to enhance the Commission's use of its own internal data streams to effectuate an efficient and effective oversight program of CPOs and their operated pools, given that Revised Form CPO-PQR would no longer be closely aligned in content or filing frequency with Form PF. The Commission is not, however, proposing to change Form PF's status as the Commission's form, nor is the Commission proposing to change its requirement that dually registered CPOs and CTAs continue to file Form PF with the SEC.

Many dually registered CPOs currently include commodity pools that are not private funds in data that they report on Form PF, in lieu of a filing on Form CPO-PQR

⁵⁸ 17 CFR 4.27(d).

for such pools, in reliance on Regulation 4.27(d). If Regulation 4.27(d) is revised to eliminate this option for dually registered CPOs, the Commission understands that some or even all dually registered CPOs that currently file Form PF in lieu of Schedules B and/or C of current Form CPO-PQR for their non-private fund pools could cease to include such non-private fund pools in their Form PF filings, resulting in a reduced data set collected on Form PF as compared to the *status quo*. The Commission preliminarily believes, however, that this loss of data to the SEC and FSOC would not meaningfully impact the efficacy and intent of Form PF in furthering the oversight of the private fund industry, given that it would only result in the loss of data on Form PF with respect to non-private fund pools.⁵⁹

IV. Request for Comments

The Commission requests comment on all aspects of this proposal. Additionally, the Commission would appreciate consideration of the following specific questions:

A. Scope of Proposed Revised Form CPO-PQR

1. CPOs that are jointly regulated by the Commission and the SEC are required to file Form PF with respect to private funds; many commodity pools are private funds within the meaning of Form PF. One of the Commission's initial rationales for adopting Form CPO-PQR was to encourage more congruent and consistent regulation of similarly situated entities among Federal financial regulatory agencies, particularly with respect to dually registered CPOs required to file Form PF. If Revised Form CPO-PQR is adopted

⁵⁹ Form CPO-PQR Final Rule, 77 FR at 11281 (“[T]o mitigate reporting costs to regulated entities that may be registered with both the Commission and with the SEC, the regulations have been modified to allow dually registered entities to file on [F]orm PF (plus the first schedule A of [F]orm CPO-PQR) for all of their commodity pools, even those that are not ‘private funds.’”). As noted previously, such CPOs relying upon on the Commission's acceptance of Form PF in lieu of a Form CPO-PQR filing are currently required to file NFA Form PQR on a quarterly basis under NFA Rule 2-46.

as proposed, Form PF and Form CPO-PQR would become less aligned, meaning that dually registered CPOs would have reporting obligations that are noticeably different from those CPOs only subject to the Commission's jurisdiction. Would such a relative lack of regulatory congruence negatively impact CPOs? Should the Commission instead rescind Form CPO-PQR in its entirety and require all CPOs to file all or part of Form PF with NFA? Why or why not?

2. Many dually registered CPOs currently include commodity pools that are not private funds in data that they report on Form PF, in lieu of a filing on Form CPO-PQR for such pools, pursuant to Regulation 4.27(d). If the amendments proposed herein are adopted as final, these CPOs could decide to stop including these pools in their Form PF filing. For CPOs in this category, if Form CPO-PQR is amended as proposed, would you cease reporting data for these pools on Form PF? Why or why not?

3. CPOs that operate commodity pools that are registered investment companies must report financial information about those pools to the SEC, while also providing annual pool financial statements to NFA. Is there any additional reporting of investment company financial information that the Commission has failed to consider in this proposal that addresses the concerns underlying Form CPO-PQR?

4. Are there any specific questions that the Commission has proposed to rescind that it should consider retaining? Why?

5. Are there ways the Commission could further clarify and refine the reporting instructions for completing Revised CPO-PQR in order to provide CPOs with greater certainty that they are completing the form correctly? For example, could the form's

references to other regulations or its defined terms be simplified or made clearer? Please suggest specific revisions.

B. NFA Form PQR

5. The Commission proposes to permit a timely filing with NFA of NFA Form PQR in lieu of a filing of the revised Proposed Form CPO-PQR. Should the Commission consider any other ways to further align with NFA Form PQR? What would those ways be? Please describe in detail.

6. The schedule of investments as it currently appears in both Revised Form CPO-PQR and NFA Form PQR requires significant granular information regarding numerous asset classes. Are there any asset classes that can or should be eliminated? Why or why not? Should the Commission consider amending the schedule of investments to align with the simpler schedule that appeared in NFA Form PQR in 2010?

C. Addition of LEIs

7. In order to further the analysis of Revised Form CPO-PQR across other existing Commission data sets, the Commission is proposing to require the inclusion of LEIs in Revised Form CPO-PQR, to the extent that the CPO or its operated pools otherwise already have LEIs. The inclusion of LEIs would also make this portion of Form CPO-PQR data more accessible for analysis consistent with these other data sets. Should the Commission include LEIs on Revised Form CPO-PQR? Why or why not?

V. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires Federal agencies, in promulgating regulations, to consider whether the rules they propose will have a significant economic

impact on a substantial number of small entities and, if so, to provide a regulatory flexibility analysis regarding the economic impact on those entities. Each Federal agency is required to conduct an initial and final regulatory flexibility analysis for each rule of general applicability for which the agency issues a general notice of proposed rulemaking.⁶⁰

The regulatory amendments proposed by the Commission today would affect only persons registered or required to be registered as CPOs. The Commission has previously established certain definitions of “small entities” to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the requirements of the RFA.⁶¹ With respect to CPOs, the Commission previously has determined that a CPO is a small entity for purposes of the RFA, if it meets the criteria for an exemption from registration under § 4.13(a)(2).⁶² Because the regulations proposed today generally apply to persons registered or required to be registered as CPOs with the Commission, as well as from related compliance burdens, the RFA is not applicable to this Proposal.

Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that these proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

1. Overview

⁶⁰ 5 U.S.C. 601 *et seq.*

⁶¹ *See, e.g.*, Policy Statement and Establishment of Definitions of “Small Entities” for Purposes of the Regulatory Flexibility Act, 47 FR 18618, 18620 (Apr. 30, 1982).

⁶² *Id.* at 18619-20. Section 4.13(a)(2) exempts a person from registration as a CPO when: 1) none of the pools operated by that person has more than 15 participants at any time, and 2) when excluding certain sources of funding, the total gross capital contributions the person receives for units of participation in all of the pools it operates or intends to operate do not, in the aggregate, exceed \$400,000. *See* 17 CFR 4.13(a)(2).

The Paperwork Reduction Act (PRA) imposes certain requirements on Federal agencies in connection with their conducting or sponsoring any collection of information as defined by the PRA.⁶³ Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number from the Office of Management and Budget (OMB). Today's Proposal, if adopted, would result in a collection of information within the meaning of the PRA, as discussed below. The Commission is therefore submitting this NPRM to OMB for review.

The Proposal amends a single collection of information for which the Commission has previously received a control number from OMB. This collection of information is, "Rules Relating to the Operations and Activities of Commodity Pool Operators and Commodity Trading Advisors and to Monthly Reporting by Futures Commission Merchants, OMB control number 3038-0005" (Collection 3038-0005). Collection 3038-0005 primarily accounts for the burden associated with part 4 of the Commission's regulations that concern compliance obligations generally applicable to CPOs and CTAs, as well as certain enumerated exemptions from registration as such and exclusions from those definitions, and available relief from compliance with certain regulatory requirements.

As discussed above, the Commission's Proposal includes substantive changes to current Form CPO-PQR, such as (1) amending Schedule A, which would constitute the entirety of Proposed Form CPO-PQR, to add LEIs for each CPO and pool, (2) moving Schedule B's "Schedule of Investments" section to Schedule A, and (3) rescinding the

⁶³ See 44 U.S.C. 3501 *et seq.*

remainder of the Form's current Schedules B and C.⁶⁴ Additionally, the Commission is proposing to permit the filing of NFA Form PQR with NFA in lieu of filing Form CPO-PQR by CPOs registered with the Commission. Therefore, the Commission is also proposing herein to amend Collection 3038-0005, such that the collection is consistent with the proposed restructuring of Form CPO-PQR, and reflects the expected adjustment in burden hours for registered CPOs filing the form, if revised as proposed, including the ability to file NFA Form PQR in lieu of filing Revised Form CPO-PQR.

This Proposal is not expected to impose any significant new burdens on CPOs. Rather, because approximately half of registered CPOs are Mid-Sized or Large CPOs under the current filing regime and will have to answer fewer questions as compared to the current filing requirements, and because the Commission anticipates that CPOs currently classified as Small CPOs will file their NFA Form PQR in lieu of the Revised Form CPO-PQR, it is reasonable for the Commission to infer that the proposed amendments will generally prove to be either less burdensome or without new net burden for all CPOs. The Commission is, however, amending the burden associated with the collection to reflect the increased frequency of filing for all CPOs to quarterly and increasing the hours per filing to reflect the addition of the pool schedule of investments to the questions in Revised Form CPO-PQR that were derived from current Schedule A. Although these proposed amendments result in an increase in the burden hours associated with Revised Form CPO-PQR, the Commission preliminarily expects that, in practice, CPOs will either experience no change in their burden or a decrease in burden.

⁶⁴ See *supra* pt. III.A.

As discussed above, the Commission is proposing herein to accept the filing of NFA Form PQR in lieu of a filing on Revised Form CPO-PQR. Because under the proposal any data filed on NFA Form PQR would become data collected by the Commission, the burden associated with NFA Form PQR must be included in a collection of information with an OMB control number. Therefore, the Commission is amending the current burden associated with OMB Control Number 3038-0005 to also reflect the burden resulting from NFA Form PQR, which the Commission estimates to be substantively identical to that derived from Revised Form CPO-PQR.

Despite the fact that the Commission is proposing to accept the filing of NFA Form PQR in lieu of a filing on Revised Form CPO-PQR, the Commission preliminarily believes that it is necessary to retain its own form for data collection purposes to ensure that it retains the authority to address its data needs regarding CPOs in the future on a unilateral basis should the need arise. Moreover, given the Commission's preliminary expectation that it would incorporate the information collected on Revised Form CPO-PQR more consistently with its other data streams, the Commission preliminarily believes that retaining its own form independent of NFA's form avoids any appearance of the Commission leveraging NFA to avoid complying with the obligations associated with rulemaking. The Commission also preliminarily believes that doing so will ensure that members of the public will be able to exercise their rights to engage in comment as to the content and structure of the form consistent with the Administrative Procedures Act going forward.⁶⁵ Therefore, the Commission has preliminarily concluded that the

⁶⁵ 5 U.S.C. 500 *et. seq.*

amendments to Form CPO-PQR proposed herein are not unnecessarily duplicative to information otherwise reasonably accessible to the Commission.

2. Revisions to the Collections of Information: OMB Control Number 3038-0005

Collection 3038-0005 is currently in force with its control number having been provided by OMB, and it was renewed recently on January 30, 2019.⁶⁶ As stated above, Collection 3038-0005 governs responses made pursuant to part 4 of the Commission's regulations, pertaining to the operations of CPOs and CTAs, including the required responses of registered CPOs on Form CPO-PQR pursuant to Regulation 4.27.

Generally, the Commission is proposing adjustments, discussed below, to the information collection that result in an increase in the burden hours associated with the collection of information on the Revised Form CPO-PQR. The Commission preliminarily believes, however, as previously stated, that CPOs currently categorized as either Mid-Sized or Large CPOs are expected to experience a reduction in burden relative to the current filing requirements under Regulation 4.27 and Form CPO-PQR, and Small CPOs under the current filing requirements are expected to experience no increase in burden because they are currently required to file NFA Form PQR, which includes a schedule of investments that is identical to that under Revised Form CPO-PQR, on a quarterly basis, and, under this proposal, such CPOs would be permitted to file NFA Form PQR in lieu of filing Revised CPO-PQR.

The currently approved total burden associated with Collection 3038-0005, in the aggregate, is as follows:

Estimated number of respondents: 45,097.

⁶⁶ See Notice of Office of Management and Budget Action, OMB Control No. 3038-0005, *available at* https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201701-3038-005 (last retrieved July 31, 2018).

Annual responses for all respondents: 118,824.

Estimated average hours per response: 3.16.⁶⁷

Annual reporting burden: 375,484.

The portion of the aggregate burden that is derived from the current Form CPO-PQR filing requirements is as follows.

Schedule A (for non-Large CPOs and Large CPOs filing Form PF):

Estimated number of respondents: 1,450.

Annual responses for all respondents: 1,450.

Estimated average hours per response: 6.

Annual reporting burden: 8,700.

Schedule A (for Large CPOs not filing Form PF):

Estimated number of respondents: 250.

Annual responses for all respondents: 1,000.

Estimated average hours per response: 6.

Annual reporting burden: 6,000.

Schedule B (for Mid-Sized CPOs):

Estimated number of respondents: 400.

Annual responses for all respondents: 400.

Estimated average hours per response: 4.

Annual reporting burden: 1,600.

Schedule B (for Large CPOs not filing Form PF):

Estimated number of respondents: 250.

⁶⁷ The Commission rounded the average hours per response to the second decimal place for ease of presentation.

Annual responses for all respondents: 1,000.

Estimated average hours per response: 4.

Annual reporting burden: 4,000.

Schedule C (for Large CPOs not filing Form PF):

Estimated number of respondents: 250.

Annual responses for all respondents: 1,000.

Estimated average hours per response: 18.

Annual reporting burden: 18,000.

The burden associated with NFA Form PQR is as follows:

Estimated number of respondents: 1,700.

Annual responses by each respondent: 6,800.

Estimated average hours per response: 8.

Annual reporting burden: 54,400.

Total annual reporting burden for all CPOs for current Form CPO-PQR and NFA Form PQR: 86,900.

The Commission is proposing to no longer estimate burden hours according to each individual Schedule of Form CPO-PQR, because, pursuant to the Proposal, Revised Form CPO-PQR will only consist of one schedule. Therefore, the Commission is proposing to simplify the collection for Form CPO-PQR compliance to a single burden hours estimate for each registered CPO completing Revised Form CPO-PQR in its entirety.⁶⁸ As noted above, the Commission is also proposing to require that Revised

⁶⁸ The Commission is also proposing to accept NFA Form PQR in lieu of Revised Form CPO-PQR filing requirement, which the Commission has designed purposefully to be very similar. *See supra* pt. III.B. The

Form CPO-PQR be filed quarterly by each registered CPO, regardless of the size of their operations, which would result in four (4) annual responses by each respondent. Further, in the Commission's experience, the schedule of investments comprised a considerable portion of the burden hours previously associated with completing Schedule B, depending on the complexity of a CPO's operations and the number of pools it operates. Thus, the Commission is proposing an estimated average hours per response to ensure that burden continues to be counted. As noted above, although the estimated hours per response is expected to increase due to the retention of the schedule of investments and the frequency of response will increase as well for Small and Mid-Sized CPOs, as well as those Large CPOs filing Form PF, CPOs should not experience an increase in burden because all CPOs are already required to provide an identical schedule of investments as part of their existing NFA Form PQR filing requirement, which must be submitted on a quarterly basis, and the Commission preliminarily believes that CPOs will continue to make such filing in lieu of the Revised Form CPO-PQR.

Therefore, the Commission estimates the burden to registered CPOs for completing Revised Form CPO-PQR, as proposed herein, and NFA Form PQR, because of the option to file this form in lieu of Revised Form CPO-PQR, to be as follows:

For Revised Form CPO-PQR and NFA Form PQR for All Registered CPOs:

Estimated number of respondents: 1,700.

Annual responses by each respondent: 6,800.

Estimated average hours per response: 8.

Annual reporting burden: 54,400.

PRA estimates proposed herein assume that all registered CPOs will either file Revised Form CPO-PQR on a quarterly basis, or NFA Form PQR, but in no event will a CPO be required to file both.

The new total burden associated with Collection 3038-0005, in the aggregate, reflecting the adjustment in burden associated with § 4.27 and Revised Form CPO-PQR, is as follows:

Estimated number of respondents: 43,062.

Annual responses for all respondents: 113,980.

Estimated average hours per response: 3.25.

Annual reporting burden: 370,467.

3. Request for Comments on Collection

The Commission invites the public and other Federal agencies to comment on any aspect of the proposed information collection requirements discussed above. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments in order to (i) evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (ii) evaluate the accuracy of the Commission's estimate of the burden of the proposed collections of information; (iii) determine whether there are ways to enhance the quality, utility, and clarity of the information proposed to be collected; and (iv) minimize the burden of the proposed collections of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology.

Those desiring to submit comments on the proposed information collection requirements should submit them directly to the Office of Information and Regulatory Affairs, OMB, by fax at (202) 395-6566, or by email at OIRAsubmissions@omb.eop.gov. Please provide the Commission with a copy of submitted documents, so that all

comments can be summarized and addressed in the final rule preamble. Refer to the **ADDRESSES** section of this NPRM for comment submission instructions to the Commission. A copy of the supporting statements for the collections of information discussed above may be obtained by visiting <https://www.RegInfo.gov>. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication of this document in the *Federal Register*. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

C. Cost-benefit Considerations.

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its discretionary actions before promulgating a regulation under the CEA or issuing certain orders.⁶⁹ Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of swaps markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the CEA section 15(a) considerations.

As discussed above, the Commission is proposing amendments to Form CPO-PQR that would significantly reduce the amount of reporting required thereunder. Specifically, the proposal would: (1) eliminate the pool-specific reporting requirements in existing Schedules B and C of Form CPO-PQR, other than the pool schedule of investments (question 6 of Schedule B); (2) amend the information in existing Schedule

⁶⁹ 7 U.S.C. 19(a).

A of the form to request LEIs for CPOs and their operated pools and to eliminate questions regarding the pool's auditors and marketers; (3) require all CPOs to submit all information retained in Revised Form CPO-PQR on a quarterly basis; and (4) allow CPOs to file NFA Form PQR in lieu of filing the Revised Form CPO-PQR, to the extent NFA Form PQR is amended to include LEIs. In the sections that follow, the Commission considers the various costs and benefits associated with each of aspect of the proposal. The baseline against which these costs and benefits are compared is the regulatory *status quo*, represented by Form CPO-PQR as currently codified in Appendix A to Part 4.

The consideration of costs and benefits below is based on the understanding that the markets function internationally, with many transactions involving U.S. firms taking place across international boundaries; with some Commission registrants being organized outside of the United States; with some leading industry members typically conducting operations both within and outside the United States; and with industry members commonly following substantially similar business practices wherever located. Where the Commission does not specifically refer to matters of location, the discussion of costs and benefits below refers to the effects of this proposal on all activity subject to the proposed and amended regulations, whether by virtue of the activity's physical location in the United States or by virtue of the activity's connection with or effect on U.S. commerce under CEA section 2(i).⁷⁰ Some CPOs are located outside of the United States.

1. Elimination of Pool-Specific Reporting Requirements in Schedules B and C

⁷⁰ 7 U.S.C. 2(i).

The Commission is proposing to eliminate the pool-specific reporting requirements in existing Schedules B and C of Form CPO-PQR, other than the pool schedule of investments (question 6 of Schedule B). The Commission acknowledges that this change, if adopted, could result in less information available to the Commission and, potentially, to FSOC. The detailed and specific information requested in Schedules B and C of Form CPO-PQR is not available to the Commission through any other of its data streams and, if put to its full use, would allow for monitoring of CPOs and their operated pools in a way that could help identify trends and points of stress. A main reason for the Commission's proposal to eliminate collection of this information stems from the challenges associated with the data set, including that it is only reported to the Commission on a quarterly basis, at its most frequent. Given the limitations associated with the data collected, the Commission has prioritized its limited resources to pursue other key regulatory initiatives.

However, considering the alternate data streams currently available to the Commission, the Commission preliminarily believes that the Commission could nevertheless effectively exercise its oversight of CPOs and their operated pools and potentially do so in a more efficient manner if Revised Form CPO-PQR were adopted as proposed. Furthermore, the Commission notes that, due in part to the identified data quality issues, FSOC has never received any Form CPO-PQR data; however, the Commission acknowledges that FSOC may receive less data as a result of the proposal, as some CPOs that are filing CFTC-only pool information through Form PF may stop doing so should this proposal be adopted as final. The Commission does not, however,

believe that FSOC's monitoring abilities would be materially affected compared to the current *status quo* should Schedules B and C largely be eliminated.

The Commission's proposal to eliminate these reporting requirements would also reduce the ongoing variable compliance costs for Mid-Sized and Large CPOs, as they would no longer need to devote resources to compiling and reporting this data. Nor would CPOs be required to monitor their AUM with the specific purpose of determining their filing obligations as there would be a single requirement for all CPOs. It is possible that such cost savings may allow those CPOs to devote resources to other compliance or operational initiatives, or to potentially pass them on to pool participants through reduced fees. These cost savings would be minimized, however, for any CPO that is dually registered with the SEC and required to file Form PF, which requires reporting of information substantially similar to that required in Schedules B and C of current Form CPO-PQR. Additionally, the proposal would not alleviate any fixed costs affected CPOs may have already spent in developing systems and procedures designed to meet the reporting requirements in Schedules B and C, particularly if, again, such CPOs are also required to file Form PF.

2. Revised Form CPO-PQR

The proposal would amend the information in existing Schedule A of the form to request LEIs for CPOs and their operated pools. The addition of this question would allow the Commission to be able to integrate the data provided in Revised Form CPO-PQR with the Commission's other more current data streams. Leveraging these other data sources would enable the Commission to continue its oversight and monitoring of counterparty risk and liquidity risk for some of the largest pools within the Commission's

jurisdiction, thereby focusing on areas that are relevant for assessing market and systemic risk, while eliminating the burden associated with the collection of the more detailed information in current Schedules B and C, particularly with respect to pools that may meet the current Large Pool threshold in the future. The addition of this field should create a one-time cost for CPOs required to file Revised Form CPO-PQR, as LEIs do not change over time, potentially allowing fields for those questions to be prepopulated for subsequent filings.

The proposal would further eliminate questions regarding the pool's auditors and marketers. This amendment will result in reduced reporting costs for reporting CPOs while not affecting the scope of information available to the Commission, as the Commission already receives information regarding CPO's accountants and has alternate means of obtaining information about a pool's marketers. For example, persons soliciting for pool participation units are typically either associated persons of the CPO or registered representatives of a broker dealer. Such persons are subject to regulation by either the Commission and NFA, or the SEC and FINRA.

Currently, all CPOs other than Large CPOs submit the information in Schedule A on an annual basis. Increasing the frequency of reporting of this information will assist the Commission in its efforts to integrate Revised Form CPO-PQR with the Commission's other more timely data sources, so as to improve the effectiveness of its ability to monitor and oversee the activities of CPOs and their operated pools. Although this would result in an increased regulatory cost for Small and Mid-Sized CPOs compared to the regulatory *status quo*, the costs as actually realized by these CPOs may

not be as significant, as they are already reporting this information on a quarterly basis to NFA via NFA Form PQR.

Under current Form CPO-PQR, only Mid-Sized and Large CPOs are required to submit a pool schedule of investments, and Mid-Sized CPOs only submit that information annually. The proposal would require all CPOs to submit that information quarterly. The Commission believes that receiving this information from all CPOs and more frequently would, when combined with the proposed LEI requirements, further enhance its ability to integrate the information in Revised CPO-PQR with its other more current data streams and identify trends on a more timely basis, with the ultimate goal of supporting its oversight and monitoring of CPOs and their operated pools for market and systemic risk. As with the change in reporting frequency for the information in Schedule A, this change would result in an increased regulatory cost compared to the regulatory *status quo* for Small and Mid-Sized CPOs, as Small CPOs would be required to develop the procedures and systems necessary to take on the additional reporting obligations for the pool schedule of investments and both Small and Mid-Sized CPOs would now report that information on a quarterly basis. However, all CPOs are already required to report this information on a quarterly basis to NFA via NFA Form PQR, meaning the actual costs as realized by these CPOs may not be as significant.

The proposal would allow CPOs to file NFA Form PQR in lieu of filing the Revised Form CPO-PQR, to the extent NFA Form PQR is amended to include LEIs, as the Commission understands NFA has planned. Under NFA's rules, all CPOs regardless of size are currently required to file NFA Form PQR on a quarterly basis. This provision

would therefore operate to help CPOs maintain their current filing costs without affecting the scope of information available to the Commission under Revised Form CPO-PQR.

As mentioned above, the Commission acknowledges that, through the proposed revision of Regulation 4.27(d), the proposal could result in less data being collected on Form PF as compared to the current *status quo*. Many dually registered CPOs currently include commodity pools that are not private funds in data that they report on Form PF, in lieu of a filing on Form CPO-PQR for such pools, in reliance on Regulation 4.27(d). If Regulation 4.27(d) is revised, these CPOs could decide to stop including these pools in their Form PF filing. The Commission preliminarily believes, however, that this loss of data to the SEC and FSOC would not meaningfully impact the efficacy and intent of Form PF in furthering the oversight of the private fund industry, given that it would only result in the loss of data with respect to non-private fund pools; however, the Commission acknowledges that FSOC may lose data for a specific type of private fund asset class, managed futures.

3. Alternatives

In lieu of amending Form CPO-PQR as proposed, the Commission could require all CPOs, regardless of whether they are dually registered, to file Form PF. The Commission preliminarily believes that this alternative could operate to increase the reporting burdens for CPOs that are not dually registered with the SEC without feeding information directly to the Commission that could be integrated with its other data sources to develop its internal oversight initiatives over CPOs and their operated pools.

Alternatively, the Commission could devote resources to rectifying the challenges with the data reported under current Form CPO-PQR, and amend the Form to require

greater consistency and frequency of reporting of the data fields proposed to be eliminated in this proposal. However, the Commission preliminarily believes that its limited resources could be better directed in line with its regulatory priorities, and that its objectives with respect to oversight of CPOs and their operated pools could be effectively and potentially, more efficiently, achieved through integration with existing data streams.

The Commission preliminarily believes that the proposed changes to Form CPO-PQR, relative to the alternatives, would permit the Commission to discharge its regulatory duties with respect to CPOs and their operated pools that might have the greatest impact on market and systemic risk while easing reporting obligations on a significant number of CPOs. The Commission requests comments and data on how potential alternatives would impact the potential costs and benefits to market participants and the public. Are there any other alternatives that may provide preferable costs or benefits than the costs and benefits related to the Proposal?

4. Section 15(a) Factors

a. Protection of Market Participants and the Public

The Commission preliminarily believes that the proposal would enhance the ability of the Commission to protect derivatives markets, its participants, and the public by allowing it to integrate the data provided in Revised Form CPO-PQR with other existing, more up-to-date, data streams in a way that would allow the Commission to better exercise its oversight of CPOs and their operated pools. The Commission notes that the amendments proposed herein could result in a loss of data available to FSOC, which could limit FSOC's visibility into the activities of CPOs and their operated pools.

b. Efficiency, Competitiveness, and Financial Integrity of Markets

The Commission preliminarily believes that the proposal would assist the Commission in its efforts to support market efficiency, competitiveness, and financial integrity. Under the proposal, CPOs would continue to provide useful information about themselves and their pools to the Commission in a way that it could incorporate with other data streams to improve its oversight of CPOs, their pools, and how they operate within and affect the derivatives markets. Additionally, the Commission preliminarily believes that the specific requirement that a CPO prepare a pool schedule of investments on a quarterly basis for each of its operated pools could result in heightened diligence by the CPO with respect to the pools' ongoing operations and encourage particularly smaller CPOs to adopt more formalized controls for their businesses, which the Commission preliminarily believes would enhance the confidence of other market participants in transacting with CPOs and their operated pools.

c. Price Discovery

The Commission has not identified any impact that the Proposal would have on price discovery.

d. Sound Risk Management Practices

Although the Commission is proposing that it no longer require CPOs and their operated pools to report certain risk information, the Commission recognizes that CPOs will likely continue to benefit from possessing systems that collect and review risk-related information. The Commission has not identified any other impact that the Proposal would have on sound risk management practices.

e. Other Public Interest Considerations

The Commission has not identified any impact on any other public interest considerations that the Proposal would have, but seeks public comment on any public interest the Commission should consider in this rulemaking.

5. Request for Comments

The Commission invites public comment on its cost-benefit considerations, including the Section 15(a) factors described above. Commenters are invited to submit with their comment letters any data or other information that they may have that quantifies the costs and benefits of the Proposal. In addition, the Commission invites the public comment on the following questions.

1. Has the Commission misidentified any costs or benefits? If so, please explain.
2. Please explain whether CPO compliance costs would increase or decrease as a result of reduced reporting requirements in this Proposal? Please provide all quantitative and qualitative costs, including, but not limited to personnel costs and technological costs.
3. Would harmonization of Form CPO-PQR with other similar forms, such as Form PF, provide a greater savings in compliance costs? If so, please describe all quantitative and qualitative savings. Please provide all quantitative and qualitative costs, including, but not limited to personnel costs and technological costs.

D. Antitrust laws

Section 15(b) of the CEA requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the purposes of the CEA, in issuing any order or

adopting any Commission rule or regulation (including any exemption under CEA section 4(c) or 4c(b)), or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 17 of this Act.⁷¹

The Commission preliminarily believes that the public interest to be protected by the antitrust laws is generally to protect competition. The Commission requests comment on whether the Proposal implicates any other specific public interest to be protected by the antitrust laws.

The Commission has considered the Proposal to determine whether it is anticompetitive and has preliminarily identified no anticompetitive effects. The Commission requests comment on whether the Proposal is anticompetitive and, if it is, what the anticompetitive effects are.

Because the Commission has preliminarily determined that the Proposal is not anticompetitive and has no anticompetitive effects, the Commission has not identified any less anticompetitive means of achieving the purposes of the Act. The Commission requests comment on whether there are less anticompetitive means of achieving the relevant purposes of the Act that would otherwise be served by adopting the Proposal.

List of Subjects in 17 CFR Part 4

Advertising, Brokers, Commodity futures, Commodity pool operators, Commodity trading advisors, Consumer protection, Reporting and recordkeeping requirements.

⁷¹ 7 U.S.C. 19(b).

For the reasons stated in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR part 4 as set forth below:

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

1. The authority citation for part 4 shall continue to read as follows:

Authority: 7 U.S.C. 1a, 2, 6(c), 6b, 6c, 6l, 6m, 6n, 6o, 12a, and 23.

2. Revise § 4.27(c)(1) and (d) to read as follows:

§ 4.27 Additional reporting by commodity pool operators and commodity trading advisors.

* * * * *

(c) * * *

(1) Each reporting person shall file with the National Futures Association, a report with respect to the directed assets of each pool under the advisement of the commodity pool operator consistent with appendix A to this part or commodity trading advisor consistent with appendix C to this part; *Provided that*, a commodity pool operator required to file NFA Form PQR with the National Futures Association for the reporting period may make such filing in lieu of the report required under this section consistent with appendix A to this part.

* * * * *

(d) *Investment advisers to private funds.* CPOs and CTAs that are dually registered with the Securities and Exchange Commission, and that are required to file Form PF under the rules promulgated under the Investment Advisers Act of 1940, shall file Form PF with the Securities and Exchange Commission. Dually registered CPOs and

CTAs that file Form PF with the Securities and Exchange Commission will be deemed to have filed Form PF with the Commission for purposes of any enforcement action regarding any false or misleading statement of a material fact in Form PF.

* * * * *

3. Revise appendix A to part 4 to read as follows:

Appendix A to Part 4—Form CPO-PQR

COMMODITY FUTURES TRADING COMMISSION

CFTC Form CPO-PQR
OMB No.: 3038-XXXX

CFTC FORM CPO-PQR REPORT FOR COMMODITY POOL OPERATORS

Instructions for Using the Form CPO-PQR

READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING OR REVIEWING THE REPORTING FORM.

This document is not a reporting form. Do not send this document to NFA. It is a template that you may use to assist in filing the electronic reporting form with the NFA at: <http://www.nfa.futures.org>.

You may fill out the template online and save and/or print it when you are finished or you can download the template and/or print it and fill it out later.

DEFINED TERMS

Words that are underlined in this form are defined terms and have the meanings contained in the Definitions of Terms section.

GENERAL

Read the Instructions and Questions Carefully

Please read the instructions and the questions in this Form CPO-PQR carefully.

In this Form CPO-PQR, “you” means the CPO.

Call the CFTC with Questions

If there is any question about whether particular information must be provided or about the manner in which particular information must be provided, contact the CFTC for clarification.

CFTC FORM CPO-PQR REPORT FOR COMMODITY POOL OPERATORS

Instructions for Using the Form CPO-PQR

REPORTING INSTRUCTIONS

1. All CPOs Are Required to Complete and File the Form CPO-PQR

All CPOs are required to complete and file a Form CPO-PQR for each Reporting Period during which they satisfy the definition of CPO and operate at least one Pool. Further, if a pool is operated by Co-CPOs and one of them is an Investment Adviser, the non-Investment Adviser CPO must file relevant section(s) even though a Form PF was filed for that pool by the Investment Adviser CPO.

2. Relationship to the National Futures Association’s Form PQR

To the extent that a CPO has timely filed the National Futures Association’s Form PQR, such filing shall be deemed to satisfy this Form CPO-PQR.

Form CPO-PQR must be completed and filed by each CPO for every Reporting Period during which they satisfy the definition of CPO and operate at least one Pool. All CPOs must complete and file Form CPO-PQR within 60 days of the close of the most recent Reporting Period. The information provided herein should be as of the last business day of the reporting period.

Part 1 of Form CPO-PQR surveys basic information about the reporting CPO. Part 2 of Form CPO-PQR asks for more specific information about each of the CPO’s Pools, including questions about the Pool’s key relationship and about the Pool’s investment positions.

3. The CPO May Be Required to Aggregate Information Concerning Certain Types of Pools

For the parts of Form CPO-PQR that request information about individual Pools, you must report aggregate information for Parallel Managed Accounts and Master Feeder Arrangements as if each were an individual Pool, but not Parallel Pools. Assets held in Parallel Managed Accounts should be treated as assets of the Pools with which they are aggregated.

4. I advise a Pool that invests in other Pools or funds (e.g., a “fund of funds”). How should I treat these investments for purposes of Form CPO-PQR?

Investments in other Pools generally. For purposes of this Form CPO-PQR, you may disregard any Pool’s equity investments in other Pools. However, if you disregard these investments, you must do so consistently (e.g., do not include disregarded investments in the net asset value used for determining whether the fund is a “Qualifying Pool”). For Question 9, even if you disregard these assets, you may report the performance of the entire Pool and are not required to recalculate performance in order to exclude these investments. Do not disregard any liabilities, even if incurred in connection with these investments.

Pools that invest substantially all of their assets in other Pools or funds. If you are the CPO for a Pool that: (i) invests substantially all of its assets in the equity of Pools or Private Funds for which you are not the CPO; and (ii) aside from such Pool or Private Fund investments, holds only cash and cash equivalents and instruments acquired for the purpose of hedging currency exposure, then you are only required to complete Schedule A for that Pool. For all other purposes, you should disregard such Pools. For example, where questions request aggregate information regarding the Pools you advise, do not include the assets or liabilities of any such Pool.

CFTC FORM CPO-PQR REPORT FOR COMMODITY POOL OPERATORS

Instructions for Using the Form CPO-PQR

Notwithstanding the foregoing, you must include disregarded assets in responding to Question 8.

5. I am required to aggregate funds or accounts to determine whether I meet a reporting threshold, or I am electing to aggregate funds for reporting purposes. How do I “aggregate” funds or accounts for these purposes?

Where two or more Parallel Pool Structures or Master-Feeder Arrangements are aggregated in accordance with Instruction 3, you must treat the aggregated funds as if they were all one Pool. Investments that a Feeder Fund makes in a Master Fund should be disregarded, but other investments of the feeder fund should be treated as though they were investments of the aggregated fund.

Where you are aggregating dependent parallel managed accounts to determine whether you meet a reporting threshold, assets held in the accounts should be treated as assets of the Pools with which they are aggregated.

Example 1. You advise a master-feeder arrangement with one feeder fund. The feeder fund has invested \$500 in the master fund and holds a foreign exchange derivative with a notional value of \$100. The master fund has used the \$500 received from the feeder fund to invest in corporate bonds. Neither fund has any other assets or liabilities.

For purposes of determining whether the funds comprise a qualifying Pool, this master-feeder arrangement should be treated as a single Pool whose only investments are \$500 in *corporate bonds* and a foreign exchange derivative with a notional value of \$100. If you elect to aggregate the master-feeder arrangement for reporting purposes, the treatment would be the same.

Example 2. You advise a parallel pool structure consisting of two pools, named parallel pool A and parallel pool B. You also advise a related dependent parallel managed account. The account and each fund have invested in corporate bonds of Company X and have no other assets or liabilities. The value of parallel pool A's investment is \$400, the value of parallel pool B's investment is \$300 and the value of the account's investment is \$200.

For purposes of determining whether either of the parallel pools is a qualifying Pool, the entire parallel fund structure and the related dependent parallel managed account should be treated as a single Pool whose only asset is \$900 of corporate bonds issued by Company X.

If you elect to aggregate the parallel fund structure for reporting purposes, you would disregard the dependent parallel managed account, so the result would be a single Pool whose only asset is \$700 of corporate bonds issued by Company X.

6. I advise a Pool that invests in entities that are not Pools, or are exempt. How should I treat these investments for purposes of Form CPO-PQR?

Except as provided in Instruction 4, investments in funds should be included for all purposes under this Form CPO-PQR. You are not, however, required to “look through” a Pool's investments in any other entity unless the Form CPO-PQR specifically requests information regarding that entity or the other entity's primary purpose is to hold assets or incur leverage as part of the Pool's investment activities.

7. The Form CPO-PQR Must Be Filed Electronically with NFA

CFTC FORM CPO-PQR REPORT FOR COMMODITY POOL OPERATORS

Instructions for Using the Form CPO-PQR

All CPOs must file their Forms CPO-PQR electronically using NFA's EasyFile System. NFA's EasyFile System can be accessed through NFA's website at www.nfa.futures.org. You will use the same logon and password for filing your Form CPO-PQR as you would for any other EasyFile filings. Questions regarding your NFA ID# or your use of NFA's EasyFile system should be directed to the NFA. The NFA's contact information is available on its website.

8. All Figures Reported in U.S. Dollars

All questions asking for amounts or investments must be reported in U.S. dollars. Any amounts converted to U.S. dollars must use the conversion rate in effect on the Reporting Date.

9. Use of U.S. GAAP

All financial information in this Report must be presented and computed in accordance with GAAP consistently applied.

10. Reporting of Legal Entity Identifiers (LEIs)

Form CPO-PQR includes questions asking CPOs for LEIs for the CPO and its operated Pools. CPOs are NOT required to obtain LEIs for themselves or their operated Pools if such CPOs or Pools are not otherwise required to have them.

11. Oath and Affirmation

This Form CPO-PQR will not be accepted unless it is complete and contains an oath or affirmation that, to the best of the knowledge and belief of the individual making the oath or affirmation, the information contained in the document is accurate and complete; provided however, that it shall be unlawful for the individual to make such oath or affirmation if the individual knows or should know that any of the information in this Form CPO-PQR is not accurate and complete.

CFTC FORM CPO-PQR REPORT FOR COMMODITY POOL OPERATORS
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Form CPO-PQR Template

DEFINITIONS OF TERMS

Affiliated Entity: The term “Affiliated Entity” means any entity is an affiliate of another entity. An entity is an affiliate of another entity if the entity directly or indirectly controls, is controlled by or is under common control with the other entity.

Assets Under Management or AUM: The term “Assets Under Management” or “AUM” means the amount of all assets that are under the control of the CPO.

BP: The term “BP” means basis points.

Broker: The term “Broker” means any entity that provides clearing, prime brokerage or similar services to the Pool.

CDS: The term “CDS” means credit default swap.

CCP: The term “CCP” means a central counterparty or central clearing house, such as, but not limited to: CC&G, CME Clearing, The Depository Trust & Clearing Corporation (including FICC, NSCC and Euro CCP), EMCF, Eurex Clearing, Fedwire, ICE Clear Europe, ICE Clear U.S., ICE Trust, LCH Clearnet Limited, LCH Clearnet SA, Options Clearing Corporation and SIX x-clear.

Commodity Futures Trading Commission or CFTC: The term “Commodity Futures Trading Commission” or “CFTC” means the United States Commodity Futures Trading Commission.

Commodity Pool or Pool: The term “Commodity Pool” or “Pool” has the same meaning as “commodity pool” as defined in section 1a(10) of the Commodity Exchange Act.

Commodity Pool Operator or CPO: The term “commodity pool operator” or “CPO” has the same meaning as “commodity pool operator” defined in section 1a(11) of the Commodity Exchange Act.

Commodity Trading Advisor or CTA: The term “commodity trading advisor” or “CTA” has the same meaning as “commodity trading adviser” as defined in section 1a(12) of the Commodity Exchange Act.

Feeder Fund: See Master-Feeder Arrangement.

Financial Institution: The term “financial institution” means any of the following: (i) a bank or savings association, in each case as defined in the Federal Deposit Insurance Act; (ii) a bank holding company or financial holding company, in each case as defined in the Bank Holding Company Act of 1956; (iii) a savings and loan holding company, as defined in the Home Owners’ Loan Act; (iv) a Federal credit union, State credit union or State-chartered credit union, as those terms are defined in section 101 of the Federal Credit Union Act; (v) a Farm Credit System institution chartered and subject to the provisions of the Farm Credit Act of 1971; or (vi) an entity chartered or otherwise organized outside the United States that engages in banking activities.

Form CPO-PQR: The term “Form CPO-PQR” means this Form CPO-PQR.

Form PF: The term “Form PF” refers to the Form PF.

CFTC FORM CPO-PQR REPORT FOR COMMODITY POOL OPERATORS
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Form CPO-PQR Template

GAAP: The term “GAAP” means U.S. Generally Accepted Accounting Principles.

Investment Adviser: The term “Investment Adviser” has the same meaning as “investment adviser” as defined in Section 202(a)(11) of the Investment Advisers Act of 1940.

LEI: The term “LEI” means legal entity identifier as defined in Commission Rule 45.6.

Master Fund: See Master-Feeder Arrangement.

Master-Feeder Arrangement: The phrase “Master-Feeder Arrangement” means an arrangement in which one or more funds (“Feeder Funds”) invest all or substantially all of their assets in a single fund (“Master Fund”). A fund would also be a Feeder Fund investing in a Master Fund for the purposes of this definition if it issued multiple classes or series of shares or interests and each class (or series) invests substantially all of its assets in shares (or other interests in) a single underlying Master Fund.

National Futures Association or NFA: The term “National Futures Association” or “NFA” refers to the National Futures Association, a registered futures association under Section 17 of the Commodity Exchange Act.

Negative OTE: The term “Negative OTE” means negative open trade equity.

Net Asset Value or NAV: The term “Net Asset Value” or “NAV” has the same meaning as “net asset value” as defined in Commission Rule 4.10(b).

Non-U.S. Financial Institution: A “non-U.S. Financial Institution” means any of the following Financial Institutions: (i) a Financial Institution chartered outside the United States; (ii) a subsidiary of a U.S. Financial Institution that is separately incorporated or otherwise organized outside the United States; or (iii) a branch or agency that resides in the United States but has a parent that is a Financial Institution chartered outside the United States.

OTC: The term “OTC” means over-the-counter.

Parallel Managed Account: The term “Parallel Managed Account” means any managed account or other pool of assets that the CPO operates and that pursues substantially the same investment objective and strategy and invests side-by-side in substantially the same assets as the identified Pool.

CFTC FORM CPO-PQR REPORT FOR COMMODITY POOL OPERATORS
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Form CPO-PQR Template

Parallel Pool Structure: The term “Parallel Pool Structure” means any structure in which one or more Pools pursues substantially the same investment objective and strategy and invests side by side in substantially the same assets as another Pool .

Private Fund: The term “Private Fund” has the same meaning as “private fund” as defined in Form PF .

Positive OTE: The term “Positive OTE” means positive open trade equity.

Reporting Date: The term “Reporting Date” means the last calendar day of the Reporting Period for which this Form CPO-PQR is required to be completed and filed. For example, the Reporting Date for the first calendar quarter of a year is March 31; the Reporting Date for the second calendar quarter is June 30.

Reporting Period: The term “Reporting Period” means any of the individual calendar quarters (ending March 31, June 30, September 30, and December 31) for all CPOs .

Trading Manager: The term “Trading Manager” means any entity or individual with sole or partial authority to invest Pool assets or to allocate Pool assets to other managers or investee Pools (including cash management firms). CTAs and other CPOs can be Trading Managers ; however, a CPO should not identify itself as a Trading Manager .

Secured Borrowing: The term “Secured Borrowing” means obligations for borrowed money in respect of which the borrower has posted collateral or other credit support. For purposes of this definition, repos are secured borrowings.

Securities and Exchange Commission or SEC: The term “Securities and Exchange Commission” or “SEC” means the United States Securities and Exchange Commission.

Side Arrangements and Side Letters: The term “Side Arrangements” or the term “Side Letters” means any arrangement that is extended to less than 100% of the Pool’s participants.

U.S. Financial Institution: The term “U.S. Financial Institution” means any of the following Financial Institutions : (i) a Financial Institution chartered in the United States (whether federally-chartered or state-chartered); (ii) a subsidiary of a Non-U.S. Financial Institution that is separately incorporated or otherwise organized in the United States; or (iii) a branch or agency that resides outside the United States but has a parent that is a Financial Institution chartered in the United States.

Unsecured Borrowing: The term “Unsecured Borrowing” means obligations for borrowed money in respect of which the borrower has not posted collateral or other credit support.

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Form CPO-PQR Template

INSTRUCTIONS FOR COMPLETING SCHEDULE A

Every CPO is required to complete and file Schedule A of this Form CPO-PQR. This Schedule A must be completed for every Reporting Period during which the CPO operated at least one Pool. Part 1 of Schedule A asks for information about the CPO. Part 2 of Schedule A asks for information about each individual Pool that the CPO operated during the Reporting Period. CPOs must complete and file a separate Part 2 for each Pool they operated any time during the Reporting Period.

Unless otherwise specified in a particular question, all information provided in this Schedule A should be accurate as of the Reporting Date.

PART 1 · INFORMATION ABOUT THE CPO

1. CPO INFORMATION

Provide the following general information concerning the CPO:

- a. CPO's Name:
- b. CPO's NFA ID#:
- c. CPO's LEI ID#:
- d. Person to contact concerning this Form CPO-PQR:
- e. CPO's chief compliance officer:
- f. Total number of employees of the CPO:
- g. Total number of equity holders of the CPO:
- h. Total number of Pools operated by the CPO:
- i. Telephone number and email for person identified in c. above

2. CPO ASSETS UNDER MANAGEMENT

Provide the following information concerning the amount of Assets Under Management by the CPO:

- a. CPO's Total Assets Under Management:
- b. CPO's Total Net Assets Under Management:

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Form CPO-PQR Template

PART 2 · INFORMATION ABOUT THE POOLS OPERATED BY THE CPO

REMINDER: The CPO must complete and file a separate Part 2 for each Pool that the CPO operated during the Reporting Period.

3. POOL INFORMATION

Provide the following general information concerning the Pool:

- a. CPO's Name:
- b. CPO's NFA ID#:
- c. CPO's LEI ID#:
- d. Pool's Name:
- e. Pool's NFA ID#:
- f. Pool's LEI ID#:

4. POOL THIRD PARTY ADMINISTRATORS

Provide the following information concerning the Pool's third party administrator(s):

- a. Does the CPO use third party administrators for the Pool?

If "Yes," provide the following information for each third party administrator:

- i. Name of the administrator:
- ii. NFA ID# of administrator:
- iii. Address of the administrator:
- iv. Telephone number of the administrator:
- v. Starting date of the relationship with the administrator:
- vi. Services performed by the administrator:

Preparation of Pool financial statements:

Maintenance of the Pool's books and records:

Calculation of Pool's performance:

Other:

5. POOL BROKERS

Provide the following information concerning the Pool's Broker(s):

- a. Does the CPO use Brokers for the Pool?

If "Yes," provide the following information for each Broker:

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- i. Name of the Broker:
- ii. NFA ID# of Broker:
- iii. Address of Broker
- iv. Telephone number of the Broker:
- v. Starting date of the relationship with the Broker:
- vi. Services performed by the Broker:
 - Clearing services for the Pool: Custodian services for some or all Pool assets:
 - Prime brokerage services for the Pool: Other:

6. POOL TRADING MANAGERS

Provide the following information concerning the Pool's Trading Manager(s):

- a. Has the CPO authorized Trading Managers to invest or allocate some or all of the Pool's Assets Under Management?

If "Yes," provide the following information for each Trading Manager:

- i. Name of the Trading Manager:
- ii. NFA ID# of the Trading Manager:
- iii. Address of the Trading Manager:
- iv. Telephone number of the Trading Manager:
- v. Starting date of the relationship with the Trading Manager:
- vi. What percentage of the Pool's Assets Under Management does the Trading Manager have authority to invest or allocate?

7. POOL CUSTODIANS

Provide the following information concerning the Pool's custodian(s):

- a. Does the CPO use custodians to hold some or all of the Pool's Assets Under Management?

If "Yes," provide the following information for each custodian:

- i. Name of the custodian:
- ii. NFA ID# of the custodian:
- iii. Address of the custodian:
- iv. Telephone number of the custodian:
- v. Starting date of the relationship with the custodian:

CFTC FORM CPO-PQR REPORT FOR COMMODITY POOL OPERATORS

Form CPO-PQR Template

vi. What percentage of the Pool's Assets Under Management is held by the custodian?

8. POOL'S STATEMENT OF CHANGES CONCERNING ASSETS UNDER MANAGEMENT

Provide the following information concerning the Pool's activity during the Reporting Period. For the purposes of this question:

- a. The Assets Under Management and Net Asset Value at the beginning of the Reporting Period are considered to be the same as the assets under management and Net Asset Value at the end of the previous Reporting Period, in accordance with Commission Rule 4.25(a)(7)(A).
- b. The additions to the Pool include all additions whether voluntary or involuntary in accordance with Commission Rule 4.25(a)(7)(B).
- c. The withdrawals and redemptions from the Pool include all withdrawals or redemptions whether voluntary or not, in accordance with Commission Rule 4.25(a)(7)(C).
- d. The Pool's Assets Under Management and Net Asset Value on the Reporting Date must be calculated by adding or subtracting from the Assets Under Management and Net Asset Value at the beginning of the Reporting Period, respectively, any additions, withdrawals, redemptions and net performance, as provided in Commission Rule 4.25(a)(7)(E).
 - i. Pool's Assets Under Management at the beginning of the Reporting Period:
 - ii. Pool's Net Asset Value at the beginning of the Reporting Period:
 - iii. Pool's net income during the Reporting Period:
 - iv. Additions to the Pool during the Reporting Period:
 - v. Withdrawals and Redemptions from the Pool during the Reporting Period:
 - vi. Pool's Assets Under Management on the Reporting Date:
 - vii. Pool's Net Asset Value on the Reporting Date:
 - viii. Pool's base currency:

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Form CPO-PQR Template

9. POOL'S MONTHLY RATES OF RETURN

Provide the Pool's monthly rate of return for each month that the Pool has operated. The Pool's monthly rate of return should be calculated in accordance with Commission Rule 4.25(a)(7)(F). Provide the Pool's annual rate of return for the appropriate year in the row marked "Annual."

	2011	2010	2009	2008	2007	2006	2005
Jan.							
Feb.							
March							
April							
May							
June							
July							
August							
Sept.							
Oct.							
Nov.							
Dec.							
ANNUAL							

10. POOL SUBSCRIPTIONS AND REDEMPTIONS

Provide the following information concerning subscriptions to and redemptions from the Pool during the Reporting Period.

a. Has the Pool imposed a halt or any other material limitation on redemptions during the Reporting Period?

If "Yes," provide the following information:

- i. On what date was the halt or material limitation imposed?
- ii. If the halt or material limitation has been lifted, on what date was it lifted?
- iii. What disclosure was provided to participants to notify them that the halt or material limitation was being imposed? What disclosure was provided to participants to notify them that the halt or material limitation was being lifted?
- iv. On what date(s) was this disclosure provided?

11. POOL SCHEDULE OF INVESTMENTS

Provide the Pool's investments in each of the subcategories listed under the following seven headings: (1) Cash; (2) Equities; (3) Alternative Investments; (4) Fixed Income; (5) Derivatives; (6) Options; and (7) Funds. First, determine how the Pool's investments should be allocated among each of these seven categories. Once you have determined how the Pool's investments should be allocated, enter the dollar value of the Pool's total

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investment in each applicable category on the top, boldfaced line. For example, under the “Cash” heading, the Pool’s total investment should be listed on the line reading “Total Cash.” After the top, boldfaced line is completed, proceed to the subcategories. For each subcategory, determine whether the Pool has investments that equal or exceed 5% of the Pool’s Net Asset Value. If so, provide the dollar value of each such investment in the appropriate subcategory. If the dollar value of any investment in a subcategory equals or exceeds 5% of the Pool’s Net Asset Value, you must itemize the investments in that subcategory.

CASH

Total Cash

At Carrying Broker

At Bank

EQUITIES

Long

Short

Total Listed Equities

Stocks

- a. Energy and Utilities
- b. Technology
- c. Media
- d. Telecommunication
- e. Healthcare
- f. Consumer Services
- g. Business Services
- h. Issued by Financial Institutions
- i. Consumer Goods
- j. Industrial Materials

Exchange Traded Funds

American Deposit Receipts

Other

Total Unlisted Equities

Unlisted Equities Issued by Financial Institutions

ALTERNATIVE INVESTMENTS

Long

Short

Total Alternative Investments

Real Estate

- a. Commercial

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Form CPO-PQR Template

b. Residential

Private Equity

Venture Capital

Forex

Spot

a. Total Metals

i. Gold

b. Total Energy

i. Crude oil

ii. Natural gas

iii. Power

c. Other

Loans to Affiliates

Promissory Notes

Physicals

a. Total Metals

i. Gold

b. Agriculture

c. Total Energy

i. Crude oil

ii. Natural gas

iii. Power

Other

FIXED INCOME

Long

Short

Total Fixed Income

Notes, Bonds and Bills

a. Corporate

i. Investment grade

ii. Non-investment grade

b. Municipal

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Form CPO-PQR Template

- c. Government
 - i. U.S. Treasury securities
 - ii. Agency securities
 - iii. Foreign (G10 countries)
 - iv. Foreign (all other)
- d. Gov't Sponsored
- e. Convertible
 - i. Investment grade
 - ii. Non-investment grade

Certificates of Deposit

- a. U.S.
- b. Foreign

Asset Backed Securities

- a. Mortgage Backed Securities
 - i. Commercial Securitizations
 - A. Senior or higher
 - B. Mezzanine
 - C. Junior/Equity
 - ii. Commercial Resecuritizations
 - A. Senior or higher
 - B. Mezzanine
 - C. Junior/Equity
 - iii. Residential Securitizations
 - A. Senior or higher
 - B. Mezzanine
 - C. Junior/Equity
 - iv. Residential Resecuritizations
 - A. Senior or higher
 - B. Mezzanine
 - C. Junior/Equity
 - v. Agency Securitizations
 - A. Senior or higher
 - B. Mezzanine
 - C. Junior/Equity

CFTC FORM CPO-PQR REPORT FOR COMMODITY POOL OPERATORS

Form CPO-PQR Template

- vi. Agency Resecuritizations
 - A. Senior or higher
 - B. Mezzanine
 - C. Junior/Equity

- b. CDO Securitizations
 - i. Senior or higher
 - ii. Mezzanine
 - iii. Junior/Equity

- c. CDO Resecuritizations
 - i. Senior or higher
 - ii. Mezzanine
 - iii. Junior/Equity

- d. CLOs Securitizations
 - i. Senior or higher
 - ii. Mezzanine
 - iii. Junior/Equity

- e. CLO Resecuritizations
 - i. Senior or higher
 - ii. Mezzanine
 - iii. Junior/Equity

- f. Credit Card Securitizations
 - i. Senior or higher
 - ii. Mezzanine
 - iii. Junior/Equity

- g. Credit Card Resecuritizations
 - i. Senior or higher
 - ii. Mezzanine
 - iii. Junior/Equity

- h. Auto-Loan Securitizations
 - i. Senior or higher
 - ii. Mezzanine
 - iii. Junior/Equity

- i. Auto-Loan Resecuritizations
 - i. Senior or higher
 - ii. Mezzanine
 - iii. Junior/Equity

- j. Other

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- i. Senior or higher
- ii. Mezzanine
- iii. Junior/Equity

Repos

Reverse Repos

DERIVATIVES

Positive OTE

Negative OTE

Total Derivatives

Futures

- a. Indices
 - i. Equity
 - ii. Commodity
- b. Metals
 - i. Gold
- c. Agriculture
- d. Energy
 - i. Crude oil
 - ii. Natural gas
 - iii. Power
- e. Interest Rate
- f. Currency
- g. Related to Financial Institutions
- h. Other

Forwards

Swaps

- a. Interest Rate Swap
- b. Equity/Index Swap
- c. Dividend Swap
- d. Currency Swap
- e. Variance Swap
- f. Credit Default Swap
 - i. Single name CDS
 - A. Related to Financial Institutions
 - ii. Index CDS

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Form CPO-PQR Template

- iii. Exotic CDS
- g. OTC Swap
 - i. Related to Financial Institutions
- h. Total Return Swap
- i. Other

OPTIONS

Long Option Value

Short Option Value

Total Options

Futures

- a. Indices
 - i. Equity
 - ii. Commodity
- b. Metals
 - i. Gold
- c. Agriculture
- d. Energy
 - i. Crude oil
 - ii. Natural Gas
 - iii. Power
- e. Interest Rate
- f. Currency
- g. Related to Financial Institutions
- h. Other

Stocks

- a. Related to Financial Institutions

Customized/OTC

Physicals

- a. Metals
 - i. Gold
- b. Agriculture
- c. Currency

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- d. Energy
 - i. Crude oil
 - ii. Natural gas
 - iii. Power
- e. Other

FUNDS

Long

Total Funds

Mutual Fund

- a. U.S.
- b. Foreign

NFA Listed Fund

Hedge Fund

Equity Fund

Money Market Fund

Private Equity Fund

REIT

Other Private funds

Funds and accounts other than private funds (i.e., the remainder of your assets under management)

ITEMIZATION

- a. If the dollar value of any investment in any subcategory under the heading “Equities,” “Alternative Investments” or “Fixed Income” equals or exceeds 5% of the Pool’s Net Asset Value, itemize the investment(s) in the table below.

Subheading	Description of Investment	Long/Short	Cost	Fair Value	Year-to-Date Gain (Loss)
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- b. If the dollar value of any investment in any subcategory under the heading “Derivatives” or “Options” equals or exceeds 5% of the Pool’s Net Asset Value, itemize the investment(s) in the table below.

Subheading	Description of Investment	Long/Short	OTE	Counterparty	Year-to-Date Gain (Loss)
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CFTC FORM CPO-PQR REPORT FOR COMMODITY POOL OPERATORS

Form CPO-PQR Template

c. If the dollar value of any investment in any subcategory under the heading "Funds" equals or exceeds 5% of the Pool's Net Asset Value, itemize the investment(s) in the table below.

Subheading	Fund Name	Fund Type	Fair Value	Year-to-Date Gain (Loss)
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– This Completes Form CPO-PQR –

OATH

BY FILING THIS REPORT, THE UNDERSIGNED AGREES THAT THE ANSWERS AND INFORMATION PROVIDED HEREIN are complete and accurate, and are not misleading in any material respect to the best of the undersigned's knowledge and belief. Furthermore, by filing this Form CPO-PQR, the undersigned agrees that he or she knows that it is unlawful to sign this Form CPO-PQR if he or she knows or should know that any of the answers and information provided herein is not accurate and complete.

Name of the individual signing this Form CPO-PQR on behalf of the CPO:

Capacity in which the above is signing on behalf of the CPO:

* * * * *

Issued in Washington, DC, on April 16, 2020, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendices to Amendments to Compliance Requirements for Commodity Pool Operators on Form CPO-PQR—Commission Voting Summary and Commissioners’ Statements

Appendix 1—Commission Voting Summary

On this matter, Chairman Tarbert and Commissioners Quintenz, Behnam, Stump, and Berkovitz voted in the affirmative. No Commissioner voted in the negative.

Appendix 2—Supporting Statement of Chairman Heath P. Tarbert

The esteemed 19th century mathematician Charles Babbage asked “if you put into the machine the wrong figures, will the right answers come out?”¹ Babbage foresaw what would evolve in the 20th century as the “garbage-in, garbage-out” predicament—a potential pitfall now only magnified in the 21st century by the combination of computing technology and vast amounts of data. Since becoming Chairman, I have prioritized improving the CFTC’s approach to collecting data. As a federal agency, we must be selective about the data we collect, and then make sure we are actually making good use of the data for its intended purpose.

¹ Charles Babbage, *Passages from the Life of a Philosopher* (London 1864).

This issue has arisen in a number of contexts here at the CFTC. For example, we recently proposed amendments to our swap data reporting rules, which cover both regulatory reporting and the disclosure of certain swap transaction data to the public at large.² The purpose of those amendments is to simplify the swap data reporting process to ensure that market participants are not burdened with unclear or duplicative reporting obligations that do little to reduce market risk or facilitate price discovery. If those amendments are adopted, the CFTC will no longer collect data that does not advance our oversight of the swaps markets.³ And we will start collecting additional data that does.

Today we are engaged in a similar exercise. We are considering amendments to the compliance requirements for commodity pool operators (“CPOs”) on Form CPO-PQR. These amendments reflect the CFTC’s reassessment of the scope of Form CPO-PQR and how it aligns with our current regulatory priorities. By refining our approach to data collection, today’s amendments—in conjunction with our current market surveillance efforts—would enhance the CFTC’s ability to gain more timely insight into the activities of CPOs and their operated pools. At the same time, the amendments would reduce reporting burdens for market participants.

Background on Form CPO-PQR

Form CPO-PQR requests information regarding the operations of a CPO, and each pool that it operates, in varying degrees of frequency and complexity, depending upon the assets under management (“AUM”) of both the CPO and the operated pool(s).

² See Proposed Rule: Amendments to the Real-Time Public Reporting Requirements (Part 43) (Feb. 20, 2020) (*publication in the Federal Register forthcoming*); and Proposed Rule: Amendments to the Swap Data Recordkeeping and Reporting Requirements (Part 45) (Feb. 20, 2020) (*publication in the Federal Register forthcoming*).

³ See Heath P. Tarbert, Chairman, CFTC, Statement in Support of Proposed Rules on Swap Data Reporting (Feb. 20, 2020), available <https://www.cftc.gov/PressRoom/SpeechesTestimony/tabertstatement022020>.

When adopting Form CPO-PQR in 2012, the Commission determined that form data would be used for several broad purposes, including:

- increasing the CFTC’s understanding of our registrant population;
- assessing the market risk associated with pooled investment vehicles under our jurisdiction; and
- monitoring for systemic risk.⁴

For the majority of more pool-specific questions on Form CPO-PQR, the Commission believed the incoming data would assist the CFTC in monitoring commodity pools to identify trends over time. For example, the CFTC would get information regarding a pool’s exposure to asset classes, the composition and liquidity of a pool’s portfolio, and a pool’s susceptibility to failure in times of stress.⁵

Shortcomings of Form CPO-PQR

Seven years of experience with Form CPO-PQR, however, have not born out that vision. To begin with, in an effort to take into account the different ways CPOs maintain information, the Commission has allowed CPOs flexibility in how they calculate and present certain of the data elements. As a result, it has been challenging, to say the least, for the CFTC to identify trends across CPOs or pools using Form CPO-PQR data. In addition, taking into account the volume and complexity of the data it was requesting, the Commission decided not to require the data to be provided in real-time, but instead mandated only post hoc quarterly or annual filings.

⁴ See Commodity Pool Operators and Commodity Trading Advisors: Compliance Obligations, 77 Fed. Reg. 11252 (Feb. 24, 2012).

⁵ See Commodity Pool Operators and Commodity Trading Advisors: Amendments to Compliance Obligations, 76 FR 7976, 7981 (Form CPO-PQR Proposal) (Feb. 11, 2011).

As the CFTC staff has reviewed the data over the years, it has become apparent that the disparate, infrequent, and delayed nature of CPO reporting has made it difficult to assess the impact of CPOs and their operated pools on markets. This is largely because conditions and relative CPO risk profiles may have changed, potentially significantly, by the time Form CPO-PQR is filed with the CFTC. This was not entirely unforeseen. When Form CPO-PQR was adopted, some criticized the rulemaking, raising concerns about whether the information gathered would enable the CFTC to monitor commodity pools for systemic risk effectively.⁶ They likewise questioned whether the CFTC even had the resources to do so and in fact would do so.⁷

Sound Regulation Means Collecting Information We Intend to Use

What we need is not over-regulation or even de-regulation, but rather sound regulation.⁸ In the midst of the coronavirus pandemic, when we are facing the greatest economic challenge since the 2008 financial crisis, and possibly since the Great Depression, the fact that we are asking market participants to put all this time and effort into providing us data that is difficult to integrate with the CFTC's other more timely and standardized data streams is not sound regulation. Frankly, it is wasteful and an example of bad government.

My colleague Commissioner Dan Berkovitz recently made the following observation: "In addition to obtaining accurate data, the Commission must also develop

⁶ See, e.g., Jill E. Sommers, Commissioner, CFTC, Dissenting Statement, Commodity Pool Operators and Commodity Trading Advisors: Amendments to Compliance Obligations (Feb. 9, 2012), available <https://www.cftc.gov/PressRoom/SpeechesTestimony/sommersstatement020912a>.

⁷ *Id.*

⁸ See CFTC Vision Statement, available <https://www.cftc.gov/About/Mission/index.htm>.

the tools and resources to analyze that data.”⁹ He is spot on. I believe the converse is also true. We should not collect data we cannot use effectively. In the case of Form CPO-PQR, this means not requiring market participants to provide information that the CFTC has neither the resources nor the ability to analyze with our other data streams. Our credibility as a regulator is strengthened when we honestly admit that our regulations ask for data that we both have not used effectively and have no intention of using going forward. That is what we are doing today.

Alternative Sources of Data Are Available to the Commission

Although we would be eliminating some components of Form CPO-PQR—those required data that the CFTC has not used in meeting its mission—Form CPO-PQR is not our only source of data regarding commodity pools. The CFTC has devoted substantial resources to developing other data streams and regulatory initiatives designed to enhance our ability to surveil financial markets for risk posed by all manner of market participants, including CPOs and their operated pools. These data streams include extensive information related to trading, reporting, and clearing of swaps. Importantly, most of the transaction and position information the CFTC uses for our surveillance activities is available on a more timely and frequent basis than the data received on the current iteration of Form CPO-PQR. Furthermore, CFTC programs to conduct surveillance of exchanges, clearinghouses, and futures commission merchants already include CPOs and do not rely on the information contained in Schedules B and C of Form CPO-PQR.

⁹ Dan M. Berkovitz, Commissioner, CFTC, Statement on Proposed Amendments to Parts 45, 46, and 49: Swap Data Reporting Requirements (Feb. 20, 2020), available <https://www.cftc.gov/PressRoom/SpeechesTestimony/berkovitzstatement022020b>.

Taken together, the CFTC’s other existing data efforts have enhanced our ability to surveil financial markets, including with respect to the activities of CPOs and the pools they operate. In general, the CFTC’s alternate data streams provide a more timely, standardized, and reliable view into relevant market activity than that provided under Form CPO-PQR. The proposal contemplates a revised Form CPO-PQR that would be more easily integrated with these existing and more developed data streams. This would enable the CFTC to oversee and assess the impact of CPOs and their operated pools in a way that is both more effective for us and less burdensome for those we regulate.

Legal Entity Identifiers Are Something We Need

Our proposal does more than simply eliminate certain data collections. It would also require the collection of an additional piece of key information: legal entity identifiers (“LEIs”) for CPOs and their operated pools. LEIs are critical to understanding the activities and interconnectedness within financial markets. Although LEIs have been around since 2012 and authorities in over 40 jurisdictions have mandated the use of LEI codes to identify legal entities involved in a financial transaction,¹⁰ this would be a new requirement for Form CPO-PQR. The lack of LEI information for CPOs and their operated pools has made it challenging to align the data collected on Form CPO-PQR with the data received from exchanges, clearinghouses, swap data repositories, and futures commission merchants. As a result, we cannot always get a full picture of what is happening in the markets we regulate.

The Commission is therefore proposing to amend Form CPO-PQR to include a question seeking the LEIs of both CPOs and the operated pools. The inclusion of LEIs

¹⁰ See Financial Stability Board, Thematic Review on Implementation of the Legal Entity Identifier, Peer Review Report (May 28, 2019), available <https://www.fsb.org/wp-content/uploads/P280519-2.pdf>.

within this smaller data set on the amended Form CPO-PQR should enable the CFTC to synthesize the various data streams on an entity-by-entity basis more efficiently and accurately. Inclusion of LEIs may also permit better use of swap data repository and other data to illuminate any risks inherent in pools and pool families.

In addition, the proposal would better align Form CPO-PQR with Form PQR of the NFA, which all CPOs must file quarterly and which the NFA may revise to include questions regarding LEIs. Under these circumstances, we could permit a CPO to file NFA Form PQR in lieu of our Form CPO-PQR as revised. In doing so, we would offer CPOs greater filing efficiencies without compromising our ability to obtain relevant data.

Data Sharing with the OFR Could be Improved

The Dodd-Frank Act established the Office of Financial Research (“OFR”) nearly a decade ago to look across our financial system for risks and potential vulnerabilities.¹¹ It was contemplated that the OFR would have access to data from other U.S. financial regulators. Yet to date, the CFTC has shared none of the Form CPO-PQR data with the OFR, largely because of the shortcomings outlined above.

Another benefit of today’s proposal is that we intend to share with the OFR the information collected on Form CPO-PQR once it is revised. To this end, we are presently in the process of negotiating a memorandum of understanding with the OFR, which will allow us for the first time to provide the information we collect regarding CPOs.

Conclusion

¹¹ See Sections 151-56 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376 (2010), available <https://www.gpo.gov/fdsys/pkg/PLAW-111publ203/pdf/PLAW-111publ203.pdf>.

For these reasons, I am pleased to support the Commission’s proposal to amend the compliance requirements for CPOs on Form CPO-PQR. Form CPO-PQR as revised would focus on the collection of data elements that can be used with other CFTC data streams and regulatory initiatives to facilitate oversight of CPOs and their pools. The proposal would reduce data collection requirements for market participants, while mandating disclosure of LEIs by CPOs and their operated pools. Focusing on enhancing data collection by the agency is no doubt tedious. Nonetheless, I am convinced it leads to smarter regulation that helps promote the integrity, resilience, and vibrancy of U.S. derivatives markets.

Appendix 3—Supporting Statement of Commissioner Brian Quintenz

I support today’s proposal that would simplify and streamline the reporting obligations of commodity pool operators (CPOs) on Form CPO-PQR. The proposal would eliminate much of existing Schedules B and C, which together contain roughly 72 distinct questions, if one includes all the separately identifiable subparts. Many of these questions are challenging for CPOs to calculate precisely and require numerous underlying assumptions that vary from firm to firm, making it difficult, if not impossible, for the Commission to perform an apples-to-apples comparison across the commodity pool industry.

Moreover, in my opinion, many of these questions are more academic than pragmatic in nature – information that may be nice for the Commission to have, but data that is certainly not necessary for the Commission to effectively oversee commodity pools and the derivatives markets. For example, under the proposal, the Commission would no longer request information about the geographical breakdown of a pool’s

investments or the aggregate value of a pool's derivatives positions—the latter of which provides almost no insight into a pool's actual risk because it does not take into account collateral. I would also note that large pools file the Form CPO-PQR within 60 days of the end of a calendar quarter. This means that by the time Commission staff receives the information on the form, it is already stale and out-of-date, which seriously diminishes its utility for purposes of real-time monitoring of risk or market activity.

Importantly, the proposal retains questions regarding a pool's schedule of investments, which contains information that is critical for the National Futures Association's and the Commission's supervision and examination programs for CPOs. The proposed revisions to Form CPO-PQR would also align the Commission's form with the NFA's Form PQR, which will simplify the filing process for CPOs and ensure the Commission has the same visibility as the NFA into the operations of CPOs. I am also pleased the proposal would require CPOs and their operated pools to include their legal entity identifiers (LEIs), to the extent they have LEIs due to their swap trading activity. The inclusion of LEIs will enable the Commission to aggregate the information reported on the Form CPO-PQR with the swap data information reported to the Commission under Part 45. Over time, I hope this will provide the Commission with a greater understanding of how a CPO's swap activities complement its other investment activities.

The proposal also requests comment on whether there are ways the Commission could clarify or refine its instructions for completing the Form CPO-PQR. I encourage market participants to take a close look at the form's instructions and related frequently asked questions documents to determine if the filing process can be simplified.

In closing, I would like to thank the Division of Swap Dealer and Intermediary Oversight for its hard work in advancing this important proposal.

Appendix 4—Concurring Statement of Commissioner Rostin Behnam

I respectfully concur with the Commodity Futures Trading Commission’s (the “Commission” or “CFTC”) issuance of a proposed rule (the “Proposal”) to amend Regulation 4.27 and Form CPO-PQR. In devising the Proposal, Commission staff judiciously evaluated several years of returns on the Commission’s collection of detailed data from commodity pool operators (CPOs)—data anticipated to provide valuable insights to both the Commission and the Financial Stability Oversight Counsel (FSOC) as we collectively moved into a new era of Wall Street reform on the heels of the 2008 financial crisis. In my view, the general conclusion that the Proposal elucidates: the information collected in the current Form CPO-PQR as well as its frequency of collection is simply not fit for purpose.

The determination to bring seven years of data collection aimed at supporting the goals of the Dodd-Frank Act¹ to an abrupt end *may*, in this particular instance, be an appropriate revision. The Proposal intends to markedly reduce the Commission’s collection of granular, pool-specific data from a significant population of CPOs. However, the evidence suggests that the challenges of working with such data have undercut its potential value. Therefore, any data loss should not undermine the Commission’s oversight or FSOC’s current monitoring efforts. At this point in time, the Commission should take the opportunity to make strategic, programmatic and disciplined changes.

¹ The Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010) (the “Dodd-Frank Act”).

In terms of the data and the transactions the Commission thought possible within our Form CPO-PQR database, results have been mixed. The Proposal aims to make targeted corrections, without forgoing the possibility of future adjustments should the Commission later determine that additional data collection would support regulatory initiatives or would be responsive to FSOC requirements to fulfill statutorily mandated duties and initiatives aimed at identifying and monitoring risks to financial stability.²

The 2008 financial crisis exposed numerous weaknesses in the U.S. financial regulatory framework. Unfortunately, many were at the expense of main street Americans. The legislative response was swift and effective in reforming our nation's financial regulatory regime. One of the more pressing needs that the Dodd-Frank Act addressed relates to data collection and analysis as a tool to monitor, surveil and detect financial market risk. All with the intention of anticipating and catching stability and resiliency concerns before it is too late. As all U.S. regulators continue to adapt to the new framework – even a decade later – adopting reforms quickly in some cases, and more gradually in others, we all collectively continue to learn and develop better practices at data collection and analysis. Although not perfect, our regulatory purpose and mission is clear, and the importance of efficient and effective data to fulfilling our statutory mandate cannot be understated. As we all are experiencing the evolution of the nation's tech economy, it is hard to ignore the engine of its success: *data*. This is the

² See Proposal at I. Not only is the Commission among those agencies that could be asked to provide information necessary for the FSOC to perform its statutorily mandated duties, but the FSOC may issue recommendations to the Commission regarding more stringent regulation of financial activities that FSOC determines may create or increase systemic risk. See Dodd-Frank Act §§ 112(d)(1), 120; See also Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors on Form PF, 76 FR 71128, 71129 (Nov. 16, 2011); Commodity Pool Operators and Commodity Trading Advisors: Compliance Obligations, 77 FR 11252, 11253 (Feb. 24, 2012).

world we live in, and policymakers and regulators alike must keep pace while exercising appropriate discipline in collecting, handling, and managing data.

This Proposal focuses on the Commission's data needs in support of CPO and commodity pool oversight. The Proposal seeks to account for: (1) other data streams, regulatory initiatives, and risk surveillance programs that support the Commission's monitoring of CPO and commodity pool activities as enhanced by improvements to the Commission's data integration and analysis capabilities; (2) the Commission's statutory obligations to make data available to the FSOC and the impact of the proposed amendments on FSOC's monitoring abilities; (3) the duties of CPOs that are dually registered with the Securities and Exchange Commission (SEC) as private fund advisors and are required to file Form PF as well as the scope of current Form PF; (4) the data elicited by the National Futures Association's (NFA's) Form PQR, a form comparable to Form CPO-PQR filed by all CFTC-registered CPOs, regardless of size, used to support NFA's risk-based examination program for CPOs; and (5) reduced reporting burdens and increased filing efficiencies for affected CPOs. I appreciate the Commission's and its staff's ongoing engagement with the SEC and FSOC, as well as with NFA, throughout the drafting of this Proposal and am encouraged that discussions are ongoing. I also appreciate staff's consideration and inclusion of several of my suggested edits to this Proposal.

I support issuance of the Proposal; however, I am concerned that in proposing to amend Regulation 4.27(d) to no longer accept Form PF filing in lieu of the proposed revised Form CPO-PQR, less data may be collected on Form PF from dually regulated

CPOs.³ Should the Proposal be finalized in its current form, FSOC may receive less data from certain CPOs who have been reporting information on commodity pools that are not private funds in the data they report on Form PF in lieu of filing Form CPO-PQR for such pools, as currently permitted under Regulation 4.27(d). To the extent the Proposal may have the side-effect of undermining ongoing FSOC surveillance and monitoring efforts by eliminating the incentivized reporting of CFTC-pool only information on Form PF, I urge members of the public to respond to related requests for comment embedded in the Proposal.⁴ Notwithstanding my concerns, I am pleased that, to the extent the interests of the SEC and FSOC may be impacted, each has had and continues to have ample opportunity to weigh-in. Moreover, should the FSOC determine that it requires additional data from dually regulated CPOs or CPOs generally; it has authority to request such data submissions directly from the Commission or, alternatively, consult with the SEC—and more indirectly, with the CFTC—regarding the form and content of Form PF.⁵

I would like to close by again thanking staff for all of their hard work on this important Proposal, specifically in these difficult and unique times, and look forward to considering comments from the public. To that end, if needed, I encourage market participants to request an extension of the comment period. As we all continue to endure the challenges of new realities at home and in the workplace as a result of the Covid-19 pandemic, I firmly believe the Commission needs to be as flexible as necessary to accommodate market participants and the general public in their efforts to provide us

³ See Proposal at III.C.

⁴ See Proposal at IV.

⁵ See note 2.

with the best comments to rulemakings. I have made my position clear on what and how the Commission should be allocating its resources during these unprecedented times.

Appendix 6—Statement of Commissioner Dan M. Berkovitz

I am voting in favor of this proposed rule to amend Regulation 4.27 and Form CPO-PQR (“Proposal”). The information in Form CPO-PQR that no longer would be required under the Proposal has not proven to be useful to the Commission in identifying or measuring systemic or idiosyncratic risk.

In the wake of the financial crisis and the enactment of the Dodd-Frank Act, the Commission required certain commodity pool operators (“CPOs”) to report on Form CPO-PQR a variety of data that, at the time, the Commission believed would enable it to assess risks presented by pooled commodity investment vehicles, such as a pool’s exposure to certain asset classes and susceptibility to market stress.¹ As the Proposal explains, however, the Commission’s experience over the past seven years has unfortunately demonstrated that some of the information on Schedules B and C of Form CPO-PQR has not been useful for these purposes. The Proposal would amend the Form CPO-PQR requirements to eliminate the information that has not proven to be of value to the Commission, yet retain the requirements to report useful information, such as the pool schedule of investments.²

At the same time as the Commission streamlines its data collection requirements, it must also make better use of the data that it does collect. The Commission gathers a

¹ See Final Rule, Commodity Pool Operators and Commodity Trading Advisors: Amendments to Compliance Obligations, 77 FR 11252, 11252 (Feb. 24, 2012).

² “The eliminated data elements include detailed, pool-specific information, provided on both the individual and aggregate level, such as questions about investment strategy and counterparty credit exposure, asset liquidity and concentration of positions, clearing relationships, risk metrics, financing, and investor composition.” Proposal, Amendments to Compliance Requirements for Commodity Pool Operators on Form CPO-PQR, at Sect. III.A.

diverse and large array of data on a daily basis for over-the-counter and exchange-traded derivatives transactions.³ As the Proposal notes, these data sets have the *potential* to be more useful for risk monitoring and surveillance purposes than certain static information collected quarterly through Form CPO-PQR. But the Commission still has a long way to go before it can use such data to perform a comprehensive, forward-looking analysis of our markets. The Commission should improve its strategies and capabilities for aggregating and analyzing the information it will continue to receive.

The Proposal would take one step in this direction by requiring CPOs using the swap markets to report legal entity identifiers (“LEIs”). Collecting LEIs is important because they allow the Commission to aggregate SDR data from related pools, thereby furthering our understanding of the role these pools play in our markets. However, the Proposal does not require all firms, such as those that do not trade swaps, to obtain and report LEIs, so this amendment will not allow the Commission to aggregate all derivatives transactions by pools under common control. The Commission can and should do more to integrate and analyze all of the data at its disposal.

Finally, I am pleased that the comment period for this Proposal is 60 days. Providing the public with sufficient time to prepare meaningful comments to our rules in these extraordinary times is good public policy.

I encourage the public to comment on this Proposal. In particular, the Proposal acknowledges that by removing from Form CPO-PQR some of the pool-specific data in Schedules B and C, less information would be available to the Financial Stability Oversight Counsel (“FSOC”). The Proposal also notes, however, that FSOC otherwise

³ See generally *id.* at Sect. III.

receives comparable data for the large portion of dually registered CPOs via Form PF. I am interested in commenters' views on whether this amendment would affect FSOC's ability to monitor for systemic risk.

I would like to thank the staff, particularly the Division of Swap Dealer and Intermediary Oversight, for their engagement with my office on this Proposal. I look forward to the Commission articulating further steps to enhance its surveillance of commodity pools, and our markets more broadly.