THE CFTC REINSTATES EXEMPTION FROM CPO REGISTRATION FOR CERTAIN PRIVATE FUND MANAGERS

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US Asset Management and Investment Funds Alert

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On December 19, 2025, the Staff of the Commodity Futures Trading Commission (CFTC) issued no-action relief that effectively reinstates (with a few modifications) an exemption from registration for commodity pool operators (CPOs) previously provided under Regulation 4.13(a)(4) (the QEP Exemption) prior to its repeal in 2012, and clarifies that relief from registration as commodity trading advisors (CTAs) also will be available to these newly-exempt CPOs. This no-action relief comes in response to the Managed Funds Association's (MFA's) request for a rulemaking to codify the QEP Exemption.

Under the no-action relief, investment advisers launching new private funds offered solely to qualified eligible persons (QEPs) (including qualified purchasers under the Investment Company Act of 1940) do not need to register as CPOs or CTAs and existing CPOs/CTAs may withdraw from registration, subject to the conditions outlined below. Investment advisers that currently rely on other exemptions from CPO registration may be able to avail themselves of the no-action relief instead. For example, investment advisers that manage private funds pursuant to the “de minimis” exemption from CPO registration under CFTC Regulation 4.13(a)(3) may decide to rely on the QEP Exemption relief to avoid the need to monitor compliance with the de minimis threshold or to enhance these funds' use of futures and swaps without any restrictions. As noted below, Staff will not require a registered CPO that determines to rely on the relief to offer investors a right of redemption, making reliance on the relief all the more attractive.

The relief will be a welcome change for many sponsors of 3(c)(7) funds, but the relief is only available to investment advisers registered with the Securities and Exchange Commission (SEC) who file Form PF. As a result, the relief will not be available to exempt reporting advisers or to smaller SEC-registered investment advisers (i.e., those that do not file Form PF).

The conditions of the relief include:

- The person is currently or would be required to register as a CPO with the CFTC or relies on other registration relief in CFTC Regulation 4.13;
- The person is registered with the SEC as an investment adviser;
- Interests of the relevant pool are exempt from registration under the Securities Act of 1933 and sold without marketing to the public in the U.S. (unless the pool is offered pursuant to Rule 506(c));

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- The person reasonably believes that each investor meets the QEP definition pursuant to CFTC Regulation 4.7(a)(6), either at the time of the investment or at the time the person relies on the no-action relief;
- The person files Form PF with respect to the pools covered by the no-action relief and the CFTC receives Form PF; and
- The person complies with parts of Regulation 4.13(b), except for the notice filing requirement and the timing requirement for such notices. The person must submit a notice filing to Staff via email at mpdnoaction@cftc.gov and annually affirm that it qualifies for the relief.

Notably, CPOs that avail themselves of the no-action relief are *not* required to provide a right of redemption to investors in the relevant pool.

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