

CFTC No-Action Letter Provides Interim Relief From CPO Registration for Certain Fund Managers

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On Dec. 19, 2025, the Market Participants Division (MPD) of the Commodity Futures Trading Commission (CFTC) issued No-Action Letter 25-50 (the “Letter”), which provides interim no-action relief from commodity pool operator (CPO) registration for an investment adviser registered with the Securities and Exchange Commission (SEC) that operates one or more pools offered solely to “qualified eligible persons” (QEPs), subject to certain conditions set forth in the Letter. The Letter provides temporary no-action relief pending consideration of the potential reinstatement of the exemption formerly set forth in CFTC Rule 4.13(a)(4) (the “QEP Exemption”) by the CFTC, which was rescinded in 2012 and resulted in a large number of investment advisers being required to register with the CFTC as CPOs, or claim or qualify for one or more alternative exemptions (such as the *de minimis* exemption in CFTC Rule 4.13(a)(3)).

Key Takeaways:

- Relief potentially applies to both CFTC-registered CPOs and unregistered managers who operate pools pursuant to one or more other exemptions from CPO registration (such as CFTC Rule 4.13(a)(3)). However, the relief notably does not apply to managers who are not SEC-registered investment advisers.
- Relief is not self-executing and must be claimed on a pool-by-pool basis by submitting a notice of reliance via email to the CFTC.
- Relief is expressly intended to be temporary in nature and will only be in effect until such time as the CFTC either adopts formal rules reinstating the QEP Exemption or publicly determines not to adopt such rules. The Letter does not provide for a formal rule or exemption.
- The Letter is subject to various uncertainties, considerations and risks that managers should carefully consider in consultation with counsel prior to determining whether to rely on such relief.
- Amendments or updates to fund offering and governing documents may be required or advisable in connection with claiming the relief.

Analysis:

The Letter states that the CFTC will take no action against managers who either (i) fail to register as a Commodity Pool Operator (CPO) or Commodity Trading Advisor (CTA) or (ii) withdraw their CPO or CTA registration, provided they meet the following requirements:

- The manager is currently required to register as a CPO or currently relies on an exemption pursuant to CFTC Rule 4.13
- The manager is a registered investment adviser with the SEC
- The interests of the pool(s) operated by the manager are exempt from registration under the Securities Act of 1933, as amended, and sold without marketing to the public in the United States (except as permitted under SEC Regulation D Rule 506(c))

- Each investor in the pool(s) meets the Qualified Eligible Person ("QEP") definition under CFTC Rule 4.7(a)(6), which definition includes Qualified Purchasers (as defined in Section 2(a)(51)(A) of the Investment Company Act of 1940 (the "40 Act")), knowledgeable employees as defined in Rule 3c-5 of the 40 Act and other categories of investors
- The manager files Form PF with the SEC with respect to the pool(s) covered by the Letter, which is received by the CFTC
- The manager relying on the Letter must follow the same operational, notice and recordkeeping requirements that apply when claiming an exemption under CFTC Rule 4.13(a) (except for the reliance notice requirements set forth therein, which are to be documented by email to the CFTC, as noted below)
- The manager submits a notice to the CFTC of reliance on the Letter by email to [\[email protected\]](#)

A manager seeking to remove the burden of complying with CFTC Rule 4.13(a)(3) stands to benefit from this Letter, whether that is so the manager no longer must track derivatives exposure or so that the manager can maintain derivatives exposure in excess of that permitted by the *de minimis* requirement.

Note that funds that have hard-wired CFTC Rule 4.13(a)(3) compliance into governing documents or offering materials may remain contractually constrained by those terms unless and until properly amended. The Letter changes the CFTC's enforcement posture but does not modify private agreements. Managers should therefore review materials to confirm flexibility before pivoting from CFTC Rule 4.13(a)(3) to the QEP no-action position and be aware of this issue when considering modifications to any precedent documents being utilized in the formation of new funds. Any changes made should ensure flexibility, including reliance on the Letter and any future CFTC rulemakings for other guidance, interpretations or no-action relief.

In addition to granting no-action relief, the Letter confirms that CPOs withdrawing their registration in reliance on the Letter are not required to first offer a redemption right to pool participants pursuant to CFTC Rule 4.13(b)(2) and Rule 4.13(e). This expands the reach of the Letter to pools that may lack the liquidity (or desire) to offer such a redemption right. Eligible managers to QEP-only funds may forego or withdraw their CPO/CTA registration by complying with Letter's requirements outlined above.

The relief provided for in the Letter will expire on the earlier of (i) the CFTC either issuing a formal rulemaking to codify the QEP Exemption or (ii) a public determination by the CFTC that it will not reinstate or otherwise finalize a rule regarding the QEP Exemption. No specific timing or other expectation is provided for in the Letter to indicate when (or even "if") such event may happen. As such, reliance on the Letter may continue in perpetuity until future regulatory action by the CFTC. It should be noted that there are certain important risks, considerations and uncertainties associated with relying on the relief set forth in the Letter. For example, the CFTC could modify or suspend the terms of no-action relief at any time, elect not to adopt rules reinstating the QEP Exemption or adopt a QEP Exemption that is materially different from the relief set forth in the Letter. Accordingly, managers should carefully consider and evaluate those risks, considerations and uncertainties when deciding whether to rely on the relief set forth in the Letter and are encouraged to consult with counsel before making any decisions with respect thereto.

The [Investment Management Group](#) of Haynes Boone will continue to provide updates on the regulatory landscape that impacts investment managers, investment funds and broker-dealers.

Read the Letter [HERE](#).