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Investment Funds Alert

CFTC Staff Provides Transition Period for New Commodity Pools Until December 31, 2012

July 17, 2012

On July 13, 2012, the staff of the Commodity Futures Trading Commission (CFTC) provided prospective no-action relief to commodity pool operators (CPOs) that would have been able to claim exemption under CFTC Regulation 4.13(a)(4) or former Regulation 4.5 to permit them to file for an exemption through December 31, 2012, for pools launched after July 13, 2012. The staff's letter means that a new private investment fund launched after July 13, 2012, and offered exclusively to "qualified purchasers" and/or institutional accredited investors can trade futures until the end of 2012 without its investment manager needing to be a registered CPO. The CFTC had previously rescinded Regulation 4.13(a)(4) effective on April 24, 2012,[1] with a transition period until December 31, 2012, for CPOs that had filed an exemption under Regulation 4.13(a)(4) prior to that date, and revised Regulation 4.5 to reinstate trading criteria for investment companies that are registered under the Investment Company Act of 1940. In order to obtain the relief, the CPO must affirmatively make a notice filing with the CFTC. The no-action letter is available here.

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[1] See our alert (available here), discussing the rescission of Regulation 4.13(a)(4).