CFTC Rulemaking Update
Proposed Reinstatement of QEP Exemption from CPO & CTA Registration

On August 18, 2026, the CFTC proposed amendments to Part 4 of its regulations to reduce duplicative regulation of SEC-registered investment advisers that operate commodity pools. Comments were due October 5, 2026. The proposal would reinstate Rule 4.13(a)(4), the "QEP Exemption" from commodity pool operator (CPO) registration. The CFTC adopted that exemption in 2003 and rescinded it in 2012. The rescission forced many private fund managers to register as CPOs and become National Futures Association (NFA) members, or to limit their commodity interest trading so they could rely on the de minimis exemption under Rule 4.13(a)(3). In December 2025, CFTC staff issued Letter 25-50, which provided similar no-action relief to SEC-registered advisers operating pools limited to qualified eligible persons (QEPs). In February 2026, staff reissued that relief in Letter 26-06 to addressed CPO delegation arrangements.

Exemption Scope and Requirements

The proposed exemption would be available on a pool-by-pool basis to SEC-registered advisers only, regardless of how much commodity interest trading a pool does. Each pool would have to meet these conditions:

- **Offering**: Interests are offered privately, without public marketing in the United States, although Rule 506(c) offerings are permitted.
- **Natural person investors**: Each must be a QEP, but not one who qualifies only under the Portfolio Requirement.
- **Entity investors**: Each must be a QEP or an accredited investor under Rule 501(a)(1) through (3), (7), or (8), which excludes the entity categories added to the accredited investor definition in 2020.
- **Form PF**: The adviser files Form PF for the pool only if SEC rules otherwise require it.
- **NFA notice**: The adviser files a notice with NFA, affirms it annually, discloses the pool's exempt status to prospective investors, and keeps required records.

The proposal would also:

- **Restore Commodity Trading Advisor (CTA) relief**: Rule 4.14(a)(8) would exempt advisers that provide commodity trading advice to pools relying on the exemption.
- **Raise the small pool threshold**: The Rule 4.13(a)(2) threshold would increase from $400,000 to $800,000.

The CFTC expects the final rule to supersede Letter 25-50. Registered CPOs moving existing pools to the exemption would have to offer investors redemption rights under Rule 4.13(e)(2), but pools already relying on Letter 25-50 would generally be grandfathered.

Implications for Private Fund Managers

- **Firms relying on Rule 4.13(a)(3)**: SEC-registered advisers whose pools meet the investor standards could rely on Letter 25-50 now, and on the final rule later, to avoid the de minimis trading limits. Exempt reporting advisers and state-registered advisers would not be eligible and should continue to rely on Rule 4.13(a)(3).

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- **Firms relying on Letter 25-50**: These firms should confirm their investor base meets the revised standards, which differ for natural persons and entities. They should also plan to replace their email notice to the CFTC with the annual NFA notice once a final rule is adopted.

Standish will follow the status of the proposed amendments and will work with clients to review their CPO and CTA registration requirements and ability to rely on exemptions and the procedures and documentation necessary to do so.

CFTC Release – https://www.cftc.gov/PressRoom/PressReleases/9284-26

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