

July 13, 2012

CFTC Issues No-Action Relief Extending Compliance Date for Amended Rules 4.5 and 4.13(a)(4) to December 31, 2012

Today, the CFTC Division of Swap Dealer and Intermediary Oversight (Division) issued a no-action letter permitting unregistered commodity pool operators (CPOs) to launch: (i) new investment companies registered under the Investment Company Act of 1940 (mutual funds) in reliance on the Rule 4.5 CPO exclusion, without regard to the new trading and marketing tests; and (ii) new private funds in reliance on the Rule 4.13(a)(4) exemption, in each case until December 31, 2012.

- On February 24, 2012 the CFTC published substantial changes to its Part 4 rules affecting mutual funds and private funds trading commodity interests.
- New mutual funds launched after the April 24, 2012 compliance date would have had to meet the new trading and marketing tests under amended Rule 4.5, whereas existing mutual funds were grandfathered until December 31, 2012. New private funds launched after the same date would not have been able to rely on the Rule 4.13(a)(4) CPO exemption, whereas existing private funds relying on the Rule 4.13(a)(4) CPO exemption were similarly grandfathered.
- The CFTC no-action relief effectively extends the compliance date for the amendments to these two exemptions to December 31, 2012.
- Commodity trading advisors (CTAs) that would have been affected by the amendments to these two rules are also eligible for no-action relief.
- The no-action relief is not self-executing, and a standard notice filing through the National Futures Association (NFA) exemptions filing system will not effectuate the relief.
- Instead, claims for relief must be filed with the Division via email at dsionoaction@cftc.gov prior to the date upon which the CPO or CTA first engages in business that would otherwise require registration. The claim will be effective upon filing.
- The no-action relief is not available for commodity pools launched prior to the issuance of the no-action letter.

A complete copy of the no-action letter is available [on the CFTC's website](#).

For More Information

If you have questions regarding the information in this update, please contact one of the lawyers listed or any Dechert lawyer with whom you regularly work. Visit us at www.dechert.com/financial_services.

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