



Disclosure Requirements and Advertising Rules for CPOs

On August 13, 2013, the Commodity Futures Trading Commission (the “CFTC”) adopted final rule amendments to accept compliance with the disclosure, reporting and recordkeeping rules of the Securities and Exchange Commission (the “SEC”) as substituted compliance for substantially all of Part 4 of the CFTC’s Regulations, which is applicable to commodity pool operators (“CPOs”) of funds registered as investment companies (“RICs”) under the Investment Company Act of 1940, as amended (the “1940 Act”). The adopting release widens the approach set forth in the harmonization proposals issued by the CFTC in February 2012 and provides, among other things, that if the CPO of a RIC satisfies all applicable SEC rules for such a fund as well as certain other conditions, the CPO will be deemed in compliance with certain CFTC rules.¹ Contemporaneously with the CFTC’s adoption of the harmonization rules, the SEC’s Division of Investment Management issued a Guidance Update that provides a summary of the Division’s views on the disclosure obligations of an investment adviser to a RIC that trades in commodity interests, including futures and swaps, and on related compliance issues.

The majority of the harmonization rules became effective on August 22, 2013.² However, while the harmonization rules provide relief for registered CPOs of RICs with respect to most of the compliance obligations under Part 4 of the CFTC’s Regulations, the rules do not address all the requirements with which registered CPOs must comply. As a result, it is a good time now for CPOs, as well as commodity trader advisers (“CTAs”), to review the disclosure obligations under Part 4 of the CFTC’s Regulations, as well as the rules regarding advertising materials.

Disclosure Requirements

Part 4 of the CFTC’s Regulations requires a CPO, with respect to each commodity pool it operates, to provide a disclosure document containing specified information about the commodity pool to prospective and existing participants of the commodity pool. Part 4 of the CFTC’s Regulations also specifies requirements for updates to a CPO’s disclosure document and requires the document to be submitted to the National Futures Association (the “NFA”) for review before it is provided to prospective or existing pool participants. The final harmonization rules provide for substituted compliance for some, but not all, of these requirements. CFTC Regulation 4.24 prescribes specific and detailed disclosures that must be included in a CPO’s disclosure document (CFTC Regulation 4.34

¹ These rules cover: (1) delivery of disclosure documents to each prospective participant in any commodity pool that a CPO operates (CFTC Regulation 4.21); (2) distribution of account statements to each participant in any commodity pool that a CPO operates (CFTC Regulations 4.22(a) and (b)); (3) provision of information that must appear in a CPO’s disclosure document (CFTC Regulation 4.24), including performance disclosures (CFTC Regulation 4.25); and (4) the use, amendment and filing of disclosure documents (CFTC Regulation 4.26).

² The amendments to CFTC Regulation 4.12(c)(3)(i) (requiring past performance disclosure for registered CPOs of RICs that have less than three years of operating history) and to CFTC Regulation 4.26(a) (permitting all registered CPOs to use a disclosure document for up to 12 months) become effective on September 23, 2013 with a compliance date of November 22, 2013. For registered CPOs of RICs that have less than three years of operating history, compliance with new CFTC Regulation 4.12(c)(3)(i) (requiring performance disclosure for substantially similar accounts and pools) will be required when filing the first post-effective annual updating amendment to a registration statement (for open-end RICs), or the first updated registration statement (for closed-end RICs), to be filed on or after November 22, 2013.

prescribes similar specific and detailed disclosures that must be included in a CTA's disclosure document).³ A CPO disclosure document must contain the following information:

- A standard cautionary statement.
- A risk disclosure statement.
- A description of the CPO and its principals and their business backgrounds.
- Descriptions of the CPO's trading manager, futures commission merchant (FCM), introducing broker, FX counterparties and CTA(s) and their business backgrounds.
- The percentage allocation of commodity pool assets invested in any major investee pool.
- The principal risk factors.
- A description of the fees and expenses incurred by the commodity pool.
- A break-even analysis.
- A description of any conflicts of interest, including conflicts of interest involving the CPO, the CPO's trading manager, any major CTA, the CPO of any major investee pool or any principal of the foregoing, as well as any other person providing services to the commodity pool or soliciting participants for the commodity pool or acting as a counterparty to the commodity pool's retail FX transactions.
- A description of any related party transactions.
- A description of any material litigations (within the last five years).
- A description of any restrictions on the transferability of a participant's interest in the commodity pool and the frequency, timing and manner of redemptions.
- Other miscellaneous information, including descriptions of (1) trading for own accounts, (2) principal protection features (if any), (3) liability of commodity pool participants, (4) distribution of profits and taxation, (5) minimum and maximum subscriptions necessary to commence trading and maximum subscriptions that may be contributed to the commodity pool, and (6) ownership in the commodity pool.
- Certain performance disclosures.
- Any other information that would be material to existing or prospective commodity pool participants.

The following is a brief discussion of the more significant disclosure requirements, as well as those affected by the recent harmonization rules:

Standard Cautionary Statement. CFTC Regulation 4.24(a) requires a CPO to prominently display on the cover page of the commodity pool's disclosure document a standard cautionary statement noting that the CFTC has not passed upon the merits of participating in the commodity pool or assessed the adequacy of the disclosure

³ Disclosure documents for commodity pools also must comply with NFA Compliance Rule 2-35.

document. The harmonization rules provide that, because this statement performs a similar function to the cautionary statement required by the SEC under Rule 481(b)(1) of the Securities Act of 1933, as amended (the “1933 Act”), a CPO of a RIC may comply with the requirements as set out in Rule 481(b)(1), provided that the CFTC is mentioned together with the SEC in such cautionary statement. The two acceptable forms of this statement are as follows:

- “The Securities and Exchange Commission and the Commodity Futures Trading Commission have not approved or disapproved these securities or passed upon the adequacy of this prospectus. Any representation to the contrary is a criminal offense.”
- “The Securities and Exchange Commission and the Commodity Futures Trading Commission have not approved or disapproved these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.”

Risk Disclosure Statement. CFTC Regulation 4.24(b)(1) requires a CPO to include in the commodity pool’s disclosure document a standard risk disclosure statement relating to the general risks of investing in a commodity pool and in commodity interests. This standard disclosure is provided in the text of the Regulation.⁴ The harmonization rules allow the CPO of a RIC to substitute compliance with SEC requirements for risk disclosure for compliance with the CFTC Regulation 4.24(b)(1) risk disclosure statement.

Disclosure of Principal Risk Factors. CFTC Regulation 4.24(g) requires a CPO to disclose in the commodity pool’s disclosure document the principal risk factors applicable to the commodity pool. This discussion must include, without limitation, the risks relating to volatility, leverage, liquidity and counterparty creditworthiness, as applicable to the types of trading programs to be followed, trading structures to be employed and investment activity (including retail FX transactions) expected to be engaged in by the offered commodity pool. The CPO should also examine all aspects of participation in the offered commodity pool that may require disclosure of additional risk factors such as day trading, electronic trading issues, concentration risk, the use of options, the use of stops, FX risk, structured futures products (SFPs), forwards, exchange of futures for physicals (EFPs), etc.

On the basis that a RIC is required to disclose its principal risk factors under Form N-1A (for open-end investment companies) or Form N-2 (for closed-end investment companies), a CPO of a RIC may substitute compliance with the risk disclosure requirements of Form N-1A or N-2, as applicable, including any applicable SEC guidance, for

⁴ For example, if the commodity pool trades commodity interests, the following risk disclosure statement is required:

“YOU SHOULD CAREFULLY CONSIDER WHETHER YOUR FINANCIAL CONDITION PERMITS YOU TO PARTICIPATE IN A COMMODITY POOL. IN SO DOING, YOU SHOULD BE AWARE THAT COMMODITY INTEREST TRADING CAN QUICKLY LEAD TO LARGE LOSSES AS WELL AS GAINS. SUCH TRADING LOSSES CAN SHARPLY REDUCE THE NET ASSET VALUE OF THE POOL AND CONSEQUENTLY THE VALUE OF YOUR INTEREST IN THE POOL. IN ADDITION, RESTRICTIONS ON REDEMPTIONS MAY AFFECT YOUR ABILITY TO WITHDRAW YOUR PARTICIPATION IN THE POOL.

FURTHER, COMMODITY POOLS MAY BE SUBJECT TO SUBSTANTIAL CHARGES FOR MANAGEMENT, AND ADVISORY AND BROKERAGE FEES. IT MAY BE NECESSARY FOR THOSE POOLS THAT ARE SUBJECT TO THESE CHARGES TO MAKE SUBSTANTIAL TRADING PROFITS TO AVOID DEPLETION OR EXHAUSTION OF THEIR ASSETS. THIS DISCLOSURE DOCUMENT CONTAINS A COMPLETE DESCRIPTION OF EACH EXPENSE TO BE CHARGED THIS POOL AT PAGE (INSERT PAGE NUMBER) AND A STATEMENT OF THE PERCENTAGE RETURN NECESSARY TO BREAK EVEN, THAT IS, TO RECOVER THE AMOUNT OF YOUR INITIAL INVESTMENT, AT PAGE (INSERT PAGE NUMBER).

THIS BRIEF STATEMENT CANNOT DISCLOSE ALL THE RISKS AND OTHER FACTORS NECESSARY TO EVALUATE YOUR PARTICIPATION IN THIS COMMODITY POOL. THEREFORE, BEFORE YOU DECIDE TO PARTICIPATE IN THIS COMMODITY POOL, YOU SHOULD CAREFULLY STUDY THIS DISCLOSURE DOCUMENT, INCLUDING A DESCRIPTION OF THE PRINCIPAL RISK FACTORS OF THIS INVESTMENT, AT PAGE (insert page number).”

compliance with CFTC Regulation 4.24(g). The Guidance Update reiterates past SEC guidance on the disclosure of risks associated with investments in derivatives, including commodity interests, and indicates that disclosure of a RIC's principal risks should be specifically tailored to the use of derivatives by the RIC, taking into account the type and extent of derivatives used as well as the purpose for using derivatives. The staff of the SEC's Division of Investment Management (the "Staff") expects RICs that use derivatives to address the associated risks (such as volatility, leverage, liquidity and counterparty risk) in their disclosure documents, where such risks are material to investors. Risks associated with investment strategies that are not principal strategies also should be disclosed in a RIC's statement of additional information.

Break-Even Point. A CPO is required by CFTC Regulation 4.24(d)(5) to commodity pool's disclose to prospective commodity pool participants the "break-even point" for the commodity pool. The disclosure must be presented in tabular format and present a calculation of the commodity pool's break-even point or the amount of trading income required for the commodity pool's net asset value ("NAV") per unit at the end of one year to equal the selling price per unit. The harmonization rules permit substituted compliance with SEC requirements for fee disclosures under Forms N-1A and N-2, as applicable, in lieu of compliance with CFTC Regulation 4.24(d)(5).

Fee Disclosure. CFTC Regulation 4.24(i) requires a CPO to provide in the commodity pool's disclosure document a complete description of each fee, commission and other expense that the CPO knows has been incurred (for the preceding fiscal year) or expects to be incurred (for the current fiscal year). Among the specific fees that must be described are the following: (1) management fees, (2) brokerage fees and commissions, (3) fees and commissions paid in connection with trading advice, (4) fees and expenses incurred with investments in investee pools, (5) incentive fees, (6) any CPO allocations, (7) commissions paid in connection with solicitation of pool participants, (8) professional and general administrative fees and expense, (9) organizational and offering expenses, (10) clearance fees and fees paid to national exchanges and self-regulatory organizations (SROs), (11) any direct or indirect costs associated with providing principal protection (if applicable), (12) any costs or fees included in the bid-ask spread for retail FX transactions, and (13) any other direct or indirect costs. The harmonization rules permit substituted compliance with SEC requirements for fee disclosures under Forms N-1A and N-2, as applicable, in lieu of compliance with CFTC Regulation 4.24(i).

Past Performance Disclosure. CFTC Regulations 4.24(n) and 4.25 contain detailed requirements for CPOs regarding the disclosure of past performance of a commodity pool and of each other commodity pool or account managed by the CPO (CFTC Regulation 4.35 contains similar detailed requirements for CTAs). All performance information included in the CPO's disclosure document must be current as of a date not more than three months preceding the date of the document. All required performance information must be presented for the most recent five calendar years and year-to-date rates of return ("RORs") for the life of the commodity pool if in existence less than five years. If the commodity pool has at least a three-year operating history and at least 75% of the contributions to the commodity pool were made by persons unaffiliated with the commodity pool's CPO, CTA or trading manager, the performance of the commodity pool is all that is required to be disclosed in the document. If the commodity pool has less than a three-year operating history, then the CPO's disclosure document must include the following performance information:

- *The performance of the offered commodity pool.* The performance of the commodity pool must include monthly RORs for the five most recent calendar years and year to date, either in a numerical table or in a bar graph, and annual and year-to date RORs for the same time period. The disclosure of the past performance of the commodity pool must also include the following additional information:
 - The name of the commodity pool.
 - A statement as to whether the commodity pool is privately offered, a multi-advisor pool or a principal protected commodity pool.
 - The date of inception of trading.

- The aggregate gross capital subscriptions to the commodity pool.
 - The commodity pool's current NAV.
 - The largest monthly draw-down during the most recent five calendar years and year-to-date, expressed as a percentage of the commodity pool's NAV and the month and year of the draw-down.
 - A definition of the term draw-down.
 - The worst peak-to-valley draw-down during the most recent five calendar years and year-to-date, expressed as a percentage of the commodity pool's NAV, as well as the period the draw-down occurred (the period begins with the peak month and year and ends with the valley month and year).
 - The following statement prominently displayed: **"PAST PERFORMANCE IS NOT NECESSARILY INDICATIVE OF FUTURE RESULTS."**
- *The performance of each other pool operated or account traded by the CPO (and by the trading manager if the offered pool has a trading manager).* If the CPO or the trading manager has not operated any commodity pool for at least three years, the CPO's disclosure document must disclose the performance of each other commodity pool operated or account traded by the trading principals of the CPO (and the trading manager, if applicable). If neither the CPO or trading manager (if any), nor any of the principals thereof, has operated any other commodity pools or traded any other accounts, the CPO's disclosure document must include the following statement prominently displayed: **"NEITHER THIS POOL OPERATOR (TRADING MANAGER, IF APPLICABLE) NOR ANY OF ITS TRADING PRINCIPALS HAS PREVIOUSLY OPERATED ANY OTHER POOLS OR TRADED ANY OTHER ACCOUNTS."** If the CPO or trading manager is a sole proprietorship, reference to its trading principals may be deleted from the above statement.
 - *The performance of any accounts (including pools) directed by each major CTA.* If a major CTA has not previously traded accounts, the CPO's disclosure document must include the following statement prominently displayed: **"(name of the major commodity trading advisor), A COMMODITY TRADING ADVISOR THAT HAS DISCRETIONARY TRADING AUTHORITY OVER (percentage of the pool's funds available for commodity interest trading allocated to that trading advisor) PERCENT OF THE POOL'S COMMODITY INTEREST TRADING HAS NOT PREVIOUSLY DIRECTED ANY ACCOUNTS."**
 - *The performance of any major investee pool.* If the major investee pool has not commenced trading, the CPO's disclosure document must include the following statement prominently displayed: **"(name of the major investee pool), AN INVESTEE POOL THAT IS ALLOCATED (percentage of the pool assets allocated to that investee pool) PERCENT OF THE POOL'S ASSETS HAS NOT COMMENCED TRADING."**
 - *A summary description of the performance history of all other CTAs and investee pools not required above.* This description must include monthly return parameters (highs and lows), historical volatility and degree of leverage, and any material differences between the performance of such advisors and commodity pools as compared to that of the offered commodity pool's major trading advisors and major investee pools.

A CPO may also choose to also include its disclosure document (1) proprietary trading results,⁵ (2) hypothetical performance information and (3) extracted performance information.⁶ The NFA generally discourages the use of hypothetical performance results. If proprietary trading results are included, they must be clearly labeled as proprietary and set forth separately after all required and non-required disclosures, together with a discussion of any differences between such performance and the performance of the commodity pool, including, but not limited to, differences in costs, leverage and trading methodology. The use of extracted performance results is permitted only when a CPO's prior disclosure document designated the percentage of assets which would be committed toward that particular component of the overall trading program.

Notwithstanding the above, the recent harmonization rules generally provide for substituted compliance with applicable SEC requirements, in particular Forms N-1A and N-2, as applicable. However, under new CFTC Regulation 4.12(c)(3)(i), a CPO of a RIC that has less than three years of operating history must include in the CPO's disclosure document the past performance of each commodity pool or account operated by the CPO that has substantially similar investment objectives, policies and strategies as the RIC.

The Guidance Update reiterates the Staff's view that, while not required by Form N-1A or Form N-2, as applicable, it is permissible to include such past performance disclosure in a RIC's prospectus for funds and accounts that have substantially similar investment objectives, policies and strategies to the offered fund. However, such past performance disclosure must not be presented in a misleading manner and must not impair an understanding of the disclosure required by Form N-1A or Form N-2, as applicable, including an understanding of the offered fund's own past performance. RICs that include past performance information for other funds or accounts must do so for all funds or accounts that are substantially similar to the offered fund. However, the performance of other funds or accounts with substantially similar investment objectives, policies and strategies should not be excluded if such exclusion would result in materially higher or more favorable performance disclosure. Furthermore, RICs should only exclude the past performance disclosure of funds or accounts with substantially similar investment objectives, policies and strategies should not be excluded if such exclusion would result in materially higher or more favorable performance disclosure. Finally, RICs should only exclude the past performance disclosure of funds or accounts with substantially similar investment objectives, policies and strategies where such exclusion would not cause the performance disclosure to be materially misleading.

For more information regarding the contents of disclosure documents for CPOs and CTAs, including the presentation of past performance data, *see generally* the NFA's "Disclosure Documents: A Guide for CPOs and CTAs," available at www.nfa.futures.org/NFA-compliance/publication-library/disclosure-document-guide.pdf.

Advertising Rules

CFTC Rules on Advertising. Although there are specific CFTC requirements regarding the contents of CPO and CTA disclosure documents, the CFTC has not set forth specific requirements for advertising materials. CFTC Regulation 4.41, which covers advertising by CPOs, CTAs and the principals thereof, is a general anti-fraud rule and applies to any publication, distribution or broadcast of any report, letter, circular, memorandum, publication, writing, advertisement or other literature or advice, whether by electronic media or otherwise, including information provided via internet or e-mail, the texts of standardized oral presentations and of radio, television, seminar or similar mass media presentations. CFTC Regulation 4.41 also applies whether or not the CPO or CTA is exempt from registration under the 1940 Act.

⁵ Proprietary trading results are the performance results of any commodity pool or account in which 50% or more of the beneficial interest is owned or controlled by (1) the CTA or any principal thereof, (2) an affiliate or family member of the CTA or (3) any person providing services to the account.

⁶ Extracted performance results are the performance results of one selected component of the commodity pool's overall past trading results.

CFTC Regulation 4.41 specifically states that no CPO, CTA or any principal thereof may advertise in a manner which:

- employs any device, scheme or artifice to defraud any participant or client or prospective participant or client;
- involves any transaction, practice or course of business which operates as a fraud or deceit upon any participant or client or any prospective participant or client; or
- refers to any testimonial, unless the advertisement or sales literature providing the testimonial prominently discloses:
 - that the testimonial may not be representative of the experience of other clients;
 - that the testimonial is no guarantee of future performance or success; and
 - if, more than a nominal sum is paid, the fact that it is a paid testimonial.

In addition, the advertising materials presenting the performance of any simulated or hypothetical commodity interest account, transaction in a commodity interest or series of transactions in a commodity interest of a CPO, CTA or any principal thereof, must include a disclaimer.⁷

NFA Rules on Advertising. NFA Compliance Rule 2-29 and various NFA interpretive notices govern communications by NFA members with the public and promotional materials and apply to CPOs and CTAs. NFA Compliance Rule 2-29 prohibits fraudulent advertising by CPOs and their principals, and places restrictions on the use of testimonials and simulated or hypothetical trading results. NFA Compliance Rule 2-29 sets forth general rules regarding communications with the public, specific prohibitions and requirements regarding the content of promotional material, restrictions and guidelines, including disclaimers, with respect to the use of hypothetical performance, supervisory procedures and recordkeeping requirements, and review and approval requirements for radio and television advertisements.⁸

CPOs are prohibited from making fraudulent or deceptive communications with the public, employing high-pressure sales tactics or making statements to the effect that futures trading is appropriate for all investors. Further, the NFA guidelines generally prohibit the use of promotional material that: (1) is likely to deceive the

⁷ The disclaimer must be prominently displayed in immediate proximity to the simulated or hypothetical performance and must contain the following language:

“THESE RESULTS ARE BASED ON SIMULATED OR HYPOTHETICAL PERFORMANCE RESULTS THAT HAVE CERTAIN INHERENT LIMITATIONS. UNLIKE THE RESULTS SHOWN IN AN ACTUAL PERFORMANCE RECORD, THESE RESULTS DO NOT REPRESENT ACTUAL TRADING. ALSO, BECAUSE THESE TRADES HAVE NOT ACTUALLY BEEN EXECUTED, THESE RESULTS MAY HAVE UNDER-OR OVER-COMPENSATED FOR THE IMPACT, IF ANY, OF CERTAIN MARKET FACTORS, SUCH AS LACK OF LIQUIDITY. SIMULATED OR HYPOTHETICAL TRADING PROGRAMS IN GENERAL ARE ALSO SUBJECT TO THE FACT THAT THEY ARE DESIGNED WITH THE BENEFIT OF HINDSIGHT. NO REPRESENTATION IS BEING MADE THAT ANY ACCOUNT WILL OR IS LIKELY TO ACHIEVE PROFITS OR LOSSES SIMILAR TO THESE BEING SHOWN.”

⁸ For purposes of NFA Compliance Rule 2-29, “promotional material” includes: (1) any text of a standardized oral presentation, or any communication for publication in any newspaper, magazine, or similar medium, or for broadcast over television, radio, or other electronic medium, which is disseminated or directed to the public concerning a futures account, agreement or transaction; (2) any standardized form of report, letter, circular, memorandum, or publication which is disseminated or directed to the public; and (3) any other written material disseminated or directed to the public for the purpose of soliciting a futures account, agreement, or transaction. In addition, a futures account, agreement or transaction also includes commodity pool participations.

public; (2) contains any material misstatement of fact; (3) mentions the possibility of profit unless accompanied by an equally prominent statement regarding the risk of loss; (4) includes a reference to past trading profits without mentioning that past results are not necessarily indicative of future results; (5) includes numerical or statistical information unless it can be demonstrated to the NFA to be representative of the actual performance for the same time period of all reasonably comparable accounts and, in the case of ROR figures, such figures are calculated in a manner consistent with CFTC and NFA rules; or (6) includes a testimonial that is not representative of all reasonably comparable accounts, does not prominently state that the testimonial is not indicative of future performance or success, and does not prominently state that it is a paid testimonial (if it is). CPO marketing materials that include hypothetical results also must contain certain disclaimers set forth in NFA Compliance Rule 2-29. However, under NFA Compliance Rule 2-29(c), restrictions and requirements on the use of hypothetical trading results do not apply to promotional material directed exclusively to persons who meet the standards of a "Qualified Eligible Person" (QEP) as defined under CFTC Regulation 4.7(a). In addition, any radio and television advertising, or other audio or video advertisement distributed through media accessible by the public that makes a specific trading recommendation or refers to or describes the extent of any profit obtained in the past or that can be achieved in the future, must be submitted to the NFA's Promotional Material Review Team for its review at least 10 days prior to its first use, or a shorter period if allowed by the NFA.

NFA Compliance Rule 2-29 also requires NFA members to adopt and enforce written procedures for the supervision of an NFA member's employees relating to compliance with the rule. Prior to first use, all promotional material must be reviewed and approved, in writing, by an officer, general partner, sole proprietor, branch office manager or other supervisory employee, other than the individual who prepared such material (unless prepared by the only individual qualified for the review and approval). The NFA Staff also will voluntarily review promotional material if submitted for review. In addition, CPOs are required to maintain copies of all promotional materials along with a record of the approval and supporting data for any performance information presented, and these materials must be maintained for a period of five years and in a readily accessible location for two of those five years.

The Investment Company Institute, in a letter dated December 28, 2012 (the "ICI Letter"), confirmed with the NFA that compliance with applicable SEC requirements will be deemed to constitute compliance with the NFA Compliance Rule 2-29, relating specifically to: (1) the calculation of ROR figures; (2) disclaimers accompanying hypothetical results; (3) the identification of statements of opinion; (4) the review of certain radio and television advertisements; (5) promotional material relating to security futures products; and (6) procedures for the approval and supervision of promotional material. However, compliance with the more general anti-fraud provisions of NFA Compliance Rule 2-29 still applies. The ICI Letter also confirmed that, pending further NFA review, the NFA will deem compliance by a fund's principal underwriter or another broker-dealer with the review, approval, filing, recordkeeping and supervision requirements of the Financial Industry Regulatory Authority (FINRA) with respect to fund promotional materials to satisfy a fund CPO's or CTA's obligations under NFA Compliance Rules 2-9 and 2-29 and related interpretive notices.

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