

>>>>FAIRVIEW FLASH REPORT: CHANGES TO CFTC RULES<<<<<

WHAT HAPPENED?	<ul style="list-style-type: none"> On February 9, the Commodity Futures Trading Commission (CFTC) adopted by a vote of 4 to 1 final rules amending its Part 4 regulations governing commodity pool operators (CPOs) and commodity trading advisors (CTAs).
WHAT IS CHANGING?	<ul style="list-style-type: none"> Rescind the exemption from CPO registration under CFTC Rule 4.13(a)(4) for CPOs of commodity pools offered solely to certain qualified eligible persons and institutional investors; Adopt additional reporting obligations for registered CPOs and CTAs and new Forms CPO-PQR and CTA-PR under CFTC Rule 4.27; Require the provision of certified, audited annual financial statements by registered CPOs relying upon the reporting relief provided under CFTC Rule 4.7; Require additional risk disclosures regarding swap transactions in CPO/CTA disclosure documents that are required to be provided by registered CPOs and CTAs that are not relying on the disclosure exemptions provided by CFTC Rule 4.7; Require annual affirmation of eligibility for exemptions and exclusions from CPO and CTA registration; and Add limitations on futures and swaps trading by registered investment companies relying upon the exclusion from CPO registration set forth in CFTC Rule 4.5. (A second Client Advisory addressing the changes to Rule 4.5 will be published separately.) <p>The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”) amended the Commodity Exchange Act (the “CEA”) to define a commodity pool as “any investment trust, syndicate, or similar form of enterprise operated for the purpose of trading in commodity interests, including any...commodity for future delivery, security futures product, or swap.”</p>
WHAT YOU MAY NEED TO DO	<ul style="list-style-type: none"> If you manage a pooled product that may invest 5% or more in “commodity interests”, we would suggest you contact your attorney or Fairview to discuss the possible effect that these regulations may have on your firm.