



## Financial Services & Products ADVISORY ■

**AUGUST 14, 2013**

### CFTC Adopts Harmonization Rules for Registered Investment Companies

Yesterday, the Commodity Futures Trading Commission (CFTC) issued a final rule ("Final Rule") with respect to certain compliance obligations for commodity pool operators (CPOs) of investment companies registered under the Investment Company Act of 1940, as amended. Additionally, certain aspects of the Final Rule will impact all CPOs and commodity trading advisors (CTAs).

The primary changes for those affected are as follows:

**For CPOs of registered investment companies:** If operators of registered investment companies satisfy all applicable SEC rules for registered investment companies, they will not be required to make many of the disclosures traditionally required of commodity pools and, as such, will be deemed to be in compliance with the CFTC's rules regarding:

- delivery of disclosure documents and account statements;
- information required to be included in disclosure documents, including performance disclosures (although the CPO of a registered investment company must file a notice with the National Futures Association claiming such relief, and CPOs of registered investment companies with less than a three-year operating history will be required to disclose the performance of all accounts and pools that are managed by the CPO and that have investment objectives, policies and strategies substantially similar to those of the offered registered investment company); and
- the amendment and filing of disclosure documents.

**For all CPOs and CTAs:**

- All CPOs will be permitted to use third-party service providers to maintain books and records.
- CPOs will no longer be required to obtain a signed acknowledgment of receipt of a disclosure document from each prospective participant.
- CPOs and CTAs will be required to update their disclosure documents on an annual basis rather than every nine months.

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The amendments to the CFTC rules applicable to CPOs of registered investment companies relating to account statement distribution and books and records, and the amendments to the CFTC regulations applicable to all CPOs and CTAs relating to delivery of disclosure documents, will become effective upon publication in the Federal Register.

All other provisions of the Final Rule will become effective 30 days following publication in the Federal Register.

Also, CPOs of registered investment companies must comply with CFTC Rule 4.27 (regarding the filing of Form CPO-PQR) on or before the date that is 60 days after publication in the Federal Register.

We expect to release a more detailed advisory regarding the Final Rule in the near future.

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