

**CPO/CTA ALERT: ELECTRONIC FILING REQUIREMENTS
FOR CPO AND CTA NOTICES****I. New Electronic Filing Requirements**

The Commodity Futures Trading Commission has adopted rule amendments that will require commodity pool operators and commodity trading advisors to file electronically certain claims of exemption or exclusion from Commodity Exchange Act requirements. The new electronic filing requirement will apply to claims of exemption filed by CPOs under CFTC Rules 4.13¹ and 4.7, claims of exclusion filed under CFTC Rule 4.5² and other “Part 4” claims of exemption (collectively, “Exemption Notices”) filed on or after February 15, 2007.

Exemption Notices will be submitted through the National Futures Association’s electronic exemption filing system. Filers will be able to access the system through NFA’s website.³ Manually signed (original) filings will no longer be required. Registered CPOs and CTAs with access to NFA’s Online Registration System will be able to access the electronic filing system through their regular online login procedures. CPOs and CTAs that are exempt from registration will be able to access the electronic filing system through an alternative process which is being developed by NFA. NFA will provide further details concerning the electronic filing system in the coming weeks. The system will allow users to select the relevant Exemption Notice to be filed and will require users to complete an application form. The filer will be able to print a copy of the completed Exemption Notice for its records. A person duly authorized to bind the CPO or CTA must submit the filing. The new requirement will apply to notices filed pursuant to CFTC Rules 4.5, 4.7, 4.12(b), 4.13 and 4.14(a)(8).

In addition, the CFTC has amended the investor notification requirements in each of the above referenced rules, with the exception of Rule 4.5. A CPO or CTA will now be permitted to notify investors by e-mail or fax (rather than in paper form) that it has filed a claim of exemption, provided that the CPO or CTA has established a method to deliver such notices electronically to investors. The investor notification requirements in Rule 4.5 remain unchanged. Thus, the disclosure required by Rule 4.5 may be included in any document required by another regulator to be furnished to investors. If no such document is required to be furnished, the disclosure may be contained in an instrument establishing the entity’s investment policies and objectives that is required to be made available to investors.

¹ Commodity pool operators of hedge funds frequently claim exemption from registration as CPOs under CFTC Rule 4.13(a)(3) or 4.13(a)(4).

² Investment companies that are registered under the Investment Company Act of 1940 and trade futures contracts usually file a claim of exclusion pursuant to CFTC Rule 4.5.

³ <http://www.nfa.futures.org>

II. CFTC Advisory 18-96

The CFTC considered and decided against eliminating its Advisory 18-96 on a prospective basis. Advisory 18-96 permits registered CPOs to claim exemption from otherwise applicable disclosure, reporting and recordkeeping requirements with respect to pools offered only to non-U.S. persons. The relief available to CPOs under Advisory 18-96 is similar, but not identical, to that available to CPOs under Rule 4.13(a)(4). Registered CPOs may continue to claim relief under Advisory 18-96 by filing a paper notice with NFA.

If you have any questions regarding the new electronic filing requirements or the filing of CFTC Exemption Notices, please contact Emily M. Zeigler (212-728-8284, ezeigler@willkie.com), Rita M. Molesworth (212-728-8727, rmolesworth@willkie.com), Deborah A. Tuchman (212-728-8491, dtuchman@willkie.com), Gabriel Acri (212-728-8833, gacri@willkie.com) or the attorney with whom you regularly work.

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