

## CLIENT MEMORANDUM

# CFTC Responds to Additional Questions on Form CPO-PQR

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## AUTHORS

Rita M. Molesworth | Deborah A. Tuchman | James E. Lippert | Ross S. Weinstein

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The staff of the Commodity Futures Trading Commission recently responded to a letter submitted by certain industry groups regarding CFTC Form CPO-PQR. The letter requested that the staff reconsider or provide relief from certain positions it had articulated in its November 2015 publication responding to frequently asked questions regarding Form CPO-PQR (the “FAQ”).

### **Parallel Managed Accounts**

The industry groups requested that the staff revise its position with respect to the treatment of parallel managed accounts.<sup>1</sup> In the instructions to Form CPO-PQR and in the FAQ, the CFTC and its staff, respectively, provided that with respect to certain questions on Form CPO-PQR, a CPO must aggregate a parallel managed account with the largest pool to which the parallel managed account relates. While the staff declined to revise its position, the staff did provide exemptive relief from its position until the reporting period ending December 31, 2016. CFTC staff believes that this additional time will give all CPOs sufficient time to become compliant with this requirement.

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<sup>1</sup> A “parallel managed account” is generally any managed account or other pool of assets that is operated by a CPO and that pursues substantially the same investment objective and strategy as a commodity pool operated by the CPO.

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Continued

### Monthly Rates of Return

The industry groups also requested that the staff reconsider its statement requiring a CPO to enter monthly rates of return on Form CPO-PQR. The staff declined to revise its position. The staff stated that to the extent that a pool operated by a CPO holds hard-to-value assets that make calculating monthly rates of return challenging, such CPO should report monthly rates of return based on estimates prepared using “reasonable methodologies.”<sup>2</sup> The staff also stated that the FAQ is not being applied on a retroactive basis. Thus, the staff does not expect a CPO to recalculate rates of return and amend prior submissions, or to populate future submissions with recalculated rates of return, so long as the previously reported rates of return were based on a reasonable interpretation of the requirements of Form CPO-PQR.

### Spot Currency Transactions

The staff also clarified that the reference to spot currency transactions in the FAQ was provided only to clarify where these transactions should be reported on Form CPO-PQR, not to outline an exclusive or limiting definition of spot currency transactions.

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If you have any questions concerning the foregoing or would like further information, please contact Rita M. Molesworth (212-728-8727, rmolesworth@willkie.com), Deborah A. Tuchman (212-728-8491, dtuchman@willkie.com), James E. Lippert (212-728-8945, jlippert@willkie.com), Ross S. Weinstein (212-728-8932, rweinstein@willkie.com) or the Willkie attorney with whom you regularly work.

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<sup>2</sup> A “reasonable methodology” must result in estimated rates that are reasonably consistent with rates of return that would be calculated if all assets and positions were revalued at prevailing market values.