

CFTC Eliminates Rule 4.13(a)(4) Exemption From Registration

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The U.S. Commodity Futures Trading Commission (the “CFTC”) has adopted a final rule that rescinds the exemption from registration as a commodity pool operator currently available under CFTC Rule 4.13(a)(4). Rule 4.13(a)(4) currently exempts a commodity pool operator from registration if all investors in the fund are (i) natural persons that are “qualified eligible persons” as defined under CFTC Rule 4.7(a)(2) (these are generally natural persons that meet the qualified purchaser standard) and (ii) entities that are “qualified eligible persons” or accredited investors. Rule 4.13(a)(4) imposed no limits on the amount of futures trading that could be conducted, and was commonly relied on by many managers of hedge funds and funds of funds. Some managers may still be able to qualify for the CFTC’s “limited trading” exemption from registration, however.

The new rule, which is not yet available, will become effective 60 days after publication in the Federal Register. The date by which registration will be required as a result of this change in rules is unclear given that the rule itself is not yet available, but it is anticipated that a reasonable transition window will be provided by the CFTC.

Additional information will follow once available.