

CFTC Part 4 Exemption Easy Reference Guide

			Easy Reference Guide to CFTC Part 4 Exemptions				
NOTE: Although this guide is intended to offer useful and practical information, CFTC Regulations set forth the requirements to be followed when seeking an exemption from CPO registration. Should information in this guide be inconsistent with some provision in the Regulations, which could occur due to the guide's summary nature, it is the CFTC Regulation that is the final word.							
						NEW	
Exemption Type	4.5	4.7	4.12	4.13(a)(1)	4.13(a)(2)	4.13(a)(3)	4.13(a)(4)
	Entities otherwise regulated	Registered CPO with QEPs - "The Lite Touch"	Securities Pool	Closely Held Pool	Small Pool	Deminimus Rule	All QEPs
CPO Reg'd	No	Yes	Yes	No	No	No	No
General Relief	Definitional exclusion from CPO registration if person is already regulated by another regulatory authority.	Registered CPO is provided relief from certain financial reporting and disclosure document requirements for pools with all QEPs	Registered CPO is provided relief from specific requirements if less than 10% of the pool's assets invested in futures.	Exemption provides relief from CPO registration	Exemption provides relief from CPO registration	Exemption from CPO registration in cases where the pool trades minimal amount of futures	Exemption provides relief from CPO registration for pools with all QEPs
Who qualifies	An investment company registered under the Investment Company Act of 1940	All pool participants in the pool must meet definition in CFTC Regulation 4.7 of "qualified eligible person"	Pool offered pursuant to Securities Act of 1933 or related exemption	Person operates only one pool at any time	Total gross capital contributions in all pools operated or intended to be operated do not in the aggregate exceed \$400,000; and	Participation restricted to accredited investors, a trust formed by an accredited investor for the benefit of a family member, and QEPs as defined below	Private placement pools exempt under the Securities Act of 1933
	A insurance company subject to regulation by any state		Pool routinely engages in securities business	Operator does not receive any type of compensation	None of the pools operated has more than 15 participants	Natural persons are QEPs under 4.7(a)(2)	Natural persons are QEPs under 4.7(a)(2)
	A bank, trust company or any other such financial depository institution subject to US regulation		Futures trading is incidental to securities trading activities	Operator does not advertise in connection with the pool		Non-natural persons are QEPs under 4.7	Non-natural persons are QEPs or "accredited investors"
	A trustee of a named fiduciary or an employer maintaining a pension plan that is subject to ERISA		Futures trading limited to 10% of pool's assets	Operator is not otherwise required to be registered with the CFTC			
Of note:	No marketing or trading restrictions	CPO registration may no longer be required, see 4.13(a)(3) and (a)(4)			<u>Persons excluded from 15 participants and \$400,000:</u>	Pool meets one of the following two tests with respect to its commodity interest positions	Cannot claim this exemption if natural person participants only meet the criteria of a QEP as defined in 4.7(a)(3) -- the portfolio requirement
					The pool's operator, CTA, principals and any of their children, siblings or parents. The spouse of any of these persons.	1. The aggregate initial margin and premiums does not exceed 5% of the liquidation value of the pool's portfolio	
					Any relative of pool operator, CTA and principals including a relative of a spouse who has the same principal residence.	2. The aggregate net notional value of positions does not exceed 100% of the liquidation value of the pool's portfolio	
Notice of Eligibility must include:	Name of person filing notice	Name, main business address, main business telephone number, NFA ID # of CPO claiming the exemption	Name, main business address, main business telephone number of CPO claiming the exemption	Name, main business address, main business telephone, main FAX number and main email address of person claiming exemption	Name, main business address, main business telephone, main FAX number and main email address of person claiming exemption	Name, main business address, main business telephone, main FAX number and main email address of person claiming exemption	Name, main business address, main business telephone, main FAX number and main email address of person claiming exemption

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	Reference to subparagraph to which person is claiming exclusion (4.5 (a) (1), (2), (3) or (4))	Name of the pool(s) for which the request is made	Name of pool for which exemption is being claimed	Name of pool for which exemption is being claimed	Name of pool for which exemption is being claimed	Name of pool for which exemption is being claimed	Name of pool for which exemption is being claimed
Notice of Eligibility (cont'd):	Name of the qualifying entity (Fund) that the CPO intends to operate pursuant to exclusion	The notice must specify the relief is claimed under 4.7	Contain representations that the pool will be operated in compliance with 4.12(b)(1)(i ) and the pool operator will comply with the requirements of 4.12(b)(1)(ii)	Section pursuant the pool operator is claiming exemption [4.13(a)(1), (a)(2), (a)(3), or (a)(4)]	Section pursuant the pool operator is claiming exemption [4.13(a)(1), (a)(2), (a)(3), or (a)(4)]	Section pursuant the pool operator is claiming exemption [4.13(a)(1), (a)(2), (a)(3), or (a)(4)]	Section pursuant the pool operator is claiming exemption [4.13(a)(1), (a)(2), (a)(3), or (a)(4)]
	Reference to subparagraph pursuant which the qualifying entity (Fund) is being operating ( 4.5(b)(1), (2), (3), or (4))	The notice must contain the following representation: Neither the CPO nor any of its principals is subject to any statutory disqualification under section 8a(2) or 8a(3) of the Act; <b>and</b>	Specify the relief sought under 4.12(b)(2)				
	The notice must state that the person filing the notice will disclose to each participant, whether existing or prospective, that the qualifying entity (Fund) is operated by a person who has claimed an exclusion from the definition of the term "commodity pool operator" under the Act and , therefore, who is not subject to registration or regulation as a pool operator und the Act; Provided, that such disclosure is made in accordance with the requirements of any other federal or state regulatory authority to which the qualifying entity is subject; <b>and</b>	The CPO will comply with the applicable requirements of 4.7; and the notice must state that the exempt pool will be offered and operated in compliance with the requirements of 4.7. Also, the notice must state the closing date of the pool offering or that the offering will be continuous.					
	The notice must state that the person filing the notice will submit to special calls as to the Commission may make to require the qualifying enty to demonstrate compliance with the provisions of 4.5 (c ).						