U.S. COMMODITY FUTURES TRADING COMMISSION
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CFTC Staff No-Action Letter
Market Participants Division

RE: No-Action Position for Commodity Pool Operator Registration for Certain Investment Managers to Qualified Eligible Persons[1]

Ladies and Gentlemen:

This letter is in response to a request from the Managed Funds Association ("**MFA**") dated December 17, 2025, to the Market Participants Division ("**Division**" or "**MPD**") of the Commodity Futures Trading Commission ("**Commission**" or "**CFTC**"), as supplemented by additional communications with MPD staff (the "**Correspondence**"). In the Correspondence, MFA requests that MPD issue a no-action position pursuant to 140.99(a)(1),[2] on behalf of its members (the "**Members**") that are primarily private fund managers that are currently registered commodity pool operators ("**CPOs**") and commodity trading advisors ("**CTAs**"). Specifically, MFA requests that MPD confirm that it will not recommend the Commission commence enforcement action against any Member that (i) fails to register as a CPO or CTA, or (ii) that withdraws from CPO or CTA registration, as a result of the no-action position set out in this letter. MFA requests that such no-action position continue until such time that the Commission completes formal rulemaking to reinstate the exemption from registration formerly set forth in Commission regulation 4.13(a)(4) (the "**QEP Exemption**"), which was rescinded by the Commission in 2012.[3]

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[1] This letter contains one or more collections of information under Office of Management and Budget ("OMB") number 3038-0049. No person is required to respond to a request for information unless a valid OMB number is displayed.

[2] 17 CFR 140.99(a)(1).

[3] *See Commodity Pool Operators and Commodity Trading Advisors: Compliance Obligations*, 77 FR 11252 (Feb. 24, 2012) (the "**QEP Exemption Recission**").

I. Regulatory Background

The Commission originally adopted the QEP Exemption in former Commission regulation 4.13(a)(4) in 2003 to encourage and facilitate participation in the commodity interest markets by additional collective investment vehicles and their advisers, with the added benefit of increased liquidity for all market participants.[4] The QEP Exemption from CPO registration was designed for investment managers that manage private funds that are offered solely to sophisticated, often institutional investors. It was enacted to promote participation in commodity markets by eliminating duplicative, overlapping, and conflicting regulatory requirements applicable to SEC-registered private fund managers.[5]

The QEP Exemption applied to operators of pools offered solely to qualified eligible persons (**"QEPs"**), as defined in Commission regulation 4.7.[6] Unlike the *de minimis* exemption in Commission regulation 4.13(a)(3),[7] which imposes a derivatives usage limit as a condition of the exemption, the QEP Exemption recognized that operators of pools marketed exclusively to sophisticated investors did not require the same level of regulatory oversight.[8] The Commission recognized that QEPs – such as institutional investors, family offices, and high-net-worth individuals – possess the resources and expertise to evaluate investment risks without the need for prescriptive regulatory protections.[9]

However, in 2012, the Commission determined that the sources of risk delineated in the Dodd-Frank Act[10] with respect to private funds are also presented by commodity pools.[11] To provide the Commission with similar information to address these risks, the Commission determined to require registration of certain previously exempt CPOs and to further require reporting of information comparable to that required in Form PF, which the Commission had previously adopted jointly with the SEC.[12] To implement this enhanced oversight, the Commission determined to adopt the recission of the QEP Exemption previously granted in 2003.[13]

II. Request for No-Action Position

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[4] *See Additional Registration and Other Regulatory Relief for Commodity Pool Operators and Commodity Trading Advisors; Past Performance Issues*, 68 FR 47221, 47223 (Aug. 8, 2003) (the "**QEP Exemption Rulemaking**").

[5] *See id*.

[6] 17 CFR 4.7(a).

[7] 17 CFR 4.13(a)(3).

[8] *See* QEP Exemption Rulemaking, 68 FR at 47222.

[9] *See id.*

[10] Pub. L. 111-203, 124 Stat. 1376 (July 21, 2010).

[11] *See* QEP Exemption Recission, 77 FR at 11253.

[12] *See id.*

[13] *See id*.

In support of its request for a no-action position on behalf of the Members, MFA represents the following to be true and correct in all material respects:

1. MFA previously submitted a request to the Commission requesting that the Commission take necessary action to reinstate the QEP Exemption, which exempted from registration operators of commodity pools offered solely to QEPs.

2. MFA believes that a durable, Commission-approved exemption that is subject to the rigors of notice and comment under formal rulemaking procedures specified under applicable law is the optimal long-term solution to eliminating duplicative, overlapping, and conflicting regulations that currently apply to private fund managers to institutional and high net worth individuals. However, MFA also recognizes that the timeline for formal rulemaking procedures can take several months, and oftentimes years, before rulemakings are finalized.

4. Thus, MFA requests that MPD, for an interim period before the QEP Exemption is formally reinstated by the Commission, grant a no-action position from the CPO and CTA registration requirements for QEP Managers (as defined below), subject to certain conditions described herein.

5. MFA represents that a QEP Manager (as defined below) relying on an MPD no-action position from CPO registration should also be eligible for a no-action position from CTA registration, just as a CPO that would have previously qualified for the QEP Exemption would have qualified for an exemption from CTA registration with respect to such eligible pools under Commission regulation 4.14(a)(5).[14]

6. MFA represents that its request is limited to a narrow subset of investment managers, *i.e.*, private fund managers that could previously avail themselves of the QEP Exemption prior to its recission in 2012.

7. MFA represents that the no-action position is warranted given the burdens imposed on institutional, private fund investment managers by rules that overlap with, and often contradict, the comprehensive regulatory framework under the Investment Advisers Act of 1940 (the "**Advisers Act**").[15]

[14] 17 CFR 4.14(a)(5).

[15] 15 U.S.C. §§ 80b-1 through 80b-21. MFA and several other groups commented in opposition to the Commission's rescission of the QEP Exemption. *See, e.g.*, letter from Stuart J. Kaswell, General Counsel, MFA, to David A. Stawick, Secretary, CFTC (Apr. 12, 2011), avail. at https://comments.cftc.gov/Handlers/PdfHandler.ashx?id=22418. MFA also subsequently requested to then Acting Chairman Giancarlo that the QEP Exemption be reinstated. *See* letter from Stuart Kaswell, MFA to Chairman Giancarlo, CFTC (June 6, 2017), avail. at https://www.mfaalts.org/wp-content/uploads/2017/06/MFA-Letter-to-Acting-Chair-Giancarlo-Appendix.pdf.

9. MFA represents that the requested no-action position from the CPO and CTA registration requirements in Section 4m of the Commodity Exchange Act ("**CEA**")[16] and Commission regulations thereunder is appropriate only for a limited class of CPOs and CTAs that:

   (A) Are registered with the Securities and Exchange Commission ("**SEC**") as investment advisers;

   (B) Offer pool interests solely pursuant to a nonpublic offering under the Securities Act of 1933 ("**Securities Act**")[17]; and

   (C) Offer pool interests solely to sophisticated, often institutional investors that meet the QEP definition under Commission regulation 4.7(a)(6)[18] (any such person meeting (A), (B), and (C), a "**QEP Manager**").[19]

10. MFA represents that reinstatement of the QEP Exemption was recommended in the Department of the Treasury's 2017 report titled *A Financial System That Creates Economic Opportunities: Asset Management and Insurance*.[20] Such report identified the rescission of the QEP Exemption as a regulatory action that had reduced investor choice and increased regulatory burdens without a commensurate benefit to investor protection, and recommended exemption from CPO and CTA registration for investment advisers registered with the SEC.[21] MFA represents that this recommendation also aligns with the regulatory philosophy articulated in Executive Order 13777, which directed agencies to "identify regulations that eliminate jobs, or inhibit job creation; are outdated, unnecessary, or ineffective; impose costs that exceed benefits; or implement more stringent standards than required by law".[22]

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[16] 7 U.S.C. § 6m. The CEA is codified at 7 U.S.C. § 1 et. seq.

[17] 15 U.S.C. §§ 77a-77aa.

[18] 17 CFR 4.7(a)(6).

[19] MFA notes that the Commission recently amended the QEP standard by doubling the applicable securities ownership threshold from $2 million to $4 million and the initial margin and premium threshold from $200,000 to $400,000. *See Commodity Pool Operators, Commodity Trading Advisors, and Commodity Pools Operated: Updating the 'Qualified Eligible Person' Definition; Adding Minimum Disclosure Requirements for Pools and Trading Programs; Permitting Monthly Account Statements for Fund of Funds*, 89 FR 78793 (Sept. 26, 2024).

[20] U.S. Dep't of the Treasury, *A Financial System That Creates Economic Opportunities: Capital Markets* (Oct. 2017), https://home.treasury.gov/system/files/136/A-Financial-System-Capital-Markets-FINAL-FINAL.pdf.

[21] *Id.* at 47-48.

[22] Exec. Order No. 13777, *Enforcing the Regulatory Reform Agenda*, 82 FR 10285 (Feb. 24, 2017).

11. MFA also represents that the requested no-action position will further the stated, shared priorities between the Commission Chairman and the SEC Chairman to reduce overlapping and duplicative regulation.[23]

12. As exhaustively explained in the Correspondence, MFA's arguments supporting the requested no-action position can be summarized as follows:

(A) A no-action position for QEP Managers allowing CPO and CTA de-registration would mitigate the burdens of duplicative, overlapping regulation and is wholly aligned with the Trump Administration's efforts to identify regulations that eliminate jobs, or inhibit job creation; are outdated, unnecessary, or ineffective; impose costs that exceed benefits; or implement more stringent standards than required by law.[24]

(B) The policy goals furthered by a no-action position for withdrawing from CPO and CTA registration for QEP Managers recognize the sophistication of QEP investors and better harmonize CFTC regulation with the SEC, thereby reducing unnecessary expenses and burdens.

(C) MPD providing the no-action position to QEP Managers will not deprive the Commission of any material information that it now receives from investment managers, as the Commission has numerous rules and reporting requirements, such as large trader reports, position limits, and swap reporting requirements, which enable it to oversee the commodities markets; these tools provide critical information about the activities of all types of market participants, and therefore, are more effective tools than those that target only one specific type of market participant. Thus, the Commission's existing broad market oversight and the availability of information that provides in-depth analysis of market activity provides the Commission with all necessary tools to promote its public policy mandate, without additionally requiring specific CPO and CTA compliance for QEP Managers.

(D) The requested no-action position for QEP Managers would:

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[23] *See* Joint Statement from the Chairman of the SEC and Acting Chairman of the CFTC, CFTC Rel. No. 9115-25 (Sept. 5, 2025), avail. at https://www.cftc.gov/PressRoom/PressReleases/9115-25.

[24] *See Presidential Executive Order,* Reducing Anti-Competitive Regulatory Barriers (Apr. 9, 2025), avail. at https://www.govinfo.gov/content/pkg/FR-2025-04-15/pdf/2025-06463.pdf; *Presidential Executive Order,* Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative (Feb. 19, 2025), avail. at: https://www.whitehouse.gov/presidential-actions/2025/02/ensuring-lawful-governance-and-implementing-the-presidents-department-of-government-efficiency-regulatory-initiative/; *Presidential Executive Order*, Regulatory Freeze Pending Review (Jan. 20, 2025), avail. at: https://www.whitehouse.gov/presidential-actions/2025/01/regulatory-freeze-pending-review/.

(i) Improve the efficiency and the integrity of the commodity and financial markets;

(ii) Lower costs for investors and market participants thereby promoting liquidity in the commodity interest markets and facilitating hedging activities for investors;

(iii) Streamline federal regulations and eliminate unnecessary and overreaching regulations; and

(iv) Reduce waste, promote innovation, and enhance American competitiveness.

III. Request for Confirmation of Disapplication of Right to Redeem

MFA requests that, in addition to granting the no-action request, MPD confirm that CPOs that are deregistering solely because of the MPD no-action position contained herein, are not subject to the mandatory redemption offer requirements of Commission regulation 4.13(e).[25] CPOs are required by Commission regulation 4.13(e)(2)(iii) to offer all participants an automatic right to redeem the participant's interest in the pool[26] if the CPO previously was registered as a CPO and is now claiming exemption because it is eligible for the exemption from CPO registration for a *de minimis* use of commodity interests and other derivatives as specified in Commission regulation 4.13(a)(3).[27]

MFA represents that maintaining this requirement for private funds would be economically unfeasible and would effectively preclude existing private funds from relying on the no-action position. MFA further represents that liquidity terms and redemption rights in private funds are heavily negotiated, and investment management decisions are closely tied to those negotiated liquidity characteristics. According to MFA, Private funds often invest in a range of assets, including illiquid assets, and offering redemption rights would be inconsistent with existing fund governing documents and subscription agreements. Thus, MFA concludes that imposing such a requirement would harm investors by forcing managers either to forgo reliance on the no-action position altogether or to materially alter the fund's liquidity profile and investment strategy, each of which would be detrimental to fund investors.

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[25] 17 CFR 4.13(e).

[26] 17 CFR 4.13(e)(2)(iii) states that a CPO must provide each existing participant in a pool that the person elects to operate as described in 17 CFR 4.13(a)(3) a right to redeem the participant's interest in the pool, and must inform each such participant of that right no later than the time the person commences to operate the pool as described in 17 CFR 4.13(a)(3).

[27] 17 CFR 4.13(a)(3). The Division notes that, prior to the rescission of the QEP Exemption in 2012, Commission regulation 4.13(e)(2) required, among other things, that a CPO seeking to rely upon the QEP Exemption or the exemption in Commission regulation 4.13(a)(3) to offer to each existing pool participant a right to redeem "no later than the time the person commences to operate the pool as described in paragraph (a)(3) or (a)(4)." 17 CFR 4.13(e)(2) (2010).

Further, MFA argues that maintaining the requirement would also create an uneven playing field among private funds by disadvantaging managers that previously registered. For example, larger private funds that historically limited their trading in commodity interests to avoid registration could begin engaging in such activities without the burdens of registration, while currently registered managers would remain subject to existing requirements unless they were willing to materially alter their funds' liquidity characteristics, as described above.

IV. MPD No-Action Position

Consistent with the Commission's 2003 rationale for adopting the QEP Exemption and based on MPD's experience since the recission of the QEP Exemption in 2012, MPD finds that a no-action position is warranted as an interim measure to reduce the burdens on certain private fund managers to institutional and high net worth individuals while the Commission considers whether to reinstate the QEP Exemption.

Therefore, based on the representations and arguments above, MPD is issuing the following no-action position, subject to certain conditions, pending consideration of the potential reinstatement of the QEP Exemption by the Commission. Accordingly, until such time as the Commission promulgates rules, or publicly determines not to promulgate rules, addressing the reinstatement of the QEP Exemption, MPD will not recommend that the Commission commence enforcement action against any person that (A) fails to register with the Commission as a CPO, or (B) withdraws from registration with the Commission as a CPO, subject to the following conditions (any such person that meets the conditions below and relies on this no-action position to not register as a CPO or withdraw from registration as a CPO, a "**QEP No-Action CPO**")):

(1) The person is currently, or would be, until such time as the Commission may promulgate regulations to reinstate the QEP Exemption, required to be registered with the Commission as a CPO for its commodity pool operations, or relies upon an existing exemption from such CPO registration in Commission regulation 4.13;

(2) The person is registered with the SEC as an investment adviser;

(3) The interests of the pool operated by the person are exempt from registration under the Securities Act and sold without marketing to the public in the United States (provided, that the prohibition on marketing to the public shall not apply to a pool that is also offered pursuant to 17 CFR 230.506(c));

(4) The person reasonably believes at the time of investment, or at the time of relying on this no-action position from CPO registration, that each pool participant meets the QEP definition under Commission regulation 4.7(a)(6);[28]

[28] 17 CFR 4.7(a)(6).

(5) The person files a Form PF with the SEC with respect to the pool(s) covered by this no-action position, which is received by the CFTC;

(6) The person complies with the requirements of Commission regulations 4.13(b) (except paragraph (b)(2)) and 4.13(c) as if reliance on the no-action position contained herein were an exemption from registration under 4.13(a), with the exception that notices documenting reliance on this no-action position are filed via email to *mpdnoaction@cftc.gov*. Provided that a notice claiming this no-action position is materially complete, it should be considered effective upon emailing to the Division.

Further, solely with respect to the pools for which a QEP No-Action CPO qualifies for this no-action position and for which the QEP No-Action CPO chooses to rely on this no-action position from CPO registration, MPD will not recommend that the Commission commence an enforcement action against any such QEP No-Action CPO, if such QEP No-Action CPO fails to register, or withdraws from registration, as a CTA.

Finally, as requested by MFA, for the avoidance of doubt, MPD confirms that a QEP No-Action CPO who is relying on this no-action position, would not be required to comply with the requirements of Commission regulation 4.13(e)(2) solely with respect to pools for which the QEP No-Action CPO is relying on this no-action position.

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This letter, and the position taken herein, represent the views of MPD only, and do not necessarily represent the position or view of the Commission or of any other office or division of the Commission. This letter and the no-action position taken herein are not binding on the Commission.[29] Further, this letter, and the position taken herein, are based upon the facts and circumstances presented to MPD staff and is applicable solely to persons who meet the conditions for the position set forth above. Any different, changed or omitted material facts or circumstances might render the position taken in this letter void. Finally, as with all staff letters, MPD retains the authority to condition further, modify, suspend, terminate, or otherwise restrict the terms of the position taken herein, in its discretion.

Sincerely,

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Thomas J. Smith
Acting Director
Market Participants Division

[29] *See* Commission regulation 140.99(a)(2), 17 CFR 140.99(a)(2) ("A no-action letter binds only the issuing Division . . . and not the Commission or other Commission staff.").

cc: Kathleen Clapper, NFA Compliance
National Futures Association, Chicago