

CFTC Proposes Changes To Form CPO-PQR Reporting Requirements

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The Commodity Futures Trading Commission (CFTC) recently held its first virtual open meeting. It unanimously approved a number of Proposed Amendments, one of which relates to Compliance Requirements for Commodity Pool Operators (CPOs) on Form CPO-PQR.

The proposed rule change would amend certain compliance requirements for CPOs in Regulation 4.27 and Form CPO-PQR, including the elimination of pool-specific reporting requirements in Schedules B and C of Form CPO-PQR, such as questions about investment strategy and counterparty credit exposure, asset liquidity and concentration of positions, clearing relationships, risk metrics, financing, and investor composition. CPOs will still be required to report their schedule of investments, which is included in the existing Schedule B. They will also need to amend information in the existing Schedule A, by providing Legal Entity Identifiers (LEIs) for the CPO, as well as any of their operated pools that have them. The inclusion of LEIs will eliminate existing questions regarding pool auditors and marketers in schedule A of the Form CPO -PQR.

Based on its discussion of the Rule update, it has become apparent to the CFTC that the infrequent and relatively delayed nature of much of the reporting in Schedules B and C has made it difficult to assess the impact of CPOs and their operated pools on markets, as conditions and relative CPO risk profiles may have changed by the time Form CPO-PQR is filed. Overall, the CFTC has determined that their proposed alternate data streams will provide a timelier, standardized, and reliable view into relevant market activity than that provided under the current Form CPO-PQR. The CFTC recognizes that a revised Form CPO-PQR that could be more easily integrated with existing and more developed data streams would enable the CFTC, with some additional data analysis, to oversee and assess the impact of CPOs and their operated pools in the commodity interest markets in an effective manner. The inclusion of LEIs for the CPO and its operated pools would also help facilitate this integration with respect to CPOs and pools that engage in swap markets.

The revised Form CPO-PQR would also generally align with the National Futures Association's (NFA) Form PQR, which was implemented in 2010 to elicit data to implement NFA's risk-based examination program for CPOs. The current NFA Form PQR is essentially identical to current Schedule A of Form CPO-PQR, combined with the pool schedule of investments question from Schedule B. The CFTC also understands that the NFA has plans to include questions regarding LEIs in the NFA Form PQR. In the final rule, if the revised Form CPO-PQR is adopted as proposed and the NFA's amendments to include LEIs are also finalized, the Forms will be substantively identical, and under those circumstances, the CFTC would permit a CPO to file the NFA Form PQR in lieu

of the revised Form CPO-PQR, offering CPOs additional filing efficiencies without compromising the CFTC's ability to obtain affected data. It is worth mentioning that the CFTC designated the NFA to be the sole registered futures association with the authority to regulate the practices of its members and the U.S. derivatives markets. In addition, the CFTC Form CPO-PQR and the NFA PQR are both filed on the NFA website, using the NFA's Electronic Filing System.

Related to the revised Form CPO-PQR, the CFTC is also proposing to revise Rule 4.27(d), which currently permits dually regulated CPOs required to file Securities and Exchange (SEC) Form PF with respect to one or more of their operated private funds, to file SEC Form PF, in lieu of filing the current Form CPO-PQR for any commodity pools that are not private funds. The CFTC believes the revised Form CPO-PQR would no longer be closely aligned in content or filing frequency with Form PF and, as a result, would no longer accept this form of substitute reporting. All CPOs would now be required to file the resulting revised Form CPO-PQR quarterly but would also be able to file the NFA's comparable NFA Form PQR, in lieu of filing the revised Form CPO-PQR. It appears that these rule updates are an effort by the CFTC to modernize their reporting requirements to most efficiently capture necessary data from CPOs, while streamline those reporting requirements to avoid any undue burden to them.

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