### CFTC Part 4 Exemption Easy Reference Guide

**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.

#### Types of Exemptions

<table>
<thead>
<tr>
<th>Exemption Type</th>
<th>4.5</th>
<th>4.7</th>
<th>4.12</th>
<th>4.13(a)(1)</th>
<th>4.13(a)(2)</th>
<th>4.13(a)(3)</th>
<th>4.13(a)(4)</th>
<th>4.13(b)(4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entities otherwise regulated</td>
<td>Registered CPO with QEPs - “The Lite Touch”</td>
<td>Securities Pool</td>
<td>Closely Held Pool</td>
<td>Small Pool</td>
<td>Deminimus Rule</td>
<td>All QEPs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CPO Reg'd</td>
<td>No</td>
<td>Yes</td>
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#### 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.

- **Definitive relief from CPO registration in cases where the pool trades minimal amount of futures:**
  - Exemption from CPO registration.

- **Persons excluded from 15 participants and $400,000:**
  - Pool meets one of the following two tests with respect to its commodity interest positions.
  - Person operates only one pool at any time.
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#### 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”.

- **A bank, trust company or any other such financial depository institution subject to US regulation:**
  - Futures trading is incidental to securities trading activities.

- **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.

#### Of Note:

- **No marketing or trading restrictions:**
  - Any relative of pool operator, CTA and principals including a relative of a spouse who has the same principal residence.

- **Persons claiming the exemption:**
  - The pool’s operator, CTA, principals and any of their children, siblings or parents. The spouse of any of these persons.

- **Notice of Eligibility must include:**
  - Name of person filing notice.
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<th>Reference to subparagraph to which person is claiming exclusion (4.5(a)(1), (2), (3) or (4))</th>
<th>Name of the pool(s) for which the request is made</th>
<th>Name of pool for which exemption is being claimed</th>
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<td>Notice of Eligibility (cont'd)</td>
<td>Name of the qualifying entity (Fund) that the CPO intends to operate pursuant to exclusion</td>
<td>Name of the pool(s) for which the exemption is claimed under 4.7</td>
<td>Name of pool for which exemption is being claimed</td>
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| Notice of Eligibility (cont'd) | Reference to subparagraph pursuant which the qualifying entity (Fund) is being operating (4.5(a)(1), (2), (3), or (4)) | 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)) |

The notice must specify the relief sought under 4.12(b)(2) and 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; and

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 under 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; and

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 the notice must state that the exempt pool will be offered and operated in compliance with 4.7. Also, the notice must state the closing date of the pool offering or 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 entity to demonstrate compliance with the provisions of 4.5(c).