

CFTC Adopts Final Harmonization Rules for Commodity Pool Operators

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On August 13, 2013, the Commodity Futures Trading Commission (“CFTC”) adopted final regulations designed to harmonize the obligations of registered commodity pool operators (“CPOs”) under the CFTC Part 4 Regulations for commodity pools that are registered as investment companies (“RICs”) under the Investment Company Act of 1940 (“1940 Act”) with the obligations applicable to RICs under the 1940 Act and other securities laws. The final regulations also amend several Part 4 obligations as they apply to all registered CPOs with respect to all types of commodity pools.

Contemporaneously with the CFTC’s adoption of the harmonization rules, the SEC’s Division of Investment Management issued a Guidance Update that provides a summary of the Division’s views on the disclosure obligations of an investment adviser to a RIC that trades in commodity interests, including futures and swaps, and on related compliance issues.

This memorandum provides an overview of the CFTC’s final harmonization rules. It also highlights aspects of the Guidance Update that should be considered by registered CPOs in implementing any new obligations applicable to them under the harmonization rules.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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