

## CFTC Staff Provides Registration Relief for Family Offices

On November 29, 2012, the Commodity Futures Trading Commission (“CFTC”) staff published [relief](#) for family offices that would otherwise be required to register with the CFTC as commodity pool operators (“CPOs”). This relief provides that the CFTC staff will not recommend enforcement action for failure to register with the CFTC against any CPO that meets the following requirements: (1) the CPO is a “family office” as defined by Rule 202(a)(11)(G)-1 of the Investment Advisers Act of 1940, as amended (the “Advisers Act”), and (2) the CPO is and remains in compliance with Advisers Act Rule 202(a)(11)(G)-1, regardless of whether the CPO seeks to be excluded from the Advisers Act.

Historically, many family offices have relied on an exemption from CPO registration pursuant to CFTC Rule 4.13(a)(4). In February 2012, the CFTC promulgated certain amendments to Part 4 of the CFTC’s regulations, which included the rescission of the 4.13(a)(4) exemption. As a result of these amendments, family offices can no longer rely on the 4.13(a)(4) exemption after December 31, 2012, and absent this no-action relief, would be required to register as a CPO or rely on another registration exemption.

In order to claim this no action relief, a family office in operation as of December 1, 2012 must make a filing with the CFTC via email no later than December 31, 2012. Further, prior to March 31, 2013, the CPO must confirm that it is a family office within the meaning and intent of Advisers Act Rule, or notify the CFTC if the CPO is no longer a family office within the meaning and intent of such regulation.

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Please contact the Ropes & Gray attorney who usually advises you with any questions you may have or if you would like additional information.