

**MEMO# 27201**

April 26, 2013

## **Amendments to NFA Compliance Rule 2-46**

[27201]

April 26, 2013

TO: ACCOUNTING/TREASURERS MEMBERS No. 13-13  
CLOSED-END INVESTMENT COMPANY MEMBERS No. 34-13  
COMPLIANCE MEMBERS No. 21-13  
DERIVATIVES MARKETS ADVISORY COMMITTEE No. 31-13  
INVESTMENT ADVISER MEMBERS No. 26-13  
SEC RULES MEMBERS No. 38-13  
SMALL FUNDS MEMBERS No. 28-13 RE: AMENDMENTS TO NFA COMPLIANCE RULE 2-46

The National Futures Association (“NFA”) recently amended Compliance Rule 2-46, which addresses the quarterly reporting obligations to NFA of a commodity pool operator (“CPO”) that is an NFA member. [\[1\]](#) The changes are summarized below.

### **Amendments to Compliance Rule 2-46**

NFA amended Compliance Rule 2-46 to provide that a CPO member that has any reporting obligation pursuant to CFTC Regulation 4.27 must satisfy its reporting obligation under Compliance Rule 2-46 for each pool it operates by filing NFA Form PQR. CPO members that are required to file CFTC Form CPO-PQR on a quarterly basis pursuant to Regulation 4.27 (i.e., Large CPOs, as defined in CFTC Form CPO-PQR), however, may satisfy their NFA reporting obligation by filing CFTC Form CPO-PQR within 60 days of the quarter end. The NTM further explains that:

- Mid-size CPOs, as defined in CFTC Form CPO-PQR, which do not have a CFTC quarterly filing requirement, must file NFA's Form PQR for the quarters ended March, June and September, within 60 days of the quarter end. Mid-size CPOs will satisfy the December 31 NFA quarterly filing requirement by filing CFTC Form CPO-PQR (Schedules A and B) within 90 days of the close of each calendar year end.
- Small CPOs, as defined in CFTC Form CPO-PQR, which also do not have a CFTC quarterly filing requirement, must file NFA's Form PQR for the quarters ended March, June and September within 60 days of the quarter end. Small CPOs will satisfy the December 31 NFA quarterly requirement by filing CFTC Form CPO-PQR (Schedule A) plus the NFA schedule of investments within 90 days of the close of each calendar year end.

- CPOs that file Form PF with the SEC in lieu of CFTC Form CPO-PQR will be required to file NFA Form PQR with NFA on a quarterly basis within 60 days of the quarter end, except for the quarter ending December 31, in which the CPO can satisfy NFA's quarterly requirement by filing CFTC Form CPO-PQR (Schedule A) plus the NFA schedule of investments within 60 or 90 days, depending on the size of the CPO.

The amendments to Compliance Rule 2-46 revise the reporting threshold under the NFA schedule of investments from 10% of the pool's net asset value at the end of the quarterly reporting period to 5% to conform to CFTC requirements in CFTC Form CPO-PQR.

Finally, the amendments require NFA members that are commodity trading advisers ("CTAs") and are subject to a reporting obligation under CFTC Regulation 4.27 to file NFA Form PR on a quarterly basis. These quarterly CTA filings are required to be submitted within 45 days after the end of each of the first three quarters of the year, with a year-end report required within 45 days of the calendar year end.

## **Effective Date of the Amendments**

The amendments to the CPO reporting requirements under Compliance Rule 2-46 are effective March 30, 2013, thus requiring reporting for the first quarter of 2013. CPOs to registered investment companies, however, are not required to comply with Compliance Rule 2-46 with respect to their pools that are registered investment companies until the compliance date of the CFTC's harmonization rulemaking. [2] NFA has not yet finalized the compliance date for the CTA reporting requirements under Compliance Rule 2-46. NFA states in the NTM that it will advise CTA members of the date of the first quarterly report, and provide filing information and instructions, well in advance of that date. No NFA Form PR will be due for the quarters ended March 31 or June 30, 2013.

Sarah A. Bessin  
Senior Counsel

### **endnotes**

[1] See Effective Date of Amendments to NFA Compliance Rule 2-46: CPO and CTA Quarterly Reporting Requirements, NFA Notice to Members I-13-12 (April 24, 2013) ("NTM"), available at <http://www.nfa.futures.org/NFA-regulation/regulationNotice.asp?ArticleID=4218>. The amended rule text is available at <http://www.nfa.futures.org/nfamanual/NFAManual.aspx?RuleID=RULE%202-46&Section=4>.

[2] See Letter from Karrie McMillan, General Counsel, ICI, to Daniel A. Driscoll and Thomas W. Sexton, III, National Futures Association, dated December 28, 2012 (discussing deferral of the application of certain NFA rules to CPOs to registered investment companies pending resolution of the harmonization rulemaking).