Questions for CFTC Staff regarding CFTC Form CPO-PQR and Form CTA-PR and for NFA Staff regarding NFA Form PQR and NFA Form PR

The Investment Adviser Association ("IAA")[1] and the Investment Company Institute ("ICI")[2] are jointly seeking guidance ("Guidance") in the form of questions and answers ("FAQs") from the Commodity Futures Trading Commission ("CFTC") Division of Swap Dealer and Intermediary Oversight (the "Division") regarding CFTC Form CPO-PQR and CFTC Form CTA-PR and, where applicable, from the National Futures Association (the "NFA") regarding NFA Form PQR and NFA Form PR (collectively, the "Forms"). For your convenience, we have proposed an answer to each question and, where appropriate, indicated the reasoning behind the suggested answer.

Our questions are structured as follows: First, we set forth some initial questions that address Form CPO-PQR, Form CTA-PR, NFA Form PQR and/or NFA Form PR conceptually in order to provide all filers with the same expectations as to how to respond to the questions. We believe that everyone must have the same understanding as to how to answer the Forms' questions or the information that the Division and/or the NFA receives will not be useful for comparative purposes, especially in light of the fact that many Form CPO-PQR filers are choosing substituted compliance with Form CPO-PQR filing requirements by filing Form PF. Second, while a conceptual understanding of the bases on which the Forms' answers should be predicated will be helpful, it seems inevitable that specific issues will arise in unexpected ways. Thus, in addition to the conceptual approach, we pose non-exclusive examples as to how the larger issues arise when filers attempt to complete the Forms. Finally, we are concerned about inconsistencies between the Division's Guidance and the application of that Guidance to the

[1] The Investment Adviser Association is a not-for-profit association that represents the interests of investment adviser firms registered with the Securities and Exchange Commission ("SEC"). Founded in 1937, the IAA's membership consists of more than 550 firms that collectively manage in excess of $10 trillion for a wide variety of individual and institutional investors, including pension plans, trusts, investment companies, private funds, endowments, foundations, and corporations. For more information, please visit our website: www.investmentadviser.org.

[2] The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds ("ETFs"), and unit investment trusts ("UITs"). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of $14.96 trillion and serve over 90 million shareholders. Although ICI has challenged the amendments to Regulation 4.5 and Regulation 4.27 in court (*See Investment Company Institute et al. v. CFTC*, Case No. 112-CV-00612 (D.D.C. Apr. 17, 2012), it remains committed to assisting its members' efforts to comply with the amended regulations.

required reports pursuant to Compliance Rule 2-46 of the NFA. Therefore, we are seeking joint Guidance from the CFTC and the NFA, where indicated and applicable.

We understand that, per Instruction 9 of Form CPO-PQR, all financial information on Form CPO-PQR, Form CTA-PR, NFA Form PQR and NFA Form PR should be presented and computed in accordance with U.S. Generally Accepted Accounting Principles ("GAAP") consistently applied. However, in certain cases, a commodity pool operator ("CPO") and/or commodity trading advisor ("CTA") (or its agent) does not, in the ordinary course, compute the requested financial information in accordance with GAAP. In such cases, we have suggested one or more alternative methods of computing the requested financial information.

I. Aggregation and Reporting of Jurisdictional Pool and Managed Assets Only.

A. Pools and Managed Assets in Registered Capacity Only.

Question 1. Staff of both the Division and the NFA have provided guidance that "assets under management" ("AUM") to be counted and reported for purposes of CFTC Form CPO-PQR (including thresholds) are solely AUM of commodity pools for which a CPO must act and operate in its registered capacity. Pools for which a registered or unregistered CPO relies on or claims a CPO registration exclusion or exemption are not to be counted and reported ("exempt pools").

Question 1(A).

Are exempt pools required to be counted and reported indirectly under the terms "Parallel Pool Structures" or "Parallel Managed Accounts"[3] or other terms of Form CPO-PQR? Are exempt pools required to be counted and reported on NFA Form PQR?

Answer.

Other than as indicated in the answer to Question 11, below, exempt pools are not required to be counted or reported for any purpose under Rule 4.27, NFA Compliance Rule 2-46, Form CPO-PQR or NFA Form PQR. To further clarify, the term "other pool of assets" in the definition of "Parallel Managed Account" does not require inclusion of exempt pools or exempt accounts.

Question 1(B).

Must accounts (non-pools) managed by the CPO (or its affiliate) other than in its registered capacity ("exempt accounts") be counted or reported in Form CPO-PQR or NFA Form PQR?

[3] Capitalized terms used and not otherwise defined herein have the meanings assigned to such terms in Forms CPO-PQR and CTA-PR.

Answer.

Exempt accounts are not required to be counted or reported for any purpose under Rule 4.27, NFA Compliance Rule 2-46, Form CPO-PQR or NFA Form PQR.

Question 1(C).

Do the same principles apply with respect to Form CTA-PR and NFA Form PR? That is, if a CTA or its affiliate (whether registered or unregistered) relies on or claims a CTA registration exclusion or exemption for a pool or account, is that pool or account not counted in responding to Item 2 of Form CTA-PR or on NFA Form PR?

Answer.

Exempt pools and accounts are not required to be counted or reported for any purpose under Form CTA-PR or NFA Form PR.

To further clarify, Pools and/or Parallel Managed Accounts operated by an Affiliated Entity that relies on an exemption from registration as a CPO and/or a CTA with respect to such Pools and/or Parallel Managed Accounts are not required to be included under Instruction 3 of Form CPO-PQR or on NFA Form PQR (except in response to the question on the cover page as indicated in the answer to Question 11 below).

For example, an entity registered as both a CPO and a CTA that relies on Regulation 4.7(b) as a CPO with respect to a pool and Regulation 4.14(a)(4) as CTA with respect to that same pool is only required to count and report on those assets on Form CPO-PQR or NFA Form PQR, as applicable, not Form CTA-PR or NFA Form PR, as applicable, because it is not acting in a registered capacity as a CTA with respect to those assets.

Further, for purposes of calculating thresholds regarding completion of Schedules B and C of Form CPO-PQR, a registered CPO is only required to count assets of pools it operates in its registered capacity and assets of registered Affiliated Entities that such Affiliated Entities act and operate in their respective registered capacities.

Question 2. Are pools or accounts that do not invest in commodity interest positions at all (as compared to those the operator of or advisor to which relies on an exemption or exclusion from registration) required to be counted and reported, respectively, on Form CPO-PQR or NFA Form PQR, as applicable, and Form CTA-PR or NFA Form PR, as applicable?

Answer. These assets are not required to be counted and reported, respectively, on Form CPO-PQR or NFA Form PQR, as applicable, or Form CTA-PR or NFA Form PR, as applicable.

B. Dependent Parallel Managed Account.

Question 3. Instruction 5 of Form CPO-PQR requires the aggregation of "dependent parallel managed accounts," in order to determine whether the CPO meets the reporting threshold. However, the term "dependent parallel managed account" is not defined in the Glossary and, unlike in Form PF, there is no instruction specifically limiting aggregation of parallel managed accounts to "dependent parallel managed accounts." Is the concept of dependent parallel managed accounts in Form PF applicable in the context of Form CPO-PQR and NFA Form PQR?

Answer. Yes, the definition of Dependent Parallel Managed Account was inadvertently omitted from the Glossary of Form CPO-PQR and should be used with respect to NFA Form PQR as well. The definition of Dependent Parallel Managed Account is: "With respect to any Pool, any related Parallel Managed Account excluding: (i) a Parallel Managed Account that individually (or together with other Parallel Managed Accounts that pursue substantially the same investment objective and strategy and invest side by side in substantially the same positions) has a Net Asset Value greater than the Net Asset Value of such Pool and (ii) if such Pool is part of a Parallel Pool Structure, the Net Asset Value of the Parallel Pool Structure of which it is a part. Only dependent parallel managed accounts are required to be aggregated for reporting purposes."

II. Aggregation and Reporting of Registered Fund Assets Deferred Until After Harmonization.

A. Reporting of Registered Investment Companies ("RICs") Suspended until Final Harmonization.

Question 4. The CFTC has stated that "the Final [Rule 4.5] Rule release suspends compliance with Rule 4.27 for registered investment companies, pending a final harmonization rule. . . [I]nvestment companies required to register with the CFTC pursuant to the amendments to Rule 4.5 need not comply with Rule 4.27 until after the harmonization rule becomes effective."[4]

Question 4(A).

Are RIC CPOs indirectly required to comply with Rule 4.27 and Compliance Rule 2-46 prior to the compliance date of the CFTC's final harmonization rule ("Compliance Date") by treatment of RIC assets as Parallel Pool Structures or Parallel Accounts?

Answer.

No. It is not the intention of the Division or the NFA to indirectly require RIC CPOs to comply with Rule 4.27 and/or Compliance Rule 2-46, respectively, prior to the Compliance Date by requiring such CPOs to treat RIC assets as Parallel Pool Structures or Parallel Accounts. RIC assets should be disregarded prior to the Compliance Date.

Questions 4(B) and 4(C).

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[4] *Investment Company Institute, et al. v. CFTC*, Case No. 1:12-cv-00612 (D.D.C. Apr. 17, 2012) (Defendant CFTC's Reply to Plaintiff's Supplemental Response (Oct. 25, 2012) at 3).

(B) Must RIC assets be included for purposes of Rule 4.27, Form CPO-PQR and NFA Form PQR for CPOs of non-RIC pools prior to the Compliance Date?

(C) If a CTA serves as a registered CTA with respect to separate accounts, private funds, and RICs, prior to the Compliance Date must the CTA include in Form CTA-PR and NFA Form PR RIC assets for which it is a sub-adviser?

Answer.

No. In complying with Rule 4.27 (reporting on Form CPO-PQR or Form CTA-PR) or Compliance Rule 2-46 (reporting on NFA Form PQR or NFA Form PR) prior to the Compliance Date, CPOs and CTAs of separate accounts, private funds and RICs need not consider or include RIC assets for any purpose.

B. Questions Regarding RICs Following Harmonization.

Question 5(A).

Are Questions 8(a) and (b) of Part 2 of Schedule C relevant for RICs? Is it possible to respond N/A, or leave the answer blank?

Answer.

To the extent that an open-ended RIC is not permitted to engage in the activities set forth in the first three items in Question 8(a) without approval of the SEC, then such RIC should answer "0." To the extent that a closed-end RIC is subject to material restrictions on participant withdrawals as provided in the third item under Question 8(a) or does not permit withdrawals or redemptions as provided in Question 8(b) because of the nature of the closed-end RIC itself, then such RIC should answer "100%" under the third item in Question 8(a) and "0" in all categories under Question 8(b).

Question 5(B).

Does "daily margin requirement" refer to the margin requirement with respect to commodity interest trading (as opposed to Regulation T margin requirements with respect to securities trading)?

Answer.

Yes, "daily margin requirement" refers only to the margin requirement with respect to the pool's commodity interest trading.

C. Aggregation and Reporting of Controlled Foreign Corporations ("CFCs").[5]

Question 6. In most cases, the CPO of a RIC consolidates the financial statements of its CFCs into the RIC's financial statements for financial reporting purposes. For the CPO of such a RIC, disaggregating a CFC's assets would require the CPO to engage in a manual process to isolate the CFC's data from assets held directly at the RIC level. Must a CFC and RIC be reported separately on Form CPO-PQR and NFA Form PQR or can their assets be consolidated for such reporting purposes?

Answer. The RIC and the CFC may be reported on Form CPO-PQR and on NFA Form PQR on a consolidated basis (for the avoidance of doubt, including with respect to Schedules A, B and C of Form CPO-PQR, the schedule of investments on NFA Form PQR and questions regarding rates of return) if their assets are consolidated for financial reporting purposes and, if not, the RIC and the CFC may be reported on Form CPO-PQR and NFA Form PQR on a separate basis.

In addition, if the RIC intends to convert to consolidated financial reporting with its CFC (or if the RIC and the CFC are newly formed and have not yet prepared financial statements), the RIC and CFC may be reported on a consolidated basis if it is intended that the RIC's financial statements will be prepared on a consolidated basis as of the next reporting period.

Question 7. In Question 2 of Schedule C, is it acceptable to use the RIC turnover rate (which incorporates its CFC, if it has one) under the SEC's Form N-1A rules)?

Answer. Yes, it is acceptable to use the RIC turnover rate (which incorporates its CFC, if it has one) under the SEC's Form N-1A rules.

III. Substitute Compliance by Filing Form PF is Governed by the Terms of Form PF.

A. Substitute compliance with Schedules B and C of Form CPO-PQR by filing Form PF.

Question 8. A registered CPO that is also registered with the SEC as an investment adviser (a "dual registrant") and that is required to file Form PF pursuant to the Investment Advisers Act of 1940 and SEC rules thereunder (1) must comply with Rule 4.27 by filing Form PF with the SEC with respect to commodity pools that are private funds and (2) may comply with Rule 4.27 by filing Form PF with the SEC with respect to commodity pools that are not private funds. A number of the instructions and form requirements of Form PF differ from those of Form CPO-PQR. When a dual registrant CPO complies with Rule 4.27 by filing Form PF, in completing and filing Form PF does the CPO follow the form requirements and instructions for Form PF?

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[5] With respect to the period prior to the Compliance Date, the ICI and the Asset Management Group of SIFMA have asked the Division to delay the reporting of certain CFCs on Form CPO-PQR pursuant a letter dated as of April 10, 2013 from the ICI and SIFMA Asset Management Group. A similar request was made to the NFA by the ICI and SIFMA AMG on April 10, 2013 and the NFA responded by letter dated April 30, 2013. In its response, the NFA staff confirmed that a CPO of a commodity pool that is a registered fund that consolidates its wholly-owned CFC with the commodity pool-registered fund for financial reporting purposes may defer reporting obligations under Compliance Rule 2-46 for the CFC until the first applicable reporting period ending after the Compliance Date.

Answer. Consistent with the concept of substitute compliance, a CPO may follow the instructions, filing date, content and other form requirements for Form PF. Filing Form PF, as required or permitted by Rule 4.27, is "in lieu of" any requirement for the CPO to file Schedule B or Schedule C of Form CPO-PQR. Instruction 2 of Form CPO-PQR provides that, for registered CPOs that are also registered as investment advisers with the SEC and are required to file Form PF, filing Form PF serves as "substitute compliance" for any obligation to file Schedules B and C of Form CPO-PQR. In other words, a CPO will be deemed to have satisfied its filing requirements for Schedules B and C of Form CPO-PQR by completing and filing the applicable portions of Form PF for each of its commodity pools. *See* "Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors of Form PF," 76 Fed. Reg. 71,128 (Nov. 16, 2011) (the "Form PF Adopting Release"); "Commodity Pool Operators and Commodity Trading Advisors: Compliance Obligations," 77 Fed. Reg. 11,252 (Feb. 24, 2012)(the "Form CPO-PQR Adopting Release)."

As a result, a dual registrant CPO and registered investment adviser that files Form PF in lieu of Schedules B and C of Form CPO-PQR will be deemed to have complied with Rule 4.27, without regard to the requirements of Schedules B and C of Form CPO-PQR, if the CPO: (1) adheres to the reporting period and filing dates for Form PF; (2) uses the instructions and definitions in Form PF; and (3) responds to items and questions, as applicable, in Form PF.

We recognize that the requirements, definitions, and instructions in Form PF and Form CPO-PQR differ in a number of respects. However, requiring a dual registrant CPO filing Form PF to address and reconcile these differences would be wholly inconsistent with the concept of "substitute compliance." As stated in connection with the original adoption of Rule 4.27, the Rule is intended "to permit dual registrants to file Form PF with the SEC in lieu of completing Schedules B and/or C of Form CPO-PQR. The Commission never intended to require very large dual registrants to file anything more than the general identifying information required on Schedule A with the Commission, and neither [Rule] 4.27 nor the forms require dual registrants to file Schedule B or C if they are filing Form PF." *See* the Form CPO-PQR Adopting Release at 11,267.

B. Impact of Substitute Compliance on Schedule A of Form CPO-PQR and on NFA Form PQR.

Question 9. How does substitute compliance impact a CPO's filing deadlines and reporting periods for Schedule A of Form CPO-PQR and NFA Form PQR? Using different filing dates and reporting periods for different components of the CPO's filing obligations would impose substantial administrative challenges and confusion.

Answer. Where a dual registrant CPO complies with Schedule B and Schedule C of Form CPO-PQR by filing Form PF for all of its commodity pools, the Division will not recommend that the CFTC take enforcement action if the dually registered CPO complies with the filing deadlines and reporting periods for Form PF. For example, where the Form PF filing is 120 days after the end of the CPO's fiscal year, and the Form CPO-PQR filing date is 90 days after the end of the calendar year, the CPO would file Schedule A with the CFTC at the same time it files Form PF

in lieu of Schedules B and C. Additionally, the NFA will not cite the dually registered CPO for a compliance violation if the CPO takes the same approach with respect to NFA Form PQR: for CPOs relying on substitute compliance for Schedules B and C, the reporting period for NFA Form PQR would be based on the CPO's fiscal year; the filing date for the NFA Form PQR would be the Form PF annual filing date; and quarterly filing dates would be based on the CPO's fiscal year and, where the CPO files quarterly on Form PF, the filing dates would be the Form PF filing dates.

Question 10. A mid-sized CPO registered as of January 1, 2013 is required to file NFA-PQR 60 days after the end of the first quarter. However, such mid-sized CPO will not be required to file Form CPO-PQR until 2014. How will the coordinated CPO-PQR/NFA-PQR electronic filing work since all of the information required by CPO-PQR has not yet become due for such CPO? Will the prompt for AUM automatically bring the CPO only to the relevant NFA-PQR fields such that the CPO need not unnecessarily populate CPO-PQR fields that have not yet become relevant for such CPO?

Answer. The mid-sized CPO will only be required to complete the fields relevant with respect to such CPO's NFA-PQR filing.

IV. Form CPO-PQR.

A. AUM Threshold Reporting.

Question 11. For reporting pool AUM and determining thresholds for reporting requirements, only assets for which the entity is required to be registered are to be counted. However, the NFA's EasyFile PQR System Help document available on the NFA's website currently contains a Question on page 2, which addresses the Cover Page, "What was the total Pool Assets Under Management for all the pools, including exempt pools, that are not included in the table above for the reporting period?"

Answer. The purpose of this question is to determine which firms are ranked in the top 20% of funds under management. At least two of the four seats of NFA's Board of Directors are reserved for representatives of CPO/CTA members that are drawn from this top 20%. Accordingly, the NFA would like filers to include exempt accounts and pools to ensure that representatives of the largest firms hold these seats. A firm may include exempt accounts and exempt pools for purposes of this question only. As discussed in the response to Question 1, above, exempt accounts and pools may be disregarded for all other purposes with respect to Form CPO-PQR, NFA Form PQR, Form CTA-PR and NFA Form PR.

As a note, it is expected that NFA will amend this question in the near future to include swaps.

B. Fund of Funds.

Question 12. Instruction 4 allows a CPO to complete only Schedule A for a "fund of funds" (*i.e.*, a pool that (i) invests substantially all of its assets in the equity of pools or private funds for which

the filer is not the CPO ("external pools"); and (ii) aside from such pool or private fund investments, holds only cash and cash equivalents and instruments acquired for the purpose of hedging currency exposure). In response to Question 5.1 of its Form PF FAQs posted June 8, 2012, the SEC Staff has stated that a filer may treat as a disregarded private fund a private fund that (i) invests its assets in the equity of private funds for which the filer is the adviser ("internal funds") in lieu of, or in addition to, external funds and (ii) aside from such underlying internal and external fund investments, holds only cash and cash equivalents and instruments acquired for the purpose of hedging currency exposure. May a filer treat as a fund of funds (and, therefore, as disregarded assets) a pool that invests its assets in external and/or internal pools or private funds and, therefore, rely on Instruction 4 to complete only Schedule A for such pool?

Answer. Yes, for purposes of Form CPO-PQR and NFA Form PQR a filer may treat as disregarded assets a pool that (i) invests in internal pools or private funds in lieu of, or in addition to, external pools or private funds and (ii) aside from such underlying internal and external pool or private fund investments, holds only cash and cash equivalents and instruments acquired for the purpose of hedging currency exposure.

With respect to NFA Form PQR, the Easyfile system currently lists all non-exempt pools of a CPO and prompts the filer to complete NFA Form PQR with respect to all such pools (and does not allow for aggregation of master-feeder arrangements). The Easyfile system will be revised to reflect NFA's confirmation of the answer to this FAQ to maintain consistency between Form PF, Form CPO-PQR and NFA Form PQR.

C. Schedule A.

Question 13(A).

Question 2(a) of Part 1 of Schedule A asks the CPO for its "Total Assets Under Management." Under Form CPO-PQR, "Assets Under Management" (or "AUM") is defined as the amount of all assets that are under the control of the CPO. (Unlike other questions in Form CPO-PQR, Question 2(a) does not specify "pool assets under management.") We have identified two possible approaches for calculating Total AUM: (1) consistent with GAAP, aggregating the "total assets" as presented on the statement of financial condition for each pool controlled by the CPO, or (2) aggregating the absolute value of the investments presented on the pools' statement of financial condition. The first approach would include deposits with brokers, accrued interest receivable and other short-term assets, but would exclude unrealized depreciation on derivatives contracts (which are presented as liabilities in the statement of financial condition). The second approach includes only investment line items from the statement of financial condition, including investments in securities and the absolute value of unrealized appreciation and unrealized depreciation on derivatives contracts. This second approach would provide Total AUM that is inclusive of all of the pool's investments in securities and derivatives, while excluding receivables and other short-term assets.

Answer.

A CPO may choose any reasonable methodology to complete Question 2(a) (including those described above) so long as it is documented and is consistently applied to all answers supplied in Form CPO-PQR.

Question 13(B).

Is the answer above applicable with respect to NFA Form PQR?

Answer.

Yes, the answer to 13(A) is applicable with respect to NFA Form PQR as well.

Question 14. In Question 2 of Schedule A of Form CPO-PQR and NFA Form PQR there is no instruction requiring aggregation of AUM operated by affiliates. Should the response to Question 2 of Schedule A of Form CPO-PQR and NFA Form PQR include AUM operated by affiliates?

Answer. The term AUM in Question 2 of Schedule A refers to assets of commodity pools operated by the CPO, other than exempt pools, and does not include pools or other assets operated by affiliates.

Question 15. Item 2(b) of Part 1 of Schedule A asks for "Total Net Assets Under Management," but that term is not defined. Should the CPO provide the aggregate "Net Asset Value" of the pools included in the response to Item 2(a)?

Answer. Yes, the term "Total Net Assets Under Management" refers to the aggregate "Net Asset Value" of the pools included in the response to Item 2(a). Please refer to Question 13 of these FAQs regarding calculation of a pool's AUM.

Question 16. The Form CPO-PQR Adopting Release states that "Form CPO-PQR requires the use of the aggregated gross pool assets under management." May CPOs rely on standard accounting definitions of gross assets for this purpose? Additionally, do the guidelines in Instruction 15 to Form PF with respect to the application of a filer's own methodologies when completing that form, such as the instruction not to net long and short positions, apply to CFTC Form CPO-PQR?

Answer. A CPO may choose a reasonable methodology so long as it is documented. Additionally, in the interest of maintaining consistency among Form PF, Form CPO-PQR and NFA Form PQR, the guidance provided in Instruction 15 to Form PF (along with the related SEC staff guidance) is applicable to the calculation of AUM for purposes of Form CPO-PQR and NFA Form PQR.

Question 17. If the pool assets of a CPO's registered Affiliated Entity are included for determining the CPO's status as a filer (*e.g.*, small, mid-sized, large CPO), does the CPO report on those pools on its Form CPO-PQR and NFA Form PQR or does the Affiliated Entity report

on those assets on its Form CPO-PQR and NFA Form PQR? May a CPO apply a "separately operated"[6] analysis for affiliates as in Form PF and, therefore, exclude the assets of such separately operated affiliates from aggregation?

Answer. While a CPO must include the pool assets of a registered Affiliated Entity in calculating its status as a filer (*e.g.*, small, mid-sized or large CPO), such CPO does not report upon such pool assets in its Form CPO-PQR or NFA Form PQR. Rather the registered Affiliated Entity must report on those pool assets in its Form CPO-PQR and NFA Form PQR. Additionally, in the interest of maintaining consistency among Form PF, Form CPO-PQR and NFA Form PQR, the same analysis regarding separately operated affiliates applies with respect to Form CPO-PQR and NFA Form PQR.

Question 18. Question 4 of Part 2 of Schedule A requests information about pools' "third-party administrators," but this term is not defined. Can you please define this term and/or give examples to illustrate its meaning?

Answer. The term "third-party administrator" refers to one or more third parties not listed elsewhere in the CPO's responses on Form CPO-PQR or NFA Form PQR, as applicable, with whom the pool or the CPO enters into an agreement and who, for compensation, performs administrative tasks with respect to the pool including, but not limited to, calculation of its net asset value, valuation of its assets, computation of changes in its net asset value, performance of anti-money laundering obligations, acceptance of subscriptions, processing of redemptions, and/or mailing of communications with pool participants. The term "third-party administrator" would not refer to employees of the CPO itself or of an affiliate who perform these tasks as part of their overall job responsibilities.

Question 19. Question 5 of Part 2 of Schedule A of Form CPO-PQR and NFA Form PQR requests information about the types of services provided by the pools' brokers, and one of the possible services listed is "Custodian services for some or all Pool assets." For purposes of this question, is a futures commission merchant ("FCM") holding a pool's initial or variation margin relating to the pool's commodity interest positions providing custodian services with respect to such assets? Or should the FCM be listed under Question 7 of Part 2 of Schedule A of Form CPO-PQR and NFA Form PQR, which asks about the pools' custodians?

Answer. An FCM holding a pool's margin relating to the pool's commodity interest positions may be considered a pool broker for purposes of Question 5 of Schedule A of Form CPO-PQR and NFA Form PQR (and need not be reported as a custodian under Question 7 of Schedule A). The broker may be considered to be providing custodian services with respect to such assets. In the alternative, a filer may check "Other" and note "FCM holding margin."

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[6] Instruction 3 of Form PF notes that, for purposes of Sections 2a, 3 or 4 of Form PF, in analyzing its hedge fund assets under management, liquidity fund assets under management and/or private equity fund assets under management, respectively, a private fund adviser is not required to include the regulatory assets under management of any related person that is "separately operated." The Glossary to Form PF states that "a related person is separately operated if [the filer] is not required to complete Section 7A. of Schedule D to Form ADV with respect to that related person." The definition of "related person" also references Form ADV.

Question 20. Please confirm the scope of the term "pool marketers" as used in Question 9 on Schedule A of Form CPO-PQR and NFA Form PQR.

Question 20(A).

> Specifically, for a pool that offers shares through an underwritten initial public offering during a Reporting Period, please confirm that, for purposes of this item, only the lead underwriters must be included rather than all firms that participated in the underwriting syndicate.

Answer.

> The term would not include selling brokers and dealers that have agreements with a RIC's principal/lead underwriter rather than with the RIC itself. The provision of information about selling brokers would not be responsive because the CPO and the RIC do not use the services of the selling brokers, rather they are retained by the principal underwriter.

Question 20(B).

> Does this term include third party solicitors and/or registered broker-dealers that act as placement or selling agents for the pool pursuant to contracts with the pool or its operator? If the pool is self-marketed, does that need to be indicated?

Answer.

> The term "pool marketer" includes third party solicitors and registered broker-dealers that act as placement or selling agents for the pool pursuant to contracts with the pool or its operator, but does not include self-marketing efforts.

Question 21. Question 10(d)(v) of Part 2 of Schedule A of Form CPO-PQR and NFA Form PQR asks for a pool's "Withdrawals and Redemptions" during the Reporting Period. With respect to closed-end pools whose shares are traded on an exchange, these pools do not technically have withdrawals or redemptions. However, the pools do make periodic distributions to shareholders, and also conduct share repurchases on the open market. Please advise whether amounts distributed to shareholders and amounts used for share repurchases should be included as "Withdrawals and Redemptions." Further, Question 12(b) of Part 2 of Schedule A of Form CPO-PQR and NFA Form PQR asks for a pool's total redemptions during the Reporting Period. With respect to such closed-end pools whose shares are traded on an exchange and that do not technically have redemptions, please advise whether amounts used for share repurchases should be included as redemptions.

Answer. Question 10(d)(v) of Part 2 of Schedule A of Form CPO-PQR and NFA Form PQR states that any additions, withdrawals, redemptions and net performance must be added or subtracted. Solely for purposes of answering this question, please treat distributions to shareholders and share repurchases as a type of withdrawal or redemption. Similarly, for

purposes of responding to Item 12(b) of Part 2 of Schedule A of Form CPO-PQR and NFA Form PQR, please treat share repurchases by a closed-end pool as redemptions.

Question 22. With respect to Question 11 of Part 2 of Schedule A of Form CPO-PQR and NFA Form PQR, it is common for managers to report the return of a typical investor with no special features (*e.g.*, fee rebates, redemption terms, etc.) as representative of a pool's performance, particularly in the context of a master-feeder investment structure. Is it acceptable to report performance returns based on a representative investor? Also, for private equity funds that do not typically calculate monthly returns, is providing quarterly internal rates of return acceptable?

Answer. A pool or an aggregated master-feeder structure may use a representative investor when reporting monthly rates of return in Question 11 of Schedule A of Form CPO-PQR and NFA Form PQR, provided that the CPO documents why such investor was chosen. If a pool does not typically calculate monthly returns, providing the quarterly rates of return is acceptable.

Question 23. Instruction 3 of Form CPO-PQR requires the CPO to aggregate all pools that are part of the same master-feeder arrangement and Instruction 5 of Form CPO-PQR notes that a filer may be "electing to aggregate funds for reporting purposes." Question 3 of Part 2 of Schedule A of Form CPO-PQR requires the CPO to report information about each pool operated by the CPO. For purposes of this question, must the CPO answer Question 3 separately for each pool in the master-feeder arrangement?

Answer. No. A CPO may complete Question 3 of Part 2 of Schedule A of Form CPO-PQR for the master pool in the master-feeder arrangement, and report the information on an aggregate basis. Per our answer to Question 13, above, with respect to NFA Form PQR, the Easyfile system currently lists all non-exempt pools of a CPO, including both master funds and feeder funds, and prompts the filer to complete NFA Form PQR with respect to all such pools. The Easyfile system will be revised to reflect NFA's confirmation of the answer to this FAQ to maintain consistency among Form PF, Form CPO-PQR and NFA Form PQR.

Question 24. What is the definition of "high water mark" as used in Question 12(c) of Part 2 of Schedule A of Form CPO-PQR? Must all filers respond to this question?

Answer. "High water mark" refers to the highest peak in value that a pool has reached during the relevant period (*e.g.*, calendar year) on which the manager was previously paid a performance fee, incentive allocation or other fee or allocation tied to performance above a high water mark. A fund without a performance fee, incentive allocation or other fee tied to performance of the pool does not have a high water mark and may answer "no" to Question 12(c).

Question 25. Question 12(d)(i) of Part 2 of Schedule A of Form CPO-PQR asks whether a pool provides participants with withdrawal or redemption rights in the ordinary course. Please confirm that, with respect to closed-end pools, including closed-end investment companies, this question should be answered "no." We note that such pools cannot provide withdrawal or redemption rights to their investors.

Answer. If a pool does not or cannot offer withdrawal or redemption rights as part of the package of rights a participant receives upon making an investment in such pool, then the filer should answer "no" to this question.

D. Schedule B.

Question 26. Question 1(c) of Schedule B of Form CPO-PQR asks whether a pool has a "single primary investment strategy or multiple strategies." Is the determination as to whether a pool has a single primary strategy or multiple strategies based on the types of investments that have the highest return as of the Reporting Date, the primary strategy or strategies to which all or substantially all of a pool's AUM is dedicated or intended to be dedicated or other relevant factors?

Answer. While a pool that devotes substantially all its assets to or earns the greatest returns from a primary strategy can rightly be described as having a single primary strategy, please note that Question 1(d) of Schedule B of Form CPO-PQR asks for the percentage breakdown of such strategies. While a single primary strategy may be significant for purposes of Question 1(c), it would be appropriate to indicate other strategies the pool engages in as a response to Question 1(d).

Question 27. Question 1(f) of Schedule B of Form CPO-PQR asks for information about a pool's beneficial owners.

Question 27(A).

> Please confirm that, with respect to publicly-offered pools (*e.g.*, RICs and exchange-traded pools) whose shares are held by intermediaries (*e.g.*, held in street name or in nominee accounts) and about whose beneficial owners the CPO has limited information, the CPO may instead provide record owner information.

Answer. Record owner information would be an appropriate response in this situation.

Question 27(B).

> Please confirm that, with respect to a fund-of-funds investor, the beneficial owner of the underlying fund is the fund-of-funds, not the beneficial owners of the fund-of-funds (*e.g.*, there is no "look-through" to the interest/shareholders of the funds that own interests of or shares in the pool).

Answer.

> There is no "look-through" with respect to a fund-of-funds investor. For example, the fund-of-funds investor in an underlying fund is the beneficial owner, not the interestholders or shareholders of the fund-of-funds investor.

Question 27(C).

> Would the master fund in a traditional master-feeder arrangement with one master fund into which only an offshore and an onshore feeder fund invests have two beneficial owners–the offshore feeder fund and the onshore feeder fund?

Answer.

> Yes, the master fund in such an arrangement would have two beneficial owners – the offshore feeder fund and the onshore feeder fund.

Question 28. Question 2 on Schedule B of Form CPO-PQR asks the filer to provide information concerning the pool's borrowings and types of creditors. Further, the instructions state to include secured borrowings and unsecured borrowings (both terms defined in the Glossary to Form CPO-PQR), but not to include "synthetic borrowings." What does the term "synthetic borrowings" in Question 2 on Schedule B of Form CPO-PQR mean?

Answer. The term "synthetic borrowings" includes, but is not limited to, borrowing that is imbedded into a swap contract or other financial transaction. Therefore, borrowings imbedded in a swap or forward contract would not be included in responding to Question 2.

Question 29. Is the SEC guidance on Form PF, Questions 22 and 23 applicable to Questions 3(b) and 3(c) of Schedule B of Form CPO-PQR?

Answer. Yes, the SEC guidance with respect to Questions 22 and 23 of Form PF is applicable with respect to Questions 3(b) and 3(c) of Schedule B of Form CPO-PQR. More specifically, the SEC's answers to FAQs 22.1, 22.2, 22.3, 22.4 and 22.5 with respect to Form PF (all posted July 19, 2012) apply when completing Form CPO-PQR.

Question 30. What does "entities to which the pool has net counterparty exposure" mean in Questions 3(c) and 3(d) of Schedule B of Form CPO-PQR?

Answer. This question only requests information with respect to direct counterparty exposure and not indirect counterparty exposure through an investment in an underlying fund, REIT or securitization vehicle.

Question 31. What do the "types of unregulated entities" refer to in Question 3(d) of Schedule B of Form CPO-PQR?

Answer. These types of unregulated entities are entities that are not regulated by the CFTC as FCMs or swap dealers, rather than unregulated by any U.S. regulatory body (*e.g.,* a registered broker-dealer).

Question 32. If a pool does not have counterparty exposure to any unregulated entities as described in Question 31, above, is it appropriate to leave the answers to Question 3(d) of Schedule B of Form CPO-PQR blank?

Answer. To the extent that a pool does not have such exposure, please leave the answers blank.

Question 33. For questions specifying that a central counterparty or central clearing house ("CCP") should not be regarded as a counterparty (*e.g.*, Question 3(b) of Schedule B), are only trades that the pool executes directly with the CCP (*i.e.*, floor trading at the exchange) excluded, while futures contracts that are traded through an FCM should be included?

Answer. Yes, only trades that the pool executes directly with the CCP should be excluded.

Question 34. Question 4(e) of Schedule B of Form CPO-PQR asks for an estimate of the percentages (in terms of market value) of the pool's repo trades that are cleared by a CCP. At times, a CCP will serve as the payment conduit for the counterparties, but does not serve a clearing function. At what point would a CCP act in a clearing function?

Answer. A CCP acts in a clearing capacity when it steps into the middle of a transaction and acts as counterparty to each side of the transaction.

Question 35. With respect to Question 6 of Schedule B:

Question 35(A).

> How do the Division and the NFA expect a filer to categorize instruments and/or investments that could potentially fit into more than one category or subcategory listed in Question 6 of Schedule B?
>
> For example, it is not clear how the "Alternative Investments" sub-category of "Private Equity" is meant to differ from the sub-category "Private Equity Fund" under "Funds."
>
> Similarly, it is not clear how the "Alternative Investments" sub-category of "Physicals" is meant to differ from the sub-category of "Physicals" under "Options."
>
> Further, options directly on gold (rather than on gold futures) can be listed under the "Gold" sub-category under "Metals" in the "Options" category, whereas a non-option transaction in gold (*e.g.*, a direct purchase of gold) can be listed under the "Gold" sub-category under "Total Metals" under "Physicals" in the "Alternative Investments" category.

Answer.

> The Division and the NFA expect each CPO to make a reasonable determination as to how to categorize a pool's investments.

Question 35(B).

Should the "American Depository Receipts" sub-category under "Stocks" also include Global Depository Receipts?

Answer.

Global Depository Receipts can be included under American Depository Receipts.

Question 35(C).

Should the value reported for derivatives (other than options) be the notional value or should the value be calculated based on unrealized gain/loss?

Answer.

Per Form CPO-PQR and NFA Form PQR, the value reported for derivatives (other than options) should be the positive and/or negative open trade equity. Positive trade equity means the amount of unrealized appreciation and negative trade equity means the amount of unrealized depreciation.

Question 35(D).

Should the value reported for options be the market value or the delta adjusted notional value?

Answer.

Per Form CPO-PQR and NFA Form PQR, the value reported for options should be the long option value and/or short option value, *e.g.*, mark to market value.

Question 35(E).

Itemizing each investment in sub-category (d), "Govn't Sponsored," under "Notes, Bonds and Bills" under the "Total Fixed Income" category that equals or exceeds 5% of the pool's net asset value may result in requiring a CPO to itemize dozens or even hundreds of securities issued by a single issuer. For example, under "Govn't Sponsored" the help link on the NFA's Easyfile system notes: "Govn't Sponsored - A debt security backed by government sponsored organizations such as Fannie Mae and Freddie Mac. Government sponsored debt should be aggregated by agency or issuer. If the aggregate for a particular agency or issuer exceeds 5% of the pool's NAV, then it must be itemized." If a pool operated by a CPO had 100 Fannie Mae instruments and the aggregate value was greater than 5% of the pool's net asset value, it appears that the CPO would be required to itemize all 100 Fannie Mae pools. Is it acceptable for a CPO to either (1) list the five instruments that, in the aggregate, comprise the greatest share of the 5%, or (2) provide a summary

itemization that names the issuer, the range of maturities and the range of coupons, e.g., Fannie Mae; maturing 2015-2020; coupon interest rates 3%-5%?

Answer.

It was not the intention of the Division or the NFA to create an unduly burdensome reporting requirement. Therefore, the Division and the NFA confirm that it is acceptable to take either approach described in the event that a pool owns more than five securities of a single issuer.

Question 36. Should warrants on securities be treated as equities, options or derivatives with respect to Question 6 of Schedule B of Form CPO-PQR and when completing the Schedule of Investments for NFA Form PQR?

Answer. A warrant on a security should be treated as an option.

Question 37. If a CPO operates pools organized under the laws of the United States and under the laws of non-U.S. jurisdictions may the CPO prepare the financial statements of non-U.S. pools using International Financial Reporting Standards regardless of Instruction 9 to Form CPO-PQR?

Answer. For pools organized under the laws of the United States, the CPO must use U.S. Generally Accepted Accounting Principles. For pools organized under the laws of a non-U.S. jurisdiction, the CPO may use International Financial Reporting Standards in accordance with CFTC Regulation 4.22(d)(2)(i).

E. Schedule C.

Question 38. What is the definition of the term "unencumbered cash" as used in Question 1(d) of Part 2 on Schedule C (*i.e.,* any cash or cash equivalent position, or currency held)? Is cash encumbered if a fund's custodian has a lien for its fees on all of the fund's assets?

Answer. Unencumbered cash includes cash, cash equivalents and spot currency positions. Further, cash is unencumbered even if it is subject to a general lien for custodian fees such as is typically provided in custodial agreements.

Question 39. How is weighted average tenor being defined in Question 9(l) of Part 2 of Schedule C of Form CPO-PQR? Is this weighted average maturity?

Answer. Yes, "weighted average tenor" is equivalent to "weighted average maturity" or "weighted average life" for Question 9(l) (ABS/structured products).

Question 40. In the case of trading foreign currency forwards, would the open trade equity (non-realized profit and loss) be counted as variation margin for the purpose of Question 3(b)(ii) of Part 2 of Schedule C?

Answer. The open trade equity of a foreign currency forward would be counted as variation margin to the extent that the transaction is marked-to-market daily.

Question 41. For a pool that has multiple classes with differing strategies, is it acceptable to choose one strategy to reflect performance and risk when reporting that pool on Part 2 of Schedule C (*e.g.*, Question 4) if the CPO believes that a particular strategy is most representative of the investor concentration and AUM concentration?

Answer. The Questions in Part 2 of Schedule C of Form CPO-PQR ask for aggregated information regarding performance and risk with respect to a single pool. Unless the CPO does not calculate performance on an aggregated basis (*e.g.*, rather, the CPO only calculates performance per class/strategy), the responses with respect to performance and risk should reflect the entire pool in the aggregate.

Question 42. Can the Division be more specific in identifying where to use the gross notional values of futures, forwards and swaps versus the open trade equity?

Answer. Please note our answer to Question 40, above, with respect to when open trade equity is treated as variation margin. With respect to exchange-traded transactions, please use the daily settlement price. With respect to off-exchange transactions, please use the contract price.

Question 43. Question 1(b) of Part 1 of Schedule C of Form CPO-PQR references "hedge funds," which are not defined in Form CPO-PQR. Because of the reference to "hedge funds," the question does not seem to be correlated to Question 1(a), which may have been the intent. Does the term "hedge funds" mean "private funds"?

Answer. Yes, "hedge funds" is intended to be "private funds" with respect to Question 1(b) of Part 1 of Schedule C.

Question 44. The table in Question 2 of Part 1 of Schedule C of Form CPO-PQR asks for "Open Positions"; however, the question itself is asking for turnover rate by volume. Is this correct?

Answer. The reference to "Open Positions" is incorrect and will be corrected on the electronic form.

Question 45. The table in Question 8(b) of Part 2 of Schedule C of Form CPO-PQR references "Percentage of Total Financing" when the question seeks redemption percentages. Is this correct?

Answer. The reference to "Percentage of Total Financing" is incorrect and will be corrected on the electronic form to read "Percentage of Large Pool's NAV."

Question 46. How do you report separate pool series? For example, some pools are structured as a series limited partnership, a series limited liability company or a segregated portfolio company (or an equivalent entity), where the assets and liabilities of one series or segregated portfolio are segregated from the assets and liabilities of the other series or segregated portfolios.

Each series/segregated portfolio/similar subdivision trades different strategies, which may affect the answers requested on Schedule C. However, the pool may have one disclosure document.

Answer. Where a series limited partnership, a series limited liability company, a segregated portfolio company or similar entity is structured so that there is limited liability among the series, segregated portfolios or similar subdivisions, it is acceptable to treat these as separate pools on Form CPO-PQR.

Question 47. With respect to Question 4(d) of Part 2 of Schedule C of Form CPO-PQR, for each market sector (equity, rates, currency, and commodity), when simulating the price shocks (*e.g.*, up or down by 5%), should the price movement be applied to all the relevant markets traded in a portfolio? So, if a pool trades all the major global stock indices, a corresponding price shock would imply a global shock event, rather than a regional (U.S. or Europe) stress event?

Answer. The instructions to Question 4(d) of Part 2 of Schedule C of Form CPO-PQR indicate that the filer "may omit a response to any of the specified market factors that the Large CPO does not regularly consider (whether in formal testing or otherwise) in the Large Pool's risk management." Further to that instruction, to the extent a CPO to a Large Pool considers a factor, such CPO should report on such factor in the same way it conducts its own testing.

Question 48. With respect to Question 4(d) of Part 2 of Schedule C of Form CPO-PQR, when stress testing the risk free rates, is a pool supposed to test only the short-term interest rates issued by the government? For a pool that also trades long-term rates, should it simulate the corresponding moves in those markets? For instance, a 25 basis point move in short-term rates will also impact long-term rates. Should a pool use duration to model that relationship or does the question refer to a 25 basis point move for both long-term and short-term rates?

Answer. A CPO may use the methodology it uses to stress test the pool for internal risk management purposes, provided such methodology is reasonable and documented.

V. Form CTA-PR.

A. Co-CTAs.

Question 49(A).

A CTA is the contracting party (the "Contracting CTA") with a client. (The client is a managed account or a pool). The Contracting CTA delegates aspects of commodity interest trading to various Contracting CTA affiliates. For example, one team working for an affiliate of the Contracting CTA may handle currency hedging with respect to the account or pool while another team working for a different affiliate of the Contracting CTA may handle swap transactions. While all of the teams and affiliated entities are given discretion over the account with respect to the area of their respective expertise, none of the teams or affiliated entities is given a dollar amount with respect to which that team or affiliated entity has discretion. Rather, the teams and affiliated entities coordinate the provision of commodity interest trading advice to the account or pool. Since the

amount of assets under each affiliate's discretion will vary regularly, if the Contracting CTA is registered, may it report on the entire account/pool on Form CTA-PR?

Answer.

Where there are two or more co-CTAs with respect to a single client (whether such client is a managed account or a pool), if the CTA that has entered into a contract with the client is registered as a CTA, that registered, Contracting CTA should include all of that client's assets when reporting on Form CTA-PR.

Question 49(B).

However, where the Contracting CTA is not a registered CTA, but delegates to one or more affiliates who are acting in the capacity of registered CTAs with respect to the client, may the registered CTA with the largest assets under management attributable to pools include all of the account's assets over which the Contracting CTA has discretion in its Form CTA-PR (since each registered affiliated CTA is not necessarily given a specific, constant dollar amount over which such CTA has discretion)?

Answer.

The Division expects each filer to take a reasonable, documented approach. If the Contracting CTA is not registered, the registered CTA affiliate with the largest assets under management attributable to pools may include in its Form CTA-PR all of the account's assets over which the unregistered, Contracting CTA has discretion and the other registered CTAs would not report the client's assets on their respective Forms CTA-PR. Alternatively, the account's assets over which the unregistered, Contracting CTA has discretion may be split *pro rata* amongst the Contracting CTA's registered affiliates.

B. Definition of "Trading Program" (as used in Question 1(d)).

Question 50. As background, a CTA's managed accounts and pools may be allocated to multiple managers who employ various investment strategies within the same account or pool, although some of the accounts or pools may concentrate on long-short managers or credit managers. The CTA cannot say that any given account or pool focuses entirely, or even substantially, on only one strategy.

Question 50(A).

Given the definition of trading program (a program pursuant to which a CTA (1) directs a client's commodity interest account or (2) guides the client's commodity interest trading by means of a systematic program that recommends specific transactions), would such a CTA be deemed to offer "trading programs"?

Answer.

The CFTC would consider a "trading program" to be a single trading strategy or a universe of trading strategies for which CTA registration is required. CTAs may make reasonable determinations about whether they have trading programs and, if so, how many, provided that they document their determinations and apply them consistently.

Question 50(B).

In allocating each client's assets to underlying managers or underlying pools who direct the trading, would a CTA be considered to be recommending "specific transactions"?

Answer.

A CTA could reasonably determine that it is not recommending specific transactions in this example.

C. Total Assets Directed by CTA.

Question 51. What version of the total asset calculation should CTAs use in Question 2(a)? Should firms use total gross assets (AUM) or total net assets (NAV)?

Answer. A firm should use gross assets (AUM) in its total asset calculation. Please see our responses to Questions 1(C) and 2 in Section I.A. of these FAQs for further guidance.

Question 52. How should a CTA report master-feeder funds?

Answer. A feeder fund's investment in a master fund should be disregarded.

Question 53: With respect to Questions 1(e), 2(a) and 2(b) of Form CTA-PR, what is the meaning of "commodity interest trading account" as used in the definition of "direct"? (The Glossary for Form CTA-PR notes that the term "Direct" as used in the context of commodity interest accounts has the same meaning as "direct" in CFTC Rule 4.10(f), where "direct" means authorization to cause transactions to be effected for a client's commodity interest account without the client's specific authorization.")

Answer. Responses to these questions should take into account discretionary accounts and/or pools that actually traded commodity interests during the reporting period. Such responses are not required to include discretionary accounts that are only authorized to trade securities or that are authorized to trade commodity interests but have not done so in the reporting period and for which an exemption from CTA registration has not been claimed.

Question 54. If a CTA only indirectly manages trading advisors (who are, themselves CTAs), what is the best way to populate CTA-PR – indicate "0" for each field given no direct trading is going on?

Answer. The CTA should complete items 1(a)-(c) and item 1(d), if appropriate. The CTA may enter "0" for all fields that are not relevant.

VI. Miscellaneous.

Question 55. Box 0146 of the Cover Page of NFA Form PQR asks for "Total Funds allocated to Futures." Should this calculation include margin amounts plus the market value of the futures contracts held by the pool?

Answer. Yes, this calculation may be made based on margin amounts plus the market value of the futures contracts held by the pool.

Question 56. Instruction 16 of Form PF states: "You are not required to update information that you believe in good faith properly responded to Form PF on the date of filing even if that information is subsequently revised for purposes of your recordkeeping, risk management or investor reporting (such as estimates that are refined after completing of a subsequent audit)." Further, the SEC's answer to Question A.2 in the FAQs (posted July 19, 2012) with respect to Form PF states: "The [SEC] Staff would not object if you do not amend the report you filed to meet your. . . filing deadline if the assumptions you made regarding how to respond to a certain question were inconsistent with guidance that has since been provided by the [SEC] Staff. You should reflect the [SEC] Staff guidance in future required reports and, in your next required filing, note . . . any assumptions made in your initial filing that were inconsistent with the [SEC] Staff guidance."

Question 56(A).

Is Instruction 16 of Form PF and the SEC Staff guidance also applicable to Form CPO-PQR, Form CTA-PR, NFA Form PQR and NFA Form PR?

Answer.

Yes, Instruction 16 of Form PF and the SEC Staff guidance is applicable to Form CPO-PQR, Form CTA-PR, NFA Form PQR and NFA Form PR. *See also* Investment Advisers Release 3308, text accompanying footnote 185.

Question 56(B).

Only Schedule B of Form CPO-PQR includes a "Miscellaneous" item (Question 7) similar to item 4, the "Miscellaneous" item on Form PF. With respect to item 4 on Form PF, the SEC Staff recommended that a filer note any assumptions made in the initial filing that were revised in subsequent filings per SEC Staff guidance. Is a CPO required to provide similar notes with respect to assumptions made in responding to Schedule A and/or Question 6 of Part B (the Schedule of Investments), particularly if those are the only sections a CPO is required to complete? If so, where should a CPO provide such notes?

Answer.

The Division and the NFA recommend that each CPO and CTA keep internal notes and explanations about the assumptions on which such CPO or CTA based its answers with respect to the Forms. In particular, a CPO that determines information reported on filings of Form CPO-PQR and/or NFA Form PQR is incorrect based on CFTC and/or NFA guidance published after such filing was due should keep internal notes and explanations about such assumptions to provide to the NFA staff, upon request, during an examination. Provided the original assumptions were reasonable and documented, the NFA will not take enforcement action if the original assumptions prove to be incorrect so long as the CPO makes reasonable efforts to correct such information in subsequent filings.