

## Foreign Commodity Pool Operators: U.S. Registration Requirements

Commodity pool operators (“CPOs”) are generally defined under the U.S. Commodity Exchange Act as persons who sponsor, solicit participation in, or operate a collective investment vehicle (“pool”) that trades exchange traded futures contracts, options thereon, or foreign currencies. All CPOs are required to register with the Commodity Futures Trading Commission and become a member of the National Futures Association (“NFA”). Furthermore, a CPO must create a Disclosure Document for each pool, which must be filed with and approved by the NFA, to be distributed to all pool participants and updated at least every 9 months.

CPOs operating outside the United States are required to register if U.S. persons are invested in the pool. An exemption may be obtained, however, if the exchange(s) on which the foreign CPO trades futures is located outside the United States.

Several exemptions from CPO registration exist, including for pools which do not commit more than 10% of their assets to commodity interest trading positions (the “de minimis exemption”) and for pools, all of the investors in which are “Qualified Eligible Persons” (persons who own at least \$2MM of securities and other investments), among other exemptions.

*This Memorandum is intended to inform Malik Law Group’s clients of certain legal matters and is not intended as legal advice. You should consult a lawyer before taking any action based on the information contained above. Please contact Malik Law Group with any questions or comments you may have about this Memorandum.*

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For Further Information:

**BILAL H. MALIK:** 678.279.5478 or [bilal.malik@maliklawgroup](mailto:bilal.malik@maliklawgroup) OR **DEVLIN H. DWYER:** 678.279.5494 or [devlin.dwyer@maliklawgroup.com](mailto:devlin.dwyer@maliklawgroup.com)