



## CFTC Amends Annual Reporting and Other Notice Filing Requirements

In February, the Commodity Futures Trading Commission (the “CFTC”) adopted amendments to its Regulations that require commodity pool operators (“CPOs”) to submit annual reports to the National Futures Association (the “NFA”). The amendments include provisions affecting the filing of full annual reports by the CPO and require certain notice filings relating to changes in accountants and fiscal years.

### ANNUAL REPORT FILINGS

With respect to the filing of a full annual report by a CPO, the amendments require CPOs to (i) file annual reports electronically in Portable Document Format (“PDF”) using the NFA’s electronic filing system, (ii) submit certain key financial statement balances from annual reports into the NFA’s database, and (iii) make the required oath accompanying the annual report online through electronic submission of the annual report, rather than filing a manually-signed copy. In addition, the amendments include certain recordkeeping requirements. Specifically, CPOs are obligated to, for a period of five years, maintain copies of the electronically-filed annual reports, along with manually signed oaths or affirmations, and maintain records of supporting documentation that show how the key financial balances submitted electronically to the NFA were compiled from the annual report.

A CPO may permit its public accountant to enter the PDF file of the annual report and the required key financial balances into the NFA’s electronic filing system. However, only an authorized representative of the CPO may affirm the report and submit the filing.

The amendments do not alter the means by which CPOs may provide annual reports to pool participants. CPOs are still permitted to provide reports through mailed hard-copy distribution or electronically, provided that the CPO initially discloses to a participant its intent to distribute reports electronically prior to distribution and the participant does not object within ten business days following receipt of the disclosure of intent.

**FEBRUARY 2006**

**Washington, DC**  
+1 202.942.5000

**New York**  
+1 212.715.1000

**London**  
+44 (0)20 7786 6100

**Brussels**  
+32 (0)2 517 6600

**Los Angeles**  
+1 213.243.4000

**San Francisco**  
+1 415.356.3099

**Northern Virginia**  
+1 703.720.7000

**Denver**  
+1 303.863.1000

*This summary is intended to be a general summary of the law and does not constitute legal advice. You should consult with competent counsel to determine applicable legal requirements in a specific fact situation.*

[arnoldporter.com](http://arnoldporter.com)

**OTHER NOTICE FILINGS**

The amendments also clarify that a CPO must file a written notification pursuant to CFTC Regulation § 1.16(g) with the NFA whenever there is a change in the public accountant auditing a commodity pool. Furthermore, the amendments also provide that the notification required by CFTC Regulation § 4.22(g) when a CPO changes a commodity pool's fiscal year-end may be filed solely with the NFA.

**EFFECTIVENESS AND APPLICABILITY OF AMENDMENTS**

The amendments described above will become effective March 24, 2006. The amendments apply to all CPOs operating commodity pools subject to the annual reporting requirements of CFTC Regulation § 4.22, including pools that have claimed exemptions pursuant to CFTC Regulation §§ 4.7 or 4.12. However, the amendments neither apply to CPOs operating pools that are exempt from notice filings pursuant to CFTC Advisory 18-96 nor affect entities that are exempt from registration as a CPO pursuant to CFTC Regulation §4.13.

*If you have any questions, please contact:*

**Michael F. Griffin**

212.715.1136

Michael.Griffin@aporter.com

**J.P. Bruynes**

212.715.1135

JP.Bruynes@aporter.com

**Rob Holton**

212.715.1137

Robert.Holton@aporter.com

**William V. de Cordova**

212.715.1020

William.deCordova@aporter.com