

Client update

CFTC Grants Family Offices No-action Relief from Registration as CTAs

NEW YORK

Byungkwon Lim
blim@debevoise.com

Gary E. Murphy
gemurphy@debevoise.com

Michael J. Decker
mjdecker@debevoise.com

In a recent letter (the “CTA Letter”),¹ the Division of Swap Dealer and Intermediary Oversight (“Division”) of the Commodity Futures Trading Commission (“CFTC”) offered no-action relief to a family office for failure to register with the CFTC as a commodity trading advisor (“CTA”) in connection with commodity trading advisory service provided to a family client. A family office is, generally, a professional organization that is wholly-owned by clients in a family and is exclusively controlled (directly or indirectly) by one or more members of a family and/or entities controlled by a family (a “Family Office”).

The CTA Letter builds on the relief provided by the Division in a 2012 letter (the “CPO Letter”),² which provided relief from registration as a commodity pool operator (“CPO”) to certain family offices that (i) submit a claim for the relief and (ii) remain in compliance with rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940 (the “Advisers Act”).³

The CTA Letter states that the no-action relief from registration provided in the CPO Letter should apply equally in the context of CTA registration. Therefore the Division grants no-action relief from CTA registration for Family Offices eligible for relief under the CPO Letter, in connection with their advisory services to Family Clients (as defined in rule 202(a)(11)(G)-1(d)(4) under the Advisers Act), that (i) submit a claim electing the relief, and (ii) remain in

¹ Available at <http://www.cftc.gov/PressRoom/PressReleases/pr7068-14>

² Download our Client Update, *CFTC Grants No-Action Relief to Family Offices and Funds of Funds*, at: http://www.debevoise.com/insights/publications/2012/12/cftc-grants-noaction-relief-to-family-offices-an__

³ The Securities and Exchange Commission’s release defining “family office” is discussed in detail in our Client Update, *SEC Adopts Rule Defining “Family Office” under the Investment Advisers Act*, available at <http://www.debevoise.com/newseventspubs/publications/detail.aspx?id=e3af8146-84ea-428e-a606-f8cedcd6e62c>

compliance with such rule 202(a)(11)(G)-1, as amended.

Although the relief is not self-executing, complete claims by eligible Family Offices to perfect the relief will be effective upon filing. The claim of no-action must:

- State the name, main business address, and main business telephone number of the Family Office claiming the relief;
- State the capacity (i.e., CTA) and, where applicable, the name of the pool(s), for which the claim is being filed;
- Be electronically signed by the Family Office; and
- Be filed with the Division using the email address dsionoaction@cftc.gov with the subject line "Family Office CTA Relief."

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Please do not hesitate to contact us with any questions.