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July 20, 2020

Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
115 21st Street, N.W.
Washington, D.C. 20581

Re: Part 190 Bankruptcy Regulations (RIN 3038-AE67)

Dear Mr. Kirkpatrick,

The Part 190 Subcommittee ("***Committee***") of the Business Law Section of the American Bar Association ("***ABA***") appreciates the opportunity to submit the comments provided for in this letter to the Commodity Futures Trading Commission ("***CFTC***" or "***Commission***") for consideration in connection with the Commission's proposal regarding the Part 190 Bankruptcy Regulations (the "***Proposal***," and an individual rule, the "***Proposed Rule***").

The Part 190 Rules govern the liquidation of a commodity broker, including a futures commission merchant ("***FCM***") or derivatives clearing organization ("***DCO***"), administered under subchapter IV of chapter 7 of the U.S. Bankruptcy Code ("***Code***"). The Committee fully supports the Commission's objectives that the rules should be clear and transparent, and protect customers, given the important purpose they serve.

The Committee would like to thank the Commission for its substantial commitment to modernizing and improving the Part 190 Bankruptcy Regulations, including its consideration of the Committee's proposed revisions to the Part 190 Rules (the "***Model Part 190 Rules***") and the incorporation of a number of our suggestions and modifications into the Proposal. The Proposal reflects significant work by the Commission, and includes a number of improvements to the Model Part 190 Rules.

The views expressed in this letter, and the proposed Model Part 190 Rules, are presented on behalf of the Committee. The views expressed herein have not been approved by the House of Delegates or Board of Governors of the ABA, and should not be construed as representing policy of the ABA. In addition, this letter does not represent the official position of the ABA Section of Business Law, nor does it necessarily reflect the views of all members of the Committee.

I. The Committee, the Model Part 190 Rule and Project Kiss

As explained in more detail in the Committee's September 29, 2017, letter transmitting the Model Part 190 Rules to the Commission, the Committee was established in February 2015 as a joint subcommittee of the Derivatives and Futures Law Committee and Business Bankruptcy Committee of the ABA Business Law Section, and its members are drawn primarily from those two committees. The Committee initially had around 35 members, but over time expanded to more than 45 members.[1] Its goal was to identify areas where the existing Part 190 Rules could be improved. The members brought differing views to the many issues that the Committee considered, drawing on their unique and varied experiences, to the benefit of the final work product. The Committee submitted the Model Part 190 Rules for the Commission's consideration as part of the Commission's "Project Kiss" initiative.

II. Committee Comments to the Proposal

Overall, the Committee supports the Proposal, including limiting the scope of Part 190 to the commodity broker liquidation of an FCM or DCO; adding Proposed Rule 190.00 to explain the statutory basis for Part 190, the core concepts the rules reflect, and the rules' role in a proceeding under the Securities Investors Protection Act or Title II of the Dodd-Frank Wall Street Reform and Consumer Protection ("***Dodd-Frank Act***"); reorganizing Part 190 into three subparts; and modernizing outdated provisions. Following the review of the Proposal by members of the Committee, the Committee now submits the following comments to address what it believes to be technical corrections or address areas where the Proposal is not clear or may have unintended consequences. The members of the Committee represent diverse interests and thus within the Committee, individual members may have different views on specific features of the Proposal.

A. Proposed Rule 190.00(d)(3)(v) – Mixed Swaps

Issue*: The Proposed Rule addresses security futures products, but not cleared mixed swaps.*

Proposed Rule 190.00(d)(3)(v) excludes security-based swaps and securities from the proposed definition of the term "commodity contract." In contrast, a security futures product, which is both a futures contract and a security, is not excluded from the definition when it is carried in an account for which there is a corresponding account class under Part 190.

A mixed swap is a security-based swap that is also based on one or more interest or other rates, currencies, commodities, etc. Like security futures products, mixed swaps are subject to dual regulation by the CFTC and the Securities and Exchange Commission.[2] Although not currently an issue, the Committee believes it is possible that DCOs could provide clearing services to FCMs and their customers with respect to mixed swaps, where mixed swap positions are carried in accounts subject to the Commission's Part 22 Rules and customers are part of the cleared swap account class under Part 190. To cover this possibility, the Committee asks the Commission to modify Proposed

[1] The Committee comprises attorneys who work extensively in the areas of derivatives law, bankruptcy law or both, including lawyers at law firms, FCMs, clearing houses and exchanges, government agencies and industry associations.

[2] *See* the definition of the term "swap" in Section 1a(47) of the Commodity Exchange Act ("***CEA***"), and in particular, the definition of the term "mixed swap" in subparagraph (D) in conjunction with the text of subparagraph (B)(x), which exclude from the swap definition "any security-based swap, *other than a security-based swap as described in subparagraph (D) [i.e., a mixed swap]*". (Emphasis added.)

Rule 190.00(d)(3)(v) to clarify that mixed swaps could be commodity contracts subject to Part 190, as follows (modification underscored):

> (v) Any security-based swap or other security (as defined in section 3 of the Exchange Act), but a security futures product or a mixed swap that is carried in an account for which there is a corresponding account class under this part is not so excluded.

B. Proposed Rule 190.01 - Definitions of Terms in the Account Class Definition

Issue: *The proposed definitions of the terms "futures account class," "foreign futures account class," and "cleared swaps account class" omit non-public customers from their scope.*

The proposed account class definition contains within it separate definitions for each of the account classes listed. The "futures account class" is defined by cross-reference to the "futures account" definition in CFTC Rule 1.3; the "foreign futures account class" is defined by cross-reference to "30.7 account" definition in CFTC Rule 30.1; and the "cleared swaps account class" is defined by cross-reference to "cleared swaps customer account" definition in CFTC Rule 22.1. In each case, the cross-referenced definition is limited in scope to segregated accounts of public customers. The Part 190 Rules, though, also use the account class distinctions in relation to the non-public customer class, *i.e.*, holders of proprietary accounts that an FCM maintains and clearing members' house accounts that a DCO maintains. The Committee recommends that the Commission expand the definitions for the futures, foreign futures, and cleared swaps account classes to include non-public customers within their scope.

C. Proposed Rule 190.01 – Definition of the Term Allowed Net Equity Claim and Related Rules

Issue**:** *The proposed definition and use of the term "allowed net equity claim," and separate use of the term "allowed," could create inconsistencies and confusion between the Part 190 Rules and settled bankruptcy law terminology.*

The definitions of the term "allowed net equity" in Proposed Rules 190.01 and 190.08(a), which track the current definitions, provide that "allowed net equity" equals the "funded balance" of a customer's net equity claim, *i.e.*, the amount of customer property distributable to the customer. Under well-established interpretations of the Code, however, including subchapter IV of chapter 7 of the Code, "allowed" typically refers to the fixed *amount* of a creditor's claim rather than the amount *distributable* on such claim.[3] The Proposal also uses "allowed" in the traditional bankruptcy sense in certain sections, *e.g.*, Proposed Rules 190.00(c)(5) and 190.09(c)(1)(ii).

The Committee recommends three modifications to address this potential confusion and uncertainty. First, the Committee recommends that the Commission delete the definition of the term

[3] *See, e.g.*, 11 U.S.C. § 766(h) (stating that customer property is paid "ratably to customers on the basis and to the extent of such customers' allowed net equity claims. . . ."); 11 U.S.C. § 726(b) (providing that payment is made "pro rata" to holders of "allowed" claims).

"allowed net equity" in Proposed Rule 190.01 as well as paragraph (a) in Proposed Rule 190.08 as unnecessary. The remaining paragraphs in Rule 190.08 address how to calculate customers' net equity claims and the funded balances for each such claims. The recommended deletions will eliminate the inconsistent use of the term "allowed" described above, as "allowed" no longer will equate to the funded balance of a claim (i.e. the amount distributable to a customer).[4]

Second, the Committee recommends adding a new paragraph (g) to Proposed Rule 190.02 as follows: "The term 'allowed' in this part shall have the meaning ascribed to it in the Bankruptcy Code." This will confirm that "allowed" under the Part 190 Rules equates to the same use of that term under the Code.

Third, Proposed Rule 190.09(d)(3) uses the term "allowed net equity claim" in the context of describing the amount distributable on the customer's claim. Accordingly, the Committee recommends adding the phrase "funded balance of" before "such customer's allowed net equity claim. . . ." in Proposed Rule 190.09(d)(3).

D. Proposed Rule 190.01 - Definition of the Term Cash Delivery Property

Issue: *The proposed definition of the term cash delivery property includes a timing element that could harm customers and creates a potential gap.*

The proposed definition of the term "cash delivery property" is relevant for defining the pool of customer property that is available to distribute to customers in the proposed cash delivery account class within the delivery account class. Under the proposed definition, cash and cash equivalents are considered cash delivery property only if identified in the debtor's books and records as having been received from or for the account of the customer during the three calendar day period preceding the relevant first notice date, in the case of an expiring physical delivery futures contract, or exercise date, in the case of a commodity option. This is a feature of the current Part 190 Rules, but it is one that the Committee eliminated in the Model Part 190 Rules to avoid unintended consequences.

The Committee understands that the Commission is proposing to retain this restriction in order to encourage customers and their FCMs to hold cash in a segregated account where it is better protected until needed to pay for a delivery that is effected in the delivery account.[5] In practice, though, it is our understanding that cash or cash equivalents are from time to time posted to delivery accounts sooner than three days before the first notice date or exercise date, and thus it appears that the current restriction can be ineffective in achieving the Commission's desired behavior, and in fact may harm customers.

The Committee is concerned that retaining the restriction could lead to inadvertent consequences that are adverse to customer protection. If cash or cash equivalents are posted to the customer's delivery account too soon, the customer will be denied the protection of having such property treated as cash delivery property. This also creates an issue of how to treat the customer's claim in an FCM bankruptcy arising from cash or cash equivalents posted in the delivery account more than three

[4] The changes would also align Proposed Rule 190.08 with its subpart C counterpart, Proposed Rule 190.17, which does not use the term allowed net equity claim.

[5] It is not a regulatory violation for a customer to post cash or cash equivalents, or for its FCM to transfer cash or cash equivalents out of the customer's segregated account, to the customer's delivery account sooner than the definition allows.

days before the delivery notice or exercise date. For these reasons, the Committee suggests that the Commission remove this three day timing restriction from the cash delivery property definition.

Issue: *The proposed definition of the term cash delivery property does not allow for the possibility that cash or cash equivalents could be received after the filing date to pay for a delivery.*

The proposed definition provides that cash or cash equivalents must be reflected in the customer's delivery account as of the filing date. The days preceding a bankruptcy filing could be hectic, and thus a customer may be unable to post the cash needed to pay for an upcoming delivery before the filing date. Although this scenario may be rare, the Committee believes it would be appropriate to revise the definition to allow for the possibility that cash or cash equivalents would be posted after the filing date for the purpose of paying for a delivery, and to provide protection for such deposits.

Issue: *There is ambiguity in how the proposed definition of the term cash delivery property (and the related definition of the term physical delivery property) should apply to foreign currency commodity contracts.*

Final settlement under certain foreign currency commodity contracts occurs by the exchange (delivery) of two different fiat currencies. For foreign currency futures, it is the Committee's understanding that the exchange typically occurs in a segregated account, but can from time to time occur in the customer's delivery account. Given the fungible nature of cash, regardless of currency denomination, the Committee believes it is appropriate and consistent with the reasons for establishing separate cash delivery and physical delivery account classes to treat both fiat currencies under a physical delivery commodity contract as cash delivery property. The Committee asks the Commission to add this clarification to the definition.

E. Proposed Rule 190.01 - Definition of the Term House Account and Related Subpart B Rules

Issue*: The proposed definition of the term "house account" in relation to an FCM seems unnecessary and also would preclude porting of proprietary accounts.*

The current "house account" definition covers a commodity contract account owned by the debtor. The Commission is proposing to replace the definition with one that separately covers (i) accounts maintained by a DCO through which clearing members clear trades for their own accounts and/or the account(s) of their non-public customers, and (ii) proprietary accounts, including accounts of affiliates, maintained by an FCM, which expands the current definition as applied to an FCM. The Committee supports adding a specific definition with respect to a DCO.

The Committee recommends, though, that the Commission delete the definition in relation to an FCM as unnecessary and potentially confusing. The proposed expanded definition would impact subpart B (FCM) bankruptcy proceedings in only three respects, described below. In two places, we believe the text of the provisions can be expressed more clearly and directly without reference to the house account of an FCM, and in one place (porting) we ask the Commission to reconsider expanding the scope of the restriction beyond a debtor FCM's own account. The Committee's specific recommendations follow:

Proposed Rule 190.06(a)(5). This rule addresses deliveries made or taken with respect to "house accounts." The Committee proposes revising the provision as follows:

> If delivery of physical delivery property is to be made or taken on behalf of ~~a house account of~~ the debtor's own account or the account of any non-public customer of the debtor, the trustee shall make or take delivery, as the case may be, on behalf of the debtor's estate, provided that if the trustee takes delivery of physical delivery property it must convert such property to cash as promptly as possible.

Proposed Rule 190.07(c). This rule prohibits porting of "[h]ouse accounts or the accounts of general partners of the debtor if the debtor is a partnership." Both the Code and the existing Part 190 Rules historically have contemplated the porting of proprietary accounts in FCM bankruptcy cases, so long as there is no shortfall in public customer property. The Committee supports retaining the possibility of porting proprietary accounts in FCM bankruptcy cases, and therefore proposes replacing the phrase "[h]ouse account" with "[t]he debtor's own account" in proposed rule 190.07(c)(1). This change would clarify that proprietary accounts of the FCM's non-public customers may continue to be ported in appropriate cases.

Proposed Rule 190.08(b)(2)(ix). This rule provides that when a creditor FCM maintains both an omnibus account and a house account with a debtor FCM, it holds those accounts in separate capacities for purposes of determining net equity claims. The Committee proposes revising the provision as follows:

> An omnibus customer account for public customers of a futures commission merchant maintained with a debtor shall be deemed to be held in a separate capacity from ~~the house account and~~ any ~~other~~ omnibus customer account for non-public customers of such futures commission merchant and from any account maintained with the debtor on its own behalf or on behalf of any non-public customer.

F. Proposed Rule 190.01 - Definition of the Term Variation Settlement

***Issue**: The defined term is not used consistently in the proposed Part 190 revisions.*

The proposed definition of the term "variation settlement," which is a new defined term, covers "variation margin" as defined in CFTC Rule 1.3, along with "all other daily settlement amounts (such as price alignment payments) that may be owed or owing on the commodity contract." The Committee identified two places in Proposed Rule 190.14(b) where the term "variation" is used instead of "variation settlement." The Committee recommends using "variation settlement" in both places, to avoid any confusion as to whether "variation" refers to the Commission's variation margin definition or variation settlement definition.[6]

[6] In the Model Part 190 Rules, the Committee had proposed a definition of variation settlement that was self-contained in that it did not incorporate the Commission's separate definition of variation margin in Rule 1.3. Although the Committee believes its approach is more direct, the two definitions are substantially the same.

G. Proposed Rule 190.10 – Provisions Applicable to FCMs During Business As Usual

***Issue**: Should the Proposed Rule be moved to the Commission's Part 1 Regulations.*

Proposed Rule 190.10 combines into a single rule certain provisions that apply to an FCM during business as usual that are designed to facilitate liquidation of the FCM in the event it becomes subject to a proceeding under subchapter IV of chapter 7 of the Code. The Committee had also recommended this approach in the Model Part 190 Rules. Upon further reflection, the Committee believes that such a rule more logically belongs in the Commission's Part 1 Regulations, along with other rules that apply to FCMs during business as usual. Compliance and legal personnel could inadvertently overlook obligations that are not located in the Commission rule set where they would expect to find them. Thus, we ask the Commission to consider moving Proposed Rule 190.10 to its Part 1 Regulations, or at least to add a provision in Part 1 that sets out that FCMs are also subject to the requirements set out in § 190.10 of Part 190.

H. Proposed Rule 190.14(b) – Continued Operation of the Debtor DCO

***Issue**: Proposed Rule 190.14(b) may create unintended ambiguity on enforceability of a DCO's close-out netting rules.*

Proposed Rule 190.14(b) provides, in a DCO proceeding, that the trustee must suspend making calls for variation settlement and margin, unless certain conditions are met and the Commission grants its approval. The trustee may continue to run settlement cycles only if it is feasible to expect that the debtor DCO's operations could be transferred to another DCO or that the DCO will become subject to a resolution proceeding under Title II of the Dodd-Frank Act. As further conditions, the DCO's rules must not compel termination of all or substantially all of the outstanding contracts under prevailing circumstances and substantially all of the clearing members (not themselves subject to a bankruptcy proceeding) must be willing and able to make variation payments. Committee members have heard some raise a concern that the conditions, as drafted, could be read to limit application of a DCO's close-out netting rules. Although we do not believe that is what the Commission intended, given the importance of enforceability of a DCO's close-out netting rules to clearing members, the Committee recommends that the Commission revise the rule to clarify that the DCO's close-out netting rules remain in effect and are enforceable as written, notwithstanding any decision under Proposed Rule 190.14(b) by the Commission to allow the trustee to continue making calls for variation settlement and margin.

I. Proposed Rule 190.16 – Deliveries

***Issue**: The Proposed Rule does not address contracts that are unable to be liquidated and that then move into delivery position.*

Proposed Rule 190.16(a) addresses commodity contracts that moved "into delivery position ***prior to*** the date and time of the order for relief…" and requires that the trustee use reasonable efforts to facilitate deliveries on behalf of a clearing member or its customer. (Emphasis added). Proposed Rule 190.16(a) seems to assume that if a physical-delivery commodity contract is open at the date and time of the order for relief the trustee will be able to terminate the contract before it moves into delivery position. The Committee believes, though, that it may be impossible or impracticable for

a trustee to liquidate every such contract. Thus, the Committee asks the Commission to remove the timing limitation in Proposed Rule 190.16(a), but also to add that the trustee should use reasonable efforts to liquidate open physical delivery commodity contracts before they move into a delivery position.

J. Proposed Rule 190.17(b)(1) – Calculation of Net Equity Claims for House Accounts

Issue: *Proposed Rule 190.17(b)(1) contains ambiguity on how to apply the DCO's loss allocation rules and procedures to the calculation of clearing members' net equity claims for their house accounts.*

Proposed Rule 190.17(b)(1) states that the calculation of the net equity claim of a clearing member of a debtor DCO "shall include the full application of the debtor's loss allocation rules and procedures, including the default rules and procedure referred to in §§ 39.16 and, if applicable, 39.35 of this chapter." It further states that "[t]his includes, with respect to the clearing member's house account, any assessments or similar loss allocation arrangements provided for under those rules and procedures that were not called for before the filing date, or, if called for, have not been paid."

Some have expressed uncertainty over how assessments that were not called for, or that were called for but not paid before the filing date, would impact the calculation of a clearing member's net equity claim with respect to its house account. The overarching standard that the debtor DCO's loss allocation rules and procedures must be applied in "full" suggests that house account net equity claims would be adjusted to reflect post-filing obligations only if and to the extent that the DCO's rules and procedures impose obligations on clearing members to continue making such payments following the DCO's bankruptcy. The Committee asks the Commission to please revise the proposed rule to clarify that this limitation applies, as follows:

> This includes, with respect to the clearing member's house account, any assessments or similar loss allocation arrangements provided for under those rules and procedures that were not called for before the filing date, or, if called for, have not been paid, <u>if and to the extent that the debtor's loss allocation rules and procedures impose obligations on clearing members to make such payments on or after the filing date.</u>

K. Proposed Rule 190.18(c)(1) – Clearing Member Property

Issue*: The proposed treatment of clearing members' guaranty fund deposits and similar payments represents a significant policy change that is more appropriately addressed outside the Proposal.*

In the case of a DCO bankruptcy proceeding, current Rule 190.09(b) provides that guaranty fund deposits and similar risk-mutualizing payments made by clearing members will be returned to clearing members as member property after being applied in accordance with the DCO's rules. (The Committee retained this feature in the Model Part 190 Rules.) In contrast, Proposed Rule 190.18(c)(1) provides that such property (described by cross-reference to property described in Proposed Rule 190.18(b)(1)) will first be allocated and available to cover claims of public customers in any account class before it is allocated to member property, regardless of how the DCO's loss allocation rules prescribe that guaranty fund deposits or other risk-mutualizing payments will be applied. Thus, a clearing member's guaranty fund deposits or similar payments may be exposed to

risk in asset classes in which it does not trade, and which the clearing member does not expect to assume based on the DCO's rules.

The Committee is not taking a formal position on this significant policy change, with respect to which different members may well have different views. The Committee believes, though, that the policy change reflected in Proposed Rule 190.18(c)(1) presents significant competing policy considerations and complex issues, and that those issues and policy considerations warrant careful additional attention outside of the Commission's proposed Part 190 rulemaking. The Committee has identified the following potential issues that we believe warrant further careful attention by the Commission and market participants, and there may well be others:

- As a procedural matter, should the Commission seek to implement this policy change through a Part 190 rule that would have the effect of overruling inconsistent DCO rules, or should Part 39 instead be amended to require DCOs to have loss allocation rules that align with any policy change the Commission may ultimately adopt?

- Would the proposed policy change have a selective impact on U.S. DCOs that could place them at a competitive disadvantage to non-U.S. DCOs?

- Would the proposed policy change discourage firms from becoming or remaining direct clearing members of a DCO for the purpose of clearing trades solely for their own account or for non-public customers, *e.g.*, their affiliates?

- Would the proposed policy change create a risk that U.S. banking regulators will want to revisit the methodology for determining the amount of regulatory capital that bank and bank-affiliated clearing members must hold with respect to cleared derivatives?

The Committee recommends that the Commission revise Proposed Rule 190.18(c)(1) to confirm that customer property described in Rule 190.09(b)(1) will be allocated to member property after such property is applied to cover losses in accordance with the DCO's rules, to maintain the status quo, and that the Commission separately consider the merits of the policy change it has raised.

L. Proposed Framework 2 to Appendix B

***Issues**: Framework 2 creates some ambiguity on when and how the special distribution framework it prescribes should apply.*

Framework 2 to Appendix B is a special framework that applies when there has been a loss of futures customer property or Cleared Swaps Customer Collateral (as defined in Part 22) as a result of a "sovereign action." The Committee suggested that the Commission delete framework 2 in its entirety. The Commission is proposing to retain framework 2 with some clarifying changes to the opening paragraph, but has indicated that it would welcome proposals to simplify framework 2.

The Committee believes that certain provisions in framework 2 could be misconstrued to suggest that the special distribution framework must be followed in circumstances that are not intended, in three respects.

- *First*, as drafted framework 2 could be read to apply whenever there is a loss resulting from a sovereign action, even if there is sufficient customer property to otherwise pay all

customer net equity claims in full. The Committee suggests that this aspect of the framework should only apply if and to the extent that there is a customer property shortfall.

- *Second*, the proposed opening paragraph to framework 2 indicates that it is intended to apply when "sovereign action of a foreign government or court has occurred that results in losses to the futures customer funds or Cleared Swaps Customer Collateral." However, the existing instructions and specific examples in framework 2 apply more broadly, and would require its application in any situation where futures customer funds or Cleared Swaps Customer Collateral was held in a foreign currency. The Committee suggests that the instructions and examples should be modified to make it clear that framework 2 applies only in sovereign action loss situations.

- *Third*, existing framework 2 instructions establish the "Final Net Equity Determination Date" as the date for both converting customer claims to U.S. dollars and determining the amount of the Sovereign Loss. In prior bankruptcy cases, however, claims stated in foreign currencies were either valued on the date of transfer (where porting was available), or converted to U.S. dollars as of either as of the petition date or the date on which the foreign currency reflected in the customer's account was liquidated (and thus the customer bore the risk of interim currency fluctuations). In addition, a sovereign action could take place at any time after the petition date, and the trustee is required to make funded balance calculations throughout the course of the bankruptcy case for purposes of porting and/or making interim distributions.

To address the first issue, the Committee suggests that an additional sentence be added to the opening paragraph of framework 2, indicating that framework 2 only applies when sovereign action of a foreign government or court has occurred that results in futures customer funds or Cleared Swaps Customer Collateral losses, *and* there is insufficient customer property (as defined in Proposed Rule 190.09(a)(1)) to pay all customer net equity claims in full.

To address the second issue, the Committee suggests that the following provisions of framework 2 be deleted, and that the surviving provisions of framework 2 be renumbered as applicable:

- *I. Reduction in Claims for General Shortfall* (entire section)

- Example 2 – Shortfall in funds held in the U.S.

- Example 3 – Shortfall in funds held outside of the U.S., or in a currency other than U.S. dollars, not due to sovereign action

To address the third issue, the Committee suggests that the phrase "Final Net Equity Determination Date" be deleted from current section II.B.2.b of framework 2, and be replaced with the phrase "date of the calculation."

III. Conclusion

The Committee commends the Commission for its hard work to develop comprehensive amendments to the Part 190 Rules. Overall we support the Proposal and agree that the proposed revisions substantially improve the rules' clarity and transparency, and will enhance customer protection. The Committee appreciates the opportunity to provide our comments on the Proposal.

Please contact Kathryn Trkla (312-832-5179) or Vincent Lazar (312-923-2989) if you have any questions about any of the comments we offer in this letter.

Respectfully submitted,

Kathryn M. Trkla, Co-Chair

Vincent E. Lazar, Co-Chair

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