Commodity Futures Trading Commission

§ 190.03 Operation of the debtor's estate subsequent to the primary liquidation date.

Subsequent to the primary liquidation date, accounts which contain open commodity contracts not required to be liquidated under §190.02(f)(1) shall be operated by the trustee as follows:

(a) Operation of accounts held open for transfer—(1) Establishment of transfer accounts. On the primary liquidation date, the trustee must generate a new statement of account for each class of account of a customer which contains a commodity contract not required to be liquidated under §190.02(f)(1). The opening balance of such statement must be equal to its funded balance, less the value on the date of return or transfer of any property previously returned or transferred does not equal or exceed:

(i) 100% of the maintenance margin requirements of the applicable board of trade with respect to the open commodity contracts in such account; or

(ii) If there are no such maintenance margin requirements, 100% of the clearing organization margin requirements applicable to the open commodity contracts in such account; or

(iii) If there are no maintenance margin requirements or clearing organization margin requirements, then 50% of the initial margin applicable to the open commodity contracts in such account;

Provided, That no margin calls need be made by the trustee to restore initial margin. A margin call for such accounts should be made as soon as possible following the order for relief and the trustee shall be authorized, but not obligated, to liquidate any account for which such margin call is not met within a reasonable time as defined in §190.04(e)(4): Provided, That the trustee must immediately liquidate any account which is in deficit.

(3) Margin payments by the customer. The full amount of any margin payment by a customer in response to a margin call under paragraph (g)(2) of this section must be credited to the funded balance of the particular account for which it was made.

§ 190.04 Operation of the debtor’s estate—general.

(a) Compliance with the Act and regulations. Except as specifically provided otherwise in this part, the trustee shall comply with all of the provisions of the Act and of the regulations thereunder as if it were the debtor.