

Mr. Clark Hutchison III
Director
Division of Clearing and Risk
U.S. Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, DC 20581

Ms. Dorothy D. DeWitt
Director
Division of Market Oversight
U.S. Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, DC 20581

Mr. Joshua B. Sterling
Director
Division of Swap Dealer and Intermediary Oversight
U.S. Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, DC 20581

July 20, 2020

RE: REQUEST FOR REVISION OF NO-ACTION LETTERS 19-26, 19-27, AND 19-28 REGARDING THE APPLICATION OF CERTAIN SWAP REGULATORY REQUIREMENTS TO FACILITATE AN ORDERLY TRANSITION FROM INTER-BANK OFFERED RATES TO ALTERNATIVE RISK-FREE RATES

Dear Ms. DeWitt, Mr. Hutchison, and Mr. Sterling,

The Alternative Reference Rates Committee (**ARRC**) and its member firms write to request modified no-action relief from the Division of Clearing and Risk (**DCR**), the Division of Market Oversight (**DMO**) and the Division of Swap Dealer and Intermediary Oversight (**DSIO**) of the U.S. Commodity Futures Trading Commission (**CFTC** or **Commission**) under the Commodity Exchange Act (**CEA**) and CFTC regulations thereunder regarding the treatment of certain swaps that are amended as part of the industry effort to transition to reference risk-free rates (**RFRs**) in connection with the upcoming discontinuation of the London Interbank Offered Rate (**LIBOR**) and other inter-bank offered rates (**IBORs**). The ARRC is requesting modifications to the prior no-action relief letters issued by DCR, DMO and DSIO—CFTC Letter Nos. 19-28, 19-27, and 19-26, respectively—to address industry developments.

The ARRC appreciates (i) the DCR’s issuance of CFTC Letter No. 19-28 (**DCR No-Action Letter**), which provided relief from the mandatory clearing requirement¹ for legacy interest rate swaps modified as part of the industry transition from certain IBORs to certain RFRs; (ii) the DMO’s issuance of CFTC Letter No. 19-27 (**DMO No-Action Letter**), which provided relief from the CEA’s trade execution requirement and implementing CFTC regulations² for swaps amended or created for the sole purpose of accommodating the replacement of an IBOR with an RFR; and (iii) the DSIO’s issuance of CFTC Letter No. 19-26 (**DSIO No-Action Letter**), which provided relief from several swap regulatory requirements under the CEA and CFTC regulations for “Qualifying Amendments,” as defined in the DSIO No-Action Letter, to swaps to facilitate an orderly transition from IBORs to alternative benchmarks. The DCR No-Action Letter, DMO No-Action Letter and DSIO No-Action Letter addressed many of the regulatory issues the ARRC believes would otherwise hinder a smooth and orderly transition, and the ARRC is grateful to the Commission for providing relief.

To further ensure a smooth and orderly transition, we now request specific modifications to the relief provided in the DCR No-Action Letter, DMO No-Action Letter and DSIO No-Action Letter to address industry developments. One of these requests for DCR—regarding the rates covered by the DCR No-Action Letter—has since taken on additional urgency because ISDA expects to publish in July 2020 the ISDA 2020 IBOR Fallbacks Protocol, which will facilitate the amendment of swaps to include Fallback Amendments. Lack of relief with respect to the rates covered by the DCR No-Action Letter may deter market participants from adhering to the ISDA protocol, which would negatively impact the success of IBOR transition efforts.

Enclosed, please find an ARRC Issues List that highlights areas of concern with these no-action letters for which the ARRC is now requesting modifications. The ARRC appreciates the continued engagement of the DCR, DMO and DSIO on these regulatory matters associated with the IBOR transition. The ARRC appreciates the Commission and staff’s continued engagement on IBOR transition matters and looks forward continuing our dialogue as the need for additional regulatory clarity and guidance arises.

¹ CEA § 2(h)(1)(A); 17 C.F.R. § 50.2.

² CEA § 2(h)(8); 17 C.F.R. §§ 37.9, 38.11.

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Thank you for your consideration of our request. Please feel free to contact Maria-Ines Raij (212-537-2054 or maria-ines.raij@morganstanley.com), Simon Winn (917-472-4305 or simon.winn@us.bnpparibas.com), Jai R. Massari (202-962-7062 or jai.massari@davispolk.com), Gabriel D. Rosenberg (212-450-4537 or gabriel.rosenberg@davispolk.com) or Mark Sater (212-450-3142 or mark.sater@davispolk.com) should you have any questions or concerns.

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Tom Wipf
Chair
Alternative Reference Rates Committee

Enclosure

CC:

Dr. Heath P. Tarbert
Chairman
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Mr. Brian D. Quintenz
Commissioner
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Mr. Rostin Behnam
Commissioner
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Ms. Dawn DeBerry Stump
Commissioner
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Mr. Dan M. Berkovitz
Commissioner
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Mr. Daniel J. Davis
General Counsel
Office of the General Counsel
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581