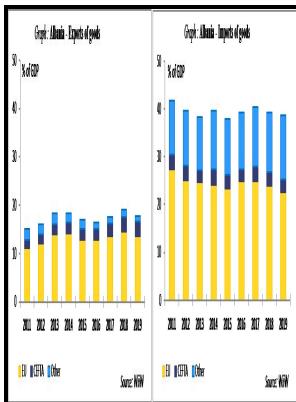


Structuring estate freezes under chapter 14 - final regulations

Warren Gorham Lamont - Evolution of the estate freeze.



Description: -

- Estate planning -- United States.
- Family corporations -- Taxation -- United States.
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Notes: Includes index.

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Estate Planning and Carried Interest

The Commission requested comment with respect to all aspects of proposed § 190. The advantage of the partnership freeze over the holding company approach lies in the fact that partnerships are easier to control.

Estate Planning and Carried Interest

To the extent the trustee does not exercise its authority to treat public customer positions carried in a hedging account as specifically identifiable property, the trustee must endeavor to, as the baseline expectation, treat open commodity contracts of public customers carried in hedging accounts the same as other customer property and effect a transfer of such contracts to the extent possible. The ABA Subcommittee and CME suggested that those account class distinctions are also relevant for the non-public customer class i. In response to ACLI's comment, the Commission notes that § 190.

Estate freeze transfers of a family business or farm.

To be sure, the actions taken to achieve these cost efficiencies that enhance the value of the estate for public customers as a whole may impose costs on individual public customers. CME fully endorsed the policy preference that the trustee should use their best efforts to transfer all public customer positions and related customer property from the debtor FCM to one or more other FCMs. However, as discussed further below, such plans are not rigid formulae.

Estate freeze transfers of a family business or farm.

Markets move on a continuous basis so long as they are open and, considering markets around the world, some markets on which futures, foreign futures, or cleared swaps are traded are moving at all times other than over a weekend. The Commission notes that nothing prevents either the transferee FCM or customer from negotiating at any time to change the in this case, assigned account agreement between them, and that, aside from § 190.

Evolution of the estate freeze.

The Commission is adopting § 190. The Commission also asked whether the discretion granted to the trustee was appropriately tailored and, if not, what changes should be made.

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