

marketed or managed in substantially the same manner as such a standardized contract, and added to non-applicability of prohibition against any investment transaction in an actual commodity, a transaction entered into by the trustee of a trust established by such person over which such person exercises no control if such transaction is entered into solely to hedge against adverse price changes in connection with such farming or ranching operations or is a transaction for the lease of oil or gas or other mineral rights or interests owned by such person, or a transaction in which such person buys or sells, directly or indirectly (except by means of an instrument regulated by the Commission), a United States Government security, a certificate of deposit, or a similar financial instrument if no nonpublic information is used by such person in such transaction.

Subsec. (e). Pub. L. 97-444, § 227(5), inserted after words “‘decline guaranty’” each place they appear the following: “, or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract”.

1978—Subsec. (a). Pub. L. 95-405, § 19(1), substituted “\$500,000” for “\$100,000” and inserted provision relating to a fine of not more than \$100,000 plus costs of prosecution for a violation by a person who is an individual.

Subsec. (b). Pub. L. 95-405, § 19(2), substituted “\$500,000” for “\$100,000” and inserted provisions making felonies the violation of sections 6, 6b, 6c(b) to (e), 6h, 6o(1) and 23 of this title, knowingly making any false or misleading statement of material fact, or omitting such fact in any application or report, and setting the fine for such felonies at not more than \$100,000 for a person who is an individual.

Subsec. (c). Pub. L. 95-405, § 19(3), inserted references to subsecs. (d) and (e) of this section and substituted “sections 6a, 6c(a), 6d, 6e, 6i, 6k, 6m, 6o(2), or 12b of this title” for “sections 6 to 6e, 6h, 6i, 6k, 6m, 6o or 12b of this title”.

Subsecs. (d), (e). Pub. L. 95-405, § 19(4), (5), substituted “\$100,000” for “\$10,000”.

1974—Subsecs. (a), (b). Pub. L. 93-463, § 212(d)(1), (2), substituted “\$100,000” for “\$10,000”.

Subsec. (c). Pub. L. 93-463, §§ 212(d)(3), 409, substituted “\$100,000” for “\$10,000” and inserted reference to sections 6k, 6m, and 6o of this title.

Subsecs. (d), (e). Pub. L. 93-463, § 401, added subsecs. (d) and (e).

1968—Subsec. (a). Pub. L. 90-258 added subsec. (a).

Subsec. (b). Pub. L. 90-258 incorporated existing offenses in provisions designated as subsec. (b), changed classification thereof from misdemeanors to felonies, and increased term of imprisonment from not more than one year to not more than five years.

Subsec. (c). Pub. L. 90-258 incorporated existing offenses in provisions designated as subsec. (c), and included penalty for violation of section 12b of this title.

1936—Act June 15, 1936, amended section generally and provided that price manipulations of commodities in interstate commerce was a violation.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-444 effective Jan. 11, 1983, see section 239 of Pub. L. 97-444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1936 AMENDMENT

Amendment by act June 15, 1936, effective 90 days after June 15, 1936, see section 13 of that act, set out as a note under section 1 of this title.

REGULATIONS

Section 214(b) of Pub. L. 102-546 provided that: “The Commodity Futures Trading Commission shall issue regulations to implement the amendment made by subsection (a) [amending this section] not later than three hundred and sixty days after the date of enactment of this Act [Oct. 28, 1992].”

PENALTIES STUDY AND GUIDELINES

Section 225 of Pub. L. 102-546 provided that:

“(a) STUDY.—The Commodity Futures Trading Commission shall study the penalties the Commission imposes against persons found to have violated the Commodity Exchange Act (7 U.S.C. 1 et seq.) and the penalties imposed by contract markets and registered futures associations against persons found to have violated their respective rules established under such Act.

“(b) REPORT.—Not later than two years after the date of enactment of this Act [Oct. 28, 1992], the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study conducted under subsection (a). The report shall—

“(1) include an analysis of whether systematic differences exist among penalties imposed by various contract markets and registered futures associations for similar offenses, and, if so, the causes of such differences;

“(2) propose industry-wide guidelines or rules to make penalty levels among contract markets and registered futures associations consistent, including, if appropriate, minimum penalties or penalty ranges for various offenses; and

“(3) propose guidelines or rules to make Commission penalty levels consistent, including, if appropriate, minimum penalties or penalty ranges for various offenses.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6a, 13b of this title.

§ 13-1. Violations, prohibition against dealings in onion futures; punishment

(a) No contract for the sale of onions for future delivery shall be made on or subject to the rules of any board of trade in the United States. The terms used in this section shall have the same meaning as when used in this chapter.

(b) Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof be fined not more than \$5,000.

(Pub. L. 85-839, § 1, Aug. 28, 1958, 72 Stat. 1013.)

CODIFICATION

Section was not enacted as part of the Commodity Exchange Act which comprises this chapter.

EFFECTIVE DATE

Section 2 of Pub. L. 85-839 provided that: “This Act [enacting this section] shall take effect thirty days after its enactment [Aug. 28, 1958].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1a of this title.

§ 13a. Nonenforcement of rules of government or other violations; cease and desist orders; fines and penalties; imprisonment; misdemeanor; separate offenses

If any contract market is not enforcing or has not enforced its rules of government made a condition of its designation as set forth in section 7 of this title, or if any contract market, or any director, officer, agent, or employee of any contract market otherwise is violating or has violated any of the provisions of this chapter or any of the rules, regulations, or orders of the Commission thereunder, the Commission may, upon notice and hearing on the record and subject to appeal as in other cases provided for in section 8(b) of this title, make and enter an order directing that such contract market, director, officer, agent, or employee shall cease and desist from such violation, and assess a civil penalty of not more than \$500,000 for each such violation. If such contract market, director, officer, agent, or employee, after the entry of such a cease and desist order and the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such contract market, director, officer, agent, or employee shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500,000 or imprisoned for not less than six months nor more than one year, or both. Each day during which such failure or refusal to obey such cease and desist order continues shall be deemed a separate offense. If the offending contract market or other person upon whom such penalty is imposed, after the lapse of the period allowed for appeal or after the affirmance of such penalty, shall fail to pay such penalty, the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court. In determining the amount of the money penalty assessed under this section, the Commission shall consider the gravity of the offense, and in the case of a contract market shall further consider whether the amount of the penalty will materially impair the contract market's ability to carry on its operations and duties.

(Sept. 21, 1922, ch. 369, §6b, as added June 15, 1936, ch. 545, §9, 49 Stat. 1500; amended Pub. L. 90-258, §18, Feb. 19, 1968, 82 Stat. 31; Pub. L. 93-463, title II, §212(b), Oct. 23, 1974, 88 Stat. 1403; Pub. L. 95-405, §14, Sept. 30, 1978, 92 Stat. 872; Pub. L. 102-546, title II, §§209(b)(5), 212(c), Oct. 28, 1992, 106 Stat. 3607, 3609.)

AMENDMENTS

1992—Pub. L. 102-546 substituted “section 8(b) of this title” for “paragraph (a) of section 8 of this title”, substituted “\$500,000” for “\$100,000” in two places, and in last sentence struck out “the appropriateness of such penalty to the net worth of the offending person and” after “Commission shall consider”.

1978—Pub. L. 95-405 inserted “on the record” after “notice and hearing”.

1974—Pub. L. 93-463 inserted provision for assessment of a civil penalty of not more than \$100,000 for each violation, substituted “not more than \$100,000” for “not less than \$500 nor more than \$10,000” as permissible range of fines imposed, inserted provisions for enforcement of a penalty, and substituted “orders of the Commission” for “orders of the Secretary of Agriculture or the commission”.

1968—Pub. L. 90-258 amended section to clarify application only to boards of trade designated as contract markets, to include as grounds for cease and desist orders failure to enforce the market's rules of government made a condition of its designation and violation of rules or regulations of the commission or orders of the Secretary, and to authorize such orders in conjunction with a suspension or revocation of designation as a contract market rather than in lieu of suspension or revocation.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-463, see section 418 of Pub. L. 93-463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as a note under section 2 of this title.

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6j, 12e of this title.

§ 13a-1. Enjoining or restraining violations

(a) Action to enjoin or restrain violations

Whenever it shall appear to the Commission that any contract market or other person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule, regulation, or order thereunder, or is restraining trading in any commodity for future delivery, the Commission may bring an action in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such act or practice, or to enforce compliance with this chapter, or any rule, regulation or order thereunder, and said courts shall have jurisdiction to entertain such actions: *Provided*, That no restraining order (other than a restraining order which prohibits any person from destroying, altering or disposing of, or refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records or other documents or which prohibits any person from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property, and other than an order appointing a temporary receiver to administer such restraining order and to perform such other duties as the court may consider appropriate) or injunction for violation of the provisions of this chapter shall be issued ex parte by said court.

(b) Injunction or restraining order

Upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond.

(c) Writs or other orders

Upon application of the Commission, the district courts of the United States and the United