

(B) Prior approval required

Notwithstanding any other provision of this section, a designated contract market shall submit to the Commission for prior approval each rule amendment that materially changes the terms and conditions, as determined by the Commission, in any contract of sale for future delivery of a commodity specifically enumerated in section 1a(4) of this title (or any option thereon) traded through its facilities if the rule amendment applies to contracts and delivery months which have already been listed for trading and have open interest.

(C) Deadline

If prior approval is requested under subparagraph (A), the Commission shall take final action on the request not later than 90 days after submission of the request, unless the person submitting the request agrees to an extension of the time limitation established under this subparagraph.

(3) Approval

The Commission shall approve any such new contract or instrument, new rule, or rule amendment unless the Commission finds that the new contract or instrument, new rule, or rule amendment would violate this chapter.

(d) Violation of core principles**(1) In general**

If the Commission determines, on the basis of substantial evidence, that a registered entity is violating any applicable core principle specified in section 7(d), 7a(d), or 7a-1(d)(2)¹ of this title, the Commission shall—

(A) notify the registered entity in writing of the determination; and

(B) afford the registered entity an opportunity to make appropriate changes to bring the registered entity into compliance with the core principles.

(2) Failure to make changes

If, not later than 30 days after receiving a notification under paragraph (1), a registered entity fails to make changes that, in the opinion of the Commission, are necessary to comply with the core principles, the Commission may take further action in accordance with this chapter.

(e) Reservation of emergency authority

Nothing in this section shall limit or in any way affect the emergency powers of the Commission provided in section 12a(9) of this title.

(f) Rules to avoid duplicative regulation of dual registrants

Consistent with this chapter, each designated contract market and registered derivatives transaction execution facility shall issue such rules as are necessary to avoid duplicative or conflicting rules applicable to any futures commission merchant registered with the Commission pursuant to section 6f(a) of this title (except paragraph (2) thereof), that is also registered with the Securities and Exchange Commission pursuant to section 780(b) of title 15 (except paragraph (11) thereof) with respect to the application of—

(1) rules of such designated contract market or registered derivatives transaction execution facility of the type specified in section 6d(3) of this title involving security futures products; and

(2) similar rules of national securities associations registered pursuant to section 780-3(a) of title 15 and national securities exchanges registered pursuant to section 78f(g) of title 15 involving security futures products.

(Sept. 21, 1922, ch. 369, § 5c, as added and amended Pub. L. 106-554, §1(a)(5) [title I, §113, title II, §251(h)], Dec. 21, 2000, 114 Stat. 2763, 2763A-399, 2763A-444.)

AMENDMENTS

2000—Subsec. (f). Pub. L. 106-554, §1(a)(5) [title II, §251(h)], added subsec. (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7b-1, 13a, 25 of this title; title 15 section 78s.

§ 7a-3. Exempt boards of trade**(a) Election to register with the Commission**

A board of trade that meets the requirements of subsection (b) of this section may operate as an exempt board of trade on receipt from the board of trade of a notice, provided in such manner as the Commission may by rule or regulation prescribe, that the board of trade elects to operate as an exempt board of trade. Except as otherwise provided in this section, no provision of this chapter (other than subparagraphs (C) and (D) of sections 2(a)(1) and 16(e)(2)(B) of this title) shall apply with respect to a contract of sale of a commodity for future delivery (or option on such a contract) traded on or through the facilities of an exempt board of trade.

(b) Criteria for exemption

To qualify for an exemption under subsection (a) of this section, a board of trade shall limit trading on or through the facilities of the board of trade to contracts of sale of a commodity for future delivery (or options on such contracts or on a commodity)—

(1) for which the underlying commodity has—

(A) a nearly inexhaustible deliverable supply;

(B) a deliverable supply that is sufficiently large, and a cash market sufficiently liquid, to render any contract traded on the commodity highly unlikely to be susceptible to the threat of manipulation; or

(C) no cash market;

(2) that are entered into only between persons that are eligible contract participants at the time at which the persons enter into the contract; and

(3) that are not contracts of sale (or options on such a contract or on a commodity) for future delivery of any security, including any group or index of securities or any interest in, or based on the value of, any security or any group or index of securities.

(c) Antimanipulation requirements

A party to a contract of sale of a commodity for future delivery (or option on such a contract

or on a commodity) that is traded on an exempt board of trade shall be subject to sections 6b, 6c(b), 6o, 9, 15, and 13(a)(2) of this title, and the Commission shall enforce those provisions with respect to any such trading.

(d) Price discovery

If the Commission finds that an exempt board of trade is a significant source of price discovery for transactions in the cash market for the commodity underlying any contract, agreement, or transaction traded on or through the facilities of the board of trade, the board of trade shall disseminate publicly on a daily basis trading volume, opening and closing price ranges, open interest, and other trading data as appropriate to the market.

(e) Jurisdiction

The Commission shall have exclusive jurisdiction over any account, agreement, contract, or transaction involving a contract of sale of a commodity for future delivery, or option on such a contract or on a commodity, to the extent that the account, agreement, contract, or transaction is traded on an exempt board of trade.

(f) Subsidiaries

A board of trade that is designated as a contract market or registered as a derivatives transaction execution facility may operate an exempt board of trade by establishing a separate subsidiary or other legal entity and otherwise satisfying the requirements of this section.

(g) Misrepresentation of status

An exempt board of trade that meets the requirements of subsection (b) of this section shall not represent to any person that the board of trade is registered with, or designated, recognized, licensed, or approved by the Commission.

(Sept. 21, 1922, ch. 369, §5d, as added Pub. L. 106-554, §1(a)(5) [title I, §114], Dec. 21, 2000, 114 Stat. 2763, 2763A-401.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2 of this title.

§ 7b. Suspension or revocation of designation as registered entity

The failure of a registered entity to comply with any provision of this chapter, or any regulation or order of the Commission under this chapter, shall be cause for the suspension of the registered entity for a period not to exceed 180 days, or revocation of designation as a registered entity in accordance with the procedures and subject to the judicial review provided in section 8(b) of this title.

(Sept. 21, 1922, ch. 369, §5e, formerly §5b, as added June 15, 1936, ch. 545, §7, 49 Stat. 1498; amended Pub. L. 90-258, §13, Feb. 19, 1968, 82 Stat. 30; Pub. L. 93-463, title I, §103(a), (b), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 102-546, title II, §209(b)(3), Oct. 28, 1992, 106 Stat. 3607; renumbered §5e and amended Pub. L. 106-554, §1(a)(5) [title I, §§110(1), 115], Dec. 21, 2000, 114 Stat. 2763, 2763A-384, 2763A-402.)

AMENDMENTS

2000—Pub. L. 106-554, §1(a)(5) [title I, §115], amended section generally. Prior to amendment, section read as

follows: “The failure or refusal of any board of trade to comply with any of the provisions of this chapter, or any of the rules, regulations, or orders of the Commission or the commission thereunder, shall be cause for suspending for a period not to exceed six months or revoking the designation of such board of trade as a ‘contract market’ in accordance with the procedure and subject to the judicial review provided in section 8(b) of this title.”

1992—Pub. L. 102-546 substituted reference to section 8(b) of this title for reference to section 8 of this title.

1974—Pub. L. 93-463, §103(a), provided for substitution of “Commission” for “Secretary of Agriculture” except where such words would be stricken by section 103(b), which directed striking the words “the Secretary of Agriculture or” where they appeared in the phrase “the Secretary of Agriculture or the Commission”. Because the word “commission” was not capitalized in the text of this section, section 103(b) did not apply to this section and therefore section 103(a) was executed, resulting in the substitution of “the Commission or the commission” for “the Secretary of Agriculture or the commission”.

1968—Pub. L. 90-258 substituted “rules, regulations, or orders of the Secretary of Agriculture or the commission” for “rules and regulations of the Secretary of Agriculture”.

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 section 7a-1 of this title.

§ 7b-1. Designation of securities exchanges and associations as contract markets

(a) Any board of trade that is registered with the Securities and Exchange Commission as a national securities exchange, is a national securities association registered pursuant to section 78o-3(a) of title 15, or is an alternative trading system shall be a designated contract market in security futures products if—

(1) such national securities exchange, national securities association, or alternative trading system lists or trades no other contracts of sale for future delivery, except for security futures products;

(2) such national securities exchange, national securities association, or alternative trading system files written notice with the Commission in such form as the Commission, by rule, may prescribe containing such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of customers; and

(3) the registration of such national securities exchange, national securities association, or alternative trading system is not suspended pursuant to an order by the Securities and Exchange Commission.

Such designation shall be effective contemporaneously with the submission of notice, in written or electronic form, to the Commission.