

amendment made under subsection (a) [amending this section] within two hundred and seventy days after the date of enactment of this Act [Oct. 28, 1992].”

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

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 1a, 2, 6a, 6f, 6k, 7a-3, 7b-1, 12a, 13, 16, 19, 25 of this title; title 11 section 761.

§ 6d. Dealing by unregistered futures commission merchants or introducing brokers prohibited; duties in handling customer receipts; rules to avoid duplicative regulations

(a) Registration requirements; duties of merchants in handling customer receipts

It shall be unlawful for any person to engage as futures commission merchant or introducing broker in soliciting orders or accepting orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or derivatives transaction execution facility unless—

(1) such person shall have registered, under this chapter, with the Commission as such futures commission merchant or introducing broker and such registration shall not have expired nor been suspended nor revoked; and

(2) such person shall, if a futures commission merchant, whether a member or nonmember of a contract market or derivatives transaction execution facility, treat and deal with all money, securities, and property received by such person to margin, guarantee, or secure the trades or contracts of any customer of such person, or accruing to such customer as the result of such trades or contracts, as belonging to such customer. Such money, securities, and property shall be separately accounted for and shall not be commingled with the funds of such commission merchant or be used to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer or person other than the one for whom the same are held: *Provided, however*, That such money, securities, and property of the customers of such futures commission merchant may, for convenience, be commingled and deposited in the same account or accounts with any bank or trust company or with the clearing house organization of such

contract market or derivatives transaction execution facility, and that such share thereof as in the normal course of business shall be necessary to margin, guarantee, secure, transfer, adjust, or settle the contracts or trades of such customers, or resulting market positions, with the clearinghouse organization of such contract market or derivatives transaction execution facility or with any member of such contract market or derivatives transaction execution facility, may be withdrawn and applied to such purposes, including the payment of commissions, brokerage, interest, taxes, storage, and other charges, lawfully accruing in connection with such contracts and trades: *Provided further*, That in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, such money, securities, and property of the customers of such futures commission merchant may be commingled and deposited as provided in this section with any other money, securities, and property received by such futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customers of such futures commission merchant: *Provided further*, That such money may be invested in obligations of the United States, in general obligations of any State or of any political subdivision thereof, and in obligations fully guaranteed as to principal and interest by the United States, such investments to be made in accordance with such rules and regulations and subject to such conditions as the Commission may prescribe.

(b) Duties of clearing agencies, depositories, and others in handling customer receipts

It shall be unlawful for any person, including but not limited to any clearing agency of a contract market or derivatives transaction execution facility and any depository, that has received any money, securities, or property for deposit in a separate account as provided in paragraph (2) of this section,¹ to hold, dispose of, or use any such money, securities, or property as belonging to the depositing futures commission merchant or any person other than the customers of such futures commission merchant.

(c) Rules to avoid duplicative regulation of dual registrants

Consistent with this chapter, the Commission, in consultation with the Securities and Exchange Commission, shall issue such rules, regulations, or orders as are necessary to avoid duplicative or conflicting regulations 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 78o(b) of title 15 (except paragraph (11) thereof), involving the application of—

(1) section 78h, section 78o(c)(3), and section 78q of title 15 and the rules and regulations thereunder related to the treatment of customer funds, securities, or property, mainte-

¹ So in original. Probably means subsection (a)(2) of this section.

nance of books and records, financial reporting or other financial responsibility rules (as defined in section 78c(a)(40) of title 15), involving security futures products; and

(2) similar provisions of this chapter and the rules and regulations thereunder involving security futures products.

(Sept. 21, 1922, ch. 369, §4d, as added June 15, 1936, ch. 545, §5, 49 Stat. 1494; amended Pub. L. 90-258, §6, Feb. 19, 1968, 82 Stat. 27; Pub. L. 93-463, title I, §103(a), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 95-405, §4, Sept. 30, 1978, 92 Stat. 869; Pub. L. 97-444, title II, §207, Jan. 11, 1983, 96 Stat. 2302; Pub. L. 106-554, §1(a)(5) [title I, §123(a)(6), title II, §251(f)], Dec. 21, 2000, 114 Stat. 2763, 2763A-407, 2763A-443.)

AMENDMENTS

2000—Pub. L. 106-554, §1(a)(5) [title II, §251(f)], designated first undesignated par. as subsec. (a), designated second undesignated par. as subsec. (b), and added subsec. (c).

Pub. L. 106-554, §1(a)(5) [title I, §123(a)(6)], inserted “or derivatives transaction execution facility” after “contract market” wherever appearing.

1983—Pub. L. 97-444, §207(1), inserted reference to introducing brokers in provisions preceding par. (1).

Par. (1). Pub. L. 97-444, §207(2), inserted “or introducing broker” after “futures commission merchant”.

Par. (2). Pub. L. 97-444, §207(3), inserted “if a futures commission merchant,” after “such person shall,”.

1978—Pub. L. 95-405 in par. (2) inserted provisions authorizing Commission to prescribe terms and conditions under which funds and property commingled and deposited as permitted by par. (2) may be commingled and deposited with other funds and property received by a futures commission merchant and required by Commission to be separately accounted for and treated as belonging to its customers.

1974—Pub. L. 93-463 substituted “Commission” for “Secretary of Agriculture” in pars. (1) and (2).

1968—Pub. L. 90-258 struck out from second proviso of first par. authorization for investment of customer funds in investment securities of the kind national banking associations may buy or in loans secured by negotiable warehouse receipts conveying or securing title to readily marketable commodities to the extent of the current loan value of such receipts and added second par., making it unlawful for any person, including a clearing agency of a contract market or any depository, to treat customer funds as belonging to any person other than the customer, respectively.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-444 effective 120 days after Jan. 11, 1983, or such earlier date as the Commission shall prescribe by regulation, 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

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 6f, 6k, 7a-2, 21 of this title.

§6e. Dealings by unregistered floor trader or broker prohibited

It shall be unlawful for any person to act as floor trader in executing purchases and sales, or as floor broker in executing any orders for the purchase or sale, of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or derivatives transaction execution facility unless such person shall have registered, under this chapter, with the Commission as such floor trader or floor broker and such registration shall not have expired nor been suspended nor revoked.

(Sept. 21, 1922, ch. 369, §4e, as added June 15, 1936, ch. 545, §5, 49 Stat. 1495; amended Pub. L. 93-463, title I, §103(a), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 102-546, title II, §207(a), Oct. 28, 1992, 106 Stat. 3604; Pub. L. 106-554, §1(a)(5) [title I, §123(a)(6)], Dec. 21, 2000, 114 Stat. 2763, 2763A-407.)

AMENDMENTS

2000—Pub. L. 106-554 inserted “or derivatives transaction execution facility” after “contract market”.

1992—Pub. L. 102-546 amended section generally. Prior to amendment, section read as follows: “It shall be unlawful for any person to act as floor broker in executing any orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless such person shall have registered, under this chapter, with the Commission as such floor broker and such registration shall not have expired nor been suspended nor revoked.”

1974—Pub. L. 93-463 substituted “Commission” for “Secretary of Agriculture”.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 207(c) of Pub. L. 102-546 provided that: “The amendments made by this section [amending this section and sections 6f, 6g, 12a, and 13a-2 of this title] shall become effective one hundred and eighty days after the date of enactment of this Act [Oct. 28, 1992], and the Commodity Futures Trading Commission shall issue any regulations necessary to implement the amendments made by this section no later than one hundred and eighty days after the date of enactment of this Act.”

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

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 6f, 6k of this title.

§6f. Registration and financial requirements; risk assessment

(a) Registration of futures commission merchants, introducing brokers, and floor brokers and traders

(1) Any person desiring to register as a futures commission merchant, introducing broker, floor