

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-554, §1(a)(5) [title I, §123(a)(11)(A)], substituted “title, contract markets, or derivatives transaction execution facilities” for “title or contract markets”.

Subsec. (b). Pub. L. 106-554, §1(a)(5) [title I, §123(a)(11)(B)], inserted “derivatives transaction execution facility,” after “contract market.”

1992—Pub. L. 102-546 designated existing provisions as subsec. (a) and added subsec. (b).

1983—Pub. L. 97-444 substituted “persons required to be registered with the Commission” for “futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers” in first sentence, “customers, clients, pool participants, or other members of the public with whom such individuals deal” for “the customers of futures commission merchants and floor brokers” in last sentence, and in second and third sentences struck out “as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers,” after “applicants for registration”.

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

For effective date of section, see section 418 of Pub. L. 93-463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

REGULATIONS

Section 210(b) of Pub. L. 102-546 provided that: “The Commodity Futures Trading Commission shall issue the regulations required by section 4p(b) of the Commodity Exchange Act [7 U.S.C. 6p(b)], as added by subsection (a), no later than one hundred and eighty days after the date of enactment of this Act [Oct. 28, 1992].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6f, 6k of this title.

§ 7. Designation of boards of trade as contract markets

(a) Applications

A board of trade applying to the Commission for designation as a contract market shall submit an application to the Commission that includes any relevant materials and records the Commission may require consistent with this chapter.

(b) Criteria for designation

(1) In general

To be designated as a contract market, the board of trade shall demonstrate to the Commission that the board of trade meets the criteria specified in this subsection.

(2) Prevention of market manipulation

The board of trade shall have the capacity to prevent market manipulation through market surveillance, compliance, and enforcement practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

(3) Fair and equitable trading

The board of trade shall establish and enforce trading rules to ensure fair and equitable

trading through the facilities of the contract market, and the capacity to detect, investigate, and discipline any person that violates the rules. The rules may authorize—

- (A) transfer trades or office trades;
- (B) an exchange of—
 - (i) futures in connection with a cash commodity transaction;
 - (ii) futures for cash commodities; or
 - (iii) futures for swaps; or

(C) a futures commission merchant, acting as principal or agent, to enter into or confirm the execution of a contract for the purchase or sale of a commodity for future delivery if the contract is reported, recorded, or cleared in accordance with the rules of the contract market or a derivatives clearing organization.

(4) Trade execution facility

The board of trade shall—

- (A) establish and enforce rules defining, or specifications detailing, the manner of operation of the trade execution facility maintained by the board of trade, including rules or specifications describing the operation of any electronic matching platform; and
- (B) demonstrate that the trade execution facility operates in accordance with the rules or specifications.

(5) Financial integrity of transactions

The board of trade shall establish and enforce rules and procedures for ensuring the financial integrity of transactions entered into by or through the facilities of the contract market, including the clearance and settlement of the transactions with a derivatives clearing organization.

(6) Disciplinary procedures

The board of trade shall establish and enforce disciplinary procedures that authorize the board of trade to discipline, suspend, or expel members or market participants that violate the rules of the board of trade, or similar methods for performing the same functions, including delegation of the functions to third parties.

(7) Public access

The board of trade shall provide the public with access to the rules, regulations, and contract specifications of the board of trade.

(8) Ability to obtain information

The board of trade shall establish and enforce rules that will allow the board of trade to obtain any necessary information to perform any of the functions described in this subsection, including the capacity to carry out such international information-sharing agreements as the Commission may require.

(c) Existing contract markets

A board of trade that is designated as a contract market on December 21, 2000, shall be considered to be a designated contract market under this section.

(d) Core principles for contract markets

(1) In general

To maintain the designation of a board of trade as a contract market, the board of trade

shall comply with the core principles specified in this subsection. The board of trade shall have reasonable discretion in establishing the manner in which it complies with the core principles.

(2) Compliance with rules

The board of trade shall monitor and enforce compliance with the rules of the contract market, including the terms and conditions of any contracts to be traded and any limitations on access to the contract market.

(3) Contracts not readily subject to manipulation

The board of trade shall list on the contract market only contracts that are not readily susceptible to manipulation.

(4) Monitoring of trading

The board of trade shall monitor trading to prevent manipulation, price distortion, and disruptions of the delivery or cash-settlement process.

(5) Position limitations or accountability

To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, the board of trade shall adopt position limitations or position accountability for speculators, where necessary and appropriate.

(6) Emergency authority

The board of trade shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, where necessary and appropriate, including the authority to—

- (A) liquidate or transfer open positions in any contract;
- (B) suspend or curtail trading in any contract; and
- (C) require market participants in any contract to meet special margin requirements.

(7) Availability of general information

The board of trade shall make available to market authorities, market participants, and the public information concerning—

- (A) the terms and conditions of the contracts of the contract market; and
- (B) the mechanisms for executing transactions on or through the facilities of the contract market.

(8) Daily publication of trading information

The board of trade shall make public daily information on settlement prices, volume, open interest, and opening and closing ranges for actively traded contracts on the contract market.

(9) Execution of transactions

The board of trade shall provide a competitive, open, and efficient market and mechanism for executing transactions.

(10) Trade information

The board of trade shall maintain rules and procedures to provide for the recording and safe storage of all identifying trade information in a manner that enables the contract

market to use the information for purposes of assisting in the prevention of customer and market abuses and providing evidence of any violations of the rules of the contract market.

(11) Financial integrity of contracts

The board of trade shall establish and enforce rules providing for the financial integrity of any contracts traded on the contract market (including the clearance and settlement of the transactions with a derivatives clearing organization), and rules to ensure the financial integrity of any futures commission merchants and introducing brokers and the protection of customer funds.

(12) Protection of market participants

The board of trade shall establish and enforce rules to protect market participants from abusive practices committed by any party acting as an agent for the participants.

(13) Dispute resolution

The board of trade shall establish and enforce rules regarding and provide facilities for alternative dispute resolution as appropriate for market participants and any market intermediaries.

(14) Governance fitness standards

The board of trade shall establish and enforce appropriate fitness standards for directors, members of any disciplinary committee, members of the contract market, and any other persons with direct access to the facility (including any parties affiliated with any of the persons described in this paragraph).

(15) Conflicts of interest

The board of trade shall establish and enforce rules to minimize conflicts of interest in the decisionmaking process of the contract market and establish a process for resolving such conflicts of interest.

(16) Composition of boards of mutually owned contract markets

In the case of a mutually owned contract market, the board of trade shall ensure that the composition of the governing board reflects market participants.

(17) Recordkeeping

The board of trade shall maintain records of all activities related to the business of the contract market in a form and manner acceptable to the Commission for a period of 5 years.

(18) Antitrust considerations

Unless necessary or appropriate to achieve the purposes of this chapter, the board of trade shall endeavor to avoid—

- (A) adopting any rules or taking any actions that result in any unreasonable restraints of trade; or
- (B) imposing any material anticompetitive burden on trading on the contract market.

(e) Current agricultural commodities

(1) Subject to paragraph (2) of this subsection, a contract for purchase or sale for future delivery of an agricultural commodity enumerated in section 1a(4) of this title that is available for trade on a contract market, as of December 21,

2000, may be traded only on a contract market designated under this section.

(2) In order to promote responsible economic or financial innovation and fair competition, the Commission, on application by any person, after notice and public comment and opportunity for hearing, may prescribe rules and regulations to provide for the offer and sale of contracts for future delivery or options on such contracts to be conducted on a derivatives transaction execution facility.

(Sept. 21, 1922, ch. 369, § 5, as added Pub. L. 106-554, § 1(a)(5) [title I, § 110(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-384.)

PRIOR PROVISIONS

A prior section 7, acts Sept. 21, 1922, ch. 369, § 5, 42 Stat. 1000; June 15, 1936, ch. 545, §§ 2, 6, 49 Stat. 1491, 1497; Pub. L. 90-258, §§ 10, 11, Feb. 19, 1968, 82 Stat. 29; Pub. L. 93-463, title I, § 103(a), (f), (g), title II, § 207, Oct. 23, 1974, 88 Stat. 1392, 1400; Pub. L. 102-546, title II, §§ 201(c), 209(b)(2), Oct. 28, 1992, 106 Stat. 3597, 3606, related to conditions and requirements for designation of boards of trade as contract markets, prior to repeal by Pub. L. 106-554, § 1(a)(5) [title I, § 110(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-384.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1a, 2, 6, 7a, 7a-2, 7b-1, 8, 13a, 25 of this title; title 15 section 78c; title 26 section 408.

§ 7a. Derivatives transaction execution facilities

(a) In general

In lieu of compliance with the contract market designation requirements of sections 6(a) and 7 of this title, a board of trade may elect to operate as a registered derivatives transaction execution facility if the facility is—

- (1) designated as a contract market and meets the requirements of this section; or
- (2) registered as a derivatives transaction execution facility under subsection (c) of this section.

(b) Requirements for trading

(1) In general

A registered derivatives transaction execution facility under subsection (a) of this section may trade any contract of sale of a commodity for future delivery (or option on such a contract) on or through the facility only by satisfying the requirements of this section.

(2) Requirements for underlying commodities

A registered derivatives transaction execution facility may trade any contract of sale of a commodity for future delivery (or option on such a contract) only if—

- (A) the underlying commodity has a nearly inexhaustible deliverable supply;
- (B) the underlying commodity has a deliverable supply that is sufficiently large that the contract is highly unlikely to be susceptible to the threat of manipulation;
- (C) the underlying commodity has no cash market;
- (D)(i) the contract is a security futures product, and (ii) the registered derivatives transaction execution facility is a national securities exchange registered under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.];

(E) the Commission determines, based on the market characteristics, surveillance history, self-regulatory record, and capacity of the facility that trading in the contract (or option) is highly unlikely to be susceptible to the threat of manipulation; or

(F) except as provided in section 7(e)(2) of this title, the underlying commodity is a commodity other than an agricultural commodity enumerated in section 1a(4) of this title, and trading access to the facility is limited to eligible commercial entities trading for their own account.

(3) Eligible traders

To trade on a registered derivatives transaction execution facility, a person shall—

- (A) be an eligible contract participant; or
- (B) be a person trading through a futures commission merchant that—
 - (i) is registered with the Commission;
 - (ii) is a member of a futures self-regulatory organization or, if the person trades only security futures products on the facility, a national securities association registered under section 15A(a) of the Securities Exchange Act of 1934 [15 U.S.C. 78o-3(a)];
 - (iii) is a clearing member of a derivatives clearing organization; and
 - (iv) has net capital of at least \$20,000,000.

(4) Trading by contract markets

A board of trade that is designated as a contract market shall, to the extent that the contract market also operates a registered derivatives transaction execution facility—

- (A) provide a physical location for the contract market trading of the board of trade that is separate from trading on the derivatives transaction execution facility of the board of trade; or
- (B) if the board of trade uses the same electronic trading system for trading on the contract market and derivatives transaction execution facility of the board of trade, identify whether the electronic trading is taking place on the contract market or the derivatives transaction execution facility.

(c) Criteria for registration

(1) In general

To be registered as a registered derivatives transaction execution facility, the board of trade shall be required to demonstrate to the Commission only that the board of trade meets the criteria specified in subsection (b) of this section and this subsection.

(2) Deterrence of abuses

The board of trade shall establish and enforce trading and participation rules that will deter abuses and has the capacity to detect, investigate, and enforce those rules, including means to—

- (A) obtain information necessary to perform the functions required under this section; or
- (B) use technological means to—
 - (i) provide market participants with impartial access to the market; and
 - (ii) capture information that may be used in establishing whether rule violations have occurred.