

## 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

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.

**§ 6o. Fraud and misrepresentation by commodity trading advisors, commodity pool operators, and associated persons**

(1) It shall be unlawful for a commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—

(A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or

(B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

(2) It shall be unlawful for any commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator registered under this chapter to represent or imply in any manner whatsoever that such person has been sponsored, recommended, or approved, or that such person's abilities or qualifications have in any respect been passed upon, by the United States or any agency or officer thereof. This section shall not be construed to prohibit a statement that a person is registered under this chapter as a commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator, if such statement is true in fact and if the effect of such registration is not misrepresented.

(Sept. 21, 1922, ch. 369, §4o, as added Pub. L. 93-463, title II, §205(a), Oct. 23, 1974, 88 Stat. 1399; amended Pub. L. 95-405, §10, Sept. 30, 1978, 92 Stat. 870; Pub. L. 97-444, title II, §214, Jan. 11, 1983, 96 Stat. 2305.)

## AMENDMENTS

1983—Par. (1). Pub. L. 97-444 made the antifraud prohibition applicable to an associated person of a commodity trading advisor or a commodity pool operator.

Par. (2). Pub. L. 97-444 made the misrepresentation prohibition applicable to an associated person of a commodity trading advisor or a commodity pool operator, authorized registration statements of such persons, and substituted “such person” and “such person's abilities” for “he” before “has been sponsored” and “his abilities”, respectively.

1978—Par. (1). Pub. L. 95-405 struck out “registered under this chapter” after “pool operator”.

## 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.

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## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2, 7a-3, 13 of this title.

**§ 6o-1. Special procedures to encourage and facilitate bona fide hedging by agricultural producers**

## (a) Authority

The Commission shall consider issuing rules or orders which—

(1) prescribe procedures under which each contract market is to provide for orderly delivery, including temporary storage costs, of any agricultural commodity enumerated in section 1a(4) of this title which is the subject of a contract for purchase or sale for future delivery;

(2) increase the ease with which domestic agricultural producers may participate in contract markets, including by addressing cost and margin requirements, so as to better enable the producers to hedge price risk associated with their production;

(3) provide flexibility in the minimum quantities of such agricultural commodities that may be the subject of a contract for purchase or sale for future delivery that is traded on a contract market, to better allow domestic agricultural producers to hedge such price risk; and

(4) encourage contract markets to provide information and otherwise facilitate the participation of domestic agricultural producers in contract markets.

## (b) Report

Within 1 year after December 21, 2000, 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 on the steps it has taken to implement this section and on the activities of contract markets pursuant to this section.

(Sept. 21, 1922, ch. 369, §4p, as added Pub. L. 106-554, §1(a)(5) [title I, §121], Dec. 21, 2000, 114 Stat. 2763, 2763A-404.)

## CODIFICATION

Another section 4p of act Sept. 21, 1922, is classified to section 6p of this title.

## § 6p. Standards and examinations

(a) The Commission may specify by rules and regulations appropriate standards with respect to training, experience, and such other qualifications as the Commission finds necessary or desirable to insure the fitness of persons required to be registered with the Commission. In connection therewith, the Commission may prescribe by rules and regulations the adoption of written proficiency examinations to be given to applicants for registration and the establishment of reasonable fees to be charged to such applicants to cover the administration of such

examinations. The Commission may further prescribe by rules and regulations that, in lieu of examinations administered by the Commission, futures associations registered under section 21 of this title, contract markets, or derivatives transaction execution facilities may adopt written proficiency examinations to be given to applicants for registration and charge reasonable fees to such applicants to cover the administration of such examinations. Notwithstanding any other provision of this section, the Commission may specify by rules and regulations such terms and conditions as it deems appropriate to protect the public interest wherein exception to any written proficiency examination shall be made with respect to individuals who have demonstrated, through training and experience, the degree of proficiency and skill necessary to protect the interests of customers, clients, pool participants, or other members of the public with whom such individuals deal.

(b) The Commission shall issue regulations to require new registrants, within six months after receiving such registration, to attend a training session, and all other registrants to attend periodic training sessions, to ensure that registrants understand their responsibilities to the public under this chapter, including responsibilities to observe just and equitable principles of trade, any rule or regulation of the Commission, any rule of any appropriate contract market, derivatives transaction execution facility, registered futures association, or other self-regulatory organization, or any other applicable Federal or state<sup>1</sup> law, rule or regulation.

(Sept. 21, 1922, ch. 369, §4p, as added Pub. L. 93-463, title II, §206, Oct. 23, 1974, 88 Stat. 1400; amended Pub. L. 97-444, title II, §215, Jan. 11, 1983, 96 Stat. 2305; Pub. L. 102-546, title II, §210(a), Oct. 28, 1992, 106 Stat. 3607; Pub. L. 106-554, §1(a)(5) [title I, §123(a)(11)], Dec. 21, 2000, 114 Stat. 2763, 2763A-408.)

#### CODIFICATION

Another section 4p of act Sept. 21, 1922, is classified to section 6a-1 of this title.

#### 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”.

<sup>1</sup> So in original. Probably should be capitalized.

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#### 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—