

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 780-3(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.

(b)(1) A national securities exchange, national securities association, or alternative trading system that is designated as a contract market pursuant to this section shall be exempt from the following provisions of this chapter and the rules thereunder:

(A) Subsections (c), (e), and (g) of section 6c of this title.

(B) Section 6j of this title.

(C) Section 7 of this title.

(D) Section 7a-2 of this title.

(E) Section 10a of this title.

(F) Section 12(d) of this title.

(G) Section 13(f) of this title.

(H) Section 20 of this title.

(2) An alternative trading system that is a designated contract market under this section shall be required to be a member of a futures association registered under section 21 of this title and shall be exempt from any provision of this chapter that would require such alternative trading system to—

(A) set rules governing the conduct of subscribers other than the conduct of such subscribers' trading on such alternative trading system; or

(B) discipline subscribers other than by exclusion from trading.

(3) To the extent that an alternative trading system is exempt from any provision of this chapter pursuant to paragraph (2) of this subsection, the futures association registered under section 21 of this title of which the alternative trading system is a member shall set rules governing the conduct of subscribers to the alternative trading system and discipline the subscribers.

(4)(A) Except as provided in subparagraph (B), but notwithstanding any other provision of this chapter, the Commission, by rule, regulation, or order, may conditionally or unconditionally exempt any designated contract market in security futures subject to the designation requirement of this section from any provision of this chapter or of any rule or regulation thereunder, to the extent such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors.

(B) The Commission shall, by rule or regulation, determine the procedures under which an exemptive order under this section is granted and may, in its sole discretion, decline to entertain any application for an order of exemption under this section.

(C) An alternative trading system shall not be deemed to be an exchange for any purpose as a result of the designation of such alternative trading system as a contract market under this section.

(Sept. 21, 1922, ch. 369, §5f, as added Pub. L. 106-554, §1(a)(5) [title II, §252(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-445.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1a, 2, 8, 9c, 12, 13a-1 of this title.

§ 7b-2. Privacy

(a) Treatment as financial institutions

Notwithstanding section 509(3)(B) of the Gramm-Leach-Bliley Act [15 U.S.C. 6809(3)(B)], any futures commission merchant, commodity trading advisor, commodity pool operator, or introducing broker that is subject to the jurisdiction of the Commission under this chapter with respect to any financial activity shall be treated as a financial institution for purposes of title V of such Act [15 U.S.C. 6801 et seq.] with respect to such financial activity.

(b) Treatment of CFTC as Federal functional regulator

For purposes of title V of such Act [15 U.S.C. 6801 et seq.], the Commission shall be treated as a Federal functional regulator within the meaning of section 509(2) of such Act [15 U.S.C. 6809(2)] and shall prescribe regulations under such title within 6 months after December 21, 2000.

(Sept. 21, 1922, ch. 369, §5g, as added Pub. L. 106-554, §1(a)(5) [title I, §124], Dec. 21, 2000, 114 Stat. 2763, 2763A-411.)

REFERENCES IN TEXT

The Gramm-Leach-Bliley Act, referred to in text, is Pub. L. 106-102, Nov. 12, 1999, 113 Stat. 1338. Title V of the Act is classified principally to chapter 94 (§6801 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 1811 of Title 12, Banks and Banking, and Tables.

§ 8. Application for designation as contract market or derivatives transaction execution facility; time; suspension or revocation of designation; hearing; review by court of appeals

(a) Any person desiring to be designated or registered as a contract market or derivatives transaction execution facility shall make application to the Commission for the designation or registration and accompany the same with a showing that it complies with the conditions set forth in this chapter, and with a sufficient assurance that it will continue to comply with the¹ requirements of this chapter. The Commission shall approve or deny an application for designation or registration as a contract market or derivatives transaction execution facility within 180 days of the filing of the application. If the Commission notifies the person that its application is materially incomplete and specifies the deficiencies in the application, the running of the 180-day period shall be stayed from the time of such notification until the application is resubmitted in completed form: *Provided*, That the Commission shall have not less than sixty days to approve or deny the application from the time the application is resubmitted in completed form. If the Commission denies an application, it shall specify the grounds for the denial. In the event of a refusal to designate or register as a contract market or derivatives transaction execution facility any person that has made application therefor, the person shall be afforded an opportunity for a hearing on the record before the Commission, with the right to appeal an adverse decision after such hearing to the court of appeals as provided for in other cases in subsection (b) of this section.

(b) The Commission is authorized to suspend for a period not to exceed six months or to revoke the designation or registration of any contract market or derivatives transaction execution facility on a showing that such contract market or derivatives transaction execution facility is not enforcing or has not enforced its rules of government made a condition of its designation or registration as set forth in sections 7 through 7a-1 of this title or section 7b-1 of this title or that such contract market or derivatives transaction execution facility, or any director, officer, agent, or employee thereof, otherwise is violating or has violated any of the provisions of this chapter or any of the rules, regulations, or orders of the Commission or the Commission² thereunder. Such suspension or revocation shall only be after a notice to the officers of the contract market or derivatives transaction execution facility affected and upon a hearing on the record: *Provided*, That such sus-

pension or revocation shall be final and conclusive, unless within fifteen days after such suspension or revocation by the Commission such person appeals to the court of appeals for the circuit in which it has its principal place of business, by filing with the clerk of such court a written petition praying that the order of the Commission be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such person will pay the costs of the proceedings if the court so directs. The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Commission and file in the court the record in such proceedings, as provided in section 2112 of title 28. The testimony and evidence taken or submitted before the Commission, duly filed as aforesaid as a part of the record, shall be considered by the court of appeals as the evidence in the case. Such a court may affirm or set aside the order of the Commission or may direct it to modify its order. No such order of the Commission shall be modified or set aside by the court of appeals unless it is shown by the person that the order is unsupported by the weight of the evidence or was issued without due notice and a reasonable opportunity having been afforded to such person for a hearing, or infringes the Constitution of the United States, or is beyond the jurisdiction of the Commission.

(Sept. 21, 1922, ch. 369, §6(a), (b), formerly §6(a), 42 Stat. 1001; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Pub. L. 85-791, §7(a), Aug. 28, 1958, 72 Stat. 944; Pub. L. 90-258, §§14, 15, Feb. 19, 1968, 82 Stat. 30; Pub. L. 93-463, title I, §103(a)-(c), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 95-405, §13(1), (2), Sept. 30, 1978, 92 Stat. 871; Pub. L. 97-444, title II, §218, Jan. 11, 1983, 96 Stat. 2308; Pub. L. 98-620, title IV, §402(3), Nov. 8, 1984, 98 Stat. 3357; renumbered §6(a), (b) and amended Pub. L. 102-546, title II, §209(a)(1)-(3), title IV, §402(1)(B), (9)(A), Oct. 28, 1992, 106 Stat. 3606, 3624, 3625; Pub. L. 106-554, §1(a)(5) [title I, §123(a)(12)(A), (B)], Dec. 21, 2000, 114 Stat. 2763, 2763A-408.)

CODIFICATION

Section is comprised of subsecs. (a) and (b) of section 6 of act Sept. 21, 1922. Subsec. (c) of section 6 is classified to sections 9 and 15 of this title. Subsecs. (d), (e), (f), and (g) of section 6 are classified to sections 13b, 9a, 9b, and 9c of this title, respectively.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-554, §1(a)(5) [title I, §123(a)(12)(A)(iv)], substituted “designate or register as a contract market or derivatives transaction execution facility any person that has made application therefor, the person” for “designate as a ‘contract market’ any board of trade that has made application therefor, such board of trade” in last sentence.

Pub. L. 106-554, §1(a)(5) [title I, §123(a)(12)(A)(iii)], in third sentence, substituted “person” for “board of trade” and “180-day period” for “one-year period”.

Pub. L. 106-554, §1(a)(5) [title I, §123(a)(12)(A)(ii)], substituted “designation or registration as a contract market or derivatives transaction execution facility within 180 days” for “designation as a contract market within one year” in second sentence.

Pub. L. 106-554, §1(a)(5) [title I, §123(a)(12)(A)(i)], in first sentence, substituted “person desiring to be designated or registered as a contract market or deriva-

¹ So in original.

² So in original. The words “or the Commission” probably should not appear.