

**§ 12b. Trading ban violations; prohibition**

It shall be unlawful for any person, against whom there is outstanding any order of the Commission prohibiting him from trading on or subject to the rules of any registered entity, to make or cause to be made in contravention of such order, any contract for future delivery of any commodity, on or subject to the rules of any registered entity.

(Sept. 21, 1922, ch. 369, §8b, as added Pub. L. 90-258, §24, Feb. 19, 1968, 82 Stat. 33; amended Pub. L. 93-463, title I, §103(a), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 106-554, §1(a)(5) [title I, §123(a)(20)], Dec. 21, 2000, 114 Stat. 2763, 2763A-410.)

## AMENDMENTS

2000—Pub. L. 106-554 substituted “registered entity” for “contract market” in two places.

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

Section effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90-258, set out as an Effective Date of 1968 Amendment note under section 2 of this title.

**§ 12c. Disciplinary actions****(a) Action taken; written notice of reasons for action**

(1) Any exchange or the Commission if the exchange fails to act, may suspend, expel, or otherwise discipline any person who is a member of that exchange, or deny any person access to the exchange. Any such action shall be taken solely in accordance with the rules of that exchange.

(2) Any suspension, expulsion, disciplinary, or access denial procedure established by an exchange rule shall provide for written notice to the Commission and to the person who is suspended, expelled, or disciplined, or denied access, within thirty days, which includes the reasons for the exchange action in the form and manner the Commission prescribes. An exchange shall make public its findings and the reasons for the exchange action in any such proceeding, including the action taken or the penalty imposed, but shall not disclose the evidence therefor, except to the person who is suspended, expelled, or disciplined, or denied access, and to the Commission.

**(b) Review by Commission**

The Commission may, in its discretion and in accordance with such standards and procedures as it deems appropriate, review any decision by an exchange whereby a person is suspended, expelled, otherwise disciplined, or denied access to the exchange. In addition, the Commission may, in its discretion and upon application of any person who is adversely affected by any other exchange action, review such action.

**(c) Affirmance, modification, set aside, or remand of action**

The Commission may affirm, modify, set aside, or remand any exchange decision it re-

views pursuant to subsection (b) of this section, after a determination on the record whether the action of the exchange was in accordance with the policies of this chapter. Subject to judicial review, any order of the Commission entered pursuant to subsection (b) of this section shall govern the exchange in its further treatment of the matter.

**(d) Stay of action**

The Commission, in its discretion, may order a stay of any action taken pursuant to subsection (a) of this section pending review thereof.

**(e) Major disciplinary rule violations**

(1) The Commission shall issue regulations requiring each registered entity to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of such registered entity.

(2) The regulations issued by the Commission pursuant to this subsection shall prohibit, for a period of time to be determined by the Commission, any individual who is found to have committed any major violation from service on the governing board of any registered entity or registered futures association, or on any disciplinary committee thereof.

(Sept. 21, 1922, ch. 369, §8c, as added Pub. L. 93-463, title II, §216, Oct. 23, 1974, 88 Stat. 1405; amended Pub. L. 95-405, §18, Sept. 30, 1978, 92 Stat. 874; Pub. L. 102-546, title II, §206(a)(2), Oct. 28, 1992, 106 Stat. 3602; Pub. L. 106-554, §1(a)(5) [title I, §123(a)(20)], Dec. 21, 2000, 114 Stat. 2763, 2763A-410.)

## AMENDMENTS

2000—Subsec. (e). Pub. L. 106-554 substituted “registered entity” for “contract market” wherever appearing.

1992—Pub. L. 102-546 redesignated pars. (1) to (4) as subsecs. (a) to (d), respectively, in subsec. (a) redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, in subsec. (c) substituted references to subsection (b) for references to paragraph (2), in subsec. (d) substituted reference to subsection (a) for reference to paragraph (1), and added subsec. (e).

1978—Par. (1)(B). Pub. L. 95-405 substituted “An exchange shall make public its findings and the reasons for the exchange action in any such proceeding, including the action taken or the penalty imposed, but shall not disclose the evidence therefor, except to the person who is suspended, expelled, or disciplined or denied access, and to the Commission” for “Otherwise the notice and reasons shall be kept confidential”.

## 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 1968 Amendment note under section 2 of this title.

**§ 12d. Commission action for noncompliance with export sales reporting requirements**

The Commission may, in accordance with the procedures provided for in this chapter, refuse to register, register conditionally, or suspend, place restrictions upon, or revoke the registration of, any person, and may bar for any period

as it deems appropriate any person from using or participating in any manner in any market regulated by the Commission, if such person is subject to a final decision or order of any court of competent jurisdiction or agency of the United States finding such person to have knowingly violated any provision of the export sales reporting requirements of section 612c-3<sup>1</sup> of this title, or of any regulation issued thereunder.

(Sept. 21, 1922, ch. 369, §8d, as added Pub. L. 97-444, title II, §226, Jan. 11, 1983, 96 Stat. 2316.)

#### REFERENCES IN TEXT

Section 612c-3 of this title, referred to in text, was repealed by Pub. L. 101-624, title XV, §1578, Nov. 28, 1990, 104 Stat. 3702.

#### EFFECTIVE DATE

Section effective Jan. 11, 1983, see section 239 of Pub. L. 97-444, set out as an Effective Date of 1983 Amendment note under section 2 of this title.

### § 12e. Repealed. Pub. L. 106-554, §1(a)(5) [title I, §123(a)(21)], Dec. 21, 2000, 114 Stat. 2763, 2763A-410

Section, act Sept. 21, 1922, ch. 369, §8e, as added Pub. L. 102-546, title II, §202(a), Oct. 28, 1992, 106 Stat. 3598, related to Commission oversight and deficiency orders.

### § 13. Violations generally; punishment; costs of prosecution

#### (a) Felonies generally

It shall be a felony punishable by a fine of not more than \$1,000,000 or imprisonment for not more than 10 years, or both, together with the costs of prosecution, for:

(1) Any person registered or required to be registered under this chapter, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to such person's use or to the use of another, any money, securities, or property having a value in excess of \$100, which was received by such person or any employee or agent thereof to margin, guarantee, or secure the trades or contracts of any customer or accruing to such customer as a result of such trades or contracts or which otherwise was received from any customer, client, or pool participant in connection with the business of such person. The word "value" as used in this paragraph means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

(2) Any person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity, or of any swap, or to corner or attempt to corner any such commodity or knowingly to deliver or cause to be delivered for transmission through the mails or interstate commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce, or knowingly to violate the provisions of section

6, section 6b, subsections (a) through (e) of subsection<sup>1</sup> 6c, section 6h, section 6o(1), or section 23 of this title.

(3) Any person knowingly to make, or cause to be made, any statement in any application, report, or document required to be filed under this chapter or any rule or regulation thereunder or any undertaking contained in a registration statement required under this chapter, or by any registered entity or registered futures association in connection with an application for membership or participation therein or to become associated with a member thereof, which statement was false or misleading with respect to any material fact, or knowingly to omit any material fact required to be stated therein or necessary to make the statements therein not misleading.

(4) Any person willfully to falsify, conceal, or cover up by any trick, scheme, or artifice a material fact, make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry to a registered entity, board of trade, swap data repository, or futures association designated or registered under this chapter acting in furtherance of its official duties under this chapter.

(5) Any person willfully to violate any other provision of this chapter, or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, but no person shall be subject to imprisonment under this paragraph for the violation of any rule or regulation if such person proves that he had no knowledge of such rule or regulation.

(6) Any person to abuse the end user clearing exemption under section 2(h)(4) of this title, as determined by the Commission.

#### (b) Suspension of convicted felons

Any person convicted of a felony under this section shall be suspended from registration under this chapter and shall be denied registration or reregistration for five years or such longer period as the Commission may determine, and barred from using, or participating in any manner in, any market regulated by the Commission for five years or such longer period as the Commission shall determine, on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof.

#### (c) Transactions by Commissioners and Commission employees prohibited

It shall be a felony punishable by a fine of not more than \$500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any Commissioner of the Commission or any employee or agent thereof,

<sup>1</sup> See References in Text note below.

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