

AMENDMENTS

2010—Subsec. (e). Pub. L. 111-203, in last sentence, inserted “, central bank and ministries,” after “department” wherever appearing and substituted “, is a party.” for “. is a party.”

2008—Subsec. (a)(1). Pub. L. 110-246, §13105(g), in concluding provisions, struck out “commenced” after “receivership proceeding” and inserted “commenced” after “in a judicial proceeding”.

2000—Subsec. (a)(3). Pub. L. 106-554, §1(a)(5) [title II, §253(a)], added par. (3).

Subsec. (c). Pub. L. 106-554, §1(a)(5) [title I, §123(a)(18)], in first sentence, substituted “registered entity” for “board of trade”.

1992—Subsec. (a). Pub. L. 102-546, §§205, 304(1), designated existing provisions as par. (1), inserted provisions at end relating to disclosure of information received from foreign futures authorities, and added par. (2).

Subsec. (b). Pub. L. 102-546, §304(2), inserted at end “This subsection shall not apply to the disclosure of data or information obtained by the Commission from a foreign futures authority.”

Subsec. (e). Pub. L. 102-546, §305, inserted references to foreign futures authority in fifth and last sentences.

Subsec. (f). Pub. L. 102-546, §402(7), substituted “subpoena” for “subpena” wherever appearing and “subpoenas” for “subpenas” in last sentence.

1983—Subsec. (a). Pub. L. 97-444, §222(1), inserted proviso authorizing Commission to withhold from public disclosure any data or information concerning or obtained in connection with any pending investigation of any person.

Subsec. (b). Pub. L. 97-444, §222(2), inserted references to receivership proceedings involving a receiver appointed in a judicial proceeding brought under this chapter and to bankruptcy proceedings in which the Commission has intervened or in which Commission has right to appear and be heard under title 11.

Subsec. (e). Pub. L. 97-444, §222(3), struck out “of the Executive Branch” after “Upon the request of any department or agency” and inserted “Upon the request of any department or agency of any State or any political subdivision thereof, acting within the scope of its jurisdiction, or any department or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this chapter. Any information furnished to any department or agency of any State or political subdivision thereof shall not be disclosed by such department or agency except in connection with an adjudicatory action or proceeding brought under this chapter or the laws of such State or political subdivision to which such State or political subdivision or any department or agency thereof is a party. The Commission shall not furnish any information to a department or agency of a foreign government or political subdivision thereof unless the Commission is satisfied that the information will not be disclosed by such department or agency except in connection with an adjudicatory action or proceeding brought under the laws of such foreign government or political subdivision to which such foreign government or political subdivision or any department or agency thereof is a party.”

Subsecs. (f), (g). Pub. L. 97-444, §222(5), added subsecs. (f) and (g). Former subsecs. (f) and (g) were redesignated (h) and (i), respectively.

Subsecs. (h), (i). Pub. L. 97-444, §222(4), redesignated former subsecs. (f) and (g) as (h) and (i), respectively.

1978—Pub. L. 95-405 consolidated under this section provisions formerly contained in this section and sections 12-1, 12-2, and 12-3 of this title, generally revised provisions thus consolidated to clarify and expand disclosure to public of traders and their positions on boards of trade, and divided provisions thus consolidated and revised into subsecs. (a) to (g).

1974—Pub. L. 93-463 substituted “Commission” for “Secretary of Agriculture”, “it” for “he”, “its” for “his”, and “It” for “He”.

1968—Pub. L. 90-258 authorized investigations to ascertain facts regarding operations of other persons subject to any provisions of this chapter.

1936—Act June 15, 1936, substituted “commodity” for “grain” wherever appearing.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the later of 360 days after July 21, 2010, or, to the extent a provision of subtitle A (§§711-754) of title VII of Pub. L. 111-203 requires a rulemaking, not less than 60 days after publication of the final rule or regulation implementing such provision of subtitle A, see section 754 of Pub. L. 111-203, set out as a note under section 1a of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

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 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 OF 1936 AMENDMENT

Amendment by act June 15, 1936, effective 90 days after June 15, 1936, see section 13 of act June 15, 1936, set out as a note under section 1 of this title.

§§ 12-1 to 12-3. Omitted

CODIFICATION

Sections 12-1 to 12-3 comprised the second, third, and fourth pars., respectively, of section 8 of the Commodity Exchange Act, Sept. 21, 1922, ch. 369, §8, 42 Stat. 1003. Such section 8 was amended generally by Pub. L. 95-405, §16, Sept. 30, 1978, 92 Stat. 873, and is classified in its entirety to section 12 of this title.

Section 12-1, as added Dec. 19, 1947, ch. 523, 61 Stat. 941; amended Feb. 19, 1968, Pub. L. 90-258, §19(b), 82 Stat. 32; Oct. 23, 1974, Pub. L. 93-463, title I, §103(a), (e), (f), 88 Stat. 1392, related to disclosure of names of traders on commodity markets by Commission. See section 12(e) of this title.

Section 12-2, as added Oct. 23, 1974, Pub. L. 93-463, title I, §105, 88 Stat. 1392, required an annual report to Congress. See Codification note under section 12 of this title.

Section 12-3, as added Oct. 23, 1974, Pub. L. 93-463, title I, §105, 88 Stat. 1392, related to reviews and audits by Comptroller General. See section 12(i) of this title.

§ 12a. Registration of commodity dealers and associated persons; regulation of registered entities

The Commission is authorized—

(1) to register futures commission merchants, associated persons of futures commission merchants, introducing brokers, associated persons of introducing brokers, commodity trading advisors, associated persons of commodity trading advisors, commodity pool operators, associated persons of commodity pool operators, floor brokers, and floor traders upon application in accordance with rules and regulations and in the form and manner to be prescribed by the Commission, which may require the applicant, and such persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing, and in connection therewith to fix and establish from time to time reasonable fees and charges for registrations and renewals thereof: *Provided*, That notwithstanding any provision of this chapter, the Commission may grant a temporary license to any applicant for registration with the Commission pursuant to such rules, regulations, or orders as the Commission may adopt, except that the term of any such temporary license shall not exceed six months from the date of its issuance;

(2) upon notice, but without a hearing and pursuant to such rules, regulations, or orders as the Commission may adopt, to refuse to register, to register conditionally, or to suspend or place restrictions upon the registration of, any person and with such a hearing as may be appropriate to revoke the registration of any person—

(A) if a prior registration of such person in any capacity has been suspended (and the period of such suspension has not expired) or has been revoked;

(B) if registration of such person in any capacity has been refused under the provisions of paragraph (3) of this section within five years preceding the filing of the application for registration or at any time thereafter;

(C) if such person is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction (except that registration may not be revoked solely on the basis of such temporary order, judgment, or decree), including an order entered pursuant to an agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, from (i) acting as a futures commission merchant, introducing broker, floor broker, floor trader, commodity trading advisor, commodity pool operator, associated person of any registrant under this chapter, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or affiliated person or employee of any of the foregoing or (ii) engaging in or continuing any activity where such activity involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, gam-

bling, or any transaction in or advice concerning contracts of sale of a commodity for future delivery, concerning matters subject to Commission regulation under section 6c or 23 of this title, or concerning securities;

(D) if such person has been convicted within ten years preceding the filing of the application for registration or at any time thereafter of any felony that (i) involves any transactions or advice concerning any contract of sale of a commodity for future delivery, or any activity subject to Commission regulation under section 6c or 23 of this title, or concerning a security, (ii) arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, floor trader, commodity trading advisor, commodity pool operator, associated person of any registrant under this chapter, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing, (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, or (iv) involves the violation of section 152, 1001, 1341, 1342, 1343, 1503, 1623, 1961, 1962, 1963, or 2314, or chapter 25, 47, 95, or 96 of title 18, or section 7201 or 7206 of title 26;

(E) if such person, within ten years preceding the filing of the application or at any time thereafter, has been found in a proceeding brought by the Commission or any Federal or State agency or other governmental body, or by agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, (i) to have violated any provision of this chapter, the Securities Act of 1933 [15 U.S.C. 77a et seq.], the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], the Public Utility Holding Company Act of 1935,¹ the Trust Indenture Act of 1939 [15 U.S.C. 77aaa et seq.], the Investment Advisers Act of 1940 [15 U.S.C. 80b-1 et seq.], the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.], the Securities Investors² Protection Act of 1970 [15 U.S.C. 78aaa et seq.], the Foreign Corrupt Practices Act of 1977, chapter 96 of title 18, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rule-making Board where such violation involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

(F) if such person is subject to an outstanding order of the Commission denying

¹ See References in Text note below.

² So in original. Probably should be "Investor".

privileges on any registered entity to such person, denying, suspending, or revoking such person's membership in any registered entity or registered futures association, or barring or suspending such person from being associated with a registrant under this chapter or with a member of a registered entity or with a member of a registered futures association;

(G) if, as to any of the matters set forth in this paragraph and paragraph (3), such person willfully made any materially false or misleading statement or omitted to state any material fact in such person's application or any update thereto; or

(H) if refusal, suspension, or revocation of the registration of any principal of such person would be warranted because of a statutory disqualification listed in this paragraph:

Provided, That such person may appeal from a decision to refuse registration, condition registration, suspend, revoke or to place restrictions upon registration made pursuant to the provisions of this paragraph in the manner provided in section 9 of this title; and

Provided, further, That for the purposes of paragraphs (2) and (3) of this section, "principal" shall mean, if the person is a partnership, any general partner or, if the person is a corporation, any officer, director, or beneficial owner of at least 10 per centum of the voting shares of the corporation, and any other person that the Commission by rule, regulation, or order determines has the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the activities of such person which are subject to regulation by the Commission;

(3) to refuse to register or to register conditionally any person, if it is found, after opportunity for hearing, that—

(A) such person has been found by the Commission or by any court of competent jurisdiction to have violated, or has consented to findings of a violation of, any provision of this chapter, or any rule, regulation, or order thereunder (other than a violation set forth in paragraph (2) of this section), or to have willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any such provision;

(B) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any provision of the Securities Act of 1933 [15 U.S.C. 77a et seq.], the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], the Public Utility Holding Company Act of 1935,¹ the Trust Indenture Act of 1939 [15 U.S.C. 77aaa et seq.], the Investment Advisers Act of 1940 [15 U.S.C. 80b-1 et seq.], the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.], the Securities Investors³ Protection Act of 1970 [15 U.S.C. 78aaa et seq.],

the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

(C) such person failed reasonably to supervise another person, who is subject to such person's supervision, with a view to preventing violations of this chapter, or of any of the statutes set forth in subparagraph (B) of this paragraph, or of any of the rules, regulations, or orders thereunder, and the person subject to supervision committed such a violation: *Provided*, That no person shall be deemed to have failed reasonably to supervise another person, within the meaning of this subparagraph if (i) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person and (ii) such person has reasonably discharged the duties and obligations incumbent upon that person, as supervisor, by reason of such procedures and system, without reasonable cause to believe that such procedures and system were not being complied with;

(D) such person pleaded guilty to or was convicted of a felony other than a felony of the type specified in paragraph (2)(D) of this section, or was convicted of a felony of the type specified in paragraph (2)(D) of this section more than ten years preceding the filing of the application;

(E) such person pleaded guilty to or was convicted of any misdemeanor which (i) involves any transaction or advice concerning any contract of sale of a commodity for future delivery or any activity subject to Commission regulation under section 6c or 23 of this title or concerning a security, (ii) arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, floor trader, commodity trading advisor, commodity pool operator, associated person of any registrant under this chapter, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing, (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, (iv) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25, 47, 95, or 96 of title 18, or section 7203, 7204, 7205, or 7207 of title 26;

(F) such person was debarred by any agency of the United States from contracting with the United States;

(G) such person willfully made any materially false or misleading statement or willfully omitted to state any material fact in such person's application or any update

³So in original. Probably should be "Investor".

thereto, in any report required to be filed with the Commission by this chapter or the regulations thereunder, in any proceeding before the Commission or in any registration disqualification proceeding;

(H) such person has pleaded nolo contendere to criminal charges of felonious conduct, or has been convicted in a State court, in a United States military court, or in a foreign court of conduct which would constitute a felony under Federal law if the offense had been committed under Federal jurisdiction;

(I) in the case of an applicant for registration in any capacity for which there are minimum financial requirements prescribed under this chapter or under the rules or regulations of the Commission, such person has not established that such person meets such minimum financial requirements;

(J) such person is subject to an outstanding order denying, suspending, or expelling such person from membership in a registered entity, a registered futures association, any other self-regulatory organization, or any foreign regulatory body that the Commission recognizes as having a comparable regulatory program or barring or suspending such person from being associated with any member or members of such registered entity, association, self-regulatory organization, or foreign regulatory body;

(K) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any statute or any rule, regulation, or order thereunder which involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling or (ii) to have willfully aided, abetted, counseled, commanded, induced or procured such violation by any other person;

(L) such person has associated with such person any other person and knows, or in the exercise of reasonable care should know, of facts regarding such other person that are set forth as statutory disqualifications in paragraph (2) of this section, unless such person has notified the Commission of such facts and the Commission has determined that such other person should be registered or temporarily licensed;

(M) there is other good cause; or

(N) any principal, as defined in paragraph (2) of this section, of such person has been or could be refused registration:

Provided, That pending final determination under this paragraph, registration shall not be granted: *Provided further*, That such person may appeal from a decision to refuse registration or to condition registration made pursuant to this paragraph in the manner provided in section 9 of this title;

(4) in accordance with the procedure provided for in section 9 of this title, to suspend, revoke, or place restrictions upon the registra-

tion of any person registered under this chapter if cause exists under paragraph (3) of this section which would warrant a refusal of registration of such person, and to suspend or revoke the registration of any futures commission merchant or introducing broker who shall knowingly accept any order for the purchase or sale of any commodity for future delivery on or subject to the rules of any registered entity from any person if such person has been denied trading privileges on any registered entity by order of the Commission under section 9 of this title and the period of denial specified in such order shall not have expired: *Provided*, That such person may appeal from a decision to suspend, revoke, or place restrictions upon registration made pursuant to this paragraph in the manner provided in section 9 of this title;

(5) to make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of this chapter;

(6) to communicate to the proper committee or officer of any registered entity, registered futures association, or self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(26)], notwithstanding the provisions of section 12 of this title, the full facts concerning any transaction or market operation, including the names of parties thereto, which in the judgment of the Commission disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers, consumers, or investors, or which is necessary or appropriate to effectuate the purposes of this chapter: *Provided*, That any information furnished by the Commission under this paragraph shall not be disclosed by such registered entity, registered futures association, or self-regulatory organization except in any self-regulatory action or proceeding;

(7) to alter or supplement the rules of a registered entity insofar as necessary or appropriate by rule or regulation or by order, if after making the appropriate request in writing to a registered entity that such registered entity effect on its own behalf specified changes in its rules and practices, and after appropriate notice and opportunity for hearing, the Commission determines that such registered entity has not made the changes so required, and that such changes are necessary or appropriate for the protection of persons producing, handling, processing, or consuming any commodity traded for future delivery on such registered entity, or the product or by-product thereof, or for the protection of traders or to insure fair dealing in commodities traded for future delivery on such registered entity. Such rules, regulations, or orders may specify changes with respect to such matters as—

(A) terms or conditions in contracts of sale to be executed on or subject to the rules of such registered entity;

(B) the form or manner of execution of purchases and sales for future delivery;

(C) other trading requirements;

(D) margin requirements, provided that the rules, regulations, or orders shall—

(i) be limited to protecting the financial integrity of the derivatives clearing organization;

(ii) be designed for risk management purposes to protect the financial integrity of transactions; and

(iii) not set specific margin amounts;

(E) safeguards with respect to the financial responsibility of members;

(F) the manner, method, and place of soliciting business, including the content of such solicitations; and

(G) the form and manner of handling, recording, and accounting for customers' orders, transactions, and accounts;

(8) to make and promulgate such rules and regulations with respect to those persons registered under this chapter, who are not members of a registered entity, as in the judgment of the Commission are reasonably necessary to protect the public interest and promote just and equitable principles of trade, including but not limited to the manner, method, and place of soliciting business, including the content of such solicitation;

(9) to direct the registered entity, whenever it has reason to believe that an emergency exists, to take such action as in the Commission's judgment is necessary to maintain or restore orderly trading in or liquidation of any futures contract, including, but not limited to, the setting of temporary emergency margin levels on any futures contract, and the fixing of limits that may apply to a market position acquired in good faith prior to the effective date of the Commission's action. The term "emergency" as used herein shall mean, in addition to threatened or actual market manipulations and corners, any act of the United States or a foreign government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity. Any action taken by the Commission under this paragraph shall be subject to review only in the United States Court of Appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit. Such review shall be based upon an examination of all the information before the Commission at the time the determination was made. The court reviewing the Commission's action shall not enter a stay or order of mandamus unless it has determined, after notice and hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Nothing herein shall be deemed to limit the meaning or interpretation given by a registered entity to the terms "market emergency", "emergency", or equivalent language in its own bylaws, rules, regulations, or resolutions;

(10) to authorize any person to perform any portion of the registration functions under this chapter, in accordance with rules, not-

withstanding any other provision of law, adopted by such person and submitted to the Commission for approval or, if applicable, for review pursuant to section 21(j) of this title, and subject to the provisions of this chapter applicable to registrations granted by the Commission; and

(11)(A) by written notice served on the person and pursuant to such rules, regulations, and orders as the Commission may adopt, to suspend or modify the registration of any person registered under this chapter who is charged (in any information, indictment, or complaint authorized by a United States attorney or an appropriate official of any State) with the commission of or participation in a crime involving a violation of this chapter, or a violation of any other provision of Federal or State law that would reflect on the honesty or the fitness of the person to act as a fiduciary (including an offense specified in subparagraph (D) or (E) of paragraph (2)) that is punishable by imprisonment for a term exceeding one year, if the Commission determines that continued registration of the person may pose a threat to the public interest or may threaten to impair public confidence in any market regulated by the Commission.

(B) Prior to the suspension or modification of the registration of a person under this paragraph, the person shall be afforded an opportunity for a hearing at which the Commission shall have the burden of showing that the continued registration of the person does, or is likely to, pose a threat to the public interest or threaten to impair public confidence in any market regulated by the Commission.

(C) Any notice of suspension or modification issued under this paragraph shall remain in effect until such information, indictment, or complaint is disposed of or until terminated by the Commission.

(D) On disposition of such information, indictment, or complaint, the Commission may issue and serve on such person an order pursuant to paragraph (2) or (4) to suspend, restrict, or revoke the registration of such person.

(E) A finding of not guilty or other disposition of the charge shall not preclude the Commission from thereafter instituting any other proceedings under this chapter.

(F) A person aggrieved by an order issued under this paragraph may obtain review of such order in the same manner and on the same terms and conditions as are provided in section 8(b) of this title.

(Sept. 21, 1922, ch. 369, §8a, as added June 15, 1936, ch. 545, §10, 49 Stat. 1500; amended Aug. 5, 1955, ch. 574, 69 Stat. 535; Pub. L. 90-258, §§20-23, Feb. 19, 1968, 82 Stat. 32, 33; Pub. L. 93-463, title I, §103(a), title II, §§204(c), 205(c), 213-215, Oct. 23, 1974, 88 Stat. 1392, 1397, 1400, 1404; Pub. L. 95-405, §17, Sept. 30, 1978, 92 Stat. 874; Pub. L. 97-444, title I, §104, title II, §§223-225, Jan. 11, 1983, 96 Stat. 2297, 2310-2315; Pub. L. 102-546, title II, §§207(b)(3), (4), 208, 209(b)(6), 227, title IV, §402(10), Oct. 28, 1992, 106 Stat. 3604, 3607, 3618, 3625; Pub. L. 106-554, §1(a)(5) [title I, §123(a)(19)], Dec. 21, 2000, 114 Stat. 2763, 2763A-410; Pub. L. 111-203, title VII, §736, July 21, 2010, 124 Stat. 1722.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in pars. (2)(E) and (3)(B), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, as amended, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in pars. (2)(E) and (3)(B), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§78a et seq.) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

The Public Utility Holding Company Act of 1935, referred to in pars. (2)(E) and (3)(B), is title I of act Aug. 26, 1935, ch. 687, 49 Stat. 803, as amended, which was classified generally to chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, prior to repeal by Pub. L. 109-58, title XII, §1263, Aug. 8, 2005, 119 Stat. 974. For complete classification of this Act to the Code, see Tables.

The Trust Indenture Act of 1939, referred to in pars. (2)(E) and (3)(B), is title III of act May 27, 1933, ch. 38, as added Aug. 3, 1939, ch. 411, 53 Stat. 1149, as amended, which is classified generally to subchapter III (§77aaa et seq.) of chapter 2A of Title 15. For complete classification of this Act to the Code, see section 77aaa of Title 15 and Tables.

The Investment Advisers Act of 1940, referred to in pars. (2)(E) and (3)(B), is title II of act Aug. 22, 1940, ch. 686, 54 Stat. 847, as amended, which is classified generally to subchapter II (§80b-1 et seq.) of chapter 2D of Title 15. For complete classification of this Act to the Code, see section 80b-20 of Title 15 and Tables.

The Investment Company Act of 1940, referred to in pars. (2)(E) and (3)(B), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (§80a-1 et seq.) of chapter 2D of Title 15. For complete classification of this Act to the Code, see section 80a-51 of Title 15 and Tables.

The Securities Investor Protection Act of 1970, referred to in pars. (2)(E) and (3)(B), is Pub. L. 91-598, Dec. 30, 1970, 84 Stat. 1636, as amended, which is classified generally to chapter 2B-1 (§78aaa et seq.) of Title 15. For complete classification of this Act to the Code, see section 78aaa of Title 15 and Tables.

The Foreign Corrupt Practices Act of 1977, referred to in pars. (2)(E) and (3)(B), is title I of Pub. L. 95-213, Dec. 19, 1977, 91 Stat. 1494, as amended, which enacted sections 78dd-1 to 78dd-3 of Title 15, Commerce and Trade, and amended sections 78m and 78ff of Title 15. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 78a of Title 15 and Tables.

AMENDMENTS

2010—Par. (7)(C). Pub. L. 111-203, §736(1), struck out “, excepting the setting of levels of margin” after “requirements”.

Par. (7)(D) to (G). Pub. L. 111-203, §736(2), (3), added subpar. (D) and redesignated former subpars. (D) to (F) as (E) to (G), respectively.

2000—Pub. L. 106-554, §1(a)(5) [title I, §123(a)(19)(A)], substituted “registered entity” for “contract market” wherever appearing.

Par. (2)(F). Pub. L. 106-554, §1(a)(5) [title I, §123(a)(19)(B)], substituted “privileges” for “trading privileges”.

1992—Par. (1). Pub. L. 102-546, §207(b)(3), substituted “floor brokers, and floor traders” for “and floor brokers”.

Par. (2). Pub. L. 102-546, §209(b)(6)(A), made technical amendment to reference to sections 9 and 15 of this title in concluding provisions to reflect change in reference to corresponding section of original act.

Par. (2)(C)(i). Pub. L. 102-546, §207(b)(4), inserted “floor trader,” after “floor broker.”

Par. (2)(C)(ii). Pub. L. 102-546, §208(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows:

“engaging in or continuing any activity involving any transaction in or advice concerning contracts of sale of a commodity for future delivery, concerning matters subject to Commission regulation under section 6c or 23 of this title, or concerning securities”.

Par. (2)(D)(ii). Pub. L. 102-546, §207(b)(4), inserted “floor trader,” after “floor broker.”

Par. (2)(D)(iv). Pub. L. 102-546, §208(b), inserted references to sections 1001, 1503, 1623, 1961 to 1963, and 2314 of title 18 and sections 7201 and 7206 of title 26.

Par. (2)(E). Pub. L. 102-546, §208(c), substituted “in a proceeding brought” for “by any court of competent jurisdiction,” and in cl. (i) inserted reference to chapter 96 of title 18.

Par. (2)(G). Pub. L. 102-546, §208(d), substituted “this paragraph and paragraph (3)” for “subparagraphs (A) through (F) of this paragraph”, “materially false” for “material false”, and “application or any update thereto” for “application”.

Par. (3). Pub. L. 102-546, §209(b)(6)(B), made technical amendment to reference to sections 9 and 15 of this title in concluding provisions to reflect change in reference to corresponding section of original act.

Par. (3)(D). Pub. L. 102-546, §208(e), inserted “pleaded guilty to or” after “person”, substituted “section,” for “section within ten years preceding the filing of the application or at any time thereafter,” and “felony of the type specified in paragraph (2)(D) of this section more” for “felony, including a felony of the type specified in paragraph (2)(D) of this section, more”.

Par. (3)(E). Pub. L. 102-546, §208(f)(1), (2), inserted “pleaded guilty to or” after “person” and struck out “within ten years preceding the filing of the application for registration or at any time thereafter” before “of any misdemeanor”.

Par. (3)(E)(ii). Pub. L. 102-546, §207(b)(4), inserted “floor trader,” after “floor broker.”

Par. (3)(E)(iv). Pub. L. 102-546, §208(f)(3), inserted reference to sections 7203 to 7205 and 7207 of title 26.

Par. (3)(G). Pub. L. 102-546, §208(g)(5), which directed the insertion of “or in any registration disqualification proceeding” after “Commission”, was executed by making the insertion after “Commission” the second time it appeared to reflect the probable intent of Congress.

Pub. L. 102-546, §208(g)(1)-(4), substituted “materially false” for “material false”, “application or any update thereto,” for “application,” and struck out “or” after “thereunder.”

Par. (3)(H). Pub. L. 102-546, §208(h), inserted “, in a United States military court,” after “State court”.

Par. (3)(J). Pub. L. 102-546, §208(i), struck out “or” before “any other self-regulatory”, inserted “or any foreign regulatory body that the Commission recognizes as having a comparable regulatory program”, and substituted “association, self-regulatory organization, or foreign regulatory body” for “association, or self-regulatory organization”.

Par. (4). Pub. L. 102-546, §209(b)(6)(C), made technical amendment to references to sections 9 and 15 of this title in concluding provisions to reflect change in references to corresponding section of original act.

Par. (5). Pub. L. 102-546, §402(10)(A), struck out “and” at end.

Par. (7). Pub. L. 102-546, §402(10)(B), substituted “matters as—” for “matters as:” in introductory provisions.

Par. (11). Pub. L. 102-546, §227, added par. (11).

1983—Par. (1). Pub. L. 97-444, §223, substituted authorization for registration of “associated persons of futures commission merchants” for “and persons associated therewith as described in section 6k of this title”; authorized registration of introducing brokers, associated persons of introducing brokers, associated persons of commodity trading advisors and associated persons of commodity pool operators, substituted “such persons” for “any persons” before “associated with the applicant”, and authorized establishment of registration and renewal fees and charges and granting of temporary licenses for terms not exceeding six months from date of issuance.

Par. (2). Pub. L. 97-444, §224(1), added par. (2) and struck out prior par. (2) which authorized Commission "to refuse to register any person—

"(A) if the prior registration of such person has been suspended (and the period of such suspension shall not have expired) or has been revoked;

"(B) if it is found, after opportunity for hearing, that the applicant is unfit to engage in the business for which the application for registration is made, (i) because such applicant, or, if the applicant is a partnership, any general partner, or, if the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, at any time engaged in any practice of the character prohibited by this chapter or was convicted of a felony in any State or Federal court, or was debarred by any agency of the United States from contracting with the United States, or the applicant willfully made any material false or misleading statement in his application or willfully omitted to state any material fact in connection with the application, or (ii) for other good cause shown; or

"(C) in the case of an applicant for registration as futures commission merchant, if it is found after opportunity for hearing that the applicant has not established that he meets the minimum financial requirements under section 6f of this title: *Provided*, That pending final determination under subparagraph (B) or (C), registration shall not be granted: *And provided further*, That the applicant may appeal from the refusal of registration under subparagraph (B) or (C) in the manner provided in sections 9 and 15 of this title; and".

Par. (3). Pub. L. 97-444, §224(3), added par. (3). Former par. (3) redesignated (4).

Par. (4). Pub. L. 97-444, §224(2), (4), struck out par. (4) provision for establishment of registration and renewal fees and charges, covered in par. (1), redesignated par. (3) as (4), and in redesignated par. (4), authorized placing of restrictions on registrations, suspension or revocation of registration of an introducing broker and appeals from registration decisions made pursuant to this paragraph as provided in sections 9 and 15 of this title, and substituted "if cause exists under paragraph (3) of this section" for "if cause exists under paragraph (2)(B) or (C) of this section".

Par. (6). Pub. L. 97-444, §104, authorized communication of full facts respecting transactions or market operations to registered futures associations and self-regulatory organizations, included concern for investors, provided for communications when necessary or appropriate to effectuate purposes of this chapter, and prohibited disclosure of furnished information except in self-regulatory actions or proceedings.

Pars. (6) to (8). Pub. L. 97-444, §224(5), struck out "and" at end of pars. (6), (7), and (8).

Par. (9). Pub. L. 97-444, §225, authorized Commission to direct the contract market to take certain action, including, but not limited to, setting of temporary emergency margin levels on any futures contract, and fixing of limits that may apply to a market position acquired in good faith prior to the effective date of Commission's action and inserted provisions respecting judicial review.

Par. (10). Pub. L. 97-444, §224(6), added par. (10).

1978—Par. (1). Pub. L. 95-405, §17(1), inserted ", which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing" after "by the Commission".

Par. (6). Pub. L. 95-405, §17(2), struck out "and to publish" after "any contract market".

1974—Pub. L. 93-463, §103(a), substituted "Commission" for "Secretary of Agriculture" in provisions preceding par. (1).

Par. (1). Pub. L. 93-463, §§103(a), 204(c), 205(c), substituted "Commission" for "Secretary of Agriculture", inserted "and persons associated therewith as described in section 6k of this title," after "futures commission

merchants", and inserted "commodity trading advisors, commodity pool operators" before "and floor brokers".

Pars. (3), (5), (6). Pub. L. 93-463, §103(a), substituted "Commission" for "Secretary of Agriculture".

Par. (7). Pub. L. 93-463, §213, amended par. (7) generally, substituting provisions covering the altering or supplementing of the rules of a contract market for provisions covering the disapproval of bylaws, rules, regulations, and resolutions made, issued, or proposed by a contract market.

Par. (8). Pub. L. 93-463, §214, added par. (8).

Par. (9). Pub. L. 93-463, §215, added par. (9).

1968—Par. (2). Pub. L. 90-258, §20, designated existing provisions as subpar. (A), substituted "if the prior registration of such person" for "if such person has violated any of the provisions of this chapter or any of the rules or regulations promulgated by the Secretary of Agriculture hereunder for which the registration of such person" and added subpars. (B) and (C).

Par. (3). Pub. L. 90-258, §21, authorized Secretary of Agriculture, in accordance with procedure provided for in sections 9 and 15 of this title, to suspend or revoke the registration of any person registered under this chapter if cause exists under par. (2)(B) or (C) of this section which would warrant a refusal of registration of such person.

Par. (4). Pub. L. 90-258, §22, struck out authorization for establishment of fees for copies of registration certificates.

Par. (7). Pub. L. 90-258, §23, added par. (7).

1955—Par. (4). Act Aug. 5, 1955, authorized Secretary to fix and establish reasonable fees for registrations and renewals, and struck out provisions which set the fee for each registration and renewal at not more than \$10.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the later of 360 days after July 21, 2010, or, to the extent a provision of subtitle A (§§711-754) of title VII of Pub. L. 111-203 requires a rulemaking, not less than 60 days after publication of the final rule or regulation implementing such provision of subtitle A, see section 754 of Pub. L. 111-203, set out as a note under section 1a of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 207(b)(3), (4) of Pub. L. 102-546 effective 180 days after Oct. 28, 1992, with Commodity Futures Trading Commission to issue any regulations necessary to implement such amendment no later than 180 days after Oct. 28, 1992, see section 207(c) of Pub. L. 102-546, set out as a note under section 6e of this title.

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 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.

§ 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), 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) 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) 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