Public Law 97-444
97th Congress

An Act

To extend the Commodity Exchange Act, and for other purposes.

Jan. 11, 1983
[H.R. 5447]

Futures Trading Act of 1982.
7 USC 1 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Futures Trading Act of 1982".

TITLE I—JURISDICTION

OPTIONS; FUTURES CONTRACTS

SEC. 101. (a) Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2) is amended by—

7 USC 2, 4.
7 USC 2.

(1) redesignating paragraph (1) as paragraph (1)(A);

(2) inserting in the third sentence of paragraph (1)(A), as so redesignated ", except to the extent otherwise provided in subparagraph (B) of this paragraph," after "exclusive jurisdiction";

7 USC 2a.

(3) adding a new subparagraph (B) to read as follows:

"(B) Notwithstanding any other provision of law—

"(i) This Act shall not apply to and the Commission shall have no jurisdiction to designate a board of trade as a contract market for any transaction whereby any party to such transaction acquires any put, call, or other option on one or more securities (as defined in section 2(1) of the Securities Act of 1933 or section 3(a)(10) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982), including any group or index of such securities, or any interest therein or based on the value thereof.

15 USC 77b.
15 USC 78c.

"(ii) This Act shall apply to and the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty') and transactions involving, and may designate a board of trade as a contract market in, contracts of sale (or options on such contracts) for future delivery of a group or index of securities (or any interest therein or based upon the value thereof): *Provided, however,* That no board of trade shall be designated as a contract market with respect to any such contracts of sale (or options on such contracts) for future delivery unless the board of trade making such application demonstrates and the Commission expressly finds that the specific contract (or option on such contract) with respect to which the application has been made meets the following minimum requirements:

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"(I) Settlement of or delivery on such contract (or option on such contract) shall be effected in cash or by means other than the transfer or receipt of any security, except an exempted security under section 3 of the Securities Act of 1933 or section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the date of enactment of the Futures Trading Act of 1982 (other than any municipal security, as defined in section 3(a)(29) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982);

15 USC 77c.
15 USC 78c.

"(II) Trading in such contract (or option on such contract) shall not be readily susceptible to manipulation of the price of such contract (or option on such contract), nor to causing or being used in the manipulation of the price of any underlying security, option on such security or option on a group or index including such securities; and

"(III) Such group or index of securities shall be predominately composed of the securities of unaffiliated issuers and shall be a widely published measure of, and shall reflect, the market for all publicly traded equity or debt securities or a substantial segment thereof, or shall be comparable to such measure.

"(iii) Upon application by a board of trade for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery involving a group or index of securities, the Commission shall provide an opportunity for public comment on whether such contracts (or options on such contracts) meet the minimum requirements set forth in clause (ii) of this subparagraph.

"(iv)(I) The Commission shall consult with the Securities and Exchange Commission with respect to any application which is submitted by a board of trade before December 9, 1982, for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery of a group or index of securities. If, no later than fifteen days following the close of the public comment period, the Securities and Exchange Commission shall object to the designation of a board of trade as a contract market in such contract (or option on such contract) on the ground that any minimum requirement of clause (ii) of this subparagraph is not met, the Commission shall afford the Securities and Exchange Commission an opportunity for an oral hearing, to be transcribed, before the Commission, and shall give appropriate weight to the views of the Securities and Exchange Commission. Such oral hearing shall be held after the public comment period, prior to Commission action upon such designation, and not less than thirty nor more than forty-five days after the close of the public comment period, unless both the Commission and the Securities Exchange Commission otherwise agree. If such an oral hearing is held, the Securities and Exchange Commission fails to withdraw its objections, and the Commission issues an order designating a board of trade as a contract market with respect to any such contract (or option on such contract), the Securities and Exchange Commission shall have the right of judicial review of such order in accordance

7 USC 9.

with the standards of section 6(b) of this Act. If, pursuant to section 6 of this Act, there is a hearing on the record with respect to such application for designation, the Securities and Exchange Commission shall have the right to participate in that hearing as an interested party.

"(II) Effective for any application submitted by a board of trade on or after December 9, 1982, for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery of a group or index of securities, the Commission shall transmit a copy of such application to the Securities and Exchange Commission for review. The Commission shall not approve any such application if the Securities and Exchange Commission determines that such contract (or option on such contract) fails to meet the minimum requirements set forth in clause (ii) of this subparagraph. Such determination shall be made by order no later than forty-five days after the close of the public comment period under clause (iii) of this subparagraph. In the event of such determination, the board of trade shall be afforded an opportunity for a hearing on the record before the Securities and Exchange Commission. If a board of trade requests a hearing on the record, the hearing shall commence no later than thirty days following the receipt of the request, and a final determination shall be made no later than thirty days after the close of the hearing. A person aggrieved by any such order of the Securities and Exchange Commission may obtain judicial review thereof in the same manner and under such terms and conditions as are provided in section 6(a) of this Act.

7 USC 8.

"(v) No person shall offer to enter into, enter into, or confirm the execution of any contract of sale (or option on such contract) for future delivery of any security, or interest therein or based on the value thereof, except an exempted security under section 3 of the Securities Act of 1933 or section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the date of enactment of the Futures Trading Act of 1982 (other than any municipal security as defined in section 3(a)(29) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982), or except as provided in clause (ii) of this subparagraph, any group or index of such securities or any interest therein or based on the value thereof.".

15 USC 77c.
15 USC 78c.

OPTIONS ON FOREIGN CURRENCIES

SEC. 102. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by adding at the end thereof the following new subsection:

"(f) Nothing in this Act shall be deemed to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange.".

COMMODITY POOLS

SEC. 103. Section 4m of the Commodity Exchange Act (7 U.S.C. 6m) is amended by—

(1) inserting "(1)" immediately following the section designation; and

(2) adding at the end thereof the following new subsection: "(2) Nothing in this Act shall relieve any person of any obligation or duty, or affect the availability of any right or remedy available to the Securities and Exchange Commission or any private party arising under the Securities Act of 1933 or the Securities Exchange Act of 1934 governing the issuance, offer, purchase, or sale of securities of a commodity pool, or of persons engaged in transactions with respect to such securities, or reporting by a commodity pool.".

15 USC 77a.
15 USC 78a.

SHARING INFORMATION WITH CONTRACT MARKETS AND OTHER SELF-REGULATORY ORGANIZATIONS

SEC. 104. Section 8a(6) of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) inserting "registered futures association, or self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934," before "notwithstanding"; and

15 USC 78c.

(2) striking out "and consumers" and inserting in lieu thereof a comma and immediately thereafter "consumers, or investors, or which is necessary or appropriate to effectuate the purposes of this Act: *Provided*, That any information furnished by the Commission under this paragraph shall not be disclosed by such contract market, registered futures association, or self-regulatory organization except in any self-regulatory action or proceeding".

TITLE II—MISCELLANEOUS AMENDMENTS TO THE COMMODITY EXCHANGE ACT

DEFINITIONS

SEC. 201. Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2) is amended by—

(1) inserting in paragraph (1)(A), as redesignated by section 101 of this Act, immediately after the sentence defining the term "futures commission merchant" a new sentence to read as follows: "The term 'introducing broker' shall mean any person, except an individual who elects to be and is registered as an associated person of a futures commission merchant, engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom."; and

Ante, p. 2294.

(2) amending the sentence defining the term "commodity trading advisor" in paragraph (1)(A), as so redesignated, to read as follows: "The term 'commodity trading advisor' shall mean any person who, for compensation or profit, engages in the business of advising others, either directly or through publications, writings or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market, any commodity option authorized under section 4c, or any leverage transaction authorized under section

7 USC 6c.

7 USC 23.

19, or who, for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the foregoing; but such term does not include (i) any bank or trust company or any person acting as an employee thereof, (ii) any news reporter, news columnist, or news editor of the print or electronic media, or any lawyer, accountant, or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher or producer of any print or electronic data of general and regular dissemination, including its employees, (v) the fiduciary of any defined benefit plan which is subject to the provisions of the Employee Retirement Income Security Act of 1974, (vi) any contract market, and (vii) such other persons not within the intent of this definition as the Commission may specify by rule, regulation, or order: *Provided*, That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession: *Provided further*, That the Commission, by rule or regulation, may include within this definition, any person advising as to the value of commodities or issuing reports or analyses concerning commodities, if the Commission determines that such rule or regulation will effectuate the purposes of this provision.".

29 USC 1001 note.

PERSONNEL RESTRICTIONS

SEC. 202. Section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 4a(f)) is amended by—

(1) striking out "(A)" after the paragraph designation; and

(2) striking out subparagraph (B).

LEGISLATIVE FINDINGS

SEC. 203. Section 3 of the Commodity Exchange Act (7 U.S.C. 5) is amended to read as follows:

"SEC. 3. Transactions in commodities involving the sale thereof for future delivery as commonly conducted on boards of trade and known as 'futures' are affected with a national public interest. Such futures transactions are carried on in large volume by the public generally and by persons engaged in the business of buying and selling commodities and the products and byproducts thereof in interstate commerce. The prices involved in such transactions are generally quoted and disseminated throughout the United States and in foreign countries as a basis for determining the prices to the producer and the consumer of commodities and the products and byproducts thereof and to facilitate the movements thereof in interstate commerce. Such transactions are utilized by shippers, dealers, millers, and others engaged in handling commodities and the products and byproducts thereof in interstate commerce as a means of hedging themselves against possible loss through fluctuations in price. The transactions and prices of commodities on such boards of trade are susceptible to excessive speculation and can be manipulated, controlled, cornered or squeezed, to the detriment of the producer or the consumer and the persons handling commodities and the products and byproducts thereof in interstate commerce, rendering regulation imperative for the protection of such commerce and the national public interest therein. Furthermore, transactions which are of the character of, or are commonly known to the trade as, 'options' are or may be utilized by commercial and other

entities for risk shifting and other purposes. Options transactions are in interstate commerce or affect such commerce and the national economy, rendering regulation of such transactions imperative for the protection of such commerce and the national public interest."

UNLAWFUL FUTURES TRADING; FOREIGN FUTURES

SEC. 204. Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended to read as follows:

"SEC. 4. (a) It shall be unlawful for any person to offer to enter into, to enter into, to execute, to confirm the execution of, or to conduct any office or business anywhere in the United States, its territories or possessions, for the purpose of soliciting or accepting any order for, or otherwise dealing in, any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery (other than a contract which is made on or subject to the rules of a board of trade, exchange, or market located outside the United States, its territories or possessions) unless—

"(1) such transaction is conducted on or subject to the rules of a board of trade which has been designated by the Commission as a 'contract market' for such commodity;

"(2) such contract is executed or consummated by or through a member of such contract market; and

"(3) such contract is evidenced by a record in writing which shows the date, the parties to such contract and their addresses, the property covered and its price, and the terms of delivery: *Provided*, That each contract market member shall keep such record for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, which record shall at all times be open to the inspection of any representative of the Commission or the Department of Justice.

"(b) The Commission may adopt rules and regulations proscribing fraud and requiring minimum financial standards, the disclosure of risk, the filing of reports, the keeping of books and records, the safeguarding of customers' funds, and registration with the Commission by any person located in the United States, its territories or possessions, who engages in the offer or sale of any contract of sale of a commodity for future delivery that is made or to be made on or subject to the rules of a board of trade, exchange, or market located outside the United States, its territories or possessions. Such rules and regulations may impose different requirements for such persons depending upon the particular foreign board of trade, exchange, or market involved. No rule or regulation may be adopted by the Commission under this subsection that (1) requires Commission approval of any contract, rule, regulation, or action of any foreign board of trade, exchange, or market, or clearinghouse for such board of trade, exchange, or market, or (2) governs in any way any rule or contract term or action of any foreign board of trade, exchange, or market, or clearinghouse for such board of trade, exchange, or market.".

SPECULATIVE LIMITS

SEC. 205. Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) is amended by—

(1) inserting "rule, regulation, or" before "order" wherever it occurs in subsections (1) and (2);

(2) inserting in the fourth sentence of subsection (1) after "delivery months," the words "or for different number of days remaining until the last day of trading in a contract,";

(3) striking out in subsection (2) "order's promulgation" and inserting in lieu thereof "promulgation of the rule, regulation, or order";

(4) amending subsection (3) to read as follows:

"(3) No rule, regulation, or order issued under subsection (1) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission by rule, regulation, or order consistent with the purposes of this Act. Such terms may be defined to permit producers, purchasers, sellers, middlemen, and users of a commodity or a product derived therefrom to hedge their legitimate anticipated business needs for that period of time into the future for which an appropriate futures contract is open and available on an exchange. To determine the adequacy of this Act and the powers of the Commission acting thereunder to prevent unwarranted price pressures by large hedgers, the Commission shall monitor and analyze the trading activities of the largest hedgers, as determined by the Commission, operating in the cattle, hog, or pork belly markets and shall report its findings and recommendations to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture in its annual reports for at least two years following the date of enactment of the Futures Trading Act of 1982.";

(5) inserting in the first sentence of subsection (4) ", an introducing broker," after "futures commission merchant", and striking out "as floor broker" and inserting in lieu thereof "a floor broker"; and

(6) adding at the end thereof the following new subsection:

"(5) Nothing in this section shall prohibit or impair the adoption by any contract market or by any other board of trade licensed or designated by the Commission of any bylaw, rule, regulation, or resolution fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery traded on or subject to the rules of such contract market, or under options on such contracts or commodities traded on or subject to the rules of such contract market or such board of trade: *Provided,* That if the Commission shall have fixed limits under this section for any contract or under section 4c of this Act for any commodity option, then the limits fixed by the bylaws, rules, regulations, and resolutions adopted by such contract market or such board of trade shall not be higher than the limits fixed by the Commission. It shall be a violation of this Act for any person to violate any bylaw, rule, regulation, or resolution of any contract market or other board of trade licensed or designated by the Commission fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery or under options on such contracts or commodities, if such bylaw, rule, regulation, or resolution has been approved by the Commission: *Provided,* That the provisions of section 9(c) of this Act shall apply only to those who knowingly violate such limits.".

7 USC 13.

AGRICULTURAL OPTIONS

SEC. 206. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by—

(1) amending subsection (a) by—

(A) inserting "or" at the end of clause (A);

(B) striking out clause (B); and

(C) redesignating clause (C) as clause (B);

(2) amending subsection (b) to read as follows:

"(b) No person shall offer to enter into, enter into or confirm the execution of, any transaction involving any commodity regulated under this Act which is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty', contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe. Any such order, rule, or regulation may be made only after notice and opportunity for hearing, and the Commission may set different terms and conditions for different markets.";

(3) in subsection (c), inserting immediately after the first sentence the following: "With respect to any commodity regulated under this Act and specifically set forth in section (2)(a) of this Act prior to the date of enactment of the Commodity Futures Trading Commission Act of 1974, the Commission may, pursuant to the procedures set forth in this subsection, establish a pilot program for a period not to exceed three years to permit such commodity option transactions. The Commission may authorize commodity option transactions during the pilot program in as many commodities as will provide an adequate test of the trading of such option transactions. After completion of the pilot program, the Commission may authorize commodity option transactions without regard to the restrictions in the pilot program after the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry the documentation required under clause (1) of the first sentence of this subsection and the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal."; and

Ante, p. 2294.
7 USC 1 note.

(4) amending subsection (d) by—

(A) in clause (1), inserting ", other than a commodity specifically set forth in section 2(a) of this Act prior to enactment of the Commodity Futures Trading Commission Act of 1974," immediately after "physical commodity";

(B) in clause (2), inserting ", other than a commodity specifically set forth in section 2(a) of this Act prior to enactment of the Commodity Futures Trading Commission Act of 1974," immediately after "subsection (b) of this section"; and

(C) inserting ", other than options on a commodity specifically set forth in section (2)(a) of this Act prior to enactment of the Commodity Futures Trading Commission Act of 1974," immediately after "The Commission may permit persons not domiciled in the United States to grant options under this subsection".

INTRODUCING BROKER; REGISTRATION REQUIREMENT

SEC. 207. Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended by—

(1) inserting in the introductory clause "or introducing broker" after "futures commission merchant";

(2) inserting in paragraph (1) "or introducing broker" after "futures commission merchant"; and

(3) inserting in paragraph (2) "if a futures commission merchant," after "such person shall,".

REGISTRATION PROCEDURE; TECHNICAL AMENDMENTS

SEC. 208. Section 4f of the Commodity Exchange Act (7 U.S.C. 6f) is amended by—

(1) amending subsection (1) to read as follows:

"(1) Any person desiring to register as a futures commission merchant, introducing broker, or floor broker hereunder shall be registered upon application to the Commission. The application shall be made in such form and manner as prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the business in which the applicant is or will be engaged, including in the case of an application of a futures commission merchant or an introducing broker, the names and addresses of the managers of all branch offices, and the names of such officers and partners, if a partnership, and of such officers, directors, and stockholders, if a corporation, as the Commission may direct. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission the above-mentioned information and such other information pertaining to such person's business as the Commission may require. Each registration shall expire on December 31 of the year for which issued or at such other time, not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked pursuant to the provisions of this Act."; and

Expiration date.

(2) inserting in subsection (2) "or as introducing broker" after "futures commission merchant".

INTRODUCING BROKERS; REPORTS, BOOKS, AND RECORDS

SEC. 209. Section 4g of the Commodity Exchange Act (7 U.S.C. 6g) is amended by—

(1) inserting in subsection (1) ", introducing broker," after "futures commission merchant"; and

(2) inserting in subsection (3) ", introducing brokers," after "Floor brokers".

MISREPRESENTATION OF STATUS; TECHNICAL AMENDMENTS

SEC. 210. Section 4h of the Commodity Exchange Act (7 U.S.C. 6h) is amended to read as follows:

"SEC. 4h. It shall be unlawful for any person falsely to represent such person to be a member of a contract market or the representa-

tive or agent of such member, or to be a registrant under this Act or the representative or agent of any registrant, in soliciting or handling any order or contract for the purchase or sale of any commodity in interstate commerce or for future delivery, or falsely to represent in connection with the handling of any such order or contract that the same is to be or has been executed on, or by or through a member of, any contract market.".

RECORDKEEPING CONFORMED TO CURRENT SYSTEM; LARGE TRADER REPORTS

SEC. 211. Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended to read as follows:

"SEC. 4i. It shall be unlawful for any person to make any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market—

"(1) if such person shall directly or indirectly make such contracts with respect to any commodity or any future of such commodity during any one day in an amount equal to or in excess of such amount as shall be fixed from time to time by the Commission, and

"(2) if such person shall directly or indirectly have or obtain a long or short position in any commodity or any future of such commodity equal to or in excess of such amount as shall be fixed from time to time by the Commission,

unless such person files or causes to be filed with the properly designated officer of the Commission such reports regarding any transactions or positions described in clauses (1) and (2) hereof as the Commission may by rule or regulation require and unless, in accordance with rules and regulations of the Commission, such person shall keep books and records of all such transactions and positions and transactions and positions in any such commodity traded on or subject to the rules of any other board of trade, and of cash or spot transactions in, and inventories and purchase and sale commitments of such commodity. Such books and records shall show complete details concerning all such transactions, positions, inventories, and commitments, including the names and addresses of all persons having any interest therein, and shall be open at all times to inspection by any representative of the Commission or the Department of Justice. For the purposes of this section, the futures and cash or spot transactions and positions of any person shall include such transactions and positions of any persons directly or indirectly controlled by such person.".

REGISTRATION; ASSOCIATED PERSON STATUS

SEC. 212. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended to read as follows:

"SEC. 4k. (1) It shall be unlawful for any person to be associated with a futures commission merchant as a partner, officer, or employee, or to be associated with an introducing broker as a partner, officer, employee, or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves (i) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission under this Act as an associated person of such futures

commission merchant or of such introducing broker and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked. It shall be unlawful for a futures commission merchant or introducing broker to permit such a person to become or remain associated with the futures commission merchant or introducing broker in any such capacity if such futures commission merchant or introducing broker knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired), or been revoked. Any individual who is registered as a floor broker, futures commission merchant, or introducing broker (and such registration is not suspended or revoked) need not also register under this subsection.

"(2) It shall be unlawful for any person to be associated with a commodity pool operator as a partner, officer, employee, consultant, or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves (i) the solicitation of funds, securities, or property for a participation in a commodity pool or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission under this Act as an associated person of such commodity pool operator and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked. It shall be unlawful for a commodity pool operator to permit such a person to become or remain associated with the commodity pool operator in any such capacity if the commodity pool operator knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired), or been revoked. Any individual who is registered as a floor broker, futures commission merchant, introducing broker, commodity pool operator, or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this subsection. The Commission may exempt any person or class of persons from having to register under this subsection by rule, regulation, or order.

"(3) It shall be unlawful for any person to be associated with a commodity trading advisor as a partner, officer, employee, consultant, or agent (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation of a client's or prospective client's discretionary account or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission under this Act as an associated person of such commodity trading advisor and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked. It shall be unlawful for a commodity trading advisor to permit such a person to become or remain associated with the commodity trading advisor in any such capacity if the commodity trading advisor knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired), or been revoked. Any individual who is registered as a floor broker, futures commission merchant, introducing broker, commodity trading advisor, or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this subsection. The Commission may exempt any person or class of persons

from having to register under this subsection by rule, regulation, or order.

"(4) Any person desiring to be registered as an associated person of a futures commission merchant, of an introducing broker, of a commodity pool operator, or of a commodity trading advisor shall make application to the Commission in the form and manner prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the applicant. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission such information as the Commission may require. Such registration shall expire at such time as the Commission may by rule, regulation, or order prescribe.

"(5) It shall be unlawful for any registrant to permit a person to become or remain an associated person of such registrant, if the registrant knew or should have known of facts regarding such associated person that are set forth as statutory disqualifications in section 8a(2) of this Act, unless such registrant has notified the Commission of such facts and the Commission has determined that such person should be registered or temporarily licensed.". *Post*, p. 2310.

CONFORMING AMENDMENT

SEC. 213. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by striking out subsections (5) and (6).

EXTENSION OF ANTIFRAUD PROVISION

SEC. 214. Section 4o of the Commodity Exchange Act (7 U.S.C. 6o) is amended to read as follows:

"SEC. 4o. (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— 7 USC 6o.

"(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 Act 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 Act 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.".

EXTENSION OF AUTHORITY REGARDING PROFICIENCY EXAMINATIONS

SEC. 215. Section 4p of the Commodity Exchange Act (7 U.S.C. 6p) is amended by—

(1) striking out in the first sentence "futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers" and inserting in lieu thereof "persons required to be registered with the Commission";

(2) striking out in the second and third sentences "as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers,"; and

(3) striking out in the last sentence "the customers of futures commission merchants and floor brokers" and inserting in lieu thereof "customers, clients, pool participants, or other members of the public with whom such individuals deal".

CONTRACT MARKET RULES

SEC. 216. Section 5a of the Commodity Exchange Act (7 U.S.C. 7a) is amended by—

(1) amending paragraph (8) to read as follows:

"(8) enforce all bylaws, rules, regulations, and resolutions, made or issued by it or by the governing board thereof or any committee, that (i) have been approved by the Commission pursuant to paragraph (12) of this section, (ii) have become effective under such paragraph, or (iii) must be enforced pursuant to any Commission rule, regulation, or order; and revoke and not enforce any bylaw, rule, regulation, or resolution, made, issued, or proposed by it or by the governing board thereof or any committee, that has been disapproved by the Commission;";

(2) amending paragraph (12) to read as follows:

"(12) except as otherwise provided in this paragraph, submit to the Commission for its prior approval all bylaws, rules, regulations, and resolutions ('rules') made or issued by such contract market, or by the governing board thereof or any committee thereof, that relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market, as such terms and conditions are defined by the Commission by rule or regulation, except those rules relating to the setting of levels of margin. Each contract market shall submit to the Commission all other rules (except those relating to the setting of levels of margin and except those that the Commission may specify by regulation) and may make such rules effective ten days after receipt of such submission by the Commission unless, within the ten-day period, the contract market requests review and approval thereof by the Commission or the Commission notifies such contract market in writing of its determination to review such rules for approval. The determination to review such rules for approval shall not be delegable to any employee of the Commission. At least thirty days before approving any rules of major economic significance, as determined by the Commission, the Commission shall publish a notice of such rules in the Federal Register. The Commission shall give interested persons an opportunity to particpate in the approval process through the submission of written data, views, or arguments. The determination by the Commission whether any such rules are of major economic significance shall be final and not subject to judicial review. The Commission shall approve such rules if such rules are determined by the Commission not to be in violation of this Act or the regulations of the

Commission and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be in violation of the provisions of this Act or the regulations of the Commission. If the Commission institutes proceedings to determine whether a rule should be disapproved pursuant to this paragraph, it shall provide the contract market with written notice of the proposed grounds for disapproval, including the specific sections of this Act or the Commission's regulations which would be violated. At the conclusion of such proceedings, the Commission shall approve or disapprove such rule. Any disapproval shall specify the sections of this Act or the Commission's regulations which the Commission determines such rule has violated or, if effective, would violate. If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period as the contract market may agree to, or if the Commission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the contract market may agree to, such rule may be made effective by the contract market until such time as the Commission disapproves such rule in accordance with this paragraph. The Commission shall specify the terms and conditions under which a contract market may, in an emergency as defined by the Commission, make a rule effective on a temporary basis without prior Commission approval, or without compliance with the ten-day notice requirement under this paragraph, or during any period of review by the Commission. In the event of such an emergency, as defined by the Commission, requiring immediate action, the contract market by a two-thirds vote of its governing board may immediately make effective a temporary rule dealing with such emergency if the contract market notifies the Commission of such action with a complete explanation of the emergency involved.".

ARBITRATION

SEC. 217. (a) Section 5a(11) of the Commodity Exchange Act (7 U.S.C. 7a(11)) is amended to read as follows:

"(11) provide a fair and equitable procedure through arbitration or otherwise (such as by delegation to a registered futures association having rules providing for such procedures) for the settlement of customers' claims and grievances against any member or employee thereof: *Provided*, That (i) the use of such procedure by a customer shall be voluntary and (ii) the term 'customer' as used in this paragraph shall not include another member of the contract market; and".

(b) Section 17(b)(10) of the Commodity Exchange Act (7 U.S.C. 21(b)(10)) is amended to read as follows:

"(10) the rules of the association provide a fair, equitable, and expeditious procedure through arbitration or otherwise for the settlement of customers' claims and grievances against any member or employee thereof: *Provided*, That (i) the use of such procedure by a customer shall be voluntary and (ii) the term 'customer' as used in this paragraph shall not include another member of the association.".

CONTRACT MARKET DESIGNATION PROCEDURES

SEC. 218. Section 6 of the Commodity Exchange Act (7 U.S.C. 8) is amended by inserting immediately after the first sentence the following: "The Commission shall approve or deny an application for designation as a contract market within one year of the filing of the application. If the Commission notifies the board of trade that its application is materially incomplete and specifies the deficiencies in the application, the running of the one-year 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.".

APPEALS; CONFORMING AMENDMENT

SEC. 219. Section 6(b) of the Commodity Exchange Act (7 U.S.C. 9) is amended by—

(1) striking out in the first and ninth sentences "as futures commission merchant or any person associated therewith as described in section 4k of this Act, commodity trading advisor, commodity pool operator, or as floor broker hereunder" and inserting in lieu thereof "with the Commission in any capacity"; and

Ante, p. 2303.

(2) inserting in the eleventh sentence after "doing business" the words ", or in the case of an order denying registration, the circuit in which the petitioner's principal place of business listed on petitioner's application for registration is located,".

RESTRAINING ORDERS

SEC. 220. Section 6c of the Commodity Exchange Act (7 U.S.C. 13a-1) is amended by inserting in the proviso contained in the first sentence after "no restraining order" the following: "(other than a restraining order which prohibits any person from destroying, altering or disposing of, or refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records or other documents or which prohibits any person from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property)".

STATE ANTIFRAUD JURISDICTION

SEC. 221. Section 6d of the Commodity Exchange Act (7 U.S.C. 13a-2) is amended by adding at the end thereof the following new subsection:

"(8)(A) Nothing in this Act shall prohibit an authorized State official from proceeding in a State court against any person registered under this Act (other than a floor broker or registered futures association) for an alleged violation of any antifraud provision of this Act or any antifraud rule, regulation, or order issued pursuant to the Act.

"(B) The State shall give the Commission prior written notice of its intent to proceed before instituting a proceeding in State court as described in this subsection and shall furnish the Commission with a copy of its complaint immediately upon instituting any such pro-

ceeding. The Commission shall have the right to (i) intervene in the proceeding and, upon doing so, shall be heard on all matters arising therein, and (ii) file a petition for appeal. The Commission or the defendant may remove such proceeding to the district court of the United States for the proper district by following the procedure for removal otherwise provided by law, except that the petition for removal shall be filed within sixty days after service of the summons and complaint upon the defendant. The Commission shall have the right to appear as amicus curiae in any such proceeding.".

CONFIDENTIALITY PROVISIONS; DISCLOSURE

SEC. 222. Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended by—

(1) inserting immediately before the period at the end of subsection (a) the following: ": *Provided further,* That the Commission may withhold from public disclosure any data or information concerning or obtained in connection with any pending investigation of any person";

(2) amending subsection (b) by—

(A) striking out "or" before "in an administrative or judicial proceeding"; and

(B) inserting immediately before the period at the end thereof ", in any receivership proceeding involving a receiver appointed in a judicial proceeding brought under this Act, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under title 11 of the United States Code";

(3) amending subsection (e) by—

(A) striking out "of the Executive Branch"; and

(B) adding at the end thereof the following: "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 Act. 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 Act 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.";

(4) redesignating subsections (f) and (g) as subsections (h) and (i), respectively; and

(5) adding new subsections (f) and (g) to read as follows:

"(f) The Commission shall disclose information in its possession pursuant to a subpena or summons only if—

"(1) a copy of the subpena or summons has been mailed to the last known home or business address of the person who submitted the information that is the subject of the subpena or summons, if the address is known to the Commission, or, if such mailing would be unduly burdensome, the Commission provides other appropriate notice of the subpena or summons to such person, and

"(2) at least fourteen days have expired from the date of such mailing of the subpena or summons, or such other notice.

This subsection shall not apply to congressional subpenas or congressional requests for information.

"(g) The Commission shall provide any registration information maintained by the Commission on any registrant upon reasonable request made by any department or agency of any State or any political subdivision thereof. Whenever the Commission determines that such information may be appropriate for use by any department or agency of a State or political subdivision thereof, the Commission shall provide such information without request.".

REGISTRATION AUTHORITY; TEMPORARY LICENSE

SEC. 223. Section 8a(1) of the Commodity Exchange Act (7 U.S.C. 12a(1)) is amended to read as follows:

"(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, and floor brokers 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 Act, 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;".

STATUTORY DISQUALIFICATION FROM REGISTRATION; DELEGATION OF REGISTRATION FUNCTIONS

SEC. 224. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) amending paragraph (2) to read as follows:

"(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, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, 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 involving any transaction in or advice concerning contracts of sale of a commodity for future delivery, concerning matters subject to Commission regulation under section 4c or 19 of this Act, or concerning securities; 7 USC 6c, 23.

"(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 4c or 19 of this Act, or concerning a security, (ii) arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, 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, 1341, 1342, or 1343, or chapter 25, 47, 95, or 96 of title 18, United States Code; 18 USC 471 *et seq.*, 1001 *et seq.*, 1951 *et seq.*, 1961 *et seq.*

"(E) if such person, within ten years preceding the filing of the application or at any time thereafter, has been found by any court of competent jurisdiction, 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 Act, the Securities Act of 1933, the Securities Exchange Act of 1934, 15 USC 77a, 78a.

15 USC 79, 77aaa, 80b-20, 80a-51, 78aaa, 78a note.

the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investors Protection Act of 1970, 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 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 trading privileges on any contract market to such person, denying, suspending, or revoking such person's membership in any contract market or registered futures association, or barring or suspending such person from being associated with a registrant under this Act or with a member of a contract market or with a member of a registered futures association;

"(G) if, as to any of the matters set forth in subparagraphs (A) through (F) of this paragraph, such person willfully made any material false or misleading statement or omitted to state any material fact in such person's application; 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 6(b) of this Act; and

7 USC 9. "Principal."

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;";

(2) striking out paragraph (4) and redesignating paragraph (3) as paragraph (4);

(3) inserting a new paragraph (3) to read as follows:

"(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 Act, 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, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investors Protection Act of 1970, 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;

15 USC 77a, 78a, 79, 77aaa, 80b-20, 80a-51, 78aaa, 78a note.

"(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 Act, 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 was convicted of a felony other than a felony of the type specified in paragraph (2)(D) of this section within ten years preceding the filing of the application or at any time thereafter, or was convicted of a felony, including 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 was convicted within ten years preceding the filing of the application for registration or at any time thereafter 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 4c or 19 of this Act or concerning a security, (ii) arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, 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, for-

18 USC 471 *et seq.*, 1001 *et seq.*, 1951 *et seq.*, 1961 *et seq.*

gery, 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, United States Code;

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

"(G) such person willfully made any material false or misleading statement or willfully omitted to state any material fact in such person's application, in any report required to be filed with the Commission by this Act or the regulations thereunder, or in any proceeding before the Commission;

"(H) such person has pleaded nolo contendere to criminal charges of felonious conduct, or has been convicted in a State 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 Act 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 contract market, a registered futures association, or any other self-regulatory organization, or barring or suspending such person from being associated with any member or members of such contract market, association, or self-regulatory organization;

"(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 6(b) of this Act;"; *Ante*, p. 2308.

(4) amending paragraph (4), as redesignated, to read as follows:

"(4) in accordance with the procedure provided for in section 6(b) of this Act, to suspend, revoke, or place restrictions upon the registration of any person registered under this Act 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 contract market from any person if such person has been denied trading privileges on any contract market by order of the Commission under section 6(b) of this Act 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 6(b) of this Act;";

(5) striking out "and" at the end of each of paragraphs (6), (7), and (8); and

(6) adding a new paragraph (10) to read as follows:

"(10) to authorize any person to perform any portion of the registration functions under this Act, in accordance with rules, notwithstanding any other provision of law, adopted by such person and submitted to the Commission for approval or, if applicable, for review pursuant to section 17(j) of this Act, and subject to the provisions of this Act applicable to registrations granted by the Commission.". 7 USC 21.

EMERGENCY POWERS; JUDICIAL REVIEW

SEC. 225. Section 8a(9) of the Commodity Exchange Act (7 U.S.C. 12a(9)) is amended to read as follows:

"(9) to direct the contract market, 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 "Emergency."

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 contract market to the terms 'market emergency', 'emergency', or equivalent language in its own bylaws, rules, regulations, or resolutions; and".

EXPORT SALES REPORTING

SEC. 226. The Commodity Exchange Act is amended by adding immediately after section 8c (7 U.S.C. 12c) the following new section:

7 USC 12d.

"SEC. 8d. The Commission may, in accordance with the procedures provided for in this Act, 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 812 of the Agricultural Act of 1970 (7 U.S.C. section 612c-3), or of any regulation issued thereunder.".

CERTAIN PROHIBITED TRANSACTIONS

SEC. 227. Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by—

(1) amending subsection (a) to read as follows:

"(a) 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 person registered or required to be registered under this Act, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to his own use or 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. Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual, the fine shall not be more than $100,000, together with the costs of prosecution. The word 'value' as used in this subsection means face, par, or market value, or cost price, either wholesale or retail, whichever is greater. A person convicted of a felony under this subsection shall be suspended from registration under this Act and shall be denied registration or reregistration for five years or such longer period as the Commission shall determine, unless the Commission determines that the imposition of such suspension or denial of registration or reregistration is not required to protect the public interest. The Commission may upon petition later review such disqualification and for good cause shown reduce the period thereof.";

"Value."

Review.

(2) amending subsection (b) by adding at the end thereof the following: "A person convicted of a felony under this subsection shall be suspended from any registration under this Act, denied registration or reregistration for five years or such longer

period as the Commission shall 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.";

Review.

(3) amending subsection (c) by adding at the end thereof the following: "A person convicted under this subsection of knowingly violating the provisions of section 4a shall be suspended from any registration under this Act, denied registration or reregistration for a period of two years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for two 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.";

7 USC 6a.

Review.

(4) amending subsection (d) to read as follows:

"(d) It shall be a felony punishable by a fine of not more than $100,000 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, to participate, directly or indirectly, in any transaction in commodity futures or any transaction of the character of or which is commonly known to the trade as an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guarantee', or 'decline guaranty', or any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract, or for any such person to participate, directly or indirectly, in any investment transaction in an actual commodity. Such prohibition against any investment transaction in an actual commodity shall not apply to (1) a transaction in which such person buys an agricultural commodity or livestock for use in such person's own farming or ranching operations or sells an agricultural commodity which such person has produced in connection with such person's own farming or ranching operations nor to any transaction in which such person sells livestock owned by such person for at least three months, (2) a transaction entered into by the trustee of a trust established by such person over which such person exercises no control if such transaction is entered into solely to hedge against adverse price changes in connection with such farming or ranching operations or is a transaction for the lease of oil or gas or other mineral rights or interests owned by such person, or (3) a transaction in which such person buys or sells, directly or indirectly (except by means of an instrument regulated by the

Commission), a United States Government security, a certificate of deposit, or a similar financial instrument if no nonpublic information is used by such person in such transaction. With respect to such excepted transactions, the Commission shall require any Commissioner of the Commission or any employee or agent thereof who participates in any such transaction to notify the Commission thereof in accordance with such regulations as the Commission shall prescribe and the Commission shall make such information available to the public."; and

(5) inserting after the words " 'decline guaranty' " each place they appear in subsection (e) the following: ", or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract".

REAUTHORIZATION

SEC. 228. Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

Appropriation authorization.

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for each of the fiscal years during the period beginning October 1, 1982, and ending September 30, 1986.".

OFF-EXCHANGE JURISDICTION; ROLE OF STATES

SEC. 229. Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended by adding at the end thereof the following new subsection:

"(e) Nothing in this Act shall supersede or preempt—

"(1) criminal prosecution under any Federal criminal statute;

"(2) the application of any Federal or State statute, including any rule or regulation thereunder, to any transaction in or involving any commodity, product, right, service, or interest (A) that is not conducted on or subject to the rules of a contract market, or (B) (except as otherwise specified by the Commission by rule or regulation) that is not conducted on or subject to the rules of any board of trade, exchange, or market located outside the United States, its territories or possessions, or (C) that is not subject to regulation by the Commission under section 4c or 19 of this Act; or

7 USC 6c, 23.

"(3) the application of any Federal or State statute, including any rule or regulation thereunder, to any person required to be registered or designated under this Act who shall fail or refuse to obtain such registration or designation.

The Commission may refer any transaction or matter subject to such other Federal or State statutes to any department or agency administering such statutes for such investigation, action, or proceedings as that department or agency shall deem appropriate.".

AIDING AND ABETTING; CONTROLLING PERSON

SEC. 230. Section 13 of the Commodity Exchange Act (7 U.S.C. 13c) is amended by—

(1) striking out "in administrative proceedings under this Act" in subsection (a);

(2) redesignating subsection (b) as subsection (c); and

(3) inserting a new subsection (b) to read as follows:

"(b) Any person who, directly or indirectly, controls any person who has violated any provision of this Act or any of the rules, regulations, or orders issued pursuant to this Act may be held liable for such violation in any action brought by the Commission to the same extent as such controlled person. In such action, the Commission has the burden of proving that the controlling person did not act in good faith or knowingly induced, directly or indirectly, the act or acts constituting the violation.".

REPARATIONS PROCEDURE

SEC. 231. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) amending subsection (a) to read as follows:

"(a) Any person complaining of any violation of any provision of this Act, or any rule, regulation, or order issued pursuant to this Act, by any person who is registered under this Act may, at any time within two years after the cause of action accrues, apply to the Commission for an order awarding actual damages proximately caused by such violation.";

(2) amending subsection (b) to read as follows:

"(b) The Commission may promulgate such rules, regulations, and orders as it deems necessary or appropriate for the efficient and expeditious administration of this section. Notwithstanding any other provision of law, such rules, regulations, and orders may prescribe, or otherwise condition, without limitation, the form, filing, and service of pleadings or orders, the nature and scope of discovery, counterclaims, motion practice (including the grounds for dismissal of any claim or counterclaim), hearings (including the waiver thereof, which may relate to the amount in controversy), rights of appeal, if any, and all other matters governing proceedings before the Commission under this section.";

(3) striking out subsections (c) and (e);

(4) redesignating subsections (d), (f), (g), (h), and (i) as (c), (d), (e), (f), and (g), respectively;

(5) striking out "subsection (g)" in subsection (d), as so redesignated, and inserting in lieu thereof "subsection (e)"; and

(6) amending subsection (f), as so redesignated, to read as follows:

"(f) Unless the party against whom a reparation order has been issued shows to the satisfaction of the Commission within fifteen days from the expiration of the period allowed for compliance with such order that either an appeal as herein authorized has been taken or payment of the full amount of the order (or any agreed settlement thereof) has been made, such party shall be prohibited automatically from trading on all contract markets and, if the party is registered with the Commission, such registration shall be suspended automatically at the expiration of such fifteen-day period until such party shows to the satisfaction of the Commission that

payment of such amount with interest thereon to date of payment has been made: *Provided,* That if on appeal the appellee prevails or if the appeal is dismissed, the automatic prohibition against trading and suspension of registration shall become effective at the expiration of thirty days from the date of judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction, the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.".

TECHNICAL AMENDMENT

SEC. 232. Section 16(d) of the Commodity Exchange Act (7 U.S.C. 20(d)) is amended by inserting "or market positions" after "transactions".

REGISTERED FUTURES ASSOCIATIONS

SEC. 233. Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by—

(1) amending subsection (b)(4)(E) by inserting before the period at the end thereof the following: ", which may require the applicant to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing. Notwithstanding any other provision of law, such an association may receive from the Attorney General all the results of such identification and processing";

(2) striking out "section 8a(4)" in subsection (d) and inserting in lieu thereof "section 8a(1)";

(3) striking out "subsection (k)" in subsection (h) and inserting in lieu thereof "subsection (i)";

(4) striking out the last sentence in subsection (j) and inserting in lieu thereof the following: "A registered futures association shall submit to the Commission any change in or addition to its rules and may make such rules effective ten days after receipt of such submission by the Commission unless, within the ten-day period, the registered futures association requests review and approval thereof by the Commission or the Commission notifies such registered futures association in writing of its determination to review such rules for approval. The Commission shall approve such rules within thirty days of their receipt if Commission approval is requested under this subsection or within thirty days after the Commission determines to review for approval any other rules unless the Commission notifies the registered futures association of its inability to complete such approval or review within such period of time. The Commission shall approve such rules if such rules are determined by the Commission to be consistent with the requirements of this section and not otherwise in violation of this Act or the regulations issued pursuant to this Act, and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be inconsistent with the requirements of this section or in violation of this Act or the regulations issued pursuant to this Act. If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period of time as the registered futures association may agree to, or if the Com-

mission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the registered futures association may agree to, such rule may be made effective by the registered futures association until such time as the Commission disapproves such rule in accordance with this subsection.";

(5) adding at the end thereof the following new subsections:

"(o)(1) The Commission may require any futures association registered pursuant to this section to perform any portion of the registration functions under this Act with respect to each member of the association other than a contract market and with respect to each associated person of such member, in accordance with rules, notwithstanding any other provision of law, adopted by such futures association and submitted to the Commission pursuant to section 17(j) of this Act, and subject to the provisions of this Act applicable to registrations granted by the Commission. 7 USC 21.

"(2) In performing any Commission registration function authorized by the Commission under section 8a(10), this section, or any other applicable provisions of this Act, a futures association may issue orders (A) to refuse to register any person, (B) to register conditionally any person, (C) to suspend the registration of any person, (D) to place restrictions on the registration of any person, or (E) to revoke the registration of any person. If such an order is the final decision of the futures association, any person against whom the order has been issued may petition the Commission to review the decision. The Commission may on its own initiative or upon petition decline review or grant review and affirm, set aside, or modify such an order of the futures association; and the findings of the futures association as to the facts, if supported by the weight of the evidence, shall be conclusive. Unless the Commission grants review under this section of an order concerning registration issued by a futures association, the order of the futures association shall be considered to be an order issued by the Commission. 7 USC 12a.

"(3) Nothing in this section shall affect the Commission's authority to review the granting of a registration application by a registered futures association that is performing any Commission registration function authorized by the Commission under section 8a(10), this section, or any other applicable provision of this Act.

"(4) If a person against whom a futures association has issued a registration order under this subsection petitions the Commission to review that order and the Commission declines to take review, such person may file a petition for review with a United States court of appeals, in accordance with section 6(b) of this Act. 7 USC 9.

"(p) Notwithstanding any other provision of this section, each futures association registered under this section on the date of enactment of the Futures Trading Act of 1982, shall adopt and submit for Commission approval not later than ninety days after such date of enactment, and each futures association that applies for registration after such date shall adopt and include with its application for registration, rules of the association that require the association to—

"(1) establish training standards and proficiency testing for persons involved in the solicitation of transactions subject to the provisions of this Act, supervisors of such persons, and all persons for which it has registration responsibilities, and a program to audit and enforce compliance with such standards;

"(2) establish minimum capital, segregation, and other financial requirements applicable to its members for which such requirements are imposed by the Commission and implement a program to audit and enforce compliance with such requirements, except that such requirements may not be less stringent than those imposed on such firms by this Act or by Commission regulation; and

"(3) establish minimum standards governing the sales practices of its members and persons associated therewith for transactions subject to the provisions of this Act.

"(q) Each futures association registered under this section shall develop a comprehensive program that fully implements the rules approved by the Commission under this section as soon as practicable but not later than September 30, 1985, in the case of any futures association registered on the date of enactment of the Futures Trading Act of 1982, and not later than two and one-half years after the date of registration in the case of any other futures association registered under this section.".

LEVERAGE TRANSACTIONS

SEC. 234. Section 19 of the Commodity Exchange Act (7 U.S.C. 23) is amended by—

(1) amending subsection (c) to read as follows:

"(c) The Commission shall regulate any transactions under a standardized contract described in subsection (a) of this section involving commodities described in subsection (b) of this section or any other commodities (except those commodities described in subsection (a) of this section) under such terms and conditions as the Commission shall prescribe by rule, regulation, or order made only after notice and opportunity for a hearing. The Commission may set different terms and conditions for such transactions involving different commodities. Notwithstanding any other provision of this section, the Commission may prohibit any transaction for the delivery of any commodity under a standardized contract described in subsection (a) of this section that is not permitted by the rules, regulations and orders of the Commission in effect on December 9, 1982, if the Commission determines that any such transactions would be contrary to the public interest."; and

(2) striking out subsection (d).

PRIVATE RIGHTS OF ACTION

SEC. 235. The Commodity Exchange Act is amended by adding at the end thereof the following new section:

7 USC 25.

"SEC. 22. (a)(1) Any person (other than a contract market, clearing organization of a contract market, licensed board of trade, or registered futures association) who violates this Act or who willfully aids, abets, counsels, induces, or procures the commission of a violation of this Act shall be liable for actual damages resulting from one or more of the transactions referred to in clauses (A) through (D) of this paragraph and caused by such violation to any other person—

"(A) who received trading advice from such person for a fee;

"(B) who made through such person any contract of sale of any commodity for future delivery (or option on such contract or any commodity); or who deposited with or paid to such person

money, securities, or property (or incurred debt in lieu thereof) in connection with any order to make such contract;

"(C) who purchased from or sold to such person or placed through such person an order for the purchase or sale of—

"(i) an option subject to section 4c of this Act (other than an option purchased or sold on a contract market or other board of trade); 7 USC 6c.

"(ii) a contract subject to section 19 of this Act; or 7 USC 23.

"(iii) an interest or participation in a commodity pool; or

"(D) who purchased or sold a contract referred to in clause (B) hereof if the violation constitutes a manipulation of the price of any such contract or the price of the commodity underlying such contract.

"(2) Except as provided in subsection (b), the rights of action authorized by this subsection and by sections 5a(11), 14, and 17b(10) of this Act shall be the exclusive remedies under this Act available to any person who sustains loss as a result of any alleged violation of this Act. Nothing in this subsection shall limit or abridge the rights of the parties to agree in advance of a dispute upon any forum for resolving claims under this section, including arbitration. *Ante*, pp. 2307, 2319.

"(b)(1)(A) A contract market or clearing organization of a contract market that fails to enforce any bylaw, rule, regulation, or resolution that it is required to enforce by section 5a(8) and section 5a(9) of this Act, (B) a licensed board of trade that fails to enforce any bylaw, rule, regulation, or resolution that it is required to enforce by the Commission, or (C) any contract market, clearing organization of a contract market, or licensed board of trade that in enforcing any such bylaw, rule, regulation, or resolution violates this Act or any Commission rule, regulation, or order, shall be liable for actual damages sustained by a person who engaged in any transaction on or subject to the rules of such contract market or licensed board of trade to the extent of such person's actual losses that resulted from such transaction and were caused by such failure to enforce or enforcement of such bylaws, rules, regulations, or resolutions. *Ante*, p. 2306.

"(2) A registered futures association that fails to enforce any bylaw or rule that is required under section 17 of this Act or in enforcing any such bylaw or rule violates this Act or any Commission rule, regulation, or order shall be liable for actual damages sustained by a person that engaged in any transaction specified in subsection (a) of this section to the extent of such person's actual losses that resulted from such transaction and were caused by such failure to enforce or enforcement of such bylaw or rule. 7 USC 21.

"(3) Any individual who, in the capacity as an officer, director, governor, committee member, or employee of a contract market, clearing organization, licensed board of trade, or a registered futures association willfully aids, abets, counsels, induces, or procures any failure by any such entity to enforce (or any violation of the Act in enforcing) any bylaw, rule, regulation, or resolution referred to in paragraph (1) or (2) of this subsection, shall be liable for actual damages sustained by a person who engaged in any transaction specified in subsection (a) of this section on, or subject to the rules of, such contract market, licensed board of trade or, in the case of an officer, director, governor, committee member, or employee of a registered futures association, any transaction specified in subsection (a) of this section, in either case to the extent of such person's

actual losses that resulted from such transaction and were caused by such failure or violation.

"(4) A person seeking to enforce liability under this section must establish that the contract market, licensed board of trade, clearing organization, registered futures association, officer, director, governor, committee member, or employee acted in bad faith in failing to take action or in taking such action as was taken, and that such failure or action caused the loss.

"(5) The rights of action authorized by this subsection shall be the exclusive remedy under this Act available to any person who sustains a loss as a result of (A) the alleged failure by a contract market, licensed board of trade, clearing organization, or registered futures association or by any officer, director, governor, committee member, or employee to enforce any bylaw, rule, regulation, or resolution referred to in paragraph (1) or (2) of this subsection, or (B) the taking of action in enforcing any bylaw, rule, regulation, or resolution referred to in this subsection that is alleged to have violated this Act, or any Commission rule, regulation, or order.

"(c) The United States district courts shall have exclusive jurisdiction of actions brought under this section. Any such action must be brought within two years after the date the cause of action accrued.

"(d) The provisions of this section shall become effective with respect to causes of action accruing on or after the date of enactment of the Futures Trading Act of 1982: *Provided,* That the enactment of the Futures Trading Act of 1982 shall not affect any right of any parties which may exist with respect to causes of action accruing prior to such date.".

SPECIAL STUDY OF FUTURES AND RELATED MARKETS

SEC. 236. The Commodity Exchange Act is amended by adding at the end thereof the following new section:

7 USC 26.

"SEC. 23. (a)(1) The Board of Governors of the Federal Reserve System, the Commission, and the Securities and Exchange Commission, with assistance from the Secretary of the Treasury, shall conduct a study of the effects on the economy of trading in contracts of sale of commodities for future delivery and in options (including options on commodities, options on contracts of sale of commodities for future delivery, options on foreign currencies, and options on securities, including exempted securities or on any group or index of securities). The agencies participating in the study may select representative futures contracts and options contracts and representative periods of time for detailed study.

"(2) The Board of Governors of the Federal Reserve System shall organize the study and shall do so in such manner that the total cost to all participating agencies of conducting the study is not more than $3,000,000. To the extent possible, such agencies shall use data which are readily available to them.

"(3) among the areas to be studied are—

"(A) the effects, if any, that trading in such instruments has on the formation of real capital in the economy (particularly that of a long-term nature) and the structure of liquidity in credit markets;

"(B) the economic purposes, if any, served by the trading of such instruments;

"(C) the sufficiency of the public policy tools available to regulate such trading activity to avoid harmful economic effects

in the markets for such instruments, the underlying cash markets, and related financial markets;

"(D) the adequacy of investor protections afforded to participants in the markets for such instruments; and

"(E) the extent to which such instruments may be utilized to manipulate, or profit from the manipulation of, the markets for evidences of indebtedness, foreign currency, and securities.

"(4) The Commission shall have primary responsibility for selecting and studying the instruments under its jurisdiction, and the Securities and Exchange Commission shall have primary responsibility for selecting and studying the instruments under its jurisdiction.

"(5) The Board of Governors of the Federal Reserve System shall review, and may supplement with its own analyses, the studies conducted under this subsection by the Commission and the Securities and Exchange Commission. The Board of Governors, after consultation with the Commission and the Securities and Exchange Commission, shall, not later than September 30, 1984, submit to Congress a report comprised of such studies, together with any supplementation and recommendations for legislative or regulatory action proposed by the participants.

Report to Congress.

"(b)(1) The Commission shall conduct at a cost of not more than $200,000 a study of (A) the nature, extent, and effects of trading in representative futures markets by persons possessing material information not generally available to the public regarding present or anticipated cash or futures transactions (to which such persons are not parties) in any commodity, and (B) the adequacy of the Commission's authority to prevent market and customer abuses resulting from the possession of such nonpublic information.

"(2) To the extent possible, the Commission shall use data which are readily available to it in conducting the study. The Commission shall, not later than September 30, 1984, transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the study and including any recommendations for legislative action.".

Report to congressional committees.

NATIONAL FUTURES ASSOCIATION STUDY AND SERVICE FEES

SEC. 237. Section 26 of the Futures Trading Act of 1978 (92 Stat. 877) is amended by—

7 USC 16a.

(1) inserting "(a)" immediately following the section designation; and

(2) adding at the end thereof the following new subsections:

Report to Congress.

"(b) The Commodity Futures Trading Commission shall submit to Congress a report containing the results of a study of the regulatory experience of the National Futures Association for the period beginning January 1, 1983 and ending September 30, 1985. The report shall be submitted not later than January 1, 1986. The report shall include (but not to be limited to) the following—

"(1) the extent to which the National Futures Association has fully implemented the program provided in the rules approved by the Commission under section 17 (p) and (q) of the Commodity Exchange Act and the effectiveness of the operation of such program;

7 USC 21.

"(2) the actual and projected cost savings to the Federal Government, if any, resulting from operations of the National Futures Association;

"(3) the actual and projected costs which the Commission and the public would have incurred if the Association had not undertaken self-regulatory responsibility for certain areas under the Commission's jurisdiction;

"(4) problem areas, if any, encountered by the Association;

"(5) the nature of the working relationship between the Association and the Commission;

"(6) an assessment of the actual and projected efficiencies the Commission has achieved or expects to be achieved as a result of the continuing regulatory activities of the Association; and

"(7) the immediate and projected capabilities of the Commission at the time of submission of the study to turn its attention to more immediate problems of regulation, as a result of the activities of the Association.

"(c) Nothing in this section shall limit the authority of the Commission to promulgate, after notice and opportunity for hearing, a schedule of appropriate fees to be charged for services rendered and activities and functions performed by the Commission in conjunction with its administration and enforcement of the Commodity Exchange Act: *Provided,* That the fees for any specified service or activity or function shall not exceed the actual cost thereof to the Commission.".

7 USC 1.

AGRICULTURAL EXPORTS

SEC. 238. Section 812 of the Agricultural Act of 1970 (7 U.S.C. 612c-3) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, the President shall not prohibit or curtail the export of any agricultural commodity or the products thereof under an export sales contract (1) entered into before the President announces an action that would otherwise prohibit or curtail the export of the commodity or products thereof, (2) the terms of which require delivery of the commodity or products thereof within two hundred and seventy days after the date the suspension of trade is imposed, except that the President may prohibit or curtail the export of any commodity or the products thereof during a period for which the President has declared a national emergency or for which Congress has declared war.".

EFFECTIVE DATE

SEC. 239. This Act shall be effective upon the date of enactment of this Act, except that sections 207, 212, and 231 of this Act shall be effective one hundred and twenty days after the date of enactment of this Act, or such earlier date as the Commodity Futures Trading Commission shall prescribe by regulation. 7 USC 2 note.

Approved January 11, 1983.

LEGISLATIVE HISTORY—H.R. 5447:

HOUSE REPORTS: No. 97-565, Pt. 1 (Comm. on Agriculture) and Pt. 2 (Comm. on Energy and Commerce), and No. 97-964 (Comm. of Conference).
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Dec. 15, Senate agreed to conference report.
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