1992—Subsec. (a). Pub. L. 102–546, §502(a)(1), substituted ''Unless exempted by the Commission pursuant to subsection (c) of this section, it shall be unlawful'' for ''It shall be unlawful''.

Subsecs. (c), (d). Pub. L. 102–546, §502(a)(2), added subsecs. (c) and (d).

1983—Pub. L. 97–444 amended section generally, combining into subsec. (a) existing provisions of this section together with provisions formerly contained in section 6h(1) of this title, relating to the conduct of offices or places of business anywhere in the United States or its territories that are used for dealing in commodities for future delivery unless such dealings are executed or consummated by or through a member of a contract market, and adding subsec. (b).

1974—Pub. L. 93–463 substituted ''Commission'' for ''Secretary of Agriculture'' and ''United States Department of Agriculture''.

1936—Act June 15, 1936, §2, substituted ''commodity'' for ''grain'' wherever appearing.

Act June 15, 1936, §4, struck out par. (a) and combined par. (b) with first par.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93–463, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1936 AMENDMENT

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

§6a. Excessive speculation

(a) Burden on interstate commerce; trading or position limits

Excessive speculation in any commodity under contracts of sale of such commodity for future delivery made on or subject to the rules of contract markets or derivatives transaction execution facilities, or on electronic trading facilities with respect to a significant price discovery contract causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity. For the purpose of diminishing, eliminating, or preventing such burden, the Commission shall, from time to time, after due notice and opportunity for hearing, by rule, regulation, or order, proclaim and fix such limits on the amounts of trading which may be done or positions which may be held by any person under contracts of sale of such commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility, or on an electronic trading facility with respect to a significant price discovery contract, as the Commission finds are necessary to diminish, eliminate, or prevent such burden. In determining whether any person has exceeded such limits, the positions held and trading done by any persons directly or indirectly controlled by such person shall be included with the positions held and trading done by such person; and further, such limits upon positions and trading shall apply to positions held by, and trading done by, two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by, or the trading were done by, a single person. Nothing in this section shall be construed to prohibit the Commission from fixing different trading or position limits for different commodities, markets, futures, or delivery months, or for different number of days remaining until the last day of trading in a contract, or different trading limits for buying and selling operations, or different limits for the purposes of paragraphs (1) and (2) of subsection (b) of this section, or from exempting transactions normally known to the trade as ''spreads'' or ''straddles'' or ''arbitrage'' or from fixing limits applying to such transactions or positions different from limits fixed for other transactions or positions. The word ''arbitrage'' in domestic markets shall be defined to mean the same as ''spread'' or ''straddle''. The Commission is authorized to define the term ''international arbitrage''.

(b) Prohibition on trading or positions in excess of limits fixed by Commission

The Commission shall, in such rule, regulation, or order, fix a reasonable time (not to exceed ten days) after the promulgation of the rule, regulation, or order; after which, and until such rule, regulation, or order is suspended, modified, or revoked, it shall be unlawful for any person—

(1) directly or indirectly to buy or sell, or agree to buy or sell, under contracts of sale of such commodity for future delivery on or subject to the rules of the contract market or markets, or derivatives transaction execution facility or facilities or electronic trading facility with respect to a significant price discovery contract, to which the rule, regulation, or order applies, any amount of such commodity during any one business day in excess of any trading limit fixed for one business day by the Commission in such rule, regulation, or order for or with respect to such commodity; or

(2) directly or indirectly to hold or control a net long or a net short position in any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility or electronic trading facility with respect to a significant price discovery contract in excess of any position limit fixed by the Commission for or with respect to such commodity: *Provided*, That such position limit shall not apply to a position acquired in good faith prior to the effective date of such rule, regulation, or order.

(c) Applicability to bona fide hedging transactions or positions

No rule, regulation, or order issued under subsection (a) 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 chapter. 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 chap-

ter 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 January 11, 1983.

(d) Persons subject to regulation; applicability to transactions made by or on behalf of United States

This section shall apply to a person that is registered as a futures commission merchant, an introducing broker, or a floor broker under authority of this chapter only to the extent that transactions made by such person are made on behalf of or for the account or benefit of such person. This section shall not apply to transactions made by, or on behalf of, or at the direction of, the United States, or a duly authorized agency thereof.

(e) Rulemaking power and penalties for violation

Nothing in this section shall prohibit or impair the adoption by any contract market, derivatives transaction execution facility, or by any other board of trade licensed, designated, or registered by the Commission or by any electronic trading facility 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 derivatives transaction execution facility or on an electronic trading facility, or under options on such contracts or commodities traded on or subject to the rules of such contract market, derivatives transaction execution facility, or electronic trading facility or such board of trade: *Provided*, That if the Commission shall have fixed limits under this section for any contract or under section 6c of this title for any commodity option, then the limits fixed by the bylaws, rules, regulations, and resolutions adopted by such contract market, derivatives transaction execution facility, or electronic trading facility or such board of trade shall not be higher than the limits fixed by the Commission. It shall be a violation of this chapter for any person to violate any bylaw, rule, regulation, or resolution of any contract market, derivatives transaction execution facility, or other board of trade licensed, designated, or registered by the Commission or electronic trading facility with respect to a significant price discovery contract 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 or certified by a registered entity pursuant to section 7a–2(c)(1) of this title: *Provided*, That the provisions of section 13(a)(5) of this title shall apply only to those who knowingly violate such limits.

(Sept. 21, 1922, ch. 369, § 4a, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1492; amended July 24, 1956, ch. 690, § 1, 70 Stat. 630; Pub. L. 90–258, §§ 2–4, Feb. 19, 1968, 82 Stat. 26, 27; Pub. L. 93–463, title IV, §§ 403, 404, Oct. 23, 1974, 88 Stat. 1413; Pub. L. 94–16, § 4, Apr. 16, 1975, 89 Stat. 78; Pub. L. 97–444, title II, § 205, Jan. 11, 1983, 96 Stat. 2299; Pub. L. 102–546, title IV, § 402(1)(A), (2), Oct. 28, 1992, 106 Stat. 3624; Pub. L. 106–554, § 1(a)(5) [title I, § 123(a)(4)], Dec. 21, 2000, 114 Stat. 2763, 2763A–407; Pub. L. 110–234, title XIII, §§ 13105(a), 13203(g), May 22, 2008, 122 Stat. 1434, 1439; Pub. L. 110–246, § 4(a), title XIII, §§ 13105(a), 13203(g), June 18, 2008, 122 Stat. 1664, 2196, 2201.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, § 13203(g)(1), inserted ", or on electronic trading facilities with respect to a significant price discovery contract" after "execution facilities" in first sentence and ", or on an electronic trading facility with respect to a significant price discovery contract," after "execution facility" in second sentence.

Subsec. (b)(1). Pub. L. 110–246, § 13203(g)(2)(A), inserted "or electronic trading facility with respect to a significant price discovery contract" after "facility or facilities".

Subsec. (b)(2). Pub. L. 110–246, § 13203(g)(2)(B), inserted "or electronic trading facility with respect to a significant price discovery contract" after "execution facility".

Subsec. (e). Pub. L. 110–246, § 13203(g)(3), in first sentence, inserted "or by any electronic trading facility" after "registered by the Commission", inserted "or on an electronic trading facility" after "derivatives transaction execution facility" the second place it appeared, and inserted "or electronic trading facility" before "or such board of trade" in two places, and, in second sentence, inserted "or electronic trading facility with respect to a significant price discovery contract" after "registered by the Commission".

Pub. L. 110–246, § 13105(a), inserted "or certified by a registered entity pursuant to section 7a–2(c)(1) of this title" after "approved by the Commission" and substituted "section 13(a)(5)" for "section 13(c)".

2000—Subsec. (a). Pub. L. 106–554, § 1(a)(5) [title I, § 123(a)(4)(A)], inserted "or derivatives transaction execution facilities" after "contract markets" in first sentence and "or derivatives transaction execution facility" after "contract market" in second sentence.

Subsec. (b)(1). Pub. L. 106–554, § 1(a)(5) [title I, § 123(a)(4)(B)(i)], inserted ", or derivatives transaction execution facility or facilities," after "markets".

Subsec. (b)(2). Pub. L. 106–554, § 1(a)(5) [title I, § 123(a)(4)(B)(ii)], inserted "or derivatives transaction execution facility" after "contract market".

Subsec. (e). Pub. L. 106–554, § 1(a)(5) [title I, § 123(a)(4)(C)], substituted "contract market, derivatives transaction execution facility, or" for "contract market or" wherever appearing, "licensed, designated, or registered" for "licensed or designated" in two places, and "contract market or derivatives transaction execution facility, or" for "contract market, or".

1992—Subsec. (a). Pub. L. 102–546, § 402(1)(A), (2)(A), (C), redesignated par. (1) as subsec. (a), substituted "Commission" for "commission" wherever appearing except in last sentence, and substituted "paragraphs (1) and (2) of subsection (b) of this section" for "subparagraphs (A) and (B) of paragraph (2)".

Subsec. (b). Pub. L. 102–546, § 402(1)(A), (2)(C), (D), redesignated par. (2) as subsec. (b) and subpars. (A) and

(B) as pars. (1) and (2), respectively, and substituted ''Commission'' for ''commission'' wherever appearing.

Subsec. (c). Pub. L. 102–546, §402(2)(B), (C), redesignated par. (3) as subsec. (c) and substituted ''subsection (a)'' for ''paragraph (1)''.

Subsecs. (d), (e). Pub. L. 102–546, §402(2)(C), redesignated pars. (4) and (5) as subsecs. (d) and (e), respectively.

1983—Par. (1). Pub. L. 97–444, §205(1), (2), substituted ''by rule, regulation, or order, proclaim'' for ''by order, proclaim'' and inserted ''or for different number of days remaining until the last day of trading in a contract,'' after ''delivery months''.

Par. (2). Pub. L. 97–444, §205(1), (3), substituted ''after the promulgation of the rule, regulation, or order'' for ''after the order's promulgation'' in provisions before subpar. (A) and substituted ''rule, regulation, or order'' for ''order'' in provisions before subpar. (A) and in subpars. (A) and (B).

Par. (3). Pub. L. 97–444, §205(4), substituted ''No rule, regulation, or order issued under paragraph (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 chapter'' for ''No order issued under paragraph (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 within one hundred and eighty days after the effective date of the Commodity Futures Trading Commission Act of 1974 by order consistent with the purposes of this chapter'' and inserted ''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 chapter 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 January 11, 1983.''

Par. (4). Pub. L. 97–444, §205(5), substituted ''a futures commission merchant, an introducing broker, or a floor broker'' for ''a futures commission merchant or as floor broker''.

Par. (5). Pub. L. 97–444, §205(6), added par. (5).

1975—Par. (3). Pub. L. 94–16 substituted ''one hundred and eighty days'' for ''ninety days''.

1974—Par. (1). Pub. L. 93–463, §403, inserted ''or 'arbitrage' '' after ''or 'straddles' '', inserted definition of ''arbitrage'', and authorized Commission to define ''international arbitrage''.

Par. (3). Pub. L. 93–463, §404, directed Commission to define ''bona fide hedging transactions or positions'' within 90 days after the effective date of the Commodity Futures Trading Commission Act of 1974 and struck out provisions which enumerated the factors to be taken into account in determining whether a hedging transaction or position was a bona fide transaction or position.

1968—Par. (1). Pub. L. 90–258, §2, substituted in second sentence ''amounts of trading'' for ''amount of trading'', inserted ''which may be done or positions which may be held by any person'' before ''under contracts of sale'', and struck out ''which may be done'' after ''rules of any contract market'', inserted third sentence providing for inclusion of controlled positions and trading in determining whether prescribed position or trading limits have been exceeded and for application of such position and trading limits to activities of two or more persons acting pursuant to agreement or understanding as if the activities of a single person, and included in fourth, formerly third, sentence references to position limits and to positions, substituted ''normally'' for ''commonly'', and struck out ''trading'' from ''from fixing trading limits'' and ''from trading limits''.

Par. (2)(B). Pub. L. 90–258, §3, substituted prohibition against holding of net long or net short positions in excess of any position limit fixed by the Commission for former prohibition of purchases or sales which result in net long or net short positions in excess of trading limits fixed by the Commission and provided that the position limit shall not apply to a position acquired in good faith prior to the effective date of the order.

Par. (3). Pub. L. 90–258, §4, included references to positions, made hedging applicable to short and long positions, substituted ''contract market'' for ''board of trade'', and required the activities to be those of the same person to constitute hedging.

1956—Par. (3)(C). Act July 24, 1956, added subpar. (C).

EFFECTIVE DATE OF 2008 AMENDMENT

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

Amendment by section 13203(g) of Pub. L. 110–246 effective June 18, 2008, see section 13204(a) of Pub. L. 110–246, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–444 effective Jan. 11, 1983, see section 239 of Pub. L. 97–444, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 404 of Pub. L. 93–463 provided that the amendment of par. (3) which struck out provisions that enumerated the factors to be taken into account in determining whether a hedging transaction or position was a bona fide transaction or position, was effective immediately upon the enactment of Pub. L. 93–463, which was approved Oct. 23, 1974.

Amendment by Pub. L. 93–463 of par. (1) and that part of par. (3) directing the Commission to define ''bona fide hedging transactions or positions'' effective so as to allow implementation of all changes effected by this amendment to be carried out after Oct. 23, 1974, and before as well as after the 180th day thereafter, see section 418 of Pub. L. 93–463, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–258 effective 120 days after Feb. 19, 1968, see section 28 of Pub. L. 90–258, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 2 of act July 24, 1956, provided that: ''This Act [amending this section] shall take effect sixty days after the date of its enactment [July 24, 1956].''

EFFECTIVE DATE

For effective date of section, see section 13 of act June 15, 1936, set out as an Effective Date of 1936 Amendment note under section 1 of this title.

REGULATIONS DEFINING BONA FIDE HEDGING TRANSACTIONS AND POSITIONS

Section 404 of Pub. L. 93–463 provided in part: ''That notwithstanding any other provision of law, the Secretary of Agriculture, immediately upon the enactment of the Commodity Futures Trading Commission Act of 1974 [which was approved on Oct. 23, 1974], is authorized and directed to promulgate regulations defining bona fide hedging transactions and positions: *And provided further*, That until the Secretary issues such regulations defining bona fide hedging transactions and posi-

tions and such regulations are in full force and effect, such terms shall continue to be defined as set forth in the Commodity Exchange Act [par. (3) of this section] prior to its amendment by the Commodity Futures Trading Commission Act of 1974 [Pub. L. 93–463].''

§ 6b. Contracts designed to defraud or mislead

(a) Unlawful actions

It shall be unlawful—

(1) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person; or

(2) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 7a(g) of this title, that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—

(A) to cheat or defraud or attempt to cheat or defraud the other person;

(B) willfully to make or cause to be made to the other person any false report or statement or willfully to enter or cause to be entered for the other person any false record;

(C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of paragraph (2), with the other person; or

(D)(i) to bucket an order if the order is either represented by the person as an order to be executed, or is required to be executed, on or subject to the rules of a designated contract market; or

(ii) to fill an order by offset against the order or orders of any other person, or willfully and knowingly and without the prior consent of the other person to become the buyer in respect to any selling order of the other person, or become the seller in respect to any buying order of the other person, if the order is either represented by the person as an order to be executed, or is required to be executed, on or subject to the rules of a designated contract market unless the order is executed in accordance with the rules of the designated contract market.

(b) Clarification

Subsection (a)(2) of this section shall not obligate any person, in or in connection with a transaction in a contract of sale of a commodity for future delivery, or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 7a(g) of this title, with another person, to disclose to the other person nonpublic information that may be material to the market price, rate, or level of the commodity or transaction, except as necessary to make any statement made to the other person in or in connection with the transaction not misleading in any material respect.

(c) Buying and selling orders for commodity

Nothing in this section or in any other section of this chapter shall be construed to prevent a futures commission merchant or floor broker who shall have in hand, simultaneously, buying and selling orders at the market for different principals for a like quantity of a commodity for future delivery in the same month executing such buying and selling orders at the market price: *Provided*, That any such execution shall take place on the floor of the exchange where such orders are to be executed at public outcry across the ring and shall be duly reported, recorded, and cleared in the same manner as other orders executed on such exchange: *And provided further*, That such transactions shall be made in accordance with such rules and regulations as the Commission may promulgate regarding the manner of the execution of such transactions.

(d) Inapplicability to transactions on foreign exchanges

Nothing in this section shall apply to any activity that occurs on a board of trade, exchange, or market, or clearinghouse for such board of trade, exchange, or market, located outside the United States, or territories or possessions of the United States, involving any contract of sale of a commodity for future delivery that is made, or to be made, on or subject to the rules of such board of trade, exchange, or market.

(Sept. 21, 1922, ch. 369, § 4b, as added June 15, 1936, ch. 545, § 5, 49 Stat. 1493; amended Pub. L. 90–258, § 5, Feb. 19, 1968, 82 Stat. 27; Pub. L. 93–463, title IV, § 405, Oct. 23, 1974, 88 Stat. 1413; Pub. L. 99–641, title I, § 101, Nov. 10, 1986, 100 Stat. 3557; Pub. L. 102–546, title IV, § 402(3), Oct. 28, 1992, 106 Stat. 3624; Pub. L. 106–554, § 1(a)(5) [title I, § 123(a)(5)], Dec. 21, 2000, 114 Stat. 2763, 2763A–407; Pub. L. 110–234, title XIII, § 13102, May 22, 2008, 122 Stat. 1432; Pub. L. 110–246, § 4(a), title XIII, § 13102, June 18, 2008, 122 Stat. 1664, 2194.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pub. L. 110–246, § 13102, inserted section catchline, added subsecs. (a) and (b), redesignated former subsecs. (b) and (c) as (c) and (d), respectively, and struck out former subsec. (a) which related to contracts designed to defraud or mislead and bucketing orders.

2000—Subsec. (a)(1). Pub. L. 106–554 substituted ''registered entity'' for ''contract market'' in two places.

1992—Pub. L. 102–546 designated first par. as subsec. (a), redesignated cls. (a) to (c) as subpars. (A) to (C), respectively, and subpars. (A) to (D) as cls. (i) to (iv), respectively, and designated second and third undesignated pars. as subsecs. (b) and (c), respectively.

1986—Pub. L. 99–641 struck out ''on or subject to the rules of any contract market,'' after ''to be made'' in cl. (2) of first par. and added concluding paragraph that this section not apply to activity on board of trade, exchange, market, or clearinghouse located outside United States involving contract of sale of commodity for future delivery.

1974—Pub. L. 93–463 substituted ''a commodity'' for ''cotton'' in provisions following subpar. (D) and inserted requirement that execution of buying and selling orders for commodities held simultaneously by the