

(5)<sup>1</sup> 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 12a(2) of this title, unless such registrant has notified the Commission of such facts and the Commission has determined that such person should be registered or temporarily licensed.

(5)<sup>1</sup> Any associated person of a broker or dealer that is registered with the Securities and Exchange Commission, and who limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery or any option on such a contract, on or subject to the rules of any contract market or registered derivatives transaction execution facility to security futures products, shall be exempt from the following provisions of this chapter and the rules thereunder:

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

(B) Sections 6d, 6e, and 6h of this title.

(C) Subsections (b) and (c) of section 6f of this title.

(D) Section 6j of this title.

(E) Paragraph (1) of this section.

(F) Section 6p<sup>2</sup> of this title.

(G) Section 13a-2 of this title.

(H) Subsections (d) and (g) of section 12 of this title.

(I) Section 20 of this title.

(Sept. 21, 1922, ch. 369, §4k, as added Pub. L. 93-463, title II, §204(a), Oct. 23, 1974, 88 Stat. 1396; amended Pub. L. 95-405, §7, Sept. 30, 1978, 92 Stat. 869; Pub. L. 97-444, title II, §212, Jan. 11, 1983, 96 Stat. 2303; Pub. L. 106-554, §1(a)(5) [title II, §252(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A-448.)

#### REFERENCES IN TEXT

Section 6p of this title, referred to in par. (5)(F), was in the original "Section 4p" which was translated as meaning the section 4p of the Commodity Exchange Act which is classified to section 6p of this title, rather than to the section 4p of that Act which is classified to section 6o-1 of this title, to reflect the probable intent of Congress.

#### AMENDMENTS

2000—Par. (5). Pub. L. 106-554, §1(a)(5) [title II, §252(d)], which directed amendment of this section by "inserting after paragraph (4), as added by subsection (c) of this section" a new par. (5) relating to exempting associated persons or dealers from provisions of this chapter, was executed by adding that par. (5) at the end. Section 1(a)(5)[title II, §252(c)] did not add a par. (4) to this section.

1983—Par. (1). Pub. L. 97-444 amended par. (1) generally to apply to introducing brokers and persons associated with introducing brokers.

Par. (2). Pub. L. 97-444 added par. (2). Former par. (2) redesignated (4).

Par. (3). Pub. L. 97-444 added par. (3). Former par. (3), which empowered Commission to authorize a registered futures association to perform any portion of the registration functions under this section, in accordance

with rules approved by the Commission, and subject to the provisions of this chapter applicable to registrations granted by the Commission, was struck out.

Par. (4). Pub. L. 97-444 redesignated former par. (2) as (4) and substituted "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" for "Any such person desiring to be registered 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 two years after the effective date thereof or at such other time, not less than one year from the date of issuance thereof, 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 after notice and hearing as prescribed in section 9 of this title: *Provided*, That upon initial registration, unless the Commission otherwise prescribes by rule, regulation, or order, the effective period of such registration shall be not more than two years nor less than one year from the effective date thereof".

Par. (5). Pub. L. 97-444 added par. (5).

1978—Par. (2). Pub. L. 95-405, §7(1), inserted provisions authorizing the Commission to prescribe the period of registration of not less than one year for associated persons.

Par. (3). Pub. L. 95-405, §7(2), added par. (3).

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-444 effective 120 days after Jan. 11, 1983, or such earlier date as the Commission shall prescribe by regulation, see section 239 of Pub. L. 97-444, set out as a note under section 2 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as a note under section 2 of this title.

#### EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

### § 6I. Commodity trading advisors and commodity pool operators; Congressional finding

It is hereby found that the activities of commodity trading advisors and commodity pool operators are affected with a national public interest in that, among other things—

(1) their advice, counsel, publications, writings, analyses, and reports are furnished and distributed, and their contracts, solicitations, subscriptions, agreements, and other arrangements with clients take place and are negotiated and performed by the use of the mails and other means and instrumentalities of interstate commerce;

(2) their advice, counsel, publications, writings, analyses, and reports customarily relate to and their operations are directed to

<sup>1</sup> So in original. Two pars.(5) have been enacted.

<sup>2</sup> See References in Text note below.

ward and cause the purchase and sale of commodities for future delivery on or subject to the rules of contract markets or derivatives transaction execution facilities; and

(3) the foregoing transactions occur in such volume as to affect substantially transactions on contract markets or derivatives transaction execution facilities.

(Sept. 21, 1922, ch. 369, §4l, as added Pub. L. 93-463, title II, §205(a), Oct. 23, 1974, 88 Stat. 1397; Pub. L. 106-554, §1(a)(5) [title I, §123(a)(10)], Dec. 21, 2000, 114 Stat. 2763, 2763A-408.)

#### AMENDMENTS

2000—Pars. (2), (3). Pub. L. 106-554 inserted “or derivatives transaction execution facilities” after “contract markets”.

#### EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as an Effective Date of 1974 Amendment note under section 2 of this title.

### **§ 6m. Use of mails or other means or instrumentalities of interstate commerce by commodity trading advisors and commodity pool operators; relation to other law**

(1) It shall be unlawful for any commodity trading advisor or commodity pool operator, unless registered under this chapter, to make use of the mails or any means or instrumentality of interstate commerce in connection with his business as such commodity trading advisor or commodity pool operator: *Provided*, That the provisions of this section shall not apply to any commodity trading advisor who, during the course of the preceding twelve months, has not furnished commodity trading advice to more than fifteen persons and who does not hold himself out generally to the public as a commodity trading advisor. The provisions of this section shall not apply to any commodity trading advisor who is a (1) dealer, processor, broker, or seller in cash market transactions of any commodity specifically set forth in section 2(a) of this title prior to October 23, 1974, (or products thereof) or (2) nonprofit, voluntary membership, general farm organization, who provides advice on the sale or purchase of any commodity specifically set forth in section 2(a) of this title prior to October 23, 1974; if the advice by the person described in clause (1) or (2) of this sentence as a commodity trading advisor is solely incidental to the conduct of that person's business: *Provided*, That such person shall be subject to proceedings under section 18 of this title.

(2) Nothing in this chapter 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 [15 U.S.C. 77a et seq.] or the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.] 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.

(3) Subsection (1) of this section shall not apply to any commodity trading advisor that is registered with the Securities and Exchange Commission as an investment adviser whose

business does not consist primarily of acting as a commodity trading advisor, as defined in section 1a(6) of this title, and that does not act as a commodity trading advisor to any investment trust, syndicate, or similar form of enterprise that is engaged primarily in trading in any commodity for future delivery on or subject to the rules of any contract market or registered derivatives transaction execution facility.

(Sept. 21, 1922, ch. 369, §4m, as added Pub. L. 93-463, title II, §205(a), Oct. 23, 1974, 88 Stat. 1398; amended Pub. L. 95-405, §8, Sept. 30, 1978, 92 Stat. 870; Pub. L. 97-444, title I, §103, Jan. 11, 1983, 96 Stat. 2296; Pub. L. 106-554, §1(a)(5) [title II, §251(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A-443.)

#### REFERENCES IN TEXT

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

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

#### AMENDMENTS

2000—Par. (3). Pub. L. 106-554 added par. (3).

1983—Pub. L. 97-444 designated existing provisions as par. (1) and added par. (2).

1978—Pub. L. 95-405 inserted provisions relating to applicability of this section to commodity trading advisors who are dealers, processors, brokers, or sellers in cash market transactions of specifically listed commodities or nonprofit, voluntary membership, general farm organizations who provide advice on sale or purchase of specifically listed commodities if the advice by the person described in cl. (1) or (2) of this sentence is incidental solely to the conduct to the person's business and that such person be subject to proceedings under section 18 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

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

#### EFFECTIVE DATE OF 1978 AMENDMENT

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#### EFFECTIVE DATE

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### **§ 6n. Registration of commodity trading advisors and commodity pool operators; application; expiration and renewal; record keeping and reports; disclosure; statements of account**

(1) Any commodity trading advisor or commodity pool operator, or any person who contemplates becoming a commodity trading advisor or commodity pool operator, may register under this chapter by filing an application with the Commission. Such application shall contain such information, in such form and detail, as the Commission may, by rules and regulations,