

prescribe as necessary or appropriate in the public interest, including the following:

(A) the name and form of organization, including capital structure, under which the applicant engages or intends to engage in business; the name of the State under the laws of which he is organized; the location of his principal business office and branch offices, if any; the names and addresses of all partners, officers, directors, and persons performing similar functions or, if the applicant be an individual, of such individual; and the number of employees;

(B) the education, the business affiliations for the past ten years, and the present business affiliations of the applicant and of his partners, officers, directors, and persons performing similar functions and of any controlling person thereof;

(C) the nature of the business of the applicant, including the manner of giving advice and rendering of analyses or reports;

(D) the nature and scope of the authority of the applicant with respect to clients' funds and accounts;

(E) the basis upon which the applicant is or will be compensated; and

(F) such other information as the Commission may require to determine whether the applicant is qualified for registration.

(2) Each registration under this section shall expire on the 30th day of June of each year, or at such other time, not less than one year from the effective date thereof, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor subject to the same requirements as in the case of an original application.

(3)(A) Every commodity trading advisor and commodity pool operator registered under this chapter shall maintain books and records and file such reports in such form and manner as may be prescribed by the Commission. All such books and records shall be kept for a period of at least three years, or longer if the Commission so directs, and shall be open to inspection by any representative of the Commission or the Department of Justice. Upon the request of the Commission, a registered commodity trading advisor or commodity pool operator shall furnish the name and address of each client, subscriber, or participant, and submit samples or copies of all reports, letters, circulars, memorandums, publications, writings, or other literature or advice distributed to clients, subscribers, or participants, or prospective clients, subscribers, or participants.

(B) Unless otherwise authorized by the Commission by rule or regulation, all commodity trading advisors and commodity pool operators shall make a full and complete disclosure to their subscribers, clients, or participants of all futures market positions taken or held by the individual principals of their organization.

(4) Every commodity pool operator shall regularly furnish statements of account to each participant in his operations. Such statements shall be in such form and manner as may be prescribed by the Commission and shall include complete information as to the current status of all trading accounts in which such participant has an interest.

(Sept. 21, 1922, ch. 369, §4n, as added Pub. L. 93-463, title II, §205(a), Oct. 23, 1974, 88 Stat. 1398; amended Pub. L. 95-405, §9, Sept. 30, 1978, 92 Stat. 870; Pub. L. 97-444, title II, §213, Jan. 11, 1983, 96 Stat. 2305.)

AMENDMENTS

1983—Par. (5). Pub. L. 97-444 struck out par. (5) which authorized Commission, without hearing, to deny registration to any person as a commodity trading advisor or commodity pool operator if such person was subject to an outstanding order under this chapter denying to such person trading privileges on any contract market, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

Par. (6). Pub. L. 97-444 struck out par. (6) which authorized Commission to deny registration or revoke or suspend the registration of any commodity trading advisor or commodity pool operator if the Commission found that such denial, revocation, or suspension was in the public interest and that such person had been guilty of certain specified activities. See section 12a(2), (3), and (4) of this title.

1978—Par. (2). Pub. L. 95-405, §9(1)-(3), redesignated par. (3) as (2) and substituted "Each registration" for "All registrations" and inserted "or at such other time, not less than one year from the effective date thereof, as the Commission may rule, regulation, or order prescribe," after "June of each year." Former par. (2), which provided that registration under this section becomes effective thirty days after the receipt of such application by the Commission, or within such shorter period of time as the Commission may determine, was struck out.

Pars. (3) to (6). Pub. L. 95-405, §9(1), redesignated pars. (4) to (7) as (3) to (6), respectively. Former par. (3) redesignated (2).

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE

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.

§ 60. Fraud and misrepresentation by commodity trading advisors, commodity pool operators, and associated persons

(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—

(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 com-

modity trading advisor, commodity pool operator, or associated person of a commodity pool operator registered under this chapter 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 chapter 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.

(Sept. 21, 1922, ch. 369, §4o, as added Pub. L. 93-463, title II, §205(a), Oct. 23, 1974, 88 Stat. 1399; amended Pub. L. 95-405, §10, Sept. 30, 1978, 92 Stat. 870; Pub. L. 97-444, title II, §214, Jan. 11, 1983, 96 Stat. 2305.)

AMENDMENTS

1983—Par. (1). Pub. L. 97-444 made the antifraud prohibition applicable to an associated person of a commodity trading advisor or a commodity pool operator.

Par. (2). Pub. L. 97-444 made the misrepresentation prohibition applicable to an associated person of a commodity trading advisor or a commodity pool operator, authorized registration statements of such persons, and substituted "such person" and "such person's abilities" for "he" before "has been sponsored" and "his abilities", respectively.

1978—Par. (1). Pub. L. 95-405 struck out "registered under this chapter" after "pool operator".

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE

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.

§ 60-1. Special procedures to encourage and facilitate bona fide hedging by agricultural producers

(a) Authority

The Commission shall consider issuing rules or orders which—

(1) prescribe procedures under which each contract market is to provide for orderly delivery, including temporary storage costs, of any agricultural commodity enumerated in section 1a(4) of this title which is the subject of a contract for purchase or sale for future delivery;

(2) increase the ease with which domestic agricultural producers may participate in contract markets, including by addressing cost and margin requirements, so as to better enable the producers to hedge price risk associated with their production;

(3) provide flexibility in the minimum quantities of such agricultural commodities that

may be the subject of a contract for purchase or sale for future delivery that is traded on a contract market, to better allow domestic agricultural producers to hedge such price risk; and

(4) encourage contract markets to provide information and otherwise facilitate the participation of domestic agricultural producers in contract markets.

(b) Report

Within 1 year after December 21, 2000, the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the steps it has taken to implement this section and on the activities of contract markets pursuant to this section.

(Sept. 21, 1922, ch. 369, §4p, as added Pub. L. 106-554, §1(a)(5) [title I, §121], Dec. 21, 2000, 114 Stat. 2763, 2763A-404.)

CODIFICATION

Another section 4p of act Sept. 21, 1922, is classified to section 6p of this title.

§ 6p. Standards and examinations

(a) The Commission may specify by rules and regulations appropriate standards with respect to training, experience, and such other qualifications as the Commission finds necessary or desirable to insure the fitness of persons required to be registered with the Commission. In connection therewith, the Commission may prescribe by rules and regulations the adoption of written proficiency examinations to be given to applicants for registration and the establishment of reasonable fees to be charged to such applicants to cover the administration of such examinations. The Commission may further prescribe by rules and regulations that, in lieu of examinations administered by the Commission, futures associations registered under section 21 of this title, contract markets, or derivatives transaction execution facilities may adopt written proficiency examinations to be given to applicants for registration and charge reasonable fees to such applicants to cover the administration of such examinations. Notwithstanding any other provision of this section, the Commission may specify by rules and regulations such terms and conditions as it deems appropriate to protect the public interest wherein exception to any written proficiency examination shall be made with respect to individuals who have demonstrated, through training and experience, the degree of proficiency and skill necessary to protect the interests of customers, clients, pool participants, or other members of the public with whom such individuals deal.

(b) The Commission shall issue regulations to require new registrants, within six months after receiving such registration, to attend a training session, and all other registrants to attend periodic training sessions, to ensure that registrants understand their responsibilities to the public under this chapter, including responsibilities to observe just and equitable principles of trade, any rule or regulation of the Commission, any rule of any appropriate contract market, deriva-