

Public Law 95-405
95th Congress

An Act

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

Sept. 30, 1978

[S. 2391]

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 1978".

Futures Trading
Act of 1978.
7 USC 1 note.

COMPOSITION AND FUNCTIONS OF COMMISSION; CONFLICT OF INTEREST;
LIAISON WITH OTHER AGENCIES; CONFORMING AND TECHNICAL
AMENDMENTS

SEC. 2. Section 2(a) of the Commodity Exchange Act is amended by— 7 USC 2, 4, 4a.

(1) striking out in the third sentence of paragraph (1) (7 U.S.C. 2) "section 217 of the Commodity Futures Trading Commission Act of 1974" and inserting in lieu thereof "section 19 of this Act";

(2) inserting "(A)" immediately after the designation of paragraph (2) (7 U.S.C. 4a(a));

(3) striking out in the second sentence of paragraph (2) "a Chairman and four other Commissioners" and inserting in lieu thereof "five Commissioners";

(4) striking out in the last sentence of paragraph (2) "(A)" and "(B)" and inserting in lieu thereof "(i)" and "(ii)", respectively;

(5) adding at the end of paragraph (2) a new subparagraph (B) as follows:

"(B) The President shall appoint, by and with the advice and consent of the Senate, a member of the Commission as Chairman, who shall serve as Chairman at the pleasure of the President. An individual may be appointed as Chairman at the same time that person is appointed as a Commissioner. The Chairman shall be the chief administrative officer of the Commission and shall preside at hearings before the Commission. At any time, the President may appoint, by and with the advice and consent of the Senate, a different Chairman, and the Commissioner previously appointed as Chairman may complete that Commissioner's term as a Commissioner.";

(6) striking out in paragraph (5) (7 U.S.C. 4a(d)) " , by and with the advice and consent of the Senate.";

(7) inserting in paragraph (6) (A) (7 U.S.C. 4a(e)(1)) after "use and expenditures of funds," the following: "according to budget categories, plans, programs, and priorities established and approved by the Commission,";

(8) striking out in paragraph (6) (B) (7 U.S.C. 4a(e)(2)) "of the Commission" and inserting in lieu thereof " , plans, priorities, and budgets approved by the Commission";

(9) inserting "(A)" immediately after the designation of paragraph (7) (7 U.S.C. 4a(f));

(10) adding at the end of paragraph (7) a new subparagraph (B) as follows:

5 USC 5332
note.

“(B) No Commissioner or employee of the Commission classified as a GS-16 or higher in a position excepted from the competitive service by reason of being of a confidential or policymaking character shall, for a period of one year beginning on the last day of service as such Commissioner or employee—

“(i) make any appearance before the Commission, or

“(ii) make any written or oral communication to the Commission, or any Commissioner or employee of the Commission, on behalf of any person (other than the United States) on any particular matter that is before the Commission,

if such last day of service is more than four months after the date of enactment of this subparagraph. The restrictions in this subparagraph shall not apply to an appearance or response under a subpoena issued by the Commission, or any matter of an exclusively personal and individual nature.”;

(11) inserting “(A)” immediately after the designation of paragraph (8) (7 U.S.C. 4a(g));

(12) striking out in the first sentence of paragraph (8) “establish a separate office within the Department of Agriculture to be staffed with employees of the Commission for the purpose of maintaining” and inserting in lieu thereof “maintain”;

(13) adding at the end of paragraph (8) a new subparagraph (B) as follows:

“(B) (i) The Commission shall maintain communications with the Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission for the purpose of keeping such agencies fully informed of Commission activities that relate to the responsibilities of those agencies, for the purpose of seeking the views of those agencies on such activities, and for considering the relationships between the volume and nature of investment and trading in contracts of sale of a commodity for future delivery and in securities and financial instruments under the jurisdiction of such agencies.

“(ii) When a board of trade applies for designation as a contract market involving transactions for future delivery of any security issued or guaranteed by the United States or any agency thereof, the Commission shall promptly deliver a copy of such application to the Department of the Treasury and the Board of Governors of the Federal Reserve System. The Commission may not designate a board of trade as a contract market based on such application until forty-five days after the date the Commission delivers the application to such agencies or until the Commission receives comments from each of such agencies on the application, whichever period is shorter. Any comments received by the Commission from such agencies shall be included as part of the public record of the Commission’s designation proceeding. In designating, or refusing, suspending, or revoking the designation of, a board of trade as a contract market involving transactions for future delivery referred to in this clause or in considering possible emergency action under section 8a(9) of this Act with respect to such transactions, the Commission shall take into consideration all comments it receives from the Department of the Treasury and the Board of Governors of the Federal Reserve System and shall consider the effect that any such designation, suspension, revocation, or emergency action may have on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for government securities.

7 USC 12a.

“(iii) The provisions of this subparagraph shall not create any rights, liabilities, or obligations upon which actions may be brought against the Commission.”;

(14) striking out in paragraph (9) (A) (7 U.S.C. 4a(h)(1)) “Senate Committee on Agriculture and Forestry” and inserting in lieu thereof “Senate Committee on Agriculture, Nutrition, and Forestry”; and

(15) striking out in paragraph (9) (B) (7 U.S.C. 4a(h)(2)) “Senate Committee on Agriculture and Forestry” and inserting in lieu thereof “Senate Committee on Agriculture, Nutrition, and Forestry”.

OPTIONS TRANSACTIONS; TECHNICAL AMENDMENTS

SEC. 3. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by—

(1) striking out in the last sentence of subsection (a) “not have been disapproved” and inserting in lieu thereof “have been approved”;

(2) striking out in subsection (b) “Senate Committee on Agriculture and Forestry” and inserting in lieu thereof “Senate Committee on Agriculture, Nutrition, and Forestry”; and

(3) adding at the end thereof new subsections (c), (d), and (e) as follows:

“(c) Notwithstanding the provisions of subsection (b) of this section, no person may, after the enactment of the Futures Trading Act of 1978, offer to enter into, enter into, or confirm the execution of any commodity option transaction involving any commodity regulated under this Act but not specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, until (1) the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry documentation of its ability to regulate successfully such transactions, including a copy of the Commission’s proposed rules and regulations, and (2) the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal. The Commission is not precluded from transmitting, at any time, documentation relating to its ability to regulate such transactions regarding individual commodities, classes of commodities, or regulation of such transactions on specific boards of trade. Nothing in this subsection shall affect any rights or obligations arising out of any transactions subject to the provisions of this subsection entered into, or the execution of which was confirmed, prior to October 1, 1978: *Provided*, That this prohibition shall not apply to any transaction expressly permitted under rules or regulations prescribed by the Commission, before or after the date of enactment of the Futures Trading Act of 1978, to be offered to be entered into, entered into, or confirmed, in which the purchaser is a producer, processor, commercial user of, or a merchant handling, the commodity involved in the transaction, or the products or byproducts thereof.

“(d) Notwithstanding the provisions of subsection (c) of this section—

“(1) any person domiciled in the United States who on May 1, 1978, was in the business of granting an option on a physical commodity and was in the business of buying, selling, producing, or otherwise using that commodity, may continue to grant or issue options on that commodity in accordance with Commission regu-

Report to congressional committees. Regulations.

Ante, p. 865.
7 USC 1 note.

Ante, p. 865.

Regulations.

lations in effect on August 17, 1978, until thirty days after the effective date of regulations issued by the Commission under clause (2) of this subsection: *Provided*, That if such person files an application for registration under the regulations issued under clause (2) of this subsection within thirty days after the effective date of such regulations, that person may continue to grant or issue options pending a final determination by the Commission on the application; and

Regulations.

“(2) the Commission shall issue regulations that permit grantors and futures commission merchants to offer to enter into, enter into, or confirm the execution of, any commodity option transaction on a physical commodity subject to the provisions of subsection (b) of this section if—

“(A) the grantor is a person domiciled in the United States who—

“(i) is in the business of buying, selling, producing, or otherwise using the underlying commodity;

“(ii) at all times has a net worth of at least \$5,000,000 certified annually by an independent public accountant using generally accepted accounting principles;

“(iii) notifies the Commission and every futures commission merchant offering the grantor's option if the grantor knows or has reason to believe that the grantor's net worth has fallen below \$5,000,000;

“(iv) segregates daily, exclusively for the benefit of purchasers, money, exempted securities (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal to an amount by which the value of each transaction exceeds the amount received or to be received by the grantor for such transaction;

“(v) provides an identification number for each transaction; and

“(vi) provides confirmation of all orders for such transactions executed, including the execution price and a transaction identification number;

“(B) the futures commission merchant is a person who—

“(i) has evidence that the grantor meets the requirements specified in subclause (A) of this clause;

“(ii) treats and deals with all money, securities, or property received from its customers as payment of the purchase price in connection with such transactions, as belonging to such customers until the expiration of the term of the option, or, if the customer exercises the option, until all rights of the customer under the commodity option transaction have been fulfilled;

“(iii) records each transaction in its customer's name by the transaction identification number provided by the grantor;

“(iv) provides a disclosure statement to its customers, under regulations of the Commission, that discloses, among other things, all costs, including any markups or commissions involved in such transaction; and

“(C) the grantor and futures commission merchant comply with any additional uniform and reasonable terms and conditions the Commission may prescribe, including registration with the Commission.

The Commission may permit persons not domiciled in the United States to grant options under this subsection under such additional rules, regulations, and orders as the Commission may adopt to provide protection to purchasers that are substantially the equivalent of those applicable to grantors domiciled in the United States. The Commission may terminate the right of any person to grant, offer, or sell options under this subsection only after a hearing, including a finding that the continuation of such right is contrary to the public interest: *Provided*, That pending the completion of such termination proceedings, the Commission may suspend the right to grant, offer, or sell options of any person whose activities in the Commission's judgment present a substantial risk to the public interest.

Regulations.

Hearing.

“(e) The Commission may adopt rules and regulations, after public notice and opportunity for a hearing on the record, prohibiting the granting, issuance, or sale of options permitted under subsection (d) of this section if the Commission determines that such options are contrary to the public interest.”

Regulations.

CUSTOMER FUNDS AND PROPERTY

SEC. 4. Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended by inserting in paragraph (2) after “*Provided further*,” the following: “That in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, such money, securities, and property of the customers of such futures commission merchant may be commingled and deposited as provided in this section with any other money, securities, and property received by such futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customers of such futures commission merchant: *Provided further*.”

REGISTRATION OF FUTURES COMMISSION MERCHANTS AND FLOOR BROKERS

SEC. 5. Section 4(f) (1) of the Commodity Exchange Act (7 U.S.C. 6f(1)) is amended by striking out in the third sentence “All registrations shall expire on the 31st day of December of the year for which issued” and inserting in lieu thereof the following: “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”.

TECHNICAL AMENDMENT

SEC. 6. Section 4g(3) of the Commodity Exchange Act (7 U.S.C. 6g(3)) is amended by striking out “Brokers” and inserting in lieu thereof “Floor brokers”.

REGISTRATION OF ASSOCIATED PERSONS; AUTHORIZATION FOR REGISTRATION OF ASSOCIATED PERSONS BY A REGISTERED FUTURES ASSOCIATION

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

(1) amending the last sentence of subsection (2) to read as follows: “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

7 USC 9.

period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 6(b) of this Act: *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.”; and

(2) adding at the end thereof a new subsection (3) as follows:
 “(3) The Commission may 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 Act applicable to registrations granted by the Commission.”.

REGISTRATION OF COMMODITY TRADING ADVISORS

SEC. 8. Section 4m of the Commodity Exchange Act (7 U.S.C. 6m) is amended by adding at the end thereof a new sentence as follows: “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 Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974 (or products thereof) or (2) non-profit, 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 Act prior to the enactment of the Commodity Futures Trading Commission Act of 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 14 of this Act.”.

Ante, p. 865.
7 USC 1 note.

7 USC 18.

REGISTRATION OF COMMODITY TRAINING ADVISORS AND COMMODITY POOL OPERATORS

SEC. 9. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by—

(1) striking out subsection (2) and redesignating subsections (3), (4), (5), (6), and (7) as subsections (2), (3), (4), (5), and (6), respectively;

(2) striking out in subsection (2), as redesignated by clause (1) of this section, “All registrations” and inserting in lieu thereof “Each registration”; and

(3) inserting in subsection (2), as redesignated by clause (1) of this section, after “year,” the following: “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.”.

PROHIBITION ON FRAUDULENT TRANSACTIONS BY COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS

SEC. 10. Section 4o(1) of the Commodity Exchange Act (7 U.S.C. 6o(1)) is amended by striking out “registered under this Act”.

7 USC 6o.

ARBITRATION BY REGISTERED FUTURES ASSOCIATION

SEC. 11. Section 5a(11) of the Commodity Exchange Act (7 U.S.C. 7a(11)) is amended by inserting after “otherwise” the following: “(such as by delegation to a registered futures association having rules providing for such procedures)”.

PROCESS FOR APPROVAL OF BYLAWS, RULES, REGULATIONS, AND RESOLUTIONS
OF CONTRACT MARKETS

SEC. 12. Section 5a(12) of the Commodity Exchange Act (7 U.S.C. 7a(12)) is amended by—

(1) inserting in the second sentence after “receipt” the following: “(or within sixty days of their receipt if the Commission determines them to be of major economic significance)”; and

(2) inserting after the first sentence three new sentences as follows: “At least thirty days before approving any such bylaws, rules, regulations, and resolutions of major economic significance, as determined by the Commission, the Commission shall publish in the Federal Register such bylaws, rules, regulations, and resolutions. The Commission shall give interested persons an opportunity to participate in the approval process through the submission of written data, views, or arguments. The determination by the Commission whether any such bylaws, rules, regulations, or resolutions are of major economic significance shall be final and not subject to judicial review.”.

Publication in
Federal Register.

HEARING ON THE RECORD FOR REFUSAL, SUSPENSION, OR REVOCATION OF
CONTRACT MARKET DESIGNATION; COMMISSION SUBPENA POWER

SEC. 13. Section 6 of the Commodity Exchange Act is amended by—

(1) inserting in the second sentence “on the record” after “a hearing” (7 U.S.C. 8);

(2) inserting in the second sentence of paragraph (a) “on the record” after “hearing” (7 U.S.C. 8); and

(3) striking out the third sentence of paragraph (b) (7 U.S.C. 15) and inserting in lieu thereof the following: “For the purpose of securing effective enforcement of the provisions of this Act and for the purpose of any investigation or proceeding under this Act, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which the investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or transacts business or wherever such person may be found.”.

HEARING ON THE RECORD FOR CEASE AND DESIST ORDERS AND IMPOSITION OF
CIVIL PENALTY

SEC. 14. Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended by inserting in the first sentence "on the record" after "hearing".

JURISDICTION OF THE STATES

SEC. 15. The Commodity Exchange Act is amended by adding after section 6c a new section 6d as follows:

7 USC 13a-2.

"SEC. 6d. (1) Whenever it shall appear to the attorney general of any State, the administrator of the securities laws of any State, or such other official as a State may designate, that the interests of the residents of that State have been, are being, or may be threatened or adversely affected because any person (other than a contract market, clearinghouse, or floor broker) has engaged in, is engaging or is about to engage in, any act or practice constituting a violation of any provision of this Act or any rule, regulation, or order of the Commission thereunder, the State may bring a suit in equity or an action at law on behalf of its residents to enjoin such act or practice, to enforce compliance with this Act, or any rule, regulation, or order of the Commission thereunder, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

"(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia, shall have jurisdiction of all suits in equity and actions at law brought under this section to enforce any liability or duty created by this Act or any rule, regulation, or order of the Commission thereunder, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this Act or any rule, regulation, or order of the Commission thereunder, including the requirement that the defendant take such action as is necessary to remove the danger of violation of this Act or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) Immediately upon instituting any such suit or action, the State shall serve written notice thereof upon the Commission and provide the Commission with a copy of its complaint, and the Commission shall have the right to (A) intervene in the suit or action and, upon doing so, shall be heard on all matters arising therein, and (B) file petitions for appeal.

"(4) Any suit or action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

"(5) For purposes of bringing any suit or action under this section, nothing in this Act shall prevent the attorney general, the administrator of the State securities laws, or other duly authorized State officials from exercising the powers conferred on them by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

“(6) For purposes of this section, ‘State’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States. “State.”

“(7) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal antifraud statute of such State.”

DISCLOSURE TO THE PUBLIC OF TRADERS AND THEIR POSITIONS ON BOARDS
OF TRADE

SEC. 16. Section 8 of the Commodity Exchange Act (7 U.S.C. 12, 12-1, 12-2, and 12-3) is amended to read as follows:

“SEC. 8. (a) For the efficient execution of the provisions of this Act, and in order to provide information for the use of Congress, the Commission may make such investigations as it deems necessary to ascertain the facts regarding the operations of boards of trade and other persons subject to the provisions of this Act. The Commission may publish from time to time the results of any such investigation and such general statistical information gathered therefrom as it deems of interest to the public: *Provided*, That except as otherwise specifically authorized in this Act, the Commission may not publish data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.

Investigations
and reports.

“(b) The Commission may disclose publicly any data or information that would separately disclose the market positions, business transactions, trade secrets, or names of customers of any person when such disclosure is made in connection with a congressional proceeding, or in an administrative or judicial proceeding brought under this Act.

“(c) The Commission may make or issue such reports as it deems necessary, or such opinions or orders as may be required under other provisions of law, relative to the conduct of any board of trade or to the transactions of any person found guilty of violating the provisions of this Act or the rules, regulations, or orders of the Commission thereunder in proceedings brought under section 6 of this Act. In any such report or opinion, the Commission may set forth the facts as to any actual transaction or any information referred to in subsection (b) of this section, if such facts or information have previously been disclosed publicly in connection with a congressional proceeding, or in an administrative or judicial proceeding brought under this Act.

7 USC 8, 9, 9a,
13b, 15.

“(d) The Commission, upon its own initiative or in cooperation with existing governmental agencies, shall investigate the marketing conditions of commodities and commodity products and byproducts, including supply and demand for these commodities, cost to the consumer, and handling and transportation charges. It shall also compile and furnish to producers, consumers, and distributors, by means of regular or special reports, or by such other methods as it deems most effective, information respecting the commodity markets, together with information on supply, demand, prices, and other conditions in this and other countries that affect the markets.

“(e) The Commission may disclose and make public, where such information has previously been disclosed publicly in accordance with the provisions of this section, the names and addresses of all traders on the boards of trade on the commodity markets with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amount of commodities

purchased or sold by each such trader. Upon the request of any committee of either House of Congress, acting within the scope of its jurisdiction, the Commission shall furnish to such committee the names and addresses of all traders on such boards of trade with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amount of any commodity purchased or sold by each such trader. Upon the request of any department or agency of the Executive Branch of the Government of the United States, 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. However, any information furnished under this subsection to any Federal department or agency shall not be disclosed by such department or agency except in any action or proceeding under the laws of the United States to which it, the Commission, or the United States is a party.

Report to
Congress.

“(f) The Commission shall submit to Congress a written report within one hundred and twenty days after the end of each fiscal year detailing the operations of the Commission during such fiscal year. The Commission shall include in such report such information, data, and legislative recommendations as it deems advisable with respect to the administration of this Act and its powers and functions under this Act.

Reviews and
audits.

“(g) The Comptroller General of the United States shall conduct reviews and audits of the Commission and make reports thereon. For the purpose of conducting such reviews and audits, the Comptroller General shall be furnished such information regarding the powers, duties, organizations, transactions, operations, and activities of the Commission as the Comptroller General may require and the Comptroller General and the duly authorized representatives of the Comptroller General shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of the Commission, except that in reports the Comptroller General shall not include data and information that would separately disclose the business transactions of any person and trade secrets or names of customers, although such data shall be provided upon request by any committee of either House of Congress acting within the scope of its jurisdiction.”

FINGERPRINTING OF APPLICANTS FOR REGISTRATION; LIMITATION ON PUBLICATION OF CERTAIN INFORMATION

SEC. 17. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) inserting in paragraph (1) after “by the Commission” the following: “, which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing”; and

(2) striking out in paragraph (6) “and to publish”.

DISCLOSURE OF RESULTS OF EXCHANGE DISCIPLINARY PROCEEDINGS

SEC. 18. Section 8c(1)(B) of the Commodity Exchange Act (7 U.S.C. 12c(1)(B)) is amended by amending the last sentence to read as follows: “An exchange shall make public its findings and the reasons for the exchange action in any such proceeding, including the action

taken or the penalty imposed, but shall not disclose the evidence therefor, except to the person who is suspended, expelled, or disciplined, or denied access, and to the Commission.”.

CRIMINAL PENALTIES

SEC. 19. Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by—

(1) striking out in subsection (a) “\$100,000” and inserting in lieu thereof “\$500,000”; and inserting immediately after the first sentence of subsection (a) the following: “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.”;

(2) striking out in subsection (b) “\$100,000” and inserting in lieu thereof “\$500,000”; and inserting before the period at the end of subsection (b) the following: “, or knowingly to violate the provisions of section 4, section 4b, section 4c(b) through section 4c(e), section 4h, section 4o(1), or section 19 of this Act, or knowingly to make any false or misleading statement of a material fact in any registration application or report filed with the Commission, or knowingly to omit in any application or report any material fact that is required to be stated therein. 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”;

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

“(c) Except as provided in subsections (a), (b), (d), and (e) of this section, it shall be a misdemeanor punishable by a fine of not more than \$100,000 or imprisonment for not more than one year, or both, together with the costs of prosecution, for any person to violate any provisions of section 4a, section 4c(a), section 4d, section 4e, section 4i, section 4k, section 4m, section 4o(2), or section 8b, or to fail to evidence any contract mentioned in section 4 of this Act by a record in writing as therein required.”;

(4) striking out in subsection (d) “\$10,000” and inserting in lieu thereof “\$100,000”; and

(5) striking out in subsection (e) “\$10,000” and inserting in lieu thereof “\$100,000”.

7 USC 6, 6b, 6c,
6h, 6o.
Post, p. 876.

7 USC 6a, 6c,
6d, 6e, 6i, 6k,
6m, 6o, 12b.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 20. Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

“(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, 1978, and ending September 30, 1982.”.

REPARATIONS PROCEEDINGS

SEC. 21. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

- (1) striking out in subsection (a) "registered" and inserting in lieu thereof "who is registered or required to be registered";
- (2) striking out in subsection (b) "\$2,500" and inserting in lieu thereof "\$5,000"; and
- (3) striking out in subsection (c) "\$2,500" wherever it appears and inserting in lieu thereof "\$5,000".

REGISTERED FUTURES ASSOCIATION

SEC. 22. Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by—

- (1) striking out in subsection (b) (3) (B) "(7 U.S.C. 9)";
 - (2) striking out in subsection (b) (10) "\$5,000" and inserting in lieu thereof "\$15,000";
 - (3) striking out in subsection (l) "title" each time that word appears and inserting in lieu thereof "Act"; and
 - (4) redesignating subsection (m) as subsection (n), and inserting after subsection (l) a new subsection (m) as follows:
- "(m) Notwithstanding any other provision of law, the Commission may approve rules of futures associations that, directly or indirectly, require persons eligible for membership in such associations to become members of at least one such association, upon a determination by the Commission that such rules are necessary or appropriate to achieve the purposes and objectives of this Act."

LEVERAGE TRANSACTIONS

SEC. 23. The Commodity Exchange Act is amended by adding at the end thereof a new section 19 as follows:

7 USC 23.

"Sec. 19. (a) No person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974 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.

7 USC 2, 4, 4a.

"(b) No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins, under a standardized contract described in subsection (a) of this section, contrary to any rule, regulation, or order of the Commission designed to ensure the financial solvency of the transaction or prevent manipulation or fraud: *Provided*, That such rule, regulation, or order may be made only after notice and opportunity for hearing.

7 USC 1 note.

Regulations.

"(c) The Commission may prohibit or regulate any transactions, under a standardized contract described in subsection (a) of this section, involving any other commodities under such terms and conditions as the Commission shall initially prescribe by October 1, 1979: *Provided*, That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *Provided further*, That the Commission may set different terms and conditions for such transactions involving different commodities.

“(d) If the Commission determines that any transaction under subsections (b) and (c) of this section is a contract for future delivery within the meaning of this Act, such transaction shall be regulated in accordance with the applicable provisions of this Act.”

Regulations.

REPEAL OF LEVERAGE TRANSACTION PROVISION IN THE 1974 ACT

SEC. 24. Section 217 of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a) is hereby repealed.

USE IMMUNITY

SEC. 25. Section 6001 of part V of title 18 of the United States Code (18 U.S.C. 6001) is amended by inserting after “Civil Aeronautics Board,” the following: “the Commodity Futures Trading Commission.”

PLAN FOR USER FEES

SEC. 26. Notwithstanding any other provision of law, the Commodity Futures Trading Commission may develop and implement a plan to charge and collect reasonable fees to cover the estimated cost of regulating transactions under the jurisdiction of the Commission. However, prior to implementing such a plan, the Commission shall report its intention to do so to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. The Commission shall include in its report the feasibility and desirability of collecting such fees. Any plan developed under this section shall not be implemented until approved by the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. Fees collected under any plan approved under this section shall be deposited in the Treasury of the United States as miscellaneous receipts.

7 USC 16a.

Report to congressional committees.

POTATO FUTURES STUDY

SEC. 27. Within one year of the effective date of this Act, the Secretary of Agriculture shall—

7 USC 20 note.

- (1) conduct a comprehensive study of the marketing of Irish potatoes and of the making and trading of contracts of sale for the future delivery of Irish potatoes, including rules and regulations pertaining to such trading issued by the Commodity Futures Trading Commission or any contract market designated by the Commission; and
- (2) submit to each House of Congress a detailed report on the results of such study.

Report to Congress.

Legislative
recommendations.

The report shall also include any proposals the Secretary may have concerning any legislation needed to implement such recommendations and concerning any modifications and rules and regulations needed to improve regulation of such contracts by the Commission or any contract market designated by the Commission.

EFFECTIVE DATE

7 USC 2 note.

SEC. 28. Except as otherwise provided in this Act, the provisions of this Act shall become effective October 1, 1978.

Approved September 30, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1181 accompanying H.R. 10285 (Comm. on Agriculture) and No. 95-1628 (Comm. of Conference).

SENATE REPORTS: No. 95-850 (Comm. on Agriculture, Nutrition, and Forestry) and No. 95-1239 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 12, considered and passed Senate.

July 24-26, H.R. 10285 considered and passed House; proceedings vacated and S. 2391, amended, passed in lieu.

Sept. 28, Senate agreed to Conference report.

Sept. 29, House agreed to Conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 40:

Oct. 2, Presidential statement.