

(A) in a form and manner that is acceptable to the Commission; and

(B) for a period of at least 5 years.

(19) Antitrust considerations

Unless necessary or appropriate to achieve the purposes of this chapter, the board of trade shall not—

(A) adopt any rule or taking¹ any action that results in any unreasonable restraint of trade; or

(B) impose any material anticompetitive burden on trading on the contract market.

(20) System safeguards

The board of trade shall—

(A) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk, through the development of appropriate controls and procedures, and the development of automated systems, that are reliable, secure, and have adequate scalable capacity;

(B) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that allow for the timely recovery and resumption of operations and the fulfillment of the responsibilities and obligations of the board of trade; and

(C) periodically conduct tests to verify that backup resources are sufficient to ensure continued order processing and trade matching, price reporting, market surveillance, and maintenance of a comprehensive and accurate audit trail.

(21) Financial resources

(A) In general

The board of trade shall have adequate financial, operational, and managerial resources to discharge each responsibility of the board of trade.

(B) Determination of adequacy

The financial resources of the board of trade shall be considered to be adequate if the value of the financial resources exceeds the total amount that would enable the contract market to cover the operating costs of the contract market for a 1-year period, as calculated on a rolling basis.

(22) Diversity of board of directors

The board of trade, if a publicly traded company, shall endeavor to recruit individuals to serve on the board of directors and the other decision-making bodies (as determined by the Commission) of the board of trade from among, and to have the composition of the bodies reflect, a broad and culturally diverse pool of qualified candidates.

(23) Securities and Exchange Commission

The board of trade shall keep any such records relating to swaps defined in section 1a(47)(A)(v) of this title open to inspection and examination by the Securities and Exchange Commission.

(e) Current agricultural commodities

(1) Subject to paragraph (2) of this subsection, a contract for purchase or sale for future deliv-

ery of an agricultural commodity enumerated in section 1a(9) of this title that is available for trade on a contract market, as of December 21, 2000, may be traded only on a contract market designated under this section.

(2) In order to promote responsible economic or financial innovation and fair competition, the Commission, on application by any person, after notice and public comment and opportunity for hearing, may prescribe rules and regulations to provide for the offer and sale of contracts for future delivery or options on such contracts to be conducted on a derivatives transaction execution facility.

(Sept. 21, 1922, ch. 369, §5, as added Pub. L. 106-554, §1(a)(5) [title I, §110(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-384; amended Pub. L. 111-203, title VII, §§721(e)(4), 735, July 21, 2010, 124 Stat. 1671, 1718.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7, acts Sept. 21, 1922, ch. 369, §5, 42 Stat. 1000; June 15, 1936, ch. 545, §§2, 6, 49 Stat. 1491, 1497; Pub. L. 90-258, §§10, 11, Feb. 19, 1968, 82 Stat. 29; Pub. L. 93-463, title I, §103(a), (f), (g), title II, §207, Oct. 23, 1974, 88 Stat. 1392, 1400; Pub. L. 102-546, title II, §§201(c), 209(b)(2), Oct. 28, 1992, 106 Stat. 3597, 3606, related to conditions and requirements for designation of boards of trade as contract markets, prior to repeal by Pub. L. 106-554, §1(a)(5) [title I, §110(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-384.

AMENDMENTS

2010—Subsec. (b). Pub. L. 111-203, §735(a), struck out subsec. (b) which related to criteria for designation as a contract market.

Subsec. (d). Pub. L. 111-203, §735(b), added subsec. (d) and struck out former subsec. (d) which related to core principles for contract markets.

Subsec. (e)(1). Pub. L. 111-203, §721(e)(4), substituted “section 1a(9)” for “section 1a(4)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the later of 360 days after July 21, 2010, or, to the extent a provision of subtitle A (§§711-754) of title VII of Pub. L. 111-203 requires a rulemaking, not less than 60 days after publication of the final rule or regulation implementing such provision of subtitle A, see section 754 of Pub. L. 111-203, set out as a note under section 1a of this title.

§ 7a. Repealed. Pub. L. 111-203, title VII, §734(a), July 21, 2010, 124 Stat. 1718

Section, act Sept. 21, 1922, ch. 369, §5a, as added Pub. L. 106-554, §1(a)(5) [title I, §111], Dec. 21, 2000, 114 Stat. 2763, 2763A-387; amended Pub. L. 110-234, title XIII, §13203(h), May 22, 2008, 122 Stat. 1440; Pub. L. 110-246, §4(a), title XIII, §13203(h), June 18, 2008, 122 Stat. 1664, 2202; Pub. L. 111-203, title VII, §721(e)(5), July 21, 2010, 124 Stat. 1671, related to derivatives transaction execution facilities.

A prior section 7a, act Sept. 21, 1922, ch. 369, §5a, as added June 15, 1936, ch. 545, §7, 49 Stat. 1497; amended Pub. L. 90-258, §12, Feb. 19, 1968, 82 Stat. 29; Pub. L. 93-463, title I, §103(a), (e), (f), title II, §§208-210, title IV, §§406, 407, Oct. 23, 1974, 88 Stat. 1392, 1400, 1401, 1413; Pub. L. 95-405, §§11, 12, Sept. 30, 1978, 92 Stat. 870, 871; Pub. L. 97-444, title II, §§216, 217(a), Jan. 11, 1983, 96 Stat. 2306, 2307; Pub. L. 99-641, title I, §110(2), Nov. 10, 1986, 100 Stat. 3561; Pub. L. 102-546, title I, §103, title II, §§201(a),

¹ So in original. Probably should be “take”.

206(a)(1), 213(a), 217, 222(a), Oct. 28, 1992, 106 Stat. 3594, 3595, 3601, 3609, 3611, 3615, related to duties of contract markets prior to repeal by Pub. L. 106-554, § 1(a)(5) [title I, § 110(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-384.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective on the later of 360 days after July 21, 2010, or, to the extent a provision of subtitle A (§§ 711-754) of title VII of Pub. L. 111-203 requires a rule-making, not less than 60 days after publication of the final rule or regulation implementing such provision of subtitle A, see section 754 of Pub. L. 111-203, set out as an Effective Date of 2010 Amendment note under section 1a of this title.

§ 7a-1. Derivatives clearing organizations

(a) Registration requirement

(1) In general

Except as provided in paragraph (2), it shall be unlawful for a derivatives clearing organization, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a derivatives clearing organization with respect to—

(A) a contract of sale of a commodity for future delivery (or an option on the contract of sale) or option on a commodity, in each case, unless the contract or option is—

(i) excluded from this chapter by subsection (a)(1)(C)(i), (c), or (f) of section 2 of this title; or

(ii) a security futures product cleared by a clearing agency registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); or

(B) a swap.

(2) Exception

Paragraph (1) shall not apply to a derivatives clearing organization that is registered with the Commission.

(b) Voluntary registration

A person that clears 1 or more agreements, contracts, or transactions that are not required to be cleared under this chapter may register with the Commission as a derivatives clearing organization.

(c) Registration of derivatives clearing organizations

(1) Application

A person desiring to register as a derivatives clearing organization shall submit to the Commission an application in such form and containing such information as the Commission may require for the purpose of making the determinations required for approval under paragraph (2).

(2) Core principles for derivatives clearing organizations

(A) Compliance

(i) In general

To be registered and to maintain registration as a derivatives clearing organization, a derivatives clearing organization

shall comply with each core principle described in this paragraph and any requirement that the Commission may impose by rule or regulation pursuant to section 12a(5) of this title.

(ii) Discretion of derivatives clearing organization

Subject to any rule or regulation prescribed by the Commission, a derivatives clearing organization shall have reasonable discretion in establishing the manner by which the derivatives clearing organization complies with each core principle described in this paragraph.

(B) Financial resources

(i) In general

Each derivatives clearing organization shall have adequate financial, operational, and managerial resources, as determined by the Commission, to discharge each responsibility of the derivatives clearing organization.

(ii) Minimum amount of financial resources

Each derivatives clearing organization shall possess financial resources that, at a minimum, exceed the total amount that would—

(I) enable the organization to meet its financial obligations to its members and participants notwithstanding a default by the member or participant creating the largest financial exposure for that organization in extreme but plausible market conditions; and

(II) enable the derivatives clearing organization to cover the operating costs of the derivatives clearing organization for a period of 1 year (as calculated on a rolling basis).

(C) Participant and product eligibility

(i) In general

Each derivatives clearing organization shall establish—

(I) appropriate admission and continuing eligibility standards (including sufficient financial resources and operational capacity to meet obligations arising from participation in the derivatives clearing organization) for members of, and participants in, the derivatives clearing organization; and

(II) appropriate standards for determining the eligibility of agreements, contracts, or transactions submitted to the derivatives clearing organization for clearing.

(ii) Required procedures

Each derivatives clearing organization shall establish and implement procedures to verify, on an ongoing basis, the compliance of each participation and membership requirement of the derivatives clearing organization.

(iii) Requirements

The participation and membership requirements of each derivatives clearing organization shall—