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TITLE 7--AGRICULTURE

CHAPTER 1--COMMODITY EXCHANGES

Sec. 1a. Definitions

As used in this chapter:

(1) Alternative trading system

The term ``alternative trading system'' means an organization, association, or group of persons that--

(A) is registered as a broker or dealer pursuant to section 15(b) of the Securities Exchange Act of 1934 [15 U.S.C. 78o(b)] (except paragraph (11) thereof);

(B) performs the functions commonly performed by an exchange of 1934 [15 U.S.C. 78c(a)(1)];

(C) does not--  
other than the conduct of such subscribers' trading on the alternative trading system; or  
from (ii) discipline subscribers other than by exclusion trading; and

(D) is exempt from the definition of the term ``exchange'' under such section 3(a)(1) [15 U.S.C. 78c(a)(1)] by rule or regulation of the Securities and Exchange Commission on terms that require compliance with regulations of its trading functions.

(2) Board of trade

The term ``board of trade'' means any organized exchange or other trading facility.

(3) Commission

The term ``Commission'' means the Commodity Futures Trading Commission established under section 2(a)(2) of this title.

(4) Commodity

The term ``commodity'' means wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil,

and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice, and all other goods and articles, except onions as provided in section 13-1 of this title, and all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in.

(5) Commodity pool operator

The term ``commodity pool operator'' means any person engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility, except that the term does not include such persons not within the intent of the definition of the term as the Commission may specify by rule, regulation, or order.

(6) Commodity trading advisor

(A) In general

Except as otherwise provided in this paragraph, the term ``commodity trading advisor'' means any person who--

- (i) for compensation or profit, engages in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in--
  - (I) any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market or derivatives transaction execution facility;
  - (II) any commodity option authorized under section 6c of this title; or
  - (III) any leverage transaction authorized under section 23 of this title; or
- (ii) for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the activities referred to in clause (i).

(B) Exclusions

Subject to subparagraph (C), the term ``commodity trading advisor'' does not include--

- (i) any bank or trust company or any person acting as an employee thereof;
- (ii) any news reporter, news columnist, or news editor

of the print or electronic media, or any lawyer,  
accountant,  
or teacher;  
(iii) any floor broker or futures commission merchant;  
(iv) the publisher or producer of any print or  
electronic data of general and regular dissemination,  
including its employees;  
(v) the fiduciary of any defined benefit plan that is  
subject to the Employee Retirement Income Security Act of  
1974 (29 U.S.C. 1001 et seq.);  
(vi) any contract market or derivatives transaction  
execution facility; and  
(vii) such other persons not within the intent of this  
regulation,  
or order.

(C) Incidental services

Subparagraph (B) shall apply only if the furnishing of such  
services by persons referred to in subparagraph (B) is solely  
incidental to the conduct of their business or profession.

(D) Advisors

The Commission, by rule or regulation, may include within  
the term ``commodity trading advisor'', any person advising as  
to the value of commodities or issuing reports or analyses  
concerning commodities if the Commission determines that the  
rule or regulation will effectuate the purposes of this  
paragraph.

(7) Contract of sale

The term ``contract of sale'' includes sales, agreements of  
sale, and agreements to sell.

(8) Cooperative association of producers

The term ``cooperative association of producers'' means any  
cooperative association, corporate, or otherwise, not less than 75  
percent in good faith owned or controlled, directly or indirectly,  
by producers of agricultural products and otherwise complying with  
sections 291 and 292 of this title, including any organization  
acting for a group of such associations and owned or controlled by  
such associations, except that business done for or with the United  
States, or any agency thereof, shall not be considered either  
member  
or nonmember business in determining the compliance of any such  
association with this chapter.

(9) Derivatives clearing organization

(A) In general

The term ``derivatives clearing organization'' means a  
clearinghouse, clearing association, clearing corporation, or

similar entity, facility, system, or organization that, with respect to an agreement, contract, or transaction--

(i) enables each party to the agreement, contract, or transaction to substitute, through novation or otherwise, the credit of the derivatives clearing organization for the credit of the parties;

(ii) arranges or provides, on a multilateral basis, for the settlement or netting of obligations resulting from

such

agreements, contracts, or transactions executed by participants in the derivatives clearing organization; or

(iii) otherwise provides clearing services or arrangements that mutualize or transfer among participants in the derivatives clearing organization the credit risk arising from such agreements, contracts, or transactions executed by the participants.

(B) Exclusions

The term ``derivatives clearing organization'' does not include an entity, facility, system, or organization solely because it arranges or provides for--

(i) settlement, netting, or novation of obligations resulting from agreements, contracts, or transactions, on a bilateral basis and without a central counterparty;

(ii) settlement or netting of cash payments through an interbank payment system; or

(iii) settlement, netting, or novation of obligations resulting from a sale of a commodity in a transaction in

the

spot market for the commodity.

(10) Electronic trading facility

The term ``electronic trading facility'' means a trading facility that--

(A) operates by means of an electronic or telecommunications network; and

(B) maintains an automated audit trail of bids, offers, and the matching of orders or the execution of transactions on the facility.

(11) Eligible commercial entity

The term ``eligible commercial entity'' means, with respect to an agreement, contract or transaction in a commodity--

(A) an eligible contract participant described in clause (i), (ii), (v), (vii), (viii), or (ix) of paragraph (12) (A) that, in connection with its business--

(i) has a demonstrable ability, directly or through separate contractual arrangements, to make or take delivery of the underlying commodity;

(ii) incurs risks, in addition to price risk, related

to

the commodity; or

(iii) is a dealer that regularly provides risk

management or hedging services to, or engages in market-making activities with, the foregoing entities involving transactions to purchase or sell the commodity or

derivative

agreements, contracts, or transactions in the commodity;

(B) an eligible contract participant, other than a natural person or an instrumentality, department, or agency of a State or local governmental entity, that--

(i) regularly enters into transactions to purchase or sell the commodity or derivative agreements, contracts, or transactions in the commodity; and

(ii) either--

(I) in the case of a collective investment vehicle whose participants include persons other than--

(aa) qualified eligible persons, as defined in Commission rule 4.7(a) (17 CFR 4.7(a));

(bb) accredited investors, as defined in Regulation D of the Securities and Exchange Commission under the Securities Act of 1933 [15 U.S.C. 77a et seq.] (17 CFR 230.501(a)), with total assets of \$2,000,000; or

(cc) qualified purchasers, as defined in

section

2(a)(51)(A) of the Investment Company Act of 1940 [15 U.S.C. 80a-2(a)(51)(A)];

in each case as in effect on December 21, 2000, has, or is one of a group of vehicles under common control or management having in the aggregate, \$1,000,000,000 in total assets; or

(II) in the case of other persons, has, or is one

of

a group of persons under common control or management having in the aggregate, \$100,000,000 in total assets; or

(C) such other persons as the Commission shall determine appropriate and shall designate by rule, regulation, or order.

(12) Eligible contract participant

The term ``eligible contract participant'' means--

(A) acting for its own account--

(i) a financial institution;

(ii) an insurance company that is regulated by a State, or that is regulated by a foreign government and is subject to comparable regulation as determined by the Commission, including a regulated subsidiary or affiliate of such an insurance company;

(iii) an investment company subject to regulation under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et

seq.)

or a foreign person performing a similar role or function subject as such to foreign regulation (regardless of

whether

each investor in the investment company or the foreign person is itself an eligible contract participant);

(iv) a commodity pool that--

(I) has total assets exceeding \$5,000,000; and

(II) is formed and operated by a person subject to regulation under this chapter or a foreign person performing a similar role or function subject as such

to

foreign regulation (regardless of whether each investor in the commodity pool or the foreign person is itself

an

eligible contract participant);

(v) a corporation, partnership, proprietorship, organization, trust, or other entity--

(I) that has total assets exceeding \$10,000,000;

(II) the obligations of which under an agreement, contract, or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support,

or

other agreement by an entity described in subclause

(I),

in clause (i), (ii), (iii), (iv), or (vii), or in subparagraph (C); or

(III) that--

(aa) has a net worth exceeding \$1,000,000; and

(bb) enters into an agreement, contract, or transaction in connection with the conduct of the entity's business or to manage the risk associated with an asset or liability owned or incurred or reasonably likely to be owned or incurred by the entity in the conduct of the entity's business;

(vi) an employee benefit plan subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), a governmental employee benefit plan, or a foreign person performing a similar role or function subject as

such

to foreign regulation--

(I) that has total assets exceeding \$5,000,000; or

(II) the investment decisions of which are made by-

-

(aa) an investment adviser or commodity trading advisor subject to regulation under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) or this chapter;

(bb) a foreign person performing a similar role or function subject as such to foreign regulation;

(cc) a financial institution; or

(dd) an insurance company described in clause (ii), or a regulated subsidiary or affiliate of

such

an insurance company;

(vii) (I) a governmental entity (including the United States, a State, or a foreign government) or political subdivision of a governmental entity;

entity; (II) a multinational or supranational government  
or  
(III) an instrumentality, agency, or department of an  
entity described in subclause (I) or (II);  
except that such term does not include an entity,  
instrumentality, agency, or department referred to in  
subclause (I) or (III) of this clause unless (aa) the  
entity, instrumentality, agency, or department is a person  
described in clause (i), (ii), or (iii) of paragraph  
(11) (A)  
of this section; (bb) the entity, instrumentality, agency,  
or department owns and invests on a discretionary basis  
\$25,000,000 or more in investments; or (cc) the agreement,  
contract, or transaction is offered by, and entered into  
with, an entity that is listed in any of subclauses (I)  
through (VI) of section 2(c)(2)(B)(ii) of this title;  
(viii) (I) a broker or dealer subject to regulation  
under  
the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.)  
or a foreign person performing a similar role or function  
subject as such to foreign regulation, except that, if the  
broker or dealer or foreign person is a natural person or  
proprietorship, the broker or dealer or foreign person  
shall  
not be considered to be an eligible contract participant  
unless the broker or dealer or foreign person also meets  
the  
requirements of clause (v) or (xi);  
(II) an associated person of a registered broker or  
dealer concerning the financial or securities activities of  
which the registered person makes and keeps records under  
section 15C(b) or 17(h) of the Securities Exchange Act of  
1934 (15 U.S.C. 78o-5(b), 78q(h));  
(III) an investment bank holding company (as defined in  
section 17(i) of the Securities Exchange Act of 1934 (15  
U.S.C. 78q(i)); \1\

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\1\ So in original. The semicolon probably should be preceded by an  
additional closing parenthesis.  
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(ix) a futures commission merchant subject to  
regulation  
under this chapter or a foreign person performing a similar  
role or function subject as such to foreign regulation,  
except that, if the futures commission merchant or foreign  
person is a natural person or proprietorship, the futures  
commission merchant or foreign person shall not be  
considered to be an eligible contract participant unless  
the  
futures commission merchant or foreign person also meets  
the  
requirements of clause (v) or (xi);

regulation (x) a floor broker or floor trader subject to  
under this chapter in connection with any transaction that  
takes place on or through the facilities of a registered  
entity or an exempt board of trade, or any affiliate  
thereof, on which such person regularly trades; or  
(xi) an individual who has total assets in an amount in  
excess of--  
    (I) \$10,000,000; or  
    (II) \$5,000,000 and who enters into the agreement,  
contract, or transaction in order to manage the risk  
associated with an asset owned or liability incurred,  
or  
    reasonably likely to be owned or incurred, by the  
individual;  
(B) (i) a person described in clause (i), (ii), (iv), (v),  
(viii), (ix), or (x) of subparagraph (A) or in subparagraph  
(C),  
acting as broker or performing an equivalent agency function on  
behalf of another person described in subparagraph (A) or (C);  
or  
    (ii) an investment adviser subject to regulation under the  
Investment Advisers Act of 1940 [15 U.S.C. 80b-1 et seq.], a  
commodity trading advisor subject to regulation under this  
chapter, a foreign person performing a similar role or function  
subject as such to foreign regulation, or a person described in  
clause (i), (ii), (iv), (v), (viii), (ix), or (x) of  
subparagraph (A) or in subparagraph (C), in any such case  
acting  
as investment manager or fiduciary (but excluding a person  
acting as broker or performing an equivalent agency function)  
for another person described in subparagraph (A) or (C) and who  
is authorized by such person to commit such person to the  
transaction; or  
(C) any other person that the Commission determines to be  
eligible in light of the financial or other qualifications of  
the person.

(13) Excluded commodity

The term ``excluded commodity'' means--

- (i) an interest rate, exchange rate, currency, security, security index, credit risk or measure, debt or equity instrument, index or measure of inflation, or other macroeconomic index or measure;
- (ii) any other rate, differential, index, or measure of economic or commercial risk, return, or value that is--
  - (I) not based in substantial part on the value of a narrow group of commodities not described in clause (i); or
  - (II) based solely on one or more commodities that have no cash market;
- (iii) any economic or commercial index based on prices, rates, values, or levels that are not within the control of any party to the relevant contract, agreement, or transaction; or
- (iv) an occurrence, extent of an occurrence, or contingency

(other than a change in the price, rate, value, or level of a commodity not described in clause (i)) that is--

(I) beyond the control of the parties to the relevant contract, agreement, or transaction; and

(II) associated with a financial, commercial, or economic consequence.

(14) Exempt commodity

The term ``exempt commodity'' means a commodity that is not an excluded commodity or an agricultural commodity.

(15) Financial institution

The term ``financial institution'' means--

(A) a corporation operating under the fifth undesignated paragraph of section 25 of the Federal Reserve Act (12 U.S.C. 603), commonly known as ``an agreement corporation'';

Federal  
``Edge  
Act corporation'';

(B) a corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. 611 et seq.), commonly known as an Act corporation'';

(C) an institution that is regulated by the Farm Credit Administration;

defined  
in section 1752 of title 12);

(D) a Federal credit union or State credit union (as defined in section 1752 of title 12);

(E) a depository institution (as defined in section 1813 of title 12);

(F) a foreign bank or a branch or agency of a foreign bank (each as defined in section 3101 of title 12);

(G) any financial holding company (as defined in section 1841 of title 12);

(H) a trust company; or

(I) a similarly regulated subsidiary or affiliate of an entity described in any of subparagraphs (A) through (H).

(16) Floor broker

The term ``floor broker'' means any person who, in or surrounding any pit, ring, post, or other place provided by a contract market or derivatives transaction execution facility for the meeting of persons similarly engaged, shall purchase or sell

for  
any other person any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility.

(17) Floor trader

The term ``floor trader'' means any person who, in or surrounding any pit, ring, post, or other place provided by a contract market or derivatives transaction execution facility for the meeting of persons similarly engaged, purchases, or sells solely  
for such person's own account, any commodity for future delivery on

or subject to the rules of any contract market or derivatives transaction execution facility.

(18) Foreign futures authority

The term ``foreign futures authority'' means any foreign government, or any department, agency, governmental body, or regulatory organization empowered by a foreign government to administer or enforce a law, rule, or regulation as it relates to a futures or options matter, or any department or agency of a political subdivision of a foreign government empowered to administer or enforce a law, rule, or regulation as it relates to a futures or options matter.

(19) Future delivery

The term ``future delivery'' does not include any sale of any cash commodity for deferred shipment or delivery.

(20) Futures commission merchant

The term ``futures commission merchant'' means an individual, association, partnership, corporation, or trust that--

(A) is engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility; and

(B) in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

(21) Hybrid instrument

The term ``hybrid instrument'' means a security having one or more payments indexed to the value, level, or rate of, or providing for the delivery of, one or more commodities.

(22) Interstate commerce

The term ``interstate commerce'' means commerce--

(A) between any State, territory, or possession, or the District of Columbia, and any place outside thereof; or

(B) between points within the same state, \2\ territory, or possession, or the District of Columbia, but through any place outside thereof, or within any territory or possession, or the District of Columbia.

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\2\ So in original. Probably should be capitalized.  
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(23) Introducing broker

The term ``introducing broker'' means any person (except an

individual who elects to be and is registered as an associated person of a futures commission merchant) engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

(24) Member of a registered entity; member of a derivatives transaction execution facility

The term ``member'' means, with respect to a registered entity or derivatives transaction execution facility, an individual, association, partnership, corporation, or trust--

(A) owning or holding membership in, or admitted to membership representation on, the registered entity or derivatives transaction execution facility; or

(B) having trading privileges on the registered entity or derivatives transaction execution facility.

A participant in an alternative trading system that is designated as a contract market pursuant to section 7b-1 of this title is deemed a member of the contract market for purposes of transactions in security futures products through the contract market.

(25) Narrow-based security index

(A) The term ``narrow-based security index'' means an index--

(i) that has 9 or fewer component securities;

(ii) in which a component security comprises more than 30 percent of the index's weighting;

(iii) in which the five highest weighted component securities in the aggregate comprise more than 60 percent of

the index's weighting; or

(iv) in which the lowest weighted component securities comprising, in the aggregate, 25 percent of the index's weighting have an aggregate dollar value of average daily trading volume of less than \$50,000,000 (or in the case of an index with 15 or more component securities, \$30,000,000),

except that if there are two or more securities with equal weighting that could be included in the calculation of the lowest

weighted component securities comprising, in the aggregate, 25 percent

of the index's weighting, such securities shall be ranked from lowest to highest dollar value of average daily trading volume and shall be included in the calculation based on their ranking starting with the lowest ranked security.

(B) Notwithstanding subparagraph (A), an index is not a narrow-based security index if--

- (i) (I) it has at least 9 component securities;
- (II) no component security comprises more than 30 percent

of

the index's weighting; and

(III) each component security is--

Securities

(aa) registered pursuant to section 12 of the

Exchange Act of 1934 [15 U.S.C. 781];

(bb) one of 750 securities with the largest market capitalization; and

value

(cc) one of 675 securities with the largest dollar

of average daily trading volume;

(ii) a board of trade was designated as a contract market

by

the Commodity Futures Trading Commission with respect to a contract of sale for future delivery on the index, before December 21, 2000;

(iii) (I) a contract of sale for future delivery on the

index

traded on a designated contract market or registered

derivatives

transaction execution facility for at least 30 days as a contract of sale for future delivery on an index that was not a narrow-based security index; and

(II) it has been a narrow-based security index for no more than 45 business days over 3 consecutive calendar months;

(iv) a contract of sale for future delivery on the index is traded on or subject to the rules of a foreign board of trade and meets such requirements as are jointly established by rule or regulation by the Commission and the Securities and Exchange Commission;

(v) no more than 18 months have passed since December 21, 2000, and--

foreign

(I) it is traded on or subject to the rules of a

board of trade;

(II) the offer and sale in the United States of a contract of sale for future delivery on the index was authorized before December 21, 2000; and

(III) the conditions of such authorization continue to be met; or

(vi) a contract of sale for future delivery on the index is traded on or subject to the rules of a board of trade and meets such requirements as are jointly established by rule, regulation, or order by the Commission and the Securities and Exchange Commission.

(C) Within 1 year after December 21, 2000, the Commission and the Securities and Exchange Commission jointly shall adopt rules or regulations that set forth the requirements under subparagraph

(B) (iv).

(D) An index that is a narrow-based security index solely

because it was a narrow-based security index for more than 45 business days over 3 consecutive calendar months pursuant to clause (iii) of subparagraph (B) shall not be a narrow-based security index

for the 3 following calendar months.

(E) For purposes of subparagraphs (A) and (B)--

(i) the dollar value of average daily trading volume and the market capitalization shall be calculated as of the preceding 6 full calendar months; and

(ii) the Commission and the Securities and Exchange Commission shall, by rule or regulation, jointly specify the method to be used to determine market capitalization and dollar value of average daily trading volume.

#### (26) Option

The term ``option'' means an agreement, contract, or transaction

that is of the character of, or is commonly known to the trade as, an ``option'', ``privilege'', ``indemnity'', ``bid'', ``offer'', ``put'', ``call'', ``advance guaranty'', or ``decline guaranty''.

#### (27) Organized exchange

The term ``organized exchange'' means a trading facility that-- (A) permits trading--

(i) by or on behalf of a person that is not an eligible contract participant; or

(ii) by persons other than on a principal-to-principal basis; or

(B) has adopted (directly or through another nongovernmental entity) rules that--

(i) govern the conduct of participants, other than rules

that govern the submission of orders or execution of transactions on the trading facility; and

(ii) include disciplinary sanctions other than the exclusion of participants from trading.

#### (28) Person

The term ``person'' imports the plural or singular, and includes

individuals, associations, partnerships, corporations, and trusts.

#### (29) Registered entity

The term ``registered entity'' means--

(A) a board of trade designated as a contract market under section 7 of this title;

(B) a derivatives transaction execution facility registered under section 7a of this title;

(C) a derivatives clearing organization registered under section 7a-1 of this title; and

(D) a board of trade designated as a contract market under section 7b-1 of this title.

(30) Security

The term ``security'' means a security as defined in section 2(a)(1) of the Securities Act of 1933 (15 U.S.C. 77b(a)(1)) or section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)).

(31) Security future

The term ``security future'' means a contract of sale for future delivery of a single security or of a narrow-based security index, including any interest therein or based on the value thereof, except an exempted security under section 3(a)(12) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(12)] as in effect on January 11, 1983 (other than any municipal security as defined in section 3(a)(29) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(29)] as in effect on January 11, 1983). The term ``security future'' does not include any agreement, contract, or transaction excluded from this chapter under section 2(c), 2(d), 2(f), or 2(g) of this title (as in effect on December 21, 2000) or sections 27 to 27f of this title.

(32) Security futures product

The term ``security futures product'' means a security future or any put, call, straddle, option, or privilege on any security future.

(33) Trading facility

(A) In general

The term ``trading facility'' means a person or group of persons that constitutes, maintains, or provides a physical or electronic facility or system in which multiple participants have the ability to execute or trade agreements, contracts, or transactions by accepting bids and offers made by other participants that are open to multiple participants in the facility or system.

(B) Exclusions

The term ``trading facility'' does not include--

(i) a person or group of persons solely because the person or group of persons constitutes, maintains, or provides an electronic facility or system that enables participants to negotiate the terms of and enter into bilateral transactions as a result of communications exchanged by the parties and not from interaction of multiple bids and multiple offers within a predetermined, nondiscretionary automated trade matching and execution

algorithm;  
    (ii) a government securities dealer or government securities broker, to the extent that the dealer or broker executes or trades agreements, contracts, or transactions  
in  
    government securities, or assists persons in communicating about, negotiating, entering into, executing, or trading an agreement, contract, or transaction in government securities  
    (as the terms ``government securities dealer'', ``government securities broker'', and ``government securities'' are defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))); or  
    (iii) facilities on which bids and offers, and acceptances of bids and offers effected on the facility,  
are  
not binding.

Any person, group of persons, dealer, broker, or facility described in clause (i) or (ii) is excluded from the meaning of the term ``trading facility'' for the purposes of this chapter without any prior specific approval, certification, or other action by the Commission.

#### (C) Special rule

A person or group of persons that would not otherwise constitute a trading facility shall not be considered to be a trading facility solely as a result of the submission to a derivatives clearing organization of transactions executed on  
or  
through the person or group of persons.

(Sept. 21, 1922, ch. 369, Sec. 1a, as added Pub. L. 102-546, title IV, Sec. 404(a), Oct. 28, 1992, 106 Stat. 3625; amended Pub. L. 106-554, Sec. 1(a)(5) [title I, Secs. 101, 123(a)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A-366, 2763A-405.)

#### References in Text

The Employee Retirement Income Security Act of 1974, referred to in pars. (6)(B)(v) and (12)(A)(vi), is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829, as amended, which is classified principally to chapter 18 (Sec. 1001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

The Securities Act of 1933, referred to in par. (11)(B)(ii)(I)(bb), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, as amended, which is classified generally to subchapter I (Sec. 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 Investment Company Act of 1940, referred to in par.

(12) (A) (iii), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (Sec. 80a-1 et seq.) of chapter 2D of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 80a-51 of Title 15 and Tables.

The Investment Advisers Act of 1940, referred to in par.

(12) (A) (vi) (II) (aa), (B) (ii), is title II of act Aug. 22, 1940, ch. 686, 54 Stat. 847, as amended, which is classified generally to subchapter II (Sec. 80b-1 et seq.) of chapter 2D of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 80b-20 of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in par.

(12) (A) (viii) (I), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (Sec. 78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

Section 25A of the Federal Reserve Act, referred to in par.

(15) (B), popularly known as the Edge Act, is classified to subchapter II (Sec. 611 et seq.) of chapter 6 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 611 of Title 12 and Tables.

#### Amendments

2000--Par. (1). Pub. L. 106-554, Sec. 1(a) (5) [title I, Sec. 101(2)], added par. (1). Former par. (1) redesignated (2).

Par. (2). Pub. L. 106-554, Sec. 1(a) (5) [title I, Sec. 101(3)], added par. (2) and struck out heading and text of former par. (2). Text read as follows: ``The term `board of trade' means any exchange or association, whether incorporated or unincorporated, of persons who are engaged in the business of buying or selling any commodity or receiving the same for sale on consignment.''

Pub. L. 106-554, Sec. 1(a) (5) [title I, Sec. 101(1)], redesignated par. (1) as (2). Former par. (2) redesignated (3).

Pars. (3), (4). Pub. L. 106-554, Sec. 1(a) (5) [title I, Sec. 101(1)], redesignated pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (5).

Par. (5). Pub. L. 106-554, Sec. 1(a) (5) [title I, Sec. 123(a) (1) (A)], inserted ``or derivatives transaction execution facility'' after ``contract market''.

Pub. L. 106-554, Sec. 1(a) (5) [title I, Sec. 101(1)], redesignated par. (4) as (5). Former par. (5) redesignated (6).

Par. (6). Pub. L. 106-554, Sec. 1(a) (5) [title I, Sec. 123(a) (1) (A)], inserted ``or derivatives transaction execution facility'' after ``contract market'' in subpars. (A) (i) (I) and (B) (vi).

Pub. L. 106-554, Sec. 1(a) (5) [title I, Sec. 101(1)], redesignated par. (5) as (6). Former par. (6) redesignated (7).

Pars. (7), (8). Pub. L. 106-554, Sec. 1(a) (5) [title I, Sec. 101(1)], redesignated pars. (6) and (7) as (7) and (8), respectively. Former par. (8) redesignated (16).

Pars. (9) to (15). Pub. L. 106-554, Sec. 1(a) (5) [title I,

Sec. 101(4)], added pars. (9) to (15). Former pars. (9) to (12) and (13)

to (15) redesignated (17) to (20) and (22) to (24), respectively.

Par. (16). Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 123(a)(1)(A)], inserted ``or derivatives transaction execution facility'' after ``contract market'' in two places.

Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 101(1)], redesignated par. (8) as (16). Former par. (16) redesignated (28).

Par. (17). Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 123(a)(1)(A)], inserted ``or derivatives transaction execution facility'' after ``contract market'' in two places.

Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 101(1)], redesignated par. (9) as (17).

Pars. (18), (19). Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 101(1)], redesignated pars. (10) and (11) as (18) and (19), respectively.

Par. (20). Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 101(1)], redesignated par. (12) as (20).

Par. (20)(A). Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 123(a)(1)(A)], inserted ``or derivatives transaction execution facility'' after ``contract market''.

Par. (21). Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 101(5)], added par. (21).

Par. (22). Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 101(1)], redesignated par. (13) as (22).

Par. (23). Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 123(a)(1)(A)], inserted ``or derivatives transaction execution facility'' after ``contract market''.

Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 101(1)], redesignated par. (14) as (23).

Par. (24). Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 123(a)(1)(B)], substituted ``registered entity'' for ``contract market'' wherever appearing in heading and text and inserted concluding provisions.

Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 101(6)], added par. (24) and struck out heading and text of former par. (24). Text read as follows: ``The term `member of a contract market' means an individual, association, partnership, corporation, or trust owning or holding membership in, or admitted to membership representation on, a contract market or given members' trading privileges thereon.''

Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 101(1)], redesignated par. (15) as (24).

Pars. (25) to (27). Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 101(6)], added pars. (25) to (27).

Par. (28). Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 101(1)], redesignated par. (16) as (28).

Pars. (29) to (33). Pub. L. 106-554, Sec. 1(a)(5) [title I, Sec. 101(7)], added pars. (29) to (33).

#### Effective Date

Section 403 of Pub. L. 102-546 provided that: ``Except as otherwise specifically provided in this Act [enacting this section and section 12e of this title, amending sections 2, 2a, 4, 4a, 6 to 6c, 6e to 6g, 6j,

6p, 7 to 9a, 10a, 12, 12a, 12c, 13 to 13c, 15, 16, 18, 19, 21, and 25  
of  
this title, repealing section 26 of this title, enacting provisions set  
out as notes under sections 1a, 4a, 6c, 6e, 6j, 6p, 7a, 13, 16a, 21,  
and  
22 of this title, and repealing provisions set out as a note under  
section 4a of this title], this Act and the amendments made by this Act  
shall become effective on the date of enactment of this Act [Oct. 28,  
1992].''