



**Effective: July 21, 2010**

United States Code Annotated [Currentness](#)

Title 7. Agriculture

[Chapter 1](#). Commodity Exchanges ([Refs & Annos](#))

→ **§ 6a. Excessive speculation**

(a) Burden on interstate commerce; trading or position limits

(1) In general

Excessive speculation in any commodity under contracts of sale of such commodity for future delivery made on or subject to the rules of contract markets or derivatives transaction execution facilities, or swaps that perform or affect a significant price discovery function with respect to registered entities causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity. For the purpose of diminishing, eliminating, or preventing such burden, the Commission shall, from time to time, after due notice and opportunity for hearing, by rule, regulation, or order, proclaim and fix such limits on the amounts of trading which may be done or positions which may be held by any person, including any group or class of traders, under contracts of sale of such commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility, or swaps traded on or subject to the rules of a designated contract market or a swap execution facility, or swaps not traded on or subject to the rules of a designated contract market or a swap execution facility that performs a significant price discovery function with respect to a registered entity, as the Commission finds are necessary to diminish, eliminate, or prevent such burden. In determining whether any person has exceeded such limits, the positions held and trading done by any persons directly or indirectly controlled by such person shall be included with the positions held and trading done by such person; and further, such limits upon positions and trading shall apply to positions held by, and trading done by, two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by, or the trading were done by, a single person. Nothing in this section shall be construed to prohibit the Commission from fixing different trading or position limits for different commodities, markets, futures, or delivery months, or for different number of days remaining until the last day of trading in a contract, or different trading limits for buying and selling operations, or different limits for the purposes of paragraphs (1) and (2) of subsection (b) of this section, or from exempting transactions normally known to the trade as “spreads” or “straddles” or “arbitrage” or from fixing limits applying to such transactions or positions different from limits fixed for other transactions or positions. The word “arbitrage” in domestic markets shall be defined to mean the same as “spread” or “straddle”. The Commission is authorized to define the term “international arbitrage”.

(2) Establishment of limitations

(A) In general

In accordance with the standards set forth in paragraph (1) of this subsection and consistent with the good faith exception cited in subsection (b)(2), with respect to physical commodities other than excluded commodities as defined by the Commission, the Commission shall by rule, regulation, or order establish limits on the amount of positions, as appropriate, other than bona fide hedge positions, that may be held by any person with respect to contracts of sale for future delivery or with respect to options on the contracts or commodities traded on or subject to the rules of a designated contract market.

(B) Timing

(i) Exempt commodities

For exempt commodities, the limits required under subparagraph (A) shall be established within 180 days after July 21, 2010.

(ii) Agricultural commodities

For agricultural commodities, the limits required under subparagraph (A) shall be established within 270 days after July 21, 2010.

(C) Goal

In establishing the limits required under subparagraph (A), the Commission shall strive to ensure that trading on foreign boards of trade in the same commodity will be subject to comparable limits and that any limits to be imposed by the Commission will not cause price discovery in the commodity to shift to trading on the foreign boards of trade.

(3) Specific limitations

In establishing the limits required in paragraph (2), the Commission, as appropriate, shall set limits--

(A) on the number of positions that may be held by any person for the spot month, each other month, and the aggregate number of positions that may be held by any person for all months; and

(B) to the maximum extent practicable, in its discretion--

(i) to diminish, eliminate, or prevent excessive speculation as described under this sec-

tion;

(ii) to deter and prevent market manipulation, squeezes, and corners;

(iii) to ensure sufficient market liquidity for bona fide hedgers; and

(iv) to ensure that the price discovery function of the underlying market is not disrupted.

(4) Significant price discovery function

In making a determination whether a swap performs or affects a significant price discovery function with respect to regulated markets, the Commission shall consider, as appropriate:

(A) Price linkage

The extent to which the swap uses or otherwise relies on a daily or final settlement price, or other major price parameter, of another contract traded on a regulated market based upon the same underlying commodity, to value a position, transfer or convert a position, financially settle a position, or close out a position.

(B) Arbitrage

The extent to which the price for the swap is sufficiently related to the price of another contract traded on a regulated market based upon the same underlying commodity so as to permit market participants to effectively arbitrage between the markets by simultaneously maintaining positions or executing trades in the swaps on a frequent and recurring basis.

(C) Material price reference

The extent to which, on a frequent and recurring basis, bids, offers, or transactions in a contract traded on a regulated market are directly based on, or are determined by referencing, the price generated by the swap.

(D) Material liquidity

The extent to which the volume of swaps being traded in the commodity is sufficient to have a material effect on another contract traded on a regulated market.

(E) Other material factors

Such other material factors as the Commission specifies by rule or regulation as relevant to determine whether a swap serves a significant price discovery function with respect to a

regulated market.

(5) Economically equivalent contracts

**(A)** Notwithstanding any other provision of this section, the Commission shall establish limits on the amount of positions, including aggregate position limits, as appropriate, other than bona fide hedge positions, that may be held by any person with respect to swaps that are economically equivalent to contracts of sale for future delivery or to options on the contracts or commodities traded on or subject to the rules of a designated contract market subject to paragraph (2).

**(B)** in establishing limits pursuant to subparagraph (A), the Commission shall--

**(i)** develop the limits concurrently with limits established under paragraph (2), and the limits shall have similar requirements as under paragraph (3)(B); and

**(ii)** establish the limits simultaneously with limits established under paragraph (2).

(6) Aggregate position limits

The Commission shall, by rule or regulation, establish limits (including related hedge exemption provisions) on the aggregate number or amount of positions in contracts based upon the same underlying commodity (as defined by the Commission) that may be held by any person, including any group or class of traders, for each month across--

**(A)** contracts listed by designated contract markets;

**(B)** with respect to an agreement contract, or transaction that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, contracts traded on a foreign board of trade that provides members or other participants located in the United States with direct access to its electronic trading and order matching system; and

**(C)** swap contracts that perform or affect a significant price discovery function with respect to regulated entities.

(7) Exemptions

The Commission, by rule, regulation, or order, may exempt, conditionally or unconditionally, any person or class of persons, any swap or class of swaps, any contract of sale of a commodity for future delivery or class of such contracts, any option or class of options, or

any transaction or class of transactions from any requirement it may establish under this section with respect to position limits.

(b) Prohibition on trading or positions in excess of limits fixed by Commission

The Commission shall, in such rule, regulation, or order, fix a reasonable time (not to exceed ten days) after the promulgation of the rule, regulation, or order; after which, and until such rule, regulation, or order is suspended, modified, or revoked, it shall be unlawful for any person--

(1) directly or indirectly to buy or sell, or agree to buy or sell, under contracts of sale of such commodity for future delivery on or subject to the rules of the contract market or markets, or swap execution facility or facilities with respect to a significant price discovery contract, to which the rule, regulation, or order applies, any amount of such commodity during any one business day in excess of any trading limit fixed for one business day by the Commission in such rule, regulation, or order for or with respect to such commodity; or

(2) directly or indirectly to hold or control a net long or a net short position in any commodity for future delivery on or subject to the rules of any contract market or swap execution facility with respect to a significant price discovery contract in excess of any position limit fixed by the Commission for or with respect to such commodity: *Provided*, That such position limit shall not apply to a position acquired in good faith prior to the effective date of such rule, regulation, or order.

(c) Applicability to bona fide hedging transactions or positions

(1) No rule, regulation, or order issued under subsection (a) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission by rule, regulation, or order consistent with the purposes of this chapter. Such terms may be defined to permit producers, purchasers, sellers, middlemen, and users of a commodity or a product derived therefrom to hedge their legitimate anticipated business needs for that period of time into the future for which an appropriate futures contract is open and available on an exchange. To determine the adequacy of this chapter and the powers of the Commission acting thereunder to prevent unwarranted price pressures by large hedgers, the Commission shall monitor and analyze the trading activities of the largest hedgers, as determined by the Commission, operating in the cattle, hog, or pork belly markets and shall report its findings and recommendations to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture in its annual reports for at least two years following January 11, 1983.

(2) For the purposes of implementation of subsection (a)(2) for contracts of sale for future delivery or options on the contracts or commodities, the Commission shall define what constitutes a bona fide hedging transaction or position as a transaction or position that--

**(A)(i)** represents a substitute for transactions made or to be made or positions taken or to be taken at a later time in a physical marketing channel;

**(ii)** is economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise; and

**(iii)** arises from the potential change in the value of--

**(I)** assets that a person owns, produces, manufactures, processes, or merchandises or anticipates owning, producing, manufacturing, processing, or merchandising;

**(II)** liabilities that a person owns or anticipates incurring; or

**(III)** services that a person provides, purchases, or anticipates providing or purchasing; or

**(B)** reduces risks attendant to a position resulting from a swap that--

**(i)** was executed opposite a counterparty for which the transaction would qualify as a bona fide hedging transaction pursuant to subparagraph (A); or

**(ii)** meets the requirements of subparagraph (A).

(d) Persons subject to regulation; applicability to transactions made by or on behalf of United States

This section shall apply to a person that is registered as a futures commission merchant, an introducing broker, or a floor broker under authority of this chapter only to the extent that transactions made by such person are made on behalf of or for the account or benefit of such person. This section shall not apply to transactions made by, or on behalf of, or at the direction of, the United States, or a duly authorized agency thereof.

(e) Rulemaking power and penalties for violation

Nothing in this section shall prohibit or impair the adoption by any contract market, derivatives transaction execution facility, or by any other board of trade licensed, designated, or registered by the Commission or by any electronic trading facility of any bylaw, rule, regulation, or resolution fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery traded on or subject to the rules of such contract market or derivatives transaction execution facility or on an electronic trading facility, or under options on such contracts or commodities

traded on or subject to the rules of such contract market, derivatives transaction execution facility, or electronic trading facility or such board of trade: *Provided*, That if the Commission shall have fixed limits under this section for any contract or under [section 6c](#) of this title for any commodity option, then the limits fixed by the bylaws, rules, regulations, and resolutions adopted by such contract market, derivatives transaction execution facility, or electronic trading facility or such board of trade shall not be higher than the limits fixed by the Commission. It shall be a violation of this chapter for any person to violate any bylaw, rule, regulation, or resolution of any contract market, derivatives transaction execution facility, or other board of trade licensed, designated, or registered by the Commission or electronic trading facility with respect to a significant price discovery contract fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery or under options on such contracts or commodities, if such bylaw, rule, regulation, or resolution has been approved by the Commission or certified by a registered entity pursuant to [section 7a-2\(c\)\(1\)](#) of this title: *Provided*, That the provisions of [section 13\(a\)\(5\)](#) of this title shall apply only to those who knowingly violate such limits.

#### CREDIT(S)

(Sept. 21, 1922, c. 369, § 4a, as added June 15, 1936, c. 545, § 5, 49 Stat. 1492, and amended July 24, 1956, c. 690, § 1, 70 Stat. 630; Feb. 19, 1968, Pub.L. 90-258, §§ 2 to 4, 82 Stat. 26, 27; Oct. 23, 1974, [Pub.L. 93-463, Title IV, §§ 403, 404](#), 88 Stat. 1413; Apr. 16, 1975, [Pub.L. 94-16, § 4](#), 89 Stat. 78; Jan. 11, 1983, [Pub.L. 97-444, Title II, § 205](#), 96 Stat. 2299; Oct. 28, 1992, [Pub.L. 102-546, Title IV, § 402\(1\)\(A\), \(2\)](#), 106 Stat. 3624; Dec. 21, 2000, [Pub.L. 106-554, § 1\(a\)\(5\)](#) [Title I, § 123(a)(4)], 114 Stat. 2763, 2763A-407; May 22, 2008, [Pub.L. 110-234, Title XIII, §§ 13105\(a\), 13203\(g\)](#), 122 Stat. 1434, 1439; June 18, 2008, [Pub.L. 110-246, § 4\(a\)](#), Title XIII, §§ 13105(a), 13203(g), 122 Stat. 1664, 2196, 2201; July 21, 2010, [Pub.L. 111-203, Title VII, § 737\(a\)](#) to (c), 124 Stat. 1722.)

2010 Acts. [Pub.L. 111-203, Title VII, § 737\(d\)](#), July 21, 2010, 124 Stat. 1725, provided that: “This section and the amendments made by this section [amending this section] shall become effective on the date of the enactment of this section [July 21, 2010].”

2008 Acts. Amendments by [Pub.L. 110-246](#), except as otherwise provided, shall take effect on the earlier of June 18, 2008, or May 22, 2008, see [Pub.L. 110-246, § 4\(b\)](#), set out in a Repeal of Duplicative Enactment note under 7 U.S.C.A. § 8701.

Current through P.L. 112-28 approved 8-12-11

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