§ 12d. Commission action for noncompliance with export sales reporting requirements

The Commission may, in accordance with the procedures provided for in this chapter, refuse to register, register conditionally, or suspend, place restrictions upon, or revoke the registration of, any person, and may bar for any period as it deems appropriate any person from using or participating in any manner in any market regulated by the Commission, if such person is subject to a final decision or order of any court of competent jurisdiction or agency of the United States finding such person to have knowingly violated any provision of the export sales reporting requirements of section 612c–3 of this title, or of any regulation issued thereunder.


REFERENCES IN TEXT
Section 612c–3 of this title, referred to in text, was repealed by Pub. L. 101–624, title XV, § 1578, Nov. 28, 1990, 104 Stat. 3702.

Effective Date


§ 13. Violations generally; punishment; costs of prosecution

(a) Felonies generally

It shall be a felony punishable by a fine of not more than $1,000,000 or imprisonment for not more than 10 years, or both, together with the costs of prosecution, for:

(1) Any person registered or required to be registered under this chapter, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to such person’s use or to the use of another, any money, securities, or property having a value in excess of $100, which was received by such person or any employee or agent thereof to margin, guarantee, or secure the trades or contracts of any customer or accruing to such customer as a result of such trades or contracts or which otherwise was received from any customer, client, or pool participant in connection with the business of such person. The word “value” as used in this paragraph means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

(2) Any person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity, or of any swap, or to corner or attempt to corner any such commodity or knowingly to deliver or cause to be delivered for transmission through the mails or interstate commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce, or knowingly to violate the provisions of section 6, section 6b, subsections (a) through (e) of subsection 1, section 6b, section 6o(1), or section 23 of this title.

(3) Any person knowingly to make, or cause to be made, any statement in any application, report, or document required to be filed under this chapter or any rule or regulation thereunder or to any undertaking contained in a registration statement required under this chapter, or by any registered entity or registered futures association in connection with an application for membership or participation therein or to become associated with a member thereof, which statement was false or misleading with respect to any material fact, or knowingly to omit any material fact required to be stated therein or necessary to make the statements therein not misleading.

(4) Any person willfully to falsify, conceal, or cover up by any trick, scheme, or artifice a material fact, make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry to a registered entity, board of trade, swap data repository, or futures association designated or registered under this chapter acting in furtherance of its official duties under this chapter.

(5) Any person willfully to violate any other provision of this chapter, or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, but no person shall be subject to imprisonment under this paragraph for the violation of any rule or regulation if such person proves that he had no knowledge of such rule or regulation.

1 See References in Text note below.
(b) Suspension of convicted felons
Any person convicted of a felony under this section shall be suspended from registration under this chapter and shall be denied registration or reregistration for five years or such longer period as the Commission may determine, and barred from using, or participating in any manner in, any market regulated by the Commission for five years or such longer period as the Commission shall determine, on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof.

(c) Transactions by Commissioners and Commission employees prohibited
It shall be a felony punishable by a fine of not more than $500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any Commissioner of the Commission or any employee or agent thereof, to participate, directly or indirectly, in any transaction in commodity futures or any transaction of the character of or which is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", or in any transaction for the delivery of any commodity 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, or is marketed or managed in substantially the same manner as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.

(d) Use of information by Commissioners and Commission employees prohibited
It shall be a felony punishable by a fine of not more than $500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution—(1) for any Commissioner of the Commission or any employee or agent thereof who, by virtue of his employment or position, acquires information which may affect or tend to affect the price of any commodity futures or commodity and which information has not been made public to impart such information with intent to assist another person, directly or indirectly, to participate in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", or in any transaction for the delivery of any commodity 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, or is marketed or managed in substantially the same manner as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.

(e) Insider trading prohibited
It shall be a felony punishable by a fine of not more than $500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution—(1) who is an employee, member of the governing board, or member of any committee of a board of trade, registered entity, swap data repository, or registered futures association, in violation of a regulation issued by the Commission, willfully and knowingly to trade for such person’s own account, or for or on behalf of any other account, in contracts for future delivery or options thereon on the basis of any material nonpublic information obtained through special access related to the performance of such person’s official duties as an employee or member, any material nonpublic information obtained through special access related to the performance of such duties; or
(2) willfully and knowingly to trade for such person’s own account, or for or on behalf of any other account, in contracts for future delivery or options thereon on the basis of any material nonpublic information that such person knows was obtained in violation of paragraph (1) from an employee, member of the governing board, or member of any committee of a board of trade, registered entity, or registered futures association.

Such felony shall be punishable by a fine of not more than $500,000, plus the amount of any profits realized from such trading or disclosure made in violation of this subsection, or imprisonment for not more than five years, or both, together with the costs of prosecution.

CODIFICATION


AMENDMENTS

2010—Subsec. (a)(2). Pub. L. 111–203, §741(b)(6)(A)(1), inserted "or of any swap," before "or to corner".


Subsec. (e)(1). Pub. L. 111–203, §741(b)(6)(B), inserted "swap data repository," before "or registered futures association" and "or swaps," before "on the basis".

2008—Subsec. (a). Pub. L. 110–246, §13103(d), inserted introductory provisions, struck out "(or $500,000 in the case of a person who is an individual)" after "$1,000,000" and substituted "30 years" for "five years".

Subsecs. (e), (f). Pub. L. 110–246, §13105(h), redesignated subsec. (f) as (e) and, in par. (1), substituted "or" for period at end.


1992—Subsec. (a). Pub. L. 102–546, §212(a)(1)(A), (C), added subsec. (a) and struck out former subsec. (a) which related to penalty for embezzlement and larcenous actions.

Subsec. (b). Pub. L. 102–546, §212(a)(1)(A), (C), added subsec. (b) and struck out former subsec. (b) which related to penalty for price manipulation, cornering, and fraudulent information.

Subsec. (c). Pub. L. 102–546, §212(a)(1)(A), (B), redesignated subsec. (d) as (c), substituted "$500,000" for "$1,000,000", and struck out former subsec. (c) which related to penalty for misdeemans.

Subsecs. (d) to (f). Pub. L. 102–546, §§212(a)(1)(B), (3), 214(a), redesignated subsec. (e) as (d), substituted "$500,000" for "$100,000", and added subsec. (f).


Pub. L. 99–641, §105, inserted "if nonpublic information is used in the investment transaction, if the investment transaction is prohibited by rule or regulation of the Commission, or if the investment transaction is effected by means of any instrument regulated by the Commission" after "actual commodity", and substituted provisions which related to foregoing prohibitions not being applicable to transactions determined by the Commission not contrary to public interest or inconsistent with this subsection for provisions which read as follows: "Such prohibition against any investment transactions or interests therein shall not apply to (1) a transaction in which such person buys an agricultural commodity or livestock for use in such person's own farming or ranching operations or sells an agricultural commodity which such person has produced in connection with such person's own farming or ranching operations or no to any transaction in which such person sells livestock owned by such person for at least three months, (2) a transaction entered into by the trustee of a trust established by such person in which such person exercises no control if such transaction is entered into to solely hedge against adverse price changes in connection with such farming or ranching operations or is a transaction for the lease of oil or gas or other mineral rights or interests owned by such person, or (3) a transaction in which such person buys or sells, directly or indirectly (except by means of an instrument regulated by the Commission), a United States Government security, a certificate of deposit, or a similar financial instrument if no nonpublic information is used by such person in such transaction. With respect to such excepted transactions, the Commission shall require any Commissioner of the Commission or any employee or agent thereof who participates in any such transaction to notify the Commission thereof in accordance with such regulations as the Commission shall prescribe and the Commission shall make such information available to the public."

1983—Subsec. (a). Pub. L. 97–444, §227(1), expanded applicability to any person registered or required to be registered under this chapter and inserted provision suspending persons convicted under this subsec. from registration and denying reregistration for five years or longer as determined by the Commission, or suspending such suspension or denial is not required to protect the public interest.

Subsec. (b). Pub. L. 97–444, §227(2), inserted "A person convicted of a felony under this subsection shall be suspended from any registration under this chapter, denied registration or reregistration for five years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for five years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof."

Subsec. (c). Pub. L. 97–444, §227(3), inserted "A person convicted under this subsection of knowingly violating the provisions of section 6a of this title shall be suspended from any registration under this chapter, denied registration or reregistration for a period of two years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for two years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof."

Subsec. (d). Pub. L. 97–444, §227(4), in amending subsec. (d), generally added to range of felonious conduct, participation in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leveraged account, or leverage contract, under any contract, account, arrangement, scheme, or device which the Commission determines serves the same function as a margin account, margin contract, leveraged account, or leverage contract, and added to nonapplicability of prohibitions against any investment transaction in an actual commodity, a transaction entered into by the trustee of a trust established by such
person over which such person exercises no control if such transaction is entered into solely to hedge against adverse price changes in connection with such farming or ranching operations or is a transaction for the lease of oil or gas or other mineral rights or interests owned by such person, or a transaction in which such person buys or sells, directly or indirectly (except by means of an instrument regulated by the Commission), a United States Government security, a certificate of deposit, or a similar financial instrument if no nonpublic information is used by such person in such transaction.

Subsec. (e). Pub. L. 97–444, §227(5), inserted after words “‘decline guaranty’” each place they appear the following: “; or in any transaction for the delivery of any commodity 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.”

1978—Subsec. (a). Pub. L. 95–405, §19(1), substituted “$500,000” for “$100,000” and inserted provision relating to a fine of not more than $100,000 plus costs of prosecution for a violation by a person who is an individual.

Subsec. (b). Pub. L. 95–405, §19(2), substituted “$500,000” for “$100,000” and inserted provisions making felonies the violation of sections 6, 6h, 6c(b) to (e), 6h, 6o(1) and 23 of this title, knowingly making any false or misleading statement of material fact, or omitting such fact in any application or report, and setting the fine for such felonies at not more than $100,000 for a person who is an individual.

Subsec. (c). Pub. L. 95–405, §19(3), inserted references to subsections (d) and (e) of this section and substituted “sections 6a, 6c(a), 6d, 6e, 6i, 6k, 6m, 6o(2), or 12b of this title” for “sections 6 to 6e, 6h, 6i, 6k, 6m, 6o or 12b of this title”.

Subsecs. (d), (e), Pub. L. 95–405, §19(4), (5), substituted “$100,000” for “$10,000”.

1974—Subsecs. (a), (b). Pub. L. 93–463, §§212(d)(1), (2), substituted “$100,000” for “$10,000”.

Subsec. (c). Pub. L. 93–463, §§212(d)(3), 409, substituted “$100,000” for “$10,000” and inserted reference to sections 6k, 6m, and 6o of this title.

Subsecs. (d), (e). Pub. L. 93–463, §401, added subsec. (d) and (e).


Subsec. (b). Pub. L. 90–258 incorporated existing offenses in provisions designated as subsec. (b), changed classification thereof from misdemeanors to felonies, and increased term of imprisonment from not more than one year to not more than five years.

Subsec. (c). Pub. L. 90–258 incorporated existing offenses in provisions designated as subsec. (c), and included penalty for violation of section 12b of this title.

1958—Act June 15, 1958, amended section generally and provided that price manipulations of commodities in interstate commerce was a violation.

**Effective Date of 2010 Amendment**

Amendment by Pub. L. 111–233 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 704 of Pub. L. 111–203, set out as a note under section 1a of this title.

**Effective Date of 2008 Amendment**


**Effective Date of 1983 Amendment**


### §13–1. Violations, prohibition against dealings in motion picture box office receipts or onion futures; punishment

(a) No contract for the sale of motion picture box office receipts (or any index, measure, value, or data related to such receipts) or onions for future delivery shall be made on or subject to the rules of any board of trade in the United States. The terms used in this section shall have the same meaning as when used in this chapter.

(b) Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof be fined not more than $5,000.