§ 23. Standardized contracts for certain commodities

(a) Margin accounts or contracts and leverage accounts or contracts prohibited except as authorized

Except as authorized under subsection (b) of this section, no person shall offer to enter into, enter into, or confirm the execution of, 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.

(b) Permission to enter into contracts for delivery of silver or gold bullion, bulk silver or gold coins, or platinum; rules and regulations

(1) Subject to paragraph (2), no person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of silver bullion, gold bullion, bulk silver coins, bulk gold coins, or platinum under a standardized contract described in subsection (a) of this section, contrary to the terms of any rule, regulation, or order that the Commission shall prescribe, which may include terms designed to ensure the financial solvency of the transaction or prevent manipulation or fraud. Such rule, regulation, or order may be made only after notice and opportunity for hearing. The Commission may set different terms and conditions for transactions involving different commodities.

(2) No person may engage in any activity described in paragraph (1) who is not permitted to engage in such activity, by the rules, regulations, and orders of the Commission in effect on November 10, 1986, until the Commission permits such person to engage in such activity in accordance with regulations issued in accordance with subsection (c)(2) of this section.

(c) Survey of persons interested in engaging in transactions of silver and gold, etc.; assistance of futures association; regulations

(1) (A) Not later than 2 years after November 10, 1986, the Commission shall—

(i) with the assistance of a futures association registered under this chapter, conduct a survey concerning the persons interested in engaging in the business of offering to enter into, entering into, or confirming the execution of, the transactions described in subsection (b)(1) of this section; and

(ii) transmit a report of the results of the survey to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(B) Notwithstanding any other provision of law, for purposes of completing such report the Commission may direct, by rule, regulation, or order, a futures association registered under this chapter to render such assistance as the Commission shall specify.

(C) Such report shall include the findings and any recommendations of the Commission concerning—

(i) whether such transactions serve an economic purpose;

(ii) the most efficient manner, consistent with the public interest, to permit additional persons to engage in the business of offering to enter into, entering into, and confirming the execution of such transactions; and

(iii) the appropriate regulatory scheme to govern such transactions to ensure the financial solvency of such transactions and to prevent manipulation or fraud.
(2) The report shall also include Commission regulations governing such transactions. The
regulations shall provide for permitting additional persons to engage in such transactions. The
regulations shall become effective on the expiration of 90 calendar days on which either House of
Congress is in session after the date of the transmittal of the report to Congress. The regulations—

(A) may authorize or require, notwithstanding any other provision of law, a futures
association registered under this chapter to perform such responsibilities in connection with
such transactions as the Commission may specify; and

(B) may require that permission for additional persons to engage in such business be given
on a gradual basis, so as not to place an undue burden on the resources of the Commission.

(d) Savings provision

This section shall not affect any rights or obligations arising out of any transaction subject to this
section, as in effect before November 10, 1986, that was entered into, or the execution of which was
confirmed, before November 10, 1986.

Stat. 3560.)

Prior Provisions

Provisions similar to those appearing in subsec. (b) were formerly contained in section 15a of this title.

Amendments

1986—Subsec. (a). Pub. L. 99–641 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:
“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 of this title prior to October 23, 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.”

Subsec. (b). Pub. L. 99–641 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “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.”

Subsec. (c). Pub. L. 99–641 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The
Commission shall regulate any transactions under a standardized contract described in subsection (a) of this section
involving commodities described in subsection (b) of this section or any other commodities (except those commodities
described in subsection (a) of this section) under such terms and conditions as the Commission shall prescribe by rule,
regulation, or order made only after notice and opportunity for a hearing. The Commission may set different terms
and conditions for such transactions involving different commodities. Notwithstanding any other provision of this
section, the Commission may prohibit any transaction for the delivery of any commodity under a standardized contract
described in subsection (a) of this section that is not permitted by the rules, regulations and orders of the Commission
in effect on December 9, 1982, if the Commission determines that any such transactions would be contrary to the
public interest.”


1983—Subsec. (c). Pub. L. 97–444, § 234(1), substituted “shall regulate” for “may prohibit or regulate” and authorized
Commission prohibition of transactions for delivery of commodities under a standardized contract that was not
permitted by the rules, regulations and orders of the Commission in effect on Dec. 9, 1982, where transactions are
determined to be contrary to the public interest.

Subsec. (d). Pub. L. 97–444, § 234(2), struck out subsec. (d) which provided for regulation of transactions in accordance
with applicable provisions of this chapter where Commission determined the transactions under subsecs. (b) and (c)
of this section were contracts for future delivery within the meaning of this chapter.
Effective Date of 1983 Amendment


Effective Date

Section effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.