

**§11201. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1985, c. 643 (NEW).]

**1. Board of trade.** "Board of trade" means any person or group of persons engaged in buying or selling any commodity or receiving any commodity for sale on consignment, whether that person or group of persons is characterized as a board of trade, exchange or other form of marketplace. [PL 1985, c. 643 (NEW).]

**1-A. Administrator.** "Administrator" means the Securities Administrator. [PL 1989, c. 542, §68 (NEW).]

**2. Commodity.** "Commodity" means, except as otherwise specified by the administrator by rule or order, any agricultural, grain or livestock products or by-products, any metals or minerals, including a precious metal set forth in subsection 12, any gem or gemstone, whether characterized as precious, semiprecious or otherwise, any fuel, whether liquid, gaseous or otherwise, any foreign currency and all other goods, articles, products or items of any kind provided that the term commodity shall not include:

A. A numismatic coin whose fair market value is at least 15% higher than the value of the metal it contains; [PL 1985, c. 643 (NEW).]

B. Real property or any timber, agricultural or livestock product grown or raised on real property and offered or sold by the owner or lessee of the real property; or [PL 1985, c. 643 (NEW).]

C. Any work of art offered or sold by art dealers at public auction or offered or sold through a private sale by the owner. [PL 1985, c. 643 (NEW).]

[PL 1989, c. 542, §69 (AMD).]

**3. Commodity contract.** "Commodity contract" means any account, agreement or contract for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities, whether for immediate or subsequent delivery or whether delivery is intended by the parties, and whether characterized as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures contract, installment or margin contract, leverage contract or otherwise. Any commodity contract offered or sold shall, in the absence of evidence to the contrary, be presumed to be offered or sold for speculation or investment purposes. A commodity contract shall not include any contract or agreement which requires, and under which the purchaser receives, within 28 calendar days from the payment in good funds of any portion of the purchase price, physical delivery of the total amount of each commodity to be purchased under the contract or agreement. [PL 1985, c. 643 (NEW).]

**4. Commodity Exchange Act.** "Commodity Exchange Act" means the Act of Congress known as the "Commodity Exchange Act," as amended to the effective date of this chapter, codified at the United States Code, Title 7, Section 1, et seq., and all subsequent amendments, additions or other revisions to that Act, unless the administrator, within 10 days following the effective date of the amendment, addition or revision, disallows its application to this chapter or to any provision of this chapter by rule, regulation or order. [PL 1989, c. 542, §69 (AMD).]

**5. Commodity Futures Trading Commission.** "Commodity Futures Trading Commission" means the independent regulatory agency established by Congress to administer the Commodity Exchange Act. [PL 1985, c. 643 (NEW).]

**6. Commodity Futures Trading Commission Rule.** "Commodity Futures Trading Commission Rule" means any rule or order of the Commodity Futures Trading Commission in effect on the effective

date of this chapter, and all subsequent amendments, additions or other revisions to any rule or order, unless the administrator, within 10 days following the effective date of any such amendment, addition or revision, disallows the application of any such amendment, addition or revision to this chapter or to any provision by rule or order.

[PL 1989, c. 542, §69 (AMD).]

**7. Commodity merchant.** "Commodity merchant" means any of the following, as defined or described in the Commodity Exchange Act or by Commodity Futures Trading Commission Rule:

- A. Futures commission merchant; [PL 1985, c. 643 (NEW).]
- B. Commodity pool operator; [PL 1985, c. 643 (NEW).]
- C. Commodity trading advisor; [PL 1985, c. 643 (NEW).]
- D. Introducing broker; [PL 1985, c. 643 (NEW).]
- E. Leverage transaction merchant; [PL 1985, c. 643 (NEW).]
- F. An associated person of any of the persons set out in paragraphs A to E; [PL 1985, c. 643 (NEW).]
- G. Floor broker; and [PL 1985, c. 643 (NEW).]
- H. Any other person, other than a futures association, required to register with the Commodity Futures Trading Commission. [PL 1985, c. 643 (NEW).]

[PL 1985, c. 643 (NEW).]

**8. Commodity option.** "Commodity option" means any account, agreement or contract giving a party to the account, agreement or contract the right, but not the obligation, to purchase or sell one or more commodities or one or more commodity contracts, or both, whether characterized as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, decline guaranty or otherwise, but shall not include an option traded on a national securities exchange registered with the United States Securities and Exchange Commission.

[PL 1985, c. 643 (NEW).]

**9. Financial institution.** "Financial institution" means a bank, savings institution or trust company organized under, or supervised pursuant to, the laws of the United States or of any state.

[PL 1985, c. 643 (NEW).]

**10. Offer or offer to sell.** "Offer" or "offer to sell" includes every offer to sell, offer to purchase or offer to enter into a commodity contract or commodity option.

[PL 1985, c. 643 (NEW).]

**11. Person.** "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government or a political subdivision of a government, but does not include, a contract market designated by the Commodity Futures Trading Commission or any clearinghouse of the Commodity Futures Trading Commission or a national securities exchange registered with the United States Securities and Exchange Commission, or any employee, officer or director of such contract market, clearinghouse or exchange acting solely in that capacity.

[PL 1985, c. 643 (NEW).]

**12. Precious metal.** "Precious metal" means the following in either coin, bullion or other form:

- A. Silver; [PL 1985, c. 643 (NEW).]
- B. Gold; [PL 1985, c. 643 (NEW).]
- C. Platinum; [PL 1985, c. 643 (NEW).]
- D. Palladium; [PL 1985, c. 643 (NEW).]

E. Copper; and [PL 1985, c. 643 (NEW).]

F. Such other items as the administrator may specify by rule or order. [PL 1989, c. 542, §70 (AMD).]

[PL 1989, c. 542, §70 (AMD).]

**13. Sale or sell.** "Sale" or "sell" includes every sale, contract of sale, contract to sell or disposition, for value.

[PL 1985, c. 643 (NEW).]

**14. Superintendent.**

[PL 1989, c. 542, §71 (RP).]

#### SECTION HISTORY

PL 1985, c. 643 (NEW). PL 1989, c. 542, §§68-71 (AMD).

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