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THE STATUTES OF THE REPUBLIC OF SINGAPORE

**COMMODITY FUTURES ACT
(CHAPTER 48A)**

**Act
17 of 1992**

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Commodity Futures Act

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Interpretation.
3. Application.

PART II

COMMODITY FUTURES EXCHANGE AND CLEARING HOUSE

4. Establishment of commodities futures markets.
5. Power of Board to approve Commodity Futures Exchange.
6. Business rules.
7. Revocation of approval.
8. Establishment of clearing house.
9. Power of Board to approve clearing house.
10. Appeal to Minister.
11. Liabilities of Commodity Futures Exchange and clearing house.

PART III

LICENCES

12. Commodity futures broker's licence.
13. Other licences.
14. Power of Board to grant licences and impose conditions or restrictions.
15. Grounds for refusal to grant or renew licences.
16. Regulations relating to licences.
17. False statements.
18. Revocation of licence.
19. Powers of Board in cases of misconduct, etc.
20. Effect of revocation or suspension of licence.
21. Appeal against refusal to license, etc.

PART IV

ACCOUNTS AND AUDIT

Section

22. Accounts to be kept by commodity futures brokers.
23. Power of Board to appoint auditor.
24. Power of auditors appointed by Board.
25. Offence to destroy, alter, etc., records.
26. Restriction on auditor's and employee's right to communicate certain matters.
27. Maintenance of books and records and furnishing accounts, etc., by futures trading adviser and futures pool operator.
28. Additional powers of Board in respect of auditors.
29. Defamation.

PART V

CONDUCT OF COMMODITY FUTURES BUSINESS

30. Segregation of customer's funds by futures broker.
31. Nature of pool and segregation of funds by futures pool operator, etc.
32. Risk disclosure by futures broker, futures pool operator and futures trading adviser.
33. Offences.

PART VI

POWERS OF BOARD

34. Emergency powers.
35. Fixing of position and trading limits in futures contracts.
36. Production of records, etc., by Commodity Futures Exchange, clearing house, futures broker, etc.
37. Records of transactions on Commodity Futures Exchange or clearing house.
38. Information to be provided by market participants.
39. Review of Commodity Futures Exchanges' disciplinary action.
40. Investigations by Board.
41. Inspections by Board.
42. Power to issue directions.

PART VII

OFFENCES

Section

43. False trading.
44. Bucketing.
45. Dissemination of information about false trading.
46. Manipulation of price of a futures contract and cornering.
47. Employment of fraudulent or deceptive devices, etc.
48. Fraudulently inducing trading in futures contracts.
49. Penalties.
50. Convicted persons liable to pay compensation.

PART VIII

MISCELLANEOUS

51. Secrecy.
 52. Offences by directors or managers.
 53. Falsification of records by directors, employees and agents.
 54. False reports to Board or Commodity Futures Exchange.
 55. Immunity of Board and its employees, etc.
 56. Offences by corporations.
 57. Prohibition of use of certain titles.
 58. Proceedings by whom and when to be taken and power to compound offences.
 59. Jurisdiction of District Court.
 60. General penalty.
 61. Exemption.
 62. Commodity futures contracts not gaming or wagering contracts.
 63. Regulations.
 64. Directions by Minister.
 65. Validation of acts done in anticipation of this Act and grace period for licensing.
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An Act for the regulation of trading in certain commodity futures, and for matters connected therewith.

[27th May 1992]

PART I

PRELIMINARY

- Short title. **1.** This Act may be cited as the Commodity Futures Act.
- Interpretation. **2.** In this Act, unless the context otherwise requires —
- Cap. 50. “auditor” means an approved company auditor as defined in section 4 of the Companies Act;
- Cap. 330. “Board” means the Trade Development Board established under the Trade Development Board Act;
- “business rules”, in relation to a body corporate that maintains or proposes to maintain a commodity futures market, means the rules, regulations and by-laws, by whatever name called, governing the activities and conduct of —
- (a) the body corporate and its members;
- (b) its clearing house; and
- (c) other persons in relation to the commodity futures market,
- whether those rules, regulations or by-laws are made by the body corporate or are contained in the Memorandum and Articles of Association of the body corporate or altered or supplemented by the Board;
- “clearing house”, in relation to a commodity futures market, means a body corporate, or an association or organisation forming part of a Commodity Futures Exchange, that —
- (a) clears and settles commodity futures contracts; and
- (b) makes adjustments to the contractual obligations arising out of those commodity futures contracts;
- “commodity” means rubber and such other produce, items, goods and articles which are the subject of commodity futures contracts, as the Board may by

order prescribe, and includes indices, rights and interests in such commodity;

“commodity floor broker” means an individual who is employed by, or acts for, a commodity futures broker for the purpose of entering into contracts on the floor of a Commodity Futures Exchange on behalf of the commodity futures broker;

“commodity futures broker” means a person whether as principal or agent who carries on the business of soliciting, or accepting orders, for the purchase or sale of any commodity under a commodity futures contract on any Commodity Futures Exchange or commodity futures market and who, in connection therewith, accepts any money, securities or property (or extends credit in lieu thereof) to margin, guarantee or secure any trades or contracts that may result therefrom whether or not the business is part of, or is carried on in conjunction with, any other business;

“commodity futures broker’s representative” means a person who acts for, or by arrangement with, a commodity futures broker (other than a commodity floor broker or a person who is a director of a corporation holding a commodity futures broker’s licence or is a person who is in the direct employment of a commodity futures broker) who performs any of the functions of that commodity futures broker in connection with trading in commodity futures contracts, whether his remuneration is by way of commission or otherwise;

“commodity futures contract” means a contract the effect of which is that —

(a) one party agrees to deliver a specified commodity, or a specified quantity of a specified commodity, to another party at a specified future time and at a specified price payable at that time pursuant to terms and conditions set forth in the business rules or practices of a Commodity Futures Exchange or commodity futures market; or

(b) the parties will discharge their obligations under the contract by settling the

difference between the value of a specified quantity of a specified commodity at the time of the making of the contract and at a specified future time, such difference being determined in accordance with the business rules or practices of the Commodity Futures Exchange or commodity futures market at which the contract is made,

and includes a commodity futures option transaction;

“Commodity Futures Exchange” means a body corporate —

- (a) that provides or proposes to provide the physical facilities necessary for trading in commodity futures contracts; and
- (b) that maintains or proposes to maintain a commodity futures market that is approved by the Board;

“commodity futures market” means a market, Commodity Futures Exchange or other place at which commodity futures contracts are regularly made whether that commodity futures market, Commodity Futures Exchange or place is in or outside Singapore;

“commodity futures option transaction” means a transaction in relation to a commodity futures contract which gives a person a right, acquired for a consideration, to buy or sell a specified amount of a commodity at a specified price within a specified period of time and includes any other option of which the subject is a commodity futures contract;

“commodity futures pool operator” means any person who carries on a business in the nature of a unit trust or other interest to which Division 6 of Part IV of the Companies Act applies and who, in connection therewith, accepts or receives from other persons funds, security or property, either directly or through capital contributions, the sale of shares or other forms of security or otherwise for the purpose of trading in a commodity futures contract but does not include such persons as the Board may by regulations prescribe;

“commodity futures pool operator’s representative” means a person in the direct employment of, or acting for, or by arrangement with, a commodity futures pool operator, who performs for that commodity futures pool operator any of the functions of a commodity futures pool operator;

“commodity futures trading adviser” means any person who carries on the business of advising others, directly or indirectly, through publications or writings, or by whatever means or media advises others concerning commodity futures contracts, including the advisability of trading in any commodity futures contract made or to be made on, or subject to the business rules of, a commodity futures market or who as part of a regular business issues or promulgates analyses or reports concerning futures trading but does not include —

- (a) a bank that is licensed under the Banking Act Cap. 19. or a merchant bank approved by the Monetary Authority of Singapore under the Monetary Authority of Singapore Act; Cap. 186.
- (b) a commodity futures broker, commodity futures broker’s representative, commodity futures pool operator or commodity futures pool’s representative;
- (c) a person who carries on the business of printing or publishing a newspaper and is the holder of a permit issued under the Newspaper and Printing Presses Act where — Cap. 206.
 - (i) in so far as the newspaper is distributed generally to the public it is distributed only to subscribers to, and purchasers of, the newspaper for value;
 - (ii) the advice is given or the analyses or reports are issued or promulgated only through that newspaper; and
 - (iii) that person receives no commission or other consideration for giving the advice or for issuing or promulgating the analyses or reports; and

(d) such other persons as the Board may by regulations prescribe,

so long as the carrying on of the business by the abovementioned persons is solely incidental to the carrying on of their business;

“commodity futures trading adviser’s representative” means a person in the direct employment of, or acting for, or by arrangement with, a commodity futures trading adviser, who performs for that commodity futures trading adviser any of the functions of a commodity futures trading adviser (other than work ordinarily performed by accountants, clerks or cashiers) whether his remuneration is by way of salary, wages, commission or otherwise; and, where the commodity futures trading adviser is a corporation, includes any director, member or officer of the corporation who is not the holder of a commodity futures trading adviser’s licence and who performs for that corporation any of the functions of a commodity futures trading adviser (whether or not his remuneration is by way of salary, wages, commission or otherwise);

Cap. 50.

“corporation” has the same meaning as in the Companies Act;

“customer” means a person on whose account a commodity futures broker carries on trading in commodity futures contracts;

“director” has the same meaning as in the Companies Act;

“financial year” has the same meaning as in the Companies Act;

“member” means a person who holds a membership of any class or description of a Commodity Futures Exchange whether or not he holds any share in the share capital of that Commodity Futures Exchange;

“officer” has the meaning as in the Companies Act;

“trading in commodity futures contracts”, in relation to any person, whether acting as principal or agent, means —

(a) making or offering to make an agreement with any other person or inducing or attempting to induce any other person to

- enter into an agreement for the purchase or sale of a commodity futures contract; or
- (b) soliciting or accepting any order for, or otherwise dealing in, a commodity futures contract.

3.—(1) This Act shall not apply to —

Application.

- (a) a futures market established and maintained by the Singapore International Monetary Exchange Ltd or the clearing house of that futures market;
- (b) a futures market of a Futures Exchange approved by the Monetary Authority of Singapore under section 4 of the Futures Trading Act;
- (c) a body corporate approved as a clearing house by the Monetary Authority of Singapore under section 8 of the Futures Trading Act;
- (d) the holder of a licence issued under the Futures Trading Act and acting lawfully under that Act; and
- (e) any trading of futures contracts lawfully carried out under the Futures Trading Act.

Cap. 116.

(2) The Futures Trading Act shall not apply to —

- (a) a futures market of a Commodity Futures Exchange approved by the Board under section 5;
- (b) a body corporate approved as a clearing house by the Board under section 9;
- (c) the holder of a licence issued under this Act and acting lawfully under this Act; and
- (d) any trading of commodity futures contracts lawfully carried out under this Act.

PART II

COMMODITY FUTURES EXCHANGE AND CLEARING HOUSE

- 4.—(1) No person shall establish or maintain or assist in establishing or maintaining or hold himself out as providing or maintaining a commodity futures market in Singapore

Establishment of commodities futures markets.

that is not the commodity futures market of a Commodity Futures Exchange that has been approved by the Board under section 5 (2).

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 3 years or to both.

Power of Board to approve Commodity Futures Exchange.

5.—(1) A body corporate may apply to the Board for approval as a Commodity Futures Exchange in such form and manner as may be prescribed and the body corporate shall, in connection with that application, provide such information as the Board may require.

(2) The Board may, in writing, approve a body corporate as a Commodity Futures Exchange if it is satisfied that —

- (a) the business rules of the body corporate make satisfactory provision for the matters referred to in section 6;
- (b) the interests of the public will be served by granting the application.

(3) The Board shall not refuse to approve a body corporate as a Commodity Futures Exchange under this section without giving the applicant an opportunity of being heard.

Business rules.

6.—(1) The business rules of every body corporate which has applied for approval or which has been approved as a Commodity Futures Exchange under section 5 shall make satisfactory provision —

- (a) for the exclusion from membership of persons who are not of good character and high business integrity;
- (b) for the expulsion, suspension or disciplining of members for conduct inconsistent with just and equitable principles in the transaction of business, or for a contravention of the business rules of the proposed Commodity Futures Exchange;
- (c) with respect to the terms and conditions under which commodity futures contracts may be made in the commodity futures market of the proposed Commodity Futures Exchange, or with respect to

the classes of commodity futures contracts that may be made by members;

- (d) with respect to the clearing and other arrangements made and the financial condition of the Commodity Futures Exchange, its clearing house and its members are such as to provide reasonable assurance that all obligations arising out of commodity futures contracts entered into on that Commodity Futures Exchange will be met;
- (e) that trading practices are fair and properly supervised;
- (f) that adequate measures have been taken to prevent manipulation and excessive speculation;
- (g) that adequate provision has been made to record and publish details of trading;
- (h) with respect to the establishment of a Compensation Fund, or any other scheme or system accepted by the Board, which would compensate customers who suffer pecuniary loss through the defalcation of a member, or any of its directors or employees, in respect of any money or other property that was entrusted to or received by a member, or a director or employee, for or on behalf of any person or by reason that the member was trustee of the money or other property; and
- (i) generally for carrying on the business of the proposed Commodity Futures Exchange with due regard to the interests and protection of the public.

(2) The Board may, with the approval of the Minister, by regulations prescribe the manner, form and procedure for the making of business rules of a Commodity Futures Exchange or clearing house and any amendment thereof; and those regulations may make provision for the Board to disallow the whole or part of any rule or any amendment thereto as it thinks fit.

7.—(1) The Board may revoke any approval granted under section 5 if —

Revocation
of approval.

- (a) the body corporate ceases to operate as a Commodity Futures Exchange;
- (b) the body corporate is being wound up;
- (c) the body corporate is operating in a manner detrimental to the public interest; or
- (d) any information provided to the Board under section 5 (1) was false or misleading in a material particular.

(2) For the purposes of subsection (1) (a), a body corporate shall be deemed to have ceased to operate as a Commodity Futures Exchange if it has ceased to operate for more than 30 days unless it has obtained the approval of the Board to do so, or unless it has ceased to operate by virtue of any direction issued by the Board under section 34 (1) (a).

Establishment of clearing house.

8.—(1) No person shall establish, maintain or provide or assist in establishing, maintaining or providing, or hold himself out as maintaining or providing a clearing house for a commodity futures market of a Commodity Futures Exchange unless the person is a body corporate approved as a clearing house under section 9.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 3 years or to both.

Power of Board to approve clearing house.

9.—(1) A body corporate may apply to the Board for approval as a clearing house in such form and manner as may be prescribed and the body corporate shall, in connection with that application, provide such information as the Board may require.

(2) The Board may in writing approve a body corporate as a clearing house if it is satisfied that —

- (a) the business rules of the body corporate make satisfactory provision relating to the registration of, and guaranteeing to its members of the performance of, commodity futures contracts made in a commodity futures market; and
- (b) the interests of the public will be served by granting the application.

10. Any person who is aggrieved by the decision of the Board made under section 5, 7 or 9 may, within 30 days of the decision, appeal to the Minister whose decision shall be final.

Appeal to
Minister.

11.—(1) Any person, who is aggrieved by the failure of a Commodity Futures Exchange or a clearing house or any of the directors or employees of the Commodity Futures Exchange or clearing house to enforce its business rules or in enforcing those business rules contravenes this Act or any regulations made thereunder, has a right of action in damages for the actual amount of damages suffered by that person in any transaction that he has entered into on or subject to the business rules of a commodity futures market that is directly attributable to the failure to enforce, or in the enforcement of the business rules, in contravention of this Act or any regulations made thereunder.

Liabilities of
Commodity
Futures
Exchange
and clearing
house.

(2) No action for damages shall lie against a Commodity Futures Exchange or a clearing house, or any of its directors or employees under subsection (1) unless the aggrieved person can show that, in failing to take action or in taking such action as was taken resulting in loss to him, the Commodity Futures Exchange or the clearing house, or any of the directors or employees, acted in bad faith.

(3) The right of action conferred by this section shall be the exclusive remedy available to any person who suffers loss as a result of an alleged failure of a Commodity Futures Exchange or a clearing house, or any of its directors or employees, to enforce its business rules, or in enforcing those business rules, has contravened this Act or any regulations made thereunder.

PART III

LICENCES

12.—(1) No person, whether as principal or agent, shall —

Commodity
futures
broker's
licence.

(a) carry on business as a commodity futures broker;
or

(b) hold himself out as carrying on such a business,
unless such person —

- (i) is licensed as a commodity futures broker under this Act; and
- (ii) trades in accordance with the business rules and practices of a Commodity Futures Exchange or commodity futures market on which the trading takes place.

(2) Subsection (1) shall not apply to a person who is a commodity floor broker.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 3 years or to both.

Other
licences.

13.—(1) No person shall act as, or hold himself out as —

- (a) a commodity futures broker's representative;
- (b) a commodity futures trading adviser;
- (c) a commodity futures trading adviser's representative;
- (d) a commodity futures pool operator; or
- (e) a commodity futures pool operator's representative,

unless he is the holder of a licence granted under this Part that authorises him to act as such.

(2) The holder of a commodity futures broker's licence shall not be required to hold a commodity futures trading adviser's licence.

(3) A commodity futures broker's licence and a commodity futures pool operator's licence shall only be granted to a corporation.

(4) A commodity futures trading adviser's licence may be granted to an individual or a corporation.

(5) A commodity futures broker's representative's licence, a commodity futures trading adviser's representative's licence and a commodity futures pool operator's representative's licence shall only be granted to an individual.

(6) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction —

- (a) for an offence under subsection (1) (b) or (d) to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 3 years or to both;
- (b) for an offence under subsection (1) (a), (c) or (e) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year or to both.

14. The Board may grant or renew a licence under this Part subject to such conditions or restrictions as it thinks fit and the licence shall, unless renewed, be in force for a period of one year, with effect from the date of its issue.

Power of Board to grant licences and impose conditions or restrictions.

15.—(1) Where an applicant is an individual, the Board may refuse to grant or renew a licence under this Part on the ground that —

Grounds for refusal to grant or renew licences.

- (a) the applicant has not provided the Board with such information relating to him or any person employed by or associated with him for the purposes of his business, and to any circumstances likely to affect his method of conducting business, as may be prescribed under this Act;
- (b) the applicant is an undischarged bankrupt or has committed an act of bankruptcy within the meaning of the Bankruptcy Act or has made a composition or arrangement with his creditors;
- (c) it appears to the Board that, by reason of the applicant, or any person employed by or associated with him for the purposes of his business, having been convicted, whether in Singapore or elsewhere, of an offence the conviction for which involved a finding that he acted fraudulently or dishonestly, or having been convicted of an offence under this Act, or having committed a breach of any regulations made under this Act relating to licensed persons, the applicant is not a fit and proper person to be licensed; or
- (d) it appears to the Board that, by reason of any other circumstances whatsoever which either are likely to lead to the improper conduct of business by, or reflect discredit on the method of conducting

Cap. 20.

the business of, the applicant or any person employed by or associated with him for the purpose of his business, the applicant is not a fit and proper person to be licensed.

(2) Where an applicant is a corporation, the Board may refuse to grant or renew a licence on the ground that —

- (a) the applicant has not provided the Board with such information relating to it or any person employed by or associated with it for the purposes of its business, and to any circumstances likely to affect its method of conducting business, as may be prescribed under this Act;
- (b) the applicant has at any time prior to the application entered into any composition or arrangement with its creditors;
- (c) it appears to the Board that, by reason of the applicant, or any of its directors or employees, having been convicted, whether in Singapore or elsewhere, of an offence the conviction for which involved a finding that it or he acted fraudulently or dishonestly, or having been convicted of an offence under this Act, or having committed a breach of any regulations made under this Act relating to licensed persons, the applicant is not a fit and proper person to be licensed; or
- (d) it appears to the Board that, by reason of any other circumstances whatsoever which either are likely to lead to the improper conduct of business by, or reflect discredit on the method of conducting the business of, the applicant or any of its directors or employees, the applicant is not a fit and proper person to be licensed.

(3) Notwithstanding anything in this Part, the Board may refuse to grant or renew a licence under this Part where the applicant fails to meet such minimum financial requirements as are prescribed by the Board or provided in such business rules of a Commodity Futures Exchange as have been approved by the Board.

16. The Board may, with the approval of the Minister, make regulations —

- (a) for the form and manner in which an application for a licence or for the renewal of a licence under this Part shall be made;
- (b) prescribing fees payable to the Board in respect of such licences;
- (c) requiring such information as it considers necessary in relation to the application;
- (d) for the imposition of any conditions or restrictions as it thinks fit;
- (e) prescribing the appropriate standards with respect to the qualifications, experience and training of applicants for licences under this Part;
- (f) for establishing and maintaining a register of licensed persons; and
- (g) for requiring the holder of a licence under this Part to notify the Board of such change of particulars and information as may be prescribed.

17. A person who, in connection with an application for a licence or for the renewal of a licence, wilfully makes a statement which is false or misleading in a material particular, knowing it to be false or misleading, or wilfully omits to state any matter or thing without which the application is misleading in a material respect, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year or to both.

False
statements

18.—(1) A licence shall be deemed to be revoked, in the case of —

Revocation
of licence.

- (a) an individual, if the individual dies;
- (b) a corporation, if the corporation is wound up.

(2) Where a licensed person is an individual, the Board may revoke a licence —

- (a) on any ground on which the Board may refuse to license under section 15 (1) or (3);
- (b) if a levy of execution in respect of him has not been satisfied;

- (c) if he fails or ceases to carry on business for which he was licensed;
- (d) if, in the case of a representative, the licence of the commodity futures broker, commodity futures trading adviser or commodity futures pool operator, in relation to whom the licence was granted, is revoked;
- (e) if the Board has reason to believe that the licensed person has not performed his duties efficiently, honestly or fairly; or
- (f) if the licensed person contravenes or fails to comply with any of the conditions or restrictions applicable in respect of the licence.

(3) Where a licensed person is a corporation, the Board may revoke a licence —

- (a) on any ground on which the Board may refuse to grant a licence under section 15 (2) or (3);
- (b) if it is being or will be wound up;
- (c) if a levy of execution in respect of it has not been satisfied;
- (d) if it has entered into any composition or arrangement with its creditors;
- (e) if it fails or ceases to carry on business for which it was licensed;
- (f) if the Board has reason to believe that the licensed person, or any of its directors or employees, has not performed his duties efficiently, honestly or fairly; or
- (g) if the licensed person contravenes or fails to comply with any of the conditions or restrictions applicable in respect of the licence.

(4) The Board may revoke the licence of a person at the request of that person.

(5) The Board shall not revoke a licence under subsection (2) or (3) without first giving such person an opportunity of being heard.

19.—(1) The Board may inquire into any allegation that a licensed person is or has been guilty of any misconduct or is no longer a fit and proper person to continue to remain licensed by reason of any other circumstances which have led, or are likely to lead, to the improper conduct of business by him or to reflect discredit on the method of conducting his business.

Powers of Board in cases of misconduct, etc.

(2) If, after inquiring into an allegation under subsection (1) against a licensed person, the Board is of the opinion that the allegation is proved, the Board may if it thinks fit —

- (a) revoke the licence of the person;
- (b) suspend the licence of the person for such period, or until the happening of such event, as the Board may determine; or
- (c) reprimand the person.

(3) The Board shall, at the hearing of an inquiry into an allegation under subsection (1) against a licensed person, give the person an opportunity of being heard.

(4) Where the Board is satisfied, after making an inquiry into an allegation under subsection (1), that the allegation has been made in bad faith or that it is otherwise frivolous or vexatious, it may, by order in writing, require the person who made the allegation to pay any costs and expenses involved in the inquiry.

(5) For the purposes of this section, “misconduct” means —

- (a) any failure to comply with the requirements of this Act or any regulations made thereunder with respect to licensed persons; and
- (b) any act or omission relating to the conduct of business of a licensed person which is or is likely to be prejudicial to the public interest.

20.—(1) A person whose licence is revoked under section 18 or revoked or suspended under section 19 shall, for the purposes of this Part, be deemed not to be licensed from the date that the Board revokes or suspends the licence, as the case may be.

Effect of revocation or suspension of licence.

(2) A revocation or suspension of a licence of a person shall not operate so as to —

- (a) avoid or affect any agreement, transaction or arrangement relating to the trading in commodity futures contracts entered into by such person, whether the agreement, transaction or arrangement was entered into before or after the revocation or suspension of the licence; or
- (b) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

Appeal
against
refusal to
license, etc.

21. Where —

- (a) the Board refuses to grant or renew a licence under section 15;
- (b) the Board revokes a licence under section 18; or
- (c) the licence is revoked or suspended, or a licensed person is reprimanded, under section 19,

any person who is aggrieved by the decision of the Board may, within one month after he is notified of the decision, appeal to the Minister whose decision shall be final.

PART IV

ACCOUNTS AND AUDIT

Accounts to
be kept by
commodity
futures
brokers.

22.—(1) The Board may, with the approval of the Minister, make regulations to provide for the keeping by commodity futures brokers of such accounting and other records as may be prescribed.

(2) Without prejudice to the generality of subsection (1), such regulations may in particular provide —

- (a) for the particulars to be shown or recorded in such accounts or records;
- (b) for the keeping of separate or segregated accounts;
- (c) for the period during which such accounts or records are required to be kept;
- (d) for the form and manner in which such accounts or records are to be kept;

- (e) for the appointment of an auditor by every commodity futures broker and for the duties of such auditor, including the duty to report to the Board any matter adversely affecting the financial position of the broker and such other matters in such circumstances as may be prescribed;
- (f) for the information to be contained in the auditor's reports;
- (g) for the remuneration of an auditor appointed under this Act and for the costs of an audit carried out under this Act;
- (h) for the lodging of annual accounts and the auditor's report with the Board in such manner and form and within such time as may be prescribed; and
- (i) that a contravention thereof shall be punishable with a fine not exceeding \$10,000 or with imprisonment for a term not exceeding one year or with both.

23.—(1) Where —

- (a) a commodity futures broker fails to lodge an auditor's report as is required under regulations made pursuant to section 22 (2) (h); or
- (b) the Board receives an auditor's report on any matter adversely affecting the financial position of the broker or such other matter as the auditor is required to report under regulations made pursuant to section 22 (2) (e),

Power of Board to appoint auditor.

the Board may, without prejudice to its powers under section 28, if it is satisfied that it is in the interests of the commodity futures broker, futures broker's customers or the general public to do so, appoint in writing an auditor to examine and audit, either generally or in relation to any particular matter, the books, accounts and records of the futures broker.

(2) Where the Board is of the opinion that the whole or any part of the costs and expenses of an auditor appointed by it under subsection (1) should be borne by the commodity futures broker, the Board may, by order in writing, direct the commodity futures broker to pay a specified

amount, being the whole or part of such costs and expenses, within the time and in the manner specified in the order.

(3) Where a commodity futures broker fails to comply with an order under subsection (2), the amount specified in the order may be sued for and recovered by the Board as a debt due to the Board.

(4) An auditor appointed under this section shall, on the conclusion of the examination and audit, make a report thereon to the Board.

Power of
auditors
appointed by
Board.

24.—(1) An auditor appointed under section 23 to examine and audit the books, accounts and records of a commodity futures broker may, for the purpose of carrying out the examination and audit —

- (a) examine on oath any of the commodity futures broker's directors, employees and agents and any other auditor appointed under this Act in relation to those books, accounts and records;
- (b) require any of the commodity futures broker's directors, employees and agents, to produce any books, accounts and records held by or on behalf of the commodity futures broker relating to his business and make copies of or take accounts and records for such period as is necessary to enable them to be inspected;
- (c) require an auditor appointed by the commodity futures broker to produce any books, accounts and records held by him relating to the business of the commodity futures broker;
- (d) require a Commodity Futures Exchange or a clearing house to produce any books, accounts and records kept by it relating to the business of the commodity futures broker;
- (e) require a Commodity Futures Exchange or a clearing house to provide any information in its possession relating to the business of the commodity futures broker;
- (f) employ such persons as he considers necessary to assist him in carrying out the examination and audit; and

(g) by instrument in writing under his hand, authorise any person employed by him to do, in relation to the examination and audit, any act or thing that he could do himself as an auditor, except the examination of any person on oath, under this subsection.

(2) Any person who, without reasonable excuse, refuses or fails to answer any question put to him, or fails to comply with any request made to him, by an auditor appointed under section 23, or a person authorised under subsection (1) (g), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year or to both.

(3) If a Commodity Futures Exchange or a clearing house, without reasonable excuse, fails to comply with any request made to it by an auditor appointed under section 28, or a person authorised under subsection (1) (g), that Exchange or the clearing house shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000.

25.—(1) Any person who, with intent to prevent, delay or obstruct the carrying out of any examination and audit under this Part —

Offence to destroy, alter, etc., records.

(a) destroys, conceals or alters any book, account or record relating to the business of a commodity futures broker; or

(b) sends, or conspires with any other person to send, out of Singapore any such book, account or record, or any property of any description belonging to or in the possession or under the control of a commodity futures broker,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) If, in a prosecution for an offence under subsection (1), it is proved that the person charged —

(a) destroyed, concealed or altered any book, account or record mentioned in subsection (1) (a); or

- (b) sent, or conspired to send, out of Singapore any such book, account or record, or any property mentioned in subsection (1) (b),

he shall be presumed until the contrary is proved, that in so doing he did not act with intent to prevent, delay or obstruct the carrying out of an examination and audit under this Part.

Restriction on auditor's and employee's right to communicate certain matters.

26. Except as as may be necessary for the carrying into effect of the provisions of this Act or so far as may be required for the purposes of any legal proceedings, whether civil or criminal, an auditor appointed under section 23 or any regulations made pursuant to section 22 and any employee of such auditor shall not divulge any information which may come to his knowledge in the course of performing his duties as such auditor or employee, as the case may be, to any person other than —

- (a) the Board or any person approved or designated by the Board; and
- (b) in the case of an employee, the auditor by whom he is employed.

Maintenance of books and records and furnishing accounts, etc., by futures trading adviser and futures pool operator.

27.—(1) Every commodity futures trading adviser and commodity futures pool operator shall cause to be kept such books and records and file such reports, in such form and manner, as may be prescribed by the Board.

(2) Every commodity futures trading adviser and commodity futures pool operator shall make full and complete disclosure to his subscribers, customers or participants of all open commodity futures market positions taken or held by such adviser or operator on their behalf or if a corporation by any director, manager or employee of the corporation, whether directly or indirectly.

(3) Every commodity futures pool operator shall furnish —

- (a) statements of account, at such periodic intervals, as the Board may prescribe; and
- (b) an annual report, to each participant in his pool operations.

(4) Such statements and annual report shall be in such form and manner as may be prescribed by the Board and shall include complete information as to the current status of all trading accounts in which such participant has an interest.

(5) Any person who, without reasonable excuse, contravenes subsection (1), or who knowingly or recklessly furnishes any information under subsection (2) or (3) which is false or misleading in a material particular, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

(6) The provisions of this Part in relation to the appointment of an auditor whether by the Board or otherwise, the powers and duties of an auditor and the filing of an auditor's report shall apply with the necessary modifications to a Commodity Futures Exchange, a clearing house, a commodity futures trading adviser and a commodity futures pool operator as they apply to a commodity futures broker under this Part.

28.—(1) Notwithstanding the provisions of the Companies Act or anything contained in this Part, the Board may —

- (a) itself appoint an auditor under this Part; and
- (b) impose all or any of the following duties on an auditor of a Commodity Futures Exchange, a clearing house, a commodity futures broker, a commodity futures trading adviser or a commodity futures pool operator, as the case may be:
 - (i) a duty to submit such additional information in relation to his audit as the Board considers necessary;
 - (ii) a duty to enlarge or extend the scope of his audit of the business and affairs of a Commodity Futures Exchange, a clearing house, a commodity futures broker, a commodity futures trading adviser or a commodity futures pool operator;
 - (iii) a duty to carry out any other examination or establish any procedure in any particular case; and

Additional powers of Board in respect of auditors. Cap. 50.

- (iv) a duty to submit a report on any of the matters referred to in sub-paragraphs (ii) and (iii),

and a Commodity Futures Exchange, a clearing house, a commodity futures broker, a commodity futures trading adviser or a commodity futures pool operator, as the case may be, shall remunerate the auditor in respect of the discharge of all or any of the additional duties.

(2) If an auditor in the course of the performance of his duties as an auditor of a Commodity Futures Exchange, a clearing house, a commodity futures broker, a commodity futures trading adviser or a commodity futures pool operator, as the case may be, is satisfied that —

- (a) there has been a serious breach or non-observance of this Act or any regulations made thereunder, or that otherwise a criminal offence involving fraud or dishonesty has been committed;
- (b) serious irregularities have occurred, including irregularities that jeopardise the funds, securities or property of the customers; or
- (c) he is unable to confirm whether claims of creditors are still covered by the assets,

he shall immediately report the matter to the Board.

(3) An auditor appointed under subsection (1) (a) shall have all the powers conferred upon an auditor under section 24.

(4) Where the Board is of the opinion that the whole or any part of the costs and expenses of an auditor appointed under subsection (1) (a) should be borne by a Commodity Futures Exchange, a clearing house, a commodity futures broker, a commodity futures trading adviser or a commodity futures pool operator, as the case may be, the Board may by order in writing direct that the Exchange, clearing house, futures broker, futures trading adviser or futures pool operator, as the case may be, shall pay a specified amount, being the whole or part of the costs and expenses within the time and manner specified in the order.

29.—(1) An auditor shall not, in the absence of malice on his part, be liable to any action for defamation at the suit of any person in respect of — Defamation.

- (a) any statement made orally or in writing in the discharge of his duties; or
- (b) the sending of any report to the Board under any regulations made pursuant to section 22 or 28.

(2) This section does not restrict or affect any right, privilege or immunity that the auditor has, apart from this section, as a defendant in an action for defamation.

PART V

CONDUCT OF COMMODITY FUTURES BUSINESS

30.—(1) The Board may, with the approval of the Minister, make regulations to provide that every commodity futures broker shall treat and deal with all money, securities or property received by him from a customer in such manner and in such separate accounts as may be prescribed. Segregation of customer's funds by futures broker.

(2) Without prejudice to the generality of subsection (1), such regulations may —

- (a) provide for the circumstances in which funds, securities or property received from a customer may be segregated and deposited in the same account;
- (b) provide for the circumstances in and purposes for which funds may be withdrawn from separate trust accounts;
- (c) provide for the exemption by the Board of any commodity futures broker or any class of commodity futures broker or any transaction or class of transaction relating to trading in commodity futures contract from any of the provisions of such regulations; and
- (d) provide that a contravention thereof be punishable with a fine not exceeding \$30,000 or with imprisonment for a term not exceeding 3 years or with both.

(3) Money, securities or property received from a customer and held by a commodity futures broker in a separate trust account under any regulations made pursuant to subsection (1) or (2) shall not be available for payment of the debts of the commodity futures broker to a creditor of the commodity futures broker or be liable to be attached or taken in execution under the order or process of any court at the instance of such creditor unless the creditor is a customer of the commodity futures broker and the debt owed to the creditor was incurred in connection with trading in commodity futures contracts.

(4) Nothing in this section shall take away or affect a lawful claim or lien that a commodity futures broker has against, or on, any money, securities or property held in an account under any regulations made pursuant to subsection (1) or (2).

(5) Nothing in this Act or any written law shall prevent a Commodity Futures Exchange or a clearing house, with the approval of the Board, from using the money, securities or property in a trust account to meet the obligations of a commodity futures broker, being a member of the Exchange or the clearing house, who defaults, if —

- (a) the default of the commodity futures broker is directly attributable to the failure of his customer to meet the obligations under a commodity futures contract; and
- (b) the failure to use the money, securities or property in a trust account might jeopardise the financial integrity of the Exchange or the clearing house.

(6) In this section, “customer” means a person on whose account a commodity futures broker carries on trading in commodity futures contracts but does not include directors, employees and representatives and related corporations of the commodity futures broker.

31.—(1) A commodity futures pool operator shall operate its pool as an entity cognizable as a legal entity, separate from that of the commodity futures pool operator.

(2) All money, securities or other property received by a commodity futures pool operator from existing or

prospective pool participants for the purchase of an interest in a pool shall be received in the pool's name.

(3) No commodity futures pool operator shall commingle the property of any pool that it operates or intends to operate with the property of any other person.

(4) The Board may by regulations provide for the capital, structure, minimum financial requirements, organisation and conduct of a pool operated by a futures pool operator and for the exemption of certain pools from the requirements of this section.

32.—(1) No commodity futures broker shall open a commodity futures contract account for a customer unless he furnishes the customer with a separate written risk disclosure document which shall be in such form and manner as may be prescribed by the Board, and receives from the customer an acknowledgment signed and dated by the customer that he has received and understood the nature and contents of the disclosure document.

Risk disclosure by futures broker, futures pool operator and futures trading adviser.

(2) No commodity futures pool operator shall, directly or indirectly, solicit, accept or receive funds, securities or other property from a prospective participant in a pool that it operates or that it intends to operate unless on or before the date it engages in that activity the futures pool operator delivers or causes to be delivered to the prospective participant a risk disclosure document which shall be in such form and contain such information as the Board may prescribe and receives from the prospective participant an acknowledgment signed and dated by him that he has received and understood the nature and contents of the disclosure document.

(3) No commodity futures trading adviser shall solicit or enter into an agreement with a prospective client for the purpose of managing his commodity futures trading account or guiding the client's commodity futures trading by means of a systematic programme that recommends specific transactions unless the commodity futures trading adviser at or before the time he engages in the solicitation or enters into the agreement (whichever is the earlier) delivers or causes to be delivered to the prospective client a risk disclosure document in respect of those purposes which shall be in such form and contain such information as the Board may

prescribe and receives from the prospective client an acknowledgment signed and dated by him that he has received and understood the nature and contents of the disclosure document.

(4) Except as may be provided by any regulations made under this Act, no commodity futures trading adviser shall solicit, accept or secure from an existing or prospective client money, securities or other property in the commodity futures trading adviser's name to purchase, margin guarantee or secure any interest of the client in a futures contract.

(5) Subsection (4) shall not apply to a commodity futures broker who carries on the business of a commodity futures trading adviser.

Offences.

33. Any person who contravenes or fails to comply with any of the provisions of this Part shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 3 years or to both.

PART VI

POWERS OF BOARD

Emergency powers.

34.—(1) Whenever the Board has reason to believe that an emergency exists, the Board may direct a Commodity Futures Exchange or a clearing house to take such action as it considers necessary to maintain or restore orderly trading in, or liquidation of, any commodity futures contract, or any class of commodity futures contracts including but not limited to —

- (a) terminating or suspending trading on a Commodity Futures Exchange or a clearing house;
- (b) confining trading to liquidation of commodity futures contracts;
- (c) ordering the liquidation of all positions or part thereof or the reduction in such positions;
- (d) limiting trading to a specific price range;
- (e) modifying trading days or hours;
- (f) altering conditions of delivery;

- (g) fixing the settlement price at which contracts are to be liquidated;
- (h) requiring any person to act in a specified manner in relation to trading in commodity futures contracts or any class of commodity futures contracts;
- (i) requiring additional margins for any contracts; and
- (j) modifying or suspending any of the business rules of a Commodity Futures Exchange,

and the Exchange or clearing house shall comply with that direction.

(2) Where a Commodity Futures Exchange or a clearing house fails to comply with the direction of the Board under subsection (1) within such time as is specified by the Board, the Board may itself take action to set emergency margin levels in any commodity futures contract, or class of commodity futures contracts, or to fix limits that may apply to market positions acquired in good faith prior to the date of the Board's action or such other action, including but not limited to those specified in subsection (1), as it thinks are necessary to maintain or restore orderly trading in or liquidation of commodity futures contracts, or any class of commodity futures contracts.

(3) In this section, "emergency" includes, in addition to threatened or actual market manipulations and corners, any act of government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity or any other undesirable situations or practices which in the opinion of the Board constitutes an emergency.

(4) Without prejudice to subsection (1), where a Commodity Futures Exchange or a clearing house exercises its powers under its rules to take emergency action, the Board may modify such emergency action, including but not limited to the setting aside of that emergency action.

(5) Any person who is aggrieved by any action taken by the Board, a Commodity Futures Exchange or a clearing house under this section may appeal to the Minister whose decision shall be final.

(6) Notwithstanding the lodging of an appeal under subsection (5), any emergency action taken by the Board, a Commodity Futures Exchange or a clearing house under this section shall continue to have force and effect until such time as the Minister makes a decision on the appeal.

Fixing of position and trading limits in futures contracts.

35.—(1) For the purpose of diminishing, eliminating or preventing excessive speculation in any commodity under a commodity futures contract, the Board may, by notice in writing, from time to time establish and fix such limits as it considers necessary on the amount of trading which may be done or positions which may be held by any person, generally or specifically, under a commodity futures contract on or subject to the business rules of a commodity futures market.

(2) In determining whether a person has exceeded such limits, the positions held and trading done by any persons, directly or indirectly, controlled by such a person shall be included with the positions held and trading done by that person.

(3) Such limits upon positions and trading shall apply to positions held by, and trading done by, two or more persons acting pursuant to an express or implied agreement or understanding, as if the positions were held by, or the trading done by, a single person.

(4) This section shall not apply to transactions or positions which are bona fide hedging transactions or positions as defined by a commodity futures market in accordance with such regulations as may be prescribed under section 63.

(5) No person shall, directly or indirectly —

(a) buy or sell or agree to buy or sell, a commodity futures contract on or subject to the regulations of the commodity futures market to which the regulations apply, any number of such futures contract in excess of the trading limits fixed for one business day, or other stated period set by the Board or a Commodity Futures Exchange with the approval of the Board; or

(b) hold or control a net buy or sell position under a commodity futures contract on or subject to the business rules of the commodity futures market

in excess of any position limit fixed by the Board or a Commodity Futures Exchange with the approval of the Board with respect to that commodity futures contract.

(6) Nothing in this section shall preclude the Board, or a Commodity Futures Exchange with the approval of the Board, from fixing different trading or position limits for different futures contracts or delivery months or for different days remaining until the last day of trading in a contract or different trading limits for the purposes of subsection (5), or from exempting transactions under this section.

36.—(1) A Commodity Futures Exchange, clearing house, commodity futures broker, commodity futures trading adviser or commodity futures pool operator shall —

Production of records, etc., by Commodity Futures Exchange, clearing house, futures broker, etc.

- (a) produce any books, accounts and records kept by it or him in connection with, or for the purposes of, its or his business, or in respect of any trading in commodity futures contracts;
- (b) collect and furnish any returns; and
- (c) provide any information relating to its or his business, or any trading in commodity futures contracts, or any other specified information,

as the Board may require.

(2) The Board may, on production of any books, accounts or records under subsection (1), take copies of or extracts from them.

(3) If any of the persons or bodies mentioned in subsection (1), without reasonable excuse, fails to comply with any requirement under subsection (1), the person or body concerned shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

37.—(1) Every Commodity Futures Exchange and clearing house shall keep such records as are necessary for the proper recording of each transaction on the Exchange or clearing house and shall supply to any customer of any member of such Exchange or clearing house, upon production of a written confirmation of any transaction with such member, particulars of the approximate time at which the

Records of transactions on Commodity Futures Exchange or clearing house.

transaction took place and verification or otherwise of the matters set forth in the confirmation.

(2) The Board may, at any time, require a Commodity Futures Exchange or a clearing house to deliver to it reports of transactions on the Exchange or clearing house in such form as the Board may prescribe.

Information to be provided by market participants.

38.—(1) Upon a determination by the Board that information concerning accounts may be relevant to determine whether manipulation, corner, squeeze or other market disorders exists in any commodity futures market, the Board may, by notice in writing, require such information as it thinks necessary from any person, including a member of a Commodity Futures Exchange or a clearing house or a commodity futures broker or any customer in the commodity futures market, and the person concerned shall provide the required information within such time as may be specified by the Board.

(2) If the Board has reason to believe that any person has failed to give the information required in the notice, it may without prejudice to any other penalty that may be imposed inform a Commodity Futures Exchange or a clearing house which shall, in the event, prohibit the execution of, or acceptance for orders of, trades on the Exchange or a clearing house and in the months or expiration dates specified in the notice unless such trades offset open contracts of that person.

Review of Commodity Futures Exchanges' disciplinary action.

39.—(1) Where a Commodity Futures Exchange reprimands, fines, suspends, expels or otherwise takes disciplinary action against a member of the Exchange, it shall forthwith inform the Board in writing of the name of the member, the reason for, and nature of, the action taken, the amount of any fine and the period of any suspension.

(2) The Board may review any disciplinary action taken by a Commodity Futures Exchange under subsection (1) and may affirm, modify or set aside the decision of the Exchange after giving the member and the Exchange an opportunity to be heard.

(3) Nothing in this section shall preclude the Board, in any case where a Commodity Futures Exchange fails to act against a member, from itself suspending, expelling or otherwise disciplining a member of the Exchange, but before so

doing the Board shall give the member and the Exchange an opportunity to be heard.

(4) Any person who is aggrieved by the decision of the Exchange or the Board under this section may, within one month after he is notified of the decision, appeal to the Minister whose decision shall be final.

40.—(1) The Board may conduct such investigations as it considers necessary to determine whether any person has contravened or is contravening any of the provisions of this Act.

Investigations
by Board.

(2) For the purpose of subsection (1) the Board may, in writing, require any person named therein to testify or to produce any document or other material relating to any matter under investigation, and such person shall forthwith comply with that requirement.

(3) Nothing in this section shall compel the production by an advocate or solicitor of a document or other material containing a privileged communication made by or to him in that capacity or otherwise the taking of any such document or other material which is in his possession but if the advocate or solicitor refuses to produce the document or other material, he shall nevertheless be obliged to give the name and address of the person (if he knows them) to whom or by or on behalf of whom that communication was made.

(4) The Board may by regulations prescribe the practice and procedure to be followed in any investigation under this section.

(5) Any person who fails without reasonable excuse to comply with any requirement under subsection (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

41.—(1) The Board may, from time to time, inspect under conditions of secrecy, the books, accounts, documents and transactions of a Commodity Futures Exchange, a clearing house, a commodity futures broker, a commodity futures pool operator or a commodity futures trading adviser.

Inspections
by Board.

(2) The Board may appoint any person to exercise the powers of the Board under subsection (1).

(3) For the purpose of an inspection under this section, any of the persons or bodies referred to in subsection (1) under inspection shall afford the Board access to, and shall produce, its books, accounts and documents and shall give such information and facilities as may be required to conduct the inspection.

(4) Any person appointed by the Board shall, at all times, have the power to copy or take possession of the books, accounts and other documents of a Commodity Futures Exchange, a clearing house, a commodity futures broker, a commodity futures pool operator and a commodity futures trading adviser.

(5) Any person who or body which, without reasonable excuse, fails to produce any book, account or document or furnish any information or facilities in accordance with subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

Power to
issue
directions.

42.—(1) Where it appears to the Board that a Commodity Futures Exchange, a clearing house or any person has failed to comply with or is contravening any of the provisions of this Act or any regulations made thereunder, or is restraining trading in commodity futures contracts, the Board may, after giving the Exchange, clearing house or any such person an opportunity of being heard —

- (a) direct the Exchange, clearing house or such person to comply with that provision or to cease contravention of that provision; or
- (b) direct the Exchange, clearing house or such person to desist from restraining trading in futures contracts,

and the Exchange, clearing house or such person shall comply with the direction.

(2) A Commodity Futures Exchange, a clearing house or any person who fails, without reasonable excuse, to comply with a direction given under subsection (1) that is applicable to him shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

(3) A Commodity Futures Exchange, a clearing house or any person aggrieved by any direction given under subsection (1) may, within one month after he is notified of the direction, appeal to the High Court.

(4) Notwithstanding the lodging of an appeal under subsection (3), any direction of the Board given under this section shall continue to have force and effect until such time as the High Court makes a decision on the appeal.

PART VII

OFFENCES

43. No person shall create or cause to be created or do anything that is calculated to create a false or misleading appearance of active trading in a commodity futures market or a false or misleading appearance with respect to the market for, or the price of trading in, commodity futures contracts on a commodity futures market. False trading.

44. No person shall knowingly execute, or hold himself out as having executed, an order for the purchase or sale of a commodity futures contract on a commodity futures market, without having effected a bona fide purchase or sale of the commodity futures contract in accordance with the business rules and practices of the commodity futures market. Bucketing.

45. No person shall circulate, disseminate, authorise, or be concerned in, the circulation or dissemination of, any statement or information to the effect that the price of trading in class of commodity futures contracts will, or is likely to, rise or fall because of the market operations of one or more persons which, to his knowledge, are conducted in contravention of section 43. Dissemination of information about false trading.

46. No person shall, directly or indirectly —

- (a) manipulate or attempt to manipulate the price of a commodity futures contract that may be dealt in on a commodity futures market, or of any commodity which is the subject of such futures contract; or

Manipulation of price of a futures contract and cornering.

- (b) corner, or attempt to corner, any commodity which is the subject of a commodity futures contract.

Employment of fraudulent or deceptive devices, etc.

47. No person shall, directly or indirectly, in connection with any transaction with any other person involving trading in a commodity futures contract —

- (a) employ any device, scheme or artifice to defraud that other person;
- (b) engage in any act, practice or course of business which operates as a fraud or deception, or is likely to operate as a fraud or deception, of that other person; or
- (c) make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made in the light of the circumstances under which they were made, not misleading.

Fraudulently inducing trading in futures contracts.

48. No person shall, directly or indirectly, for the purposes of inducing or attempting to induce another person to trade in a commodity futures contract, or class of commodity futures contracts, make or publish —

- (a) any statement which is, at the time and in the light of the circumstances in which it is made, false, misleading or deceptive with respect to any material fact and which he knows, or has reasonable grounds for believing, is false, misleading or deceptive; or
- (b) any statement which is, by reason of the omission of a material fact, rendered false, misleading or deceptive and which he knows, or has reasonable grounds for believing, is rendered false, misleading or deceptive by reason of the omission of that fact.

Penalties.

49. Any person who contravenes or fails to comply with any of the provisions of this Part shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 7 years or to both.

50.—(1) A person, who contravenes any of the provisions of this Part and has been convicted of an offence in respect of the contravention, shall be liable to pay compensation to any other person who, in trading in commodity futures contracts with the first-mentioned person or a person acting for or on behalf of the first-mentioned person, suffers loss by reason of the difference between the price at which the trading took place and the price at which it would have been likely to have taken place if the contravention had not occurred.

Convicted persons liable to pay compensation.

(2) The amount of compensation for which a person shall be liable under subsection (1) shall be the amount of the loss suffered by the person claiming the compensation.

(3) An action for the recovery of a loss shall not be commenced after the expiration of two years after the date of conviction of the person for an offence in respect of a contravention of a provision of this Part.

(4) Nothing in subsection (1) shall affect any liability that a person may incur under any other written law.

PART VIII

MISCELLANEOUS

51.—(1) Every director, officer or employee of a Commodity Futures Exchange or a clearing house shall preserve, and aid in preserving, secrecy with regard to all matters coming to his knowledge in the exercise or performance of his duties.

Secrecy.

(2) Subsection (1) shall not apply —

- (a) to the disclosure of any information which is authorised by the Board to be disclosed or furnished;
- (b) to the disclosure of information for the purpose of any legal proceeding brought under this Act, or any other written law, for the purpose of any report of any such proceedings, except that in relation to a customer's or commodity futures broker's position such proceedings may, if the court, of its own motion or on the application of a party to the proceedings, so orders, be held in

camera and the information shall be secret as between the court and the parties thereto; or

- (c) to the disclosure of information for such other purposes, or in such other circumstances, as the Board may by regulations prescribe.

(3) Any person who contravenes subsection (1), directly or indirectly, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

Offences by
directors or
managers.

52.—(1) Any person, being a director or manager of a Commodity Futures Exchange, a clearing house, a commodity futures broker, a commodity futures trading adviser or a commodity futures pool operator, who —

- (a) fails to take all reasonable steps to secure compliance with the provisions of this Act; or
- (b) fails to take all reasonable steps to secure the accuracy and correctness of any statement submitted under this Act,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) In any proceedings against a person under subsection (1), it shall be a defence to prove that he had reasonable grounds for believing that another person was charged with the duty of securing compliance with the requirements of this Act, or with the duty of ensuring that those statements were accurate, and that that person was competent, and in a position, to discharge that duty.

(3) A person shall not be sentenced to imprisonment for any offence under subsection (1) unless, in the opinion of the court, he committed the offence wilfully.

Falsification
of records by
directors,
employees
and agents.

53. Any director, manager, trustee, auditor, employee or agent of a Commodity Futures Exchange, of a clearing house, of a commodity futures broker, of a commodity futures trading adviser or of a commodity futures pool operator, who —

- (a) wilfully makes, or causes to be made, a false entry in any book or record or in any report, slip,

document or statement, assets or accounts of that Exchange, clearing house, futures broker, futures trading adviser or futures pool operator;

- (b) wilfully omits to make an entry in any book or record or in any report, slip, document or statement of the business, affairs, transactions, conditions, assets or accounts of that Exchange, clearing house, futures broker, futures trading adviser or futures pool operator, or wilfully causes any such entry to be omitted; or
- (c) wilfully alters, abstracts, conceals or destroys an entry in any book of record or in any report, slip, document or statement of the business, affairs, transactions, conditions, assets or accounts of that Exchange, clearing house, futures broker, futures trading adviser or futures pool operator, or wilfully causes any such entry to be altered, abstracted, concealed or destroyed,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

54. Any person who, with intent to deceive, makes or furnishes, or knowingly and wilfully authorises or permits the making or furnishing of, any false or misleading statement or report to the Board, a Commodity Futures Exchange, a clearing house or any officers thereof relating to —

False reports to Board or Commodity Futures Exchange.

- (a) trading in commodity futures contracts;
- (b) any matter or thing required by the Board for the proper administration of this Act; or
- (c) the enforcement of the business rules of a Commodity Futures Exchange or a clearing house,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

55. No suit or other legal proceedings shall lie against the Board or any officer or employee of the Board or any person (including a Commodity Futures Exchange or a

Immunity of Board and its employees, etc.

clearing house) acting under the direction of the Board for any act done in good faith in the performance, or intended performance, of any duty, or in the exercise of any power under this Act or any regulations made thereunder, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Offences by corporations.

56. Where a corporation is guilty of an offence under this Act, any director, manager, secretary or other officer of the corporation who was, in any way, by act or omission, directly or indirectly, knowingly concerned in, or a party to, the commission of the offence is also guilty of that offence.

Prohibition of use of certain titles.

57.—(1) No person other than a Commodity Futures Exchange or clearing house shall —

(a) take or use the title “Commodity Futures Exchange” or “clearing house”; or

(b) take or use, or have attached to or exhibited at any place, any title which resembles the titles specified in paragraph (a) or so closely resembles such titles as to be calculated to deceive.

(2) A person who is not a commodity futures broker, commodity futures trading adviser or commodity futures pool operator shall not —

(a) take or use the title or description “commodity futures broker”, “commodity futures trading adviser” or “commodity futures pool operator”; or

(b) take or use, or have attached to or exhibited at any place, any title or description that resembles the titles specified in paragraph (a) or so closely resembles such titles as to be calculated to deceive.

(3) Any person who contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine of \$2,000 for every day during which the offence continues after conviction.

(4) Nothing in this section shall operate to prevent any person from —

(a) taking or using the title "Futures Exchange" or "clearing house" in accordance with section 65 of the Futures Trading Act; or

Cap. 116.

(b) taking or using the title or description of "futures broker", "futures trading adviser" or "futures pool operator" in accordance with section 65 of the Futures Trading Act.

(5) Nothing in section 65 of the Futures Trading Act shall operate to prevent any person from —

(a) taking or using the title "Commodity Futures Exchange" or "clearing house" in accordance with subsection (1); or

(b) taking or using the title "commodity futures broker", "commodity futures trading adviser" or "commodity futures pool operator" in accordance with subsection (2).

58.—(1) Proceedings for an offence —

(a) against any provision in Part VII may be taken only with the consent of the Attorney-General; and

(b) against any other provision of this Act may be taken by the Board or, with the consent of the Attorney-General, by any other person.

Proceedings by whom and when to be taken and power to compound offences.

(2) The Board may, without instituting proceedings against any person for an offence under this Act or any regulations made thereunder, which is punishable only by a fine, demand and receive the amount of such fine or such reduced amount as it thinks fit, from such person, whereupon —

(a) if that person pays that amount to the Board within 14 days after the demand, no proceedings shall be taken against him in relation to the offence;

(b) if that person does not pay the amount so demanded, the Board may cause proceedings to be instituted in relation to the offence.

(3) The powers conferred upon the Board under subsection (2) shall only be exercised where a person admits the

offence and agrees in writing to the offence being dealt with under that subsection.

Jurisdiction
of District
Court.

59. Notwithstanding anything in any other written law, a District Court shall have power to try any offence under this Act and to impose the full penalty prescribed therefor.

General
penalty.

60. Any person, who fails to comply with any of the provisions of this Act for which no penalty is expressly provided, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

Exemption.

61. The Board may, with the approval of the Minister, if it considers it to be in the public interest and not inconsistent with the purposes of this Act, exempt any person from all or any of the provisions of this Act and may revoke any such exemption.

Commodity
futures
contracts not
gaming or
wagering
contracts.

62. For the purposes of this Act and any other written law or rule of law, a commodity futures contract made at a commodity futures market shall not be regarded as a contract of gaming or wagering.

Regulations.

63.—(1) The Board may, with the approval of the Minister, make regulations for carrying out the purposes and provisions of this Act and for the due administration thereof.

(2) Without prejudice to the generality of subsection (1), the Board may, with the approval of the Minister, make regulations for or with respect to —

- (a) the activities of, and standards to be maintained by, commodity futures brokers, commodity futures trading advisers and commodity futures pool operators including the manner, method and place of soliciting business by commodity futures broker, commodity futures trading advisers and commodity futures pool operators and the conduct of such solicitation;
- (b) prescribing the conditions for the conduct of business on a Commodity Futures Exchange;

- (c) providing for the content and distribution of written, printed or visual material and advertisements that may be distributed or used by a person in respect of a commodity futures contract;
- (d) prescribing the form and content of a confirmation statement of commodity futures contracts entered into on behalf of customers by a commodity futures broker;
- (e) prescribing the particulars to be recorded in, or in respect of, accounts kept by commodity futures trading advisers and commodity futures pool operators under this Act;
- (f) the design, determination and utilisation by the Board of forms for the purposes of this Act;
- (g) prescribing fees to be paid in respect of any matter or thing required for the purposes of this Act; and
- (h) all matters or things which by this Act are required or permitted to be prescribed or which are necessary or expedient to be prescribed to give effect to this Act.

(3) Such regulations may provide that a contravention of specified provisions thereof shall be an offence and may provide penalties not exceeding a fine of \$5,000 or imprisonment for a term not exceeding 12 months or both.

(4) Any regulations made under this Act may provide that, subject to any terms and conditions prescribed, all or any of the provisions of this Act —

- (a) shall not have effect in relation to any specified person or to any person who is a member of a specified class of persons —
 - (i) who is, or may be, a commodity futures broker, or commodity futures trading adviser, or commodity futures pool operator by reason only of his doing anything which is merely incidental to another business;
 - (ii) who does not trade in commodity futures contracts for or on behalf of any other person; or

(iii) who is a commodity futures broker or commodity futures trading adviser or commodity futures pool operator by reason only of the entering into by him of any specified transaction or class of transactions;

(b) shall not have effect in relation to the representative of any person referred to in paragraph (a); or

(c) shall have effect in relation to any person referred to in paragraph (a) or (b) to such extent as is prescribed.

(5) The Minister may by order published in the *Gazette* amend or repeal any written law which appears to him to be unnecessary having regard to the provisions of this Act or to be inconsistent with any provision of this Act.

Directions by
Minister.

64. The Minister may give to the Board such directions, not inconsistent with the provisions of this Act, as he thinks fit, as to the exercise and performance by the Board of its powers, duties and functions under this Act, and the Board shall give effect to all such directions.

Validation of
acts done in
anticipation
of this Act
and grace
period for
licensing.

65.—(1) All acts and things done by any person in preparation for or in anticipation of this Act and any expenditure incurred in relation thereto shall be deemed to have been authorised under this Act if the acts and things done are not inconsistent with the general intention and purposes of this Act.

(2) Where a person would, but for this subsection, be liable to a penalty for not being licensed under Part III, he shall not be so liable —

(a) until the expiration of a period of 6 months after 27th May 1992; or

(b) where before the expiration of that period he applies to be licensed, until the licence is granted or refused.