

502A.1 Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. “*Administrator*” means the administrator of the securities and regulated industries bureau of the insurance division of the department of commerce.

2. “*Board of trade*” means a person or group of persons engaged in buying or selling any commodity or receiving the same for sale on consignment, whether the person or group of persons is characterized as a board of trade, exchange, or other form of marketplace.

3. “*CFTC rule*” means a regulation or order of the commodity futures trading commission in effect on July 1, 1990, and all subsequent amendments, additions or other revisions to the regulation or order, unless the administrator, within ten days following the effective date of the amendment, addition, or revision, disallows the application to this chapter in whole or in part by rule or order.

4. “*Commodity*” means, except as otherwise specified by the administrator by rule or order: an agricultural, grain, or livestock product or by-product; a metal or mineral, including a precious metal; a gem or gemstone, whether characterized as precious, semiprecious or otherwise; a fuel, whether liquid, gaseous or otherwise; a foreign currency; and all other goods, articles, products, or items of any kind.

The term “*commodity*” does not include any of the following:

a. A numismatic coin whose fair market value is at least fifteen percent higher than the value of the metal it contains.

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 such real property.

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 of the work of art.

5. “*Commodity contract*” means an 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. A commodity contract offered or sold, in the absence of evidence to the contrary, shall be presumed to be offered or sold for speculation or investment purposes. A commodity contract does not include a contract or agreement which requires, and under which the purchaser receives, within twenty-eight 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.

6. “*Commodity Exchange Act*” means the federal Commodity Exchange Act, as amended to July 1, 1990, codified at 7 U.S.C. § 1, et seq., and all subsequent amendments, additions, or other revisions to the Act, unless the administrator, within ten days following the effective date of the amendment, addition, or revision, disallows its application to this chapter in whole or in part by rule or order.

7. “*Commodity futures trading commission*” or “*CFTC*” means the independent regulatory agency established by the United States Congress to administer the Commodity Exchange Act.

8. “*Commodity merchant*” means any of the following as defined or described in the Commodity Exchange Act or by CFTC rule:

a. A futures commission merchant.

b. A commodity pool operator.

c. A commodity trading adviser.

d. An introducing broker.

e. A leverage transaction merchant.

f. An associated person of any of the persons listed in paragraphs “a” through “e”.

g. A floor broker.

h. Any other person, other than a futures association, required to register with the commodity futures trading commission.

9. “*Commodity option*” means an 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, 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.

10. “*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.

11. “*Offer*” includes every offer to sell, offer to purchase, or offer to enter into a commodity contract or commodity option.

12. “*Person*” means a person as defined in section 4.1, but does not include a contract market designated by the commodity futures trading commission or any clearinghouse of the CFTC or a national securities exchange registered with the securities and exchange commission, or any employee, officer, or director of a contract market, clearinghouse, or exchange acting solely in that capacity.

13. “*Precious metal*” means one or more of the following in either coin, bullion, or other form:

- a. Silver.
- b. Gold.
- c. Platinum.
- d. Palladium.
- e. Copper.
- f. Such other items as the administrator may specify by rule or order.

14. “*Sale*” or “*sell*” includes every sale, contract of sale, contract to sell, or disposition, for value.

90 Acts, ch 1169, §1; 2006 Acts, ch 1117, §13