

A BILL

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An Act to amend the Commodity Futures Act (Chapter 48A of the 1993 Revised Edition) in order to expand the scope of the Act to deal with commodity futures contracts, commodity forward contracts, trading in differences, leveraged commodity trading and certain forms of spot commodity trading.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Commodity Futures (Amendment) Act 2000 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of long title

2. The long title to the Commodity Futures Act (referred to in this Act as the principal Act) is amended by inserting, immediately after the word “futures”, the words “and certain types of commodity trading”.

Amendment of section 1

3. Section 1 of the principal Act is amended by deleting the word “Futures” and substituting the word “Trading”.

Amendment of section 2

4. Section 2 of the principal Act is amended —

(a) by deleting the definition of “commodity” and substituting the following definitions:

““commodity” means any produce, item, goods or article that is the subject of any —

(a) commodity futures contract;

(b) commodity forward contract;

(c) leveraged commodity trading;

(d) contract made pursuant to trading in differences; or

(e) spot commodity trading,

and includes indices, rights and interests in such commodity;

“commodity 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 by way of or relating to any commodity contract, whether or not the business is part of, or is carried on in conjunction with, any other business, but does not include a commodity futures broker;

“commodity broker’s representative” means a person who acts for, or by arrangement with, a commodity broker (other than a person who is a director of a corporation holding a commodity broker’s licence or is a person who is in the direct employment of a commodity broker) who performs any of the functions of that commodity broker in connection with trading in commodity forward contracts, or in any leveraged commodity trading, whether his remuneration is by way of commission or otherwise, but does not include a commodity futures broker’s representative;

“commodity contract” means —

(a) a commodity forward contract;

- (b) any contract made pursuant to trading in differences with respect to a commodity; or
 - (c) any contract made pursuant to a transaction in leveraged commodity trading;”;
- (b) by inserting, immediately after the definition of “commodity floor broker”, the following definition:
- ““commodity forward contract” means a contract the effect of which is that 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, but does not include a commodity futures contract;”;
- (c) by deleting the definition of “commodity futures market” and substituting the following definition:
- ““commodity futures market” means —
- (a) a market, Commodity Futures Exchange or other place, whether in Singapore or elsewhere, at which commodity futures contracts are regularly made; or
 - (b) an electronic system, whether operating in Singapore or elsewhere, through which trading in commodity futures contracts is carried out, but excludes an electronic facility which merely provides price or other information relating to commodity futures contracts (whether that facility is part of or carried in conjunction with the provision of any other information not related to commodity futures contracts) and which does not permit users of the facility to channel orders for, execute transactions, or make markets in commodity futures contracts;”;
- (d) by inserting, immediately after the definition of “commodity futures trading adviser’s representative” the following definitions:
- ““commodity market” means —
- (a) a market, whether in Singapore or elsewhere, at which commodity contracts are regularly made; or

(b) an electronic system, whether operating in Singapore or elsewhere, through which trading in commodity contracts is carried out, but excludes an electronic facility which merely provides price or other information relating to commodity contracts (whether that facility is part of or carried on in conjunction with the provision of any other information not related to commodity contracts) and which does not permit users of the facility to channel orders for, execute transactions in, or make markets in, commodity contracts,

but does not include a Commodity Futures Exchange or a commodity futures market;

“commodity 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 (Cap.50) 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 commodity contracts but does not include —

(a) a commodity futures pool operator; and

(b) such persons as the Board may from time to time prescribe;

“commodity pool operator’s representative” means a person in the direct employment of, or acting for, or by arrangement with, a commodity pool operator, who performs for that commodity pool operator any of the functions of a commodity pool operator, but does not include a commodity futures pool operator’s representative;

“commodity trading adviser” means any person who —

(a) carries on the business of advising others (directly or indirectly, through publications or writings, or by whatever means or media) on the making of commodity contracts, including the advisability of trading in any commodity contract made or to be made on,

or subject to the business rules of, a commodity market;

- (b) as part of a regular business, issues or promulgates analyses or reports concerning the making of commodity contracts; or
- (c) pursuant to a contract or an arrangement with a customer or other person, undertakes on behalf of that customer or other person (whether on a discretionary authority or otherwise granted by the customer or other person) to make any commodity contract for the purposes of managing the client's funds, but does not include —
 - (i) 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);
 - (ii) a commodity broker, commodity broker's representative, commodity pool operator or commodity pool operator's representative;
 - (iii) 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 (Cap.206) where —
 - (A) 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;
 - (B) the advice is given or the analyses or reports are issued or promulgated only through that newspaper; and
 - (C) that person receives no commission or other consideration for giving the advice or for issuing or

promulgating the analyses or reports; and

- (iv) such other persons as the Board may prescribe,

if and only if the carrying on of the business by the abovementioned persons is solely incidental to the carrying on of their business,

but does not include a commodity futures trading adviser;

“commodity trading adviser’s representative” means —

- (a) a person in the direct employment of, or acting for, or by arrangement with, a commodity trading adviser, who performs for that commodity trading adviser any of the functions of a commodity 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
- (b) where the commodity trading adviser is a corporation, includes any director, member or officer of the corporation who is not the holder of a commodity trading adviser’s licence and who performs for that corporation any of the functions of a commodity trading adviser (whether or not his remuneration is by way of salary, wages, commission or otherwise), but does not include a commodity futures trading adviser’s representative;”;
- (e) by inserting, immediately after the definition of “financial year”, the following definition:

““leveraged commodity trading” means —

- (a) the act of entering into or offering to enter into, or inducing or attempting to induce a person to enter into or offer to enter into, a contract or an arrangement on a margin basis (other than a contract or an arrangement that is made on a Commodity

Futures Exchange) whereby a person undertakes as determined by the terms and conditions of the contract or arrangement

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- (i) to make an adjustment between himself and another person according to whether a commodity is worth more or less, at a specified point in time;
 - (ii) to pay an amount of money determined or to be determined by reference to the change in value of a commodity over a specified period of time; or
 - (iii) to deliver to another person at an agreed future time an agreed amount of commodities at an agreed price;
- (b) the provision by any person referred to in paragraph (a) of any advance, credit facility or loan, directly or indirectly, to facilitate an act of the description referred to in that paragraph; or
- (c) the act of entering into or offering to enter into, or inducing or attempting to induce a person to enter into, an arrangement with another person (whether on a discretionary basis or otherwise) to enter into any contract to facilitate an act of the description mentioned in paragraph (a) or (b);” and
- (f) by inserting, immediately after the definition of “officer”, the following definitions:

““spot commodity 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 by way of spot commodity trading, whether or not the business is part of, or is carried on in conjunction with, any other business, but does not include a commodity broker or commodity futures broker;

“spot commodity broker’s representative” means a person who acts for, or by arrangement with, a

spot commodity broker (other than a person who is a director of a corporation holding a spot commodity broker's licence or is a person who is in the direct employment of a spot commodity broker) who performs any of the functions of that spot commodity broker in connection with spot commodity trading, whether his remuneration is by way of commission or otherwise, but does not include a commodity broker's representative or commodity futures broker's representative;

“spot commodity pool operator” means any person who carries on business in the nature of a unit trust or other interest to which Division 6 of the Companies Act (Cap.50) 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 spot commodity trading, but does not include a commodity pool operator or commodity futures pool operator;

“spot commodity pool operator's representative” means a person in the direct employment of, or acting for, or by arrangement with, a spot commodity pool operator, who performs for that spot commodity pool operator any of the functions of a spot commodity pool operator, but does not include a commodity pool operator's representative or commodity futures pool operator's representative;

“spot commodity trading” means the purchase or sale of a commodity at its current market or spot price, where it is intended that such transaction results in the physical delivery of the commodity;”.

Amendment of section 3

5. Section 3 of the principal Act is amended —

(a) by deleting paragraph (e) of subsection (1) and substituting the following paragraph:

“(e) any trading of futures contracts lawfully carried out under the Futures Trading Act (Cap.116),

only to the extent that the activities carried out by or in such futures market, Futures Exchange, body corporate,

holder of a licence or trading of futures contracts are regulated under the Futures Trading Act.”;

- (b) by inserting, immediately after paragraph (a) of subsection (2), the following paragraph:

“(aa) a commodity market approved by the Board under section 5;”; and

- (c) by deleting paragraph (d) of subsection (2) and substituting the following paragraph:

“(d) any trading of commodity futures contracts lawfully carried out under this Act,

only to the extent that the activities carried out by or in such futures market, body corporate, holder of a licence or trading in commodity futures contracts are regulated under this Act.”.

Amendment of section 4

6. Section 4 of the principal Act is amended by deleting subsection (1) and substituting the following subsection:

“(1) No person shall establish or maintain or assist in establishing or maintaining or hold himself out as providing or maintaining —

- (a) any commodity market unless such commodity market has been approved by the Board under section 5(2); or
 (b) a commodity futures market other than the Commodity Futures Exchange that has been approved by the Board under section 5(2).”.

Amendment of section 6

7. Section 6 of the principal Act is amended by deleting paragraphs (c) and (d) of subsection (1) and substituting the following paragraphs:

“(c) in the case of a Commodity Futures Exchange, with respect to the terms and conditions under which commodity futures contracts may be made in the Commodity Futures Exchange, or with respect to the classes of commodity futures contracts that may be made by members;

(ca) in the case of a commodity market, with respect to the terms and conditions under which commodity contracts may be made;

- (d) with respect to the clearing and other arrangements made and the financial conditions of the commodity market or the Commodity Futures Exchange, its clearing house and its members are such as to provide reasonable assurance that all obligations arising out of any contracts entered into on that commodity market or Commodity Futures Exchange will be met;”.

Amendment of section 12

8. Section 12(3) of the principal Act is amended by deleting “\$30,000” and substituting “\$100,000”.

Amendment of section 13

9. Section 13 of the principal Act is amended —

- (a) by deleting the word “No” in subsection (1) and substituting the words “Subject to section 14A, no”;
- (b) by deleting the word “or” at the end of subsection (1)(d);
- (c) by deleting the comma at the end of paragraph (e) of subsection (1) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:
- “(f) a commodity broker’s representative;
 - (g) a commodity trading adviser;
 - (h) a commodity trading adviser’s representative;
 - (i) a commodity pool operator; or
 - (j) a commodity pool operator’s representative;”;
- (d) by inserting, immediately after subsection (2), the following subsections:
- “(2A) A holder of a commodity futures broker’s licence shall not be required to hold a commodity broker’s licence for the purposes of carrying out any activity under this Act as authorised under a commodity broker’s licence.
 - (2B) A holder of a commodity broker’s licence shall not be required to hold a commodity trading adviser’s licence.”;
- (e) by deleting “\$30,000” in subsection (6)(a) and substituting “\$100,000”; and
- (f) by deleting “\$10,000” in subsection (6)(b) and substituting “\$50,000”.

New section 13A

10. The principal Act is amended by inserting, immediately after section 13, the following section:

“Licence for spot commodity trading

13A.—(1) Subject to section 14A, no person shall act as, or hold himself out as —

- (a) a spot commodity broker;
- (b) a spot commodity broker’s representative;
- (c) a spot commodity pool operator; or
- (d) a spot commodity pool operator’s representative,

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

(2) 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, spot commodity brokers and spot commodity pool operators;
- (b) accounts or other records to be kept by spot commodity brokers and spot commodity pool operators;
- (c) the powers of the Board in examining any accounts or records kept by spot commodity brokers and spot commodity pool operators, including the appointment of an auditor to audit the accounts or records;
- (d) the segregation of customer’s funds by spot commodity brokers; and
- (e) the powers of the Board —
 - (i) to order the production of any books, accounts or records kept by spot commodity brokers and spot commodity pool operators;
 - (ii) to order the provision of any information relating to the business of spot commodity brokers and spot pool operators;
 - (iii) to carry out investigations with respect to any contravention against this Act; and
 - (iv) to issue directions to any spot commodity broker or spot commodity pool operator to cease contravention of any provision in this Act.

(3) 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)(a) or (c), to a fine not exceeding \$100,000, or to imprisonment for a term not exceeding 3 years or to both;
- (b) for an offence under subsection (1)(b) or (d), to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both.”.

Repeal and re-enactment of section 14 and new section 14A

11. Section 14 of the principal Act is repealed and the following sections substituted therefor:

“Power of Board to grant licences and impose conditions, etc.

14. The Board may grant or renew a licence under this Part subject to such conditions or restrictions as it thinks fit, for such period as it may determine.

Exemption from this Part

14A.—(1) Subject to such conditions as the Board may impose, the persons specified in the Schedule are exempted, to the extent specified in the Schedule, from any provision of this Part.

(2) The Board may, by order published in the *Gazette*, amend the Schedule.”.

Amendment of section 15

12. Section 15 of the principal Act is amended —

- (a) by deleting the word “or” at the end of subsection (1)(c);
- (b) by deleting paragraph (d) of subsection (1) and substituting the following paragraphs:

“(d) the Board reasonably believes that there may be such circumstance that is likely to lead to the improper conduct of business by, or the reflection of discredit on, the method of conducting such business by the applicant or any person employed by or associated with him for the purpose of his business;

- (e) the applicant is, in the view of the Board, not a fit and proper person to be licensed;

- (f) the Board is not satisfied that the educational or other qualifications or experience of the applicant would enable him to carry out all the duties of a licensee;
 - (g) the Board has reason to believe that the applicant will not be able to perform the functions of a licensee in an efficient, honest and fair manner;
 - (h) the Board has reason to believe that the applicant may not be able to act in the best interests of his customers or subscribers, having regard to his reputation, character, financial integrity or reliability;
 - (i) the financial standing of the applicant is, in the view of the Board, unsatisfactory;
 - (j) the past performance or expertise of the applicant is, in the view of the Board, unsatisfactory; or
 - (k) the Board is of the opinion that it is in the public interest to do so.”;
- (c) by deleting the word “or” at the end of subsection (2)(c);
- (d) by deleting the full-stop at the end of paragraph (d) of subsection (2) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:
- “(e) the financial standing of the applicant or its substantial shareholder or the manner in which its business is conducted is, in the view of the Board, unsatisfactory;
 - (f) the record of past performance or expertise of the applicant is, in the view of the Board, unsatisfactory, having regard to the nature of the business which the applicant may carry on under the licence;
 - (g) the Board reasonably believes that there may be such circumstance that is likely to lead to the improper conduct of business by, or the reflection of discredit on, the method of conducting such business by the applicant or its substantial shareholder or any of its directors, officers or employees; or

- (h) the Board is of the opinion that it is in the public interest to do so.”; and
- (e) by inserting, immediately after subsection (3), the following subsection:

“(4) For the purposes of subsection (2), “substantial shareholder”, in relation to an applicant which is a body corporate, has the same meaning as in the Companies Act (Cap.50).”.

Repeal and re-enactment of section 30

13. Section 30 of the principal Act is repealed and the following section substituted therefor:

“Segregation of customer’s funds by broker

30.—(1) The Board may, with the approval of the Minister, make regulations to provide that every commodity broker and 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.

(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 broker, commodity futures broker or any class of commodity brokers or commodity futures brokers or any transaction or class of transaction relating to —
 - (i) in the case of commodity brokers, trading in commodity contracts; or
 - (ii) in the case of commodity futures brokers, trading in commodity futures contracts,

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 broker or a commodity futures broker in a separate trust account under any regulations made pursuant to subsection (1) or (2) shall not be —

- (a) available for payment of the debts of the commodity broker or commodity futures broker to a creditor of the commodity broker or commodity futures broker; or
- (b) 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 broker or commodity futures broker and the debt owed to the creditor was incurred in connection with trading in any commodity contract.

(4) Nothing in this section shall take away or affect a lawful claim or lien that a commodity broker or 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 market or Commodity Futures Exchange or a clearing house, with the approval of the Board, from using the money, securities or property held in a trust account to meet the obligations of a commodity broker or commodity futures broker, being a member of the market or Exchange or the clearing house, who defaults, if —

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

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

Repeal and re-enactment of sections 43 to 49

14. Sections 43 to 49 of the principal Act are repealed and the following sections substituted therefor:

“False trading

43. No person shall create or cause to be created or do anything that is calculated to create —

- (a) a false or misleading appearance of active trading in a commodity market or commodity futures market; or
- (b) a false or misleading appearance with respect to the market for, or the price of trading in, commodity contracts.

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

Dissemination of information about false trading

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 any class of commodity contracts or 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.

Manipulation of price and cornering

46. No person shall, directly or indirectly —

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

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

- (a) in the case of an individual, to a fine not exceeding \$250,000 or to imprisonment for a term not exceeding 7 years or to both; or
- (b) in the case of a body corporate, to a fine not exceeding \$500,000.”.

Miscellaneous amendments

15. The principal Act is amended —

- (a) by inserting, immediately before the word “Commodity” wherever it appears in the following provisions, the words “commodity market or a”:

Sections 5 (marginal note), 5(1) (2nd line), (2) (2nd line) and (3) (2nd line), 6(1) (3rd line) and (2) (3rd line), 7(1)(a) and (2) (2nd line), 11(1) (2nd line), (2) (1st line) and (3) (3rd line), 12(1)(b)(ii) and 28(1)(b) (2nd line);

- (b) by inserting, immediately before the word “Commodity” wherever it appears in the following provisions, the words “commodity market or”:

Sections 6(1)(b) (last line) and (1)(i), 15(3), 34(1)(j), 35(5)(a) (penultimate line) and (5)(b) (5th line) and 63(2)(b);

- (c) by inserting, immediately before the word “Commodity” in section 42(3), the words “commodity market, a”;

- (d) by inserting, immediately before the word “Commodity” in section 11(1) (3rd line) and (2) (5th line), the words “commodity market or the”;

- (e) by inserting, immediately before the words “a Commodity” wherever they appear in the following provisions, the words “a commodity market,”:

Sections 24(1)(d), (e) and (3) (1st line), 27(6) (4th and 5th lines), 28(1)(b)(ii) (2nd and 3rd lines), (1)(b) (21st line), (2) (2nd line) and (4) (3rd line), 34(1) (2nd line), (1)(a), (2) (1st line), (4), (5) and (6), 37(2), 38(2) (4th line), 41(4) (3rd line), 42(1) (1st and 2nd lines) and (3), 51(1), 54 (4th line) and (c) and 55 (3rd line);

- (f) by inserting, immediately before the word “Commodity” wherever it appears in the following provisions, the words “commodity market,”:

Sections 11 (marginal note), 36(1), 37 (marginal note), 37(1), 41(1) and 52(1);

- (g) by inserting, immediately before the word “Commodity” in the 2nd line of section 53, the words “commodity market, of a”;

- (h) by inserting, immediately before the words “a commodity futures market” in the 4th line of section 8(1), the words “a commodity market or”;

- (i) by inserting, immediately before the words “commodity futures market” wherever they appear in the following provisions, the words “commodity market or a”:

Sections 9(2)(a) (last line), 11(1) (9th line) and 35(1) (8th and 9th lines) and (4) (3rd line);

- (j) by inserting, immediately before the words “commodity futures market” wherever they appear in the following provisions, the words “commodity market or”:

Sections 27(2) (4th line), 35(5)(a) (3rd line), (b) (3rd line), 38(1) (4th, 8th and 9th lines) and 62;

- (k) by inserting, immediately before the words “commodity futures broker” wherever they appear in the following provisions, the words “commodity broker or a”:

Sections 12(1)(a) and (1)(b)(i) and 23(1)(a) and (3);

- (l) by inserting, immediately after the word “by” in the 2nd line of section 22(1), the words “commodity brokers and”;

- (m) by inserting, immediately after the word “every” in the 1st line of section 22(2)(e), the words “commodity broker and”;

- (n) by inserting, immediately before the words “commodity futures broker” wherever they appear in the following provisions, the words “commodity broker or”:

Sections 23(2), 24(1) (3rd line), (1)(b) (4th line), (c), (d) and (e), 25(1)(a) and (b), 27(6) (penultimate line), 32(1) (1st line) and (5) and 63(2)(d);

- (o) by deleting the words “futures broker’s customers” in the 12th line of section 23(1) and substituting the words “the customers of the commodity broker or commodity futures broker”;

- (p) by inserting, immediately before the words “commodity futures broker” wherever they appear in the following provisions, the words “commodity broker,”:

Sections 18(2)(d), 23(1) (12th line), 36(1) (2nd line), 38(1) (8th line), 57(2) (1st line) and 63(4)(a)(i) and (iii);

- (q) by inserting, immediately before the words “a commodity futures broker” wherever they appear in the following provisions, the words “a commodity broker,”:

Sections 28(1)(b), (2) and (4) (4th and 5th lines), 41(1) and (4) and 52(1) (2nd and 3rd lines);

- (r) by inserting, immediately before the words “of a commodity futures broker” in the 3rd line of section 53, the words “of a commodity broker,”;
- (s) by inserting, immediately before the words “commodity futures broker’s directors” wherever they appear in section 24(1)(a) and (b), the words “commodity broker’s or”;
- (t) by inserting, immediately after the word “customer’s” in the 5th line of section 51(2)(b), the words “, commodity broker’s”;
- (u) by inserting, immediately before the word “Exchange” wherever it appears in the following provisions, the word “market,”:
- Sections 24(3) (5th line), 28(4) (7th line), 34(1) (penultimate line), 37(1) (3rd and 5th lines) and (2) (3rd line), 38(2) (6th line), 42(1) (6th and 14th lines), (1)(a) and (b) and 53(a) (4th line), (b) (3rd line) and (c) (5th line);
- (v) by inserting, immediately before the words “commodity futures trading adviser” wherever they appear in the following provisions, the words “commodity trading adviser,”:
- Sections 18(2)(d), 27(1) and (2), 57(2) and 63(4)(a)(i) (2nd and 3rd lines) and (iii) (2nd line);
- (w) by inserting, immediately after the word “adviser” in the 3rd line of section 18(2)(d), the words “, commodity pool operator”;
- (x) by inserting, immediately before the words “commodity futures trading adviser” in section 32(3) (1st and 6th lines), the words “commodity trading adviser or”;
- (y) by inserting, immediately before the words “a commodity futures trading adviser” wherever they appear in the following provisions, the words “a commodity trading adviser,”:
- Sections 27(6) (5th and 6th lines), 28(1) (26th and 27th lines), (1)(b) (3rd and 4th lines), (1)(b)(ii) (4th and 5th lines), (2) and (4) (5th line) and 52(1);
- (z) by inserting, immediately before the words “commodity futures trading adviser’s” in the 4th and 5th lines of section 32(4), the words “commodity trading adviser’s or”;

- (za) by inserting, immediately before the words “or a commodity futures trading adviser” in section 41(1), the words “, a commodity trading adviser”;
- (zb) by inserting, immediately before the words “and a commodity futures trading adviser” in section 41(4), the words “, a commodity trading adviser”;
- (zc) by inserting, immediately before the words “of a commodity futures trading adviser” in section 53, the words “of a commodity trading adviser,”;
- (zd) by inserting, immediately before the words “and commodity futures pool operator” in section 27(1) (1st and 2nd lines) and (2) (1st and 2nd lines), the words “, commodity pool operator”;
- (ze) by inserting, immediately before the words “commodity futures pool operator” in section 27(3), the words “commodity pool operator or”;
- (zf) by inserting, immediately before the words “and a commodity futures pool operator” in the 6th and 7th lines of section 27(6), the words “, a commodity pool operator”;
- (zg) by inserting, immediately before the words “or a commodity futures pool operator” wherever they appear in the following provisions, the words “, a commodity pool operator”:
- Sections 28(1) (27th line), (1)(b) (4th and 5th lines), (1)(b)(ii), (2) and (4) (5th and 6th lines) and 52(1);
- (zh) by inserting, immediately before the words “or commodity futures pool operator” wherever they appear in the following provisions, the words “, commodity pool operator”:
- Sections 36(1), 57(2) and 63(4)(a)(iii);
- (zi) by inserting, immediately before the words “or commodity futures pool operator” in section 63(4)(a)(i), the words “commodity pool operator”;
- (zj) by inserting, immediately before the words “a commodity futures pool operator” in section 41(1) and (4), the words “a commodity pool operator,”;
- (zk) by inserting, immediately before the words “or of a commodity futures pool operator” in section 53, the words “, of a commodity pool operator”;

(zl) by inserting, immediately before the words “commodity futures pool operator” wherever they appear in the following provisions, the words “commodity pool operator or”:

Sections 31(1), (2) and (3) and 32(2) (1st line);

(zm) by deleting the words “futures pool operator” in section 31(4) and substituting the words “commodity pool operator or commodity futures pool operator”;

(zn) by inserting, immediately after the word “broker,” in the 8th line of section 28(4), the words “trading adviser,”;

(zo) by deleting the word “futures” in the last line of section 32(4) and substituting the words “commodity contract or commodity futures contract”;

(zp) by deleting paragraph (a) of section 57(2) and substituting the following paragraph:

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

(zq) by inserting, immediately before the words “commodity futures contracts” wherever they appear in the following provisions, the words “commodity contracts or”:

Sections 9(2)(a) (4th line), 20(2)(a) (2nd and 3rd lines), 34(1) (6th line), (1)(b) and (h) and (2) (5th and 6th lines, penultimate and last lines), 36(1)(a) and (c), 42(1) (5th line), 54(a) and 63(2)(d) and (4)(a)(ii);

(zr) by inserting, immediately before the words “commodity futures contract” wherever they appear in the following provisions, the words “commodity contract or a”:

Sections 32(1) (1st and 2nd lines), 34(1) (5th line), 35(1) (3rd, 7th and 8th lines), (5)(a) (1st and 2nd lines) and (b) (2nd line, penultimate and last lines), and (5), (6) (2nd line), 62 and 63(2)(c);

(zs) by deleting the word “futures” wherever it appears in the following provisions:

Sections 4 (marginal note), 12 (marginal note), 27 (marginal note), 31 (marginal note), 32 (marginal note), 32(3) (3rd and 4th lines), 35 (marginal note), 35(6) (4th

line), 42(1)(b), 53(a), (b) and (c) and 62 (marginal note);

(zt) by inserting, immediately before the words “commodity futures brokers” in section 63(2)(a) (2nd and 5th lines), the words “commodity brokers,”;

(zu) by inserting, immediately before the words “commodity futures trading advisers” in section 63(2)(a) (2nd and 6th lines) and (e), the words “commodity trading advisers,”;

(zv) by inserting, immediately before the words “and commodity futures pool operators” in section 63(2)(a) (3rd and 7th lines) and (e), the words “, commodity pool operators”;

(zw) by deleting the marginal note to section 22 and substituting the following marginal note:

“Accounts to be kept by brokers”;

(zx) by deleting the marginal note to section 36 and substituting the following marginal note:

“Production of records”;

(zy) by deleting the marginal note to section 54 and substituting the following marginal note:

“False reports”;

(zz) by deleting the heading to Part II and substituting the following heading:

“COMMODITY MARKET, COMMODITY FUTURES EXCHANGE AND CLEARING HOUSE”; and

(zza) by deleting the word “FUTURES” in the heading to Part V and substituting the word “TRADING”.

New Schedule

16. The principal Act is amended by inserting, immediately after section 65, the following Schedule:

“THE SCHEDULE

Section 14A

EXEMPTION

1. The following persons are exempted from the specified provisions of this Act:

- (a) in respect of section 12(1), a person who carries on the purchase or sale of commodities in a market that is not a commodity market or Commodity Futures Exchange, where such transaction is made with another person in the ordinary course of business and —
 - (i) it is not intended for resale other than in the ordinary course of business of wholesale or retail; or
 - (ii) where there is physical delivery of such commodities from seller to buyer;
- (b) in respect of sections 12(1) and 13(1)(f) to (j), a person who carries on the business of trading in commodity contracts only with accredited investors and not with any other person;
- (c) in respect of sections 12(1) and 13(1)(f) to (j), a bank licensed under the Banking Act (Cap.19) or a merchant bank approved under the Monetary Authority of Singapore Act (Cap.186);
- (d) in respect of sections 12(1) and 13(1)(f) to (j), a person prescribed by the Monetary Authority of Singapore under the definition of “futures trading adviser” in section 2 of the Futures Trading Act (Cap.116);
- (e) in respect of sections 12(1) (only to the extent that the section applies to commodity brokers) and 13(1)(f) to (j), a person who is a Finance and Treasury Centre, an approved oil trading company or an approved international commodity trading company, within the meaning of the Income Tax Act (Cap.134); and
- (f) in respect of section 13A, a person who carries on spot commodity trading on his own account and does not solicit any funds from any member of the public or any section of the public in connection with the carrying out of any spot commodity trading.

2. In this Schedule —

“accredited investor” means —

- (a) an individual whose net personal assets exceed \$5 million or its equivalent in value in foreign currencies; or
- (b) a corporation with net assets exceeding \$10 million in value or its equivalent in value in foreign currencies as determined in accordance with the most recent audited balance-sheet of the corporation.”.

Grace period for licensing

17. Where a person who acts as a commodity broker, commodity broker’s representative, commodity trading adviser, commodity trading adviser’s representative, commodity pool operator, commodity pool operator’s representative, spot commodity broker, spot commodity broker’s representative, spot commodity pool operator or spot commodity pool operator’s representatives would, but for this section be liable to a penalty for not being licensed under this Act, he shall not be so liable —

- (a) if he is licensed at the expiration of a period of 3 months after the date of commencement of the Commodity Futures (Amendment) Act 2001; or
- (b) if, before the expiration of that period of 3 months, he applies to be licensed, and the licence is granted.

EXPLANATORY STATEMENT

This Bill seeks to amend the Commodity Futures Act (Cap.48A) to apply to all commodities and to expand the scope of the Act to allow the Trade Development Board to license persons engaged in brokering or advisory functions in relation to trading in commodity futures contracts, commodity forward contracts, trading in differences, leveraged commodity trading and spot commodity trading.

Clause 1 relates to the short title and commencement.

Clauses 2 and 3 amend the long and short titles to the existing Act.

Clause 4 amends various definitions in the existing Act to cater for the expanded scope of the existing Act.

Clauses 5, 6 and 7 make technical amendments to cater for the expanded scope of the existing Act.

Clause 8 amends section 12 to provide for enhanced penalties for contravention of that section.

Clause 9 amends section 13 to introduce licensing for commodity broker's representatives, commodity trading advisers, commodity trading adviser's representatives, commodity pool operators and commodity pool operators representatives. The clause also provides for enhanced penalties for contravention of section 13.

Clause 10 introduces a new section 13A to cater for separate licensing of spot commodity brokers, spot commodity broker's representatives, spot commodity pool operators and spot commodity pool operator's representatives. This clause is not intended to affect genuine spot commodity trading as an appropriate exemption for persons engaged in such trading on own account and not soliciting funds from the public is provided in the Schedule. This clause also provides for the Board, with the Minister's approval to make regulations in respect of spot commodity brokers and spot commodity pool operators.

Clause 11 repeals and re-enacts section 14 to allow the Trade Development Board to grant and renew licences for such period as the Board may determine. This clause also provides for a new section 14A that provides for exemption for the persons specified in the Schedule and such persons who may be exempted by notification in the *Gazette*.

Clause 12 amends section 15 to provide for more grounds for the Board to refuse to grant or renew a licence under Part III of the Act.

Clause 13 repeals and re-enacts section 30 in order to cater for the expanded scope of the existing Act.

Clause 14 repeals and re-enacts sections 43 to 49 to provide for the offences under Part VII of the Act to be expanded in scope.

Clause 15 provides for the miscellaneous technical amendments to be made throughout the Act as a result of the expansion of the scope of the existing Act.

Clause 16 provides for a new Schedule that sets out the persons exempted pursuant to new clause 14A. These persons include principal to principal traders in physical or paper trade, persons who trade only with accredited investors, banks, merchant banks, certain persons defined in the Futures Trading Act (Cap.116) and Income Tax Act (Cap.134), and spot commodity traders who trade on their own account and do not solicit funds from any member or section of the public.

Clause 17 provides for a grace period of 3 months for affected persons to apply for licences under the Act.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

L: (NJ)/commodity.12 (chiu6) (31.10.00,7.11)

