

**§11204. Exempt transactions**

**1. Exempt transactions.** The prohibitions in section 11202 do not apply to the following:

A. An account, agreement or transaction within the exclusive jurisdiction of the Commodity Futures Trading Commission as granted under the Commodity Exchange Act; [PL 1985, c. 643 (NEW).]

B. A commodity contract for the purchase of one or more precious metals which requires, and under which the purchaser receives, within 7 calendar days from the payment in good funds of any portion of the purchase price, physical delivery of the quantity of the precious metals purchased by such payment, provided that, for purposes of this paragraph, physical delivery shall be deemed to have occurred if, within that 7-day period, the quantity of precious metals purchased by the payment is delivered, whether in specifically segregated or fungible bulk form, into the possession of a depository, other than the seller, which is either:

- (1) A financial institution;
- (2) A depository, the warehouse receipts of which are recognized for delivery purposes for any commodity on a contract market designated by the Commodity Futures Trading Commission;
- (3) A storage facility licensed or regulated by the United States or any agency of the United States; or
- (4) A depository designated by the administrator, and such depository, or other person which qualifies as a depository, as specified in this paragraph, issues and the purchaser receives, a certificate, document of title, confirmation or other instrument evidencing that such quantity of precious metals has been delivered to the depository and is being and will continue to be held by the depository on the purchaser's behalf, free and clear of all liens and encumbrances, other than liens of the purchaser, tax liens, liens agreed to by the purchaser, or liens of the depository for fees and expenses, which have previously been disclosed to the purchaser; [PL 1989, c. 542, §72 (AMD).]

C. A commodity contract solely between persons engaged in producing, processing, using commercially or handling as merchants, each commodity subject to such a commodity contract, or any by-product of such a contract; or [PL 1985, c. 643 (NEW).]

D. A commodity contract under which the offeree or the purchaser is a person referred to in section 11203, an insurance company, an investment company as defined in the Investment Company Act of 1940, or an employee pension and profit sharing or benefit plan, other than a self-employed individual retirement plan or individual retirement account. [PL 1985, c. 643 (NEW).]

[PL 1989, c. 542, §72 (AMD).]

**2. Rules or orders specifying exemption.** The administrator may issue rules or orders prescribing the terms and conditions of all transactions and contracts covered by this chapter which are not within the exclusive jurisdiction of the Commodity Futures Trading Commission as granted by the Commodity Exchange Act, exempting any person or transaction from any provision of this chapter conditionally or unconditionally and otherwise implementing the provisions of this chapter for the protection of purchasers and sellers of commodities.

[PL 1989, c. 542, §73 (AMD).]

**SECTION HISTORY**

PL 1985, c. 643 (NEW). PL 1989, c. 542, §§72,73 (AMD).

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