

THIRTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

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S E N A T E

S. No. 324

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

In advanced countries, the market for commodity futures made a significant contribution to the development of the agricultural sector. In the Philippines, the development of a market commodity futures could be an effective measure to link the farmer to the market for his products, and transform him from a subsistence producer to an entrepreneur.

Agriculture is also extremely vulnerable to risks associated with wide fluctuations in market prices. With a commodity futures market, a farmer who expects to harvest a crop six months into the future can sell a contract for future delivery at stipulated prices. This provides him with a hedge that protects him from the fluctuations of prices in the spot markets. With a guaranteed buyer at a pre-fixed price, the farmer can devote his attention on producing his crop, without having to worry about finding a buyer at harvest time, or about the risk of lower prices that could wipe out the investments that he has sunk into his crop.

This bill seeks to strengthen the commodity futures market in the Philippines through amendments in the Revised Securities Act to provide protection for trading participants, enable the market to be more independent, and bolster public confidence in the domestic futures market.

In view of the foregoing, early passage of this bill is earnestly requested.



SERGIO OSMEÑA III
Senator

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**AN ACT
TO AMEND CERTAIN PROVISIONS OF THE REVISED SECURITIES
ACT REGARDING FUTURES TRADING, AND FOR OTHER
PURPOSES**

*Be it enacted by the Senate and the House of Representatives of the Republic of the
Philippines in Congress assembled:*

1 **SECTION 1.** Section 7 of Batas Pambansa Blg. 178, otherwise known
2 as the "Revised Securities Act," is hereby amended to read as follows:

3 "Section 7. Commodity Futures Contracts. - Notwithstanding the
4 provisions of paragraph (a) Section 4 and of Sections 5 and 6 regarding
5 exemptions, commodity futures contracts may be registered, or otherwise
6 regulated, and futures commission merchants, futures brokers, floor
7 brokers, pool operators and advisors licensed and supervised in
8 accordance with the rules and regulations that shall be promulgated in
9 the public interest and for the protection of investors by the Commission,
10 with the approval of the Monetary Board of the [Central Bank of the
11 Philippines.] BANGKO SENTRAL NG PILIPINAS, WITH RESPECT TO
12 PROVISIONS AFFECTING CREDIT AND MONETARY POLICY. Such
13 rules and regulations [may, among other things, provide for the
14 establishment and maintenance by futures commission merchants, future
15 brokers, pool operators and advisors of bank accounts exclusively for
16 margin deposit of and/or other receipts from customers, the monitoring

1 of withdrawals from such account through periodic reports and/or
2 examination, the requirement that at least one (1) of the signatories to
3 fund withdrawals from such account must be a Filipino citizen and a
4 resident of the Philippines, the posting by futures commission
5 merchants, futures brokers, floor brokers, pool operators and advisors
6 of a bond in an amount sufficient to meet possible claims against them,
7 taking into account the volume of marking deposits held by the
8 establishment of a common compensation fund to be contributed by all
9 futures commission merchants, futures brokers, floor brokers, pool
10 operators and advisors of official receipts to evidence commissions
11 received by them from customers] shall among others, provide for:

12 (A.) THE REGISTRATION, REGULATION, LICENSING AND
13 SUPERVISION OF A COMMODITY FUTURES EXCHANGE,
14 COMMODITY FUTURES CONTRACTS, FUTURE COMMISSION
15 MERCHANTS, FUTURE BROKERS, FLOOR BROKERS, POOL
16 OPERATORS AND ADVISORS;

17 (B.) THE REGISTRATION OF EVERY MEMBER OF THE COMMODITY
18 FUTURES EXCHANGE, NOTWITHSTANDING ANY
19 CLASSIFICATION OF MEMBERSHIP;

20 (C.) THE ESTABLISHMENT, REGISTRATION AND REGULATION OF
21 AN INDEPENDENT CLEARING HOUSE CORPORATION, WHOSE
22 DIRECTORS AND OWNERS SHALL NOT BE INTERLOCKING
23 WITH THOSE OF THE COMMODITY FUTURES EXCHANGE, AND
24 WHOSE FUNCTIONS SHALL BE TO RECORD AND RESITER ALL
25 TRANSACTIONS IN THE FUTURES EXCHANGE, COLLECT
26 MARGIN DEPOSITS ON EVERY CONTRACT REGISTERED WITH
27 THE FUTURES EXCHANGE, KEEP SAID DEPOSITS IN
28 SEPARATE BANK ACCOUNTS TO BE RELEASED ONLY UPON
29 LIQUIDATION OR SETTLEMENT OF THE CORRESPONDING

1 CONTRACT, AND GUARANTEE THE PERFORMANCE OF
2 EVERY CONTRACT;

3 (D.) THE ESTABLISHMENT AND MAINTENANCE BY FUTURE
4 COMMISSION MERCHANTS, FUTURE BROKERS, FLOOR
5 BROKERS, POOL OPERATORS AND ADVISORS OF BANK
6 ACCOUNTS EXCLUSIVELY FROM MARGIN DEPOSIT OF AND/OR
7 OTHER RECEIPTS FROM CUSTOMERS, THE MONITORING OF
8 WITHDRAWALS FROM SUCH ACCOUNT THROUGH PERIODIC
9 REPORTS AND/OR EXAMINATION, THE REQUIREMENT THAT
10 AT LEAST ONE (1) OF THE SIGNATORIES TO FUND
11 WITHDRAWALS FROM SUCH ACCOUNT MUST BE A FILIPINO
12 CITIZEN AND A RESIDENT OF THE PHILIPPINES;

13 (E.) THE ESTABLISHMENT OF A TRADING SYSTEM THAT WILL
14 ENSURE THE OPERATION OF A FREE AND INDEPENDENT
15 MARKET NOT SUBJECT TO MANIPULATION OF PRICES;

16 (F.) THE PROTECTION OF INVESTORS/CLIENTS AGAINST
17 UNCONTROLLED CROSS TRADING BY HOUSE ACCOUNTS OF
18 BROKERS;

19 (G.) THE ASSURANCE THAT A TRADER CAN LIQUIDATE OR SETTLE
20 ITS POSITION ANYTIME;

21 (H.) THE POSTING OF FUTURES COMMISSION MERCHANTS,
22 FUTURE BROKERS, FLOOR BROKERS, POOL OPERATORS
23 AND ADVISORS OF A BOND IN AN AMOUNT SUFFICIENT TO
24 MEET POSSIBLE CLAIMS AGAINST THEM, TAKING INTO
25 ACCOUNT THE VOLUME OF MARGIN DEPOSITS HELD BY
26 THEM;

27 (I.) THE ESTABLISHMENT OF A COMMON COMPENSATION FUND
28 TO BE CONTRIBUTED BY ALL FUTURES COMMISSION
29 MERCHANTS, FUTURES BROKERS, FLOOR BROKERS, POOL

1 OPERATORS AND ADVISORS, AND SUCH FUND BEING
2 SUBJECT TO THE CONTROL AND SUPERVISION OF THE
3 COMMISSION;

4 (J.) THE REGISTRATION AND USE BY FUTURES COMMISSION
5 MERCHANTS, FUTURE BROKERS, FLOOR BROKERS, POOL
6 OPERATORS AND ADVISORS, OF OFFICIAL RECEIPTS TO
7 EVIDENCE COMMISSIONS RECEIVED BY THEM FROM
8 CUSTOMERS;

9 (K.) THE INCLUSION IN EVERY CONTRACT BETWEEN THE
10 CUSTOMERS AND FUTURES COMMISSION MERCHANTS,
11 FUTURES BROKERS, FLOOR BROKERS, POOL OPERATORS
12 AND ADVISORS, OF A RISK DISCLOSURE PROVISION TO
13 INFORM THE CUSTOMERS OF THE RISKS INVOLVED IN
14 FUTURES TRADING; AND

15 (L.) THE REQUIREMENT THAT FUTURES EXCHANGE AND
16 FUTURES BROKERS AND COMMISSION MERCHANTS SHALL
17 EDUCATE THE INVESTING PUBLIC ON THE RISKS INVOLVED
18 IN FUTURES TRADING TO ENSURE THAT BEFORE A
19 CUSTOMER STARTS TRADING HE IS FULLY AWARE OF THE
20 NATURE OF FUTURES TRADING.

21 However, the Commission shall, after proper notice and opportunity
22 for hearing, prohibit transactions with respect to all or specified
23 commodity futures contracts if it shall find that such transactions will be
24 inimical to the economic interest of the country or may cause grave and
25 irreparable injury or prejudice to the investing public."

26 **SECTION 2. Rules and Regulations.** - The Securities and Exchange
27 Commission shall promulgate, after conducting public hearings, the rules and
28 regulations to implement the provisions hereof, within six (6) months from the
29 approval of this Act.

1 **SECTION 3. *Repealing Clause.*** - All laws, decrees, orders, rules and
2 regulations and other issuances inconsistent with the provisions of this Act are
3 deemed modified, revoked or repealed accordingly.

4 **SECTION 4. *Separability Clause.*** If any section or provision of this Act
5 shall be declared unconstitutional or invalid, the other sections or provisions not
6 affected thereby shall remain in full force and effect

7 **SECTION 5. *Effectivity.*** This Act shall take effect fifteen (15) days after
8 its publication in two (2) leading newspapers of national circulation.

Approved,