# WEST VIRGINIA CODE: §32B-1-1

**§32B-1-1. Definitions.**

(a) "Commissioner" means the Auditor of the State of West Virginia.

(b) "Board of trade" means any person or group of persons engaged in buying or selling any commodity or receiving the same for sale on consignment, whether such person or group of persons is characterized as a board of trade, exchange or other form of marketplace.

(c) "CFTC Rule" means any rule, regulation or order of the commodity futures trading commission in effect on the effective date of this chapter, and all subsequent amendments, additions or other revisions thereto unless the commissioner, within ten days following the effective date of any such amendment, addition or revision, disallows the application thereof to this part or to any provision thereof by rule, regulation or order.

(d) "Commodity" means, except as otherwise specified by the commissioner by rule, regulation or order, any agricultural, grain or livestock product or byproduct, any metal or mineral, including a precious metal defined in subsection (m) of this section, any gem or gemstone, whether characterized as precious, multiprecious or otherwise, any fuel, whether liquid, gaseous or otherwise, any foreign currency, and all other goods, articles, products or items of any kind. The term commodity does not include:

(1) A numismatic coin whose fair market value is at least fifteen percent higher than the value of the metal it contains; (2) 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 the real property; or

(3) Any work of art offered or sold by art dealers, at public auction or offered or sold through a private sale by the owner thereof.

(e) "Commodity contract" means any 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. Any commodity contract offered or sold, in the absence of evidence to the contrary, is presumed to be offered or sold for speculation or investment purposes. A commodity contract does not include any contract or agreement which requires, and under which the purchaser receives, within twenty-eight calendar 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.

WV Legislature

(f) "Commodity Exchange Act" means the act of Congress known as the Commodity Exchange Act, 7 U.S.C. 1 (1974), as amended, and all subsequent amendments, additions or other revisions thereto, unless the commissioner, within ten days following the effective date of any such amendment, addition or revision, disallows the application thereof to this part or to any provision thereof by rule, regulation or order.

(g) "Commodity futures trading commission" means the independent regulatory agency established by Congress to administer the Commodity Exchange Act.

(h) "Commodity merchant" means any of the following as defined or described in the Commodity Exchange Act or by CFTC Rule:

(1) Futures commission merchant;

(2) Commodity pool operator;

(3) Commodity trading advisor;

(4) Introducing broker;

(5) Leverage transaction merchant;

(6) An associated person of any of the foregoing;

(7) Floor broker; and

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

(i) "Commodity option" means any account, agreement or contract giving a party thereto the right but not the obligation to purchase or sell one or more commodities or one or more commodity contracts, or both commodities and commodity contracts, whether characterized as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, decline guaranty or otherwise, but does not include an option traded on a national securities exchange registered with the United States securities and exchange commission.

(j) "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.

(k) "Offer" includes every offer to sell, offer to purchase, or offer to enter into a commodity contract or commodity option.

(l) "Person" means an individual, a corporation, a partnership, association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government or a political subdivision of a government. "Person" does not include a contract market designated by the commodity futures trading

WV Legislature

commission, any clearinghouse of that commission, a national securities exchange registered with the securities and exchange commission, or any employee, officer or director of such contract market, clearinghouse or exchange acting solely in that capacity.

(m) "Precious metal" means the following in coin, bullion or other form: Silver, gold, platinum, palladium, copper, and any other metals as specified by the commissioner by rule, regulation or order.

(n) "Sale" or "sell" includes every sale, contract of sale, contract to sell or disposition for value.

WV Legislature