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Requirements for Grain Dealers

State of Illinois

Auditing Requirements

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Requirements for Grain Dealers

STATE OF ILLINOIS

Current through P.A. 98-925 of the 2014 Reg. Sess.

240 ILCS 40/5-25

40/5-25. Licensing standards and requirements

The Department shall issue, amend, or renew a license if the Department is satisfied that the applicant or licensee meets the standards and requirements of this Section. The standards and requirements of subsections (a) and (b) of this Section must be observed and complied with at all times during the term of the license.

(a) General requirements.

- (1) The applicant or licensee must have a good business reputation, have not been involved in improper manipulation of books and records or other improper business practices, and have the qualifications and background essential for the conduct of the business of a licensee. The Department must be satisfied as to the business reputation, background, and qualifications of the management and principal officers of the applicant or licensee. The Department may obtain criminal histories of management and principal officers of the applicant or licensee.
- (2) The applicant or licensee must maintain a permanent business location in the State of Illinois. Each location where the licensee is transacting business shall remain open from at least one-half hour before the daily opening to at least one-half hour after the daily closing of the Chicago Board of Trade, unless otherwise approved by the Department.
- (3) The applicant or licensee must have insurance on all grain in its possession or custody as required in this Code.
- (4) The applicant or licensee shall at all times keep sufficiently detailed books and records to reflect compliance with all requirements of this Code. The Department may require that certain records located outside the State of Illinois, if any, be brought to a specified location in Illinois for review by the Department.
- (5) The applicant or licensee and each of its officers, directors, partners, and managers must not have been found guilty of a criminal violation of this Code, any of its predecessor statutes, or any similar or related statute or law of the United States or any other state or jurisdiction within 10 years of the date of application for the issuance or renewal of a license.
- (6) The applicant or licensee and each of its officers, directors, managers, and partners, that at any one time have been a licensee under this Code or any of its predecessor statutes, or licensed under any similar or related statute or law of the United States or any other state or jurisdiction, must not have had its license terminated or revoked by the Department, by the United States, or by any other state or jurisdiction, within 2 years of the date of application for the issuance or renewal of a license leaving unsatisfied indebtedness to claimants.
- (7) The applicant or licensee and each of its officers, directors, managers, and partners must not have been an officer, director, manager, or partner of a former licensee under this Code or any of its predecessor statutes, or of a business formerly licensed under any similar or related

statute or law of the United States or any other state or jurisdiction, that had its license terminated or revoked by the Department, by the United States, or by any other state or jurisdiction, within 2 years of the date of application for the issuance or renewal of a license, leaving unsatisfied indebtedness to claimants, unless the applicant or licensee makes a sufficient showing to the Department that the applicable person or related party was not materially and substantially involved as a principal in the business that had its license terminated or revoked. An interim or temporary manager that is employed by a licensee to reorganize the licensee or to manage the licensee until its business is sold, transferred, or liquidated is not in violation of this subsection (7) solely because of that employment as an interim or temporary manager.

(b) Financial requirements.

(1) The applicant or licensee's financial statement must show a current ratio of the total adjusted current assets to the total adjusted current liabilities of at least one to one.

(A) Adjusted current assets shall be calculated by deducting from the stated current assets shown on the balance sheet submitted by the applicant or licensee any current asset, as calculated in item (B) of this subdivision (1), resulting from notes receivable from related persons, accounts receivable from related persons, stock subscriptions receivable, and any other related person receivables.

(B) A disallowed current asset shall be netted against any related liability and the net result, if an asset, shall be subtracted from the current assets.

(2) The applicant or licensee's financial statement and balance sheet must show an adjusted debt to adjusted equity ratio of not more than 3 to one.

(A) Adjusted debt shall be calculated by totaling current and long-term liabilities and reducing the total liabilities, up to the amount of current liabilities, by the liquid assets appearing in the current asset section of the balance sheet submitted by the applicant or licensee. For the purposes of this Section, liquid assets include but are not limited to cash, depository accounts, direct obligations of the U.S. Government, marketable securities, grain assets, balances in margin accounts, and tax refunds.

(B) Adjusted equity shall be calculated by deducting from the stated net worth shown on the balance sheet submitted by the applicant or licensee any asset, as calculated in item (C) of this subdivision (2), resulting from notes receivable from related persons, accounts receivable from related persons, stock subscriptions receivable, or any other related person receivables.

(C) A disallowed asset shall be netted against any related liability and the net result, if an asset, shall be subtracted from the stated net worth, or if a liability it shall remain a liability.

(3) An applicant or licensee must have an adjusted equity of at least \$50,000 as determined by the method specified in item (b)(2) of this Section. Beginning with the first fiscal year of a licensee ending after 2004, the adjusted equity, as defined by the method specified in item (b)(2) of this Section, shall be increased by \$10,000 per fiscal year until the adjusted equity of an applicant or licensee is at least \$100,000.

(4) For the purposes of this Section, notes receivable from related persons, accounts receivable from related persons, and any other related person receivables are not a disallowed asset if the related person is also a licensee and meets all of the financial requirements of this Code.

(5) An applicant for a new license shall not be permitted to collateralize the requirements of items (b)(1) and (b)(3) of this Section in order to satisfy the requirements for a new license.

240 ILCS 40/10-5

40/10-5. Duties and requirements of licensees

(a) Each licensee shall have adequate property insurance covering grain in its possession or custody and adequate liability, property, theft, hazard, and workers' compensation insurance.

(1) Every insurance policy shall contain a provision that it will not be cancelled by the principal or the insurance company except on 60 days prior written notice to the Director and the principal insured. Cancellation of the policy does not affect the liability accrued or that may accrue under the policy before the expiration of the 60 days. The notice shall contain the termination date.

(2) Each licensee shall keep a general insurance account showing the policy number, issuing company, amount, binding date, and expiration date of insurance coverage and the property covered by insurance.

(3) In reference to a warehouseman, notwithstanding any provision to the contrary contained in the warehouse receipts involved, a warehouseman is not obligated to provide property insurance on Commodity Credit Corporation grain ("CCC-owned grain"). The warehouseman, however, shall continue to carry the insurance required on loan grain that becomes CCC-owned grain until the date stated in a written notice from CCC or its agent instructing the warehouseman to cancel the insurance on the grain as of that date. If CCC-owned grain is not covered by property insurance, recovery by the Commodity Credit Corporation from the Fund shall be reduced by the amount of property insurance proceeds that would have been available to cover any loss to CCC-owned grain had the CCC-owned grain been covered by property insurance.

(b) A licensee shall immediately notify the Department when there is a change of management or cessation of operations or change in fiscal year end.

(c) All grain trades, grain merchandising transactions, grain origination plans and programs, and transactions or arrangements that represent or reflect rights and obligations in grain must be clearly identified and disclosed in the books and records of the licensee, for audit and examination purposes.

240 ILCS 40/10-10

40/10-10. Duties and requirements of grain dealers

(a) Long and short market position.

(1) Grain dealers shall at all times maintain an accurate and current long and short market position record for each grain commodity. The position record shall at a minimum contain the net position of all grain owned, wherever located, grain purchased and sold, and any grain option contract purchased or sold.

(2) Grain dealers, except grain dealers regularly and continuously reporting to the Commodity Futures Trading Commission or grain dealers who have obtained the permission of the Department to have different open long or short market positions, may maintain an open position in the grain commodity of which the grain dealer buys the greatest number of bushels

per fiscal year not to exceed one bushel for each \$10 of adjusted equity at fiscal year end up to a maximum open position of 50,000 bushels and one-half that number of bushels up to 25,000 bushels for all other grain commodities that the grain dealer buys. A grain dealer, however, may maintain an open position of up to 5,000 bushels for each grain commodity the grain dealer buys.

- (b) The license issued by the Department to a grain dealer shall be posted in the principal office of the licensee in this State. A certificate shall be posted in each location where the licensee engages in business as a grain dealer. In the case of a licensee operating a truck or tractor trailer unit for the purpose of purchasing grain, the licensee shall have a certificate carried in each truck or tractor trailer unit used in connection with the licensee's grain dealer business.
- (c) The licensee must have at all times sufficient financial resources to pay producers on demand for grain purchased from them.
- (d) A licensee that is solely a grain dealer shall on a daily basis maintain an accurate and current daily grain transaction report.
- (e) A licensee that is both a grain dealer and a warehouseman shall at all times maintain an accurate and current daily position record.
- (f) In the case of a change of ownership of a grain dealer, the obligations of a grain dealer do not cease until the grain dealer has surrendered all unused price later contracts to the Department and the successor has executed a successor's agreement that is acceptable to the Department, or the successor has otherwise provided for the grain obligations of its predecessor in a manner that is acceptable to the Department.
- (g) If a grain dealer proposes to cease doing business as a grain dealer and there is no successor, it is the duty of the grain dealer to surrender all unused price later contracts to the Department, together with an affidavit accounting for all grain dealer obligations setting forth the arrangements made with producers for final disposition of the grain dealer obligations and indicating the procedure for payment in full of all outstanding grain obligations. It is the duty of the Department to give notice by publication that a grain dealer has ceased doing business without a successor. After payment in full of all outstanding grain obligations, it is the duty of the grain dealer to surrender its license.