

# Commodity Exchange Act

(Act No. 239 of August 5, 1950)

## Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to ensure fairness in the price formation, buying and selling and other transactions in connection with commodities and in the brokerage of Transactions on Commodity Markets, etc. and to facilitate the production and distribution of Commodities by securing the sound management of Commodity Exchanges, securing the proper management of the business of persons who broker Transactions on Commodity Markets, etc. and by achieving other conditions through making stipulations about the organization of Commodity Exchanges, management of Transactions on Commodity Markets and other matters, thereby contributing to the appropriate management of the national economy and to the protection of customers of Transactions on Commodity Markets, etc.

(Definitions)

- Article 2 (1) The term "Commodity Exchange" as used in this Act shall mean a Member Commodity Exchange and an Incorporated Commodity Exchange.
- (2) The term "Member Commodity Exchange" as used in this Act shall mean an association with a membership system that has been established based on this Act with the main purpose of opening necessary markets for carrying out Futures Transactions of Commodities or Commodity Indices.
- (3) The term "Incorporated Commodity Exchange" as used in this Act shall mean a stock company that opens the necessary markets for carrying out Futures Transactions of Commodities or Commodity Indices by obtaining the license set forth in Article 78.
- (4) The term "Commodity" as used in this Act shall mean the following goods:
- (i) Agricultural products, forest products, livestock products, fishery products and goods manufactured or processed by using these products as ingredients or materials which are edible or potable, and other goods specified by a Cabinet Order
  - (ii) Minerals prescribed in Article 3, paragraph (1) of the Mining Act (Act No. 289 of 1950) and other minerals specified by a Cabinet Order, and goods obtained by smelting or refining these minerals
  - (iii) In addition to what is listed in the preceding two items, ingredients or materials important for the national economy which are specified by a

- Cabinet Order as goods that are highly likely to be made subject to transactions similar to Futures Transactions as a result of the extreme fluctuation of their prices (including those that are already made subject to Futures Transactions or transactions similar thereto)
- (5) The term "Commodity Index" as used in this Act shall mean a numerical value that comprehensively expresses the price level of two or more goods that are Commodities.
- (6) The term "Listed Commodity" as used in this Act shall mean one or two or more goods that are Commodities which a Commodity Exchange specifies in its articles of incorporation as those which should be traded on a single Commodity Market and which pertain to the permission under Article 9, the license under Article 78 or the approval under Article 155, paragraph (1).
- (7) The term "Listed Commodity Index" as used in this Act shall mean one or two or more Commodity Indices which a Commodity Exchange specifies in its articles of incorporation as being those where relevant transactions should be carried out on a single Commodity Market and which pertain to the permission under Article 9, the license under Article 78 or the approval under Article 155, paragraph (1).
- (8) The term "Futures Transactions" as used in this Act shall mean the following transactions carried out on a Commodity Market in accordance with the standards and methods specified by a Commodity Exchange:
- (i) Buying and selling transactions where parties agree to transfer between them a Commodity and the consideration therefor at a certain time in the future and where a resale or buy-in of the Commodity subject to said buying and selling can be settled by exchanging the difference
  - (ii) Transactions where parties agree to transfer between them money calculated on the basis of the difference between the price of a Commodity agreed between the parties in advance (hereinafter referred to as the "Contract Price") and the actual price of said Commodity at a certain time in the future
  - (iii) Transactions where parties agree to transfer between them money calculated on the basis of the difference between the numerical value of a Commodity Index agreed between the parties in advance (hereinafter referred to as the "Contract Index") and the actual numerical value of said Commodity Index at a certain time in the future
  - (iv) Transactions where parties agree that, on the manifestation of intention by one of the parties, the counterparty grants said party a right to establish any of the following transactions between the parties (hereinafter referred to as an "Option") and said party pays the consideration therefor:
    - (a) Transactions set forth in item (i)
    - (b) Transactions set forth in item (ii) (including equivalent transactions that

- are specified by a Commodity Exchange)
- (c) Transactions set forth in the preceding item (including equivalent transactions that are specified by a Commodity Exchange)
- (9) The term "Commodity Market" as used in this Act shall mean a market that a Commodity Exchange has opened for each single kind of Listed Commodity or Listed Commodity Index in order to carry out the transactions prescribed in the following items for the categories set forth respectively in those items:
- (i) Commodity Market pertaining to a Listed Commodity-Transactions set forth in item (i) of the preceding paragraph or transactions set forth in item (ii) of the same paragraph pertaining to said Listed Commodity
  - (ii) Commodity Market pertaining to a Listed Commodity Index-Transactions set forth in item (iii) of the preceding paragraph pertaining to said Listed Commodity Index
- (10) The term "Transactions on a Commodity Market" as used in this Act shall include the transactions set forth in the respective items of the preceding paragraph as well as the transactions prescribed in the following items which a Commodity Exchange has decided to carry out for the categories of Commodity Markets set forth respectively in those items pursuant to the provisions of its articles of incorporation:
- (i) Commodity Market pertaining to a Listed Commodity-The following transactions:
    - (a) Transactions set forth in paragraph (8), item (iii) pertaining to a Commodity Index where the goods subject to the index are or include said Listed Commodity
    - (b) Transactions set forth in paragraph (8), item (iv) relating to the transactions set forth in (a) or (b) of the same item pertaining to said Listed Commodity
    - (c) Transactions set forth in paragraph (8), item (iv) relating to the transactions set forth in (c) of the same item pertaining to a Commodity Index where the goods subject to the index are or include said Listed Commodity
    - (d) Buying and selling transactions (excluding those that fall under the transactions set forth in paragraph (8), item (i); hereinafter the same shall apply in this item) of said Listed Commodity
    - (e) Transactions where parties agree that, with the manifestation of intention by one of the parties, the counterparty grants said party a right to close a buying or selling transaction between the parties for said Listed Commodity (hereinafter referred to as a "Spot Option") and said party pays the consideration therefor
  - (ii) Commodity Market pertaining to a Listed Commodity Index-Transactions set forth in paragraph (8), item (iv) relating to transactions set forth in (c) of

- the same item pertaining to said Listed Commodity Index
- (11) The term "Trading Participant" as used in this Act shall mean a person who may participate in Transactions on a Commodity Market opened by an Incorporated Commodity Exchange, based on the trading qualification granted pursuant to the provisions of Article 82, paragraph (1).
- (12) The term "Business of Assuming Commodity Transaction Debts" as used in this Act shall mean the business of assuming the liabilities arising from Transactions on a Commodity Market.
- (13) The term "Commodity Clearing Organization" as used in this Act shall mean a person who has received a license from or the approval of the competent minister pursuant to the provisions of Article 167 or Article 173, paragraph (1) with regard to engagement in the Business of Assuming Commodity Transaction Debts.
- (14) The term "Clearing Participant" as used in this Act shall mean a person who acts as the counterparty in the Business of Assuming Commodity Transaction Debts by a Commodity Clearing Organization, based on the qualification granted pursuant to the provisions of Article 174, paragraph (1).
- (15) The term "Commodity Clearing Transaction" as used in this Act shall mean a Transaction on a Commodity Market which a Clearing Participant carries out on consignment by a member or Trading Participant (hereinafter referred to as a "Member, etc.") of a Commodity Exchange pursuant to the provisions of the business rules of a Commodity Clearing Organization with the condition that said Commodity Clearing Organization is made to assume the liabilities arising from said transaction and that said Member, etc. closes said transaction by representing said Clearing Participant.
- (16) The term "Transactions on a Commodity Market, etc." as used in this Act shall mean the following acts:
- (i) Transactions on a Commodity Market
  - (ii) Acting as an intermediary for the consignment of the act set forth in the preceding item
  - (iii) Acting as an intermediary for the consignment of Commodity Clearing Transactions
  - (iv) Acting as an intermediary for the act set forth in the preceding item
- (17) The term "Commodity Transactions Brokerage Business" as used in this Act shall mean the business of accepting consignment of Transactions on a Commodity Market, etc. (excluding Commodity Clearing Transactions).
- (18) The term "Futures Commission Merchant" as used in this Act shall mean a person who has received a license from the competent minister pursuant to the provisions of Article 190, paragraph (1) with regard to engagement in the Commodity Transactions Brokerage Business.

## **Chapter II Commodity Exchange**

### **Section 1 General Provisions**

(Restriction on business)

Article 3 A Commodity Exchange shall not conduct any business other than the business of opening the necessary markets for carrying out Futures Transactions of Commodities or Commodity Indices and the appraisal of quality of the Listed Commodities, the issuance of publications, and other businesses incidental thereto.

(Name or trade name)

Article 4 (1) A Commodity Exchange shall use the characters "取引所" (Torihikijo [Commodity Exchange]) in its name or trade name.

(2) No person other than a Commodity Exchange shall use in his/her name or trade name characters that are likely to mislead the public into believing that such person is a Commodity Exchange.

(Restriction on the opening of a market)

Article 5 (1) A Commodity Exchange shall not open a market other than the Commodity Markets prescribed by its articles of incorporation (including a Commodity Market where the expiration date specified by the articles of incorporation has passed).

(2) A Commodity Exchange shall not open two or more Commodity Markets for a single kind of Listed Commodity or Listed Commodity Index.

(Prohibition of establishment of a facility similar to a Commodity Market)

Article 6 (1) No person shall establish a facility for carrying out transactions that are similar to Futures Transactions with regard to Commodities or Commodity Indices (including indices similar thereto) (excluding Financial Instruments Exchange Markets (which means the Financial Instruments Exchange Markets as prescribed in Article 2, paragraph (17) of the Financial Instruments and Exchange Act [Act No. 25 of 1948]; the same shall apply in Article 101, paragraph (3), and Article 348)).

(2) No person shall carry out transactions that are similar to Futures Transactions in the facilities set forth in the preceding paragraph.

### **Section 2 Member Commodity Exchange**

#### **Subsection 1 Establishment**

(Juridical personality)

Article 7 (1) A Member Commodity Exchange shall be a juridical person.

(2) A Member Commodity Exchange shall not conduct business for the purpose of profit.

(Address)

Article 8 The address of a Member Commodity Exchange shall be at the location of its principal office.

(Permission for establishment)

Article 9 Any person who intends to establish a Member Commodity Exchange shall obtain the permission of the competent minister.

(Requirements for establishment)

Article 10 (1) In order to establish a Member Commodity Exchange, 20 or more persons who intend to become its members shall become the founders of each Commodity Market to be opened.

(2) With regard to the founders, the persons prescribed in the following items for the categories of Commodity Markets set forth respectively in those items shall constitute the majority of the founders of a single Commodity Market:

(i) Commodity Market pertaining to a Listed Commodity-Persons who have, in the course of trade, engaged in the buying and selling of goods included in said Listed Commodity (hereinafter referred to as "Listed Commodity Component Products"), acted as introducing brokers, intermediaries or agents for the buying and selling, or engaged in the production, the processing or the use (hereinafter referred to as the "Buying and Selling, etc.") of such goods for one year or more on a continuous basis

(ii) Commodity Market pertaining to a Listed Commodity Index-Persons who have, in the course of trade, engaged in the Buying and Selling, etc. of goods subject to the Commodity Index (or Indices) pertaining to the Listed Commodity Index (hereinafter referred to as the "Products Underlying a Listed Commodity Index") for one year or more on a continuous basis

(Articles of incorporation)

Article 11 (1) The founders shall create the articles of incorporation of the Member Commodity Exchange, and if the articles of incorporation have been created in the form of a paper document, they shall apply their signatures or their names and seals thereto.

(2) The following matters shall be included in the articles of incorporation set forth in the preceding paragraph:

(i) Description of business

(ii) Name

(iii) Office address

- (iv) Matters concerning the membership qualification
  - (v) Unit amount of the contribution and the time and method of its payment
  - (vi) Matters concerning membership and withdrawal of members
  - (vii) Matters concerning guarantee funds and clearing margins
  - (viii) Matters concerning the sharing of costs among members
  - (ix) Matters concerning audits of and sanctions against members
  - (x) Matters concerning the fixed number, term of office and appointment of officers
  - (xi) Matters concerning the general meeting of members
  - (xii) Matters concerning the binding effect that the articles of incorporation, market rules, brokerage contract rules and dispute resolution rules have on contracts between members concluded outside the Commodity Market
  - (xiii) The following matters concerning the Commodity Markets:
    - (a) Listed Commodity or Listed Commodity Index
    - (b) Types of transaction for each Listed Commodity or Listed Commodity Index
    - (c) Method of settlement of transactions
  - (xiv) Business year
  - (xv) Matters concerning disposition of surplus and disposal of loss
  - (xvi) Method of Public Notice (which means the method by which the Member Commodity Exchange gives public notices [excluding those that shall be given through publication in an official gazette pursuant to the provisions of this Act or other Acts]; hereinafter the same shall apply)
- (3) The amount of the cost of establishment that should be borne by a Member Commodity Exchange or of the remuneration that should be received by the founders shall not be binding unless it is included in the articles of incorporation.
- (4) If the term of existence of a Member Commodity Exchange or the expiration date of a Commodity Market has been set, such term of existence or expiration date shall be included in the articles of incorporation of the Member Commodity Exchange, in addition to the matters listed in the respective items of paragraph (2).
- (5) The articles of incorporation set forth in paragraph (1) may be created in the form of an Electromagnetic Record (which means a record created in an electronic form, magnetic form or any other form that cannot be recognized by human senses, which is provided for use in information processing by computers and which is specified by an ordinance of the competent ministry; hereinafter the same shall apply). In this case, a measure in lieu of the application of signatures or names and seals, which is specified by an ordinance of the competent ministry, shall be taken with regard to the information contained in said Electromagnetic Record.

- (6) A Member Commodity Exchange may, in addition to the method of posting at the office of said Member Commodity Exchange, specify any of the following methods as the Method of Public Notice in its articles of incorporation:
- (i) Publication in an official gazette
  - (ii) Publication in a daily newspaper which publishes matters on current events
  - (iii) Electronic Public Notice (which means, among Methods of Public Notice, the method of implementing a measure which makes the information that should be publicly notified available to many and unspecified persons by an Electromagnetic Means [which means the electromagnetic means prescribed in Article 2, item (xxxiv) of the Companies Act (Act No. 86 of 2005)] and which is prescribed in the same item; hereinafter the same shall apply)
- (7) When a Member Commodity Exchange specifies in its articles of incorporation the fact that it will make the method set forth in item (iii) of the preceding paragraph the Method of Public Notice, it is sufficient to specify in the articles of incorporation that Electronic Public Notice will be the Method of Public Notice. In this case, either of the methods set forth in item (i) or item (ii) of the same paragraph may be specified as the Method of Public Notice for the case where a public notice cannot be given by Electronic Public Notice as a result of an accident or any other inevitable reasons.
- (8) When a Member Commodity Exchange gives a public notice by Electronic Public Notice, it shall give the public notice by Electronic Public Notice on a continuous basis until the date prescribed in the following items for the categories of public notice set forth respectively in those items:
- (i) Public notice against which objections may be stated within the period specified therein-The day on which said period expires
  - (ii) Public notice other than that set forth in the preceding item-The day on which one month has passed since the first publication of said public notice
- (9) When a Member Commodity Exchange gives a public notice pursuant to the provisions of this Act or other Acts, the provisions of Article 940, paragraph (3), Article 941, Article 946, Article 947, Article 951, paragraph (2), Article 953 and Article 955 of the Companies Act shall apply mutatis mutandis. In this case, the phrase "Notwithstanding the provisions of the preceding two paragraphs, .... pursuant to these provisions" in Article 940, paragraph (3) of said Act shall be deemed to be replaced with "Notwithstanding the provisions of Article 11, paragraph (8) of the Commodity Exchange Act, .... pursuant to the same paragraph," the term "Article 440, paragraph (1)" in Article 941 of the same Act shall be deemed to be replaced with "Article 68-3 of the Commodity Exchange Act" and any other technical replacement shall be specified by a Cabinet Order.
- (10) In addition to the matters listed in the respective items of paragraph (2), matters that do not come into effect without being prescribed in articles of



incorporation pursuant to this Act or other matters that do not violate this Act may be included in articles of incorporation of a Member Commodity Exchange.

(Application for membership)

Article 12 (1) When establishing a Member Commodity Exchange, the founders shall notify the following matters in advance to persons who intend to become its members:

- (i) Matters included in the articles of incorporation
- (ii) Names or trade names and addresses of the founders
- (iii) Method, time limit and place for the payment of the contribution
- (iv) The fact that the application for membership may be rescinded if an organizational meeting fails to be held by a certain time

(2) After the establishment of a Member Commodity Exchange, its president shall notify the following matters to persons who intend to become its members:

- (i) Date of establishment
- (ii) Matters included in the articles of incorporation
- (iii) Names and addresses of the officers
- (iv) Method, time limit and place for the payment of the contribution

(3) A person who intends to become a member of a Member Commodity Exchange (including a founder) shall deliver to the founders (or the president, if after the establishment; the same shall apply in the following paragraph) a document containing that person's name and address, the number of units of contribution that person will make and the Listed Commodity or Listed Commodity Index that person intends to trade on the Commodity Market.

(4) With the consent of the founders, a person who intends to become a member of a Member Commodity Exchange may, in lieu of the delivery of the document set forth in the preceding paragraph, provide the matters that should be included in the document under the same paragraph by an Electromagnetic Means (which means a method using an electronic data processing system or a method using other information communications technology, which is specified by an ordinance of the competent ministry; hereinafter the same shall apply) pursuant to the provisions of a Cabinet Order. In this case, the person who intends to become a member shall be deemed to have delivered the document under the same paragraph.

(Organizational meeting)

Article 13 (1) After creating the articles of incorporation, the founders shall invite persons to become members, and hold an organizational meeting within five days from the day on which 10 days have elapsed from the time limit for the payment of the contribution prescribed in paragraph (1), item (iii) of the

preceding Article.

- (2) The founders shall make a payment of the full amount of their contribution before an organizational meeting.
- (3) Approval of the articles of incorporation and decisions on other necessary matters for the establishment of the Member Commodity Exchange shall be made by resolution of an organizational meeting.
- (4) The articles of incorporation may be revised at an organizational meeting; provided, however, that this does not apply to matters concerning membership qualification.
- (5) A decision at an organizational meeting shall be made by at least two-thirds of the votes of those present when at least half of the persons who intend to become members (limited to those who have completed the payment of the full amount of the contribution) are present.
- (6) If a resolution has been made at an organizational meeting with regard to its postponement or continuation, the provisions of Article 59, paragraph (8), main clause and paragraph (10) as applied mutatis mutandis pursuant to paragraph (8) of this Article shall not apply.
- (7) Minutes shall be taken regarding the proceedings of an organizational meeting pursuant to the provisions of an ordinance of the competent ministry.
- (8) The provisions of Article 33 and Article 59, paragraph (8), main clause and paragraph (10) shall apply mutatis mutandis to an organizational meeting, and the provisions of Article 830, Article 831, Article 834 (limited to the part pertaining to items (xvi) and (xvii)), Article 835, paragraph (1), Article 836, paragraphs (1) and (3), Article 837, Article 838, Article 846 and Article 937, paragraph (1) (limited to the part pertaining to item (i) (e)) of the Companies Act (excluding the part pertaining to auditors) shall apply mutatis mutandis to an action for declaration of nonexistence or nullity of or an action for rescission of a resolution of an organizational meeting. In this case, the phrase "the head office (in the case prescribed in item (i) (e) where the matters listed in the respective items of Article 930, paragraph (2) have been registered according to said resolution, the head office and the branch office pertaining to said registration)" in the same paragraph shall be deemed to be replaced with "the principal office of the Member Commodity Exchange (in the case prescribed in item (i) (e) where the matters listed in the respective items of Article 24, paragraph (2) of the Commodity Exchange Act have been registered according to said resolution, the principal office and the secondary office pertaining to said registration)."

(Application for permission)

Article 14 (1) Following an organizational meeting, the founders shall include the following matters in a written application for the permission under Article

9 and submit it to the competent minister without delay:

- (i) Name
  - (ii) Office address
  - (iii) Listed Commodity or Listed Commodity Index
  - (iv) Names and addresses of the officers
  - (v) Names or trade names of the members and the Listed Commodity or Listed Commodity Index on the Commodity Market where the members will carry out transactions
- (2) The articles of incorporation, market rules, brokerage contract rules, dispute resolution rules, market transactions surveillance committee rules and other documents specified by an ordinance of the competent ministry shall be attached to the written application under the preceding paragraph.

(Criteria for permission and hearing of opinions)

Article 15 (1) If the competent minister finds that the application for the permission under Article 9 conforms to the following criteria, he/she shall give the permission:

- (i) Sufficient volume of transactions shall be expected for carrying out the Futures Transactions of the Listed Commodity or Listed Commodity Index pertaining to the application fairly and smoothly and, in light of the status of the transactions of the Listed Commodity Component Products or the Products Underlying the Listed Commodity Index (hereinafter referred to as the "Listed Commodity Component Products, etc."), it shall be necessary and appropriate to establish a Member Commodity Exchange for carrying out said Futures Transactions in order to facilitate the production and distribution of the Listed Commodity Component Products, etc.
- (ii) In the case of opening a Commodity Market pertaining to a Listed Commodity, the carrying out of transactions of the Listed Commodity Component Products on a single Commodity Market conforms to the criteria specified by a Cabinet Order as being appropriate in light of the status of the transactions of the persons who, in the course of trade, engage in the Buying and Selling, etc. of Listed Commodity Component Products and any other circumstances of the economic activities pertaining to the Listed Commodity Component Products.
- (iii) In the case of opening a Commodity Market by specifying two or more Commodity Indices as a single Listed Commodity Index, the majority of the goods subject to said two or more Commodity Indices shall be common goods.
- (iv) The provisions of the articles of incorporation, market rules, brokerage contract rules, dispute resolution rules and market transactions surveillance committee rules do not violate laws and regulations, and the method or management of transactions, membership qualification, the maximum

number of members if such maximum number is specified, matters concerning deposits if such obligation to deposit special collateral money is specified and other matters prescribed in the articles of incorporation, market rules, brokerage contract rules, dispute resolution rules or market transactions surveillance committee rules are appropriate and sufficient for ensuring the fairness of Transactions on the Commodity Market and protecting customers.

- (v) The Member Commodity Exchange pertaining to the application will be organized in such a manner that conforms to the provisions of this Act.
- (2) If an application for the permission under Article 9 falls under any of the following items, the competent minister shall not give the permission under the same Article notwithstanding the provisions of the preceding paragraph:
  - (i) If the founders include a person who falls under any of the following categories:
    - (a) An adult ward or a person under curatorship or a person who is treated the same as such a person under the laws and regulations of a foreign state
    - (b) A bankrupt who may not restore his/her rights or a person who is treated the same as such a person under the laws and regulations of a foreign state
    - (c) A person who has been sentenced to imprisonment or a more severe punishment (including an equivalent punishment under the laws and regulations of a foreign state) or to a fine (including an equivalent punishment under the laws and regulations of a foreign state) pursuant to this Act or equivalent laws and regulations of a foreign state and for whom five years have not lapsed from the day on which execution of the sentence ended or from the day on which the sentence ceased to be executed
    - (d) A person whose permission under Article 9 or license under Article 78 or Article 167, Article 190, paragraph (1) or permission under Article 332, paragraph (1) or Article 342, paragraph (1) has been rescinded pursuant to the provisions of Article 159, paragraph (1) or (2), Article 186, paragraph (1) or (2), Article 235, paragraph (3), Article 236, paragraph (1) or Article 340, paragraph (1) (including the cases where it is applied mutatis mutandis pursuant to Article 345) and for whom five years have not lapsed from the day of the rescission, or a person whose similar permission or license in a foreign state obtained pursuant to the laws and regulations of said foreign state which are equivalent to this Act (including registration and other administrative dispositions similar to said permission or license; referred to as a "Permission, etc." in (f)) has been rescinded and for whom five years have not lapsed from the day of the rescission
    - (e) A person who has been expelled from a Commodity Exchange or an equivalent facility in a foreign state pursuant to the provisions of Article 160, paragraph (1) or the provisions of equivalent laws and regulations of a

- foreign state (including other equivalent administrative dispositions under the laws and regulations of a foreign state; the same shall apply in (g) and (h)) or whose trading qualification has been rescinded and for whom five years have not lapsed from the day of the expulsion or rescission
- (f) Where the permission given to a Commodity Exchange under Article 9 or the license under Article 78 has been rescinded pursuant to the provisions of Article 159, paragraph (1) or (2), where the license granted to a Commodity Clearing Organization under Article 167 has been rescinded pursuant to the provisions of Article 186, paragraph (1) or (2), where the license granted to a Futures Commission Merchant under Article 190, paragraph (1) has been rescinded pursuant to the provisions of Article 235, paragraph (3) or Article 236, paragraph (1), or where the permission given to an Establisher of a Type 1 Specified Facility (which means the Establisher of a Type 1 Specified Facility prescribed in Article 331, item (ii); hereinafter the same shall apply in this item) or an Establisher of a Type 2 Specified Facility (which means the Establisher of a Type 2 Specified Facility prescribed in Article 331, item (iii); hereinafter the same shall apply in this item) which is a juridical person under Article 332, paragraph (1) or Article 342, paragraph (1) has been rescinded pursuant to the provisions of Article 340, paragraph (1) (including the cases where it is applied *mutatis mutandis* pursuant to Article 345), a person who was an officer of the Commodity Exchange, Commodity Clearing Organization, Futures Commission Merchant, Establisher of a Type 1 Specified Facility or Establisher of a Type 2 Specified Facility within 30 days prior to the day of the rescission and for whom five years have not lapsed from the day of the rescission, or where a juridical person that obtained a similar Permission, etc. in a foreign state is rescinded of the Permission, etc. pursuant to laws and regulations of a foreign state that are equivalent to this Act, a person who was an officer of said juridical person within 30 days prior to the day of the rescission and for whom five years have not lapsed from the day of the rescission
- (g) Where a Member, etc. of a Commodity Exchange or a Member, etc. of a facility equivalent to a Commodity Exchange in a foreign state which is a juridical person has been expelled from the Commodity Exchange or the facility or where its trading qualification pursuant to an order under Article 160, paragraph (1) or equivalent laws and regulations of a foreign state has been rescinded, a person who was an officer of said juridical person within 30 days prior to the day of the expulsion or rescission and for whom five years have not lapsed from the day of the expulsion or rescission
- (h) An officer who has been dismissed pursuant to an order under Article 159, paragraph (3), Article 160, paragraph (1), Article 186, paragraph (4) or

- Article 236, paragraph (2) or equivalent laws and regulations of a foreign state and for whom five years have not lapsed from the day of the dismissal
- (i) A person for whom one year has not lapsed after receiving an order from a court under Article 328, paragraph (1) or an equivalent order from a court of a foreign state under laws and regulations of a foreign state
  - (j) A person set forth in Article 331, paragraph (1), item (iii) of the Companies Act
  - (k) A minor that does not have the same legal capacity as an adult with regard to business whose statutory representative falls under any category of the persons from (a) to (j) inclusive
  - (l) A juridical person whose officers include a person who falls under any category of the persons from (a) to (k) inclusive
  - (ii) If the written application or the documents that should be attached thereto includes a false entry regarding an important matter
- (3) Where an application for the permission under Article 9 has been filed in which case the term of existence of a Member Commodity Exchange or the expiration date of a Commodity Market is included in the articles of incorporation, the competent minister shall, in lieu of the criterion set forth in paragraph (1), item (i), consider the criterion under the same paragraph to be that there will be no shortfall in the volume of transactions for carrying out Futures Transactions of the Listed Commodity or Listed Commodity Index pertaining to the application fairly and smoothly and that, in light of the status of the transactions of the Listed Commodity Component Products, etc., establishment of a Member Commodity Exchange for carrying out said Futures Transactions does not or is not likely to cause extreme hindrance to the production and distribution of the Listed Commodity Component Products, etc., and he/she shall apply such criterion and the criteria under items (ii) and (iii) of the same paragraph by making a determination for said term of existence or for the period until said expiration date.
- (4) The competent minister shall not give the permission under Article 9 until after three months have passed from the day of the public notice under Article 352 (limited to the part pertaining to item (iii)).
- (5) If the competent minister finds that an application for the permission under Article 9 fails to conform to any of the items of paragraph (1) or that it falls under any of the items of paragraph (2), he/she shall notify the applicant to that effect in advance, seek to have the applicant or an agent thereof appear, and have officials of the ministry hear the opinions of such person in order to give such person an opportunity for producing evidence for explanation.
- (6) In the case referred to in the preceding paragraph, if the person whose opinions are to be heard fails to take part in the hearing of opinions without a justifiable reason, the competent minister shall not be required to hear the

opinions of such person.

- (7) In the case of giving the notice set forth in paragraph (5), the competent minister shall give such notice by clarifying the matters on which opinions will be heard and the place and date of the hearing of opinions.
- (8) The hearing of opinions set forth in paragraph (5) shall be open to the public; provided, however, that this shall not apply if the competent minister finds it necessary in order to maintain the secrets concerning the business of the person whose opinions are to be heard or finds it necessary with respect to public interest.
- (9) If the competent minister finds it necessary for the conduct of the hearing of opinions set forth in paragraph (5), he/she may seek a witness to appear and hear the opinions of the witness, seek a witness to submit opinions or a report, or seek a witness to appear and have the witness give an expert opinion.
- (10) Where an application for the permission under Article 9 has been filed in which case the term of existence of a Member Commodity Exchange or the expiration date of a Commodity Market is included in the articles of incorporation, the competent minister shall issue a notice of permission or non-permission to the applicant within four months from the day of the public notice under Article 352 (limited to the part pertaining to item (iii)).
- (11) If the competent minister has not issued the notice under the preceding paragraph within the period set forth in the same paragraph, the permission under Article 9 shall be deemed to have been given on the expiration date of such period.

(Time of establishment and notification)

- Article 16 (1) A Member Commodity Exchange shall be established by registering its establishment.
- (2) A Member Commodity Exchange shall notify the competent minister of its establishment within two weeks from the day of establishment.

(Transfer of affairs to the president)

Article 17 When the permission under Article 9 (including the case under Article 15, paragraph (11)) has been given, founders shall transfer their affairs to the president without delay.

(Application mutatis mutandis of the Companies Act)

- Article 18 (1) The provisions from Articles 53 to 56 inclusive of the Companies Act shall apply mutatis mutandis to the founders of a Member Commodity Exchange.
- (2) The provisions of Part VII, Chapter II, Section 2 (excluding Article 847, paragraph (2), Article 849, paragraph (2), item (ii) and paragraph (5) and

Article 851) of the Companies Act shall apply mutatis mutandis to an action for pursuing the responsibilities of the founders of a Member Commodity Exchange. In this case, the term "Ordinance of the Ministry of Justice" in Article 847, paragraphs (1) and (4) of the same Act shall be deemed to be replaced with "ordinance of the competent ministry" and other necessary technical replacement of terms shall be specified by a Cabinet Order.

- (3) The provisions of Article 828, paragraph (1) (limited to the part pertaining to item (i)) and paragraph (2) (limited to the part pertaining to item (i)), Article 834 (limited to the part pertaining to item (i)), Article 835, paragraph (1), Article 836, paragraphs (1) and (3), Articles 837 to 839 inclusive and Article 846 shall apply mutatis mutandis to an action for nullity of establishment of a Member Commodity Exchange.

(Change of the name, etc. of an officer or member)

Article 19 (1) When there is a change to the matters listed in Article 14, paragraph (1), item (iv) or (v), a Member Commodity Exchange shall submit to the competent minister a written notification of change with a statement to that effect without delay.

- (2) The written notification of change referred to in the preceding paragraph shall have a document attached which proves such a change and also the document specified by an ordinance of the competent ministry.

(Registration of establishment)

Article 20 (1) Registration of establishment of a Member Commodity Exchange shall be completed at the location of its principal office within two weeks from the day on which the permission under Article 9 has been given.

- (2) For completing the registration referred to in the preceding paragraph, the following matters shall be registered:

(i) Purpose

(ii) Name

(iii) Office address

(iv) If the term of existence has or the grounds for dissolution have been specified, such term or grounds

(v) Total amount of contribution

(vi) Unit amount of contribution and the method of its payment

(vii) Name, address and qualification of the person who has the representation power

(viii) Method of Public Notice

(ix) If the provision of articles of incorporation under Article 11, paragraph (6) specifies Electronic Public Notice as the Method of Public Notice, the following:



- (a) Matters necessary for allowing many and unspecified persons to receive the information to be publicly notified by Electronic Public Notice which are specified by an Ordinance of the Ministry of Justice
- (b) If there is a provision of the articles of incorporation under the second sentence of Article 11, paragraph (7), such provision

(Registration of a change)

Article 21 (1) When a change occurs to any matters listed in the respective items of paragraph (2) of the preceding Article with regard to a Member Commodity Exchange, registration of the change shall be completed at the location of its principal office within two weeks.

(2) Notwithstanding the provisions of the preceding paragraph, it is sufficient to register the change to the matter set forth in paragraph (2), item (v) of the preceding Article as of the last day of each business year within four weeks from said last day.

(Registration of relocation of the principal office to the jurisdictional district of another registry office)

Article 22 When a Member Commodity Exchange has relocated its principal office to the jurisdictional district of another registry office, it shall complete registration of the relocation at the old location and complete registration of the matters listed in the respective items of Article 20, paragraph (2) at the new location within two weeks.

(Registration of a provisional disposition to suspend execution of duties, etc.)

Article 23 When an order for a provisional disposition to suspend the execution of duties of the person representing a Member Commodity Exchange or to appoint a person to act for said person has been issued or a decision has been made to change or rescind such provisional disposition, registration to that effect shall be completed at the location of the principal office of the Member Commodity Exchange.

(Registration at the secondary office location)

Article 24 (1) In any of the cases listed in the following items (excluding cases where the secondary office set forth in said items is located within the jurisdictional district of the registry office having jurisdiction over the location of the principal office), registration at the secondary office location shall be completed at the location of such secondary office within the period specified in the respective items:

- (i) When a secondary office was established upon establishment of a Member Commodity Exchange (excluding the case set forth in the following item)-

Within two weeks from the day on which the registration of establishment at the location of the principal office has been completed

- (ii) When a secondary office was established by a Member Commodity Exchange established by a consolidation-type merger upon such consolidation-Within three weeks from the day set forth in Article 147-2, paragraph (1)
  - (iii) When a secondary office was established after the establishment of a Member Commodity Exchange-Within three weeks from the day of establishment of the secondary office
- (2) For completing the registration at the second office location, the following matters shall be registered; provided, however, that it is sufficient to register the matter set forth in item (iii) when a new secondary office has been established within the jurisdictional district of the registry office having jurisdiction over the location of a secondary office:
- (i) Name
  - (ii) Location of the principal office
  - (iii) Location of the secondary office(s) (limited to those located within the jurisdictional district of the registry office having jurisdiction over said secondary office)
- (3) When a change occurs to any matters listed in the respective items of the preceding paragraph, registration of the change shall be completed at the location of said secondary office within three weeks.

(Registration of relocation of a secondary office to the jurisdictional district of another registry office)

Article 24-2 When a Member Commodity Exchange has relocated its secondary office to the jurisdictional district of another registry office, it shall complete registration of the relocation at the old location (excluding the case where it is within the jurisdictional district of the registry office having jurisdiction over the location of the principal office) within three weeks and complete registration of the matters listed in the respective items of paragraph (2) of the preceding Article at the new location (excluding the case where it is within the jurisdictional district of the registry office having jurisdiction over the location of the principal office; hereinafter the same shall apply in this Article) within four weeks; provided, however, that it is sufficient to register the matter set forth in item (iii) of the same paragraph at the new location when a new secondary office has been established within the jurisdictional district of the registry office having jurisdiction over the location of a secondary office.

(Competent registry office and registry)

Article 25 (1) Affairs concerning registration of a Member Commodity Exchange

shall be the responsibility of the Legal Affairs Bureau or the District Legal Affairs Bureau having jurisdiction over the location of the office of the Member Commodity Exchange or a branch office or a sub-branch office of such bureau as the competent registry office.

(2) A registry office shall keep a Member Commodity Exchange registry.

(Application for registration of establishment)

Article 26 (1) Registration of establishment of a Member Commodity Exchange shall be made through the filing of an application by the person representing a Member Commodity Exchange.

(2) A written application for registration of establishment of a Member Commodity Exchange shall have a document attached proving the qualification of the person representing a Member Commodity Exchange.

(Application for registration of a change)

Article 27 A written application for registration of a change to any matters listed in the respective items of Article 20, paragraph (2) shall have a document attached proving the change to such matter.

(Procedure for registration of nullity of establishment)

Article 28 The provisions of Article 937, paragraph (1) (limited to the part pertaining to item (i) (a)) of the Companies Act shall apply mutatis mutandis to the case where a judgment affirming a claim pertaining to an action for nullity of establishment of a Member Commodity Exchange has become final and binding. In this case, the phrase "the head office of the company (in the case prescribed in item (i) (e) and where the matters listed in the respective items of Article 930, paragraph (2) have been registered, the head office and the branch office pertaining to said registration)" in the same paragraph shall be deemed to be replaced with "the principal office of the Member Commodity Exchange."

(Application mutatis mutandis of the Commercial Registration Act)

Article 29 The provisions of Articles 2 to 5 inclusive, Articles 7 to 15 inclusive, Articles 17 to 23-2 inclusive, Article 24 (excluding items (xv) and (xvi)), Articles 25 to 27 inclusive, Article 48 to 53 inclusive and Articles 132 to 148 inclusive of the Commercial Registration Act (Act No. 125 of 1963) shall apply mutatis mutandis to registration of a Member Commodity Exchange. In this case, the phrase "the respective items of Article 930, paragraph (2) of the Companies Act" in Article 48, paragraph (2) of the same Act shall be deemed to be replaced with "the respective items of Article 24, paragraph (2) of the Commodity Exchange Act."

## Subsection 2 Membership

(Membership qualification)

Article 30 (1) A person having the membership qualification for a Member Commodity Exchange shall be limited to the following persons:

(i) A person who, in the course of trade, engages in the Buying and Selling, etc. of Listed Commodity Component Products, etc. (including items that are the main ingredient or material of the Listed Commodity Component Products, etc. or items where the main ingredient or material is the Listed Commodity Component Products, etc. which are specified by articles of incorporation; the same shall apply in the following paragraph) of the Member Commodity Exchange

(ii) A Futures Commission Merchant

(iii) In addition to the persons listed in the preceding two items, a person that satisfies the requirements specified by a Cabinet Order as one who contributes to fair price formation of Listed Commodity Component Products, etc.

(2) In the event that a member dies, the member's heir shall be deemed to have had the membership qualification from the time of the death of the decedent if, by the day on which three months have passed from the day of the death of the decedent, the heir has, in the course of trade, engaged in the Buying and Selling, etc. of Listed Commodity Component Products, etc. of the Commodity Market in which the decedent had been carrying out transactions in the case where the decedent had been a person who fell under item (i) of the preceding paragraph, or the heir has become a person who falls under item (iii) of the same paragraph in the case where the decedent had been a person who fell under the same item.

(3) In the case referred to in the preceding paragraph, if there are two or more heirs, the provision of the same paragraph shall apply to only one heir who has been selected with the consent of all the heirs.

(Disqualifying conditions)

Article 31 (1) A person who falls under any of the category of persons in Article 15, paragraph (2), (a) to (l) inclusive may not be a member.

(2) A juridical person surviving a merger or a juridical person established by a merger shall be deemed to be the same juridical person as that which was extinguished as a result of the merger with regard to application of the provisions of the preceding paragraph (limited to the part pertaining to Article 15, paragraph (2), item (i), (c) to (e) inclusive, (i) and (l)).

(Contribution)

- Article 32 (1) A member shall make one or more units of contribution.
- (2) Contribution may not be made by using any property other than money.
- (3) The unit amount of contribution shall be uniform.
- (4) The members shall be liable for the debts of a Member Commodity Exchange in that they bear the costs under Article 34 and bear the amount of loss under Article 45, paragraph (3) within the limit of the amount of their contribution.
- (5) A member may not assert against a Member Commodity Exchange a set-off for payment of contribution.

(Voting right and right to elect)

- Article 33 (1) Each member shall have a single voting right and a right to elect officers irrespective of the number of units of contribution.
- (2) A member may exercise a member's voting right or right to elect by a written ballot or a proxy regarding matters that were notified in advance pursuant to the provisions of Article 59, paragraph (8).
- (3) A member may, in lieu of exercising a member's voting right by a written ballot under the preceding paragraph, exercise the voting right through an Electromagnetic Means pursuant to the provisions of the articles of incorporation.
- (4) A person who exercises a voting right or right to vote pursuant to the provisions of the preceding two paragraphs shall be deemed to be present.
- (5) A proxy shall submit a document proving the power of proxy to the Member Commodity Exchange. In this case, if the articles of incorporation provide that the voting right may be exercised through an Electromagnetic Means, the proxy may prove the right of representation through the Electromagnetic Means in lieu of submission of said document.

(Imposition of costs)

- Article 34 (1) A Member Commodity Exchange may impose costs on its members pursuant to the provisions of its articles of incorporation.
- (2) The provisions of Article 32, paragraph (5) shall apply mutatis mutandis to the payment of costs under the preceding paragraph.

(Membership)

- Article 35 (1) A person who intends to join a Member Commodity Exchange upon establishment of the Member Commodity Exchange and who has completed the payment of the full amount of his/her contribution shall become a member at the time of the establishment of the Member Commodity Exchange.
- (2) A person who intends to join a Member Commodity Exchange upon the establishment of the Member Commodity Exchange who has not completed the payment prescribed in the preceding paragraph by the time of the

establishment of the Member Commodity Exchange shall be deemed to have rescinded his/her application for membership at the time of the establishment of the Member Commodity Exchange.

(3) A person who intends to join a Member Commodity Exchange after establishment of the Member Commodity Exchange shall become a member when, pursuant to the provisions of the articles of incorporation, that person gains the consent of the Member Commodity Exchange regarding the membership and completes the payment of the full amount of his/her contribution and the payment of a membership fee if the Member Commodity Exchange has determined to collect a membership fee, or completes the acceptance of the whole or a part of the equity interest of a member and the payment of a membership fee if the Member Commodity Exchange has determined to collect a membership fee.

(4) When a person having the membership qualification intends to join a Member Commodity Exchange, the Member Commodity Exchange shall not refuse membership without a justifiable reason.

(Transfer of equity interest)

Article 36 (1) A member may transfer the whole or a part of the member's equity interest to a person having the membership qualification pursuant to the provisions of the articles of incorporation.

(2) When a person having the membership qualification intends to accept an equity interest, the acceptance shall be governed by the same rules as those for membership.

(3) The transferee of an equity interest shall succeed to the rights and obligations of the transferrer with regard to that equity interest.

(Succession to the equity interest)

Article 37 (1) In the event that a member dies, if that member's heir or donee (hereinafter referred to as the "Heir, etc." in this Article) is a member, such person shall succeed to the equity interest of the decedent and the rights and obligations of the decedent with regard to that equity interest. In this case, the Heir, etc. shall notify the Member Commodity Exchange to that effect without delay.

(2) In the event that a member dies, if the Heir, etc. is a person having the membership qualification, such person may succeed to the equity interest of the decedent and the rights and obligations of the decedent with regard to that equity interest by gaining the consent of the Member Commodity Exchange regarding the membership within a period specified by the articles of incorporation.

(3) When the Heir, etc. has succeeded to the equity interest of the decedent and

the rights and obligations of the decedent with regard to that equity interest pursuant to the provisions of the preceding paragraph, such person shall be deemed to have become a member at the time of the death of the decedent.

(4) In the case referred to in paragraph (1) or (2), if there are two or more Heirs, etc., the provision of these paragraphs shall apply to only one Heir, etc. who has been selected with the consent of all the Heirs, etc.

(Prohibition of co-ownership of an equity interest)

Article 38 Members may not co-own an equity interest.

(Succession to the rights and obligations pertaining to transactions)

Article 39 A person who has succeeded to the equity interest of a member and the rights and obligations with regard to that equity interest pursuant to the provisions of Article 37, paragraph (1) or (2) shall succeed to the rights and obligations pertaining to the transactions that said member has carried out on the Commodity Market.

(Succession to member status)

Article 40 In the event that a member merges, the juridical person surviving the merger or the juridical person established by the merger shall succeed to the member status.

(Voluntary withdrawal)

Article 41 (1) A member may withdraw from a Member Commodity Exchange by giving 30 days' notice in advance.

(2) The period of advance notice set forth in the preceding paragraph may be extended by the articles of incorporation; provided, however, that such period shall not exceed one year.

(Involuntary withdrawal)

Article 42 In addition to the cases prescribed in the preceding Article and Article 44, paragraph (1), a member shall withdraw from membership based on the following grounds:

(i) The person no longer falls under any of the items of Article 30, paragraph (1).

(ii) All of the Commodity Markets in which the person carries out transactions were closed pursuant to the provisions of Article 70.

(iii) Transfer of all of the member's equity interest

(iv) Death or dissolution

(v) Expulsion

(Expulsion)

- Article 43 (1) Expulsion of a member shall, except for expulsion pursuant to the provisions of Article 99, paragraph (5) and expulsion by an order of the competent minister under Article 160, paragraph (1), be conducted based on a resolution of a general meeting of members set forth in Article 61 with regard to a member for whom a reason specified by the articles of incorporation exists.
- (2) In the case referred to in the preceding paragraph, a Member Commodity Exchange shall send a document stating the effect of and the reason for the expulsion to such member by 10 days prior to the day of the general meeting of members and give such member an opportunity to explain at a general meeting of members.
- (3) Unless the expulsion is notified to the expelled member, expulsion may not be asserted against such person.

(Withdrawal due to attachment of the equity interest)

- Article 44 (1) A creditor who has attached the equity interest of a member may have such member withdraw from membership; provided, however, that the creditor shall give a notice to the Member Commodity Exchange and the member 30 days in advance.
- (2) The advance notice referred to in the proviso of the preceding paragraph shall cease to be effective when the member set forth in the same paragraph repays the liabilities or provides reasonable collateral to the creditor set forth in the same paragraph.
- (3) Attachment of the equity interest of a member is also effective for the right to claim a refund of the equity interest.

(Refund of the equity interest)

- Article 45 (1) A member who has withdrawn from membership may receive a refund of the whole or a part of the member's equity interest.
- (2) The equity interest referred to in the preceding paragraph shall be decided according to the property of the Member Commodity Exchange on the last day of the month preceding the month in which the member withdrew from membership.
- (3) When calculating the equity interest referred to in the preceding paragraph, if the liability cannot be repaid in full using the property of the Member Commodity Exchange, the Member Commodity Exchange may claim from the withdrawn member payment of the amount of loss that should be borne by said member.
- (4) The claim prescribed in paragraph (1) or the preceding paragraph shall be extinguished by prescription if not exercised for two years after the withdrawal.
- (5) A Member Commodity Exchange may suspend the refund of the equity



interest until the withdrawn member repays the liability to the Member Commodity Exchange in full.

### **Subsection 3 Organization**

(Officers)

Article 46 (1) The following officers shall be placed at a Member Commodity Exchange:

One president

Two or more directors

Two or more auditors

(Authority of the president and directors)

Article 47 (1) The president shall represent the Member Commodity Exchange and preside over its affairs.

(2) The directors shall, pursuant to the provisions of the articles of incorporation, represent the Member Commodity Exchange, administer the affairs of the Member Commodity Exchange assisting the president, perform the duties of the president in his/her place when the president is unable to attend to his/her duties, and perform the duties of the president when the post is vacant.

(3) Execution of the affairs of a Member Commodity Exchange shall be decided by a majority vote of the president and directors unless otherwise specified by the articles of incorporation.

(Delegation of the authority of the president and directors)

Article 47-2 The president and directors may delegate their authority on a specified act to another person unless such delegation is prohibited by the articles of incorporation or a resolution of a general meeting of members.

(Authority of the auditors)

Article 48 (1) The auditors shall audit the affairs of the Member Commodity Exchange.

(2) The corporate auditors, at any time, may ask the president or directors to report on the affairs or may investigate the status of the affairs and properties of the Member Commodity Exchange.

(3) The auditors shall examine the documents that the president intends to submit to a general meeting of members and report their opinions to the general meeting of members.

(Disqualifying conditions for officers)

Article 49 (1) A person who falls under any category of the persons in Article 15,

paragraph (2), item (i), (a) to (k) inclusive may not be an officer of a Member Commodity Exchange.

- (2) If an officer of a Member Commodity Exchange falls under any category of the persons prescribed in the preceding paragraph, that officer shall lose his/her position.

(Appointment of officers)

Article 50 (1) Officers of a Member Commodity Exchange shall, except for the directors appointed pursuant to the following paragraph, be elected by the members at a general meeting of members pursuant to the provisions of the articles of incorporation; provided, however, that the officers at the time of establishment shall be elected by persons who intend to become members at the organizational meeting.

- (2) Where special provisions exist in the articles of incorporation, the president shall appoint the number of directors specified by the articles of incorporation by gaining the consent of a majority of the directors.

(Relationship between a Member Commodity Exchange and officers)

Article 50-2 The relationship between a Member Commodity Exchange and its officers shall be in accordance with the provisions concerning delegation.

(Term of office of officers)

Article 51 (1) The term of office of an officer shall be a period of not more than three years as specified by the articles of incorporation.

- (2) The term of office of an officer at the time of establishment shall, notwithstanding the provisions of the preceding paragraph, be a period decided at the organizational meeting; provided, however, that such period shall not exceed one year.

(Provisional director and provisional auditor)

Article 52 The competent minister may, when there is no person to perform the duties of a director or auditor and if he/she finds it necessary, appoint a provisional director or provisional auditor.

(Responsibilities of the president and directors)

Article 53 (1) When the president or directors fail to perform their duties, such president or directors shall be held jointly and severally liable for damages against the Member Commodity Exchange.

- (2) When the president or directors commit an act in violation of laws and regulations or the articles of incorporation, even if it resulted from a resolution of a general meeting of members, such president or directors shall be held

jointly and severally liable for damages against third parties.

(Request for dismissal of an officer)

- Article 54 (1) A member may request dismissal of an officer under the joint signature of at least one-fifth of all members. In this case, if there is consent of at least two-thirds of the members present at a general meeting of members with the presence of at least half of all members with regard to the request, the officer pertaining to the request shall lose his/her position.
- (2) The request for dismissal prescribed in the preceding paragraph shall be made simultaneously for the president and all directors or all auditors; provided, however, that this shall not apply when requesting dismissal as a result of the violation of any laws and regulations, the articles of incorporation or market rules.
- (3) The request for dismissal prescribed in paragraph (1) shall be made by submitting a document stating the reason therefor to the president.
- (4) When a request for dismissal prescribed in paragraph (1) is made, the president shall refer the request to a general meeting of members and send the document prescribed in the preceding paragraph to the officer pertaining to the request by 10 days prior to the day of the general meeting of members, and give that officer an opportunity to explain at the general meeting of members.
- (5) The provisions of Article 59, paragraphs (3), (6) and (7) shall apply mutatis mutandis to the case referred to in the preceding paragraph.

(Prohibition of concurrent holding of positions by officers)

- Article 55 (1) An officer of a Member Commodity Exchange shall not hold the position of an officer of another Commodity Exchange.
- (2) The president or a director shall not hold concurrently the position of an auditor of the Member Commodity Exchange where such person serves as the president or a director, and an auditor shall not hold concurrently the position of an employee or the president or a director of the Member Commodity Exchange where such person serves as an auditor.

(Prohibition of self-contract, etc. of directors)

- Article 56 When a Member Commodity Exchange concludes a contract with the president or a director, an auditor shall represent the Member Commodity Exchange. The same shall apply to a suit between a Member Commodity Exchange and the president or a director.

(Keeping of and inspection, etc. of articles of incorporation, etc.)

- Article 57 (1) A Member Commodity Exchange shall keep copies of the articles of incorporation and market rules at each office of the Member Commodity

Exchange and keep a member register at its principal office.

- (2) A Member Commodity Exchange shall keep copies of the minutes of general meetings of members at its principal office for 10 years and keep their transcripts at its secondary offices for five years.
- (3) The following matters concerning each member shall be included in a member register:
  - (i) Name or trade name and address
  - (ii) Date of membership
  - (iii) Number of units of contribution, amount of contribution and date of its payment
  - (iv) Listed Commodity or Listed Commodity Index on the Commodity Market where the member carries out transactions
  - (v) In the case of a Futures Commission Merchant, the date of the grant of a license
- (4) A member and a creditor of a Member Commodity Exchange may make the following request at any time during the business hours of the Member Commodity Exchange; provided, however, that in order to make the request set forth in item (ii) or (iv), such person shall pay a cost decided by the Member Commodity Exchange:
  - (i) A request for inspection of a document set forth in paragraph (1) or (2)
  - (ii) A request for delivery of a transcript or extract of a document set forth in paragraph (1) or (2)
  - (iii) Where an Electromagnetic Record has been created in lieu of the creation of a document in paragraph (1) or (2), a request for inspection of the matters contained in said Electromagnetic Record which are indicated by a method specified by an ordinance of the competent ministry
  - (iv) A request for provision of the matters contained in an Electromagnetic Record set forth in the preceding item by an Electromagnetic Means which is specified by an ordinance of the competent ministry or a request for delivery of a document stating such matters
- (5) When a request prescribed in the preceding paragraph has been made, a Member Commodity Exchange shall not refuse the request without a justifiable reason.

(Application mutatis mutandis of the Companies Act, etc.)

Article 58 The provisions of Article 424 and Article 430 of the Companies Act shall apply mutatis mutandis to the president, directors and auditors, the provisions of Part VII, Chapter II, Section 2 (excluding Article 847, paragraph (2), Article 849, paragraph (2), item (ii) and paragraph (5) and Article 851) of the Act shall apply mutatis mutandis to an action for pursuing the responsibilities of the president, directors and auditors, the provisions of

Article 349, paragraphs (4) and (5), Article 350, Article 354 and Article 361 of the same Act shall apply mutatis mutandis to the president and directors and the provisions of Article 53 shall apply mutatis mutandis to the auditors. In this case, the phrase "paragraph (1) of the preceding Article" in Article 424 of the same Act shall be deemed to be replaced with "Article 53, paragraph (1) of the Commodity Exchange Act," the term "an officer, etc." in Article 430 of the same Act shall be deemed to be replaced with "the president or a director," the term "another officer, etc." in the same Article shall be deemed to be replaced with "also an auditor," the term "an Ordinance of the Ministry of Finance" in Article 847, paragraphs (1) and (4) of the same Act shall be deemed to be replaced with "an ordinance of the competent ministry" and any other technical replacement shall be specified by a Cabinet Order.

(Convocation of a general meeting of members)

- Article 59 (1) The president shall convene an ordinary general meeting of members once in every business year pursuant to the provisions of the articles of incorporation.
- (2) The president may, if he/she finds it necessary, convene an extraordinary general meeting at any time pursuant to the provisions of the articles of incorporation.
- (3) When a member requests the convocation of a general meeting of members by submitting a document stating the subject matter of the meeting and the reasons for the convocation to the president with the consent of at least one-fifth of all members, the president shall convene an extraordinary general meeting of members within 20 days from the day of such request.
- (4) In the case referred to in the preceding paragraph, if the articles of incorporation provide that a voting right may be exercised through an Electromagnetic Means, the member may, in lieu of submission of a document under the same paragraph, submit the subject matter and reasons that should be stated in said document through the Electromagnetic Means. In this case, the member who has submitted the subject matter and reasons that should be stated in such document through the Electromagnetic Means shall be deemed to have submitted said document.
- (5) Provision of the subject matter and reasons that should be stated in said document through an Electromagnetic Means (excluding any methods specified by an ordinance of the competent ministry) referred to in the first sentence of the preceding paragraph shall be deemed to have arrived with the president at the time when they have been recorded onto a file on a computer used by the president.
- (6) When there is no person to perform the duties of the president or when a request set forth in paragraph (3) has been made but the president fails to

implement the procedure of convocation without a justifiable reason, the auditors shall convene a general meeting of members without delay.

- (7) In the case referred to in the preceding paragraph, when there is no person to perform the duties of an auditor or when the auditors fail to implement the procedure under the same paragraph without a justifiable reason, the member set forth in paragraph (3) may convene a general meeting of members by gaining the approval of the competent minister.
- (8) In order to convene a general meeting of members, a notice of convocation shall be sent in writing to each member by 10 days prior to the day of the meeting; provided, however, that this period may be shortened according to the articles of incorporation with regard to the convocation prescribed in paragraphs (2), (3) and (6) and the preceding paragraph.
- (9) The subject matter of the meeting shall be included in the notice set forth in the preceding paragraph.
- (10) A person convening a general meeting of members may, in lieu of sending the notice in writing under paragraph (8), send such notice by an Electromagnetic Means with the consent of the members pursuant to the provisions of the articles of incorporation. In this case, the person convening a general meeting of members who sent said notice by the Electromagnetic Means shall be deemed to have sent the notice in writing under the same paragraph.

(Matters that require a resolution of a general meeting of members)

Article 60 In addition to matters for which special provisions exist in this Act, the following matters shall require a resolution of a general meeting of members:

- (i) Amendments to the articles of incorporation
- (ii) Approval of the balance sheet, profit and loss statement, business report, proposed appropriation of surplus and proposed appropriation of loss
- (iii) Method of imposition and collection of costs
- (iv) Dissolution
- (v) Merger
- (vi) Expulsion of a member
- (vii) Any other matters specified by the articles of incorporation

(Matters that require a special resolution of a general meeting of members)

Article 61 The matters listed in item (i) and items (iv) to (vi) inclusive of the preceding Article shall require resolution by at least a two-thirds majority vote of the members present when at least half of all members are present.

(Decisions at a general meeting of members)

- Article 62 (1) Decisions at a general meeting of members shall, except when special provisions exist in this Act or the articles of incorporation, be made by a majority vote of the members present and by the chairperson in the event of a tie.
- (2) The chairperson shall be appointed at a general meeting of members.
- (3) The chairperson shall not be entitled to take part in a resolution of the general meeting of members as a member.
- (4) Only the matters that have been notified in advance pursuant to the provisions of Article 59, paragraph (8) may be resolved at a general meeting of members; provided, however, that this shall not apply when otherwise provided for by the articles of incorporation.
- (5) Minutes of a general meeting of members shall also be signed by the auditors present.

(Resolution of postponement or continuation)

Article 62-2 If a resolution were made at a general meeting of members with regard to its postponement or continuation, the provisions of Article 59, paragraph (8), main clause shall not apply.

(Minutes)

Article 62-3 Minutes shall be taken regarding the proceedings of a general meeting of members pursuant to the provisions of an ordinance of the competent ministry.

(Application mutatis mutandis of the Companies Act)

Article 63 The provisions of Article 830, Article 831, Article 834 (limited to the part pertaining to items (xvi) and (xvii)), Article 835, paragraph (1), Article 836, paragraphs (1) and (3), Article 837, Article 838, Article 846 and Article 937, paragraph (1) (limited to the part pertaining to item (i) (e)) of the Companies Act shall apply mutatis mutandis to an action for the declaration of nonexistence or nullity of a resolution of a general meeting of members or an action for the rescission of a resolution of a general meeting of members. In this case, the phrase "the head office (in the case prescribed in item (i) (e) where the matters listed in the respective items of Article 930, paragraph (2) have been registered according to said resolution, the head office and the branch office pertaining to said registration)" in the same paragraph shall be deemed to be replaced with "the principal office of the Member Commodity Exchange (in the case prescribed in item (i) (e) where the matters listed in the respective items of Article 24, paragraph (2) of the Commodity Exchange Act have been registered according to said resolution, the principal office and the secondary office pertaining to said registration)."

#### **Subsection 4 Account**

(Loss compensation reserve)

- Article 64 (1) A Member Commodity Exchange shall reserve at least one-hundredths of any surplus in every business year as a loss compensation reserve pursuant to the provisions of the articles of incorporation.
- (2) The reserve set forth in the preceding paragraph shall not be broken into except in the case of allocating it to loss compensation.

(Prohibition of distribution of surplus)

- Article 65 A Member Commodity Exchange shall not distribute its surplus.

(Creation of Settlement related Documents, etc.)

- Article 66 (1) A Member Commodity Exchange shall create an inventory of property, a balance sheet, profit and loss statement, business report and proposed appropriation of surplus or proposed appropriation of loss (hereinafter referred to as "Settlement related Documents, etc.").
- (2) Settlement related Documents, etc. may be created as an Electromagnetic Record.

(Submission, etc. of Settlement related Documents, etc.)

- Article 67 The president shall submit or provide Settlement related Documents, etc. (including the Electromagnetic Record where such documents are created as an Electromagnetic Record or where an Electromagnetic Record has been created in lieu of creation of such documents) to auditors by two weeks prior to the day of an ordinary general meeting of members.

(Approval and report of Settlement related Documents, etc.)

- Article 68 (1) Settlement related Documents, etc. (excluding the inventory of property and business report) shall require the approval of an ordinary general meeting of members.
- (2) The president shall report the content of the business report to an ordinary general meeting of members.

(Keeping of and inspection, etc. of Settlement related Documents, etc.)

- Article 68-2 (1) A Member Commodity Exchange shall keep the Settlement related Documents, etc. at its principal office for five years from the day two weeks prior to the day of an ordinary general meeting of members.
- (2) A Member Commodity Exchange shall keep a copy of the Settlement related Documents, etc. at its secondary offices for three years from the day two weeks



prior to the day of an ordinary general meeting of members; provided, however, that this shall not apply when the Settlement related Documents, etc. have been created as an Electromagnetic Record and a measure specified by an ordinance of the competent ministry as that for enabling a secondary office to respond to the requests listed in items (iii) and (iv) of the following paragraph has been taken.

- (3) A member and a creditor of a Member Commodity Exchange may make the following requests to the Member Commodity Exchange at any time during its business hours; provided, however, that in order to make the request set forth in item (ii) or (iv), such person shall pay a cost decided by the Member Commodity Exchange:
- (i) Where the Settlement related Documents, etc. have been created as written documents, a request for inspection of said document or its copy
  - (ii) A request for delivery of a transcript or extract of documents set forth in the preceding item
  - (iii) Where the Settlement related Documents, etc. have been created as an Electromagnetic Record, a request for inspection of the matters contained in said Electromagnetic Record which are indicated by a method specified by an ordinance of the competent ministry
  - (iv) A request for provision of the matters contained in an Electromagnetic Record set forth in the preceding item by an Electromagnetic Means which is specified by an ordinance of the competent ministry or a request for delivery of a document stating such matters

(Public notice of the balance sheet)

Article 68-3 A Member Commodity Exchange shall give public notice of its balance sheet without delay after conclusion of an ordinary general meeting of members.

### **Subsection 5 Dissolution and Liquidation**

(Dissolution of a Member Commodity Exchange)

Article 69 A Member Commodity Exchange shall be dissolved based on the following grounds:

- (i) Expiration of the term of existence or occurrence of grounds for dissolution specified by the articles of incorporation
- (ii) Resolution of a general meeting of members
- (iii) Merger (limited to a merger where the Member Commodity Exchange is extinguished as a result of the merger; the same shall apply in Articles 71 and 72)
- (iv) Decision of commencement of bankruptcy proceedings

- (v) Rescission of the permission for establishment
- (vi) The number of members becomes 10 or less for all Commodity Markets

(Closure of a certain Commodity Market)

Article 70 A Member Commodity Exchange shall, when the number of members carrying out transactions on a Commodity Market it has opened becomes 10 or less, suspend the Transactions on said Commodity Market and apply for approval of an amendment to the articles of incorporation under Article 155, paragraph (1), in addition to the case of dissolution based on the reason set forth in item (vi) of the preceding Article.

(Liquidators)

Article 71 When a Member Commodity Exchange dissolves, the president and directors become the liquidators except for the cases of dissolution based on a merger and a decision of commencement of bankruptcy proceedings; provided, however, that this shall not apply when another person has been appointed at a general meeting of members.

(Distribution of residual assets)

Article 71-2 The residual assets shall be distributed according to the number of units of contribution of the members.

(Registration of dissolution)

Article 72 When a Member Commodity Exchange dissolves, the dissolution shall be registered at the location of its principal office within two weeks except for the cases of dissolution based on a merger and a decision of commencement of bankruptcy proceedings.

(Registration of completion of liquidation)

Article 73 When liquidation is completed, the completion of liquidation shall be registered at the location of the principal office within two weeks and at the location of the secondary offices within three weeks from the day of approval under Article 507, paragraph (3) of the Companies Act as applied mutatis mutandis pursuant to Article 77, paragraph (1) of this Act.

(Application for registration of dissolution)

Article 74 (1) A written application for registration of dissolution of a Member Commodity Exchange shall have a document attached proving the reason for the dissolution and when the president or a director representing the Member Commodity Exchange is not the liquidator, a document proving that a person is the liquidator representing the Member Commodity Exchange.

(2) Registration of liquidation in the case where a Member Commodity Exchange is dissolved by the competent minister's disposition to rescind the permission for establishment shall be made at the request of the competent minister.

(Application for registration of completion of liquidation)

Article 75 A written application for registration set forth in Article 73 shall have a document attached proving obtainment of the approval under Article 507, paragraph (3) of the Companies Act as applied mutatis mutandis pursuant to Article 77, paragraph (1).

(Approval of a merger of a Member Commodity Exchange, etc.)

Article 76 (1) A merger where Member Commodity Exchanges are all or part of the parties thereto (excluding a merger set forth in Article 145, paragraph (1)) shall not come into effect without the approval of the competent minister having been obtained.

(2) When a Member Commodity Exchange is dissolved based on the following grounds, a person who was its representative shall notify the competent minister to that effect without delay:

- (i) Expiration of the term of existence or occurrence of grounds for dissolution specified by the articles of incorporation
- (ii) Resolution of a general meeting of members
- (iii) Decision of commencement of bankruptcy proceedings
- (iv) The number of members becomes 10 or less for all Commodity Markets

(Application mutatis mutandis, etc. of the Companies Act, etc.)

Article 77 (1) The provisions of Article 475 (excluding items (i) and (iii)), Article 476, Article 478, paragraphs (2) and (4), Article 479, paragraphs (1) and (4), Article 481, Article 482, paragraph (2), Article 483, paragraphs (4) to (6) inclusive, Article 484, Article 485, Article 492, paragraphs (1) to (3) inclusive, Articles 499 to 503 inclusive, Article 507, Article 868, paragraph (1), Article 869, Article 870 (limited to the part pertaining to item (ii)), Article 871, Article 872 (limited to the part pertaining to item (iv)), Article 874 (limited to the part pertaining to items (i) and (iv)), Article 875 and Article 876 of the Companies Act shall apply mutatis mutandis to liquidation of a Member Commodity Exchange. In this case, the term "an Ordinance of the Ministry of Justice" in Article 492, paragraph (1) and Article 507, paragraph (1) of the same Act shall be deemed to be replaced with "an ordinance of the competent ministry" and the phrase "give a public notice in an official gazette" in Article 499, paragraph (1) of the same Act shall be deemed to be replaced with "give a public notice."

(2) The provisions of Article 48, paragraphs (2) and (3), Article 50-2, Article 53, Articles 55 to 57 inclusive, Article 59, Article 62-3 and Articles 66 to 68-3

inclusive of this Act and Article 361, Article 424, Article 430, Article 599 and Article 600 of the Companies Act shall apply mutatis mutandis to the liquidators of a Member Commodity Exchange, and the provisions of Part VII, Chapter II, Section 2 (excluding Article 847, paragraph (2), Article 849, paragraph (2), item (ii) and paragraph (5) and Article 851) of the same Act shall apply mutatis mutandis to an action for pursuing the responsibilities of the liquidators of a Member Commodity Exchange. In this case, the phrase "an inventory of property, a balance sheet, profit and loss statement, business report and proposed appropriation of surplus or proposed appropriation of loss" in Article 66, paragraph (1) shall be deemed to be replaced with "an inventory of property, a balance sheet and business report," the term "paragraph (1) of the preceding Article" in Article 424 of the same Act shall be deemed to be replaced with "Article 53, paragraph (1) of the Commodity Exchange Act," the term "an Ordinance of the Ministry of Finance" in Article 847, paragraphs (1) and (4) of the same Act shall be deemed to be replaced with "an ordinance of the competent ministry" and any other technical replacement shall be specified by a Cabinet Order.

- (3) A court supervising the liquidation of a Member Commodity Exchange may seek the opinion of or request an investigation from the competent minister.
- (4) The competent minister may state his/her opinion to the court prescribed in the preceding paragraph.
- (5) The provisions of Article 71, paragraph (1) of the Commercial Registration Act shall apply mutatis mutandis to the registration of dissolution of a Member Commodity Exchange.

### **Section 3 Incorporated Commodity Exchange**

(License of an Incorporated Commodity Exchange)

Article 78 An entity that intends to become a Incorporated Commodity Exchange shall obtain a license from the competent minister.

(Application for a license)

Article 79 (1) An entity that intends to obtain a license set forth in the preceding Article shall submit a written application stating the following matters to the competent minister:

- (i) Trade name
- (ii) Amount of stated capital
- (iii) Location of the head office, branch offices and any other business offices
- (iv) Listed Commodity or Listed Commodity Index
- (v) Names and addresses of officers
- (vi) Names or trade names of the Trading Participants and the Listed

Commodity or Listed Commodity Index on the Commodity Market where the Trading Participants will carry out transactions

- (2) The articles of incorporation, market rules, brokerage contract rules, dispute resolution rules, market transactions surveillance committee rules and other documents specified by an ordinance of the competent ministry shall be attached to the written application under the preceding paragraph.

(Criteria for licensing, etc.)

Article 80 (1) If the competent minister finds that the application for a license under Article 78 conforms to the following criteria, he/she shall grant the license:

- (i) The applicant for a license is a stock company of which the amount of stated capital is not less than an amount specified by a Cabinet Order.
- (ii) The Commodity Market pertaining to the application conforms to the criteria prescribed in the following for the categories of Commodity Markets set forth respectively therein:
  - (a) Commodity Market pertaining to a Listed Commodity-The total number of Trading Participants that intend to carry out transactions on the Commodity Market is 20 or more and a majority of them are persons who have, in the course of trade, engaged in the Buying and Selling, etc. of the Listed Commodity Component Products on the Commodity Market for one year or more on a continuous basis.
  - (b) Commodity Market pertaining to a Listed Commodity Index-The total number of Trading Participants that intend to carry out transactions on the Commodity Market is 20 or more and a majority of them are persons who have, in the course of trade, engaged in the Buying and Selling, etc. of the Products Underlying the Listed Commodity Index on the Commodity Market for one year or more on a continuous basis.
- (iii) Sufficient volume of transactions shall be expected for carrying out the Futures Transactions of the Listed Commodity or Listed Commodity Index pertaining to the application fairly and smoothly and, in light of the status of the transactions of the Listed Commodity Component Products, etc., it is necessary and appropriate for the applicant for a license to become a Incorporated Commodity Exchange for carrying out said Futures Transactions in order to facilitate the production and distribution of the Listed Commodity Component Products, etc.
- (iv) In the case of opening a Commodity Market pertaining to a Listed Commodity, the carrying out of transactions of the Listed Commodity Component Products on a single Commodity Market conforms to the criteria specified by a Cabinet Order as being appropriate in light of the status of the transactions of the persons who, in the course of trade, engage in the Buying

- and Selling, etc. of Listed Commodity Component Products and any other circumstances of the economic activities pertaining to the Listed Commodity Component Products.
- (v) In the case of opening a Commodity Market by specifying two or more Commodity Indices as a single Listed Commodity Index, most of the goods subject to said two or more Commodity Indices are common goods.
  - (vi) The provisions of the articles of incorporation, market rules, brokerage contract rules, dispute resolution rules and market transactions surveillance committee rules do not violate laws and regulations, and the method or management of transactions, qualification of a Trading Participant, if the maximum number of Trading Participants is specified such maximum number, if obligation to deposit a special collateral money is specified matters concerning such deposit and other matters prescribed in the articles of incorporation, market rules, brokerage contract rules, dispute resolution rules or market transactions surveillance committee rules are appropriate and sufficient for ensuring the fairness of Transactions on the Commodity Market and protecting customers.
  - (vii) The applicant for a license has a personnel structure sufficient for appropriately managing the Commodity Market.
  - (viii) The applicant for a license is organized in such a way as to conform to the provisions of this Act as an Incorporated Commodity Exchange.
  - (ix) The applicant for a license has the following organs:
    - (a) Board of directors
    - (b) Board of corporate auditors or audit committee
    - (c) Accounting auditor
- (2) If an application for a license under Article 78 falls under any of the following items, the competent minister shall not grant the license under the same Article notwithstanding the provisions of the preceding paragraph:
- (i) If the applicant for a license falls under any category of the persons in Article 15, paragraph (2), item (i) (c) to (e) inclusive, (i) or (l)
  - (ii) If the written application or the documents that should be attached thereto includes a false entry regarding an important matter
- (3) Where an application for the license under Article 78 has been filed in which case the term of existence of a Incorporated Commodity Exchange or the expiration date of a Commodity Market is included in the articles of incorporation, the competent minister shall, in lieu of the criterion set forth in paragraph (1), item (iii), consider the criterion under the same paragraph to be that there will be no shortfall in the volume of transactions for carrying out Futures Transactions of the Listed Commodity or Listed Commodity Index pertaining to the application fairly and smoothly and that, in light of the status of the transactions of the Listed Commodity Component Products, etc.,

the obtainment of the status as a Incorporated Commodity Exchange for carrying out said Futures Transactions does not or is not likely to cause extreme hindrance to the production and distribution of the Listed Commodity Component Products, etc., and he/she shall apply such criterion and the criteria under items (iv) and (v) of the same paragraph by making a determination for said term of existence or the period until said expiration date.

(4) The provisions of Article 15, paragraphs (4) to (11) inclusive shall apply mutatis mutandis to the license under Article 78.

(Articles of incorporation)

Article 81 (1) In addition to the matters listed in the respective items of Article 27 of the Companies Act, the following matters shall be included in the articles of incorporation of an Incorporated Commodity Exchange:

- (i) Matters concerning audits of and sanctions against Trading Participants
- (ii) Matters concerning the binding effect that the articles of incorporation, market rules, brokerage contract rules and dispute resolution rules have on contracts between Trading Participants concluded outside the Commodity Market
- (iii) Following matters concerning the Commodity Markets:
  - (a) Listed Commodity or Listed Commodity Index
  - (b) Types of transactions for each Listed Commodity or Listed Commodity Index
  - (c) Method of settlement of transactions

(2) If the term of existence as an Incorporated Commodity Exchange or the expiration date of a Commodity Market has been set, such term of existence or the expiration date shall be included in the articles of incorporation of the Incorporated Commodity Exchange, in addition to the matters prescribed in the preceding paragraph.

(Trading Participants of an Incorporated Commodity Exchange)

Article 82 (1) Pursuant to the provisions of its market rules, an Incorporated Commodity Exchange may, for each Commodity Market it opens, grant the trading qualification for carrying out Transactions on said Commodity Market opened by said Incorporated Commodity Exchange to the persons prescribed in the following items for the categories of Commodity Market set forth respectively in those items:

- (i) Commodity Market pertaining to a Listed Commodity-The following persons:
  - (a) A person who, in the course of trade, engages in the Buying and Selling, etc. of Listed Commodity Component Products (including items that are the main ingredient or material of the Listed Commodity Component

Products or items where the main ingredient or material is the Listed Commodity Component Products which are specified by the articles of incorporation) on the Commodity Market

(b) A Futures Commission Merchant

(c) In addition to the persons listed in (a) and (b), a person set forth in Article 30, paragraph (1), item (iii) who satisfies the requirements specified by a Cabinet Order regarding his/her relationship with the Listed Commodity Component Products on the Commodity Market

(ii) Commodity Market pertaining to a Listed Commodity Index-The following persons:

(a) A person who, in the course of trade, engages in the Buying and Selling, etc. of Products Underlying the Listed Commodity Index (including items that are the main ingredient or material of the Products Underlying the Listed Commodity Index or items where the main ingredient or material is the Products Underlying the Listed Commodity Index which are specified by the articles of incorporation) on the Commodity Market

(b) A Futures Commission Merchant

(c) In addition to the persons listed in (a) and (b), a person set forth in Article 30, paragraph (1), item (iii) who satisfies the requirements specified by a Cabinet Order regarding his/her relationship with the Products Underlying the Listed Commodity Index on the Commodity Market

(2) A Incorporated Commodity Exchange shall not grant the trading qualification to a person who falls under any category of the persons in Article 15, paragraph (2), item (i) (a) to (l) inclusive.

(3) A juridical person surviving a merger or a juridical person established by a merger shall be deemed to be the same juridical person as that which has been extinguished as a result of the merger with regard to application of the provisions of the preceding paragraph (limited to the part pertaining to Article 15, paragraph (2), item (i), (c) to (e) inclusive, (i) and (l)).

(Succession to the status of a Trading Participant)

Article 83 In the event that a Trading Participant merges, the juridical person surviving the merger or the juridical person established by the merger shall succeed to the status of the Trading Participant.

(Loss of trading qualification)

Article 84 (1) A Trading Participant may lose the trading qualification granted pursuant to the provisions of Article 82, paragraph (1) by giving a 30 days' notice in advance.

(2) The period of advance notice set forth in the preceding paragraph may be extended by the market rules; provided, however, that such period may not



exceed one year.

- (3) In addition to the case prescribed in paragraph (1), a Trading Participant shall lose the trading qualification granted pursuant to the provisions of Article 82, paragraph (1) based on the following grounds:
- (i) The person no longer falls under any of the items of Article 82, paragraph (1).
  - (ii) All of the Commodity Markets in which the person carries out transactions were closed pursuant to the provisions of Article 95.
  - (iii) Death or dissolution
  - (iv) Rescission of the trading qualification

(Change of the name, etc. of an officer or Trading Participant)

- Article 85 (1) When there is a change to the matters listed in Article 79, paragraph (1), item (iii), (v) or (vi) (excluding the location of the head office), a Incorporated Commodity Exchange shall submit to the competent minister a written notification of change with a statement to that effect without delay.
- (2) The written notification of change referred to in the preceding paragraph shall attach a document proving such a change and the document specified by an ordinance of the competent ministry.

(Limitations on the holdings of voting rights)

- Article 86 (1) No person may acquire or possess voting rights (excluding the voting rights of the shares which cannot be exercised for all matters that are subject to a resolution at a general meeting of shareholders and including the voting rights of the shares for which the shareholder is deemed to have voting rights pursuant to the provisions of Article 879, paragraph (3) of the Companies Act; hereinafter the same shall apply in this Article and the following Article) exceeding five percent of the voting rights of all shareholders of a Incorporated Commodity Exchange (including the voting rights of the shares which cannot be asserted against the issuer pursuant to the provisions of Article 147, paragraph (1) or Article 148, paragraph (1) of the Act on Transfer of Bonds, Shares, etc. [Act No. 75 of 2001] and excluding those specified by an ordinance of the competent ministry by taking into consideration the mode of acquisition or possession or any other relevant circumstances; hereinafter referred to as the "Subject Voting Rights" in this Article).
- (2) The provisions of the preceding paragraph shall not apply when a person acquires or possesses Subject Voting Rights that exceed five percent of the voting rights of all shareholders of a Incorporated Commodity Exchange in the case where the number of Subject Voting Rights possessed has not changed or in any other case specified by an ordinance of the competent ministry; provided,

however, that the person may not possess the portion of the Subject Voting Rights that exceeds five percent of the voting rights of all shareholders of the Incorporated Commodity Exchange for a period exceeding one year from the day on which the number was exceeded.

- (3) With regard to application of the provisions of the preceding two paragraphs in the cases listed in the following paragraphs, the Subject Voting Rights specified in the respective items shall be deemed to be acquired or possessed:
- (i) When a person has or will gain the authority to exercise Subject Voting Rights of an Incorporated Commodity Exchange or the authority to give instructions on the exercise of such voting rights based on the provisions of a money trust contract or other contract or Act : Said Subject Voting Rights
  - (ii) When a person having a shareholder relationship, family relationship or other special relationship specified by a Cabinet Order acquires or possesses Subject Voting Rights of a Incorporated Commodity Exchange : The Subject Voting Rights acquired or possessed by said person having a special relationship
- (4) Necessary matters concerning application of the provisions of the preceding 3 paragraphs shall be specified by a Cabinet Order.

(Public inspection of the total number of issued shares, etc.)

Article 87 An Incorporated Commodity Exchange shall provide for public inspection the total number of its issued shares, the number of voting rights of all shareholders and other matters specified by an ordinance of the competent ministry pursuant to the provisions of an ordinance of the competent ministry.

(Approval of reduction of the stated capital)

- Article 88 (1) When an Incorporated Commodity Exchange intends to reduce the amount of its stated capital, it shall obtain the approval of the competent minister pursuant to the provisions of an ordinance of the competent ministry.
- (2) When an Incorporated Commodity Exchange intends to increase the amount of its stated capital, it shall notify the competent minister pursuant to an ordinance of the competent ministry.

(Provisional director, provisional corporate auditor, etc.)

- Article 89 (1) The competent minister may, when there is no person to perform the duties of a director, representative director, executive officer, representative executive officer or corporate auditor of an Incorporated Commodity Exchange and if he/she finds it necessary, appoint a provisional director, provisional representative director, provisional executive officer, provisional representative executive officer or provisional corporate auditor.
- (2) The provisions of Article 346, paragraphs (2) and (3), Article 351, paragraphs

(2) and (3) and Article 401, paragraphs (3) and (4) (including the case where they are applied mutatis mutandis pursuant to Article 403, paragraph (3) and Article 420, paragraph (3) of the Companies Act) of the Companies Act shall not apply to a Incorporated Commodity Exchange.

(Registration by request of the competent minister)

Article 90 (1) When the competent minister appoints a provisional director, provisional representative director, provisional executive officer, provisional representative executive officer or provisional corporate auditor pursuant to the provisions of paragraph (1) of the preceding paragraph, he/she shall request registration to that effect to the registry office at the location of the head office of the Incorporated Commodity Exchange.

(2) When the competent minister requests registration pursuant to the provisions of the preceding paragraph, he/she shall attach to a written request a document proving that he/she has given a disposition pertaining to the circumstances that caused said registration.

(Prohibition of concurrent holding of positions by officers, etc.)

Article 91 (1) An officer of an Incorporated Commodity Exchange shall not hold the position of an officer of another Commodity Exchange.

(2) The provision of the preceding paragraph shall apply mutatis mutandis to liquidators of an Incorporated Commodity Exchange.

(Disqualifying conditions for officers)

Article 92 The provisions of Article 49 shall apply mutatis mutandis to officers of an Incorporated Commodity Exchange.

(Keeping of and inspection, etc. of market rules, etc.)

Article 93 (1) An Incorporated Commodity Exchange shall keep its market rules at each business office of the Incorporated Commodity Exchange and keep a Trading Participant register at its head office.

(2) The following matters concerning each Trading Participant shall be included in a Trading Participant register:

(i) Name or trade name and address

(ii) Date of acquisition of the trading qualification

(iii) Listed Commodity or Listed Commodity Index on the Commodity Market where the Trading Participant carries out transactions

(iv) In the case of a Futures Commission Merchant, the date of grant of license

(3) The provisions of Article 57, paragraphs (4) and (5) shall apply mutatis mutandis to the market rules and Trading Participant register that are kept pursuant to the provisions of paragraph (1). In this case, the phrase "A member

and a creditor of a Member Commodity Exchange" in paragraph (4) of the same Article shall be deemed to be replaced with "A shareholder, Trading Participant and creditor of a Incorporated Commodity Exchange," the phrase "during the business hours of the Member Commodity Exchange" in the same paragraph shall be deemed to be replaced with "during the business hours of the Incorporated Commodity Exchange," the phrase "decided by the Member Commodity Exchange" in the proviso of the same paragraph shall be deemed to be replaced with "decided by the Incorporated Commodity Exchange" and the term "Member Commodity Exchange" in paragraph (5) of the same Article shall be deemed to be replaced with "Incorporated Commodity Exchange."

(4) A Trading Participant of a Incorporated Commodity Exchange may make the requests listed in the respective items of Article 31, paragraph (2) of the Companies Act with regard to the articles of incorporation of a Incorporated Commodity Exchange; provided, however, that in order to make the request set forth in item (ii) or (vi), such person shall pay a cost decided by the Incorporated Commodity Exchange.

(Lapse of license)

Article 94 (1) When an Incorporated Commodity Exchange falls under any of the following items, the license under Article 78 shall cease to be effective:

(i) When the term of existence as an Incorporated Commodity Exchange specified by the articles of incorporation has expired

(ii) When the Incorporated Commodity Exchange transferred all of its business through a split or a business transfer

(iii) When the number of Trading Participants becomes 10 or less for all Commodity Markets

(iv) When the Incorporated Commodity Exchange has been dissolved

(v) When a judgment nullifying the establishment, a merger (limited to that where the entity established by said merger is an Incorporated Commodity Exchange) or a consolidation-type split (limited to that where the entity established by said consolidation-type split is an Incorporated Commodity Exchange) has become final and binding.

(2) When the license of an Incorporated Commodity Exchange lapses pursuant to the provisions of item (ii), (iii) or (v) of the preceding paragraph, a person who is or was its representative shall notify the competent minister to that effect without delay.

(Closure of a certain Commodity Market)

Article 95 A Incorporated Commodity Exchange shall, when the number of Trading Participants carrying out transactions on a Commodity Market it has opened becomes 10 or less, suspend the Transactions on said Commodity

Market and apply for approval of an amendment to the articles of incorporation under Article 155, paragraph (1), in addition to a case that falls under paragraph (1), item (iii) of the preceding Article.

(Approval of a merger of an Incorporated Commodity Exchange, etc.)

Article 96 (1) The following matters shall not come into effect without the approval of the competent minister having been obtained:

(i) Resolution of a general meeting of shareholders with regard to the dissolution of an Incorporated Commodity Exchange

(ii) A merger where Incorporated Commodity Exchanges are all or part of the parties thereto (excluding a merger set forth in Article 145, paragraph (1))

(2) When a Incorporated Commodity Exchange is dissolved based on a reason other than the grounds listed in the preceding paragraph, a person who was its representative shall notify the competent minister to that effect without delay; provided, however, that this shall not apply to cases specified by an ordinance of the competent ministry.

#### **Section 4 Transactions on a Commodity Market**

(Trading qualification)

Article 97 (1) Transactions on a Commodity Market opened by a Member Commodity Exchange may only be carried out by a member of said Member Commodity Exchange who is also a person prescribed in the respective items of Article 82, paragraph (1) for the categories of Commodity Markets set forth respectively in those items.

(2) Transactions on a Commodity Market opened by an Incorporated Commodity Exchange may only be carried out by a Trading Participant of said Commodity Market.

(3) The provisions of the preceding two paragraphs shall not apply to the case of carrying out a Commodity Clearing Transaction on consignment from a member under paragraph (1) or a Trading Participant under the preceding paragraph.

(Trading qualification pertaining to an Agreement on Intermarket Linkage)

Article 98 (1) Notwithstanding the provisions of the preceding Article, a Commodity Exchange may, pursuant to the provisions of its articles of incorporation (the market rules in the case of a Incorporated Commodity Exchange; the same shall apply in paragraph (1) of the following Article, Article 100, Article 101, paragraph (1), Article 109, paragraph (1), Article 113, paragraph (1) [including its application pursuant to Article 114] and Article 114), grant to a Member, etc. of another Commodity Exchange (including a

foreign facility equivalent to a Commodity Exchange; the same shall apply in the following paragraph) with which said Commodity Exchange has concluded an Agreement on Intermarket Linkage the qualification for carrying out Transactions on a Commodity Market of said Commodity Exchange within the scope of purpose of carrying out transactions for completing the settlement of transactions based on said Agreement on Intermarket Linkage.

(2) An Agreement on Intermarket Linkage prescribed in the preceding paragraph means an agreement under which said Commodity Exchange and a counterparty Commodity Exchange mutually recognize that the Members, etc. of the counterparty Commodity Exchange and the Members, etc. of said Commodity Exchange may, with regard to transactions of which settlement has not been completed on a Commodity Market (including a market in a foreign state equivalent to a Commodity Market; hereinafter the same shall apply in this paragraph) of the counterparty Commodity Exchange or a Commodity Market of said Commodity Exchange, respectively carry out transactions for completing the settlement of such transactions on a Commodity Market of said Commodity Exchange and on a Commodity Market of the counterparty Commodity Exchange.

(3) A person who has been granted the trading qualification by a Commodity Exchange based on the provisions of paragraph (1) shall be deemed to be a Member, etc. within the scope of the purpose prescribed in the same paragraph with regard to application of the provisions of Article 101, paragraphs (1) to (4) inclusive, Article 103, Article 104, paragraphs (3) and (4), Article 108, paragraph (1), Articles 113 to 115 inclusive, Article 118, Article 157, Article 159, paragraph (1), Article 160, paragraph (1), Article 165, Article 179 and Article 188. In this case, the phrase "withdrawn from" in Article 113, paragraph (1) (including the case of its application mutatis mutandis pursuant to Article 114 and Article 188) shall be deemed to be replaced with "lost the qualification to carry out transactions on" and the phrase "expulsion of" in Article 160, paragraph (1) and Article 165 shall be deemed to be replaced with "rescission of the qualification to carry out transactions of."

(Amount of net assets of a Member, etc.)

Article 99 (1) A Commodity Exchange shall specify for each Commodity Market the minimum amount of net assets of a Member, etc. carrying out transactions on said Commodity Market in its articles of incorporation, pursuant to the provisions of an ordinance of the competent ministry; provided, however, that this shall not apply when completing settlement by the method set forth in Article 105, paragraph (2) or (3) on said Commodity Market.

(2) When deciding the minimum amount of net assets of a Member, etc. pursuant to the provisions of the preceding paragraph, a Commodity Exchange shall

specify the minimum amount of net assets of a Member, etc. carrying out transactions on two or more Commodity Markets or on a Commodity Market of another Commodity Exchange to be higher than the minimum amount of net assets of other Members, etc.

- (3) When the amount of net assets of a Member, etc. falls below the minimum amount prescribed in the preceding two paragraphs, a Commodity Exchange shall suspend such person's Transactions on the Commodity Market and report to the competent minister to that effect without delay.
- (4) In the case referred to in the preceding paragraph, if the amount of net assets of said Member, etc. reaches or exceeds the minimum amount prescribed in paragraph (1) or (2) within six months from the day of suspension of such person's Transactions on the Commodity Market, the Commodity Exchange shall cancel the suspension of the transactions under the preceding paragraph and report to the competent minister to that effect without delay.
- (5) In the case referred to in paragraph (3), if the amount of net assets of a member or Trading Participant does not reach the minimum amount prescribed in paragraph (1) or (2) within the period prescribed in the preceding paragraph, the Commodity Exchange shall expel said member or rescind the trading qualification of said Trading Participant without delay.
- (6) When a Commodity Exchange has suspended transactions pursuant to the provisions of paragraph (3) or expelled a member or rescinded the trading qualification of a Trading Participant pursuant to the provisions of the preceding paragraph, the Commodity Exchange shall notify such person to that effect without delay, indicating the reason therefor.
- (7) The amount of net assets set forth in paragraphs (1) to (5) inclusive shall be an amount deducting the total amount of debts from the total amount of assets and shall be calculated pursuant to the provisions of an ordinance of the competent ministry.

(Number of Members, etc.)

Article 100 A Commodity Exchange may, for each Commodity Market, set an upper limit to the number of Members, etc. carrying out transactions on said Commodity Market or the number of Members, etc. carrying out transactions on the Commodity Market on consignment by stipulating such limit in its articles of incorporation.

(Guarantee funds)

- Article 101 (1) A Member, etc. shall deposit with a Commodity Exchange guarantee funds for each Commodity Market on which the Member, etc. carries out transactions, pursuant to the provisions of articles of incorporation.
- (2) A Member, etc. shall not carry out transactions on a Commodity Market until

- after depositing the guarantee funds set forth in the preceding paragraph.
- (3) Securities (which mean national government bond certificates, local government bond certificates and bond certificates issued by a juridical person pursuant to special Acts, corporate bond certificates and share certificates traded on a Financial Instruments Exchange Market and other securities specified by a Cabinet Order) may be allotted for guarantee funds.
  - (4) The allocation price of the Securities set forth in the preceding paragraph shall not exceed a price calculated pursuant to the provisions of an ordinance of the competent ministry by taking into consideration the current market price.
  - (5) A person who has consigned Transactions on a Commodity Market to a Member, etc. who is a Futures Commission Merchant (referred to as a "Transaction Customer" in the following paragraph and Article 108, paragraph (2)) shall, with regard to the guarantee funds of the Member, etc. for said Commodity Market, have the right to receive payment for the claims arising from such consignment in preference over other creditors.
  - (6) When rights to receive preferential payment set forth in the preceding paragraph conflict with each other, the right of a Transaction Customer who is not a Member, etc. shall take precedence over the right of a Transaction Customer who is a Member, etc.
  - (7) A Commodity Exchange shall not set off claims on a Member, etc. which it has gained through Business of Assuming Commodity Transaction Debts against its liabilities to said Member, etc. pertaining to guarantee funds.

(Market rules)

Article 102 A Commodity Exchange shall specify for each Commodity Market it opens detailed regulations on the following matters (excluding the matters listed in items (i) to (iii) inclusive in the case of a Member Commodity Exchange) with regard to the Commodity Market in its market rules:

- (i) Matters concerning Trading Participants
- (ii) Matters concerning guarantee funds
- (iii) Matters concerning clearing margins
- (iv) Goods which are Commodities, Commodity Indices or Options (including Spot Options) subject to Transactions on the Commodity Market
- (v) Period of a transaction
- (vi) Start and end of a transaction
- (vii) Suspension of a transaction
- (viii) Matters concerning conclusion of transaction contracts and restraint thereof
- (ix) Delivery and other settlement methods
- (x) In addition to the matters listed in the preceding items, necessary matters



concerning transactions

(Clearing margin)

Article 103 (1) A Commodity Exchange shall receive the deposit of a clearing margin from the persons prescribed in the following items for the categories set forth respectively in those items with regard to Transactions on a Commodity Market (limited to Transactions on a Commodity Market of which settlement is completed by the method set forth in Article 105, item (i) and excluding those set forth in Article 2, paragraph (10), item (i) (d); hereinafter the same shall apply in this Article) pursuant to the provisions of an ordinance of the competent ministry:

(i) When a Member, etc. carries out Transactions on a Commodity Market based on the Member, etc.'s own account or when a Member, etc. carries out Transactions on a Commodity Market which the Member, etc. brokers (limited to those which the Member, etc. brokers by obtaining the deposit of a customer margin based on the provisions of the following paragraph) : Said Member, etc.

(ii) When a Member, etc. carries out Transactions on a Commodity Market which the Member, etc. brokers (excluding those which the Member, etc. brokers for a person acting as an intermediary for the brokerage of such transactions [hereinafter referred to as an "Intermediary" in this Article]) (excluding the case set forth in the preceding item) : Customer of said transactions (a person who consigned Transactions on a Commodity Market to the Member, etc. and who is not an Intermediary; the same shall apply in the following paragraph)

(iii) When a Member, etc. carries out Transactions on a Commodity Market which the Member, etc. brokers (limited to those which the Member, etc. brokers for an Intermediary who obtained the deposit of an intermediation margin based on the provisions of paragraph (3)) (excluding the case set forth in item (i)) : Said Intermediary

(iv) When a Member, etc. carries out Transactions on a Commodity Market which the Member, etc. brokers (limited to those which the Member, etc. brokers for an Intermediary) (excluding the cases set forth in item (i) and the preceding item) : The person who consigned the intermediation of the consignment of such transactions (hereinafter referred to as the "Intermediation Customer" in this Article)

(2) A Member, etc. may, with regard to brokerage of a Transaction on a Commodity Market, have the customer or the Intermediary (the Intermediation Customer in the case the transaction is one which the Member, etc. brokers for an Intermediary who has not obtained the deposit of an intermediation margin based on the provisions of the following paragraph from

the Intermediation Customer) deposit a customer margin with the Member, etc. by gaining the consent of such person, pursuant to the provisions of an ordinance of the competent ministry.

- (3) An Intermediary may, with regard to brokerage of the intermediation of the consignment of Transactions on a Commodity Market, have the Intermediation Customer deposit an intermediation margin with the Intermediary by gaining the consent of such person.
- (4) A Commodity Exchange shall manage the clearing margin deposited based on the provisions of paragraph (1), pursuant to the provisions of an ordinance of the competent ministry.
- (5) The Securities prescribed in Article 101, paragraph (3) or a warehouse receipt proving retention of a Listed Commodity of a Commodity Market opened by said Commodity Exchange or another Commodity Exchange which can be made subject to delivery for settling Transactions on said Commodity Market may be allocated for the clearing margin under paragraph (1), the customer margin under paragraph (2) and the intermediation margin under paragraph (3).
- (6) The provisions of Article 101, paragraph (4) shall apply mutatis mutandis to the allocation price of the Securities or warehouse receipt set forth in the preceding paragraph.
- (7) In the case referred to in paragraph (2) or (3), a Member, etc. under paragraph (2) or an Intermediary under paragraph (3) (hereinafter referred to as a "Member, etc. or Intermediary" in this paragraph and paragraph (9)) may, by gaining the approval of the competent minister, conclude a contract with a bank or other financial institution specified by an ordinance of the competent ministry (hereinafter referred to as a "Bank, etc.") to have an amount corresponding to the required clearing margin deposited with a Commodity Exchange on behalf of the Member, etc. or Intermediary in accordance with the instruction of the Commodity Exchange and notify the Commodity Exchange to that effect, pursuant to the provisions of an ordinance of the competent ministry.
- (8) In the case referred to in the preceding paragraph, the Commodity Exchange may allow a grace period for deposit of the whole or a part of the clearing margin corresponding to the amount of money to be deposited with the Commodity Exchange under said contract, limited to the period during which said contract remains in force.
- (9) When a Commodity Exchange finds it necessary for securing the fairness of Transactions on a Commodity Market or protecting customers, it shall instruct the Bank, etc. which has concluded a contract under paragraph (7) with a Member, etc. or Intermediary or instruct said Member, etc. or Intermediary to deposit with the Commodity Exchange an amount of money corresponding to the required clearing margin or the clearing margin for which a grace period

was allowed for its deposit pursuant to the provisions of the preceding paragraph.

(Grading of a Listed Commodity)

Article 104 (1) The method of grading, the grade table and other matters concerning the grading of a Listed Commodity shall be specified by the market rules.

(2) In the case referred to in the preceding paragraph, when a specified national standard exists with regard to the grade of the Listed Commodity for Transactions on a Commodity Market, the Commodity Exchange shall comply with such standard.

(3) A Member, etc. shall comply with the grading conducted by a Commodity Exchange pursuant to the provisions of the market rules.

(4) In the case where it is necessary to appoint a grader, a Commodity Exchange shall appoint the grader from persons other than the Members, etc. of the Commodity Exchange.

(5) A grader set forth in the preceding paragraph shall be an employee of the Commodity Exchange; provided, however, that this shall not apply when the approval of the competent minister has been obtained.

(Settlement of transactions)

Article 105 Settlement of Transactions on a Commodity Market shall be completed for each Commodity Market by any of the methods listed in the following items, pursuant to the provisions of the articles of incorporation:

(i) Transactions are settled through the Commodity Exchange.

(ii) The Commodity Exchange assumes the liabilities arising from Transactions on a Commodity Market that it has opened by gaining the approval under Article 173, paragraph (1).

(iii) A Commodity Clearing Organization assumes the liabilities arising from Transactions on a Commodity Market (excluding the method set forth in the preceding item).

(Prohibition to defer settlement of transactions)

Article 106 Transactions on a Commodity Market shall not be settled by deferring the time of performance, except when the deferment has been caused by a delay in grading by the Commodity Exchange or other cause attributable to the Commodity Exchange (including a Commodity Clearing Organization which carries out Business of Assuming Commodity Transaction Debts for the Commodity Market, in the case of a Commodity Market where settlement is completed by the method set forth in item (iii) of the preceding Article).

(Notification of extraordinary start, etc. of transactions)

Article 107 When, with respect to each Commodity Market, a Commodity Exchange has carried out transactions for the first time after the day on which it became possible to open the Commodity Market or when it extraordinarily started, ended or suspended transactions or cancelled such suspension, the Commodity Exchange shall notify the competent minister to that effect without delay.

(Damages on default)

Article 108 (1) When a Member, etc. (limited to a Member, etc. who is a Clearing Participant in the case of completing settlement by the method set forth in Article 105, item (ii) or (iii); hereinafter the same shall apply in this Article) has caused damage to another Member, etc. or a Commodity Clearing Organization as a result of default of liabilities arising from Transactions on a Commodity Market, the damaged Member, etc. or Commodity Clearing Organization shall, with regard to the guarantee funds for the Commodity Market pertaining to said transactions and the clearing margin for said transactions (limited to that for transactions based on the Member, etc.'s own account) of the Member, etc. who has caused the damage, have the right to receive payment in preference over other creditors.

(2) Notwithstanding the provisions of the preceding paragraph, the right of a Transaction Customer to receive preferential payment under Article 101, paragraph (5) shall take precedence over the right of a Member, etc. or Commodity Clearing Organization with regard to the guarantee funds set forth in the same paragraph.

(Special deposit for default)

Article 109 (1) When completing a settlement by a method set forth in Article 105, item (i), a Commodity Exchange may have a Member, etc. deposit a special deposit for default for each Commodity Market on which the Member, etc. carries out transactions, pursuant to the provisions of its articles of incorporation.

(2) In association with claims of a Member, etc. which were acquired as a result of the default of liabilities arising from Transactions on a Commodity Market, the Member, etc. shall have the right to receive payment with regard to the guarantee funds or clearing margin prescribed in paragraph (1) of the preceding Article pursuant to the provisions of the same paragraph, and if the amount is still insufficient, receive payment in preference over other creditors with regard to the special deposit for default for said Commodity Market deposited by the Member, etc. who is the counterparty of said transactions.

(3) When a Member, etc. receives payment with regard to a special deposit for

default pursuant to the provisions of the preceding paragraph, if the amount is still insufficient, the Member, etc. shall have the right to receive payment in preference over other creditors with regard to the special deposit for default for said Commodity Market deposited by other Members, etc., in accordance with the amount of such special deposit for default; provided, however, that this shall be limited within the scope of an amount that remains after deducting from such shortfall an amount obtained by multiplying such shortfall by the percentage of the amount of the special security amount for said Commodity Market deposited by the Member, etc. to the total amount of the special deposit for default for said Commodity Market deposited by Members, etc. other than the Member, etc. who is the counterparty to the transactions prescribed in the same paragraph.

- (4) When a payment under the preceding paragraph has been made, the other Members, etc. prescribed in the same paragraph shall have the right to obtain reimbursement from the Member, etc. who is the counterparty to the transactions prescribed in paragraph (2).

(Method of utilization of guarantee funds, etc.)

Article 110 A Commodity Exchange may not manage guarantee funds or special deposits for default that have been deposited except by possessing national government bonds and other methods specified by an ordinance of the competent ministry.

(Publication of the total transaction volume, etc.)

Article 111 A Commodity Exchange shall promptly notify its Members, etc. of and publish the following matters concerning a Commodity Market it opens, pursuant to an ordinance of the competent ministry.

(i) Daily total transaction volume

(ii) The amount of consideration for which transactions were closed or the Contract Price or Contract Index (hereinafter referred to as the "Contract Price, etc.") which is specified by an ordinance of the competent ministry

(Submission of quotation and transaction volume reports, etc.)

Article 112 (1) A Commodity Exchange shall create daily and monthly quotation and transaction volume reports for the Commodity Markets opened by said Commodity Exchange and submit them to the competent minister, pursuant to an ordinance of the competent ministry.

- (2) In the case where the volume of transactions of a single Member, etc. for a Commodity Market opened by a Commodity Exchange which are based on the Member, etc.'s own account and of which settlement has not been completed exceeds the volume specified by an ordinance of the competent ministry for

each Commodity Market and in other cases where the status of the Transactions on a Commodity Market has come to satisfy the requirements specified by an ordinance of the competent ministry, the Commodity Exchange shall report to the competent minister to that effect without delay pursuant to the provisions of an ordinance of the competent ministry.

(Completion of settlement of transactions carried out prior to withdrawal or loss of the trading qualification)

Article 113 (1) Where a member has withdrawn from a Member Commodity Exchange or a Trading Participant has lost the trading qualification of a Incorporated Commodity Exchange, if such member or Trading Participant has not completed the settlement of Transactions on a Commodity Market, the Commodity Exchange have said person or a person who has succeeded to the rights and obligations pertaining to the transactions of which settlement is incomplete (hereinafter referred to as the "Successor" in this Article) or another Member, etc. (limited to another Member, etc. who may carry out transactions on said Commodity Market; hereinafter the same shall apply in this Article) complete the settlement of said transactions pursuant to the provisions of the articles of incorporation, except when there exists a person who succeeds to such matter pursuant to the provisions of Article 37, paragraph (1) or (2), Article 40 or Article 83.

(2) In the case referred to in the preceding paragraph, said person or that person's Successor (excluding a Successor who is a member or Trading Participant) shall be deemed to be a member or Trading Participant within the scope of the purpose to complete the settlement of said transactions.

(3) When a Commodity Exchange has another Member, etc. complete the settlement of said transactions pursuant to the provisions of paragraph (1), it shall be deemed that a contract for the consignment of such transactions is established between said person or that person's Successor and said Member, etc.

(Completion of settlement of transactions in the case of suspension of transactions)

Article 114 The provisions of the preceding Article shall apply mutatis mutandis in the case where Transactions on a Commodity Market of the Member, etc. have been suspended pursuant to the provisions of this Act or the articles of incorporation of a Commodity Exchange.

(Separate accounting in and preservation of books)

Article 115 A Member, etc. shall carry out accounting for Transactions on a Commodity Market separately from that for other transactions in books and

preserve the books and other documents related to the relevant affairs, pursuant to the provisions of an ordinance of the competent ministry.

(Prohibition of wash trading, accommodation trading, etc.)

Article 116 No person may conduct the following acts with regard to Transactions on a Commodity Market:

- (i) Carrying out buying and selling transactions without the intention to transfer ownership of a Listed Commodity
- (ii) Carrying out wash trading or carrying out transactions by deceptively avoiding the use of that person's own name
- (iii) Filing an application for said person's own transactions by conspiring in advance with another person that such other person would file an application for concluding said transactions at an identical amount of consideration or Contract Price, etc. at the same time as said transactions
- (iv) Carrying out a series of transactions that would cause people to believe mistakenly that the Transactions on a Commodity Market are thriving or carrying out a series of transactions that would change the quotations on said Commodity Market, either independently or jointly with another person
- (v) Consigning or brokering any of the acts listed in the preceding items or acting as an intermediary for such consignment
- (vi) Spreading information that the quotations on a Commodity Market would change through market manipulation by said person or another person
- (vii) Intentionally making misrepresentation or a representation that would cause a misunderstanding with regard to important matters when carrying out Transactions on a Commodity Market

(Liability for damages of a person who has carried out wash trading, etc.)

Article 117 (1) A person who has violated the provisions of the preceding Article shall be liable to compensate for any damages incurred by a person who has carried out transactions on said Commodity Market or consigned such transactions, with respect to said transactions or consignment, as a result of the amount of consideration or Contract Price, etc. formed by said violation.

(2) The right to claim damages under the preceding paragraph shall be extinguished by prescription when such right is not exercised within one year from the time the claimant learns that an act in violation of the provisions of the preceding paragraph has been committed or within three years from the performance of such act.

(Restriction on transactions of a Member, etc.)

Article 118 When an excessive volume of transactions is carried out or is likely to be carried out through cornering, bear raids or any other method or an

unfair amount of consideration or Contract Price, etc. is formed or is likely to be formed on a Commodity Market, if the competent minister finds it necessary in order to maintain order on the Commodity Market and to protect the public interest, he/she may impose restrictions against a Member, etc. with regard to Transactions on a Commodity Market or the brokerage of such transactions.

(Brokerage contract rules)

Article 119 A Commodity Exchange shall specify detailed regulations on the following matters in its brokerage contract rules:

- (i) Requirements for brokerage of Transactions on a Commodity Market, etc. (excluding Commodity Clearing Transactions; the same shall apply in item (iii))
- (ii) Delivery and other settlement methods
- (iii) In addition to the matters listed in the preceding two items, necessary matters concerning the brokerage of Transactions on a Commodity Market, etc.

(Dispute resolution)

Article 120 (1) When an application for mediation has been filed by a Member, etc., Futures Commission Merchant or customer who is a party concerned with regard to a dispute that has occurred between Members, etc., between Futures Commission Merchants or between a Futures Commission Merchant and a customer concerning Transactions on a Commodity Market of a Commodity Exchange, said Commodity Exchange shall conduct mediation pursuant to the provisions of its dispute resolution rules.

(2) A Commodity Exchange shall specify detailed regulations on the following matters in its dispute resolution rules:

- (i) Procedure to apply for mediation
- (ii) Method of mediation
- (iii) In addition to the matters listed in the preceding two items, necessary matters concerning mediation

## **Section 5 Entity Conversion**

(Entity conversion from a Member Commodity Exchange into an Incorporated Commodity Exchange)

Article 121 A Member Commodity Exchange may become an Incorporated Commodity Exchange through entity conversion.

(Entity Conversion plan)

Article 122 (1) In order to implement the entity conversion set forth in the



preceding Article (hereinafter referred to as "Entity Conversion" in this Section), a Member Commodity Exchange shall create an Entity Conversion plan and gain approval by a resolution of a general meeting of members.

- (2) The provisions of Article 61 shall apply mutatis mutandis to a resolution set forth in the preceding paragraph.
- (3) A general meeting of members set forth in paragraph (1) shall be convened by presenting an outline of an Entity Conversion plan and the articles of incorporation of the stock company after the Entity Conversion (hereinafter referred to as the "Incorporated Commodity Exchange after Entity Conversion").
- (4) When a Member Commodity Exchange implements Entity Conversion, said Member Commodity Exchange shall specify the following matters in its Entity Conversion plan:
  - (i) The purpose, trade name, the location of the head office and the total number of shares issuable of the Incorporated Commodity Exchange after Entity Conversion
  - (ii) In addition to the matters listed in the preceding item, the matters specified by the articles of incorporation of the Incorporated Commodity Exchange after Entity Conversion
  - (iii) The names of directors and name of accounting auditor of the Incorporated Commodity Exchange after Entity Conversion
  - (iv) The matters prescribed in the following for the categories of cases set forth respectively therein:
    - (a) When the Incorporated Commodity Exchange after Entity Conversion is a company with an accounting advisor : The name of the accounting advisor of the Incorporated Commodity Exchange after Entity Conversion
    - (b) When the Incorporated Commodity Exchange after Entity Conversion is a company with a corporate auditor (including a stock company of which articles of incorporation provide that the scope of audit by a corporate auditor shall be limited to matters concerning accounting) : The name of the corporate auditor of the Incorporated Commodity Exchange after Entity Conversion
  - (v) The number of shares of the Incorporated Commodity Exchange after Entity Conversion which members of the Member Commodity Exchange implementing Entity Conversion shall acquire upon Entity Conversion (if the Incorporated Commodity Exchange after Entity Conversion is a company issuing classified shares, the classes of shares and the number of shares by class) or the method of calculating such number
  - (vi) Matters concerning the allotment of the shares set forth in the preceding item to members of the Member Commodity Exchange implementing Entity Conversion

- (vii) When an Incorporated Commodity Exchange after Entity Conversion delivers money to members of the Member Commodity Exchange implementing Entity Conversion in lieu of their equity interests upon Entity Conversion, the amount of such money or the method of calculating such amount
- (viii) In the case prescribed in the preceding item, matters concerning the allotment of money under the same item to members of the Member Commodity Exchange implementing Entity Conversion
- (ix) Matters concerning the amount of the stated capital and reserve of the Incorporated Commodity Exchange after Entity Conversion
- (x) The day on which the Entity Conversion will come into effect (hereinafter referred to as the "Effective Date" in this Section)
- (xi) In addition to the matters listed in the preceding items, the matters specified by an ordinance of the competent ministry

(Keeping of and inspection, etc. of a document, etc. concerning an Entity Conversion plan)

Article 123 (1) A Member Commodity Exchange implementing Entity Conversion shall, during the period from 10 days prior to the day of the general meeting of members set forth in paragraph (1) of the preceding Article until the day preceding the day on which the Entity Conversion comes into effect, keep at its principal office a document or an Electromagnetic Record containing the content of the Entity Conversion plan and other matters specified by an ordinance of the competent ministry.

(2) A member and a creditor of a Member Commodity Exchange implementing Entity Conversion may make the following request to the Member Commodity Exchange at any time during its business hours; provided, however, that in order to make the request set forth in item (ii) or (iv), such person shall pay a cost decided on by the Member Commodity Exchange implementing Entity Conversion:

- (i) A request for inspection of a document set forth in the preceding paragraph
- (ii) A request for delivery of a transcript or an extract of a document set forth in the preceding paragraph
- (iii) A request for inspection of the matters contained in an Electromagnetic Record set forth in the preceding paragraph which are indicated by a method specified by an ordinance of the competent ministry
- (iv) A request for provision of the matters contained in an Electromagnetic Record set forth in the preceding paragraph by an Electromagnetic Means which is specified by an ordinance of the competent ministry or a request for delivery of a document containing such matters

(3) When a request prescribed in the preceding paragraph has been made, a

Member Commodity Exchange implementing Entity Conversion shall not refuse the request without a justifiable reason.

(Objection by a creditor)

Article 124 (1) A creditor of a Member Commodity Exchange implementing Entity Conversion may make an objection regarding the Entity Conversion to the Member Commodity Exchange.

(2) A Member Commodity Exchange implementing Entity Conversion shall give public notice of the following matters in an official gazette and notify such matters individually to known creditors; provided, however, that the period set forth in item (ii) may not be shorter than one month:

(i) The fact that Entity Conversion will be implemented

(ii) The fact that creditors may make objections within a certain period

(3) Notwithstanding the provisions of the preceding paragraph, when a Member Commodity Exchange implementing Entity Conversion gives the public notice prescribed in the same paragraph not only in an official gazette but also by the Method of Public Notice set forth in Article 11, paragraph (6), item (ii) or (iii) in accordance with the provisions of the articles of incorporation prescribed in the same paragraph, the Member Commodity Exchange shall not be required to give the individual notice prescribed in the preceding paragraph.

(4) When a creditor does not make an objection within the period set forth in paragraph (2), item (ii), said creditor shall be deemed to have approved said Entity Conversion.

(5) When a creditor makes an objection within the period set forth in paragraph (2), item (ii), a Member Commodity Exchange implementing Entity Conversion shall repay the liabilities or provide reasonable collateral to said creditor or deposit reasonable property with a Trust Company, etc. (which means a trust company and a Financial Institution Engaged in Trust Business [which means a financial institution that has obtained the approval set forth in Article 1, paragraph (1) of the Act on Additional Operation of Trust Business by a Financial Institution (Act 43 of 2006)]; the same shall apply hereinafter) for the purpose of repaying the liabilities to said creditor; provided, however, that this shall not apply when said Entity Conversion is not likely to harm said creditor.

(Keeping of and inspection, etc. of a document, etc. on the progress, etc. of Entity Conversion procedure)

Article 125 (1) A Incorporated Commodity Exchange after Entity Conversion shall, during the period of six months from the day on which Entity Conversion comes into effect, keep at its head office the document or Electromagnetic Record set forth in Article 123, paragraph (1) and a document or an

Electromagnetic Record containing the progress of the procedure prescribed in the preceding Articles and other matters specified by an ordinance of the competent minister as being matters concerning Entity Conversion.

- (2) A shareholder and a creditor of a Incorporated Commodity Exchange after Entity Conversion may make the following request to the Incorporated Commodity Exchange after Entity Conversion at any time during its business hours; provided, however, that in order to make the request set forth in item (ii) or (iv), such person shall pay a cost decided on by the Member Commodity Exchange implementing Entity Conversion:
- (i) A request for inspection of a document set forth in the preceding paragraph
  - (ii) A request for delivery of a transcript or an extract of a document set forth in the preceding paragraph
  - (iii) A request for inspection of the matters contained in an Electromagnetic Record set forth in the preceding paragraph which are indicated by a method specified by an ordinance of the competent ministry
  - (iv) A request for provision of the matters contained in an Electromagnetic Record set forth in the preceding paragraph by an Electromagnetic Means which is specified by an ordinance of the competent ministry or a request for the delivery of a document containing such matters
- (3) When a request prescribed in the preceding paragraph has been made, an Incorporated Commodity Exchange after Entity Conversion shall not refuse the request without a justifiable reason.

(Allotment of shares to a member)

- Article 126 (1) A member of a Member Commodity Exchange shall receive an allotment of shares of the Incorporated Commodity Exchange after Entity Conversion or money pursuant to the provisions of the Entity Conversion plan.
- (2) The provisions of Article 234, paragraphs (1) to (5) inclusive, Article 868, paragraph (1), Article 869, Article 871, Article 874 (limited to the part pertaining to item (iv)), Article 875 and Article 876 of the Companies Act shall apply mutatis mutandis to the case of receiving the allotment of shares or money pursuant to the provisions of the preceding paragraph. In this case, the necessary technical replacement of terms shall be specified by a Cabinet Order.

(Amounts that should be included in the stated capital)

- Article 127 The amounts that should be included in the stated capital of an Incorporated Commodity Exchange after Entity Conversion shall be specified by an ordinance of the competent ministry.

(Amounts that should be included in the capital reserve)

- Article 128 The amounts that should be included in the capital reserve at the

time of Entity Conversion and other necessary matters concerning the accounting at the time of Entity Conversion shall be specified by an ordinance of the competent ministry.

(Issuance of shares upon Entity Conversion)

Article 129 A Member Commodity Exchange may, in addition to allotting shares prescribed in Article 126, paragraph (1), issue shares of the Incorporated Commodity Exchange after Entity Conversion at the time of Entity Conversion. In this case, the following matters shall be specified in the Entity Conversion plan:

- (i) The number of shares issued pursuant to the provisions of this Article (hereinafter referred to as the "Shares Issued upon Entity Conversion" in this Section) (in the case of a company issuing classified shares, the classes and the number of the Shares Issued upon Entity Conversion; hereinafter the same shall apply in this Section)
- (ii) The Amount to be Paid for a Share Issued upon Entity Conversion (which means the amount of money to be paid or property other than money to be delivered in exchange for a single Share Issued upon Entity Conversion; hereinafter the same shall apply in this Section) or the method of calculating such amount
- (iii) When making property other than money the object of contribution, a statement to that effect and the content and value of said property
- (iv) The date of payment of money to be exchanged with a Share Issued upon Entity Conversion or delivery of the property set forth in the preceding item
- (v) Matters concerning the stated capital or capital reserve to be increased

(Application for Shares Issued upon Entity Conversion, etc.)

Article 130 (1) A Member Commodity Exchange shall notify the following matters to a person who intends to file an application to subscribe for the Shares Issued upon Entity Conversion:

- (i) The trade name of the Incorporated Commodity Exchange after Entity Conversion
  - (ii) Matters listed in the respective items of the preceding Article
  - (iii) When money is to be paid, the place for handling the payment
  - (iv) In addition to the matters listed in the preceding three items, matters specified by an ordinance of the competent ministry
- (2) A person filing an application to subscribe for the Shares Issued upon Entity Conversion shall deliver a document containing the following matters to the Member Commodity Exchange:
- (i) The name and address of the person filing the application
  - (ii) The number of the Shares Issued upon Entity Conversion for which the

person intends to subscribe

- (3) The person filing an application set forth in the preceding paragraph may, in lieu of the delivery of the document set forth in the preceding paragraph, provide the matters that should be contained in the document under the same paragraph by an Electromagnetic Means by gaining the consent of the Member Commodity Exchange, pursuant to the provisions of a Cabinet Order. In this case, the person making the subscription shall be deemed to have delivered the document set forth in the same paragraph.
- (4) When there is a change to the matters listed in the respective items of paragraph (1), a Member Commodity Exchange shall immediately notify a person filing an application under paragraph (2) (hereinafter referred to as an "Applicant" in this Section) that there has been a change and about the matters that have been changed.
- (5) With regard to a notice to be given by a Member Commodity Exchange to an Applicant, it is sufficient to send such notice to the address set forth in paragraph (2), item (i) (in the case said Applicant notified the Member Commodity Exchange of another place or point of contact for receiving a notice, such place or point of contact)
- (6) The notice set forth in the preceding paragraph shall be deemed to have arrived at the time when such notice should have normally arrived.

(Allotment of Shares Issued upon Entity Conversion)

- Article 131 (1) A Member Commodity Exchange shall decide on the persons to receive the allotment of the Shares Issued upon Entity Conversion from among the Applicants and decide on the number of the Shares Issued upon Entity Conversion to be allotted to such persons. In this case, the Member Commodity Exchange may reduce the number of the Shares Issued upon Entity Conversion to be allotted to such persons from the number set forth in paragraph (2), item (ii) of the preceding Article.
- (2) A Member Commodity Exchange shall notify Applicants of the number of the Shares Issued upon Entity Conversion to be allotted to said Applicants by the day preceding the date set forth in Article 129, item (iv).

(Subscription for Shares Issued upon Entity Conversion)

- Article 131-2 An Applicant shall become a subscriber for the Shares Issued upon Entity Conversion with regard to the number of the Shares Issued upon Entity Conversion allotted by a Member Commodity Exchange.

(Performance of contribution)

- Article 131-3 (1) A subscriber to the Shares Issued upon Entity Conversion (excluding a person who delivers the property set forth in Article 129, item (iii))

[hereinafter referred to as the "Contributed Assets" ]) shall pay the full amount of the Amount to be Paid for each Share Issued upon Entity Conversion at the place for handling the payment at Banks, etc. (which means the banks, etc. prescribed in Article 34, paragraph (2) of the Companies Act) specified by the Member Commodity Exchange by the date set forth in item (iv) of the same Article.

- (2) A subscriber to the Shares Issued upon Entity Conversion (limited to a person who delivers the Contributed Assets) shall deliver the Contributed Assets that correspond to the full amount of the Amount to be Paid for each Share Issued upon Entity Conversion by the date set forth in Article 129, item (iv).
- (3) A subscriber to the Shares Issued upon Entity Conversion shall not set off the subscriber's obligation to make the payment under paragraph (1) or the delivery under the preceding paragraph (hereinafter referred to as the "Performance of Contribution" in this Section) against the subscriber's claims on a Member Commodity Exchange.
- (4) Transfer of the right to become a shareholder of the Shares Issued upon Entity Conversion through the Performance of Contribution may not be asserted against the Incorporated Commodity Exchange after Entity Conversion.
- (5) If a subscriber to the Shares Issued upon Entity Conversion fails to conduct the Performance of Contribution, such subscriber shall lose the right to become a shareholder of the Shares Issued upon Entity Conversion through the Performance of Contribution.

(Time of becoming a shareholder)

Article 131-4 A subscriber to the Shares Issued upon Entity Conversion shall become a shareholder of the Shares Issued upon Entity Conversion for which the subscriber conducted the Performance of Contribution, on the day on which the Entity Conversion comes into effect.

(Restriction on nullification or rescission of subscription)

- Article 131-5 (1) The provisions of the proviso of Article 93 and Article 94, paragraph (1) of the Civil Code (Act No. 89 of 1954) shall not apply to a manifestation of intention concerning an application to subscribe for the Shares Issued upon Entity Conversion and the allotment of such shares.
- (2) After one year has passed from the day on which Entity Conversion comes into effect or after exercising rights with regard to shares, a subscriber to the Shares Issued upon Entity Conversion may not claim nullity of the subscription for the Shares Issued upon Entity Conversion on the basis of a mistake or rescind the subscription for the Shares Issued upon Entity Conversion on the basis of a fraud or duress.

(Application mutatis mutandis of the Companies Act to the case of making property other than money the object of contribution)

Article 131-6 The provisions of Article 207, Article 212 (excluding paragraph (1), item (i)), Article 213 (excluding paragraph (1), items (i) and (iii)), Article 868, paragraph (1), Article 870 (limited to the part pertaining to items (ii) and (vii)), Article 871, Article 872 (limited to the part pertaining to item (iv)), Article 874 (limited to the part pertaining to item (i)), Article 875 and Article 876 of the Companies Act shall apply mutatis mutandis to the case prescribed in Article 129, item (iii). In this case, the term "Article 199, paragraph (1), item (iii)" in Article 207, paragraph (1), paragraph (7) and paragraph (9), items (ii) to (v) inclusive and Article 212, paragraph (1), item (ii) and paragraph (2) of the same Act shall be deemed to be replaced with "Article 129, item (iii) of the Commodity Exchange Act," the term "an Ordinance of the Ministry of Justice" in Article 207, paragraph (4), paragraph (6) and paragraph (9), item (iii) and Article 213, paragraph (1), items (ii) and (iii) shall be deemed to be replaced with "an ordinance of the competent ministry," the phrase "a subscription for an offered share or a contract under Article 205" in Article 207, paragraph (8) and Article 212, paragraph (2) of the same Act shall be deemed to be replaced with "a subscription for an offered share," the phrase "A director, accounting advisor, corporate auditor or executive officer" in Article 207, paragraph (10), item (i) of the same Act shall be deemed to be replaced with "A president, director or auditor of a Member Commodity Exchange," the term "Article 209" in Article 212, paragraph (1), item (ii) of the same Act shall be deemed to be replaced with "Article 131-4 of the Commodity Exchange Act," the phrase "Article 199, paragraph (1), item (iii) or Article 236, paragraph (1), item (iii)" in Article 870, item (vii) of the same Act shall be deemed to be replaced with "Article 129, item (iii) of the Commodity Exchange Act" and other necessary technical replacement of terms shall be specified by a Cabinet Order.

(Approval of Entity Conversion)

- Article 132 (1) Entity Conversion shall not come into effect without the approval of the competent minister having been obtained.
- (2) A person who intends to obtain the approval set forth in the preceding paragraph shall submit to the competent minister a written application stating the matters listed in Article 79, paragraph (1), items (i) to (iii) inclusive, item (v) and item (vi) with regard to the Incorporated Commodity Exchange after Entity Conversion.
- (3) The written application set forth in the preceding paragraph shall have a document attached which states the content of the Entity Conversion plan and the articles of incorporation, market rules, brokerage contract rules, dispute



resolution rules and market transactions surveillance committee rules of the Incorporated Commodity Exchange after Entity Conversion and other documents specified by an ordinance of the competent ministry.

(Criteria for approval)

Article 133 (1) If the competent minister finds that the application for approval under paragraph (1) of the preceding Article conforms to the following criteria, he/she shall give the approval:

- (i) The amount of the stated capital of the Incorporated Commodity Exchange after Entity Conversion is not less than an amount specified by a Cabinet Order set forth in Article 80, paragraph (1), item (i).
  - (ii) The provisions of the articles of incorporation, market rules, brokerage contract rules, dispute resolution rules and market transactions surveillance committee rules of the Incorporated Commodity Exchange after Entity Conversion do not violate laws and regulations, and the method or management of transactions, qualification of a Trading Participant, if the maximum number of Trading Participants is specified such maximum number, if the obligation to deposit a special collateral money is specified matters concerning such deposit and other matters prescribed in the articles of incorporation, market rules, brokerage contract rules, dispute resolution rules or market transactions surveillance committee rules are appropriate and sufficient for ensuring the fairness of Transactions on the Commodity Market and protecting customers.
  - (iii) The Incorporated Commodity Exchange after Entity Conversion has a personnel structure sufficient for appropriately managing the Commodity Market.
  - (iv) The Incorporated Commodity Exchange after Entity Conversion is organized in such a way as to conform to the provisions of this Act as an Incorporated Commodity Exchange.
- (2) If an application for approval under paragraph (1) of the preceding Article falls under any of the following items, the competent minister shall not give the approval under paragraph (1) of the same Article notwithstanding the provisions of the preceding paragraph:
- (i) If the officers of the Incorporated Commodity Exchange after Entity Conversion include any of the persons who fall under any category of the persons in Article 15, paragraph (2), item (i) (a) to (k) inclusive
  - (ii) If the written application or the documents that should be attached thereto include a false entry regarding an important matter
- (3) The provisions of Article 15, paragraphs (5) to (9) inclusive shall apply mutatis mutandis to the approval set forth in paragraph (1) of the preceding Article.

- (4) A stock company for which Entity Conversion has been put into effect by obtaining the approval set forth in paragraph (1) of the preceding Article shall be deemed to have received the license set forth in Article 78 at the time of said Entity Conversion.
- (5) A member who has been carrying out transactions on a Commodity Market opened by the Member Commodity Exchange implementing Entity Conversion who intends to carry out transactions on the same Commodity Market as said Commodity Market opened by the Incorporated Commodity Exchange after Entity Conversion (which means a Commodity Market on which transactions are carried out for the same Listed Commodity or Listed Commodity Index by the same method of transaction; the same shall apply in Article 149, paragraphs (2) and (4)) shall be deemed to have been granted the trading qualification set forth in Article 82, paragraph (1) for such Commodity Market at the time of Entity Conversion.

(Registration)

Article 134 (1) When a Member Commodity Exchange has implemented Entity Conversion, it shall complete the registration of dissolution with regard to the Member Commodity Exchange implementing Entity Conversion, the registration of establishment with regard to the head office of the Incorporated Commodity Exchange after Entity Conversion and the registration of the matters listed in the respective items of Article 930, paragraph (2) of the Companies Act with regard to the branch offices of the Incorporated Commodity Exchange after Entity Conversion within two weeks from the day on which the Entity Conversion came into effect at the location of the principal office and the head office and within three weeks from such day at the secondary offices and branch offices.

- (2) The written application for registration of establishment set forth in the preceding paragraph shall have the following documents attached in addition to the documents specified in Article 18, Article 19 and Article 46 of the Commercial Registration Act:
- (i) The Entity Conversion plan
  - (ii) The articles of incorporation
  - (iii) Minutes of a general meeting of members concerning Entity Conversion of the Member Commodity Exchange implementing Entity Conversion
  - (iv) A document proving that the officers of the Incorporated Commodity Exchange after Entity Conversion (if the Incorporated Commodity Exchange after Entity Conversion is a company with a corporate auditor [including a stock company of which articles of incorporation provide that the audit by a corporate auditor shall be limited to matters concerning accounting], the officers and the corporate auditor) have accepted assumption of their posts

- (v) A document proving the amount of net assets existing in the Member Commodity Exchange before Entity Conversion at the time of Entity Conversion
- (vi) If an accounting advisor or accounting auditor has been appointed for the Incorporated Commodity Exchange after Entity Conversion, the documents listed in the respective items of Article 54, paragraph (2) of the Commercial Registration Act
- (vii) If a shareholder registry administrator has been appointed, a document proving the contract with such person
- (viii) Documents proving that the public notice under Article 124, paragraph (2) (if a public notice has been given not only in an official gazette, but also through publication in a daily newspaper which publishes matters on current events or through an Electronic Public Notice, a public notice through these methods) has been given and if a creditor has made an objection, the fact that the liabilities have been repaid or reasonable collateral has been provided to said creditor or reasonable property has been deposited in trust for the purpose of repaying the liabilities to said creditor or the fact that said Entity Conversion is not likely to harm said creditor
- (ix) If shares have been issued upon Entity Conversion pursuant to the provisions of Article 129, the following documents:
  - (a) A document proving applications for subscription of shares
  - (b) If money is made the object of contribution, a document proving that there has been payment under Article 131-3, paragraph (1)
  - (c) If property other than money is made the object of contribution, the following documents:
    1. If an inspector has been appointed, a document containing the investigation report by the inspector and its annexed documents
    2. In the case set forth in Article 207, paragraph (9), item (iii) of the Companies Act as applied mutatis mutandis pursuant to Article 131-6, a document proving the market price of Securities
    3. In the case set forth in Article 207, paragraph (9), item (iv) of the Companies Act as applied mutatis mutandis pursuant to Article 131-6, a document containing the certification prescribed in the same item and its annexed documents
    4. In the case set forth in Article 207, paragraph (9), item (v) of the Companies Act as applied mutatis mutandis pursuant to Article 131-6, the accounting books stating the monetary claim set forth in the same item
  - (d) When there was a court judgment on a report by an inspector, a transcript of such judgment
- (3) The provisions of Article 76 and Article 78 of the Commercial Registration Act

shall apply mutatis mutandis to registration of Entity Conversion of the Member Commodity Exchange set forth in paragraph (1).

(Coming into effect, etc. of Entity Conversion)

Article 135 (1) A Member Commodity Exchange implementing Entity Conversion shall become an Incorporated Commodity Exchange on the Effective Date or the day on which approval of the competent minister set forth in Article 132, paragraph (1) has been obtained, whichever comes later.

(2) A Member Commodity Exchange implementing Entity Conversion shall be deemed to have made amendments to its articles of incorporation pertaining to the matters set forth in Article 122, paragraph (4), items (i) and (ii) in accordance with the provisions on said matters, on the day on which Entity Conversion comes into effect.

(3) A member of a Member Commodity Exchange implementing Entity Conversion shall become a shareholder of the shares set forth in Article 122, paragraph (4), item (v), in accordance with the provisions on the matters set forth in item (vi) of the same paragraph, on the day on which Entity Conversion comes into effect.

(4) The provisions of the preceding three paragraphs shall not apply to the case where the procedure under Article 124 has not been completed or the case where Entity Conversion has been suspended.

Article 136 Deleted.

(Action for nullity of Entity Conversion)

Article 137 The provisions of Article 828, paragraph (1) (limited to the part pertaining to item (vi)) and paragraph (2) (limited to the part pertaining to item (vi)), Article 834 (limited to the part pertaining to item (vi)), Article 835, paragraph (1), Articles 836 to 839 inclusive, Article 846 and Article 937, paragraph (3) (limited to the part pertaining to item (i)) of the Companies Act shall apply mutatis mutandis to an action for nullity of Entity Conversion. In this case, "the head office of each company" in the same paragraph shall be deemed to be replaced with "the head office and branch offices of the Incorporated Commodity Exchange and the principal office and secondary offices of the Member Commodity Exchange."

(Delegation to a Cabinet Order)

Article 138 In addition to what is provided for in this Act, necessary matters concerning Entity Conversion of a Commodity Exchange shall be specified by a Cabinet Order.

**Section 6 Merger**  
**Subsection 1 General Provisions**

Article 139 (1) A Member Commodity Exchange may merge with another Member Commodity Exchange or a Incorporated Commodity Exchange. In this case, the Commodity Exchanges implementing the merger shall conclude a merger contract.

(2) When a Member Commodity Exchange implements an Absorption-Type Merger (a merger of a Commodity Exchange with another Commodity Exchange where a Commodity Exchange surviving the merger [hereinafter referred to as the "Commodity Exchange Surviving an Absorption-Type Merger" in this Section] succeeds to all of the rights and obligations of the Commodity Exchange dissolved as a result of the merger [hereinafter referred to as the "Commodity Exchange Dissolved in an Absorption-Type Merger" in this Section]; the same shall apply hereinafter) or a Consolidation-Type Merger (a merger between two or more Commodity Exchanges where a Commodity Exchange established by the merger [hereinafter referred to as the "Commodity Exchange Established by a Consolidation-Type Merger" in this Section] succeeds to all of the rights and obligations of the Commodity Exchange dissolved as a result of the merger [hereinafter referred to as the "Commodity Exchange Dissolved in a Consolidation-Type Merger" in this Section]; the same shall apply hereinafter), the Commodity Exchange Surviving an Absorption-Type Merger or the Commodity Exchange Established by a Consolidation-Type Merger shall be an entity prescribed in the following items for the categories of cases set forth respectively therein:

- (i) In the case of a merger between a Member Commodity Exchange and a Member Commodity Exchange : A Member Commodity Exchange
- (ii) In the case of a merger between a Member Commodity Exchange and a Incorporated Commodity Exchange : A Incorporated Commodity Exchange

**Subsection 2 Merger Between a Member Commodity Exchange and a Member Commodity Exchange**

(Absorption-Type Merger contract between a Member Commodity Exchange and a Member Commodity Exchange)

Article 140 When a Member Commodity Exchange and a Member Commodity Exchange implement an Absorption-Type Merger, the following matters shall be specified in an Absorption-Type Merger contract:

- (i) The name and address of the Commodity Exchange Surviving an Absorption-Type Merger which is a Member Commodity Exchange (hereinafter referred to as the "Member Commodity Exchange Surviving an

Absorption-Type Merger" in this Section) and the Commodity Exchange Dissolved in an Absorption-Type Merger which is a Member Commodity Exchange (hereinafter referred to as the "Member Commodity Exchange Dissolved in an Absorption-Type Merger" in this Section)

- (ii) The day on which the Absorption-Type Merger comes into effect (hereinafter referred to as the "Effective Date" in this Section)
- (iii) In addition to the matters listed in the preceding two items, matters specified by an ordinance of the competent minister

(Consolidation-Type Merger Contract between a Member Commodity Exchange and a Member Commodity Exchange)

Article 141 When a Member Commodity Exchange and a Member Commodity Exchange implement a Consolidation-Type Merger, the following matters shall be specified in an Incorporation -Type Merger contract:

- (i) The name and address of the Commodity Exchange Dissolved in a Consolidation-Type Merger which is a Member Commodity Exchange (hereinafter referred to as the "Member Commodity Exchange Dissolved in a Consolidation-Type Merger" in this Section)
- (ii) The purpose, name and the location of the principal office of the Commodity Exchange Established by a Consolidation-Type Merger which is a Member Commodity Exchange (hereinafter referred to as the "Member Commodity Exchange Established by a Consolidation-Type Merger" in this Section)
- (iii) In addition to the matters listed in the preceding item, matters specified by the articles of incorporation of the Member Commodity Exchange Established by a Consolidation-Type Merger
- (iv) The names of the persons becoming the president, officers and auditors at the time of the establishment of the Member Commodity Exchange Established by a Consolidation-Type Merger
- (v) In addition to the matters listed in the preceding items, matters specified by an ordinance of the competent ministry

### **Subsection 3 Merger Between a Member Commodity Exchange and a Incorporated Commodity Exchange**

(Absorption-Type Merger contract between a Member Commodity Exchange and an Incorporated Commodity Exchange)

Article 142 When a Member Commodity Exchange and a Incorporated Commodity Exchange implement an Absorption-Type Merger, the following matters shall be specified in an Absorption-Type Merger Contract:

- (i) The trade name and address of the Commodity Exchange Surviving an Absorption-Type Merger which is a Incorporated Commodity Exchange

- (hereinafter referred to as the "Incorporated Commodity Exchange Surviving an Absorption-Type Merger" in this Section) and the name and address of the Member Commodity Exchange Dissolved in an Absorption-Type Merger
- (ii) When the Incorporated Commodity Exchange Surviving an Absorption-Type Merger delivers to members of the Member Commodity Exchange Dissolved in an Absorption-Type Merger Shares, etc. (which means shares or money; the same shall apply hereinafter) in lieu of the equity interests of such members, the following matters concerning said Shares, etc.
    - (a) When the Shares, etc. are shares of the Incorporated Commodity Exchange Surviving an Absorption-Type Merger, the number of such shares (in the case of a company issuing classified shares, the classes of shares and the number of shares by class) or the method of calculating such number and matters concerning the amount of the stated capital and reserve of the Incorporated Commodity Exchange Surviving an Absorption-Type Merger
    - (b) When the Shares, etc. is money, the amount of said money and the method of calculating such amount
  - (iii) In the case prescribed in the preceding item, matters concerning allotment of Shares, etc. set forth in the same paragraph to members of the Member Commodity Exchange Dissolved in an Absorption-Type Merger
  - (iv) The Effective Date
  - (v) In addition to the matters listed in the preceding items, matters specified by an ordinance of the competent ministry

(Consolidation-Type Merger Contract between a Member Commodity Exchange and an Incorporated Commodity Exchange)

- Article 143 (1) When a Member Commodity Exchange and a Incorporated Commodity Exchange implement a Consolidation-Type Merger, the following matters shall be specified in a Consolidation-Type Merger contract:
- (i) The name and address of the Member Commodity Exchange Dissolved in a Consolidation-Type Merger and the trade name and address of the Commodity Exchange Dissolved in a Consolidation-Type Merger which is a Incorporated Commodity Exchange (hereinafter referred to as the "Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger" in this Section)
  - (ii) The purpose, trade name, location of the head office and total number of shares issuable of the Commodity Exchange Established by a Consolidation-Type Merger which is a Incorporated Commodity Exchange (hereinafter referred to as the "Incorporated Commodity Exchange Established by a Consolidation-Type Merger" in this Section)
  - (iii) In addition to the matters listed in the preceding item, matters specified in

- the articles of incorporation of the Incorporated Commodity Exchange Established by a Consolidation-Type Merger
- (iv) The name of the persons becoming directors at the time of the establishment of the Incorporated Commodity Exchange Established by a Consolidation-Type Merger and the name of the person becoming an accounting auditor at the time of such establishment
  - (v) Matters prescribed in the following matters for the categories of cases set forth respectively therein
    - (a) When the Incorporated Commodity Exchange Established by a Consolidation-Type Merger is a company with an accounting advisor : The name of the person who becomes an accounting advisor at the time of the establishment of the Incorporated Commodity Exchange Established by a Consolidation-Type Merger
    - (b) When the Incorporated Commodity Exchange Established by a Consolidation-Type Merger is a company with a corporate auditor (including a stock company of which the articles of incorporation provide that the scope of an audit by a corporate auditor shall be limited to matters concerning accounting) : The name of the person who becomes a corporate auditor at the time of the establishment of the Incorporated Commodity Exchange Established by a Consolidation-Type Merger
  - (vi) The number of shares of the Incorporated Commodity Exchange Established by a Consolidation-Type Merger (in the case of a company issuing classified shares, the classes of shares and the number of shares by class) which such Incorporated Commodity Exchange Established by a Consolidation-Type Merger delivers to members of the Member Commodity Exchange Dissolved in a Consolidation-Type Merger or shareholders of the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger in lieu of their equity interests or shares, at the time of the Incorporation-Type Merger, or the method of calculating such number and matters concerning the amount of the stated capital and reserve of the Incorporated Commodity Exchange Established by a Consolidation-Type Merger
  - (vii) Matters concerning the allotment of shares set forth in the preceding item to members of the Member Commodity Exchange Dissolved in a Consolidation-Type Merger or shareholders of the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger (excluding the Commodity Exchanges Dissolved in a Consolidation-Type Merger)
  - (viii) When the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger has issued rights to subscribe for new shares, the following matters with regard to the rights to subscribe for new shares of the Incorporated Commodity Exchange Established by a Consolidation-Type



- Merger or the money which such Incorporated Commodity Exchange Established by a Consolidation-Type Merger delivers at the time of the Consolidation-Type Merger to the holders of the rights to subscribe for new shares of the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger in lieu of said rights to subscribe for new shares:
- (a) When issuing rights to subscribe for new shares of the Incorporated Commodity Exchange Established by a Consolidation-Type Merger to the holders of the rights to subscribe for new shares of the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger, the content and number of the rights to subscribe for new shares or the method of calculating such number
  - (b) In the case prescribed in (a), if the rights to subscribe for new shares of the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger set forth in (a) are rights to subscribe for new shares attached to bonds with rights to subscribe for new shares, the fact that the Incorporated Commodity Exchange Established by a Consolidation-Type Merger will succeed to the obligations pertaining to bonds with regard to said bonds with rights to subscribe for new shares, and the classes of bonds pertaining to the succession and the total amount of bonds by class or the method of calculating such amount
  - (c) When delivering money to the holders of the rights to subscribe for new shares of the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger, the amount of such money or the method of calculating such amount
  - (ix) In the case prescribed in the preceding item, matters concerning the allotment of rights to subscribe for new shares of the Incorporated Commodity Exchange Established by a Consolidation-Type Merger or the money set forth in the same item to the holders of the rights to subscribe for new shares of the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger
- (2) In the case referred to in the preceding paragraph, if the whole or a part of the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger is a company issuing classified shares, the following matters may be specified as being the matters set forth in item (vii) of the same paragraph (limited to matters pertaining to shareholders of the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger; the same shall apply in the following paragraph) in accordance with the content of the classes of shares issued by the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger:
- (i) If not allotting shares of the Incorporated Commodity Exchange Established by a Consolidation-Type Merger to shareholders of certain classes of shares,

- such fact and said classes of shares
- (ii) In addition to the matters listed in the preceding item, if treating the allotment of shares of the Incorporated Commodity Exchange Established by a Consolidation-Type Merger differently by class of shares, such fact and the content of such differing treatment
- (3) In the case referred to in paragraph (1), provisions on the matters set forth in item (vii) of the same paragraph shall prescribe that shares of the Incorporated Commodity Exchange Established by a Consolidation-Type Merger shall be delivered in accordance with the number of shares (if provisions on the matters set forth in item (ii) of the preceding paragraph exist, the number of shares of each class) held by shareholders of the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger (excluding the Commodity Exchanges Dissolved in a Consolidation-Type Merger and shareholders of the classes of shares set forth in item (i) of the preceding paragraph).

#### **Subsection 4 Merger Procedure of a Member Commodity Exchange**

(Procedure of a Member Commodity Exchange Dissolved in an Absorption-Type Merger)

Article 144 (1) A Member Commodity Exchange Dissolved in an Absorption-Type Merger shall, during the period from 10 days prior to the day of the general meeting of members set forth in paragraph (4) until the day on which the Absorption-Type Merger comes into effect, keep at its principal office a document or an Electromagnetic Record containing the content of the Absorption-Type Merger contract and other matters specified by an ordinance of the competent ministry.

(2) A member and a creditor of a Member Commodity Exchange Dissolved in an Absorption-Type Merger may make the following request to the Member Commodity Exchange Dissolved in an Absorption-Type Merger at any time during its business hours; provided, however, that in order to make the request set forth in item (ii) or (iv), such person shall pay a cost decided on by the Member Commodity Exchange Dissolved in an Absorption-Type Merger:

(i) A request for inspection of a document set forth in the preceding paragraph

(ii) A request for delivery of a transcript or an extract of a document set forth in the preceding paragraph

(iii) A request for inspection of the matters contained in an Electromagnetic Record set forth in the preceding paragraph which are indicated by a method specified by an ordinance of the competent ministry

(iv) A request for provision of the matters contained in an Electromagnetic Record set forth in the preceding paragraph by an Electromagnetic Means which is specified by an ordinance of the competent ministry or a request for

delivery of a document containing such matters

- (3) When a request prescribed in the preceding paragraph has been made, a Member Commodity Exchange Dissolved in an Absorption-Type Merger shall not refuse the request without a justifiable reason.
- (4) A Member Commodity Exchange Dissolved in an Absorption-Type Merger shall gain approval for the Absorption-Type Merger by a resolution of a general meeting of members by the day preceding the Effective Date.
- (5) The provisions of Article 124 shall apply mutatis mutandis to a Member Commodity Exchange Dissolved in an Absorption-Type Merger.
- (6) A Member Commodity Exchange Dissolved in an Absorption-Type Merger may change the Effective Date by an agreement with the Commodity Exchange Surviving an Absorption-Type Merger.
- (7) In the case referred to in the preceding paragraph, the Member Commodity Exchange Dissolved in an Absorption-Type Merger shall give a public notice of the new Effective Date by the day preceding the Effective Date before the change (if the new Effective Date comes before the Effective Date before the change, said new Effective Date instead of the Effective Date before the change).
- (8) When the Effective Date has been changed pursuant to the provisions of paragraph (6), the provisions of this Section shall be applied by deeming the new Effective Date to be the Effective Date.

(Procedure of a Member Commodity Exchange Surviving an Absorption-Type Merger)

- Article 144-2 (1) A Member Commodity Exchange Surviving an Absorption-Type Merger shall, during the period from 10 days prior to the day of the general meeting of members set forth in the following paragraph until the day on which six months have passed from the day the Absorption-Type Merger comes into effect, keep at its principal office a document or an Electromagnetic Record containing the content of the Absorption-Type Merger contract and other matters specified by an ordinance of the competent ministry.
- (2) A Member Commodity Exchange Surviving an Absorption-Type Merger shall gain approval for the Absorption-Type Merger by a resolution of a general meeting of members by the day preceding the Effective Date.
  - (3) The provisions of Article 124 shall apply mutatis mutandis to a Member Commodity Exchange Surviving an Absorption-Type Merger.
  - (4) A Member Commodity Exchange Surviving an Absorption-Type Merger shall create a document or an Electromagnetic Record containing matters on the rights and obligations of the Member Commodity Exchange Dissolved in an Absorption-Type Merger succeeded by the Member Commodity Exchange Surviving an Absorption-Type Merger through the Absorption-Type Merger

and other matters specified by an ordinance of the competent ministry as matters concerning an Absorption-Type Merger, without delay after the day on which the Absorption-Type Merger comes into effect.

- (5) A Member Commodity Exchange Surviving an Absorption-Type Merger shall, during the period of six months from the day on which the Absorption-Type Merger comes into effect, keep at its principal office the document or Electromagnetic Record set forth in the preceding paragraph.
- (6) A member and a creditor of a Member Commodity Exchange Surviving an Absorption-Type Merger may make the following request to the Member Commodity Exchange Surviving an Absorption-Type Merger at any time during its business hours; provided, however, that in order to make the request set forth in item (ii) or (iv), such person shall pay a cost decided on by the Member Commodity Exchange Surviving an Absorption-Type Merger:
- (i) A request for inspection of a document set forth in paragraph (1) or the preceding paragraph
  - (ii) A request for delivery of a transcript or an extract of a document set forth in paragraph (1) or the preceding paragraph
  - (iii) A request for inspection of the matters contained in an Electromagnetic Record set forth in paragraph (1) or the preceding paragraph which are indicated by a method specified by an ordinance of the competent ministry
  - (iv) A request for provision of the matters contained in an Electromagnetic Record set forth in paragraph (1) or the preceding paragraph by an Electromagnetic Means which is specified by an ordinance of the competent ministry or a request for delivery of a document containing such matters
- (7) When a request prescribed in the preceding paragraph has been made, a Member Commodity Exchange Surviving an Absorption-Type Merger shall not refuse the request without a justifiable reason.

(Procedure of a Member Commodity Exchange Dissolved in a Consolidation-Type Merger)

- Article 144-3 (1) A Member Commodity Exchange Dissolved in a Consolidation-Type Merger shall, during the period from 10 days prior to the day of the general meeting of members set forth in paragraph (4) until the day of the establishment of the Commodity Exchange Established by a Consolidation-Type Merger, keep at its principal office a document or an Electromagnetic Record containing the content of the Consolidation-Type Merger contract and other matters specified by an ordinance of the competent ministry.
- (2) A member and a creditor of a Member Commodity Exchange Dissolved in a Consolidation-Type Merger may make the following request to the Member Commodity Exchange Dissolved in a Consolidation-Type Merger at any time during its business hours; provided, however, that in order to make the request

set forth in item (ii) or (iv), such person shall pay a cost decided on by the Member Commodity Exchange Dissolved in a Consolidation-Type Merger:

- (i) A request for inspection of a document set forth in the preceding paragraph
  - (ii) A request for delivery of a transcript or an extract of a document set forth in the preceding paragraph
  - (iii) A request for inspection of the matters contained in an Electromagnetic Record set forth in the preceding paragraph which are indicated by a method specified by an ordinance of the competent ministry
  - (iv) A request for provision of the matters contained in an Electromagnetic Record set forth in the preceding paragraph by an Electromagnetic Means which is specified by an ordinance of the competent ministry or a request for delivery of a document containing such matters
- (3) When a request prescribed in the preceding paragraph has been made, a Member Commodity Exchange Dissolved in a Consolidation-Type Merger shall not refuse the request without a justifiable reason.
- (4) A Member Commodity Exchange Dissolved in a Consolidation-Type Merger shall gain approval for the Consolidation-Type Merger by a resolution of a general meeting of members.
- (5) The provisions of Article 124 are applied mutatis mutandis to a Member Commodity Exchange Dissolved in a Consolidation-Type Merger.

(Procedure of a Member Commodity Exchange Established by a Consolidation-Type Merger)

- Article 144-4 (1) The provisions of Section 2, Subsection 1 (excluding Article 7, Article 8, Article 11, paragraph (2), paragraph (4) and the first sentence of paragraph (5), Article 16, paragraph (1), Article 19, Article 20, paragraph (2), Articles 21 to 25 inclusive and Article 27) shall not apply to the establishment of a Member Commodity Exchange Established by a Consolidation-Type Merger.
- (2) Articles of incorporation of a Member Commodity Exchange Established by a Consolidation-Type Merger shall be created by the Member Commodity Exchange(s) Dissolved in a Consolidation-Type Merger.
- (3) A Member Commodity Exchange Established by a Consolidation-Type Merger shall create a document or an Electromagnetic Record containing matters on the rights and obligations of the Member Commodity Exchange Dissolved in a Consolidation-Type Merger succeeded by the Member Commodity Exchange Established by a Consolidation-Type Merger through the Consolidation-Type Merger and other matters specified by an ordinance of the competent ministry as matters concerning a Consolidation-Type Merger, without delay after the day of its establishment.
- (4) A Member Commodity Exchange Established by a Consolidation-Type Merger

shall, during the period of six months from its establishment, keep at its principal office the document or Electromagnetic Record set forth in the preceding paragraph and a document or an Electromagnetic Record containing the content of the Consolidation-Type Merger contract and other matters specified by an ordinance of the competent ministry.

- (5) A member and a creditor of a Member Commodity Exchange Established by a Consolidation-Type Merger may make the following request to the Member Commodity Exchange Established by a Consolidation-Type Merger at any time during its business hours; provided, however, that in order to make the request set forth in item (ii) or (iv), such person shall pay a cost decided on by the Member Commodity Exchange Established by a Consolidation-Type Merger:
- (i) A request for inspection of a document set forth in the preceding paragraph
  - (ii) A request for delivery of a transcript or an extract of a document set forth in the preceding paragraph
  - (iii) A request for inspection of the matters contained in an Electromagnetic Record set forth in the preceding paragraph which are indicated by a method specified by an ordinance of the competent ministry
  - (iv) A request for provision of the matters contained in an Electromagnetic Record set forth in the preceding paragraph by an Electromagnetic Means which is specified by an ordinance of the competent ministry or a request for the delivery of a document containing such matters
- (6) When a request prescribed in the preceding paragraph has been made, a Member Commodity Exchange Established by a Consolidation-Type Merger shall not refuse the request without a justifiable reason.

**Subsection 5 Merger Procedure of a Incorporated Commodity Exchange  
Division 1 Procedure of a Incorporated Commodity Exchange  
Surviving an Absorption-Type Merger**

(Keeping of and inspection, etc. of a document, etc. concerning an Absorption-Type Merger contract)

- Article 144-5 (1) A Incorporated Commodity Exchange Surviving an Absorption-Type Merger (limited to the Incorporated Commodity Exchange Surviving an Absorption-Type Merger in an Absorption-Type Merger between a Member Commodity Exchange and a Incorporated Commodity Exchange; hereinafter the same shall apply in this Division) shall, during the period from any of the following days whichever comes the earliest until the day on which six months have passed from the day the Absorption-Type Merger came into effect, keep at its head office a document or an Electromagnetic Record containing the content of the Absorption-Type Merger contract and other matters specified by an ordinance of the competent ministry:

- (i) When approval for the Absorption-Type Merger needs to be gained by a resolution of a general meeting of shareholders (including a general meeting of class shareholders)-The day two weeks prior to the day of said general meeting of shareholders
  - (ii) The day of the notice set forth in Article 144-8, paragraph (1) or the day of the public notice under paragraph (2) of the same Article, whichever comes earlier
  - (iii) The day of the public notice set forth in Article 144-10, paragraph (2) or the notice set forth in the same paragraph, whichever comes earlier
- (2) A shareholder and a creditor of a Incorporated Commodity Exchange Surviving an Absorption-Type Merger may make the following request to the Incorporated Commodity Exchange Surviving an Absorption-Type Merger at any time during its business hours; provided, however, that in order to make the request set forth in item (ii) or (iv), such person shall pay a cost decided on by the Incorporated Commodity Exchange Surviving an Absorption-Type Merger:
- (i) A request for inspection of a document set forth in the preceding paragraph
  - (ii) A request for delivery of a transcript or an extract of a document set forth in the preceding paragraph
  - (iii) A request for inspection of the matters contained in an Electromagnetic Record set forth in the preceding paragraph which are indicated by a method specified by an ordinance of the competent ministry
  - (iv) A request for provision of the matters contained in an Electromagnetic Record set forth in the preceding paragraph by an Electromagnetic Means which is specified by an ordinance of the competent ministry or a request for delivery of a document containing such matters
- (3) When a request prescribed in the preceding paragraph has been made, a Incorporated Commodity Exchange Surviving an Absorption-Type Merger shall not refuse the request without a justifiable reason.

(Approval, etc. of an Absorption-Type Merger contract)

Article 144-6 (1) A Incorporated Commodity Exchange Surviving an Absorption-Type Merger shall gain approval for the Absorption-Type Merger contract by a resolution of a general meeting of shareholders by the day preceding the Effective Date.

- (2) In the following cases, directors shall provide explanations to that effect at the general meeting of shareholders set forth in the preceding paragraph:
  - (i) When an amount specified by an ordinance of the competent ministry as being the amount of liabilities of the Member Commodity Exchange Dissolved in an Absorption-Type Merger to be succeeded by the Incorporated Commodity Exchange Surviving an Absorption-Type Merger (referred to as

- the "Amount of Liabilities Succeeded" in the following item) exceeds an amount specified by an ordinance of the competent ministry as the amount of assets of the Member Commodity Exchange Dissolved in an Absorption-Type Merger to be succeeded by the Incorporated Commodity Exchange Surviving an Absorption-Type Merger (referred to as the "Amount of Assets Succeeded" in the same item)
- (ii) When the amount of money to be delivered to members of the Member Commodity Exchange Dissolved in an Absorption-Type Merger by the Incorporated Commodity Exchange Surviving an Absorption-Type Merger exceeds an amount obtained by deducting the Amount of Liabilities Succeeded from the Amount of Assets Succeeded
- (3) If the assets of the Member Commodity Exchange Dissolved in an Absorption-Type Merger to be succeeded include shares of the Incorporated Commodity Exchange Surviving an Absorption-Type Merger, directors shall provide explanations for matters concerning said shares at the general meeting of shareholders set forth in paragraph (1).
- (4) In the case where a Incorporated Commodity Exchange Surviving an Absorption-Type Merger is a company issuing classified shares, if the Shares, etc. delivered to members of the Member Commodity Exchange Dissolved in an Absorption-Type Merger are shares of the Incorporated Commodity Exchange Surviving an Absorption-Type Merger, the Absorption-Type Merger shall not come into effect without a resolution of a general meeting of class shareholders consisting of class shareholders of the classes of shares set forth in Article 142, item (ii) (a) (limited to transfer restricted shares for which the provisions of the articles of incorporation set forth in Article 199, paragraph (4) of the Companies Act do not exist); provided, however, that this shall not apply if there are no shareholders who are entitled to exercise their voting rights present at said general meeting of class shareholders.
- (5) A resolution of a general meeting of shareholders set forth in paragraph (1) shall be adopted by at least a two-thirds majority (if a larger proportion has been specified by articles of incorporation, such proportion) of votes of the shareholders present when shareholders holding a majority (if a proportion of one-third or more has been specified by articles of incorporation, at least such proportion) of the voting rights of shareholders who are entitled to exercise voting rights at said general meeting of shareholders are present. In this case, the Incorporated Commodity Exchange Surviving an Absorption-Type Merger shall not be precluded from prescribing in its articles of incorporation a requirement to gain the consent of more than a certain number of shareholders or other requirements in addition to the requirement for such resolution.
- (6) The provisions of the preceding paragraph shall be applied mutatis mutandis to the general meeting of class shareholders set forth in paragraph (4).



- (Cases in which approval for Absorption-Type Merger, etc. is not required, etc.)
- Article 144-7 (1) The provisions from paragraphs (1) to (3) inclusive of the preceding Article shall not apply when the proportion of the amount set forth in item (i) to the amount set forth in item (ii) does not exceed one-fifth (or, if a smaller proportion has been specified by the articles of incorporation of the Incorporated Commodity Exchange Surviving an Absorption-Type Merger, such proportion); provided, however, that this shall not apply in the cases listed in the respective items of paragraph (2) of the same Article or in the case where the whole or a part of the Shares, etc. delivered to members of the Member Commodity Exchange Dissolved in an Absorption-Type Merger are transfer restricted shares of the Incorporated Commodity Exchange Surviving an Absorption-Type Merger and when the Incorporated Commodity Exchange Surviving an Absorption-Type Merger is a Publicly-Held Company (which means a publicly-held company prescribed in Article 2, item (v) of the Companies Act; hereinafter the same shall apply in this Section).
- (i) The total amount of the following amounts:
- (a) An amount obtained by multiplying the number of shares of the Incorporated Commodity Exchange Surviving an Absorption-Type Merger to be delivered to members of the Member Commodity Exchange Dissolved in an Absorption-Type Merger by the Amount of Net Assets per Share (which means the amount of net assets per share prescribed in Article 141, paragraph (2) of the Companies Act)
- (b) The total amount of the amounts of money to be delivered to members of the Member Commodity Exchange Dissolved in an Absorption-Type Merger
- (ii) An amount calculated by a method specified by an ordinance of the competent ministry as being the amount of net assets of the Incorporated Commodity Exchange Surviving an Absorption-Type Merger
- (2) In the case prescribed in the main clause of the preceding paragraph, if a shareholder holding the number of shares specified by an ordinance of the competent ministry (limited to those of which voting rights may be exercised at the general meeting of shareholders set forth in paragraph (1) of the preceding Article) notifies the Incorporated Commodity Exchange Surviving an Absorption-Type Merger of his/her dissent from the Absorption-Type Merger within two weeks from the day of the notice set forth in paragraph (1) of the following Article or from the day of the public notice set forth in paragraph (2) of the same Article, the Incorporated Commodity Exchange Surviving an Absorption-Type Merger shall gain the approval for the Absorption-Type Merger contract by a resolution of a general meeting of shareholders by the day preceding the Effective Date.
- (3) The provisions of paragraph (5) of the preceding Article shall apply mutatis

mutandis to the general meeting of shareholders set forth in the preceding paragraph.

(Notice to shareholders)

Article 144-8 (1) A Incorporated Commodity Exchange Surviving an Absorption-Type Merger shall notify its shareholders that an Absorption-Type Merger is to take place and the name and address of the Member Commodity Exchange Dissolved in an Absorption-Type Merger (including matters concerning shares set forth in Article 144-6, paragraph (3) in the case prescribed in the same paragraph) by 20 days prior to the Effective Date.

(2) In the following cases, the notice set forth in the preceding paragraph may be substituted by a public notice:

(i) When the Incorporated Commodity Exchange Surviving an Absorption-Type Merger is a Publicly-Held Company

(ii) When the Incorporated Commodity Exchange Surviving an Absorption-Type Merger has gained approval for the Absorption-Type Merger by the resolution of a general meeting of shareholders set forth in Article 144-6, paragraph (1)

(3) The provisions of Article 940, paragraph (1) (limited to the part pertaining to item (i)) and paragraph (3) of the Companies Act shall apply mutatis mutandis to the case where the Incorporated Commodity Exchange Surviving an Absorption-Type Merger gives the public notice set forth in the preceding paragraph by a method set forth in Article 939, paragraph (1), item (iii) of the Companies Act. In this case, the necessary technical replacement of terms shall be specified by a Cabinet Order.

(Share purchase demand)

Article 144-9 (1) In the case of an Absorption-Type Merger, a Dissenting Shareholder may demand that the Incorporated Commodity Exchange Surviving an Absorption-Type Merger purchase such person's shares at a fair price.

(2) The "Dissenting Shareholder" prescribed in the preceding paragraph shall mean a shareholder prescribed in the following items in the cases set forth respectively in those items:

(i) In the case requiring a resolution of a general meeting of shareholders (including a general meeting of class shareholders) for implementing the Absorption-Type Merger-The following shareholders:

(a) A shareholder who has notified the Incorporated Commodity Exchange Surviving an Absorption-Type Merger of his/her dissent from the Absorption-Type Merger prior to said general meeting of shareholders and who has dissented from the Absorption-Type Merger at said general

- meeting of shareholders (limited to those who are entitled to exercise their voting rights at said general meeting of shareholders)
- (b) A shareholder who is not entitled to exercise the shareholder's voting right at said general meeting of shareholders
- (ii) In cases other than the case prescribed in the preceding item -All shareholders
- (3) The provisions of Article 797, paragraphs (5) to (7) inclusive, Article 798, Article 868, paragraph (1), Article 870 (limited to the part pertaining to item (iv)), the main clause of Article 871, Article 872 (limited to the part pertaining to item (iv)), the main clause of Article 873, Article 875 and Article 876 of the Companies Act shall apply mutatis mutandis to the request under paragraph (1). In this case, the necessary technical replacement of terms shall be specified by a Cabinet Order.

(Objection by a creditor)

- Article 144-10 (1) A creditor of a Incorporated Commodity Exchange Surviving an Absorption-Type Merger may make an objection with regard to the Absorption-Type Merger to the Incorporated Commodity Exchange Surviving an Absorption-Type Merger.
- (2) A Incorporated Commodity Exchange Surviving an Absorption-Type Merger shall give the public notice of the following matters in an official gazette and notify such matters individually to known creditors (including the bondholder representative [which means the bondholder representative under Article 702 of the Companies Act] in the case the bondholder representative exists); provided, however, that the period set forth in item (iv) may not be less than one month:
- (i) The fact that an Absorption-Type Merger will take place
- (ii) The name and address of the Member Commodity Exchange Dissolved in an Absorption-Type Merger
- (iii) Matters specified by an ordinance of the competent ministry as being matters concerning accounting documents of a Incorporated Commodity Exchange Surviving an Absorption-Type Merger
- (iv) The fact that creditors may make objections within a certain period
- (3) Notwithstanding the provisions of the preceding paragraph, when a Incorporated Commodity Exchange Surviving an Absorption-Type Merger gives the public notice prescribed in the same paragraph not only in an official gazette but also by the method set forth in Article 939, paragraph (1), item (ii) or (iii) of the Companies Act in accordance with the provisions of the articles of incorporation prescribed in the same paragraph, the Incorporated Commodity Exchange Surviving an Absorption-Type Merger shall not be required to give the individual notice prescribed in the preceding paragraph.

- (4) When a creditor does not make an objection within the period set forth in paragraph (2), item (iv), said creditor shall be deemed to have approved said Absorption-Type Merger.
- (5) When a creditor makes an objection within the period set forth in paragraph (2), item (iv), a Incorporated Commodity Exchange Surviving an Absorption-Type Merger shall repay the liabilities or provide reasonable collateral to said creditor or deposit reasonable property to a Trust Company, etc. for the purpose of repaying the liabilities to said creditor; provided, however, that this shall not apply when said Absorption-Type Merger is not likely to harm said creditor.
- (6) The provisions of Article 940, paragraph (1) (limited to the part pertaining to item (iii)) and paragraph (3) of the Companies Act shall apply mutatis mutandis to the case where the Incorporated Commodity Exchange Surviving an Absorption-Type Merger gives the public notice set forth in paragraph (2) by a method set forth in Article 939, paragraph (1), item (iii) of the Companies Act. In this case, the necessary technical replacement of terms shall be specified by a Cabinet Order.
- (7) In order for a bondholder representative to make an objection pursuant to the provisions of paragraph (1), such objection shall require approval by a resolution of a general meeting of bondholders. In this case, a court may extend the period for making objections for the benefit of the bondholder representative, upon the motion of an interested person.
- (8) Notwithstanding the provisions of the preceding paragraph, a bondholder representative may make an objection for the benefit of a bondholder; provided, however, that this shall not apply when special provisions exist in the contract pertaining to consignment under Article 702 of the Companies Act.
- (9) The provisions of Article 868, paragraph (3), Article 870 (limited to the part pertaining to item (xi)), the main clause of Article 871, Article 872 (limited to the part pertaining to item (iv)), Article 875 and Article 876 shall apply mutatis mutandis to cases pertaining to a motion under paragraph (7).

(Keeping of and inspection, etc. of documents, etc. concerning an Absorption-Type Merger, etc.)

Article 144-11 (1) A Incorporated Commodity Exchange Surviving an Absorption-Type Merger shall create a document or an Electromagnetic Record containing matters relating to the rights and obligations of the Member Commodity Exchange Dissolved in an Absorption-Type Merger succeeded by the Incorporated Commodity Exchange Surviving an Absorption-Type Merger through the Absorption-Type Merger and other matters specified by an ordinance of the competent ministry as being matters concerning an Absorption-Type Merger, without delay after the day on which the Absorption-

Type Merger comes into effect.

- (2) A Incorporated Commodity Exchange Surviving an Absorption-Type Merger shall, during the period of six months from the day on which the Absorption-Type Merger comes into effect, keep at its head office the document or Electromagnetic Record set forth in the preceding paragraph.
- (3) A member and a creditor of a Incorporated Commodity Exchange Surviving an Absorption-Type Merger may make the following request to the Incorporated Commodity Exchange Surviving an Absorption-Type Merger after an Absorption-Type Merger at any time during its business hours; provided, however, that in order to make the request set forth in item (ii) or (iv), such person shall pay a cost decided on by the Incorporated Commodity Exchange Surviving an Absorption-Type Merger:
  - (i) A request for inspection of a document set forth in the preceding paragraph
  - (ii) A request for delivery of a transcript or an extract of a document set forth in the preceding paragraph
  - (iii) A request for inspection of the matters contained in an Electromagnetic Record set forth in the preceding paragraph which are indicated by a method specified by an ordinance of the competent ministry
  - (iv) A request for provision of the matters contained in an Electromagnetic Record set forth in the preceding paragraph by an Electromagnetic Means which is specified by an ordinance of the competent ministry or a request for the delivery of a document containing such matters
- (4) When a request prescribed in the preceding paragraph has been made, a Incorporated Commodity Exchange Surviving an Absorption-Type Merger shall not refuse the request without a justifiable reason.

### **Division 2 Procedure of a Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger**

(Keeping of and inspection, etc. of a document, etc. concerning a Consolidation-Type Merger contract)

- Article 144-12 (1) A Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger (limited to the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger in a Consolidation-Type Merger between a Member Commodity Exchange and a Incorporated Commodity Exchange; hereinafter the same shall apply in this Division) shall, during the period from any of the following days whichever comes the earliest until the day of the establishment of the Incorporated Commodity Exchange Established by a Consolidation-Type Merger, keep at its head office a document or an Electromagnetic Record containing the content of the Consolidation-Type Merger contract and other matters specified by an ordinance of the competent

ministry:

- (i) The day two weeks prior to the general meeting of shareholders set forth in paragraph (1) of the following Article
  - (ii) When approval for the Consolidation-Type Merger needs to be gained by a resolution of a general meeting of class shareholders (including a general meeting of class shareholders), the day two weeks prior to the day of said general meeting of class shareholders
  - (iii) The day of the notice set forth in Article 144-14, paragraph (1) or the day of the public notice under paragraph (2) of the same Article, whichever comes earlier
  - (iv) The day of the public notice set forth in Article 144-10, paragraph (2) or the notice set forth in the same paragraph as applied mutatis mutandis pursuant to Article 144-17, whichever comes earlier
- (2) A shareholder and a creditor of a Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger may make the following request to the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger at any time during its business hours; provided, however, that in order to make the request set forth in item (ii) or (iv), such person shall pay a cost decided on by the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger:
- (i) A request for inspection of a document set forth in the preceding paragraph
  - (ii) A request for delivery of a transcript or an extract of a document set forth in the preceding paragraph
  - (iii) A request for inspection of the matters contained in an Electromagnetic Record set forth in the preceding paragraph which are indicated by a method specified by an ordinance of the competent ministry
  - (iv) A request for provision of the matters contained in an Electromagnetic Record set forth in the preceding paragraph by an Electromagnetic Means which is specified by an ordinance of the competent ministry or a request for delivery of a document containing such matters
- (3) When a request prescribed in the preceding paragraph has been made, a Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger shall not refuse the request without a justifiable reason.

(Approval, etc. of a Consolidation-Type Merger contract)

- Article 144-13 (1) A Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger shall gain approval for the Consolidation-Type Merger contract by a resolution of a general meeting of shareholders.
- (2) A resolution of a general meeting of shareholders set forth in the preceding paragraph shall be adopted by at least a two-thirds majority (if a larger proportion has been specified by the articles of incorporation, such proportion)

of votes of the shareholders present when shareholders holding a majority (if a proportion of one-third or more has been specified by the articles of incorporation, at least such proportion) of the voting rights of shareholders who are entitled to exercise voting rights at said general meeting of shareholders are present. In this case, the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger shall not be precluded from prescribing in its articles of incorporation a requirement to gain the consent of more than a certain number of shareholders or other requirements in addition to the requirement for such resolution.

- (3) Notwithstanding the provisions of the preceding paragraph, in the case where the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger is a Publicly-Held Company, if the whole or a part of the shares of the Incorporated Commodity Exchange Established by a Consolidation-Type Merger to be delivered to shareholders of the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger are transfer restricted shares, the resolution of a general meeting of shareholders set forth in paragraph (1) (excluding a general meeting of shareholders of a company issuing classified shares) shall be required to be a resolution specified in Article 309, paragraph (3) of the Companies Act.
- (4) In the case where a Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger is a company issuing classified shares, if the whole or a part of shares of the Incorporated Commodity Exchange Established by a Consolidation-Type Merger to be delivered to shareholders of the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger are transfer restricted shares, the Consolidation-Type Merger shall not come into effect without a resolution of a general meeting of class shareholders consisting of class shareholders of the class of shares subject to the allotment of transfer restricted shares (excluding the transfer restricted shares) (if there are two or more classes of shares pertaining to such class shareholders, general meetings of the respective class shareholders consisting of class shareholders grouped by each class of said two or more classes of shares); provided, however, that this shall not apply if there are no shareholders who are entitled to exercise their voting rights present at said general meeting of class shareholders.
- (5) A resolution of a general meeting of class shareholders set forth in the preceding paragraph shall be adopted by a majority vote of at least a half (or, if a larger proportion has been specified by articles of incorporation, such proportion) of the number of shareholders entitled to exercise voting rights at said general meeting of class shareholders and with at least two-thirds (or, if a larger proportion has been specified by articles of incorporation, such proportion) of the voting rights of such shareholders.

(Notice to shareholders, etc.)

Article 144-14 (1) A Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger shall notify its shareholders and Registered Pledgees of Shares (which means registered pledgees of shares prescribed in Article 149, paragraph (1) of the Companies Act) as well as holders of rights to subscribe for new shares and Registered Pledgees of Rights to Subscribe for New Shares (which means registered pledgees of rights to subscribe for new shares prescribed in Article 270, paragraph (1) of the same Act) of the occurrence of a Consolidation-Type Merger and the names or trade names and addresses of the other Commodity Exchange Dissolved in a Consolidation-Type Merger and the Incorporated Commodity Exchange Established by a Consolidation-Type Merger, within two weeks from the day of the resolution of the general meeting of shareholders set forth in paragraph (1) of the preceding Article.

(2) The notice set forth in the preceding paragraph may be substituted by a public notice.

(3) The provisions of Article 940, paragraph (1) (limited to the part pertaining to item (iv)) and paragraph (3) of the Companies Act shall apply mutatis mutandis to the case where the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger gives the public notice set forth in the preceding paragraph by a method set forth in Article 939, paragraph (1), item (iii) of the Companies Act. In this case, the necessary technical replacement of terms shall be specified by a Cabinet Order.

(Share purchase demand)

Article 144-15 (1) In the case of a Consolidation-Type Merger, the following shareholders may demand that the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger purchase their shares at a fair price.

(i) A shareholder who has notified the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger of his/her dissent from the Consolidation-Type Merger prior to a general meeting of shareholders (including a general meeting of class shareholders) for approving the Consolidation-Type Merger contract and who has dissented from the Consolidation-Type Merger at said general meeting of shareholders (limited to those who are entitled to exercise their voting rights at said general meeting of shareholders)

(ii) A shareholder who is not entitled to exercise the shareholder's voting right at said general meeting of shareholders

(2) The provisions of Article 806, paragraphs (5) to (7), Article 807, Article 868, paragraph (1), Article 870 (limited to the part pertaining to item (iv)), the main clause of Article 871, Article 872 (limited to the part pertaining to item (iv)),



the main clause of Article 873, Article 875 and Article 876 of the Companies Act shall apply mutatis mutandis to the request prescribed in the preceding paragraph. In this case, the necessary technical replacement of terms shall be specified by a Cabinet Order.

(Request for purchase of a right to subscribe for new shares)

Article 144-16 (1) In the case of a Consolidation-Type Merger, a holder of a right to subscribe for new shares of the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger may request the Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger to purchase his/her right to subscribe for new shares at a fair price.

(2) The provisions of Article 808, paragraphs (5) to (7) inclusive, Article 809, Article 868, paragraph (1), Article 870 (limited to the part pertaining to item (iv)), the main clause of Article 871, Article 872 (limited to the part pertaining to item (iv)), the main clause of Article 873, Article 875 and Article 876 shall apply mutatis mutandis to the request prescribed in the preceding paragraph. In this case, the necessary technical replacement of terms shall be specified by a Cabinet Order.

(Provisions applied mutatis mutandis)

Article 144-17 The provisions of Article 144-10 shall apply mutatis mutandis to a Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger.

### **Division 3 Procedure of a Incorporated Commodity Exchange Established by a Consolidation-Type Merger**

(Special provisions on establishment of an Incorporated Commodity Exchange)

Article 144-18 (1) The provisions of Part II, Chapter I (excluding Article 27 [excluding items (iv) and (v)], Article 29, Article 31, Article 39 and Articles 47 to 49 inclusive) of the Companies Act shall not apply to the establishment of a Incorporated Commodity Exchange Established by a Consolidation-Type Merger (limited to the Incorporated Commodity Exchange Established by a Consolidation-Type Merger in a Consolidation-Type Merger between a Member Commodity Exchange and a Incorporated Commodity Exchange; hereinafter the same shall apply in this Division).

(2) The articles of incorporation of a Incorporated Commodity Exchange Established by a Consolidation-Type Merger shall be created by a Commodity Exchange(s) Dissolved in a Consolidation-Type merger.

(Keeping of and inspection, etc. of a document, etc. concerning a Consolidation-Type Merger contract)

- Article 144-19 (1) A Incorporated Commodity Exchange Established by a Consolidation-Type Merger shall create a document or an Electromagnetic Record containing matters on the rights and obligations of the Commodity Exchange Dissolved in a Consolidation-Type Merger succeeded by the Incorporated Commodity Exchange Established by a Consolidation-Type Merger through the Consolidation-Type Merger and other matters specified by an ordinance of the competent ministry as matters concerning a Consolidation-Type Merger, without delay after the day of its establishment.
- (2) A Incorporated Commodity Exchange Established by a Consolidation-Type Merger shall, during the period of six months from the day of its establishment, keep at its head office the document or Electromagnetic Record set forth in the preceding paragraph and a document or an Electromagnetic Record containing the content of the Consolidation-Type Merger contract and other matters specified by an ordinance of the competent ministry.
- (3) A shareholder and a creditor of a Incorporated Commodity Exchange Established by a Consolidation-Type Merger may make the following request to the Incorporated Commodity Exchange Established by a Consolidation-Type Merger at any time during its business hours; provided, however, that in order to make the request set forth in item (ii) or (iv), such person shall pay a cost decided on by the Incorporated Commodity Exchange Established by a Consolidation-Type Merger:
- (i) A request for inspection of a document set forth in the preceding paragraph
  - (ii) A request for delivery of a transcript or an extract of a document set forth in the preceding paragraph
  - (iii) A request for inspection of the matters contained in an Electromagnetic Record set forth in the preceding paragraph which are indicated by a method specified by an ordinance of the competent ministry
  - (iv) A request for provision of the matters contained in an Electromagnetic Record set forth in the preceding paragraph by an Electromagnetic Means which is specified by an ordinance of the competent ministry or a request for delivery of a document containing such matters
- (4) When a request prescribed in the preceding paragraph has been made, a Incorporated Commodity Exchange Established by a Consolidation-Type Merger shall not refuse the request without a justifiable reason.

### **Subsection 6 Coming into Effect, etc. of a Merger**

(Approval of a merger)

- Article 145 (1) A merger where Commodity Exchanges are all or part of the parties thereto (limited to a merger where the entity surviving the merger or the entity established by the merger is a Commodity Exchange) shall not come

into effect without the approval of the competent minister having been obtained.

- (2) A person who intends to obtain the approval set forth in the preceding paragraph shall submit to the competent minister a written application stating the following matters with regard to the Commodity Exchange surviving the merger or the Commodity Exchange established by the merger (hereinafter referred to as the "Commodity Exchange Resulting from a Merger") (excluding the matter set forth in item (ii) in the case where the Commodity Exchange Resulting from a Merger is a Member Commodity Exchange):
- (i) Name or trade name
  - (ii) Amount of stated capital
  - (iii) Location of offices, the head office, branch offices and any other business offices
  - (iv) Listed Commodity or Listed Commodity Index
  - (v) Names and addresses of officers
  - (vi) Names or trade names of the Member, etc. and the Listed Commodity or Listed Commodity Index on the Commodity Market where the Members, etc. will carry out transactions
- (3) A document containing the content of the merger contract and the articles of incorporation, market rules, brokerage contract rules, dispute resolution rules, market transactions surveillance committee rules and other documents specified by an ordinance of the competent ministry with regard to the Commodity Exchange Resulting from a Merger shall be attached to a written application under the preceding paragraph.

(Criteria for approval)

- Article 146 (1) If the competent minister finds that an application for approval under paragraph (1) of the preceding Article conforms to the following criteria (excluding the criteria set forth in items (i) and (vi) in the case where the Commodity Exchange Resulting from a Merger is a Member Commodity Exchange), he/she shall grant the license:
- (i) The amount of stated capital of the Commodity Exchange Resulting from a Merger is not less than an amount specified by a Cabinet Order as set forth in Article 80, paragraph (1), item (i).
  - (ii) A sufficient volume of transactions shall be expected for carrying out the Futures Transactions of the Listed Commodity or Listed Commodity Index pertaining to the application fairly and smoothly and, in light of the status of the transactions of the Listed Commodity Component Products, etc., it shall be necessary and appropriate for a Commodity Exchange carrying out said Futures Transactions to survive through a merger or a Commodity Exchange carrying out : said Futures Transactions to be established by a merger in

order to facilitate the production and distribution of the Listed Commodity Component Products, etc.

- (iii) In the case of opening a Commodity Market pertaining to a Listed Commodity, the carrying out of transactions of the Listed Commodity Component Products on a single Commodity Market conforms to the criteria specified by a Cabinet Order as being appropriate in light of the status of the transactions of the persons who, in the course of trade, engage in the Buying and Selling, etc. of Listed Commodity Component Products and any other circumstances of the economic activities pertaining to the Listed Commodity Component Products.
  - (iv) In the case of opening a Commodity Market by specifying two or more Commodity Indices as a single Listed Commodity Index, the majority of the goods subject to said two or more Commodity Indices are common goods.
  - (v) The provisions of the articles of incorporation, market rules, brokerage contract rules, dispute resolution rules and market transactions surveillance committee rules of the Commodity Exchange Resulting from a Merger do not violate laws and regulations, and the method or management of transactions, qualification of Members, etc., the maximum number of Members, etc. if such maximum number is specified, matters concerning such deposit if such obligation to deposit special collateral money is specified and other matters prescribed in the articles of incorporation, market rules, brokerage contract rules, dispute resolution rules or market transactions surveillance committee rules are appropriate and sufficient for ensuring the fairness of Transactions on the Commodity Market and protecting customers.
  - (vi) The Commodity Exchange Resulting from a Merger has a personnel structure sufficient for appropriately managing the Commodity Market.
  - (vii) The Commodity Exchange Resulting from a Merger will be organized in such a manner that conforms to the provisions of this Act.
  - (viii) It is fully expected that the Commodity Exchange Resulting from a Merger will succeed to the business concerning Transactions on the Commodity Markets opened by the Commodity Exchanges dissolved as a result of the merger smoothly and appropriately.
- (2) If an application for approval under paragraph (1) of the preceding Article falls under any of the following items, the competent minister shall not give the approval under paragraph (1) of the same Article notwithstanding the provisions of the preceding paragraph:
- (i) If the officers of the Commodity Exchange Resulting from a Merger include any of the persons who fall under any category of the persons in Article 15, paragraph (2), item (i) (a) to (k) inclusive
  - (ii) If the written application or the documents that should be attached thereto include a false entry regarding an important matter

- (3) Where an application for the approval under paragraph (1) of the preceding Article has been filed in which case the term of existence of a Commodity Exchange (in the case of a Incorporated Commodity Exchange, the term of existence as an Incorporated Commodity Exchange) or the expiration date of a Commodity Market is stated in the articles of incorporation, the competent minister shall, in lieu of the criterion set forth in paragraph (1), item (ii), consider the criterion under the same paragraph to be that there will be no shortfall in the volume of transactions for carrying out Futures Transactions of the Listed Commodity or Listed Commodity Index pertaining to the application fairly and smoothly and that, in light of the status of the transactions of the Listed Commodity Component Products, etc., survival of a Commodity Exchange for carrying out said Futures Transactions through a merger or the establishment of a Commodity Exchange for carrying out said Futures Transactions by a merger does not or is not likely to cause extreme hindrance to the production and distribution of the Listed Commodity Component Products, etc., and he/she shall apply such criterion and the criteria under items (iii) and (iv) of the same paragraph by making a determination for said term of existence or for the period until said expiration date.
- (4) The provisions of Article 15, paragraphs (5) to (11) inclusive shall apply mutatis mutandis to the approval set forth in paragraph (1) of the preceding Article. In this case, the term "item (iii)" in Article 15, paragraph (10) shall be deemed to be replaced with "item (vi)."

(Registration of an Absorption-Type Merger)

- Article 147 (1) In the case where a Member Commodity Exchange has implemented an Absorption-Type Merger, if the Commodity Exchange Surviving an Absorption-Type Merger is a Member Commodity Exchange, the registration of dissolution shall be completed with regard to the Commodity Exchange Dissolved in an Absorption-Type Merger and the registration of change shall be completed with regard to the Commodity Exchange Surviving an Absorption-Type Merger within two weeks from the day on which the Absorption-Type Merger came into effect at the location of the principal offices and within three weeks from such day at the secondary offices; provided, however, that registration of change at the location of the secondary offices shall be made only when a change occurs to the matters listed in the respective items of Article 24, paragraph (2) with regard to the Commodity Exchange Surviving an Absorption-Type Merger.
- (2) In the case where a Member Commodity Exchange has implemented an Absorption-Type Merger, if the Commodity Exchange Surviving an Absorption-Type Merger is a Incorporated Commodity Exchange, the registration of dissolution shall be completed with regard to the Commodity Exchange

Dissolved in an Absorption-Type Merger and the registration of change shall be completed with regard to the Commodity Exchange Surviving an Absorption-Type Merger within two weeks from the day on which the Absorption-Type Merger has come into effect at the location of the principal office and the head office and within three weeks from such day at the secondary offices and branch offices; provided, however, that registration of change at the location of the branch offices shall be made only when a change occurs to the matters listed in the respective items of Article 930, paragraph (2) of the Companies Act with regard to the Commodity Exchange Surviving an Absorption-Type Merger.

(Registration of a Consolidation-Type Merger)

Article 147-2 (1) In the case where a Member Commodity Exchange implements a Consolidation-Type Merger, if the Commodity Exchange Established by a Consolidation-Type Merger is a Member Commodity Exchange, the registration of dissolution shall be completed with regard to the Commodity Exchange Dissolved in a Consolidation-Type Merger and the registration of the establishment shall be completed with regard to the Commodity Exchange Established by a Consolidation-Type Merger within two weeks from the latest of any of the following days at the location of the principal offices and within three weeks from such day at the secondary offices. With regard to the application of Article 20, paragraph (2) in this case, the phrase "referred to in the preceding paragraph" in the same paragraph shall be deemed to be replaced with "of establishment with regard to the Commodity Exchange Established by a Consolidation-Type Merger."

(i) The day of resolution of a general meeting of members under Article 144-3, paragraph (4)

(ii) The day of completion of the procedure under Article 124 as applied mutatis mutandis pursuant to Article 144-3, paragraph (5)

(iii) A day decided by the Commodity Exchanges Dissolved in a Consolidation-Type Merger based on an agreement

(iv) The day of obtainment of approval under Article 145, paragraph (1)

(2) In the case where a Member Commodity Exchange has implemented a Consolidation-Type Merger, if the Commodity Exchange Established by a Consolidation-Type Merger is a Incorporated Commodity Exchange, the registration of dissolution shall be completed with regard to the Commodity Exchange Dissolved in a Consolidation-Type Merger and the registration of establishment shall be completed with regard to the Commodity Exchange Established by a Consolidation-Type Merger within two weeks from the latest of any of the following days at the location of the principal office and the head office and within three weeks from such day at the secondary offices and

branch offices:

- (i) The day of resolution of a general meeting of shareholders under Article 144-13, paragraph (1)
- (ii) When resolution of a general meeting of class shareholders is required for implementing a Consolidation-Type Merger, the day of said resolution
- (iii) The day on which 20 days have elapsed from the day of the notice under Article 144-14, paragraph (1) or the public notice under paragraph (2) of the same Article
- (iv) The day of completion of the procedure under Article 144-10 as applied mutatis mutandis pursuant to Article 144-17
- (v) The days listed in the respective items of the preceding paragraph

(Taking effect, etc. of a merger)

Article 148 (1) A Commodity Exchange Surviving an Absorption-Type Merger shall succeed to the rights and obligations of the Commodity Exchanges Dissolved in an Absorption-Type Merger (including the rights and obligations which said Commodity Exchanges have in relation to their businesses based on permission, license, approval or any other disposition by an administrative agency; the same shall apply in paragraph (3)) on the later of the Effective Date or the day of the obtainment of the approval of the competent minister under Article 145, paragraph (1).

- (2) Dissolution as a result of an Absorption-Type Merger of a Commodity Exchange Dissolved in an Absorption-Type Merger may not be asserted against a third party until after the registration of the Absorption-Type Merger.
- (3) A Commodity Exchange Established by a Consolidation-Type Merger shall succeed to the rights and obligations of the Commodity Exchanges Dissolved in a Consolidation-Type Merger on the day of its establishment.
- (4) In the cases prescribed in the provisions set forth in the following items, a member of a Member Commodity Exchange Dissolved in an Absorption-Type Merger or Member Commodity Exchange Dissolved in a Consolidation-Type Merger or a shareholder of a Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger shall become a shareholder of the shares under the provisions set forth in the following items in accordance with the rules on the matters set forth respectively in those items on the day on which the Absorption-Type Merger comes into effect or the day of the establishment of the Incorporated Commodity Exchange Established by a Consolidation-Type Merger:
  - (i) Article 142, item (ii) (a)-Matters set forth in item (iii) of the same Article
  - (ii) Article 143, paragraph (1), item (vi)-Matters set forth in item (vii) of the same paragraph
- (5) A right to subscribe for new shares of a Incorporated Commodity Exchange

Dissolved in a Consolidation-Type Merger shall be extinguished on the day of the establishment of the Incorporated Commodity Exchange Established by a Consolidation-Type Merger.

Article 149 (1) A Commodity Exchange which has been established by obtaining the approval under Article 145, paragraph (1) shall be deemed to have obtained the permission under Article 9 or a license under Article 78 at the time of said establishment.

(2) If there are transactions closed on a Commodity Market of a Commodity Exchange Dissolved in an Absorption-Type Merger or Commodity Exchange Dissolved in a Consolidation-Type Merger of which settlement has not been completed, the Commodity Exchange Resulting from a Merger shall, except in the case of opening a Commodity Market identical to the Commodity Market pertaining to said transactions (including an identical type of Commodity Market specified by a Cabinet Order), open a Commodity Market identical to the Commodity Market of the Commodity Exchange Dissolved in an Absorption-Type Merger or Commodity Exchange Dissolved in a Consolidation-Type Merger within the scope of the purpose to complete settlement of said transactions.

(3) The provisions of Article 5, paragraph (1) shall not apply to the case where a Commodity Exchange Resulting from a Merger opens a Commodity Market pursuant to the provisions of the preceding paragraph.

(4) Transactions closed on a Commodity Market of a Commodity Exchange Dissolved in an Absorption-Type Merger or Commodity Exchange Dissolved in a Consolidation-Type Merger of which settlement has not been completed shall be deemed to have been closed on a Commodity Market of the Commodity Exchange Resulting from a Merger identical to said Commodity Market (including an identical type of Commodity Market specified by a Cabinet Order) under the same conditions.

(Processing of any fraction less than one, etc.)

Article 150 The provisions of Article 234, paragraphs (1) to (5) inclusive, Article 868, paragraph (1), Article 869, Article 871, Article 874 (limited to the part pertaining to item (iv)), Article 875 and Article 876 of the Companies Act shall apply mutatis mutandis to an Absorption-Type Merger under Article 142 and a Consolidation-Type Merger under Article 143, paragraph (1). In this case, the necessary technical replacement of terms shall be specified by a Cabinet Order.

(Submission of share certificates, etc.)

Article 151 (1) The provisions of Article 219, paragraph (1) (limited to the part pertaining to item (vi)), paragraph (2) and paragraph (3), Article 220 and



Article 293, paragraph (1) (limited to the part pertaining to item (iii)) and paragraphs (2) to (4) inclusive of the Companies Act shall apply mutatis mutandis to a Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger. In this case, the necessary technical replacement of terms shall be specified by a Cabinet Order.

- (2) The provisions of Article 940, paragraph (1) (limited to the part pertaining to item (i)) and paragraph (3) of the Companies Act shall apply mutatis mutandis to the case where a Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger gives public notice under Article 219, paragraph (1) or Article 293, paragraph (1) of the same Act as applied mutatis mutandis pursuant to the preceding paragraph by the method set forth in Article 939, paragraph (1), item (iii) of the same Act and the provisions of Article 940, paragraph (1) (limited to the part pertaining to item (iii)) and paragraph (3) of the same Act shall apply mutatis mutandis to the case where a Incorporated Commodity Exchange Dissolved in a Consolidation-Type Merger gives public notice under Article 220, paragraph (1) of the same Act as applied mutatis mutandis pursuant to the preceding paragraph (including the case where it is applied mutatis mutandis pursuant to Article 293, paragraph (4) of the same Act pursuant to the preceding paragraph) by the method set forth in Article 939, paragraph (1), item (iii) of the same Act. In this case, the necessary technical replacement of terms shall be specified by a Cabinet Order.

(Application mutatis mutandis of the Commercial Registration Act)

- Article 152 (1) The provisions of Article 79, Article 80 (excluding items (ii), (vi), (ix) and (x)), Article 81 (excluding items (iii), (vi), (ix) and (x)), Article 82 and Article 83 of the Commercial Registration Act shall apply mutatis mutandis to the registration of the Member Commodity Exchanges upon a merger in the case set forth in Article 139, paragraph (2), item (i). In this case, the phrase "trade name and the head office" in Article 79 of the same Act shall be deemed to be replaced with "name and the principal office," the phrase "amount of stated capital" in Article 80, item (iv) of the same Act shall be deemed to be replaced with "total amount of contribution," the term "head office" in item (v) of the same Article and Article 81, item (v) of the same Act shall be deemed to be replaced with "office," the phrase "when a company dissolved in an absorption-type merger is a mochibun kaisha, a document proving the consent of all members (if special provisions exist in the articles of incorporation, the procedure under such provisions)" in Article 80, item (vii) of the same Act shall be deemed to be replaced with "minutes of a general meeting of members concerning a merger of a Member Commodity Exchange implementing an Absorption-Type Merger," the phrase "the following documents" in Article 81 of the same Act shall be deemed to be replaced with "the following documents and

a document proving the qualification of the person having the representation power," the phrase "when a company dissolved in a consolidation-type merger is a mochibun kaisha, a document proving the consent of all members (if special provisions exist in the articles of incorporation, the procedure under such provisions)" in item (vii) of the same Article shall be deemed to be replaced with "minutes of a general meeting of members concerning a merger of a Member Commodity Exchange Dissolved in a Consolidation-Type Merger," the term "the head office" in Article 82, paragraphs (2) to (4) inclusive and Article 83 of the same Act shall be deemed to be replaced with "the principal office" and any other necessary technical replacement of terms shall be specified by a Cabinet Order.

- (2) The provisions of Article 79, Article 80 (excluding items (vi), (ix) and (x)) and Articles 81 to 83 inclusive of the Commercial Registration Act shall apply mutatis mutandis to the registration of the Member Commodity Exchange and Incorporated Commodity Exchange upon a merger in the case set forth in Article 139, paragraph (2), item (ii). In this case, the phrase "trade name and the head office" in Article 79 of the same Act shall be deemed to be replaced with "name and the principal office or the head office," "head office" in Article 80, item (v) of the same Act shall be deemed to be replaced with "office," the phrase "when a company dissolved in an absorption-type merger is a mochibun kaisha, a document proving the consent of all members (if special provisions exist in the articles of incorporation, the procedure under such provisions)" in item (vii) of the same Article shall be deemed to be replaced with "minutes of a general meeting of members concerning merger of a Member Commodity Exchange Surviving an Absorption-Type Merger," the term "head office" in Article 81, item (v) of the same Act shall be deemed to be replaced with "head office or office," the phrase "when a company dissolved in a consolidation-type merger is a mochibun kaisha, a document proving the consent of all members (if special provisions exist in the articles of incorporation, the procedure under such provisions)" in item (vii) of the same Article shall be deemed to be replaced with "minutes of a general meeting of members concerning a merger of a Member Commodity Exchange Dissolved in a Consolidation-Type Merger" and any other necessary technical replacement of terms shall be specified by a Cabinet Order.

(Action for nullity of a merger)

- Article 153 The provisions of Article 828, paragraph (1) (limited to the part pertaining to item (vii) and item (viii)) and paragraph (2) (limited to the part pertaining to item (vii) and item (viii)), Article 834 (limited to the part pertaining to item (vii) and item (viii)), Article 835, paragraph (1), Articles 836 to 839 inclusive, Article 843 (excluding paragraph (1), item (iii) and item (iv))

and the proviso of paragraph (2)), Article 846 and Article 937, paragraph (3) (limited to the part pertaining to item (ii) and item (iii)) and paragraph (4) of the Companies Act shall apply mutatis mutandis to an action for the nullity of a merger under Article 139, paragraph (1) and the provisions of Article 868, paragraph (5), Article 870 (limited to the part pertaining to item (xv)), the main clause of Article 871, Article 872 (limited to the part pertaining to item (iv)), the main clause of Article 873, Article 875 and Article 876 of the same Act shall apply mutatis mutandis to a motion under Article 843, paragraph (4) of the same Act as applied mutatis mutandis pursuant to this Article. In this case, the term "the head office of each company" in Article 937, paragraph (3) of the same Act shall be deemed to be replaced with "the head office of each Incorporated Commodity Exchange or the principal office of each Member Commodity Exchange," the term "the respective items of Article 930, paragraph (2)" in paragraph (4) of the same Article shall be deemed to be replaced with "the respective items of Article 930, paragraph (2) of the Companies Act and the respective items of Article 24, paragraph (2) of the Commodity Exchange Act" and the term "the branch offices of each company" in the same paragraph shall be deemed to be replaced with "the branch offices of each Incorporated Commodity Exchange and the secondary offices of each Member Commodity Exchange."

(Delegation to a Cabinet Order, etc.)

- Article 154 (1) In addition to what is provided for in this Act, the necessary matters concerning a merger of Commodity Exchanges shall be specified by a Cabinet Order.
- (2) The amounts that should be included in the capital reserve at the time of a merger and any other necessary matters concerning the accounting at the time of a merger shall be specified by an ordinance of the competent ministry.

### **Section 7 Supervision**

(An amendment to the articles of incorporation)

- Article 155 (1) An amendment to the articles of incorporation of a Commodity Exchange shall not come into effect without the approval of the competent minister having been obtained.
- (2) A Commodity Exchange which intends to obtain the approval set forth in the preceding paragraph shall submit to the competent minister a written application by attaching the documents specified by an ordinance of the competent ministry thereto.
- (3) Where an application for the approval under paragraph (1) has been filed by a Member Commodity Exchange, if the competent ministry finds that said

application conforms to the criteria prescribed in the following items for the categories set forth respectively in those items, he/she shall give the approval:

(i) An application pertaining to the opening of a Commodity Market (excluding those in the following item)-The following criteria:

(a) The total number of members of a Member Commodity Exchange which intends to open said Commodity Market who intend to carry out transactions on said Commodity Market and persons who intend to become members of said Member Commodity Exchange and who intend to carry out transactions on said Commodity Market (limited to those who have completed the payment of the full amount of their contribution) is 20 or more and a majority of them are persons specified in the respective items of Article 10, paragraph (2).

(b) Criteria set forth in Article 15, paragraph (1), items (i) to (iv) inclusive

(ii) An application pertaining to the opening of a Time-Limited Commodity Market (which means a Commodity Market of a Commodity Exchange of which the term of existence is stated in the articles of incorporation or a Commodity Market of which the expiration date is stated in the articles of incorporation; hereinafter the same shall apply in this Article)-The following criteria:

(a) Criteria set forth in (a) of the preceding item

(b) There will be no shortfall in the volume of transactions for carrying out Futures Transactions of the Listed Commodity or Listed Commodity Index pertaining to the application fairly and smoothly and that, in light of the status of the transactions of the Listed Commodity Component Products, etc., the opening of a Commodity Market for carrying out said Futures Transactions does not or is not likely to cause extreme hindrance to the production and distribution of the Listed Commodity Component Products, etc.

(c) Criteria set forth in Article 15, paragraph (1), items (ii) to (iv) inclusive

(iii) An application pertaining to a change in the scope (excluding the abolition or narrowing of the scope; hereinafter the same shall apply in this Article) of a Listed Commodity or a Listed Commodity Index of a Commodity Market (excluding a Time-Limited Commodity Market) or to the abolition of the term of existence of a Member Commodity Exchange or the expiration date of a Commodity Market-Criteria set forth in Article 15, paragraph (1), items (i) to (iv) inclusive

(iv) An application pertaining to a change in the scope of a Listed Commodity or a Listed Commodity Index of a Time-Limited Commodity Market or to a change to the term of existence of a Member Commodity Exchange or the expiration date of a Commodity Market-The following criteria:

(a) There will be no shortfall in the volume of transactions for carrying out

Futures Transactions of the Listed Commodity or Listed Commodity Index pertaining to the application fairly and smoothly and that, in light of the status of the transactions of the Listed Commodity Component Products, etc., said change in the scope of a Listed Commodity or a Listed Commodity Index or said change to the term of existence of a Member Commodity Exchange or the expiration date of a Commodity Market does not or is not likely to cause extreme hindrance to the production and distribution of the Listed Commodity Component Products, etc.

- (b) Criteria set forth in Article 15, paragraph (1), items (ii) to (iv) inclusive
- (v) An application other than those set forth in the preceding items-Criteria set forth in Article 15, paragraph (1), item (iv)
- (4) Where an application for the approval under paragraph (1) has been filed by a Incorporated Commodity Exchange, if the competent ministry finds that said application conforms to the criteria prescribed in the following items for the categories set forth respectively in those items, he/she shall give the approval:
  - (i) An application pertaining to the opening of a Commodity Market (excluding those in the following item)-Criteria set forth in Article 80, paragraph (1), items (ii) to (vi) inclusive
  - (ii) An application pertaining to the opening of a Time-Limited Commodity Market-The following criteria:
    - (a) There will be no shortfall in the volume of transactions for carrying out Futures Transactions of the Listed Commodity or Listed Commodity Index pertaining to the application fairly and smoothly and that, in light of the status of the transactions of the Listed Commodity Component Products, etc., the opening of a Commodity Market for carrying out said Futures Transactions does not or is not likely to cause extreme hindrance to the production and distribution of the Listed Commodity Component Products, etc.
    - (b) Criteria set forth in Article 80, paragraph (1), item (ii) and items (iv) to (vi) inclusive
  - (iii) An application pertaining to a change in the scope of a Listed Commodity or a Listed Commodity Index of a Commodity Market (excluding a Time-Limited Commodity Market) or to the abolition of the term of existence of a Incorporated Commodity Exchange or the expiration date of a Commodity Market-Criteria set forth in Article 80, paragraph (1), items (iii) to (vi) inclusive
  - (iv) An application pertaining to a change in the scope of a Listed Commodity or a Listed Commodity Index of a Time-Limited Commodity Market or to a change to the term of existence as a Incorporated Commodity Exchange or the expiration date of a Commodity Market-The following criteria:
    - (a) There will be no shortfall in the volume of transactions for carrying out

Futures Transactions of the Listed Commodity or Listed Commodity Index pertaining to the application fairly and smoothly and that, in light of the status of the transactions of the Listed Commodity Component Products, etc., said change in the scope of a Listed Commodity or a Listed Commodity Index or said change to the term of existence as a Incorporated Commodity Exchange or the expiration date of a Commodity Market does not or is not likely to cause extreme hindrance to the production and distribution of the Listed Commodity Component Products, etc.

- (b) Criteria set forth in Article 80, paragraph (1), items (iv) to (vi) inclusive
- (v) An application other than those set forth in the preceding items-Criteria set forth in Article 80, paragraph (1), item (vi)
- (5) In the case of giving the approval under paragraph (1), the competent minister shall apply the criteria set forth in paragraph (3), item (ii) (b) and (c) (excluding the part pertaining to Article 15, paragraph (1), item (iv)), paragraph (3), item (iv) (a) and (b) (excluding the part pertaining to Article 15, paragraph (1), item (iv)), item (ii) (a) and (b) of the preceding paragraph (excluding the part pertaining to Article 80, paragraph (1), item (ii) and item (vi)) and item (iv) (a) and (b) of the preceding paragraph (excluding the part pertaining to Article 80, paragraph (1), item (vi)) by making a determination for the term of existence of the Commodity Exchange or the expiration date of the Commodity Market pertaining to the application to which said criteria should be applied.
- (6) The provisions prescribed in the following items shall apply mutatis mutandis to the approval under paragraph (1) pertaining to the matters set forth respectively in those items:
  - (i) The opening of a Commodity Market, a change to the matters set forth in Article 11, paragraph (2), item (xiii) or Article 81, paragraph (1), item (iii) with regard to a Commodity Market (excluding those set forth in the following item), the abolition of the term of existence of a Commodity Exchange (in the case of a Incorporated Commodity Exchange, the term of existence as a Incorporated Commodity Exchange; hereinafter the same shall apply in this Article) or the expiration date of a Commodity Market or the establishment of, a change to or the abolition of the maximum number of members-Provisions of Article 15, paragraphs (5) to (9) inclusive
  - (ii) The opening of a Time-Limited Commodity Market or a change in the scope of a Listed Commodity or Listed Commodity Index on a Time-Limited Commodity Market or a change to the term of existence of a Commodity Exchange or the expiration period of a Commodity Market-Provisions of Article 15, paragraphs (5) to (11) inclusive
- (7) When giving approval under paragraph (1) pertaining to the abolition of the term of existence of a Commodity Exchange or the expiration date of a

Commodity Market, the competent minister shall take into consideration the status of said Commodity Exchange or the status of the Transactions on said Commodity Market for the period until said approval.

- (8) If an application for approval under paragraph (1) pertains to a change in the scope of a Listed Commodity or Listed Commodity Index, the competent minister shall not give the approval under the same paragraph until after three months have elapsed from the day of the public notice under Article 352 (limited to the part pertaining to item (viii)).

(An amendment to the market rules, brokerage contract rules, dispute resolution rules or market transactions surveillance committee rules)

Article 156 (1) An amendment to the market rules, brokerage contract rules, dispute resolution rules or market transactions surveillance committee rules of a Commodity Exchange shall not come into effect without the approval of the competent minister having been obtained.

- (2) A Commodity Exchange which intends to obtain the approval set forth in the preceding paragraph shall submit to the competent minister a written application by attaching the documents specified by an ordinance of the competent ministry thereto.

- (3) If the competent minister finds that an application for the approval under paragraph (1) conforms to the criteria prescribed in the following items for the categories set forth respectively in those items, he/she shall give the approval:

- (i) An application pertaining to a Member Commodity Exchange-Criteria set forth in Article 15, paragraph (1), item (iv)
- (ii) An application pertaining to a Incorporated Commodity Exchange-Criteria set forth in Article 80, paragraph (1), item (vi)

- (4) The provisions of Article 15, paragraphs (5) to (9) inclusive shall apply mutatis mutandis to the approval under paragraph (1) for the establishment of, a change to or the abolition of the maximum number of Trading Participants of a Incorporated Commodity Exchange.

(Request for reports; on-site inspections)

Article 157 (1) When the competent minister finds it necessary for the enforcement of this Act, he/she may order a Commodity Exchange or a Member, etc. thereof to submit a report or materials that provide information about their business or have his/her officials enter into an office or a business office of the Commodity Exchange or a Member, etc. thereof to inspect the books, documents and other articles related to their business.

- (2) In the case where an inspection has been conducted pursuant to the provisions of the preceding paragraph, if said officials find it necessary for attaining the purpose of the inspection to inspect a Listed Commodity which

said Member, etc. possesses or has received on deposit and which is retained at a place other than his/her office or business office, they may enter such place by having said Member, etc. present a document proving the retention of said Listed Commodity to the manager of such place and inspect said Listed Commodity in the presence of said Member, etc.

- (3) The officials who conduct an inspection pursuant to the provisions of the preceding two paragraphs shall carry their identification cards and present them to the persons concerned.
- (4) The authority for the inspections under paragraph (1) and paragraph (2) shall not be interpreted as being that recognized for criminal investigation.

(Order to improve business operations)

Article 158 (1) With regard to the operation of the business of a Commodity Exchange, when the competent minister finds it necessary and appropriate for ensuring the fair and equitable principles of transactions or for protecting customers, he/she may order said Commodity Exchange to amend its articles of incorporation or other rules, change its business methods or take any other necessary measures for improving the operation of its business.

- (2) In the case where the competent minister intends to issue an order under the preceding paragraph, if he/she finds it necessary, he/she may seek a witness to appear and hear the opinions of the witness, seek a witness to submit opinions or a report, or seek a witness to appear and have the witness give an expert opinion.

(Disposition rendered to a Commodity Exchange for the purpose of supervision)

Article 159 (1) In the case where a Commodity Exchange falls under any of the following items, if the competent minister finds it necessary and appropriate for ensuring public interest or the fair and equitable principles of transactions or for protecting customers, he/she may render the dispositions set forth respectively in those items to said Commodity Exchange:

- (i) If a Commodity Exchange has violated this Act, an order based on this Act or a disposition by the competent minister based on this Act (hereinafter referred to as "This Act, etc." in this Article, the following Article and Article 165) or its articles of incorporation or other rules or, in the case where, regardless of the fact that a Member, etc. has violated This Act, etc. or the articles of incorporation or other rules of said Commodity Exchange, said Commodity Exchange has failed to exercise its powers recognized pursuant to this Act, an order based on this Act or its articles of incorporation or other rules or has failed to take any other necessary measures for having said Member, etc. observe this Act or its articles of incorporation or other rules-  
Rescission of the permission under Article 9 or a license under Article 78 or



an order of suspension of the whole or a part of its business for a fixed period not exceeding one year

- (ii) If a Commodity Exchange fails to open all or some of the Commodity Markets within three months from the day on which it became possible to open said Commodity Markets, if it has continuously suspended Futures Transactions (limited to those pertaining to transactions set forth in Article 2, paragraph (8), item (i) or (ii) in the case of a Commodity Market pertaining to a Listed Commodity and limited to those pertaining to transactions set forth in item (iii) of the same paragraph in the case of a Commodity Market pertaining to a Listed Commodity Index; hereinafter the same shall apply in this item) on all or some of the Commodity Markets for three months or more or if Futures Transactions on all or some of the Commodity Markets no longer conform to the criteria set forth in Article 15, paragraph (1), item (i) or Article 80, paragraph (1), item (iii), without a justifiable reason-Rescission of the permission under Article 9, license under Article 78 or approval for an amendment to the articles of incorporation
  - (iii) If an act of a Commodity Exchange or the status of the Transactions on a Commodity Market it has opened is found to be harmful for public interest-Issuance of an order for the suspension of the whole or a part of its business for a fixed period not exceeding three months
- (2) If the competent minister discovers that the contents of a written application for the permission under Article 9, a license under Article 78 or the approval under Article 155, paragraph (1) or Article 156, paragraph (1) or the documents attached thereto include a false entry regarding an important matter or lack a statement regarding an important fact, he/she may rescind said permission, license or approval or issue an order to amend the part pertaining to said important matter with respect to the articles of incorporation, market rules, brokerage contract rules, dispute resolution rules or market transactions surveillance committee rules.
  - (3) If the competent minister discovers that a person has become an officer of a Commodity Exchange by wrongful means or if an officer of a Commodity Exchange has violated This Act, etc., he/she may order said Commodity Exchange to dismiss said officer.
  - (4) The proceedings taking place on the date for a hearing pertaining to the rescission of permission, license or approval or an order to dismiss an officer under the preceding three paragraphs shall be open to the public; provided, however, that this shall not apply if the competent minister finds it necessary in order to maintain the secrets concerning the business of the person who will become the party subject to said disposition or finds it necessary with respect to public interest.
  - (5) The provisions of paragraph (2) of the preceding Article shall apply mutatis

mutandis to dispositions under paragraphs (1) to (3) inclusive.

(6) No appeal may be entered against a disposition under paragraph (1), item (iii) based on the Administrative Appeal Act (Act No. 160 of 1962).

(Disposition rendered to a Member, etc. for the purpose of supervision)

Article 160 (1) If a member or a Trading Participant has violated This Act, etc., the competent minister may order a Commodity Exchange to expel said member or rescind the trading qualification of said Trading Participant or, for a fixed period not exceeding six months, suspend the Transactions on Commodity Markets or the consignment of the relevant Commodity Clearing Transactions of said member or Trading Participant or, in the case that said violation pertains to an officer of a member or Trading Participant which is a juridical person, order said member or Trading Participant to dismiss the officer who has committed the violation.

(2) The provisions of Article 158, paragraph (2) shall apply mutatis mutandis to dispositions under the preceding paragraph and the provisions of paragraph (4) of the preceding Article shall apply mutatis mutandis to the hearing pertaining to an order to expel a member, rescind the trading qualification of a Trading Participant or dismiss an officer under the preceding paragraph.

## **Section 8 Miscellaneous Provisions**

(Confidentiality obligation of officers, employees, etc. of a Commodity Exchange)

Article 161 An officer (or, if an officer is a juridical person, a person who will perform such duties) or an employee of a Commodity Exchange or a person who was formerly in such a position shall not disclose to another person or appropriate any confidential information he/she has learned during the course of his/her duties.

(Period for registration)

Article 162 The period for registration of the matters to be registered which require the permission or approval of the competent minister shall be counted from the day on which such written permission or written approval arrived.

Article 163 Deleted.

(Effect of registration)

Article 164 The matters to be registered pursuant to the provisions of this Act may not be asserted against a third party until after they have been registered.

(Sanction rules)

Article 165 A Commodity Exchange shall stipulate in its articles of incorporation that in the event that a member or a Trading Participant violates This Act, etc. or the articles of incorporation, market rules, brokerage contract rules, dispute resolution rules or other rules of said Commodity Exchange or if such person commits an act contrary to the fair and equitable principles of transactions, it will impose a fine for default on said member or Trading Participant or suspend or restrain the whole or a part of his/her Transactions on Commodity Markets or his/her consignment of Commodity Clearing Transactions related thereto at said Commodity Exchange or it will expel said member or rescind the trading qualification of said Trading Participant.

(Market transactions surveillance committee)

Article 166 (1) A Commodity Exchange shall stipulate in its market transactions surveillance committee rules that it will establish a market transactions surveillance committee (hereinafter referred to as a "Committee" in this Article) organized by committee members who have relevant knowledge and experience of Transactions on a Commodity Market and who satisfy any other requirements specified by an ordinance of the competent ministry for the purpose of ensuring the fairness of Transactions on the Commodity Market.

(2) A Committee may state to the president or the representative director (or the representative executive officer in the case of a company with committees) its opinions with regard to the method or management of Transactions on a Commodity Market and the operation of the business of the Commodity Exchange.

(3) A Commodity Exchange shall stipulate in its market transactions surveillance committee rules matters concerning the organization and authority of the Committee and any other matters specified by an ordinance of the competent ministry.

### **Chapter III Commodity Clearing Organization, etc.**

#### **Section 1 Commodity Clearing Organization**

(License)

Article 167 Business of Assuming Commodity Transaction Debts may only be conducted by a stock company which has obtained a license from the competent minister.

(Application for a license)

Article 168 (1) An entity that intends to obtain a license set forth in the preceding Article shall submit a written application stating the following

matters to the competent minister:

- (i) Trade name
  - (ii) Amount of stated capital
  - (iii) Location of the head office, branch offices and any other business offices
  - (iv) Commodity Markets where transactions which give rise to the liabilities subject to Business of Assuming Commodity Transaction Debts will be carried out
  - (v) Names and addresses of officers
- (2) The articles of incorporation, business rules and other documents specified by an ordinance of the competent ministry shall be attached to the written application under the preceding paragraph.

(Criteria for licensing)

Article 169 (1) If the competent minister finds that an application for a license under Article 167 conforms to the following criteria, he/she shall grant the license:

- (i) The applicant for a license is a stock company.
  - (ii) The provisions of the articles of incorporation and the business rules do not violate laws and regulations and are sufficient for performing Business of Assuming Commodity Transaction Debts properly and securely.
  - (iii) The applicant for a license has sufficient financial basis for soundly performing Business of Assuming Commodity Transaction Debts and the outlook for the income and expenditures pertaining to Business of Assuming Commodity Transaction Debts is favorable.
  - (iv) In light of its personnel structure, the applicant for a license has the knowledge and experience for properly and securely performing Business of Assuming Commodity Transaction Debts and has sufficient social credibility.
- (2) If an application for a license under Article 167 falls under any of the following items, the competent minister shall not give the approval under the same Article notwithstanding the provisions of the preceding paragraph:
- (i) If the applicant for a license is a person who falls under any category of the persons in Article 15, paragraph (2), item (i) (c) to (e) inclusive or (i) or (l)
  - (ii) If the written application or the documents that should be attached thereto includes a false entry regarding an important matter
- (3) The provisions of Article 15, paragraphs (5) to (9) inclusive shall apply mutatis mutandis to a license under Article 167.

(Restriction on business)

Article 170 (1) A Commodity Clearing Organization (excluding the case where the Commodity Clearing Organization is a Commodity Exchange; hereinafter the same shall apply from this Article to Article 172 inclusive) may not engage

in any business other than Business of Assuming Commodity Transaction Debts and other businesses incidental thereto; provided, however, that this shall not apply if a Commodity Clearing Organization has obtained, pursuant to the provisions of an ordinance of the competent ministry, the approval of the competent minister for a business related to Business of Assuming Commodity Transaction Debts which is found to involve no risk of causing hindrance to the proper and secure operation of Business of Assuming Commodity Transaction Debts by said Commodity Clearing Organization.

- (2) If a Commodity Clearing Organization has abolished the business for which it has obtained approval under the proviso of the preceding paragraph, it shall notify the competent minister to that effect pursuant to the provisions of an ordinance of the competent ministry.

(Notification of a change)

Article 171 When there is a change to the matters listed in Article 168, paragraph (1), item (ii), item (iii) or item (v) (excluding the location of the head office), a Commodity Clearing Organization shall notify the competent minister to that effect by attaching the documents specified by an ordinance of the competent ministry, pursuant to the provisions of an ordinance of the competent ministry.

(Disqualifying conditions for officers)

Article 172 The provisions of Article 49 shall apply mutatis mutandis to officers of a Commodity Clearing Organization.

(Business of Assuming Commodity Transaction Debts by a Commodity Exchange)

Article 173 (1) Notwithstanding the provisions of Article 3 and Article 167, a Commodity Exchange may engage in Business of Assuming Commodity Transaction Debts and other businesses incidental thereto by obtaining the approval of the competent minister pursuant to the provisions of an ordinance of the competent ministry.

- (2) A Commodity Exchange which intends to obtain the approval under the preceding paragraph shall submit a written application stating the following matters to the competent minister:

(i) Name or trade name

(ii) The Commodity Markets where transactions which give rise to the liabilities subject to Business of Assuming Commodity Transaction Debts will be carried out

- (3) The business rules and other documents specified by an ordinance of the competent ministry shall be attached to the written application under the

preceding paragraph.

- (4) The provisions of Article 169, paragraph (1) (excluding the part pertaining to item (i)), paragraph (2) (limited to the part pertaining to item (ii)) and paragraph (3) shall apply mutatis mutandis to the approval under paragraph (1).

(Clearing Participant)

Article 174 (1) A Commodity Clearing Organization may, pursuant to the provisions of its business rules, grant a person who satisfies the requirements specified by the business rules the qualification to become a counterparty to Business of Assuming Commodity Transaction Debts conducted by said Commodity Clearing Organization.

- (2) When a Clearing Participant no longer satisfies the requirements concerning the amount of net assets prescribed in the business rules, a Commodity Clearing Organization shall, pursuant to the provisions of its business rules, suspend the assumption of liabilities to which said Clearing Participant is the counterparty or rescind said Clearing Participant's qualification of a Clearing Participant.

(Business rules)

Article 175 (1) A Commodity Clearing Organization shall conduct its business pursuant to its business rules.

- (2) The following matters shall be prescribed in the business rules:
- (i) The Commodity Markets where transactions which give rise to the liabilities subject to Business of Assuming Commodity Transaction Debts will be carried out
  - (ii) Matters concerning the requirements for a Clearing Participant (including those concerning the amount of net assets of a Clearing Participant)
  - (iii) Matters concerning the assumption and performance of liabilities which will be conducted as Business of Assuming Commodity Transaction Debts
  - (iv) Matters concerning the assurance of the performance of liabilities by Clearing Participants (including those concerning clearing margins)
  - (v) Matters concerning Commodity Clearing Transactions
  - (vi) Other matters specified by an ordinance of the competent ministry
- (3) The provisions of Article 99, paragraph (7) shall apply mutatis mutandis to the amount of net assets under item (ii) of the preceding paragraph.

(Confidentiality obligation of officers, employees, etc. of a Commodity Clearing Organization)

Article 176 An officer (or, if an officer is a juridical person, a person who will perform such duties) or an employee of a Commodity Clearing Organization or

a person who was formerly in such a position shall not disclose to another person or appropriate any confidential information he/she has learned during the course of his/her duties.

(Prohibition of unfair discriminatory treatment)

Article 177 A Commodity Clearing Organization shall not provide unfair discriminatory treatment to any specific Clearing Participant.

(Measures for ensuring appropriate execution of Business of Assuming Commodity Transaction Debts)

Article 178 A Commodity Clearing Organization shall stipulate in its business rules that a Clearing Participant shall bear the entire loss in the event that a loss occurs as a result of default of liabilities based on Transactions on a Commodity Market and shall take other measures for ensuring the appropriate execution of Business of Assuming Commodity Transaction Debts.

(Clearing margin)

Article 179 (1) A Commodity Clearing Organization shall receive the deposit of a clearing margin from the persons prescribed in the following items for the categories set forth respectively in those items with regard to Transactions on a Commodity Market (limited to Transactions on a Commodity Market which give rise to the liabilities subject to its Business of Assuming Commodity Transaction Debts and excluding those set forth in Article 2, paragraph (10), item (i) (d); hereinafter the same shall apply in this Article) pursuant to the provisions of an ordinance of the competent ministry:

(i) When a Member, etc. who is a Clearing Participant carries out Transactions on a Commodity Market (excluding the case set forth in the following item) :  
The persons prescribed in (a) to (d) below for the categories of cases set forth respectively therein

(a) When a Member, etc. carries out Transactions on a Commodity Market based on the Member, etc.'s own account or when a Member, etc. carries out Transactions on a Commodity Market which the Member, etc. brokers (limited to those which the Member, etc. brokers by obtaining the deposit of a customer margin based on the provisions of the following paragraph) :  
Said Member, etc.

(b) When a Member, etc. carries out Transactions on a Commodity Market which the Member, etc. brokers (excluding those which the Member, etc. brokers for a person acting as an intermediary for consignment of such transactions [hereinafter referred to as an "Intermediary" in this Article]) (excluding the case set forth in (a)) : Customer of said transactions (a person who consigned Transactions on a Commodity Market to the Member,

- etc. and who is not an Intermediary; the same shall apply in the following paragraph)
- (c) When a Member, etc. carries out Transactions on a Commodity Market which the Member, etc. brokers (limited to those which the Member, etc. brokers for an Intermediary who obtained the deposit of an intermediation margin based on the provisions of paragraph (3)) (excluding the case set forth in (a)) : Said Intermediary
  - (d) When a Member, etc. carries out Transactions on a Commodity Market which the Member, etc. brokers (limited to those which the Member, etc. brokers for an Intermediary) (excluding the cases set forth in (a) and (c)) : The person who consigned the intermediation of consignment of such transactions (hereinafter referred to as the "Intermediation Customer" in this Article)
- (ii) When a Clearing Participant carries out Commodity Clearing Transactions which the Clearing Participant brokers : The persons prescribed in (a) to (d) below for the categories of cases set forth respectively therein:
- (a) When a Clearing Participant carries out a Commodity Clearing Transaction based on the account of a Member, etc. who has consigned such transactions or when a Clearing Participant carries out Commodity Clearing Transactions which the Clearing Participant brokers for a Member, etc. who has obtained the deposit of a customer margin based on the following paragraph : Said Member, etc.
  - (b) When a Clearing Participant carries out a Commodity Clearing Transaction which the Clearing Participant brokers (excluding those which the Clearing Participant brokers for a Member, etc. who in turn brokers for a person acting as an intermediary for the consignment of intermediation of consignment of such transactions [hereinafter referred to as a "Clearing Intermediary" in this Article]) (excluding the case set forth in (a)) : The person who consigned the intermediation of consignment of said Commodity Clearing Transaction (excluding a Clearing Intermediary; hereinafter referred to as a "Clearing Intermediation Customer" in this Article)
  - (c) When a Clearing Participant carries out Commodity Clearing Transactions which the Clearing Participant brokers (limited to those which the Clearing Participant brokers for a Member, etc. who in turn brokers for a Clearing Intermediary who has obtained the deposit of a clearing intermediation margin based on the provisions of paragraph (4)) (excluding the case set forth in (a)) : Said Clearing Intermediary
  - (d) When a Clearing Participant carries out Commodity Clearing Transactions which the Clearing Participant brokers (limited to those which the Clearing Participant brokers for a Member, etc. who in turn



brokers for a Clearing Intermediary) (excluding the cases set forth in (a) and (c)) : The person who consigned the intermediation of consignment of intermediation of consignment of such Commodity Clearing Transactions (hereinafter referred to as the "Customer of the Clearing Intermediary" in this Article)

- (2) A Member, etc. may, with regard to brokerage of a Transaction on a Commodity Market or brokerage of intermediation of consignment of a Commodity Clearing Transaction, have the customer or the Intermediary (the Intermediation Customer in the case the transaction is one for which the Member, etc. brokers for an Intermediary who has not obtained the deposit of an intermediation margin based on the provisions of the following paragraph from the Intermediation Customer) in the case set forth in item (i) of the preceding paragraph or have the Clearing Intermediation Customer or the Clearing Intermediary (the Customer of a Clearing Intermediary in the case the Commodity Clearing Transaction is one for which the Member, etc. brokers for a Clearing Intermediary who has not obtained the deposit of a clearing intermediation margin based on the provisions of paragraph (4) from the Customer of the Clearing Intermediary) in the case set forth in item (ii) of the preceding paragraph deposit a customer margin with the Member, etc. by gaining the consent of such person, pursuant to the provisions of an ordinance of the competent ministry.
- (3) An Intermediary may, with regard to brokerage of the intermediation of consignment of Transactions on a Commodity Market, have the Intermediation Customer deposit an intermediation margin with the Intermediary by gaining the consent of such person.
- (4) A Clearing Intermediary may, with regard to brokerage of the intermediation of consignment of intermediation of consignment of a Commodity Clearing Transaction, have the Customer of the Clearing Intermediary deposit a clearing intermediation margin with the Clearing Intermediary by gaining the consent of such person.
- (5) The provisions of Article 103, paragraph (4) shall apply mutatis mutandis to a Commodity Clearing Organization under paragraph (1). In this case, the term "paragraph (1)" in paragraph (4) of the same Article shall be deemed to be replaced with "Article 179, paragraph (1)."
- (6) The provisions of Article 103, paragraph (5) and paragraph (6) shall apply mutatis mutandis to a clearing margin under paragraph (1), a customer margin under paragraph (2), an intermediation margin under paragraph (3) and a clearing intermediation margin under paragraph (4).
- (7) The provisions of Article 103, paragraphs (7) to (9) inclusive shall apply mutatis mutandis to the cases under paragraphs (2) to (4) inclusive. In this case, the phrase "a Member, etc. under paragraph (2) or an Intermediary under

paragraph (3)" in paragraph (7) of the same Article shall be deemed to be replaced with "a Member, etc. under Article 179, paragraph (2), an intermediary under paragraph (3) of the same Article or a Clearing Intermediary under paragraph (4) of the same Article," the phrase "the Member, etc. or Intermediary" in the same paragraph and paragraph (9) shall be deemed to be replaced with "the Member, etc. or the Intermediary and the like" and the term "Commodity Exchange" in the provisions of paragraphs (7) to (9) inclusive of the same Article shall be deemed to be replaced with "Commodity Clearing Organization."

(Clearing deposit)

- Article 180 (1) A Commodity Clearing Organization may have a Clearing Participant deposit clearing funds in order to guarantee the performance of liabilities against the Commodity Clearing Organization, pursuant to the provisions of its business rules.
- (2) When a Commodity Clearing Organization incurs damage as a result of a Clearing Participant's default of liabilities, it shall have the right to receive payment in preference over other creditors with regard to the clearing funds of the Clearing Participant who has caused such damage.
- (3) When a Commodity Clearing Organization receives payment with regard to a clearing deposit under the preceding paragraph pursuant to the provisions of the same paragraph, if the amount is still insufficient, the Commodity Clearing Organization shall have the right to receive payment in preference over other creditors with regard to the clearing funds of Clearing Participants other than the Clearing Participant under the same paragraph, in accordance with the amount of such clearing deposits.
- (4) When a payment under the preceding paragraph has been made, the other Clearing Participants prescribed in the same paragraph shall have the right to obtain reimbursement from the Clearing Participant who has caused the damage prescribed in paragraph (2).
- (5) The provisions of Article 110 shall apply mutatis mutandis to a clearing deposit. In this case, the term "Commodity Exchange" in the same Article shall be deemed to be replaced with "Commodity Clearing Organization."

(Settlement of Unsettled Liabilities, etc.)

- Article 181 (1) In the case where a Commodity Clearing Organization has stipulated in its business rules the methods of settlement of Unsettled Liabilities, etc. in the event that special liquidation proceedings, bankruptcy proceedings or reorganization proceedings have commenced for a Clearing Participant (the Unsettled Liabilities, etc. means the liabilities arising from Transactions on a Commodity Market carried out by said Clearing Participant

which said Commodity Clearing Organization has assumed from the counterparty to said transactions and the claims on said Clearing Participant which said Commodity Clearing Organization has acquired as consideration for assuming the liabilities arising from said transactions [such claims shall be limited to those having the identical contents as said liabilities]; hereinafter the same shall apply in this paragraph), if such proceedings have been commenced for a Clearing Participant, calculation of the amount of the claims that said Commodity Clearing Organization or said Clearing Participant has with regard to Unsettled Liabilities, etc. and other methods of settlement shall be in accordance with the provisions of the business rules of said Commodity Clearing Organization.

- (2) The claims of a Commodity Clearing Organization under the preceding paragraph shall be claims in bankruptcy, claims in rehabilitation and claims in reorganization and the claims of a Clearing Participant under the same paragraph shall be those related to the property of the bankruptcy estate, the property of the rehabilitation debtor, the property of the company in need of reorganization or the property of the cooperative financial institution in need of reorganization.

(Approval for an amendment to the articles of incorporation or business rules)  
Article 182 An amendment to the articles of incorporation or business rules of a Commodity Clearing Organization shall not come into effect without the approval of the competent minister having been obtained.

(Approval for dissolution, etc.)  
Article 183 The abolition of Business of Assuming Commodity Transaction Debts of a Commodity Clearing Organization or dissolution of a Commodity Clearing Organization shall not come into effect without the approval of the competent minister having been obtained.

(Request for reports; on-site inspections)  
Article 184 (1) When the competent minister finds it necessary for the enforcement of this Act, he/she may order a Commodity Clearing Organization or a Clearing Participant thereof to submit a report or materials that provide information about their business or have his/her officials enter into an office or a business office of the Commodity Clearing Organization or a Clearing Participant thereof to inspect the books, documents and other articles related to their business.

- (2) The provisions of Article 157, paragraph (3) and paragraph (4) shall apply mutatis mutandis to the inspection prescribed in the preceding paragraph.

(Order to improve business operations)

Article 185 When the competent minister finds it necessary and appropriate for the proper and secure execution of Business of Assuming Commodity Transaction Debts, he/she may order said Commodity Clearing Organization to amend its articles of incorporation, business rules or other rules, change its business methods or take any other necessary measures for improving the operation of its business or the status of its property.

(Disposition rendered for the purpose of supervision)

Article 186 (1) In the case where a Commodity Clearing Organization has violated this Act, an order based on this Act or a disposition by the competent minister based on this Act (hereinafter referred to as "This Act, etc." in this Article), if the competent minister finds it necessary and appropriate for the proper and secure execution of Business of Assuming Commodity Transaction Debts, he/she may rescind the license under Article 167 or the approval under the proviso of Article 170, paragraph (1) or Article 173, paragraph (1) of said Commodity Clearing Organization or order said Commodity Clearing Organization to suspend the whole or a part of its business for a fixed period not exceeding six months.

(2) If the competent minister discovers that the contents of a written application for the license under Article 167 or the approval under the proviso of Article 170, paragraph (1), Article 173, paragraph (1) or Article 182 or documents attached thereto include a false entry regarding an important matter or lack a statement about an important fact, he/she may rescind said license or approval.

(3) If a Commodity Exchange which has obtained the approval under Article 173 has had its permission under Article 9 or license under Article 78 rescinded or if it falls under any of the items of Article 69 or any of the items of Article 94, paragraph (1), such approval shall cease to be effective.

(4) If the competent minister discovers that a person has become an officer of a Commodity Clearing Organization by wrongful means or if an officer of a Commodity Clearing Organization has violated This Act, etc., he/she may order said Commodity Clearing Organization to dismiss said officer.

(Application mutatis mutandis of special provisions on the method of hearing, etc.)

Article 187 The provisions of Article 158, paragraph (2) shall apply mutatis mutandis to the dispositions under the preceding two Articles and the provisions of Article 159, paragraph (4) shall apply mutatis mutandis to a hearing pertaining to the rescission of permission, license or approval or pertaining to an order to dismiss an officer under the provisions of the preceding Article.

## **Section 2 Miscellaneous Provisions**

(Application mutatis mutandis of provisions concerning completion of settlement of transactions)

Article 188 The provisions of Article 113 (including the cases where it is applied mutatis mutandis pursuant to Article 114) shall apply mutatis mutandis to a Commodity Clearing Transaction in the case where a member who has consigned Commodity Clearing Transactions has withdrawn from a Member Commodity Exchange or where a Trading Participant who has consigned Commodity Clearing Transactions has lost the trading qualification of a Incorporated Commodity Exchange or where Transactions on a Commodity Market by a Member, etc. who has consigned Commodity Clearing Transactions have been suspended, in which case the settlement of such Commodity Clearing Transactions has not been completed.

(Delegation to a Cabinet Order)

Article 189 In addition to what is provided for in Article 167 to the preceding Article, the necessary matters concerning a Commodity Clearing Organization and the like shall be specified by a Cabinet Order.

## **Chapter IV Futures Commission Merchant**

### **Section 1 License, etc.**

(License for Commodity Transactions Brokerage Business)

Article 190 (1) A Commodity Transactions Brokerage Business may only be conducted by an entity which has obtained a license from the competent minister.

(2) The license under the preceding paragraph shall cease to be effective as a result of the expiration of the license period unless it is renewed every six years

(Licensing conditions)

Article 191 (1) Conditions may be attached to the licensing under paragraph (1) of the preceding Article (including the renewal of a license under paragraph (2) of the same Article; the same shall apply hereinafter).

(2) The conditions under the preceding paragraph shall be the minimum conditions necessary for maintaining order in Commodity Markets and protecting customers.

(Application for a license)

Article 192 (1) An entity which intends to obtain a license set forth in Article 190, paragraph (1) shall submit a written application stating the following matters to the competent minister:

- (i) Trade name
  - (ii) Amount of net assets
  - (iii) Names and locations of head office, branch offices and any other business offices
  - (iv) Names and addresses of officers
  - (v) Other matters specified by an ordinance of the competent ministry
- (2) The articles of incorporation, certificate of registered matters of the company, balance sheet, profit and loss statement and other documents specified by an ordinance of the competent ministry shall be attached to the written application under the preceding paragraph.
- (3) The provisions of Article 99, paragraph (7) shall apply mutatis mutandis to the amount of net assets under paragraph (1), item (ii).

(Criteria for licensing)

Article 193 (1) A competent minister shall not grant a license under Article 190, paragraph (1) unless he/she finds that an application for a license under the same paragraph conforms to all of the following items:

- (i) The applicant for a license is a stock company (with regard to a juridical person established in accordance with the laws and regulations of a foreign state, it shall be a juridical person of the same type as a stock company which has a business office in Japan).
  - (ii) The applicant for a license has a sufficient financial basis for the sound performance of its Commodity Transactions Brokerage Business and the outlook for the income and expenditures pertaining to Commodity Transactions Brokerage Business is favorable.
  - (iii) The applicant for a license has the knowledge and experience for the fair and appropriate performance of its Commodity Transactions Brokerage Business, has sufficient social credibility and its operation of a Commodity Transactions Brokerage Business is not likely to be lacking in customer protection.
  - (iv) The applicant for a license is not a person who falls under any category of the persons in Article 15, paragraph (2), item (i) (c) to (e) inclusive or (i) or (l).
  - (v) The written application or the documents that should be attached thereto includes no false entry regarding an important matter.
- (2) If the amount of the net assets of the applicant for a license is below the amount prescribed in an ordinance of the competent ministry as being an amount necessary for protecting customers, such person shall be deemed to lack a sufficient financial basis for the sound performance of its Commodity

Transactions Brokerage Business with regard to the application of the provisions of item (ii) of the preceding paragraph.

(Procedure of disposition)

Article 194 The provisions of Article 15, paragraphs (5) to (9) inclusive shall apply mutatis mutandis to a license under Article 190, paragraph (1).

(Matters to be notified)

Article 195 (1) When a Futures Commission Merchant has fallen under any of the following cases, the Futures Commission Merchant shall submit a written notification to that effect to the competent minister within two weeks from such day:

(i) When a Futures Commission Merchant has changed any matters set forth in Article 192, paragraph (1), item (i) or items (iii) to (v) inclusive

(ii) When a Futures Commission Merchant has commenced, suspended or resumed a Commodity Transactions Brokerage Business

(iii) When a Futures Commission Merchant has filed a motion for the commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings

(iv) When a Futures Commission Merchant falls under any other cases specified by an ordinance of the competent ministry

(2) Documents specified by an ordinance of the competent ministry shall be attached to the written notification under the preceding paragraph.

(Notification of Subsidiary Business, etc.)

Article 196 (1) When a Futures Commission Merchant intends to engage in a business other than the business of Transactions on a Commodity Market, Commodity Transactions Brokerage Business and any other business incidental thereto (such other business shall be hereinafter referred to as a "Subsidiary Business"), the Futures Commission Merchant shall submit a written notification to that effect to the competent minister pursuant to the provisions of an ordinance of the competent ministry. The same shall apply when the Futures Commission Merchant intends to change the notified matters or has abolished such Subsidiary Business.

(2) When a Futures Commission Merchant has gained a controlling interest in another juridical person (a relationship with another juridical person where the Futures Commission Merchant holds voting rights [excluding the voting rights of the shares which cannot be exercised for all matters that are subject to a resolution at a general meeting of shareholders and including the voting rights of the shares for which a shareholder is deemed to have voting rights pursuant to the provisions of Article 879, paragraph (3) of the Companies Act;

hereinafter the same shall apply in this paragraph] equivalent to at least a half of the voting rights of all shareholders or all members of such juridical person [including the voting rights of the shares which cannot be asserted against the issuer pursuant to the provisions of Article 147, paragraph (1) or Article 148, paragraph (1) of the Act on Transfer of Bonds, Shares, etc.] or any other relationship specified by an ordinance of the competent ministry to be that which allows the Futures Commission Merchant substantially to control the business activities of such juridical person), the Futures Commission Merchant shall submit a written notification to that effect to the competent minister without delay, pursuant to the provisions of an ordinance of the competent ministry. The same shall apply when a change has occurred to the notified matters or when such controlling interest ceases to exist.

- (3) In the cases referred to under the preceding two paragraphs, if the Subsidiary Business which a Futures Commission Merchant intends to engage in or the business of the juridical person over which a Futures Commission Merchant has a controlling interest prescribed in the preceding paragraph is a business of accepting consignment of transactions similar to Futures Transactions on a market of a foreign state which is equivalent to a Commodity Market or acting as an introducing broker, intermediary or agent for such transactions or any other business specified by an ordinance of the competent ministry, the Futures Commission Merchant shall submit to the competent minister a written notification stating any matters concerning the operation of said business which are likely to affect the status of the property of said Futures Commission Merchant, pursuant to the provisions of an ordinance of the competent ministry. The same shall apply when the Futures Commission Merchant intends to change the notified matters or when a change has occurred to the notified matters.

(Notification of discontinuance of business, etc.)

Article 197 (1) When a Futures Commission Merchant has fallen under any of the following items, the person set forth respectively in those items shall notify the competent minister to that effect within 30 days from such day:

- (i) When a Futures Commission Merchant has abolished a Commodity Transactions Brokerage Business-The Futures Commission Merchant
- (ii) When a Futures Commission Merchant has dissolved as a result of a merger-A person who was an officer representing such Futures Commission Merchant
- (iii) When a Futures Commission Merchant has dissolved by a decision to commence bankruptcy proceedings-The trustee in bankruptcy
- (iv) When a Futures Commission Merchant has dissolved by a reason other than a merger or a decision to commence bankruptcy proceedings-The



liquidator

- (v) When a Futures Commission Merchant has transferred the whole or a part of the Commodity Transactions Brokerage Business by split-The Futures Commission Merchant
  - (vi) When a Futures Commission Merchant has transferred the whole or a part of the Commodity Transactions Brokerage Business through a business transfer-The Futures Commission Merchant
- (2) If a Futures Commission Merchant had fallen under any of the items of the preceding paragraph (limited to the case where the Futures Commission Merchant has transferred the whole of the Commodity Transactions Brokerage Business through a split with regard to item (v) of the same paragraph and limited to the case where the Futures Commission Merchant has transferred the whole of the Commodity Transactions Brokerage Business through a business transfer with regard to item (vi) of the same paragraph), said Futures Commission Merchant's license under Article 190, paragraph (1) shall cease to be effective.
- (3) When a Futures Commission Merchant intends to abolish its Commodity Transactions Brokerage Business, implement a merger (limited to a merger where the juridical person surviving a merger or a juridical person established by a merger does not engage in Commodity Transactions Brokerage Business) or dissolve based on a reason other than a merger or a decision to commence bankruptcy proceedings, the Futures Commission Merchant shall, by 30 days prior to that day, give a public notice to that effect and post a notice to that effect in a place easily seen by the public at all of its business offices pursuant to the provisions of an ordinance of the competent ministry.
- (4) When a Futures Commission Merchant has given a public notice under the preceding paragraph, the Futures Commission Merchant shall immediately notify the competent minister to that effect.
- (5) When a Futures Commission Merchant has given a public notice under paragraph (3), the Futures Commission Merchant shall promptly complete the Transactions on a Commodity Market which it has carried out based on the customer's account and return the property deposited by the customer with regard to the Commodity Transactions Brokerage Business and the property which the Futures Commission Merchant possesses based on such customer's account without delay.

## **Section 2 Business**

(Posting of a sign)

Article 198 (1) A Futures Commission Merchant shall post a sign specified by an ordinance of the competent ministry in a conspicuous place at each business

office.

- (2) No person other than a Futures Commission Merchant shall post a sign as prescribed under the preceding paragraph or a sign similar thereto.

(Prohibition of name lending)

Article 199 A Futures Commission Merchant shall not have another person engage in Commodity Transactions Brokerage Business under the name of said Futures Commission Merchant.

(Registration of Sales Representative)

Article 200 (1) A Futures Commission Merchant shall receive a registration from the competent minister with regard to any person who is one of its officers or employees and who undertakes brokerage of or solicits the consignment of Transactions on a Commodity Market, etc. (excluding Commodity Clearing Transactions; hereinafter the same shall apply in this Chapter) for such Futures Commission Merchant (such person shall be hereinafter referred to as a "Sales Representative").

- (2) A Futures Commission Merchant shall not have a person other than a Sales Representative pertaining to the registration under the preceding paragraph (hereinafter referred to as a "Registered Sales Representative") perform the duties of a Sales Representative.
- (3) A Futures Commission Merchant who intends to receive a registration pursuant to the provisions of paragraph (1) shall submit a written application stating the following matters to the competent minister:
- (i) Trade name of the applicant for registration and the name of its representative
  - (ii) The following matters with regard to the Sales Representative pertaining to the application for registration:
    - (a) Name, date of birth and address
    - (b) Name of the business office to which he/she belongs
    - (c) Whether he/she is an officer or an employee
    - (d) Whether or not he/she has performed the duties of a Sales Representative previously, and if he/she has, the trade name of the Futures Commission Merchant and the name of the business office to which he/she had belonged and the period during which he/she had performed such duties
- (4) A curriculum vitae of the Sales Representative who is to be registered and the other documents specified by an ordinance of the competent ministry shall be attached to the written application under the preceding paragraph.
- (5) Where an application for registration under paragraph (3) has been filed, the competent minister shall immediately register the name, the date of birth and other matters specified by an ordinance of the competent ministry in the

- registry except in a case that falls under paragraph (1) of the following Article.
- (6) When the competent minister has made a registration under the preceding paragraph, he/she shall notify the applicant for registration to that effect in writing without delay.
- (7) The registration under paragraph (1) shall cease to be effective as a result of the expiration of the registration period unless it is renewed every six years.

(Refusal of registration of a Sales Representative)

Article 201 (1) If the Sales Representative pertaining to an application for registration falls under any of the following items or if the written application or the documents that should be attached thereto includes a false entry regarding an important matter or withholds an important fact, the competent minister shall refuse the registration:

- (i) A person who falls under any category of the persons in Article 15, paragraph (2), item (i) (a) to (k) inclusive
  - (ii) A person whose registration as a Sales Representative has been rescinded pursuant to the provisions of Article 204, paragraph (1) and where five years have not elapsed from the day of such rescission
  - (iii) A person who is registered as a Sales Representative belonging to a Futures Commission Merchant other than the applicant for registration
- (2) The provisions of Article 15, paragraphs (5) to (9) inclusive shall apply mutatis mutandis to a refusal of registration under the preceding paragraph.

(Authority of a Sales Representative)

Article 202 A Sales Representative shall be deemed to have the authority to perform any extra-judicial acts concerning undertaking of brokerage of or solicitation of the consignment of Transactions on a Commodity Market, etc. on behalf of the Futures Commission Merchant to which he/she belongs; provided, however, that this shall not apply when the counterparty knew of such authority.

(Notification with regard to a Sales Representative)

Article 203 When any of the following circumstances has occurred with regard to a Registered Sales Representative, a Futures Commission Merchant shall notify the competent minister to that effect without delay:

- (i) When there was a change to the matters set forth in Article 200, paragraph (3), item (ii) (a) to (c) inclusive
- (ii) When a Registered Sales Representative has fallen under any category of the persons in Article 15, paragraph (2), item (i) (a) to (k) inclusive (with regard to (d) to (i) inclusive of the same item, limited to the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to

this Act or to a facility of a foreign state equivalent to a Commodity Exchange)

- (iii) When a Registered Sales Representative no longer performs the duties of a Sales Representative due to retirement or other reasons

(Rescission of registration of a Sales Representative, etc.)

Article 204 (1) If the competent minister discovers that a Registered Sales Representative has been registered by wrongful means or if a Registered Sales Representative falls under any of the following items, he/she may rescind said registration or order said Registered Sales Representative to be suspended from its duties for a fixed period not exceeding two years:

- (i) When a Registered Sales Representative has fallen under any category of the persons in Article 15, paragraph (2), item (i) (a) to (k) inclusive (with regard to (d) of the same item, limited to the part pertaining to the rescission of a permission under Article 332, paragraph (1) and Article 342, paragraph (1) and the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to this Act)
  - (ii) When a Registered Sales Representative has violated laws and regulations or when he/she was found to have committed an extremely inappropriate act concerning the duties of Sales Representative
- (2) When the competent minister has decided to render a disposition based on the preceding paragraph, he/she shall notify the Futures Commission Merchant which has received a registration for said Sales Representative to that effect in writing.
- (3) The provisions of Article 158, paragraph (2) shall apply mutatis mutandis to a disposition under paragraph (1) and the provisions of Article 159, paragraph (4) shall apply mutatis mutandis to a hearing pertaining to the rescission of registration under paragraph (1).

(Deletion of registration of a Sales Representative)

Article 205 The competent minister shall delete the registration with regard to a Sales Representative in the register in the following cases:

- (i) When he/she has rescinded registration of a Sales Representative pursuant to the provisions of paragraph (1) of the preceding Article
- (ii) When the Futures Commission Merchant to which a Sales Representative belongs has dissolved or abolished its Commodity Transactions Brokerage Business
- (iii) When it was confirmed that a Sales Representative will no longer perform the duties of Sales Representative due to retirement or other reasons

(Registration Affairs concerning a Sales Representative by a commodity

futures association)

- Article 206 (1) The competent minister may have a commodity futures association prescribed in Article 241, paragraph (1) (hereinafter referred to as an "Association" in this Article to Article 208 inclusive and Article 239) process affairs related to registration prescribed in Article 200, Article 201 and the preceding three Articles pertaining to a Sales Representative of a Futures Commission Merchant which belongs to said Association (hereinafter referred to as "Registration Affairs" in this Article and Article 208) pursuant to the provisions of an ordinance of the competent ministry.
- (2) When the competent minister has decided to have an Association process Registration Affairs pursuant to the provisions of the preceding paragraph, he/she shall not process said Registration Affairs.
- (3) When an Association is to process Registration Affairs pursuant to the provisions of paragraph (1), it shall stipulate the matters concerning the registration of Sales Representatives in its articles of incorporation and obtain the approval of the competent minister.
- (4) When an Association which processes Registration Affairs pursuant to the provisions of paragraph (1) makes a registration under Article 200, paragraph (5), makes a change to a registration pertaining to notification under Article 203, makes a disposition under Article 204, paragraph (1) (excluding rescission of registration) or makes a deletion of a registration under the preceding Article, it shall notify the competent minister to that effect pursuant to the provisions of an ordinance of the competent ministry.
- (5) When an Association which processes Registration Affairs pursuant to the provisions of paragraph (1) fails to take a measure under Article 204, paragraph (1) regardless of the fact that that a Registered Sales Representative of a Futures Commission Merchant which belongs to said Association falls under item (i) or item (ii) of the same paragraph, if the competent minister finds it necessary and appropriate for maintaining order on the Commodity Market or for protecting customers, he/she may order the Association to take such measure under the same paragraph.
- (6) The provisions of Article 158, paragraph (2) shall apply mutatis mutandis to an order under the preceding paragraph.

(Payment of a registration fee)

- Article 207 (1) A Futures Commission Merchant which intends to be registered as a Sales Representative shall pay a registration fee to the State (or, the Association in the case of registering with an Association pursuant to the provisions of paragraph (1) of the preceding Article) pursuant to the provisions of a Cabinet Order.
- (2) A registration fee under the preceding paragraph which has been paid to an

Association shall be treated as income of said Association.

(Request for review)

Article 208 A Futures Commission Merchant which is dissatisfied with any inaction pertaining to an application for registration under Article 200, paragraph (3), a refusal of registration under Article 201, paragraph (1) or a disposition under Article 204, paragraph (1) by an Association which processes Registration Affairs pursuant to the provisions of Article 206, paragraph (1) may request the competent minister for a review under the Administrative Appeal Act.

(Restriction on disposition of Commodities, etc. possessed by a Futures Commission Merchant)

Article 209 A Futures Commission Merchant shall not, contrary to the purpose of the consignment, use as collateral, lend or otherwise dispose of any articles which the Futures Commission Merchant has in its possession on deposit by a customer or in such person's account, without gaining the consent of such person in writing.

(Segregation of property pertaining to brokerage, etc.)

Article 210 With regard to any property equivalent to the value of any money, Securities or other articles which have been deposited by a customer in association with Transactions on a Commodity Market for securing payment of liabilities arising from a Commodity Transactions Brokerage Business and any money, Securities or other articles in a customer's account (excluding those specified by an ordinance of the competent ministry; such money, Securities or other articles shall be referred to as "Customer Assets" in Article 304, Article 306, paragraph (1) and Article 311, paragraph (1)) (such property shall be referred to as "Property Subject to Preservation" in Article 269, paragraph (3), item (iii) and Article 309), a Futures Commission Merchant shall deposit such property with a Trust Company, etc. or deposit such property with a Consumer Protection Fund (which means a Consumer Protection Fund prescribed in Article 296) separately from the other property of the Futures Commission Merchant or take any other measures specified by an ordinance of the competent ministry, in order to preserve such property.

(Net Assets Regulation Ratio)

Article 211 (1) A Futures Commission Merchant shall compute the ratio of the amount of net assets to an amount calculated pursuant to the provisions of an ordinance of the competent ministry as being an amount to cover any potential risks arising from transactions carried out on a Commodity Market associated

with the fluctuation of quotations and any other factors (hereinafter referred to as the "Net Assets Regulation Ratio") and notify such ratio to the competent minister at the end of every month and at any other time specified by an ordinance of the competent ministry.

- (2) A Futures Commission Merchant shall ensure that its Net Assets Regulation Ratio does not fall below 120 percent.
- (3) A Futures Commission Merchant shall draw up a document stating its Net Assets Regulation Ratio as of the final days of March, June, September and December every year and keep copies of such document at all of its business offices and make them available for public inspection for three months from the day one month after such final days.
- (4) The provisions of Article 99, paragraph (7) shall apply mutatis mutandis to the amount of net assets under paragraph (1).

(Prohibition of trading against)

Article 212 When a Futures Commission Merchant accepts consignment of a Transaction on a Commodity Market, etc., it shall not close a transaction by becoming the counterparty itself instead of carrying out such Transaction on a Commodity Market, etc. pertaining to such consignment.

(Principle of honesty and fairness)

Article 213 A Futures Commission Merchant and its officers and employees shall execute the business of the Futures Commission Merchant with honesty and fairness with regard to existing and potential customers.

(Restriction of advertising etc.)

Article 213-2 (1) A Futures Commission Merchant shall, when advertising the contents of its Commodity Transactions Brokerage Business or conducting any similar acts specified by an ordinance of the competent ministry, indicate the following matters pursuant to the provisions of an ordinance of the competent ministry:

- (i) The trade name of said Futures Commission Merchant
  - (ii) The fact that said Futures Commission Merchant is a Futures Commission Merchant
  - (iii) The matters concerning the contents of the Commodity Transactions Brokerage Business, which are specified by a Cabinet Order as important matters that may have an impact on customers' judgment
- (2) A Futures Commission Merchant, when advertising the contents of its Commodity Transactions Brokerage Business or conducting any similar acts specified by an ordinance of the competent ministry, shall not make an indication that is significantly contradictory to the facts or seriously

misleading with regard to the outlook of profits from conducting a Transaction on a Commodity Market, etc. and other matters specified by an ordinance of the competent ministry.

(Prohibition of unjust solicitation, etc.)

Article 214 A Futures Commission Merchant shall not commit any of the following acts:

- (i) Soliciting the consignment of a Transaction on a Commodity Market, etc. from a customer by providing him/her with conclusive evaluations on uncertain matters or with information that misleads him/her into believing the certainty of such matters with regard to the Transaction on a Commodity Market, etc.
- (ii) Providing a customer with false information concerning the conclusion of a contract on brokerage of a Transaction on a Commodity Market, etc. (referred to as a "Brokerage Contract" in Article 215, Articles 217 to 219 inclusive, Article 220-3 and Article 369, item (v)) or solicitation thereof
- (iii) Accepting the consignment of a Transaction on a Commodity Market, etc. without receiving instructions from the customer with regard to the volume, the amount of consideration or the Contract Price, etc. or any other matters specified by an ordinance of the competent ministry (excluding those specified by an ordinance of the competent ministry to be matters that are not lacking in protecting the customer or that are not likely to harm the fairness of transactions)
- (iv) Accepting the consignment of a transaction set forth in Article 2, paragraph (6), item (i) with regard to a Transaction on a Commodity Market from a customer and carrying out a transaction set forth in the same item at an amount of a consideration which is more advantageous than the amount of a consideration for the transaction pertaining to said consignment (which means an amount of a consideration lower than that pertaining to said consignment in the case of buying and an amount of a consideration higher than that pertaining to said consignment in the case of selling) in order to close a transaction identical to the transaction pertaining to said consignment on the Commodity Market pertaining to said consignment based on the Futures Commission Merchant's own account prior to filing an application for the transaction pertaining to said consignment
- (v) Soliciting the consignment of a Transaction on a Commodity Market, etc. from a customer who has manifested his/her intention not to make such consignment (including an intention of not wishing to receive solicitation for such consignment)
- (vi) Soliciting the consignment of a Transaction on a Commodity Market, etc. from a customer in a manner that would annoy such customer



- (vii) Carrying out solicitation with regard to Transactions on a Commodity Market, etc. without confirming in advance whether or not a customer has any desire to receive such solicitation after telling such customer the trade name of the Futures Commodity Merchant and the fact that it is a solicitation for Transactions on a Commodity Market, etc.
- (viii) Recommending a customer, with regard to Transactions on a Commodity Market, etc., to make identical the volumes and maturity of certain buying and selling of Listed Commodity Component Products, etc. and equivalent transactions and the volumes and maturity of transactions corresponding to these transactions (which means transactions that would reduce the losses arising from these transactions)
- (ix) In addition to what is provided for in the preceding items, acts concerning Transactions on a Commodity Market, etc. or brokerage thereof which are specified by an ordinance of the competent ministry as acts that do not protect customers or that harm the fairness of transactions

(Prohibition of Compensation of Loss, etc.)

Article 214-2 (1) A Futures Commission Merchant shall not conduct any of the following acts:

- (i) Act of making an offer or promise or having a third party make an offer or promise to a customer or any person designated by a customer, with regard to Transactions on a Commodity Market, etc., to the effect that if the customer (in cases where a Trust Company, etc. conducts Transactions on a Commodity Market, etc. for the account of the person who sets a trust under a trust contract, including such person who sets the trust; hereinafter the same shall apply in this Article) incurs any loss or shortfall in the predetermined amount of profit from the relevant Transactions on a Commodity Market, etc., said Futures Commission Merchant or said third party will provide property benefit to the customer or a third party in order to compensate or make up for the whole or part of such loss or shortfall
- (ii) Act of making an offer or promise or having a third party make an offer or promise to a customer or any person designated by a customer, with regard to Transactions on a Commodity Market, etc., to the effect that said Futures Commission Merchant or said third party will provide property benefit to the customer or a third party in order to compensate for the whole or part of a loss incurred by the customer as a result of said Transactions on a Commodity Market, etc. or make an addition to the profit accrued to the customer as a result of said Transactions on a Commodity Market, etc.
- (iii) Act of providing or having a third party provide property benefit to a customer or a third party, with regard to Transactions on a Commodity Market, etc., in order to compensate for the whole or part of a loss incurred

by the customer as a result of said Transactions on a Commodity Market, etc. or make an addition to the profit accrued to the customer as a result of said Transactions on a Commodity Market, etc.

- (2) A customer of a Futures Commission Merchant shall not conduct any of the following acts:
- (i) Act of gaining the promise set forth in item (i) of the preceding paragraph from a Futures Commission Merchant or a third party with regard to Transactions on a Commodity Market, etc. or having a third party gain such promise (limited to cases where such promise is gained as a result of the request made by the customer him/herself or via a third party)
  - (ii) Act of gaining the promise set forth in item (ii) of the preceding paragraph from a Futures Commission Merchant or a third party with regard to Transactions on a Commodity Market, etc. or having a third party gain such promise (limited to cases where such promise is gained as a result of the request made by the customer him/herself or via a third party)
  - (iii) Act of receiving property benefit provided under item (iii) of the preceding paragraph from a Futures Commission Merchant or a third party with regard to Transactions on a Commodity Market, etc. or having a third party receive such property benefit (limited to cases where such act is conducted based on the promise set forth in either of the preceding two items that is gained as a result of the request made by the customer him/herself or via a third party, or where such provision of property benefit is conducted as a result of the request made by the customer him/herself or via a third party)
- (3) The provisions of paragraph (1) shall not apply where the application, promise or provision prescribed in the respective items of the same paragraph is made or conducted in order to compensate in whole or in part for a loss incurred as a result of a Problematic Conduct (which means the problematic conduct specified by an ordinance of the competent ministry as set forth in Article 221, paragraph (2); hereinafter the same shall apply in this paragraph and the following paragraph); provided, however, that with regard to the offer or promise made under paragraph (1), item (ii) or the provision of property benefit under item (iii) of the same paragraph, this provision shall only apply in cases where said Futures Commission Merchant has obtained confirmation from the competent minister in advance to the effect that the loss to be compensated for was incurred as a result of a Problematic Conduct or in other cases specified by an ordinance of the competent ministry.
- (4) The provisions of paragraph (2) shall not apply where the promise set forth in item (i) or (ii) of the same paragraph is made in order to compensate in whole or in part for a loss incurred as a result of an Problematic Conduct or where the provision of property benefit set forth in item (iii) of the same paragraph is conducted in order to compensate for the whole or part of a loss incurred as a

result of a Problematic Conduct.

- (5) A person who intends to obtain the confirmation prescribed in the proviso to paragraph (3) shall, pursuant to the provisions of an ordinance of the competent ministry, submit to the competent minister a written application stating the fact for which confirmation is sought and other matters specified by an ordinance of the competent ministry, with a document specified by an ordinance of the competent ministry as a necessary document for proving such fact attached thereto.

(Principle of suitability)

Article 215 A Futures Commission Merchant shall engage in a Commodity Transactions Brokerage Business in such a manner that it does not fail to protect customers by carrying out solicitation which is found to be inappropriate in light of the customers' knowledge and experience or the status of their property or for the purpose of concluding a Brokerage Contract or risk failing to protect such customers.

(Conformance to brokerage contract rules)

Article 216 A Futures Commission Merchant shall broker Transactions on a Commodity Market, etc. in accordance with the brokerage contract rules stipulated by a Commodity Exchange.

(Delivery of a document prior to conclusion of a Brokerage Contract)

Article 217 (1) When a Futures Commission Merchant intends to conclude a Brokerage Contract, the Futures Commission Merchant shall deliver a document stating the following matters to the customer in advance, pursuant to the provisions of an ordinance of the competent ministry:

- (i) The fact that the amount of the transaction based on said Brokerage Contract (in the case of a transactions set forth in Article 2, paragraph (8), item (iv), it shall be any transaction set forth in (a) to (c) inclusive of the same item which is closed by exercising the right under the same item) (such amount means an amount obtained by multiplying the value per transaction unit specified by the Commodity Exchange for each of the Listed Commodity Component Products or each Commodity Index pertaining to the Listed Commodity Index pertaining to said Brokerage Contract by the volume of transaction based on said Brokerage Contract) is extremely high in comparison to the amount of the clearing margin, customer margin, intermediation margin or clearing intermediation margin (referred to as the "Clearing Margin, etc." in the following item and Article 220-2, paragraph (1)) to be deposited by the customer for said transaction
- (ii) The fact that there is a risk of said customer incurring a loss with regard to

the transaction based on said Brokerage Contract due to fluctuation in the quotations on the Commodity Market and the risk that the amount of such loss could exceed the amount of the Clearing Margin, etc.

(iii) In addition to what is provided for in the preceding two items, matters concerning said Brokerage Contract which are specified by a Cabinet Order as important matters that may have an impact on customers' judgment

(iv) In addition to what is provided for in the preceding three items, the outline of said Brokerage Contract and other matters specified by an ordinance of the competent ministry

(2) A Futures Commission Merchant may, in lieu of the delivery of a document under the preceding paragraph, provide the matters that should be included in said document by a method using an electronic data processing system or a method using other information communications technology, which is specified by an ordinance of the competent ministry by gaining the consent of said customer, pursuant to the provisions of a Cabinet Order. In this case, the Futures Commission Merchant who has provided the matters that should be included in said document by said method shall be deemed to have delivered the document under the same paragraph.

(Obligation of explanation and liability for damage of a Futures Commission Merchant)

Article 218 (1) When a Futures Commission Merchant intends to conclude a Brokerage Contract, if the customer is a person other than the persons specified by an ordinance of the competent ministry as those having expert knowledge and experience of Transactions on a Commodity Market, the Futures Commission Merchant shall explain the matters set forth in the respective items of paragraph (1) of the preceding paragraph to said customer in advance pursuant to the provisions of an ordinance of the competent ministry.

(2) The explanation set forth in the preceding paragraph shall be provided by a method and to the extent necessary for the customer to understand in light of his/her knowledge and experience or the status of his/her property or for the purpose of concluding a Brokerage Contract.

(3) When a Futures Commission Merchant is required to provide an explanation to a customer pursuant to the provisions of paragraph (1), if it violates the provisions of Article 214 (limited to the part pertaining to item (i)) or if it fails to explain the matters set forth in paragraph (1), items (i) to (iii) inclusive of the preceding Article, the Futures Commission Merchant shall be liable to compensate for any damage that has arisen with regard to said Brokerage Contract of said customer due to such failure.

(Clear indication of the transaction method)

Article 219 When a Futures Commission Merchant intends to conclude a Brokerage Contract, the Futures Commission Merchant shall clarify in advance which category of acts under the respective items of Article 2, paragraph (16) its act to be conducted for the customer falls under.

(Notice of the closing of a transaction)

Article 220 (1) When a Transaction on a Commodity Market pertaining to its Commodity Transactions Brokerage Business has been closed, a Futures Commission Merchant shall notify the customer as to the volume and the amount of the consideration or the Contract Price, etc. for each type of transaction closed and any other matters specified by an ordinance of the competent ministry in writing without delay.

(2) The provisions of Article 217, paragraph (2) shall apply mutatis mutandis to a notice in writing under the preceding paragraph. In this case, the term "existing and potential customer" in paragraph (2) of the same Article shall be deemed to be replaced with "customer," the term "provide" shall be deemed to be replaced with "notify," the term "provided" shall be deemed to be replaced with "notified" and the term "deemed to have delivered the document" shall be deemed to be replaced with "deemed to have given a notice by the document."

(Delivery of Document Pertaining to Receipt of Clearing Margin, etc.)

Article 220-2 (1) A Futures Commission Merchant shall, when having received a Clearing Margin, etc. to be deposited by the customer with regard to its Commodity Transactions Brokerage Business, immediately deliver to the customer, pursuant to the provisions of an ordinance of the competent ministry, a document stating to that effect.

(2) The provisions of Article 217, paragraph (2) shall apply mutatis mutandis to the delivery of a document under the preceding paragraph.

(Application Mutatis Mutandis of the Act on Sales, etc. of Financial Instruments)

Article 220-3 The provisions of Articles 6 to 9 inclusive of the Act on Sales, etc. of Financial Products (Act No. 101 of 2000) shall apply mutatis mutandis to the conclusion of a Brokerage Contract by a Futures Commission Merchant. In this case, the term "preceding Article" in Article 6, paragraph (1) of the same Act shall be deemed to be replaced with "Article 218, paragraph (3) of the Commodity Exchange Act," the phrase "failing to explain important matters or making provision, etc. of conclusive evaluations" in Article 7 of the same Act shall be deemed to be replaced with "violating the provisions of Article 214 (limited to the part pertaining to item (i)) of the Commodity Exchange Act or

failing to explain the matters listed in Article 217, paragraph (1), items (i) to (iii) inclusive of the same Act," the phrase "contract pertaining to the sale of said financial product" in Article 9, paragraph (2), item (i) of the same Act shall be deemed to be replaced with "Brokerage Contract set forth in Article 214, item (ii) of the Commodity Exchange Act" and any other technical replacement shall be specified by a Cabinet Order.

(Liability reserve for commodity trading)

- Article 221 (1) A Futures Commission Merchant shall set aside a liability reserve for commodity trading according to the transaction volume of Transactions on a Commodity Market, etc. pursuant to the provisions of an ordinance of the competent ministry.
- (2) A liability reserve for commodity trading under the preceding paragraph shall not be used other than in a case of compensating losses caused by problematic conduct that has occurred in relation to brokerage of Transactions on a Commodity Market, etc. which is specified by an ordinance of the competent ministry; provided, however, that this shall not apply when the approval of the competent minister has been obtained.

(Creation of books, etc.)

- Article 222 A Futures Commission Merchant shall draft books with regard to Transactions on a Commodity Market and preserve them, pursuant to the provisions of an ordinance of the competent ministry.

(Separate accounting in books)

- Article 223 With regard to Transactions on a Commodity Market, a Futures Commission Merchant shall carry out accounting for transactions based on its own account and that for transactions based on its customer's account separately in its books, pursuant to the provisions of an ordinance of the competent ministry.

(Submission of a written report)

- Article 224 (1) Every business year, a Futures Commission Merchant shall create a business report and submit it to the competent minister within three months from the end of each business year pursuant to the provisions of an ordinance of the competent ministry.
- (2) In addition to the business report prescribed in the preceding paragraph, a Futures Commission Merchant shall submit to the competent minister a written report on the Commodity Transactions Brokerage Business or on the status of the property of said Futures Commission Merchant pursuant to the provisions of an ordinance of the competent ministry.

### Section 3 Merger, Split and Business Transfer

#### (Approval of a Merger)

- Article 225 (1) A merger where Futures Commission Merchants are all or part of the parties thereto (limited to a merger where the stock company surviving the merger or the stock company established by the merger engages in the Commodity Transactions Brokerage Business; hereinafter simply referred to as a "Merger" in this Article and Article 230) shall not come into effect without the approval of the competent minister having been obtained.
- (2) A Futures Commission Merchant which intends to obtain the approval set forth in the preceding paragraph shall submit to the competent minister a written application stating the matters set forth in the respective items of Article 192, paragraph (1) with regard to the stock company surviving the Merger or the stock company established by the Merger (hereinafter referred to as the "Stock Company Resulting from a Merger").
- (3) The merger contract and any other documents specified by an ordinance of the competent ministry shall be attached to a written application under the preceding paragraph.
- (4) The competent minister shall not grant the approval under paragraph (1) unless he/she finds that an application for approval under the same paragraph conforms to all of the following items:
- (i) The Stock Company Resulting from a Merger satisfies the requirements set forth in the respective items of Article 193, paragraph (1).
  - (ii) It is fully expected that the Commodity Transactions Brokerage Business will be transferred smoothly and appropriately.
- (5) A Stock Company Resulting from a Merger (excluding the case where the Futures Commission Merchant is the stock company surviving the Merger) shall be deemed to have obtained a license under Article 190, paragraph (1) at the time of the Merger.
- (6) A Stock Company Resulting from a Merger shall succeed to the rights and obligations which the Futures Commission Merchant dissolved by a Merger has based on any permission, license or other disposition of the competent minister concerning the Commodity Transactions Brokerage Business of said Futures Commission Merchant dissolved by a Merger.

#### (Approval of a Consolidation-Type Split)

- Article 226 (1) A consolidation-type split implemented by a Futures Commission Merchant for the purpose of transferring the whole or a part of its Commodity Transactions Brokerage Business to a newly established stock company (hereinafter simply referred to as an "Consolidation-Type Split" in this Article

and Article 230) shall not come into effect without the approval of the competent minister having been obtained.

- (2) A Futures Commission Merchant which intends to obtain the approval set forth in the preceding paragraph shall submit to the competent minister a written application stating the matters set forth in the respective items of Article 192, paragraph (1) with regard to the stock company established by the Consolidation-Type Split (hereinafter referred to as the "Formed Company").
- (3) The split plan and any other documents specified by an ordinance of the competent ministry shall be attached to a written application under the preceding paragraph.
- (4) The competent minister shall not grant the approval under paragraph (1) unless he/she finds that an application for approval under the same paragraph conforms to all of the following items:
  - (i) The Formed Company satisfies the requirements set forth in the respective items of Article 193, paragraph (1).
  - (ii) It is fully expected that the Commodity Transactions Brokerage Business will be transferred smoothly and appropriately.
- (5) A Formed Company shall be deemed to have obtained a license under Article 190, paragraph (1) at the time of the Consolidation-Type Split.
- (6) A Formed Company shall succeed to the rights and obligations which the Futures Commission Merchant implementing a Consolidation-Type Split has based on any permission, license or other disposition of the competent minister concerning the Commodity Transactions Brokerage Business of said Futures Commission Merchant which is subject to the transfer.

(Approval of an Absorption-Type Split)

- Article 227 (1) An absorption-type split implemented by a Futures Commission Merchant for the purpose of transferring the whole or a part of its Commodity Transactions Brokerage Business to another stock company (hereinafter simply referred to as an "Absorption-Type Split" in this Article and Article 230) shall not come into effect without the approval of the competent minister having been obtained.
- (2) A Futures Commission Merchant which intends to obtain the approval set forth in the preceding paragraph shall submit to the competent minister a written application stating the matters set forth in the respective items of Article 192, paragraph (1) with regard to the stock company succeeding to the whole or a part of its Commodity Transactions Brokerage Business by the Absorption-Type Split (hereinafter referred to as the "Succeeding Company").
  - (3) The split contract and any other documents specified by an ordinance of the competent ministry shall be attached to a written application under the preceding paragraph.



- (4) The competent minister shall not grant the approval under paragraph (1) unless he/she finds that an application for approval under the same paragraph conforms to all of the following items:
  - (i) The Succeeding Company satisfies the requirements set forth in the respective items of Article 193, paragraph (1).
  - (ii) It is fully expected that the Commodity Transactions Brokerage Business will be transferred smoothly and appropriately.
- (5) A Succeeding Company (excluding the case where the Futures Commission Merchant is the Succeeding Company) shall be deemed to have obtained a license under Article 190, paragraph (1) at the time of the Absorption-Type Split.
- (6) A Succeeding Company shall succeed to the rights and obligations which the Futures Commission Merchant implementing an Absorption-Type Split has based on any permission, license or other disposition of the competent minister concerning the Commodity Transactions Brokerage Business of said Futures Commission Merchant which is subject to the transfer.

(Approval of a business transfer)

- Article 228 (1) A transfer of the whole or a part of its Commodity Transactions Brokerage Business by a Futures Commission Merchant to another stock company (hereinafter referred to as a "Business Transfer" in this Article and Article 230) shall not come into effect without the approval of the competent minister having been obtained.
- (2) A Futures Commission Merchant which intends to obtain the approval set forth in the preceding paragraph shall submit to the competent minister a written application stating the matters set forth in the respective items of Article 192, paragraph (1) with regard to the stock company receiving the whole or a part of its Commodity Transactions Brokerage Business by the Business Transfer (hereinafter referred to as the "Transferee Company").
  - (3) The transfer contract and any other documents specified by an ordinance of the competent ministry shall be attached to the written application under the preceding paragraph.
  - (4) The competent minister shall not grant the approval under paragraph (1) unless he/she finds that an application for approval under the same paragraph conforms to all of the following items:
    - (i) The Transferee Company satisfies the requirements set forth in the respective items of Article 193, paragraph (1).
    - (ii) It is fully expected that the Commodity Transactions Brokerage Business will be transferred smoothly and appropriately.
  - (5) A Transferee Company (excluding the case where the Futures Commission Merchant is the Receiving Corporation) shall be deemed to have obtained a

license under Article 190, paragraph (1) at the time of the Business Transfer.

(6) A Receiving Company shall succeed to the rights and obligations which the Futures Commission Merchant implementing a Business Transfer has based on any permission, license or other disposition of the competent minister concerning the Commodity Transactions Brokerage Business of said Futures Commission Merchant subject to the transfer.

(Procedure of disposition)

Article 229 The provisions of Article 15, paragraphs (5) to (9) inclusive shall apply mutatis mutandis to the approval under Article 225, paragraph (1), Article 226, paragraph (1), Article 227, paragraph (1) and paragraph (1) of the preceding Article.

(Delegation to a Cabinet Order)

Article 230 In addition to what is provided for in this Act, any necessary matters concerning a Merger, Consolidation-Type Merger, Absorption-Type Merger and Business Transfer of a Futures Commission Merchant shall be specified by a Cabinet Order.

#### **Section 4 Supervision**

(Request for reports; on-site inspections)

- Article 231 (1) When the competent minister finds it necessary for the enforcement of this Act, he/she may order a Futures Commission Merchant to submit a report or materials that provide information about its business or have his/her officials enter a business office of the Futures Commission Merchant to inspect the books, documents and any other articles related to their business.
- (2) When the competent minister finds it necessary for the enforcement of this Act, he/she may order a person carrying out transactions with a Futures Commission Merchant to submit a report or materials that provide information about the business property of said Futures Commission Merchant.
- (3) In the case where an inspection has been conducted pursuant to the provisions of paragraph (1), if said officials find it necessary, for attaining the purpose of the inspection, to inspect a Listed Commodity which said Futures Commission Merchant possesses or has received on deposit and which is retained at a place other than its business office, they may enter such place by having said Futures Commission Merchant present a document proving retention of said Listed Commodity to the manager of such place and inspect said Listed Commodity in the presence of said Futures Commission Merchant.
- (4) The provisions of Article 157, paragraph (3) and paragraph (4) shall apply

mutatis mutandis to the inspection under paragraph (1) and the preceding paragraph.

(Order to improve business operations, etc.)

Article 232 (1) When the competent minister finds it necessary and appropriate for maintaining order on the Commodity Market or for protecting customers, he/she may order a Futures Commission Merchant to take the necessary measures for improving the status of its property or the operation of its Commodity Transactions Brokerage Business within the necessary limits.

(2) In the case referred to in the preceding paragraph, if the competent minister finds that the status of the property of the Futures Commission Merchant or the operation of its Commodity Transactions Brokerage Business falls under any of the following items, he/she may order the Futures Commission Merchant to suspend its Transactions on a Commodity Market or its Commodity Transactions Brokerage Business for a fixed period not exceeding three months:

(i) When the ratio of the total amount of liabilities to the amount of net assets exceeds the ratio specified by an ordinance of the competent ministry

(ii) When the ratio of the total amount of current assets to the total amount of current liabilities falls below the ratio specified by an ordinance of the competent ministry

(iii) In the case where a Futures Commission Merchant received a recommendation under the following Article concerning its Subsidiary Business or the business of a juridical person over which the Futures Commission Merchant has a controlling interest under Article 196, paragraph (2) (limited to the case where such businesses fall under the businesses specified by an ordinance of the competent ministry prescribed in paragraph (3) of the same Article), if the status of the property of said Futures Commission Merchant has deteriorated or is likely to deteriorate due to not taking the measure pertaining to such recommendation without a justifiable reason

(iv) In addition to the cases referred to in the preceding three paragraphs, in the case specified by an ordinance of the competent ministry to be a case where it is necessary to order the suspension of Transactions on a Commodity Market or a Commodity Transactions Brokerage Business in order to rectify the status of a property or the operation of a Commodity Transactions Brokerage Business

(3) The total amount of liabilities set forth in item (i) of the preceding paragraph and the total amount of current assets and the total amount of current liabilities set forth in item (ii) of the same paragraphs shall be calculated pursuant to the provisions of an ordinance of the competent ministry.

(4) The provisions of Article 99, paragraph (7) shall apply mutatis mutandis to the amount of net assets under paragraph (2), item (i).

(Recommendation)

Article 233 When the competent minister finds it necessary for securing the sound implementation of the Commodity Transactions Brokerage Business of a Futures Commission Merchant, he/she may recommend said Futures Commission Merchant to take any necessary measures concerning its Subsidiary Business or the business of a juridical person over which said Futures Commission Merchant has a controlling interest under Article 196, paragraph (2).

(Retention of assets within Japan)

Article 234 When the competent minister finds it necessary and appropriate for maintaining order on the Commodity Market or for protecting customers, he/she may order a Futures Commission Merchant to retain the portion of its assets which is specified by a Cabinet Order within Japan.

(Order concerning the Net Assets Regulation Ratio)

Article 235 (1) In the case where a Futures Commission Merchant is in violation of Article 211, paragraph (2), if the competent minister finds it necessary and appropriate for protecting customers, he/she may order said Futures Commission Merchant to change the method of its Commodity Transactions Brokerage Business, deposit its property or take any other measures necessary for the purpose of supervision within the necessary limits.

(2) In the case a Futures Commission Merchant is in violation of Article 211, paragraph (2) (limited to the case where the Net Assets Regulation Ratio is below 100 percent), if the competent minister finds it necessary and appropriate for protecting customers, he/she may order said Futures Commission Merchant to suspend its Commodity Transactions Brokerage Business for a fixed term not exceeding three months within the necessary limits.

(3) In the case where the competent minister ordered the suspension of a Commodity Transactions Brokerage Business pursuant to the provisions of the preceding paragraph, if he/she finds that the Net Assets Regulation Ratio of said Futures Commission Merchant on the day when three months have elapsed from the day of such order continues to be below 100 percent and that the status of the Net Assets Regulation Ratio of said Futures Commission Merchant is not likely to recover, he/she may rescind the license under Article 190, paragraph (1) of said Futures Commission Merchant.

(Disposition rendered for the purpose of supervision)

Article 236 (1) In the case where a Futures Commission Merchant falls under any of the following items, the competent minister may rescind the license under Article 190, paragraph (1) of said Futures Commission Merchant and order the suspension of its Transactions on a Commodity Market or its Commodity Transactions Brokerage Business for a fixed period not exceeding six months:

- (i) When the Futures Commission Merchant has fallen under Article 15, paragraph (2), item (i) (c), (d) (limited to the part pertaining to the rescission of the permission under Article 332, paragraph (1) and Article 342, paragraph (1) and the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to this Act), (e), (i) or (l)
  - (ii) When the Futures Commission Merchant no longer conforms to Article 193, paragraph (1), item (i)
  - (iii) When the amount of net assets of the Futures Commission Merchant falls under the amount specified by an ordinance of the competent ministry set forth in Article 193, paragraph (2)
  - (iv) When the Futures Commission Merchant has obtained the license under Article 190, paragraph (1) by wrongful means
  - (v) When the Futures Commission Merchant has violated this Act (excluding Article 211, paragraph (2)), an order based on this Act or a disposition by the competent minister based on this Act or the conditions attached to a license under Article 190, paragraph (1)
  - (vi) When the Futures Commission Merchant has failed to commence a Commodity Transactions Brokerage Business within three months from the day on which it became possible to commence said business or when it has continuously suspended said business for three months or more without a justifiable reason
  - (vii) When there is a risk of the Futures Commission Merchant becoming insolvent in light of the status of its business or property
- (2) When an officer of a Futures Commission Merchant has committed an act that falls under item (v) of the preceding paragraph, the competent minister may order the Futures Commission Merchant to dismiss said officer.

(Application mutatis mutandis of special provisions on the method of hearing, etc.)

Article 237 The provisions of Article 158, paragraph (2) shall apply mutatis mutandis to the dispositions under Article 232, paragraph (1) or paragraph (2) or the preceding three Articles and the provisions of Article 159, paragraph (4) shall apply mutatis mutandis to the rescission of a license or a hearing pertaining to an order to rescind an officer pursuant to Article 235, paragraph

(3) or the preceding Article.

(Completion of settlement of transactions)

Article 238 (1) The provisions of Article 197, paragraph (5) shall apply mutatis mutandis to a person who was a Futures Commission Merchant in the case where said Futures Commission Merchant has fallen under any of the following items:

- (i) When the license under Article 190, paragraph (1) has been rescinded pursuant to the provisions of Article 235, paragraph (3) or Article 236, paragraph (1)
  - (ii) When the license under Article 190, paragraph (1) ceased to be effective pursuant to the provisions of Article 190, paragraph (2) or Article 197, paragraph (2) (limited to the part pertaining to paragraph (1), items (i) to (iv) inclusive of this Article [with regard to item (ii) of the same paragraph, limited to the part pertaining to a merger in the case where the juridical person surviving a merger or a juridical person established by a merger does not engage in Commodity Transactions Brokerage Business])
- (2) A person who had been said Futures Commission Merchant in the cases set forth in the respective items of the preceding paragraph shall be deemed to be a Futures Commission Merchant within the scope of the purpose to complete Transactions on a Commodity Market based on a customer's account.
- (3) Notwithstanding the provisions of paragraph (1), if a Commodity Exchange finds it inappropriate to have said Futures Commission Merchant complete the settlement of Transactions on a Commodity Market for securing the fairness of Transactions on a Commodity Market or protecting customers, it shall have another Member, etc. (limited to another Member, etc. who may carry out transactions on said Commodity Market; hereinafter the same shall apply in this Article) pursuant to the provisions of its articles of incorporation (market rules in the case of a Incorporated Commodity Exchange ).
- (4) When a Commodity Exchange has another Member, etc. complete settlement of said transactions pursuant to the provisions of the preceding paragraph, it shall be deemed that a Brokerage Contract is established between said Member, etc. and the customer of said transactions.

(Supervision of a Futures Commission Merchant who is not a Member, etc.)

Article 239 The competent minister shall supervise appropriately the business of a Futures Commission Merchant who has not joined an Association or who is not a Member, etc. of a Commodity Exchange, while considering the articles of incorporation and any other rules of the Association or the Commodity Exchange so that such business does not disturb order on the Commodity Market or fail to protect customers.

(Respecting the voluntary efforts of a Futures Commission Merchant)

Article 240 When supervising a Futures Commission Merchant, the competent minister shall give consideration to respect the voluntary efforts of the Futures Commission Merchant with respect to the operation of its business.

## **Chapter V Commodity Futures Association**

### **Section 1 General Provisions**

(Purpose and juridical personality)

Article 241 (1) The purpose of a commodity futures association (hereinafter referred to as an "Association" in this Chapter and in Chapter VIII) shall be to achieve a fair and smooth brokerage of Transactions on a Commodity Market, etc. (excluding Commodity Clearing Transactions) and to protect customers.

(2) An Association shall be a juridical person.

(Restriction on business)

Article 242 (1) An Association shall not engage in business for the purpose of profit.

(2) An Association shall not engage in business other than the business directly necessary for achieving its purpose and any other businesses incidental thereto.

(Address)

Article 243 The address of an Association shall be at the location of its principal office.

(Name)

Article 244 (1) No person other than an Association shall use in his/her name characters that are likely to mislead the public into believing that such person is a commodity futures association.

(2) A person who has not joined an Association shall not use in his/her name characters that are likely to mislead the public into believing that such person is a member of a commodity futures association (hereinafter referred to as an "Association Member" in this Chapter).

### **Section 2 Establishment**

(Approval for establishment)

Article 245 Any Futures Commission Merchant which intends to establish an Association shall obtain the approval of the competent minister.

(Matters to be included in the articles of incorporation)

Article 246 The following matters shall be included in the articles of incorporation of an Association:

- (i) Purpose
- (ii) Name
- (iii) Office address
- (iv) Matters concerning the Association membership qualification
- (v) Matters concerning the membership and withdrawal of Association Members
- (vi) Matters concerning the sharing of costs among Association Members
- (vii) Matters concerning audits of and sanctions against Association Members
- (viii) Matters concerning the fixed number, term of office, appointment and composition of officers
- (ix) Matters concerning the improvement of the skills of officers and employees of Association Members
- (x) Matters concerning the general meeting of Association Members
- (xi) Matters concerning councils and other meetings
- (xii) Matters concerning mediation and conciliation with respect to a dispute that has occurred between Association Members or between an Association Member and a customer concerning brokerage of Transactions on a Commodity Market, etc. and any other dispute resolution
- (xiii) Matters concerning accounting and assets
- (xiv) Method of public notice

(Application for approval)

Article 247 (1) A person who intends to obtain the approval under Article 245 shall submit a written application stating the following matters to the competent minister:

- (i) Name
  - (ii) Office address
  - (iii) Names and addresses of officers and trade names of Association Members
- (2) The articles of incorporation, sanction rules, dispute resolution rules and any other documents specified by an ordinance of the competent ministry shall be attached to the written application under the preceding paragraph.

(Criteria for approval)

Article 248 (1) If the competent minister finds that the application for approval under Article 245 conforms to the following criteria, he/she shall grant the approval:

- (i) The provisions of the articles of incorporation, sanction rules, dispute resolution rules and any other rules do not violate laws and regulations, and



the method of business, qualification of an Association Member and any other matters prescribed in the articles of incorporation, sanction rules or dispute resolution rules are appropriate and sufficient for achieving the fair and smooth brokerage of Transactions on a Commodity Market and protecting customers.

- (ii) The Association pertaining to said application is organized in such a way as to conform to the provisions of this Act.
  - (iii) The written application or the documents that should be attached thereto includes no false entry regarding an important matter.
  - (iv) The applicant for approval is not a person who falls under any category of the persons in Article 15, paragraph (2), item (i) (c) to (e) inclusive or (i) or (l).
  - (v) None of the officers is a person who falls under any category of the persons in Article 15, paragraph (2), item (i) (a) to (k).
- (2) The provisions of Article 15, paragraphs (5) to (9) inclusive shall apply mutatis mutandis to the approval under Article 245.

(Registration)

Article 249 (1) An Association shall complete registration pursuant to the provisions of a Cabinet Order.

- (2) An Association shall be established by registering its establishment at the location of its principal office.
- (3) The matters that require registration pursuant to the provisions of paragraph (1) may not be asserted against a third party until after such registration.

(An amendment to the articles of incorporation, etc.)

Article 250 (1) An amendment to the articles of incorporation, sanction rules or dispute resolution rules of an Association shall not come into effect without the approval of the competent minister having been obtained.

- (2) When an Association intends to obtain the approval under the preceding paragraph, it shall submit a written application to the competent minister by attaching documents specified by an ordinance of the competent ministry.
- (3) When there is any change to the matters set forth in Article 247, paragraph (1), item (ii) or item (iii), an Association shall notify the competent minister to that effect without delay. The same shall apply when an Association has created, amended or abolished its rules (excluding the articles of incorporation, sanction rules and dispute resolution rules).
- (4) The provisions of Article 248, paragraph (1), item (i) shall apply mutatis mutandis to the approval under paragraph (1).

### **Section 3 Association Members**

(Association membership qualification)

- Article 251 (1) A person having the membership qualification for an Association shall be limited to a Futures Commission Merchant.
- (2) An Association shall stipulate in its articles of incorporation that any Futures Commission Merchant may join as an Association Member except in the case set forth in paragraph (5).
- (3) An Association shall stipulate in its articles of incorporation that it will endeavor to prevent any fraudulent act, act of manipulating quotations, collection of an unreasonable fee or cost or profiteering by an Association Member and to promote the fair and equitable principles of transactions.
- (4) An Association shall stipulate in its articles of incorporation that it will endeavor to prevent any acts in violation of laws and regulations or the articles of incorporation or other rules of the Association and to secure customer confidence by having Association Members establish internal rules and an administrative system for observing laws and regulations and the articles of incorporation and other rules of the Association.
- (5) An Association may stipulate in its articles of incorporation that if a person has ever received an order to suspend Transactions on a Commodity Market or a Commodity Transactions Brokerage Business or has been expelled from an Association or a Commodity Exchange or has received a disposition to rescind the trading qualification as a result of violating this Act, an order based on this Act or a disposition by the competent minister based on this Act or the articles of incorporation or other rules of an Association or a Commodity Exchange or committing an act in contrary to the fair and equitable principles of transactions, the Association may refuse such person to join as an Association Member.

(Public inspection of register)

Article 252 An Association shall provide its register of Association Members for public inspection.

(Sanction rules)

Article 253 An Association shall stipulate in its articles of incorporation that in the event an Association Member violates this Act, an order based on this Act or a disposition by the competent minister based on this Act or the articles of incorporation or other rules of an Association or a Commodity Exchange or commits an act in contrary to the fair and equitable principles of transactions, it will impose a fine for default on said Association Member or order suspension or restriction of the rights of the Association Member prescribed in the articles of incorporation or expel said Association Member pursuant to the provisions of the sanction rules.

## **Section 4 Organization**

(Officers)

Article 254 An Association shall appoint one president, two or more directors and two or more auditors as officers.

(Authority of the president and directors)

Article 255 (1) The president shall represent the Association and preside over its affairs.

(2) The directors shall, pursuant to the provisions of the articles of incorporation, represent the Association, administer the affairs of the Association assisting the president, perform the duties of the president in his/her place when the president is unable to attend to his/her duties, and perform the duties of the president when the post is vacant.

(Authority of the auditors)

Article 256 (1) The auditor shall audit the affairs of an Association.

(2) The auditors may require the president or directors to report on the affairs or examine the status of the affairs and property of the Association at any time.

(3) The auditors shall examine the documents that the president intends to submit to a general meeting of Association Members and report their opinions to the general meeting of Association Members.

(Disqualifying conditions for officers)

Article 257 The provisions of Article 49 shall apply mutatis mutandis to officers of an Association.

(Provisional director and provisional auditor)

Article 258 The competent minister may, when there is no person to perform the duties of a director or auditor and if he/she finds it necessary, appoint a provisional director or provisional auditor.

## **Section 5 Dispute Resolution**

(Complaint resolution)

Article 259 (1) When a person such as a customer files an application for resolution of a complaint concerning the Commodity Transactions Brokerage Business carried out by an Association Member, an Association shall respond to a request for consultation, provide the necessary advice to the applicant, investigate the circumstances pertaining to such complaint and demand that

said Association Member should notify the details of such complaint and process the complaint expeditiously.

- (2) When an Association finds it necessary for resolving the complaint pertaining to an application under the preceding paragraph, it may demand that said Association Member should provide a written or oral explanation or submit materials.
- (3) When there has been a demand under the preceding paragraph from an Association, an Association Member shall not refuse the demand without a justifiable reason.
- (4) An Association shall fully inform its Association Members about any applications under paragraph (1), circumstances pertaining to said complaints and the outcome of any resolution.

(Mediation/conciliation committee)

Article 260 An Association shall stipulate in its dispute resolution rules that it will establish a mediation/conciliation committee (referred to as a "Committee" in the following Article) organized by committee members who have relevant knowledge and experience of Futures Transactions and who satisfy other requirements specified by an ordinance of the competent ministry for the purpose of implementing mediation and conciliation with regard to any dispute that arises between Association Members or between an Association Member and a customer concerning the brokerage of Transactions on a Commodity Market, etc. (referred to as a "Dispute Pertaining to Brokerage" in the following Article).

(Implementation of mediation and conciliation)

- Article 261 (1) When an application has been filed for mediation or conciliation with regard to a Dispute Pertaining to Brokerage by an Association Member or a customer who is a party thereto, an Association shall implement mediation or conciliation through the Committee without delay, pursuant to the provisions of its dispute resolution rules.
- (2) An Association shall specify detailed regulations on the following matters in its dispute resolution rules:
    - (i) Procedure to apply for mediation and conciliation
    - (ii) Method of mediation and conciliation
    - (iii) In addition to the matters listed in the preceding two items, necessary matters concerning mediation and conciliation
  - (3) When it is necessary for the smooth implementation of mediation and conciliation, an Association may demand a Commodity Exchange to submit materials or to provide any other necessary cooperation.

## **Section 6 Dissolution**

Article 262 (1) An Association shall be dissolved based on the following grounds:

- (i) Occurrence of grounds for dissolution specified by the articles of incorporation
  - (ii) Resolution of a general meeting of Association Members
  - (iii) Decision for commencement of bankruptcy proceedings
  - (iv) Rescission of the approval for establishment
- (2) When an Association has dissolved pursuant to the provisions of items (i) to (iii) inclusive of the preceding paragraph, the Association shall notify the competent minister to that effect without delay.
- (3) In addition to what is provided for in the preceding two paragraphs, the necessary matters concerning dissolution of an Association shall be specified by a Cabinet Order.

## **Section 7 Supervision**

(Request for reports; on-site inspections)

Article 263 (1) When the competent minister finds it necessary for the enforcement of this Act, he/she may order an Association or an Association Member to submit a report or materials that provide information about their business or have his/her officials enter an office or a business office of the Association or the Association Member to inspect the books, documents and any other articles related to their business.

(2) The provisions of Article 157, paragraph (3) and paragraph (4) shall apply mutatis mutandis to the inspection under the preceding paragraph.

(Order to improve business operations)

Article 264 When the competent minister finds it necessary and appropriate for achieving fair and smooth brokerage of Transactions on a Commodity Market, etc. or for protecting customers, he/she may order an Association to amend its articles of incorporation, sanction rules, dispute resolution rules or other rules or take any other necessary measures for improving the operation of its business within the necessary limits.

(Disposition rendered to an Association for the purpose of supervision)

Article 265 (1) In the case where an Association has violated this Act, an order based on this Act or a disposition by the competent minister based on this Act or its articles of incorporation or other rules (hereinafter referred to as "This Act, etc." in this Article) or, in the case where, regardless of the fact that an Association Member has violated This Act, etc., said Association has failed to

exercise its powers recognized pursuant to this Act, an order based on this Act or its articles of incorporation or has failed to take any other necessary measures for having said Association Member observe this Act, etc., if the competent minister finds it necessary and appropriate for achieving fair and smooth brokerage of Transactions on a Commodity Market, etc. or for protecting customers, he/she may rescind the approval of the establishment of said Association, order the suspension of the whole or a part of its business for a fixed period not exceeding one year, order the prohibition of a part of its business or order the dismissal of its officer.

- (2) If the competent minister discovers that the contents of a written application for the approval under Article 245 or Article 250, paragraph (1) or documents attached thereto include a false entry regarding an important matter or lack the statement of an important fact, he/she may rescind said approval.
- (3) If the competent minister discovers that a person has become an officer of an Association by wrongful means or if an officer of an Association has violated this Act, an order based on this Act or a disposition by the competent minister based on this Act, he/she may order said Association to dismiss said officer.

(Application mutatis mutandis of special provisions on the method of hearing, etc.)

Article 266 The provisions of Article 158, paragraph (2) shall apply mutatis mutandis to the dispositions under the preceding two Articles and the provisions of Article 159, paragraph (4) shall apply mutatis mutandis to a hearing pertaining to the rescission of approval or pertaining to an order to dismiss an officer under the provisions of the preceding Article.

## **Section 8 Miscellaneous Provisions**

(Confidentiality obligation of officers, employees, etc. of an Association)

Article 267 An officer or an employee of an Association or a person who was formerly in such a position shall not disclose to another person or appropriate any confidential information he/she has learned in the course of his/her duties.

(Submission of a business summary report, etc.)

Article 268 An Association shall submit the following documents to the competent minister within three months from the day of the commencement of every business year:

- (i) The business summary report for the previous business year and the business plan for the current business year
- (ii) The inventory of property as of the end of the previous business year
- (iii) The settlement of accounts for the previous business year and the budget

statements for the current business year

## **Chapter VI Consumer Protection Fund, etc.**

### **Section 1 Definitions**

- Article 269 (1) The term "General Customer" as used in this Chapter shall mean a person who has consigned a Transaction on a Commodity Market, etc. (excluding a Commodity Clearing Transaction; the same shall apply in this paragraph) to a Futures Commission Merchant (excluding a Futures Commission Merchant, a qualified institutional investor under Article 2, paragraph (3), item (i) of the Financial Instruments and Exchange Act, a commodities investment advisor under Article 2, paragraph (4) of the Act on Regulation of Business Pertaining to Commodity Investment [Act No. 66 of 1991] and any other person specified by a Cabinet Order).
- (2) In the case where a Futures Commission Merchant has consigned a Transaction on a Commodity Market, etc. (limited to that set forth in Article 2, paragraph (16), item (i) or item (iii)) to another Futures Commission Merchant based on its General Customer's account, the provisions of this Chapter shall apply mutatis mutandis by deeming said Futures Commission Merchant to be a General Customer of said other Futures Commission Merchant, notwithstanding the provisions of the preceding paragraph.
- (3) The term "Consignor Protection Business" as used in this Article and Article 8 shall mean the following businesses:
- (i) Payment to a General Customer under Article 306, paragraph (1)
  - (ii) Loan of funds under Article 308, paragraph (1)
  - (iii) Acceptance and management of the deposit of Property Subject to Preservation under Article 309
  - (iv) Business that contributes to expeditious repayment of the liabilities of a General Customer under Article 310
  - (v) Judicial or extra-judicial acts under Article 311, paragraph (1)
  - (vi) Collection and management of a Burden Charge (which means the burden charge prescribed in Article 300, paragraph (3) and Article 314, paragraph (1); the same shall apply in Article 302, paragraph (2))
  - (vii) Any business incidental to the business set forth in the preceding items
- (4) The term "Consignor Protection Membership Corporation" as used in this Article and Article 8 shall mean a membership corporation established based on the provisions of Subsection 2 of the following Section for the purpose of conducting a Consignor Protection Business.

## **Section 2 Consignor Protection Membership Corporation**

### **Subsection 1 General Provisions**

(Juridical personality)

Article 270 A Consignor Protection Membership Corporation shall be a juridical person.

(Name)

Article 271 (1) A Consignor Protection Membership Corporation shall use the characters "委託者保護会員制法人" (Itakusha Hogokaiinsei Hojin [Consignor Protection Membership Corporation]) in its name.

(2) No person other than a Consignor Protection Membership Corporation shall use the characters "委託者保護会員制法人" (Itakusha Hogokaiinsei Hojin [Consignor Protection Membership Corporation]) in its name.

(Application mutatis mutandis of the Act Concerning General Corporations and General Foundations)

Article 272 The provisions of Article 4 and Article 78 of the Act Concerning General Corporations and General Foundations (Act No. 48 of 2006) shall apply mutatis mutandis to a Consignor Protection Membership Corporation.

### **Subsection 2 Establishment**

(Requirements for establishment)

Article 273 (1) In order to establish a Consignor Protection Membership Corporation, 20 or more Futures Commission Merchants who intend to become its members shall become the founders.

(2) After creating the articles of incorporation, the founders shall invite persons to become members, and hold an organizational meeting by giving a public notice of said articles of incorporation as well as the time and place of the meeting by two weeks prior to the day of the meeting..

(3) Approval of the articles of incorporation and decisions on any other necessary matters for the establishment of the Consignor Protection Membership Corporation shall be made by a resolution of an organizational meeting.

(4) The articles of incorporation may be revised at an organizational meeting.

(5) A decision at an organizational meeting under paragraph (3) shall be made by at least two-thirds of the votes of those present when at least half of the Futures Commission Merchants who have proposed themselves to the founders to become members before the opening of the meeting and the founders are present.

(6) Any necessary matters for the operation of the business in the business year which includes the day of establishment of a Consignor Protection Membership Corporation (including the budget and funding plans) may be decided by a



resolution of an organizational meeting.

- (7) The provisions of the main clause of Article 286 shall apply mutatis mutandis to decisions at an organizational meeting under the preceding paragraph. In this case, the term "all members" in the main clause of the same Article shall be deemed to be replaced with "the Futures Commission Merchants who have proposed themselves to the founders to become members before the opening of the meeting and the founders."
- (8) The provisions of Article 285-2 and Article 285-3 shall apply mutatis mutandis to a resolution of an organizational meeting.

(Matters to be included in the articles of incorporation)

Article 274 The following matters shall be included in the articles of incorporation of a Consignor Protection Membership Corporation:

- (i) Purpose
- (ii) Name
- (iii) Office address
- (iv) The following matters concerning members:
  - (a) Membership qualification
  - (b) Membership and withdrawal of members
  - (c) Audits of and sanctions against members
- (v) Matters concerning the general meeting
- (vi) Matters concerning officers
- (vii) Matters concerning the governing council
- (viii) Matters concerning finance and accounting
- (ix) Matters concerning amendments to the articles of incorporation
- (x) Matters concerning dissolution
- (xi) Method of public notice

(Transfer of affairs to the president)

Article 275 Founders shall transfer their affairs to the president after the closing of the organizational meeting without delay.

(Registration)

Article 276 (1) A Consignor Protection Membership Corporation shall complete registration pursuant to the provisions of a Cabinet Order.

- (2) A Consignor Protection Membership Corporation shall be established by registering its establishment at the location of its principal office.
- (3) The matters that require registration pursuant to the provisions of paragraph (1) may not be asserted against a third party until after the registration.

### **Subsection 3 Members**

(Membership qualification)

Article 277 A person having the membership qualification for a Consignor Protection Membership Corporation shall be limited to a Futures Commission Merchant.

(Withdrawal)

Article 278 A Futures Commission Merchant who is a member of a Consignor Protection Membership Corporation shall involuntarily withdraw from the Consignor Protection Membership Corporation to which he/she belongs based on the following grounds:

- (i) Rescission of the license under Article 190, paragraph (1) pursuant to the provisions of Article 235, paragraph (3) or Article 236, paragraph (1)
- (ii) Lapse of the license under Article 190, paragraph (1) pursuant to the provisions of Article 190, paragraph (2) or Article 197, paragraph (2)

#### **Subsection 4 Organization**

(Officers)

Article 279 A Consignor Protection Membership Corporation shall appoint one president, two or more directors and one or more auditors as officers.

(Authority of the officers)

Article 280 (1) The president shall represent the Consignor Protection Membership Corporation and preside over its affairs.

(2) The directors shall, pursuant to the provisions of the articles of incorporation, represent the Consignor Protection Membership Corporation, administer the affairs of the Consignor Protection Membership Corporation assisting the president, perform the duties of the president in his/her place when the president is unable to attend to his/her duties, and perform the duties of the president when the post is vacant.

(3) Execution of the affairs of a Consignor Protection Membership Corporation shall be decided by a majority vote of the president and directors unless otherwise specified by the articles of incorporation.

(4) The auditors shall audit the affairs of a Consignor Protection Membership Corporation.

(5) The auditors may submit their opinions to the president based on the audit results if they find it necessary.

(Appointment, term of office and dismissal of officers)

Article 281 (1) Officers shall be appointed or dismissed at a general meeting

pursuant to the provisions of the articles of incorporation; provided, however, that the officers at the time of establishment shall be appointed at the organizational meeting.

- (2) The term of office of an officer shall be a period of not more than two years as specified by the articles of incorporation.
- (3) Officers may be reappointed.
- (4) The provisions of Article 49 shall apply mutatis mutandis to officers of a Consignor Protection Membership Corporation.

(Prohibition of concurrent holding of positions by auditors)

Article 282 An auditor shall not hold the position of the president, an officer, a member of the governing council or an employee of the Consignor Protection Membership Corporation.

(Restriction on the representation power)

Article 283 With regard to matters for which the interests of the Consignor Protection Membership Corporation and the president or directors conflict with each other, such person shall not have the representation power. In this case, an auditor shall represent the Consignor Protection Membership Corporation.

(General meeting)

- Article 284 (1) The president shall convene an ordinary general meeting once in every business year pursuant to the provisions of the articles of incorporation.
- (2) The president may, if he/she finds it necessary, convene an extraordinary general meeting.
  - (3) When the convocation of a general meeting has been requested by at least one-fifth of all members by presenting the subject matter of the meeting, the president shall convene an extraordinary general meeting; provided, however, that a proportion different from one-fifth of all members may be specified by the articles of incorporation.

(Convocation of a general meeting)

Article 284-2 A notice of convocation of a General Meeting (which means an ordinary general meeting under paragraph (1) of the preceding Article and an extraordinary general meeting under paragraph (2) of the same Article; hereinafter the same shall apply in this Chapter) shall be given by presenting the subject matter of the meeting in accordance with the method specified by the articles of incorporation by at least five days prior to the day of the meeting.

(Matters that require a resolution of a General Meeting)

Article 285 (1) Only the matters that have been notified in advance pursuant to

the provisions of the preceding paragraph may be resolved at a General Meeting; provided, however, that this shall not apply when otherwise provided for by the articles of incorporation.

- (2) In addition to matters for which special provisions exist in this Act, the following matters shall require a resolution of a General Meeting:
  - (i) Amendments to the articles of incorporation
  - (ii) Decisions on or changes to the budget and funding plans
  - (iii) Settlement
  - (iv) Dissolution
  - (v) In addition to what is provided for in the preceding items, matters specified by the articles of incorporation
- (3) A General Meeting may demand an auditor to implement an audit concerning the affairs of the Consignor Protection Membership Corporation and request a report on the results.

(Voting rights of members)

Article 285-2 (1) The voting right of each member shall be equal.

- (2) A member not attending a General Meeting may vote by a written ballot or a proxy.
- (3) The provisions of the preceding two paragraphs shall not apply in the case where special provisions exist in the articles of incorporation.

(No voting right)

Article 285-3 When voting on a relationship between a Consignor Protection Membership Corporation and a specific member, such member shall not have a voting right.

(Decisions at a General Meeting)

Article 286 Decisions at a General Meeting shall be made by a majority vote of the members present when at least half of all members are present and by the chairperson in the event of a tie; provided, however, that decisions on the matters set forth in Article 285, paragraph (2), item (i) and item (iv) shall be made by at least a two-thirds majority vote of the members present.

Article 287 Deleted

(Governing council)

- Article 288 (1) A Consignor Protection Membership Corporation shall establish a governing council in order to achieve proper operation of its affairs.
- (2) In the following cases, the president shall hear the opinion of the governing council in advance:

- (i) When making recognition pursuant to the provisions of Article 304
  - (ii) When specifying the matters that should be specified pursuant to the provisions of Article 305, paragraph (1)
  - (iii) When making a decision of whether or not to provide a loan under Article 308, paragraph (4)
  - (iv) When deciding other important matters concerning the operation of the Consignor Protection Business
- (3) A governing council shall be organized by up to eight members.
- (4) The members shall be appointed by the president from those who have the necessary knowledge and experience for properly operating the affairs of the Consignor Protection Membership Corporation.

(Appointment of employees)

Article 289 Employees of a Consignor Protection Membership Corporation shall be appointed by the president.

#### **Subsection 5 Dissolution and Liquidation**

(Grounds for dissolution)

Article 290 A Consignor Protection Membership Corporation shall be dissolved based on the following grounds:

- (i) Resolution of a General Meeting
- (ii) Failure to file an application for registration under Article 294, paragraph (1) within two weeks from the day of establishment
- (iii) Decision of the competent minister not to make the registration set forth in Article 293
- (iv) Rescission of registration under Article 293 pursuant to the provisions of Article 324, paragraph (1)

(Assumption of office and appointment of liquidators)

Article 291 When a Consignor Protection Membership Corporation dissolves, the president and directors become the liquidators except for the cases of a dissolution based on a merger and a decision for the commencement of bankruptcy proceedings; provided, however, that this shall not apply when special provisions exist in the articles of incorporation or another person has been appointed at a General Meeting.

(Disposal of residual assets)

Article 292 The liquidators shall, when there are still residual assets after repaying the liabilities of the Consignor Protection Membership Corporation, have said residual assets assigned to the Consumer Protection Funds which

the members have respectively joined or will join (which means the Consumer Protection Funds prescribed in Article 296) pursuant to the provisions of an ordinance of the competent ministry.

### **Section 3 Consumer Protection Fund**

#### **Subsection 1 Registration**

(Registration of the Consignor Protection Business)

Article 293 When a Consignor Protection Membership Corporation intends to conduct a Consignor Protection Business, it shall receive a registration from the competent minister.

(Application for registration)

Article 294 (1) A Consignor Protection Membership Corporation which intends to receive a registration under the preceding Article shall submit a written application stating the following matters to the competent minister pursuant to the provisions of an ordinance of the competent ministry:

- (i) Name
  - (ii) Amount of net assets
  - (iii) Office address
  - (iv) Names and addresses of officers and trade names of members
- (2) The provisions of Article 99, paragraph (7) shall apply mutatis mutandis to the amount of net assets under item (ii) of the preceding paragraph.

(Criteria for registration)

Article 295 (1) If the competent minister finds that an application for registration under Article 293 conforms to all of the following items, he/she shall make the registration. In this case, the necessary procedure concerning registration shall be specified by an ordinance of the competent ministry.

- (i) The amount of net assets is three billion yen or more.
  - (ii) The written application includes no false entry regarding an important matter.
  - (iii) None of the officers is a person who falls under any category of the persons in Article 15, paragraph (2), item (i) (a) to (k).
- (2) The provisions of Article 15, paragraph (5) shall apply mutatis mutandis to the registration under Article 293.

(Notification of a change)

Article 296 When there is a change to the matters listed in Article 294, paragraph (1), item (ii), item (iii) or item (iv), a Consignor Protection Membership Corporation which has received the registration under Article 293

(hereinafter referred to as the "Consumer Protection Fund" in this Article and Article 8) shall submit a written notification of change stating to that effect to the competent minister without delay.

(Name)

Article 297 (1) A Consumer Protection Fund shall use the characters "委託者保護基金" (Itakusha Hogo Kikin [Consumer Protection Fund]) in its name.

(2) No person other than a Consumer Protection Fund shall use the characters "委託者保護基金" (Itakusha Hogo Kikin [Consumer Protection Fund]) in its name.

### **Subsection 2 Membership and Withdrawal of a Futures Commission Merchant**

(Membership)

Article 298 When a Futures Commission Merchant intends to join a Consumer Protection Fund, the Consumer Protection Fund shall not refuse membership to said Futures Commission Merchant or attach unfair conditions to its membership except in the case of restraining such membership based on justifiable grounds.

(Obligation to join, etc.)

Article 299 (1) A Futures Commission Merchant shall join any one of the Consumer Protection Funds as a member.

(2) A person who intends to obtain a license under Article 190, paragraph (1) shall take steps to join any one of the Consumer Protection Funds at the same time as the filing of an application for such license.

(3) A person who has taken such steps to join a Consumer Protection Fund pursuant to the provisions of the preceding paragraph shall become a member of said Consumer Protection Fund.

(4) When a Futures Commission Merchant has joined a Consumer Protection Fund or has changed the Consumer Protection Fund, it shall notify the competent minister to that effect without delay.

(Withdrawal, etc.)

Article 300 (1) A person who has withdrawn from a Consumer Protection Fund pursuant to the provisions of Article 278 shall be deemed to be a Futures Commission Merchant who is still a member of said Consumer Protection Fund with regard to the application of the provisions of Articles 303 to 311 inclusive.

(2) A Futures Commission Merchant may not withdraw from a Consumer Protection Fund to which it belongs except in the case of a withdrawal based on the grounds set forth in the respective items of Article 278 or in the case of

becoming a member of another Consumer Protection Fund by obtaining the approval of the competent minister.

- (3) Even when a Futures Commission Merchant has withdrawn from a Consumer Protection Fund to which it belongs (excluding the case of withdrawal pursuant to the provisions of Article 278), the Futures Commission Merchant shall be liable to pay as a Burden Charge an amount calculated by said Consumer Protection Fund pursuant to the provisions of the market rules as an amount of the costs that should be borne by said withdrawn Futures Commission Merchant out of the amount of the costs required for the business conducted by said Consumer Protection Fund for any Futures Commission Merchant which has fallen under any of the items of Article 303, paragraph (1) or any of the items of paragraph (3) (limited to the business set forth in Article 269, paragraph (3), item (i) and item (ii)) before said Futures Commission Merchant withdrew from said Consumer Protection Fund.
- (4) When an application for the approval under paragraph (2) has been filed, the competent minister shall not grant the approval unless the application satisfies the following requirements:
- (i) Said Futures Commission Merchant has completely repaid to the Consumer Protection Fund, from which it intends to withdraw, the liabilities it has borne as a member by the time of filing such application for approval and said Futures Commission Merchant is expected to perform the obligation prescribed in the preceding paragraph without fail.
  - (ii) Said Futures Commission Merchant has taken steps to join another Consumer Protection Fund as a member.

### **Subsection 3 Business**

(Restriction on business)

Article 301 A Consumer Protection Fund may not engage in any business other than a Consignor Protection Business.

(Market rules)

- Article 302 (1) When a Consumer Protection Fund conducts a Consignor Protection Business, it shall stipulate the market rules and obtain the approval of the competent minister before commencement of such business.
- (2) The following matters shall be included in the market rules:
- (i) Matters concerning the business and its execution
  - (ii) Matters concerning the Burden Charge (including matters concerning its method of calculation and payment)
  - (iii) Other matters specified by an ordinance of the competent ministry



(Notice to the Consumer Protection Fund)

Article 303 (1) When a Futures Commission Merchant who is a member of a Consumer Protection Fund falls under any of the following items, it shall immediately notify the Consumer Protection Fund to which it belongs to that effect:

- (i) When the license under Article 190, paragraph (1) was rescinded pursuant to the provisions of Article 235, paragraph (3) or Article 236, paragraph (1)
  - (ii) When the license under Article 190, paragraph (1) ceased to be effective pursuant to the provisions of paragraph (2) of the same Article
  - (iii) When the Futures Commission Merchant filed a motion for commencement of bankruptcy proceedings, commencement of rehabilitation proceedings, commencement of reorganization proceedings or commencement of special liquidation proceedings
  - (iv) When the Futures Commission Merchant abolished its Commodity Transactions Brokerage Business or when it has given a public notice of abolition of its Commodity Transactions Brokerage Business or dissolution under Article 197, paragraph (3)
  - (v) When the Futures Commission Merchant received an order for suspension of its Commodity Transactions Brokerage Business under Article 236, paragraph (1) (limited to the case which falls under item (vii) of the same paragraph)
  - (vi) In addition to the cases set forth in the preceding items, cases specified by a Cabinet Order to be cases lacking in protection for customers
- (2) When a Consumer Protection Fund has received a notice under the preceding paragraph, it shall immediately report to the competent minister to that effect.
- (3) When the following situation has occurred with regard to a Futures Commission Merchant who is a member of a Consumer Protection Fund, the competent minister shall immediately notify the Consumer Protection Fund to which said Futures Commission Merchant belongs to that effect:
- (i) When the competent minister has rescinded the license under Article 190, paragraph (1) pursuant to the provisions of Article 235, paragraph (3) or Article 236, paragraph (1)
  - (ii) When the competent minister has ordered the suspension of a Commodity Transactions Brokerage Business pursuant to the provisions of Article 236, paragraph (1) (limited to the case that falls under item (vii) of the same paragraph)
  - (iii) When the license under Article 190, paragraph (1) ceased to be effective pursuant to the provisions of paragraph (2) of the same Article
  - (iv) In any case equivalent to the preceding three items and when the competent minister finds it to be necessary

(Recognition of a difficulty to repay the liabilities of a General Customer)

Article 304 When a Consumer Protection Fund has received a notice under paragraph (1) or paragraph (3) of the preceding Article (including the case where there is no notice under paragraph (1) of the same Article but when said Consumer Protection Fund learns that its member has fallen under any of the items in the same paragraph), it shall make recognition of whether or not it is difficult for the Futures Commission Merchant pertaining to said notice (including a Futures Commission Merchant which said Consumer Protection Fund has learned has fallen under any of the respective items of the same paragraph in the case where there is no notice under the same paragraph; hereinafter referred to as the "Futures Commission Merchant Subject to a Notice") to repay smoothly any liabilities pertaining to the return of Customer Assets to the Futures Commission Merchant's General Customer (hereinafter referred to as "General Customer Liabilities" in this Chapter), except when it is found that there is clearly no risk of a lack of protection of customers.

(Public notice of the recognition)

Article 305 (1) When a Consumer Protection Fund has recognized that it is difficult for the Futures Commission Merchant Subject to a Notice to repay smoothly the General Customer Liabilities pursuant to the preceding Article, the Consumer Protection Fund shall promptly specify the period for notification and the place of notification for the request under paragraph (1) of the following Article and any other matters specified by a Cabinet Order and give a public notice thereof.

(2) If a public notice under Article 197, paragraph (1) of the Bankruptcy Act [Act No. 75 of 2004] (including the case where it is applied mutatis mutandis in Article 209, paragraph (3) of the same Act) has been given, a notice under paragraph (5) has been given, or any other situation specified by a Cabinet Order has occurred with regard to the Futures Commission Merchant pertaining to the recognition under the preceding paragraph (hereinafter referred to as the "Recognized Futures Commission Merchant") after giving the public notice pursuant to the provisions of the preceding paragraph, the Consumer Protection Fund may change the period of notification prescribed in the preceding paragraph.

(3) When a Consumer Protection Fund has changed the period of notification pursuant to the provisions of the preceding paragraph, the Consumer Protection Fund shall give a public notice of the matters pertaining to such change without delay.

(4) When a Consumer Protection Fund has specified the matters prescribed in paragraph (1) or changed the period of notification pursuant to the provisions of paragraph (2), the Consumer Protection Fund shall immediately report to

the competent minister to that effect.

- (5) In bankruptcy proceedings against a Recognized Futures Commission Merchant, if the trustee in bankruptcy has given a notice under Article 197, paragraph (1) of the Bankruptcy Act (including the case where it is applied mutatis mutandis pursuant to Article 209, paragraph (3) of the same Act) or Article 204, paragraph (2) of the same Act or if he/she has received a permission under Article 208, paragraph (1) of the same Act, the trustee in bankruptcy shall notify the Consumer Protection Fund to that effect.

(Payment of Claims Subject to Compensation)

Article 306 (1) Based on a request by a General Customer of a Recognized Futures Commission Merchant, a Consumer Protection Fund shall pay an amount calculated pursuant to the provisions of an ordinance of the competent ministry with respect to the claims which said General Customer had held against said Recognized Futures Commission Merchant on the day a public notice was given pursuant to the provisions of paragraph (1) of the preceding Article (limited to those pertaining to Customer Assets of said General Customer) and which the Consumer Protection Fund finds it difficult for said Recognized Futures Commission Merchant to repay smoothly, pursuant to the provisions of a Cabinet Order (hereinafter referred to as the "Claims Subject to Compensation").

- (2) Notwithstanding the preceding paragraph, a Consumer Protection Fund shall not make the payment under the same paragraph to an officer of the Recognized Futures Commission Merchant or to any other person as specified by a Cabinet Order.

- (3) A request under paragraph (1) may only be made within the period of notification which has been publicly notified pursuant to the provisions of paragraph (1) or paragraph (3) of the preceding Article; provided, however, that this shall not apply at the time of a natural disaster or when the Consumer Protection Fund finds an unavoidable reason regarding its inability to make the request within such period of notification.

(Amount to be paid, etc.)

Article 307 (1) In the case where a General Customer of a Recognized Futures Commission Merchant who made a request under paragraph (1) of the preceding paragraph has incurred liabilities against said Recognized Futures Commission Merchant, the amount to be paid by the Consumer Protection Fund pursuant to the provisions of the same paragraph shall be an amount equivalent to an amount deducting the amount of such liabilities from the amount prescribed in the same paragraph, notwithstanding the provisions of the same paragraph.

- (2) In the case where a Futures Commission Merchant is deemed to be a General Customer pursuant to the provisions of Article 269, paragraph (2), with regard to the application of the provisions of paragraph (1) of the preceding Article and the preceding paragraph, each General Customer causing said Futures Commission Merchant to be deemed to be a General Customer shall have the status of a General Customer.
- (3) When an amount to be paid pursuant to the provisions of paragraph (1) and paragraph (1) of the preceding Article exceeds the amount specified by a Cabinet Order, the amount specified by said Cabinet Order shall be the amount to be paid.
- (4) When a Consumer Protection Fund has made the payment under paragraph (1) of the preceding Article, the Consumer Protection Fund shall acquire Credits Subject to Compensation pertaining to said payment pursuant to the provisions of a Cabinet Order, in accordance with the amount paid.

(Repayment Funding Loan)

- Article 308 (1) A Consumer Protection Fund may provide a loan of funds necessary for the expeditious repayment of liabilities of General Customers (hereinafter referred to as the "Repayment Funding Loan") to a Futures Commission Merchant Subject to a Notice (excluding a Recognized Futures Commission Merchant) within the scope of the amount found to be necessary, based on an application by said Futures Commission Merchant Subject to a Notice.
- (2) A Futures Commission Merchant filing an application for a Repayment Funding Loan shall obtain the approval of the competent minister with regard to the fact that it satisfies all of the following requirements concerning said Repayment Funding Loan (hereinafter referred to as "Recognition of Eligibility" in this Article) by the time of filing said application:
    - (i) Provision of a Repayment Funding Loan is found to be necessary for expeditiously repaying the liabilities of a General Customer.
    - (ii) It is found that the money lent by a Repayment Funding Loan will certainly be used for expeditiously repaying the liabilities of a General Customer.
  - (3) When the competent minister has carried out Recognition of Eligibility, he/she shall notify to that effect to the Consumer Protection Fund to which the Futures Commission Merchant who received said Recognition of Eligibility belongs.
  - (4) When an application for a Repayment Funding Loan has been filed by a Futures Commission Merchant, a Consumer Protection Fund shall decide whether or not to provide the Repayment Funding Loan pertaining to said application.
  - (5) When a Consumer Protection Fund makes a decision under the preceding

paragraph, the Consumer Protection Fund shall immediately report any matters pertaining to such decision to the competent minister.

(Acceptance and management of deposit of Property Subject to Preservation)

Article 309 A Consumer Protection Fund may accept and manage a deposit of the whole or a part of the Property Subject to Preservation from a Futures Commission Merchant which is its member, pursuant to the provisions of an ordinance of the competent ministry.

(Business for expeditious repayment)

Article 310 On a consignment of a Futures Commission Merchant which is its member, a Consumer Protection Fund may conduct business as a trust administrator of said Futures Commission Merchant and any other business specified by an ordinance of the competent ministry in order to contribute to the expeditious repayment of liabilities of a General Customer.

(Preservation of claims of a General Customer)

Article 311 (1) On a consignment of a General Customer of a Futures Commission Merchant Subject to a Notice, a Consumer Protection Fund may conduct any and all judicial or extra-judicial acts which are necessary for preserving fulfillment of the claims which said General Customer has on said Futures Commission Merchant Subject to a Notice (limited to those pertaining to Customer Assets of said General Customer) for the sake of said General Customer.

(2) A Consumer Protection Fund shall conduct the acts under the preceding Article fairly and honestly on behalf of the General Customer.

(3) A Consumer Protection Fund shall conduct the acts under paragraph (1) to a General Customer with the due care of a prudent manager.

(Abolition of business)

Article 312 A Consumer Protection Fund shall not abolish its Consignor Protection Business without the permission of the competent minister having been obtained.

#### **Subsection 4 Burden Charge**

(Funds for Consignor Protection)

Article 313 (1) A Consumer Protection Fund shall establish funds to be allocated to the costs required for the business set forth in Article 269, paragraph (3), item (i) and item (ii) (hereinafter referred to as "Funds for Consignor Protection").

(2) Funds for Consignor Protection shall not be used except in cases where they are allocated to the costs required for the business set forth in Article 269, paragraph (3), item (i) and item (ii).

(Burden Charge)

Article 314 (1) A Futures Commission Merchant shall pay a Burden Charge to the Consumer Protection Fund to which it belongs pursuant to the provisions of the market rules, in order to allocate it to the Funds for Consignor Protection.

(2) Notwithstanding the preceding paragraph, a Consumer Protection Fund may exempt a Futures Commission Merchant Subject to a Notice from paying a Burden Charge pursuant to the provisions of its market rules.

(Method of calculating the amount of a Burden Charge, etc.)

Article 315 (1) The amount of a Burden Charge in paragraph (1) of the preceding Article shall be an amount calculated by the method of calculation specified by the market rules.

(2) The method of calculation of a Burden Charge under the preceding paragraph shall be stipulated to conform to the following standards:

(i) The finance of the Consumer Protection Fund will be balanced in the long term in light of the estimated amount of the payment to be made under Article 306, paragraph (1) and that of the costs necessary for the Repayment Funding Loan under Article 308, paragraph (1).

(ii) The method of calculation shall not provide discriminatory treatment to a specific Futures Commission Merchant.

(3) When a Futures Commission Merchant fails to pay a Burden Charge by the time limit for payment specified by the market rules, it shall pay a delinquent charge to the Consumer Protection Fund to which it belongs.

(4) The amount of the delinquent charge shall be an amount calculated by multiplying the amount of the unpaid Burden Charge by an annual rate of 14.5 percent according to the number of days from the day following the time limit for payment until the day of the payment.

### **Subsection 5 Finance and Accounting**

(Business year and separate accounting)

Article 316 (1) The business year of a Consumer Protection Fund shall be from April 1 to March 31 of the following year; provided, however, that the business year including the day of registration under Article 293 shall be from the day of registration until the following March 31.

(2) A Consumer Protection Fund shall carry out separate accounting for each

account specified by an ordinance of the competent ministry.

(Submission of the budget and funding plans)

Article 317 Every business year, a Consumer Protection Fund shall draft the budget and funding plans and submit them to the competent minister before the commencement of the current business year (in the case of the business year which includes the day of registration under Article 293, it shall be after the registration with no delay) pursuant to the provisions of an ordinance of the competent ministry. The same shall apply when the budget and funding plans have been changed.

(Submission of Financial Statements, etc.)

Article 318 (1) A Consumer Protection Fund shall draft an inventory of property, a balance sheet, a profit and loss statement, a business report and a settlement of accounts (hereinafter referred to as "Financial Statements, etc." in this Article ) for the previous business year and submit them to the competent minister pursuant to the provisions of an ordinance of the competent ministry within three months from the day of commencement of a business year (excluding the business year which includes the day of registration under Article 293).

(2) When a Consumer Protection Fund submits the Financial Statements, etc. to the competent minister pursuant to the provisions of the preceding paragraph, the Consumer Protection Fund shall attach thereto a written opinion of an auditor concerning the Financial Statements, etc.

(3) A Consumer Protection Fund shall keep a copy of the Financial Statements, etc. drafted pursuant to the provisions of paragraph (1) at the office of said Consumer Protection Fund and provide them for public inspection.

(Reserve)

Article 319 (1) A Consumer Protection Fund shall set aside all of the surplus in every business year as a reserve.

(2) The reserve in the preceding paragraph may be allocated to compensate for the deficit carried over from the previous business year or may be transferred to the Funds for Consignor Protection.

(3) The reserve under paragraph (1) shall not be broken into except in the cases set forth in the preceding paragraph.

(Restriction on fund management)

Article 320 A Consumer Protection Fund may not manage any surplus funds that have come into existence in its business and the Funds for Consignor Protection except by the following methods:

- (i) Possession of national government bonds and other Securities designated by the competent minister
- (ii) Deposit to a financial institution designated by the competent minister
- (iii) Any other method specified by an ordinance of the competent ministry

### **Subsection 6 Supervision**

(Request for reports; on-site inspections)

Article 321 (1) When the competent minister finds it necessary for the enforcement of this Act, he/she may order a Consumer Protection Fund or a member thereof to submit a report or materials that provide information about on their Consignor Protection Business or property or have his/her officials enter into an office or a business office of the Consumer Protection Fund or a member thereof to inspect the books, documents and other articles related to their business.

(2) The provisions of Article 157, paragraph (3) and paragraph (4) shall apply mutatis mutandis to the inspection under the preceding paragraph.

(Order to conform)

Article 322 When the competent minister finds that a Consumer Protection Fund no longer conforms to the respective items of Article 295, paragraph (1), he/she may order such Consumer Protection Fund to take the necessary measures for conforming to these provisions.

(Improvement order)

Article 323 When the competent minister finds that a Consumer Protection Fund is in violation of provisions of Subsection 3, he/she may order said Consumer Protection Fund to conduct Consignor Protection Business, change its market rules or take other necessary measures for improving the method of Consignor Protection Business.

(Disposition rendered to a Consumer Protection Fund for the purpose of supervision)

Article 324 (1) When a Consumer Protection Fund falls under any of the following items, the competent minister may rescind its registration:

- (i) When the Consumer Protection Fund no longer falls under the respective items of Article 295, paragraph (1)
- (ii) When the Consumer Protection Fund has violated any provisions of this Section or any order or disposition based on said provisions
- (iii) When the Consumer Protection Fund has received the registration under Article 293 by wrongful means



(2) The provisions of Article 158, paragraph (2) shall apply mutatis mutandis to the dispositions under the preceding two Articles and the preceding paragraph and the provisions of Article 159, paragraph (4) shall apply mutatis mutandis to a hearing pertaining to the rescission of registration under the preceding paragraph.

#### **Subsection 7 Miscellaneous Provisions**

(Confidentiality obligation of officers, employees, etc. of a Commodity Exchange)

Article 325 An officer, an employee or a governing council member of a Consumer Protection Fund or a person who was formerly in such a position shall not disclose to another person or appropriate any confidential information he/she has become aware of during the course of his/her duties.

(Provisional director and provisional auditor)

Article 326 The competent minister may, when there is no person to perform the duties of a director or an auditor of a Consumer Protection Fund and if he/she finds it necessary, appoint a provisional director or provisional auditor.

#### **Section 4 Miscellaneous Provisions**

Article 327 In addition to what is provided for in this Act, the necessary matters concerning a Consignor Protection Membership Corporation and a Consumer Protection Fund shall be specified by a Cabinet Order.

#### **Chapter VII Miscellaneous Provisions**

(Prohibition order by the court)

Article 328 (1) The court may issue an order to prohibit acts violating this Act to a person who has committed or intends to commit said acts, when there is an urgent necessity and the court finds it necessary and appropriate for protecting public interest, upon a motion of the competent minister.

(2) A prohibition order set forth in the preceding paragraph shall be issued only in the case where unrecoverable situations have occurred and shall be revoked immediately when the necessity has disappeared.

(3) The court may rescind or change an order issued pursuant to the provisions of the preceding paragraph.

(4) Cases prescribed in paragraph (1) and the preceding paragraph shall fall under the jurisdiction of a district court in the place where the respondent's domicile is located.

(5) Judgment prescribed in paragraph (1) and paragraph (3) shall be carried out pursuant to the Non-Contentious Cases Procedure Act (Act No. 14 of 1898).

(Prohibition of gambling acts, etc. by quotations)

Article 329 No person may conduct acts for the purpose of exchanging the difference between the selling price and the buying price by using quotations on a Commodity Market instead of through Transactions on a Commodity Market, or carry out transactions similar to the following transactions:

- (i) Transactions set forth in Article 2, paragraph (8), item (ii) or item (iii)
- (ii) Transactions set forth in Article 2, paragraph (8), item (iv) pertaining to transactions set forth in (b) or (c) of the same item

(Prohibition of introducing brokerage, etc. of entrustment)

Article 330 No person may, in the course of trade, act as an introducing broker or agent for the consignment of Transactions on a Commodity Market.

(Exemption from the prohibition of establishing facilities similar to a Commodity Market)

Article 331 The provisions of Article 6 shall not apply to the following facilities:

- (i) Facilities which meet the requirements specified by a Cabinet Order as being facilities for carrying out only the following transactions with regard to a Commodity (limited to one that does not fall under a Listed Commodity pertaining to public notice under Article 352; hereinafter the same shall apply in this Article) or a Commodity Index (limited to one other than those falling under or similar to a Listed Commodity Index pertaining to public notice under the same Article; hereinafter the same shall apply in this Article)
  - (a) Transactions similar to Futures Transactions which a person who, in the course of trade, engages in the Buying and Selling, etc. of a Commodity carries out with regard to said Commodity for his/her own business based on his/her own account
  - (b) Transactions similar to Futures Transactions which a person who, in the course of trade, engages in the Buying and Selling, etc. of a Commodity subject to a Commodity Index carries out with regard to said Commodity Index for his/her own business based on his/her own account
- (ii) Facilities prescribed in paragraph (1) of the following Article which are established by a person who obtained the permission under the same item (referred to as an "Establisher of a Type 1 Specified Facility" in Articles 334 to 341 inclusive)
- (iii) Facilities prescribed in Article 342, paragraph (1) which are established by a person who obtained the permission under the same item (referred to as an

"Establisher of a Type 2 Specified Facility" in Article 344 and Article 345)

(Permission for establishment of a Facility Similar to Type 1 Specified Commodity Market)

Article 332 (1) A person who intends to establish a facility which meets the requirements specified by a Cabinet Order as a facility for carrying out only the following transactions (excluding a facility for carrying out only the transactions set forth in item (i) and item (ii)) with regard to a Commodity (limited to one that does not fall under a Listed Commodity pertaining to public notice under Article 352; hereinafter the same shall apply in this paragraph) or a Commodity Index (limited to one other than those falling under or similar to a Listed Commodity Index pertaining to public notice under the same Article; hereinafter the same shall apply in this paragraph) (hereinafter such facility shall be referred to as a "Facility Similar to Type 1 Specified Commodity Market") shall obtain the permission of the competent minister.

(i) Transactions similar to Futures Transactions which a person who, in the course of trade, engages in the Buying and Selling, etc. of a Commodity carries out with regard to said Commodity for his/her own business based on his/her own account by a method of deciding on prices and other trade terms based on negotiations between parties through said facility or by other methods specified by an ordinance of the competent ministry

(ii) Transactions similar to Futures Transactions which a person who, in the course of trade, engages in the Buying and Selling, etc. of a Commodity subject to a Commodity Index carries out with regard to said Commodity Index for his/her own business based on his/her own account by the method prescribed in the preceding item

(iii) Transactions with regard to a Commodity or a Commodity Index similar to Futures Transactions which a bank or other person specified by a Cabinet Order carries out for his/her own business based on his/her own account by the method prescribed in item (i)

(2) A person who intends to obtain permission pursuant to the provisions of the preceding paragraph shall submit a written application containing the following matters to the competent minister:

(i) Name or trade name and address

(ii) In the case of a juridical person, names and addresses of its officers

(iii) The Commodity or Commodity Index subject to transactions

(iv) Method of transaction

(v) Names or trade names of the persons who participate in transactions at the Facility Similar to Type 1 Specified Commodity Market for each Commodity or Commodity Index subject to transactions (hereinafter such persons shall

be referred to as "Type 1 Specified Facility Trading Participants" in this paragraph and the following Article)

- (vi) In the case where Type 1 Specified Facility Trading Participants, in the course of trade, engage in the Buying and Selling, etc. of a Commodity (limited to the Commodity pertaining to the application and a Commodity subject to the Commodity Index pertaining to the application), said Commodity
  - (vii) Date on which a Facility Similar to Type 1 Specified Commodity Market is scheduled to be established
  - (viii) Other matters specified by an ordinance of the competent ministry
- (3) A business plan and other documents specified by an ordinance of the competent ministry shall be attached to a written application set forth in the preceding paragraph.

(Criteria for permission)

Article 333 (1) If the competent minister finds that an application for permission under paragraph (1) of the preceding Article conforms to the following criteria, he/she shall grant the permission:

- (i) The facility is intended for carrying out only the transactions set forth in paragraph (1), items (i) to (iii) inclusive of the preceding Article.
  - (ii) The Commodity pertaining to the application does not fall under a Listed Commodity pertaining to public notice under Article 352, or the Commodity Index pertaining to the application is other than those falling under or similar to a Listed Commodity Index under the same Article.
  - (iii) The method of transaction pertaining to the application conforms to the method of transaction prescribed in paragraph (1), item (i) of the preceding Article.
  - (iv) Persons who, in the course of trade, engage in the Buying and Selling, etc. of the Commodity subject to transaction or persons who, in the course of trade, engage in the Buying and Selling, etc. of the Commodity Index subject to transaction account for the majority of the entire Type 1 Specified Facility Trading Participants for each of said Commodity and said Commodity Index.
  - (v) Other particulars and methods of business which are necessary and appropriate for ensuring public interest or the fairness of transactions.
- (2) If an application for permission under paragraph (1) of the preceding Article falls under any of the following items, the competent minister shall not grant the permission under paragraph (1) of the same Article, notwithstanding the provisions of the preceding paragraph:
- (i) If an applicant for permission falls under any category of the persons in Article 15, paragraph (2), item (i) (a) to (l) inclusive
  - (ii) If the written application or the documents that should be attached thereto

- include a false entry regarding an important matter
- (3) The provisions of Article 15, paragraphs (5) to (9) inclusive shall apply mutatis mutandis to the permission under paragraph (1) of the preceding Article.

(Succession)

Article 334 (1) In the case where an Establisher of a Type 1 Specified Facility has transferred the establisher's entire business or an Establisher of a Type 1 Specified Facility has been subject to inheritance, merger, or split (limited to those involving the transfer of its entire business), a person who took over the establisher's entire business or an heir (when there are two or more heirs and an heir to succeed to the business has been selected by their unanimous consent, said person; hereinafter the same shall apply in this Article), a juridical person surviving a merger, a juridical person established by a merger or a juridical person who succeeded to the establisher's entire business due to a split shall succeed to the status of the Establisher of a Type 1 Specified Facility; provided, however, that this shall not apply to the case where a juridical person surviving a merger, a juridical person established by a merger, or a juridical person who succeeded to said entire business due to the split falls under any category of the persons in Article 15, paragraph (2), item (i) (a) to (l) inclusive.

- (2) A person who has succeeded to the status of an Establisher of a Type 1 Specified Facility pursuant to the provisions of the preceding paragraph shall report to the competent minister to that effect without delay.

(Permission for change, etc.)

Article 335 (1) When an Establisher of a Type 1 Specified Facility intends to change matters set forth in Article 332, paragraph (2), item (iii) or item (iv), he/she shall obtain the permission of the competent minister.

- (2) When an Establisher of a Type 1 Specified Facility intends to obtain the permission under the preceding paragraph, he/she shall submit a written application to the competent minister by attaching documents specified by an ordinance of the competent ministry.

- (3) When there is any change to the matters set forth in Article 332, paragraph (2), item (i), item (ii), item (v), item (vi) or item (viii), an Establisher of a Type 1 Specified Facility shall report to the competent minister to that effect without delay, and when he/she intends to change the matters set forth in item (vii) of the same paragraph, he/she shall report to the competent minister to that effect in advance.

- (4) The provisions of Article 333 shall apply mutatis mutandis to the permission under paragraph (1).

(Creation, etc. of books)

Article 336 (1) An Establisher of a Type 1 Specified Facility shall create and preserve books with regard to transactions at a Facility Similar to Type 1 Specified Commodity Market pursuant to the provisions of an ordinance of the competent ministry.

(2) An Establisher of a Type 1 Specified Facility shall report matters specified by an ordinance of the competent ministry regarding its business to the competent minister every month pursuant to the provisions of an ordinance of the competent ministry.

(Notification, etc. of abolition of a facility)

Article 337 (1) When an Establisher of a Type 1 Specified Facility has abolished a Facility Similar to Type 1 Specified Commodity Market, he/she shall notify the competent minister to that effect without delay.

(2) When an Establisher of a Type 1 Specified Facility has abolished a Facility Similar to Type 1 Specified Commodity Market, the permission thereof shall cease to be effective.

(Report and inspection)

Article 338 (1) When the competent minister finds it necessary for the enforcement of this Act, he/she may order an Establisher of a Type 1 Specified Facility to submit a report or materials that provide information about its business or have his/her officials enter an office or a business office of the Establisher of a Type 1 Specified Facility to inspect the books, documents and other articles related to its business.

(2) The provisions of Article 157, paragraph (3) and paragraph (4) shall apply mutatis mutandis to inspection under the preceding paragraph.

(Order to improve business operations)

Article 339 (1) With regard to the operation of the business of an Establisher of a Type 1 Specified Facility, when the competent minister finds that there is a risk of harming the interests of a person who, in the course of trade, engages in the Buying and Selling, etc. of a Commodity subject to transactions or a person who, in the course of trade, engages in the Buying and Selling, etc. of a Commodity subject to a Commodity Index, or he/she finds it necessary and appropriate in order to ensure public interest or the fairness of transactions, he/she may order said Establisher of a Type 1 Specified Facility to take the necessary measures for improving the operation of its business.

(2) The provisions of Article 158, paragraph (2) shall apply mutatis mutandis to a disposition under the preceding paragraph.

(Rescission, etc. of the permission)

Article 340 (1) When an Establisher of a Type 1 Specified Facility falls under any of the following items, the competent minister may rescind the permission thereof, or order the suspension of the whole or a part of its business for a fixed period not exceeding six months.

(i) When an Establisher of a Type 1 Specified Facility has violated this Act, an order based on this Act, or a disposition based on this Act or such order

(ii) When an Establisher of a Type 1 Specified Facility has fallen under any category of the persons in Article 15, paragraph (2), item (i) (a) to (l) inclusive (with regard to (d) of the same item, limited to the part pertaining to rescission of a license under Article 190, paragraph (1) and the permission under Article 342, paragraph (1), and the part pertaining to the provisions of the laws and regulations of a foreign state equivalent to this Act)

(iii) When an Establisher of a Type 1 Specified Facility has failed to establish a Facility Similar to Type 1 Specified Commodity Market within three months after receiving permission, or has suspended transactions at said facility continuously for three months or more, without justifiable grounds

(iv) When an Establisher of a Type 1 Specified Facility has obtained the permission under Article 332, paragraph (1) or Article 335, paragraph (1) by wrongful means

(v) When a Facility Similar to Type 1 Specified Commodity Market established by an Establisher of a Type 1 Specified Facility has ceased to conform to the criteria set forth in the respective items of Article 333, paragraph (1)

(2) The provisions of Article 158, paragraph (2) and the provisions of Article 159, paragraph (4) shall apply mutatis mutandis to a disposition under the preceding paragraph and to a hearing pertaining to the rescission of permission under the preceding paragraph, respectively.

(Member register)

Article 341 (1) The competent minister shall keep a member register of Establishers of a Type 1 Specified Facility which contains matters set forth in Article 332, paragraph (2), item (i), item (iii) and item (iv) and other matters specified by an ordinance of the competent ministry concerning Establishers of a Type 1 Specified Facility.

(2) The competent minister shall provide for public inspection a member register of Establishers of a Type 1 Specified Facility.

(Permission for establishment of a Facility Similar to Type 2 Specified Commodity Market)

Article 342 (1) A person who intends to establish a facility which meets the

requirements specified by a Cabinet Order as being a facility for carrying out only the following transactions with regard to a Commodity (limited to one that falls under a Listed Commodity pertaining to public notice under Article 352 and which is specified by an ordinance of the competent ministry; hereinafter the same shall apply in this paragraph) or a Commodity Index (limited to one falling under or similar to a Listed Commodity Index pertaining to public notice under the same Article and which is specified by an ordinance of the competent ministry; hereinafter the same shall apply in this paragraph) (hereinafter such facility shall be referred to as a "Facility Similar to Type 2 Specified Commodity Market") shall obtain the permission of the competent minister.

- (i) Transactions similar to Futures Transactions which a person who, in the course of trade, engages in the Buying and Selling, etc. of a Commodity carries out with regard to said Commodity for his/her own business based on his/her own account by a method of deciding on prices and other trade terms based on negotiations between parties through said facility or other methods specified by an ordinance of the competent ministry
  - (ii) Transactions similar to Futures Transactions which a person who, in the course of trade, engages in the Buying and Selling, etc. of a Commodity subject to a Commodity Index carries out with regard to said Commodity Index for his/her own business based on his/her own account by the method prescribed in the preceding item
  - (iii) Transactions with regard to a Commodity or a Commodity Index similar to Futures Transactions which a bank or another person specified by a Cabinet Order carries out for his/her own business based on his/her own account by the method prescribed in item (i)
- (2) A person who intends to obtain permission pursuant to the provisions of the preceding paragraph shall submit a written application containing the following matters to the competent minister:
- (i) Name or trade name and address
  - (ii) In the case of a juridical person, names and addresses of its officers
  - (iii) The Commodity or Commodity Index subject to transactions
  - (iv) Method of transaction
  - (v) Names or trade names of the persons who participate in transactions at the Facility Similar to Type 2 Specified Commodity Market for each Commodity or Commodity Index subject to transactions (hereinafter such persons shall be referred to as "Type 2 Specified Facility Trading Participants" in this paragraph and the following Article)
  - (vi) In the case where Type 2 Specified Facility Trading Participants, in the course of trade, engage in the Buying and Selling, etc. of a Commodity (limited to the Commodity pertaining to the application and a Commodity



subject to the Commodity Index pertaining to the application), said Commodity

(vii) Date on which a Facility Similar to Type 2 Specified Commodity Market is scheduled to be established

(viii) Other matters specified by an ordinance of the competent ministry

(3) A business plan and other documents specified by an ordinance of the competent ministry shall be attached to a written application set forth in the preceding paragraph.

(Criteria for permission)

Article 343 (1) If the competent minister finds that an application for permission under paragraph (1) of the preceding Article conforms to the following criteria, he/she shall grant the permission:

(i) The facility is intended for carrying out only the transactions set forth in paragraph (1), items (i) to (iii) inclusive of the preceding Article.

(ii) The method of transaction pertaining to the application conforms to the method of transaction prescribed in paragraph (1), item (i) of the preceding Article.

(iii) There is no risk of causing a hindrance to the sound operation of a Commodity Exchange which lists the Commodity subject to transaction, the Commodity Index subject to transaction, or a Commodity Index similar to said Commodity Index.

(iv) Persons who, in the course of trade, engage in the Buying and Selling, etc. of the Commodity subject to transaction or persons who, in the course of trade, engage in the Buying and Selling, etc. of a Commodity Index subject to transaction account for the majority of the entire Type 2 Specified Facility Trading Participants for each said Commodity and said Commodity Index.

(v) Other particulars and methods of business which are necessary and appropriate in order to ensure public interest or the fairness of transactions.

(2) If an application for permission under paragraph (1) of the preceding Article falls under any of the following items, the competent minister shall not grant the permission under paragraph (1) of the same Article, notwithstanding the provisions of the preceding paragraph:

(i) If an applicant for permission falls under any category of the persons in Article 15, paragraph (2), item (i) (a) to (l) inclusive

(ii) If the written application or the documents that should be attached thereto include a false entry regarding an important matter

(3) The provisions of Article 15, paragraphs (5) to (9) inclusive shall apply mutatis mutandis to permission under paragraph (1) of the preceding Article.

(Order to improve business operations)

Article 344 (1) With regard to the operation of the business of an Establisher of a Type 2 Specified Facility, when the competent minister finds that there is a risk of causing a hindrance to the sound operation of a Commodity Exchange which lists the Commodity subject to transaction, the Commodity Index subject to transaction, or a Commodity Index similar to said Commodity Index, or a risk of harming the interests of a person who, in the course of trade, engages in the Buying and Selling, etc. of the Commodity subject to transaction or a person who, in the course of trade, engages in the Buying and Selling, etc. of a Commodity subject to the Commodity Index subject to transaction, or he/she finds it necessary and appropriate in order to ensure public interest or the fairness of transactions, he/she may order said Establisher of a Type 2 Specified Facility to take the necessary measures for improving the operation of its business.

(2) The provisions of Article 158, paragraph (2) shall apply mutatis mutandis to a disposition pursuant to the provisions of the preceding paragraph.

(Application mutatis mutandis)

Article 345 The provisions of Articles 334 to 338 inclusive, Article 340 and Article 341 shall apply mutatis mutandis to an Establisher of a Type 2 Specified Facility. In this case, the phrase "Article 332, paragraph (2), item (iii) or item (iv)" in Article 335, paragraph (1) shall be deemed to be replaced with "Article 342, paragraph (2), item (iii) or item (iv)," the phrase "Article 332, paragraph (2), item (i), item (ii), item (v), item (vi) or item (viii)" in paragraph (3) of the same Article shall be deemed to be replaced with "Article 342, paragraph (2), item (i), item (ii), item (v), item (vi) or item (viii)," the term "Article 333" in paragraph (4) of the same Article shall be deemed to be replaced with "Article 343," the term "a Facility Similar to Type 1 Specified Commodity Market" in Article 336, paragraph (1) and Article 337 shall be deemed to be replaced with "a Facility Similar to Type 2 Specified Commodity Market," the phrase "Article 342, paragraph (1)" in Article 340, paragraph (1), item (ii) shall be deemed to be replaced with "Article 332, paragraph (1)," the term "a Facility Similar to Type 1 Specified Commodity Market" in item (iii) of the same paragraph shall be deemed to be replaced with "a Facility Similar to Type 1 Specified Commodity Market," the phrase "Article 332, paragraph (1) or Article 335, paragraph (1)" in item (iv) of the same paragraph shall be deemed to be replaced with "Article 342, paragraph (1) or Article 335, paragraph (1) as applied mutatis mutandis pursuant to Article 345," the terms "a Facility Similar to Type 1 Specified Commodity Market" and "the respective items of Article 333, paragraph (1)" in item (v) of the same paragraph shall be deemed to be replaced with "a Facility Similar to Type 2 Specified Commodity Market" and "the respective items of Article 343, paragraph (1)," respectively, the terms

"Article 332, paragraph (2), item (i), item (iii) and item (iv)" and "a member register of Establishers of a Type 1 Specified Facility" in Article 341, paragraph (1) shall be deemed to be replaced with "Article 342, paragraph (2), item (i), item (iii) and item (iv)" and "a member register of Establishers of a Type 2 Specified Facility," respectively, and the term "a member register of Establishers of a Type 1 Specified Facility" in paragraph (2) of the same Article shall be deemed to be replaced with "a member register of Establishers of a Type 2 Specified Facility."

(Transitional measures pertaining to the opening, etc. of a Commodity Market)

Article 346 (1) In the case where a Commodity or a Commodity Index has become a Listed Commodity or a Listed Commodity Index and such fact has been publicly notified pursuant to the provisions of Article 352, if a facility set forth in Article 331, item (i) or item (ii) pertaining to said Commodity or said Commodity Index has been established at the time of said public notice and there are transactions similar to Futures Transactions where settlement has not been completed at said facility, the provisions of Article 6 shall not apply to transactions similar to Futures Transactions carried out for the settlement of said transactions and to the establishment of a facility where said transactions are carried out.

(2) In the case where a Commodity or a Commodity Index has become a Listed Commodity (limited to a Commodity prescribed in Article 342, paragraph (1)) or a Listed Commodity Index (limited to a Commodity Index prescribed in the same paragraph) and such fact has been publicly notified pursuant to the provisions of Article 352, if a facility set forth in Article 331, item (ii) pertaining to said Commodity or said Commodity Index has been established at the time of said public notice, an establisher of said facility shall be deemed to have obtained permission under Article 342, paragraph (1) only for the period until the day on which one month has elapsed from the day of said public notice.

(3) In the case where a person who is deemed to have obtained permission under Article 342, paragraph (1) pursuant to the provisions of the preceding paragraph has not obtained the permission under the same paragraph as of the day on which one month has elapsed from the day of said public notice, and there are transactions similar to Futures Transactions where settlement has not been completed at a facility established by the person who is deemed to have obtained said permission, the provisions of paragraph (1) shall apply mutatis mutandis to transactions similar to Futures Transactions carried out for the settlement of said transactions and to the establishment of a facility where said transactions are carried out.

(4) In the case where a Commodity has become one that does not fall under a

Listed Commodity pertaining to public notice under Article 352 or a Commodity Index has become one other than those falling under or similar to a Listed Commodity Index pertaining to public notice under the same Article and such fact has been publicly notified pursuant to the provisions of the same Article, if when a facility set forth in Article 331, item (iii) pertaining to said Commodity or said Commodity Index has been established at the time of said public notice, an establisher of said facility shall be deemed to have obtained permission under Article 332, paragraph (1); provided, however, this shall not apply when said facility falls under a facility set forth in Article 331, item (i).

(Delegation to a Cabinet Order)

Article 347 In addition to what is provided for from Article 331 to the preceding Article, the necessary matters concerning establishment, etc. of a Facility Similar to Type 1 Specified Commodity Market or a Facility Similar to Type 2 Specified Commodity Market shall be specified by a Cabinet Order.

(Relationship with other laws and regulations)

Article 348 With regard to the facilities similar to Financial Instruments Exchange Markets, the provisions of the Financial Instruments and Exchange Act shall apply instead of the provisions of Article 6:

(Over-the-Counter Commodity Futures Transactions)

Article 349 (1) The term "Over-the-Counter Commodity Futures Transactions" as used in this Act shall mean the following acts or transactions carried out with a person who, in the course of trade, engages in the Buying and Selling, etc. of Listed Commodity Component Products, etc. (limited to those specified by an ordinance of the competent ministry; hereinafter the same shall apply in this Article) (hereinafter such person shall be referred to as a "Specified Commercial Dealer" in this Article) as the counterparty, based on his/her own account by using quotations on a Commodity Market with regard to said Listed Commodity Component Products, etc. instead of through Transactions on a Commodity Market, and those which said Specified Commercial Dealer, who is the counterparty, carries out for his/her own business based on his/her own account:

(i) Acts for the purpose of exchanging the difference

(ii) Transactions similar to the transactions set forth in the respective items of Article 329

(2) A person who intends to engage in Over-the-Counter Commodity Futures Transactions as business shall notify the following matters to the competent minister pursuant to the provisions of an ordinance of the competent ministry. The same shall apply to the case where a person who engages in Over-the-

Counter Commodity Futures Transactions as business (hereinafter referred to as an "Over-the-Counter Commodity Futures Transactions Dealer") intends to change matters which he/she has notified.

(i) Name or trade name

(ii) Name and location of the business office

(iii) The Commodity Market whose quotations are used in Over-the-Counter Commodity Futures Transactions

(iv) Other matters specified by an ordinance of the competent ministry

(3) The competent minister shall create and provide for public inspection a member register of Over-the-Counter Commodity Futures Transactions Dealers.

(4) An Over-the-Counter Commodity Futures Transactions Dealer may carry out Over-the-Counter Commodity Futures Transactions, notwithstanding the provisions of Article 329.

(5) In the case where an Over-the-Counter Commodity Futures Transactions Dealer has carried out Over-the-Counter Commodity Futures Transactions, he/she may carry out acts or transactions set forth in the respective items of paragraph (1) which meet the following criteria (hereinafter referred to as "Transactions between Over-the-Counter Commodity Futures Transactions Dealers" in this Article) without carrying out Transactions on a Commodity Market, within the limit necessary for reducing the losses that are likely to be caused by Over-the-Counter Commodity Futures Transactions due to fluctuations in quotations on the Commodity Market, notwithstanding the provisions of Article 329:

(i) The acts or transactions are carried out with an Over-the-Counter Commodity Futures Transactions Dealer as the counterparty based on his/her own account.

(ii) The acts or transactions are carried out by using the quotations given on the same Commodity Market for the same Listed Commodity Component Products, etc. as the Commodity Market for Listed Commodity Component Products, etc. whose quotations are used in said Over-the-Counter Commodity Futures Transactions.

(iii) The acts or transactions are carried out by the Over-the-Counter Commodity Futures Transactions Dealer who is the counterparty of said acts or said transactions for his/her own business based on his/her own account.

(6) When an Over-the-Counter Commodity Futures Transactions Dealer intends to conclude a contract on Over-the-Counter Commodity Futures Transactions or Transactions between Over-the-Counter Commodity Futures Transactions Dealers (hereinafter referred to as "Over-the-Counter Commodity Futures Transactions, etc." in this Article and Article 354), he/she shall confirm that a Specified Commercial Dealer or an Over-the-Counter Commodity Futures Transactions Dealer who is the counterparty of said Over-the-Counter

Commodity Futures Transactions, etc. carries out said transactions for his/her own business based on his/her own account, pursuant to the provisions of an ordinance of the competent ministry.

- (7) When an Over-the-Counter Commodity Futures Transactions Dealer intends to conclude a contract on Over-the-Counter Commodity Futures Transactions, he/she shall deliver in advance a document stating which Commodity Market's quotations are to be used in said Over-the-Counter Commodity Futures Transactions and any other matters specified by an ordinance of the competent ministry to a Specified Commercial Dealer who is the counterparty in the transaction, pursuant to the provisions of an ordinance of the competent ministry.
- (8) The provisions of Article 217, paragraph (2) shall apply mutatis mutandis to the delivery of a document under the preceding paragraph. In this case, the terms "a Commodity Futures Commission Merchant" and "a customer" in paragraph (2) of the same Article shall be deemed to be replaced with "an Over-the-Counter Commodity Futures Transactions Dealer" and "a Specified Commercial Dealer," respectively.
- (9) An Over-the-Counter Commodity Futures Transactions Dealer shall create and keep books with regard to the Over-the-Counter Commodity Futures Transactions, pursuant to the provisions of an ordinance of the competent ministry.
- (10) When the competent minister finds it necessary for the enforcement of this Act, he/she may order an Over-the-Counter Commodity Futures Transactions Dealer to submit a report or materials pertaining to its Business of Over-the-Counter Commodity Futures Transactions, etc. (which means businesses concerning Over-the-Counter Commodity Futures Transactions, etc. prescribed in paragraph (6); hereinafter the same shall apply in this Article) or have his/her officials enter a business office of the Over-the-Counter Commodity Futures Transactions Dealer to inspect the status of its Business of Over-the-Counter Commodity Futures Transactions, etc. or the books, documents and other articles related to its Businesses of Over-the-Counter Commodity Futures Transactions, etc.
- (11) The provisions of Article 157, paragraph (3) and paragraph (4) shall apply mutatis mutandis to the inspection under the preceding paragraph.
- (12) In the case where the competent minister finds that an Over-the-Counter Commodity Futures Transactions Dealer has violated the provisions of paragraph (6), paragraph (7), or paragraph (9) or in other cases, if he/she finds a risk of harming the fairness of Over-the-Counter Commodity Futures Transactions, etc., he/she may order said Over-the-Counter Commodity Futures Transactions Dealer to take the necessary measures for improving the operation of its Business of Over-the-Counter Commodity Futures Transactions,

etc..

(13) When an Over-the-Counter Commodity Futures Transactions Dealer has violated this Act, an order based on this Act or a disposition by the competent minister based on this Act, the competent minister may order said Over-the-Counter Commodity Futures Transactions Dealer to suspend the whole or a part of its Business of Over-the-Counter Commodity Futures Transactions, etc. for a fixed period not exceeding three months.

(Claim for costs for a witness, etc.)

Article 350 A witness or an expert witness who is ordered to appear or provide an expert opinion pursuant to the provisions of Article 15, paragraph (9) (including the case where it is applied mutatis mutandis pursuant to Article 80, paragraph (4), Article 133, paragraph (3), Article 146, paragraph (4), Article 155, paragraph (6), Article 156, paragraph (4), Article 169, paragraph (3) [including the case where it is applied mutatis mutandis pursuant to Article 173, paragraph (4)], Article 194, Article 201, paragraph (2), Article 229, Article 248, paragraph (2), Article 295, paragraph (2), Article 333, paragraph (3) [including the case where it is applied mutatis mutandis pursuant to Article 335, paragraph (4)], and Article 343, paragraph (3) [including the case where it is applied mutatis mutandis pursuant to Article 335, paragraph (4) as is applied mutatis mutandis by replacing the terms pursuant to Article 345]) or Article 158, paragraph (2) (including the case where it is applied mutatis mutandis pursuant to Article 159, paragraph (5), Article 160, paragraph (2), Article 187, Article 204, paragraph (3), Article 206, paragraph (6), Article 237, Article 266, Article 324, paragraph (2), Article 339, paragraph (2), Article 340, paragraph (2) [including the case where it is applied mutatis mutandis pursuant to Article 345], and Article 344, paragraph (2)) may claim for travel expenses, daily allowance, and other costs, pursuant to the provisions of a Cabinet Order.

(Calculation of the number of founders, etc.)

Article 351 With regard to the calculation of the number of founders, members or persons who intend to become members or Trading Participants prescribed in Article 10, Article 69, item (vi), Article 70, Article 80, paragraph (1), item (ii), Article 94, paragraph (1), item (iii), Article 95 or Article 155, paragraph (3), item (i) (a), a person who, in the course of trade, engages in the Buying and Selling, etc. of Listed Commodity Component Products, etc. on two or more Commodity Markets shall be deemed to be one person for each of said Commodity Markets.

(Public notice)

Article 352 In the following cases, the competent minister shall publicly notify in an official gazette the matters concerning a Listed Commodity or a Listed Commodity Index and any other matters specified by an ordinance of the competent ministry, without delay:

- (i) When the competent minister has rendered a disposition for the granting or otherwise of the permission under Article 9 or a license under Article 78 (including the case under Article 15, paragraph (11) [including the case where it is applied mutatis mutandis pursuant to Article 80, paragraph (4), and Article 146, paragraph (4)])
- (ii) When the expiration date set forth in Article 11, paragraph (4) or Article 81, paragraph (2) has passed with regard to the Commodity Market
- (iii) When a written application for permission has been submitted pursuant to the provisions of Article 14, paragraph (1) or Article 79, paragraph (1)
- (iv) When there has been a dissolution under Article 69 (excluding a dissolution due to the reason set forth in item (v) of the same Article) or a lapse of a license pursuant to the provisions of Article 94, paragraph (1)
- (v) When the competent minister has rendered a disposition of approval or disapproval under Article 132, paragraph (1) or Article 145, paragraph (1)
- (vi) When a written application for approval has been submitted pursuant to the provisions of Article 132, paragraph (2) or Article 145, paragraph (2)
- (vii) When the competent minister has rendered a disposition of approval or disapproval under Article 155, paragraph (1) (limited to a disposition pertaining to a change in the scope of a Listed Commodity or a Listed Commodity Index) (including the case under Article 15, paragraph (11) as applied mutatis mutandis pursuant to paragraph (6), item (ii) of the same Article)
- (viii) When a written application for approval has been submitted pursuant to the provisions of Article 155, paragraph (2) (limited to one pertaining to a change in the scope [except for abolition or narrowing of the scope] of a Listed Commodity or a Listed Commodity Index)
- (ix) When the competent minister has rescinded the permission under Article 9 or a license under Article 78 pursuant to the provisions of Article 159, paragraph (1), item (i) or item (ii), or paragraph (2)
- (x) When the competent minister has rescinded approval of an amendment to the articles of incorporation pursuant to the provisions of Article 159, paragraph (1), item (ii) or paragraph (2) (limited to one pertaining to a change in the scope of a Listed Commodity or a Listed Commodity Index)

(Technical replacement of terms in applying the provisions of this Act to a foreign juridical person, etc.)

Article 353 In the case where a Futures Commission Merchant is a juridical



person established pursuant to the laws and regulations of a foreign state, the technical replacement of the terms in applying the provisions of this Act to said Futures Commission Merchant and any other necessary matters pertaining to the application of the provisions this Act shall be specified by a Cabinet Order.

(Competent minister, ordinance of the competent ministry and delegation of authority)

Article 354 (1) The competent ministers in this Act shall be as follows:

- (i) Minister of Agriculture, Forestry and Fisheries: with regard to Commodity Exchanges which open only the Commodity Markets on which the Listed Commodities consist solely of Commodities related to the Ministry of Agriculture, Forestry and Fisheries (which refers to such Commodities specified by a Cabinet Order; the same shall apply hereinafter) or the Commodity Markets on which the Listed Commodities consist solely of Commodity Indices whose sole target Goods are Commodities related to the Ministry of Agriculture, Forestry and Fisheries (hereinafter referred to as "Commodity Markets related to the Ministry of Agriculture, Forestry and Fisheries"), Commodity Clearing Organizations which conduct Business of Assuming Commodity Transaction Debts solely pertaining to Commodity Markets related to the Ministry of Agriculture, Forestry and Fisheries, establishers of Facilities Similar to Type 1 Specified Commodity Market or Facilities Similar to Type 2 Specified Commodity Market for carrying out transactions solely for Commodities related to the Ministry of Agriculture, Forestry and Fisheries or for Commodity Indices of which the sole target Goods are Commodities related to the Ministry of Agriculture, Forestry and Fisheries, or Over-the-Counter Commodity Futures Transactions Dealers pertaining to Over-the-Counter Commodity Futures Transactions, etc. solely using quotations on the Commodity Markets related to the Ministry of Agriculture, Forestry and Fisheries
- (ii) Minister of Economy, Trade and Industry: with regard to Commodity Exchanges which open only the Commodity Markets where Listed Commodities consist solely of Commodities related to the Ministry of Economy, Trade and Industry (which refers to such Commodities other than Commodities related to the Ministry of Agriculture, Forestry and Fisheries; the same shall apply hereinafter) or the Commodity Markets where Listed Commodities consist solely of Commodity Indices of which the sole target Goods are Commodities related to the Ministry of Economy, Trade and Industry (hereinafter referred to as "Commodity Markets related to the Ministry of Economy, Trade and Industry"), Commodity Clearing Organizations which conduct Business of Assuming Commodity Transaction Debts solely pertaining to Commodity Markets related to the Ministry of

Economy, Trade and Industry, establishers of Facilities Similar to Type 1 Specified Commodity Market or Facilities Similar to Type 2 Specified Commodity Market for carrying out transactions solely for Commodities related to the Ministry of Economy, Trade and Industry or for Commodity Indices where the sole target Goods are Commodities related to the Ministry of Economy, Trade and Industry, or Over-the-Counter Commodity Futures Transactions Dealers pertaining to Over-the-Counter Commodity Futures Transactions solely using quotations on the Commodity Markets related to the Ministry of Economy, Trade and Industry

(iii) Minister of Agriculture, Forestry and Fisheries, and Minister of Economy, Trade and Industry: with regard to Commodity Exchanges, Commodity Clearing Organizations, establishers of Facilities Similar to Type 1 Specified Commodity Market, establishers of Facilities Similar to Type 2 Specified Commodity Market, or Over-the-Counter Commodity Futures Transactions Dealers who are other than those set forth in the preceding two items, or Futures Commission Merchants, commodity futures associations or Consumer Protection Funds

(2) In this Act, an ordinance of the competent ministry shall be an Ordinance of the Ministry of Agriculture, Forestry and Fisheries or an Ordinance of the Ministry of Economy, Trade and Industry.

(3) The competent minister may delegate a part of his/her authority based on this Act to the head of a local branch office, pursuant to the provisions of a Cabinet Order.

(Transitional measures)

Article 355 In the case where an order is established or revised or abolished based on this Act, said order may specify required transitional measures (including transitional measures pertaining to penal provisions) within the scope reasonably necessary in accordance with said establishment or revision or abolition.

## **Chapter VIII Penal Provisions**

Article 356 A person who falls under any of the following items shall be punished by imprisonment with work for not more than five years or by a fine of not more than five million yen, or shall be subject to the cumulative imposition thereof:

(i) A person who has spread rumors, used fraudulent means, or resorted to physical violence or intimidation for the purpose of carrying out or brokering Transactions on a Commodity Market or causing a fluctuation of quotations on a Commodity Market

- (ii) A person who has violated the provisions of Article 116
- (iii) An officer (including a provisional director and a provisional auditor; the same shall apply in the following item) of a Member Commodity Exchange or an employee to whom authority has been delegated with regard to a certain kind of or specified matters concerning the business who, in inviting subscribers for the shares to be issued pursuant to the provisions of Article 129, has used a prospectus or an advertisement or other documents pertaining to said subscription which includes a false entry regarding an important matter or who has offered an Electromagnetic Record which includes a false entry regarding an important matter for carrying out affairs for said invitation for subscription in the case where an Electromagnetic Record has been created in lieu of the creation of said documents
- (iv) An officer of a Member Commodity Exchange or an employee to whom authority has been delegated with regard to a certain kind of or specified matters concerning the business who has borrowed and deposited money for disguising the payment for shares to be issued pursuant to the provisions of Article 129, or a person who has participated in said disguise by borrowing and depositing money

Article 357 A person who falls under any of the following items shall be punished by imprisonment with work for not more than three years or by a fine of not more than three million yen, or shall be subject to the cumulative imposition thereof:

- (i) A person who has violated the provisions of Article 6, paragraph (1)
- (ii) A person who shall become an officer (including a provisional director and a provisional auditor) or an inspector of a Member Commodity Exchange or a person who shall become a director or a corporate auditor of a Incorporated Commodity Exchange who has made a false statement to or suppressed a fact against the competent minister, the court or a general meeting of members with regard to the subscription, payment or delivery of contribution in kind for the entire shares to be issued pursuant to the provisions of Article 129 or matters set forth in item (iii) of the same Article
- (iii) A person who, in violation of the provisions of Article 167, has engaged in Business of Assuming Commodity Transaction Debts
- (iv) A person who, in violation of the provisions of Article 190, paragraph (1), has engaged in Commodity Transactions Brokerage Business
- (v) A person who, in violation of the provisions of Article 199, has had another person engage in Commodity Transactions Brokerage Business
- (vi) A person who has violated an order under the provisions of Article 328, paragraph (1)

Article 358 In the case where a Commodity Exchange has violated the provisions of Article 5, paragraph (1) or paragraph (2), the representative, an agent, an employee, or other worker thereof shall be punished by imprisonment with work for not more than three years or by a fine of not more than three million yen, or shall be subject to the cumulative imposition thereof.

Article 358-2 In the case where a Commodity Exchange has violated the provisions of Article 214-2, paragraph (1), the representative, an agent, an employee or any other worker thereof shall be punished by imprisonment with work for not more than three years or by a fine of not more than three million yen, or shall be subject to the cumulative imposition thereof.

Article 359 (1) In the case where an officer (in the case where an accounting advisor is a juridical person, a member who performs such duties; including a provisional director, a provisional auditor, a provisional representative director, a provisional executive officer and a provisional corporate auditor) or an official of a Commodity Exchange or an association has received, or requested or promised to receive a bribe with regard to his/her duties, he/she shall be punished by imprisonment with work for not more than five years.

(2) In the case set forth in the preceding paragraph, the accepted bribe shall be confiscated. In the case where the whole or a part of the bribe cannot be confiscated, the value equivalent to it shall be charged.

(3) A person who has given, or offered or promised to give a bribe set forth in paragraph (1) shall be punished by imprisonment with work for not more than three years or by a fine of not more than three million yen.

Article 359-2 (1) The crimes set forth in paragraph (1) of the preceding Article shall also apply to a person who has committed these crimes outside Japan.

(2) The crimes set forth in paragraph (3) of the preceding Article shall be dealt with according to the provisions of Article 2 of the Penal Code (Act No. 45 of 1907).

Article 360 In the case where a person has violated the disposition under the provisions of Article 158, paragraph (1), Article 159, paragraphs (1) to (3) inclusive, Article 160, paragraph (1), Article 186, paragraph (1) or paragraph (4) or Article 265, paragraph (1) or paragraph (3), the representative, an agent, an employee or other worker of a Commodity Exchange, a Commodity Clearing Organization or an association which has committed such act shall be punished by imprisonment with work for not more than two years or by a fine of not more than three million yen, or shall be subject to the cumulative imposition thereof.

Article 361 A person who falls under any of the following items shall be punished by imprisonment with work for not more than two years or by a fine of not more than three million yen, or shall be subject to the cumulative imposition thereof:

- (i) A person who has violated the provisions of Article 210
- (ii) A person who has violated an order under the provisions of Article 232, paragraph (2), Article 235, paragraph (2), Article 236, Article 340, paragraph (1) (including the case where it is applied mutatis mutandis pursuant to Article 345) or Article 349, paragraph (13)

Article 362 A person who falls under any of the following items shall be punished by imprisonment with work for not more than one year or by a fine of not more than three million yen, or shall be subject to the cumulative imposition thereof:

- (i) A person who has entered a false statement into a written application or an attached document under Article 14, Article 79, Article 168, Article 192, paragraph (1) or paragraph (2), Article 225, paragraph (2) or paragraph (3), Article 226, paragraph (2) or paragraph (3), Article 227, paragraph (2) or paragraph (3), Article 228, paragraph (2) or paragraph (3), Article 247, Article 294, paragraph (1), Article 332, paragraph (2) or paragraph (3) or Article 342, paragraph (2) or paragraph (3) and has submitted such document
- (ii) A person who has failed to make a report or has failed to submit material under Article 157, paragraph (1), Article 184, paragraph (1), Article 231, paragraph (1), Article 263, paragraph (1), Article 321, paragraph (1), Article 338, paragraph (1) (including the case where it is applied mutatis mutandis pursuant to Article 345) or Article 349, paragraph (10) or who has made a false report or has submitted false material
- (iii) A person who has refused, prevented or recused an inspection under Article 157, paragraph (1) or paragraph (2), Article 184, paragraph (1), Article 231, paragraph (1) or paragraph (3), Article 263, paragraph (1), Article 321, paragraph (1), Article 338, paragraph (1) (including the case where it is applied mutatis mutandis pursuant to Article 345) or Article 349, paragraph (10)
- (iv) A person who has failed to make a notification under Article 197, paragraph (1) or paragraph (4) or who has made a false notification
- (v) A person who has failed to give a public notice under Article 197, paragraph (3) or who has given a false public notice
- (vi) A person who has failed to make a notification under Article 211, paragraph (1) or who has made a false notification

- (vii) A person who has failed to provide for public inspection a document under Article 211, paragraph (3) or who has provided for public inspection a document including a false entry
- (viii) A person who has violated the provisions of Article 214, item (ii)
- (ix) A person who has failed to create or keep books under Article 222, Article 336, paragraph (1) (including the case where it is applied mutatis mutandis pursuant to Article 345) or Article 349, paragraph (9) or who has created false books
- (x) A person who has violated the provisions of Article 223
- (xi) A person who has failed to submit a report under Article 224 or a document under Article 268 or a person who has submitted a report or a document including a false entry
- (xii) A person who has violated an order under Article 232, paragraph (1), Article 234 or Article 235, paragraph (1)
- (xiii) A person who, in violation of the provisions of Article 303, paragraph (1), has not given a notice or who has given a false notice
- (xiv) A person who has failed to make a report under Article 336, paragraph (2) (including the case where it is applied mutatis mutandis pursuant to Article 345) or who has made a false report

Article 363 A person who falls under any of the following items shall be punished by imprisonment with work for not more than one year or by a fine of not more than one million yen, or shall be subject to the cumulative imposition thereof:

- (i) A person who, in violation of the provisions of Article 6, paragraph (2), Article 97, paragraph (1) or paragraph (2), has carried out transactions
- (ii) A person who has violated the provisions of Article 86, paragraph (1) or the proviso of paragraph (2)
- (iii) A person who has violated the restriction under the provisions of Article 118
- (iv) A person who has violated the provisions of Article 200, paragraph (2)
- (v) A person who has violated the provisions of Article 209 or Article 212
- (vi) A person who has violated the provisions of Article 214-2, paragraph (2)
- (vii) A person who has entered a false statement into a written application or a document under Article 214-2, paragraph (5) and has submitted it
- (viii) A person who, in violation of the provisions of Article 244, paragraph (2), has used in his/her name certain characters which are likely to mislead the public into believing that such person is a member of a commodity futures association
- (ix) A person who has violated the provisions of Article 330
- (x) A person who has given a false public notice of quotations on a Commodity

Market

- (xi) A person who has created a document including false statements with regard to quotations on a Commodity Market for the purpose of giving a public notice or distributing it or who has distributed such document
- (xii) A person who has changed the matters set forth in Article 332, paragraph (2), item (iii) or item (iv) without obtaining the permission under Article 335, paragraph (1)
- (xiii) A person who has violated an order under Article 339, paragraph (1), Article 344, paragraph (1) or Article 349, paragraph (12)
- (xiv) A person who has changed the matters set forth in Article 342, paragraph (2), item (iii) or item (iv) without obtaining the permission under Article 335, paragraph (1) as applied mutatis mutandis pursuant to Article 345

Article 364 In the case where there was a violation set forth in the following items, the representative, an agent, an employee, or other worker of a Commodity Exchange, a Commodity Clearing Organization, an association or a Consumer Protection Fund which committed such act shall be punished by imprisonment with work for not more than one year or by a fine of not more than one million yen, or shall be subject to the cumulative imposition thereof:

- (i) When a person has violated the provisions of Article 7, paragraph (2), Article 242, paragraph (1), Article 298 or Article 302, paragraph (1)
- (ii) When a person has violated the provisions of Article 65, Article 103, paragraph (4) (including the case where it is applied mutatis mutandis pursuant to Article 179, paragraph (5)) or Article 110 (including the case where it is applied mutatis mutandis pursuant to Article 180, paragraph (5))
- (iii) When a person has violated an order under Article 185, Article 264, Article 322 or Article 323
- (iv) When a person has abolished Consignor Protection Business without obtaining the permission under Article 312

Article 365 A person who, in violation of the provisions of Article 329, has committed an act for the purpose of exchanging the difference or has carried out transactions similar to those set forth in the respective items of the same Article shall be punished by imprisonment with work for not more than one year or by a fine of not more than one million yen, or shall be subject to the cumulative imposition thereof; provided, however, that it shall not preclude the application of the provisions of Article 186 of the Penal Code.

Article 366 A person who has violated the provisions of Article 161, Article 176, Article 267, or Article 325 shall be punished by imprisonment with work for not more than one year or by a fine of not more than 500 thousand yen.

Article 367 A person who falls under any of the following items shall be punished by imprisonment with work for not more than six months or by a fine of not more than 500 thousand yen, or shall be subject to the cumulative imposition thereof:

- (i) A person who has violated the provisions of Article 4, paragraph (2), Article 55 (including the case where it is applied mutatis mutandis pursuant to Article 77, paragraph (2)), Article 91, paragraph (1) (including the case where it is applied mutatis mutandis pursuant to paragraph (2) of the same Article), Article 105, Article 106, Article 271, paragraph (2) or Article 297, paragraph (2)
- (ii) A person who has entered a false statement into a written application or an attached document under Article 200, paragraph (3) or paragraph (4) or Article 335, paragraph (2) (including the case where it is applied mutatis mutandis pursuant to Article 345) and has submitted such document
- (iii) A person who has failed to represent or has misrepresented the matters prescribed in Article 213-2, paragraph (1) (excluding item (ii))
- (iv) A person who has violated the provisions of Article 213-2, paragraph (2)
- (v) A person who, in violation of the provisions of Article 217, paragraph (1) or Article 349, paragraph (7), has failed to deliver a document or has delivered a document which does not include the matters prescribed in these provisions or a document including a false entry
- (vi) A person who, in violation of the provisions of Article 220, paragraph (1), has failed to give a notice or has given a notice with a document which does not include the matters prescribed in the same Article or a document including a false entry
- (vii) A person who, in violation of the provisions of Article 220-2, paragraph (1), has failed to deliver a document or has delivered a document which does not include the matters prescribed in the same Article or a document including a false entry, or a person who has provided information lacking said matters or who has provided false matters by the method prescribed in Article 217, paragraph (2) as applied mutatis mutandis pursuant to Article 220-2, paragraph (2)
- (viii) A person who, in violation of the provisions of Article 244, paragraph (1), has used in his/her name certain characters which are likely to mislead the public into believing that such person is a commodity futures association
- (ix) A person who, in violation of the provisions of Article 349, paragraph (6), has concluded a contract without having confirmation

Article 368 In the case of a violation set forth in the following items, the representative, an agent, an employee or other worker of a Commodity



Exchange, a Commodity Clearing Organization, an association or a Consumer Protection Fund which committed such act shall be punished by imprisonment with work for not more than six months or by a fine of not more than 500 thousand yen, or shall be subject to the cumulative imposition thereof:

- (i) When a person has violated the provisions of Article 3, Article 64, Article 170, paragraph (1), or Article 242, paragraph (2)
- (ii) When a person has entered a false statement into a written application or an attached document under Article 155, paragraph (2) or Article 156, paragraph (2) and has submitted such document
- (iii) When a person has carried out business other than Consignor Protection Business in violation of the provisions of Article 301

Article 369 A person who falls under any of the following items shall be punished by a fine of not more than 300 thousand yen:

- (i) A person who has violated the provisions of Article 101, paragraph (2) or Article 115
- (ii) A person who has failed to submit a written notification under Article 195, paragraph (1) or Article 196 or has submitted a written notification including a false entry or who has failed to submit an attached document under Article 195, paragraph (2) or has entered a false statement into an attached document and submitted such document
- (iii) A person who, in violation of the provisions of Article 198, paragraph (2), has posted a sign under the provisions of paragraph (1) of the same Article or a sign similar thereto
- (iv) A person who has failed to make a notification under Article 203 or Article 299, paragraph (4) or who has made a false notification
- (v) A person who, in violation of the provisions of Article 216, has concluded a Brokerage Contract without following the brokerage contract rules provided by a Commodity Exchange
- (vi) A person who has failed to make a report or has failed to submit material under Article 231, paragraph (2) or who has made a false report or has submitted false material
- (vii) A person who has failed to make a notification under Article 334, paragraph (2) (including the case where it is applied mutatis mutandis pursuant to Article 345), Article 335, paragraph (3) (including the case where it is applied mutatis mutandis pursuant to Article 345), Article 337, paragraph (1) (including the case where it is applied mutatis mutandis pursuant to Article 345) or Article 349, paragraph (2) or who has made a false notification

Article 370 In the case where there was a violation set forth in the following

items, the representative, an agent, an employee or other worker of a Commodity Exchange, a Commodity Clearing Organization, an association or a Consumer Protection Fund which committed such act shall be punished by a fine of not more than 300 thousand yen:

- (i) When a person has failed to submit a written report under Article 19, paragraph (1) or Article 85, paragraph (1) or has submitted a written report including a false entry or who has failed to submit an attached document under Article 19, paragraph (2) or Article 85, paragraph (2) or has entered a false statement into an attached document and submitted such document
- (ii) When a person has violated the provisions of Article 70 or Article 95
- (iii) When a person has violated the provisions of Article 88, paragraph (1) or Article 206, paragraph (3)
- (iv) When a person has failed to make a notification under Article 170, paragraph (2), the first sentence of Article 250, paragraph (3) or Article 296 or who has made a false notification
- (v) When a person has failed to make a notification under Article 171 or has made a false notification or who has failed to attach a document under the same Article or has attached a document including a false entry
- (vi) When a person has entered a false statement into a written application or an attached document under Article 250, paragraph (2) and has submitted such document
- (vii) When a person has failed to make a report in violation of the provisions of Article 305, paragraph (4) or Article 308, paragraph (5) or who has made a false report

Article 370-2 A person who, in violation of the provisions of Article 955, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 11, paragraph (9), has failed to include matters specified by an Ordinance of the Ministry of Justice concerning an investigation on Electronic Public Notice prescribed in the same paragraph in an investigation record, etc. prescribed in the same paragraph or who has included a false statement or who has failed to keep said investigation record, etc. shall be punished by a fine of not more than 300 thousand yen.

Article 371 (1) When the representative of a juridical person (including an organization which is not a juridical person and which has rules concerning the representative or an administrator; hereinafter the same shall apply in this Article) or an agent, an employee or other worker of a juridical person or an individual has committed an offense referred to in the provisions set forth in the following items, not only the offender shall be punished, but also said juridical person shall be punished by the fine set forth respectively in those

items and said individual shall be punished by the fine prescribed in the respective Articles:

- (i) Article 356 (excluding item (iii) and item (iv))-a fine of not more than 500 million yen
  - (ii) Article 358-2, Article 360 and Article 361-a fine of not more than 300 million yen
  - (iii) Article 362 (excluding item (iv) and item (v))-a fine of not more than 200 million yen
  - (iv) Article 363, item (vii), item (x) and item (xi)-a fine of not more than 100 million yen
  - (v) Article 357, item (i) and items (iii) to (v) inclusive, Article 358, Article 362, item (iv) and item (v), Article 363 (excluding item (vii), item (x) and item (xi)), Article 364 and Articles 367 to the preceding Article inclusive-the fine prescribed in the respective Articles
- (2) The period of prescription in the case where a juridical person or an individual has been punished by a fine due to a violation set forth in Article 356 (excluding item (iii) and item (iv)) pursuant to the provisions of the preceding paragraph shall be in accordance with the period of prescription for the offenses set forth in the same Article.
- (3) In the case where an organization which is not a juridical person is punished pursuant to the provisions of paragraph (1), the representative or an administrator thereof shall represent said organization with regard to said procedural action, and the provisions of Acts concerning criminal actions in the cases where a juridical person is the accused or a suspect shall apply *mutatis mutandis*.

Article 372 In the case where there was a violation set forth in the following items, an officer (including a provisional director, a provisional representative director and a provisional executive officer) or a liquidator of a Commodity Exchange which committed such act shall be punished by a civil fine of not more than one million yen:

- (i) When a person has failed to file a motion for commencement of bankruptcy proceedings in violation of the provisions of Article 484, paragraph (1) of the Companies Act as applied *mutatis mutandis* pursuant to Article 77, paragraph (1)
- (ii) When a person has unreasonably determined a period set forth in Article 499, paragraph (1) of the Companies Act as applied *mutatis mutandis* pursuant to Article 77, paragraph (1) for the purpose of delaying completion of liquidation
- (iii) When a person has paid liabilities in violation of the provisions of Article 500, paragraph (1) of the Companies Act as applied *mutatis mutandis*

- pursuant to Article 77, paragraph (1)
- (iv) When a person has failed to give a notice under Article 130, paragraph (1) or paragraph (4) or has given a false notice
  - (v) When a person has failed to make a registration under Article 134, paragraph (1)

Article 372-2 A person who falls under any of the following items shall be punished by a civil fine of not more than one million yen:

- (i) A person who, in violation of the provisions of Article 946, paragraph (3) of the Companies Act as applied mutatis mutandis pursuant to Article 11, paragraph (9), has failed to make a report or has made a false report
- (ii) A person who has rejected a claim set forth in the respective items of Article 951, paragraph (2) or the respective items of Article 955, paragraph (2) of the Companies Act as applied mutatis mutandis pursuant to Article 11, paragraph (9), without a justifiable reason

Article 373 A person who falls under any of the following items shall be punished by a civil fine of not more than 500 thousand yen:

- (i) A person who has violated the provisions of Article 198, paragraph (1)
- (ii) A person who, in violation of the provisions of Article 9, paragraph (1) of the Act on Sales, etc. of Financial Products as applied mutatis mutandis pursuant to Article 220-3, has failed to establish a solicitation policy or who, in violation of the provisions of paragraph (3) of said Article, has failed to publish the solicitation policy
- (iii) A person who, in violation of the provisions of Article 221, paragraph (1) or paragraph (2), has failed to reserve a liability reserve for commodity trading or has used such reserve

Article 374 In the case where there was a violation set forth in the following items, a founder, an officer (including a provisional director, a provisional representative director and a provisional executive officer) or a liquidator of a Commodity Exchange, an officer (including a provisional director) of an association, an officer or a liquidator of a Consignor Protection Membership Corporation or an officer (including a provisional director and a provisional auditor) or a liquidator of a Consumer Protection Fund which committed such act shall be punished by a civil fine of not more than 300 thousand yen:

- (i) When a person has failed to request investigation set forth in Article 941 of the Companies Act in violation of the provisions of the same Article as applied mutatis mutandis pursuant to Article 11, paragraph (9)
- (ii) When a person has failed to make a notification under Article 16, paragraph (2)

- (iii) When a person has violated the provisions of Article 57, paragraphs (1) to (3) inclusive, Article 67 or Article 68-2, paragraph (1) or paragraph (2) (including the case where these provisions are applied mutatis mutandis pursuant to Article 77, paragraph (2)), Article 76, paragraph (2), Article 93, paragraph (1) or paragraph (2), Article 94, paragraph (2), Article 96, paragraph (2), Article 103, paragraph (1), Article 107, Article 111, Article 112, Article 123, paragraph (1), Article 125, paragraph (1), Article 144, paragraph (1), Article 144-2, paragraph (1) or paragraph (5), Article 144-3, paragraph (1), Article 144-4, paragraph (4), Article 144-5, paragraph (1), Article 144-11, paragraph (2), Article 144-12, paragraph (1), Article 144-19, paragraph (2) or Article 179, paragraph (1)
- (iv) When a person has refused to offer for public inspection matters contained in a document or an Electromagnetic Record which are indicated by a method specified by an ordinance of the competent ministry, has refused to deliver a transcript or an extract of a document, has refused to provide matters contained in an Electromagnetic Record by an Electromagnetic Means which is specified by an ordinance of the competent ministry or has refused to deliver a document containing said matters without a justifiable reason in violation of the provisions of Article 57, paragraph (5) (including the case where it is applied mutatis mutandis pursuant to Article 77, paragraph (2) and Article 93, paragraph (3)), Article 123, paragraph (3), Article 125, paragraph (3), Article 144, paragraph (3), Article 144-2, paragraph (7), Article 144-3, paragraph (3), Article 144-4, paragraph (6), Article 144-5, paragraph (3), Article 144-11, paragraph (4), Article 144-12, paragraph (3) or Article 144-19, paragraph (4)
- (v) When a person has distributed property of a Member Commodity Exchange in violation of the provisions of Article 502 of the Companies Act as applied mutatis mutandis pursuant to Article 77, paragraph (1)
- (vi) When a person has failed to provide for public inspection matters prescribed in Article 87, in violation of the provisions of the same Article
- (vii) When a person has failed to make a notification in violation of the provisions of Article 88, paragraph (2), Article 206, paragraph (4), the second sentence of Article 250, paragraph (3) or Article 262, paragraph (2)
- (viii) When a person has failed to make a report under Article 99, paragraph (3) or paragraph (4)
- (ix) When a person has implemented an Entity Conversion procedure in violation of the provisions of Article 122, paragraph (1)
- (x) When a person has implemented Entity Conversion or a merger of a Commodity Exchange in violation of the provisions of Article 124, paragraph (2) or paragraph (5) (including the case where these provisions are applied mutatis mutandis pursuant to Article 144, paragraph (5), Article 144-2,

- paragraph (3) and Article 144-3, paragraph (5)) or Article 144-10, paragraph (2) or paragraph (5) (including the case where these provisions are applied mutatis mutandis pursuant to Article 144-17)
- (xi) When a person has failed to give a public notice under the provisions of this Act or a public notice under the provisions of the Companies Act as applied mutatis mutandis pursuant to this Act or has given a false public notice
  - (xii) When a person has failed to make a registration (except for one under Article 134, paragraph (1)) under the provisions of this Act
  - (xiii) When a person has prevented an investigation specified by the provisions of the Companies Act as applied mutatis mutandis pursuant to this Act
  - (xiv) When a person has made a false statement to or has concealed a fact from an organizational meeting or a general meeting of members of a Commodity Exchange
  - (xv) When a person has failed to include matters which should be included in the articles of incorporation, a member register, a Trading Participant register, minutes, an inventory of property, a balance sheet, a profit and loss statement, a business report, a proposed appropriation of surplus, a proposed appropriation of loss or a settlement of accounts or has included a false statement
  - (xvi) When a person has failed to provide for public inspection an Association Member register set forth in Article 252 in violation of the provisions of the same Article
  - (xvii) When a person has disposed of the residual assets of a Consignor Protection Membership Corporation in violation of the provisions of Article 292
  - (xviii) When a person has failed to make a report under Article 303, paragraph (2) or has made a false report
  - (xix) When a person has failed to submit a document under Article 317, Article 318, paragraph (1) or paragraph (2) or has submitted a false document
  - (xx) When a person has carried out accounting in violation of the provisions of Article 319
  - (xxi) When a person has violated the provisions of Article 320

Article 375 A person who has failed to offer a statement or has offered a false statement or who has failed to make a report or has made a false report in violation of a disposition for a witness, or a person who has failed to offer an expert opinion or has offered a false expert opinion in violation of a disposition for an expert witness under the provisions of Article 15, paragraph (9) (including the case where it is applied mutatis mutandis pursuant to Article 80, paragraph (4), Article 133, paragraph (3), Article 146, paragraph (4), Article

155, paragraph (6), Article 156, paragraph (4), Article 169, paragraph (3) [including the case where it is applied mutatis mutandis pursuant to Article 173, paragraph (4)], Article 194, Article 201, paragraph (2), Article 229, Article 248, paragraph (2), Article 295, paragraph (2), Article 333, paragraph (3) [including the case where it is applied mutatis mutandis pursuant to Article 335, paragraph (4)], and Article 343, paragraph (3) [including the case where it is applied mutatis mutandis pursuant to Article 335, paragraph (4) as are applied mutatis mutandis by replacing the terms pursuant to Article 345]), or Article 158, paragraph (2) (including the case where it is applied mutatis mutandis pursuant to Article 159, paragraph (5), Article 160, paragraph (2), Article 187, Article 204, paragraph (3), Article 206, paragraph (6), Article 237, Article 266, Article 324, paragraph (2), Article 339, paragraph (2), Article 340, paragraph (2) [including the case where it is applied mutatis mutandis pursuant to Article 345] and Article 344, paragraph (2)) shall be punished by a civil fine of not more than 100 thousand yen.

#### **Supplementary Provisions [Extract]**

(Effective date)

- (1) This Act shall come into force as from the day on which 15 days have elapsed from the day of promulgation; provided, however, that the provisions of Article 8 (including penal provisions pertaining to such Article) and Article 15 of this Act and the provisions of paragraph (2), paragraph (3), and paragraphs (7) to (11) inclusive of the Supplementary Provisions shall come into force as from the day of promulgation.

(Abolition of the Commodity Exchange Act)

- (2) The Commodity Exchange Act (Act No. 5 of 1893; hereinafter referred to as the "Former Act") shall be abolished.
- (3) With regard to the application of penal provisions to acts committed prior to the enforcement of the Former Act, the provisions then in force shall remain applicable.

(Special provisions on disqualifying conditions for members)

- (6) With regard to the application of the provisions of Article 24, paragraph (1), item (ii), those punished by the fine pursuant to the provisions of the Former Act or the Old Stock Exchange Act of Japan (Act No. 44 of 1943) shall be deemed to be those punished by the fine pursuant to this Act.

(Special provisions on appointment of the chairperson and members of the council)

- (7) When enforcing the provisions of Chapter IV while the Diet is closed, the Prime Minister may appoint the initial chairperson and members of the council without gaining consent of both Houses, notwithstanding the provisions of Article 139, paragraph (2).
- (8) When the Prime Minister has appointed the initial chairperson and members of the council pursuant to the provisions of the preceding paragraph, he/she shall request post facto approval from both Houses on the appointment referred to in the preceding paragraph at the first Diet session held after the appointment. In this case, if post facto approval from both Houses is not obtained, the Prime Minister shall dismiss said chairperson and members immediately.

**Supplementary Provisions [Act No. 176 of June 1, 1951] [Extract]**

- (1) This Act shall come into force as from the day of promulgation.
- (3) With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable, notwithstanding the provisions of Article 7.

**Supplementary Provisions [Act No. 211 of June 8, 1951] [Extract]**

- (1) This Act shall come into force as from July 1, 1951.
- (4) With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

**Supplementary Provisions [Act No. 90 of April 12, 1952]**

- (1) This Act shall come into force as from the day of promulgation.
- (2) With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

**Supplementary Provisions [Act No. 92 of May 10, 1954] [Extract]**

- (1) The effective date of this Act shall be specified by a Cabinet Order within a period not exceeding three months from the day of promulgation.
- (2) A Commodity Exchange which has received the registration set forth in Article 9, paragraph (5) prior to the revision at the time of the enforcement of this Act shall be deemed to have received the permission set forth in Article 8-2 after the revision.



(3) With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

**Supplementary Provisions [Act No. 82 of April 20, 1962] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from April 1, 1963.

(Definitions)

Article 2 The term "New Act" as used in these Supplementary Provisions shall mean the Commercial Code revised by this Act, and the "Former Act" shall mean the Commercial Code then in force.

(Principle)

Article 3 The New Act shall also apply to matters which took place prior to the enforcement of this Act except as otherwise provided; provided, however, that it shall not preclude the effect derived from the Former Act.

**Supplementary Provisions [Act No. 126 of July 9, 1963] [Extract]**

This Act shall come into force as from the effective date of the Commercial Registration Act (April 1, 1964).

**Supplementary Provisions [Act No. 97 of July 29, 1967] [Extract]**

- (1) This Act shall come into force as from the date specified by a Cabinet Order within six months from the day of promulgation.
- (2) With regard to a person who has received registration as a commodity broker (hereinafter referred to as a "Commodity Broker") pursuant to the provisions of the Commodity Exchange Act prior to the revision (hereinafter referred to the "Former Act") at the time of the enforcement of this Act, the provisions of the Former Act (excluding Article 42, Article 42-2, Article 44, Article 46, paragraph (2) [limited to the part pertaining to brokerage deposits], Article 47, Article 49 [limited to the parts pertaining to establishment of business offices or offices or addition of Commodities], Article 50, Article 91, paragraph (1) [limited to the parts pertaining to restriction on solicitation of consignment], Article 93, Article 94, and Article 97, and penal provisions pertaining to these provisions) shall remain in force only for Commodities pertaining to said registration (excluding those pertaining to the license under Article 41, paragraph (1) of the Commodity Exchange Act after the revision [hereinafter referred to as the

"New Act"] the same shall apply hereinafter), for three years from the effective date of this Act.

- (3) With regard to a Commodity Broker, the provisions of Article 49, Article 50, Article 53-3, Article 91-2, Article 93, Article 94, paragraph (1), Articles 97 to 97-6 inclusive, Article 119, paragraph (2), and Article 120, paragraphs (2) to (4) inclusive of the New Act and the provisions of Article 20-3 and Article 57 of the Act on Special Measures Concerning Taxation (Act No. 26 of 1957) revised by said provisions shall, only for Commodities pertaining to said registration, apply to said person by deeming him/her as a Futures Commission Merchant set forth in the New Act for each such Commodity, during the period prescribed in the preceding paragraph. In this case, "shall not start the brokerage" in Article 97-2, paragraph (3) shall be deemed to be replaced with "shall not broker buying and selling transactions on a Commodity Market; provided, however, that this shall not apply to cases where the transactions are carried out within the scope of the purpose to complete settlement of the buying and selling transactions on a Commodity Market pertaining to said brokerage."
- (5) With regard to the application of the provisions of Article 97-3, paragraph (1), a person who had entrusted a Commodity Broker with buying and selling transactions on a Commodity Market prior to the enforcement of this Act shall be deemed to have entrusted a Futures Commission Merchant with buying and selling transactions on a Commodity Market.
- (6) A person who has his/her registration as a Commodity Broker rescinded pursuant to the provisions of Article 52, paragraph (1) or Article 123 of the Former Act shall be deemed to have had his/her license rescinded pursuant to the provisions of Article 52, paragraph (1) or Article 123 of the New Act as on the day of the rescission.
- (7) With regard to the application of penal provisions to acts committed prior to the enforcement of this Act (with regard to a Commodity Broker, prior to the expiration of the period during which the Former Act shall remain in force pursuant to the provisions of paragraph (2)), the provisions then in force shall remain applicable.
- (8) In addition to what is provided for in paragraph (2) to the preceding paragraph, the necessary transitional measures pertaining to the enforcement of this Act shall be specified by a Cabinet Order.

#### **Supplementary Provisions [Act No. 23 of April 2, 1974] [Extract]**

This Act shall come into force as from the date specified by a Cabinet Order within six months from the day of promulgation.

#### **Supplementary Provisions [Act No. 65 of July 15, 1975] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the date specified by a Cabinet Order within six months from the day of promulgation.

(Transitional measures)

Article 2 With regard to the application of the provisions of Article 41, paragraph (4) after the revision to the license under paragraph (1) of the same Article prior to the revision which a Futures Commission Merchant has obtained at the time of the enforcement of this Act, "every four years" in the same paragraph shall be deemed to be replaced with "if the person did not have his/her license renewed by the day on which four years have elapsed from the effective date of the Act for Partial Revision of the Commodity Exchange Act (Act No. 65 of 1975), or every four years after said renewal."

Article 3 With regard to the application of the provisions of Article 47-2, paragraph (2) after the revision to a Futures Commission Merchant who has had the controlling interest prescribed in the same paragraph at the time of the enforcement of this Act, "without delay" in the same paragraph shall be deemed to be replaced with "by the day on which 30 days have elapsed from the effective date of the Act for Partial Revision of the Commodity Exchange Act (Act No. 65 of 1975)."

Article 4 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

Article 5 In addition to what is provided for in the preceding three Articles, the necessary transitional measures pertaining to the enforcement of this Act shall be specified by a Cabinet Order.

### **Supplementary Provisions [Act No. 87 of July 5, 1978] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the day of promulgation; provided, however, that the provisions set forth in the following items shall come into force as from the date specified in each item.

- (i) The provisions revising Article 64-4, paragraph (1), Article 66, Article 67, Article 68, paragraph (1), paragraph (2) and paragraph (4), Article 69 and Article 69-2, paragraph (2), the provisions which add one Article after Article 69-3, the provisions revising Article 70, paragraph (1) and paragraph (3), the

- provisions which change the same Article to Article 71, and the provisions which delete Article 72 and change Article 71 to Article 72: January 1, 1979
- (ii) The provisions revising Article 18-8, Article 22, paragraph (2), and Article 22-3, paragraph (2), the provisions which delete Article 78, item (vi), the provisions revising Article 80, item (i) and Article 81, the provisions revising the table of Article 82, paragraph (2) (limited to the parts deleting the row of the Freshwater Fisheries Research Laboratory), the provisions revising Article 83, the provisions which add one Article after the same Article, and the provisions revising Article 87: the date specified by a Cabinet Order for each provision within the period until March 31, 1979
- (iii) The provisions revising Article 18, paragraph (3), Article 18-3, paragraph (2) and Article 21, paragraph (2): the date specified by a Cabinet Order for each provision within the period until March 31, 1980

**Supplementary Provisions [Act No. 75 of June 9, 1981] [Extract]**

This Act shall come into force as from the effective date of the Act for Partial Revision of the Commercial Code, etc. (October 1, 1982)

**Supplementary Provisions [Act No. 78 of December 2, 1983]**

- (1) This Act (excluding Article 1) shall come into force as from July 1, 1984.
- (2) Transitional measures necessary for organizations, etc. which have been established under the provisions of Acts as of the day preceding the effective date of this Act and those which shall be established under the provisions of the National Administrative Organization Act or the provisions of a Cabinet Order based on the provisions of a related Act revised by this Act (hereinafter referred to as a "Related Cabinet Order") after the effective date of this Act, and other transitional measures necessary for the establishment or revision or abolition of a Related Cabinet Order in accordance with the enforcement of this Act may be specified by a Cabinet Order.

**Supplementary Provisions [Act No. 81 of June 11, 1988] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the day on which 20 days have elapsed from the day of promulgation; provided, however, that the provisions set forth in the following items shall come into force as from the date specified in each item.

- (i) The parts pertaining to the provisions of Article 151-3, paragraphs (2) to (4) inclusive, Article 151-5, and Article 151-7 among the provisions which add

one Chapter after Chapter IV of the Real Property Registration Act in Article 1 of this Act, the provisions revising the Contents of the Commercial Registration Act, the parts pertaining to the provisions of Article 113-2, Article 113-3, Article 113-4, paragraph (1), paragraph (4) and paragraph (5), and Article 113-5 among the provisions which add one Chapter after Chapter III of the same Act in Article 2 of this Act, and the provisions of Articles 8 to 10 inclusive of the Supplementary Provisions: the date specified by a Cabinet Order within a period not exceeding one year from the day of promulgation

**Supplementary Provisions [Act No. 91 of December 22, 1989] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the date specified by a Cabinet Order within a period not exceeding two years from the day of promulgation.

**Supplementary Provisions [Act No. 52 of June 27, 1990] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the date specified by a Cabinet Order within a period not exceeding three months from October 1, 1990; provided, however, that the provisions revising Article 54-2, the provisions which add one Article after Article 92, the provisions revising Article 97-2 (excluding the provisions revising paragraph (2) of the same Article, the part which revises "buying and selling transactions" in the provisions revising paragraph (3) of the same Article to "transactions" and the part which revises "by a Cabinet Order" in the provisions revising paragraph (5) of the same Article to "by an ordinance of the competent ministry"), the provisions revising Article 97-3, paragraph (2), the provisions revising Article 97-4, the provisions revising Article 97-11, paragraph (3) (limited to the part which revises "the amount as specified in the payment contract" to "the contracted payment amount"), the provisions revising Article 146 (limited to the part which adds "Article 54-2, paragraph (2)" under "Article 52, paragraph (3)"), the provisions revising Article 161, item (i), the provisions revising Article 164 (limited to the part which adds one item after item (ii) of the same Article), and the provisions revising Article 166, item (i) and item (ii) (limited to the part which adds "Article 54-2, paragraph (2)" under "Article 52, paragraph (3)") shall come into force as from April 1, 1991.

(Transitional measures pertaining to permission for exchanges)

Article 2 (1) A Commodity Exchange which has received the permission under Article 8-2 of the Commodity Exchange Act prior to revision (hereinafter

referred to as the "Former Act") at the time of the enforcement of this Act shall be deemed to be a Commodity Exchange established with the permission under Article 8-2 of the Commodity Exchange Act after the revision (hereinafter referred to as the "New Act").

- (2) A Commodity Market which has been opened by a Commodity Exchange deemed to have been established with the permission under Article 8-2 of the New Act (hereinafter referred to as an "Exchange under the Former Act") pursuant to the provisions of the preceding paragraph (hereinafter referred to as an "Old Market") at the time of the enforcement of this Act shall be deemed to be a Commodity Market set forth in Article 2, paragraph (7) of the New Act opened by an Exchange under the Former Act.
- (3) A Listed Commodity pertaining to an Old Market which is listed at the time of the enforcement of this Act shall be deemed to be one that an Exchange under the Former Act has specified in its articles of incorporation as a Listed Commodity set forth in Article 2, paragraph (4) of the New Act.
- (4) Types of buying and selling transactions which have been carried out on an Old Market at the time of the enforcement of this Act shall be deemed to be those that an Exchange under the Former Act had determined in its articles of incorporation to be transactions set forth in Article 2, paragraph (6), item (i), or paragraph (8), item (i) (d) of the New Act pertaining to Listed Commodities.

(Transitional measures pertaining to license for a Futures Commission Merchant)

- Article 3 (1) A person who has obtained a license under Article 41, paragraph (1) of the Former Act (hereinafter referred to as a "License under the Former Act") at the time of the enforcement of this Act shall be deemed to have obtained a license under Article 41, paragraph (1) pertaining to a person set forth in paragraph (2), item (i) of the same Article of the New Act (hereinafter referred to as a "License under the New Act").
- (2) With regard to the application of the provisions of Article 41, paragraph (4) of the New Act to a person who is deemed to have obtained a License under the New Act pursuant to the provisions of the preceding paragraph, the day when said person obtained a License under the Former Act shall be deemed to be the day when said person obtained a License under the New Act.
  - (3) With regard to the application of the provisions of Article 46, paragraph (1) and Article 47, paragraph (1), item (i) of the New Act to a person who is deemed to have obtained a License under the New Act pursuant to the provisions of paragraph (1), "in the following cases (in the cases set forth in item (ii) or item (iii) for a Futures Commission Merchant who obtained a license for Second Class Commodity Transactions Brokerage Business)" in Article 46, paragraph (1) of the New Act shall be deemed to be replaced with

"in the cases set forth in item (ii) or item (iii)," and "matters set forth in Article 43, paragraph (1), item (i), item (i)-2 or item (iii) (matters set forth in item (i) or item (iii) of the same paragraph for a Futures Commission Merchant who obtained a license for Second Class Commodity Transactions Brokerage Business)" in Article 47, paragraph (1), item (i) of the New Act shall be deemed to be replaced with "matters set forth in Article 43, paragraph (1), item (i) or item (iii)," during the period from the effective date of this Act to the day on which said person has his/her license renewed as prescribed in Article 41, paragraph (4) of the New Act.

(4) With regard to the application of the provisions of Article 24, paragraph (1), item (iii) and item (iv) of the New Act to a person who had his/her License under the Former Act rescinded pursuant to the provisions of Article 52, paragraph (1) or Article 123 of the Former Act, said person shall be deemed to have had his/her License under the New Act rescinded pursuant to the provisions of Article 52, paragraph (1) or Article 123 of the New Act on the day of said rescission.

(Transitional measures pertaining to restriction on use of "Futures Commission Merchant Association," etc. in names)

Article 4 The provisions of Article 54-4 of the New Act shall not apply to a person who has, at the time of the enforcement of this Act, used certain characters which would be likely to mislead the public into believing that such person is the Futures Commission Merchant Association or a member thereof in his/her name, for six months after the enforcement of this Act.

(Transitional measures pertaining to buying and selling margins)

Article 5 Buying and selling margins which a member has deposited with an Exchange under the Former Act pursuant to the provisions of Article 79, paragraph (1) of the Former Act at the time of the enforcement of this Act shall be deemed to be clearing margins that said member has deposited with said Exchange under the Former Act pursuant to the provisions of Article 79, paragraph (1) of the New Act.

(Transitional measures pertaining to designation of a payment organization)

Article 6 A person who has received a designation under Article 97-2, paragraph (3) of the Former Act at the time of the enforcement of this Act shall be deemed to have received a designation under Article 97-2, paragraph (3) of the New Act.

(Transitional measures pertaining to approval for dispute resolution rules)

Article 7 (1) An Exchange under the Former Act shall create dispute resolution rules and obtain the approval of the competent minister within 30 days from

the effective date of this Act.

- (2) The provisions of Article 15, paragraph (1), item (iv) and paragraph (9) of the New Act shall apply mutatis mutandis to the approval under the preceding paragraph.
- (3) In the case where an Exchange under the Former Act violated the provisions of paragraph (1), the competent minister may rescind the permission for establishment thereof or order suspension of the whole or a part of its business for a fixed period not exceeding one year.
- (4) In the case where an Exchange under the Former Act violated the disposition under the provisions of the preceding paragraph, the representative, an agent, an employee, or other worker thereof who has committed such act shall be punished by imprisonment with work for not more than one year or by a fine of not more than a million yen, or shall be subject to cumulative imposition thereof.
- (5) In the case where the representative, an agent, an employee, or other worker of an Exchange under the Former Act committed a violation set forth in the preceding paragraph, not only the offender shall be punished but also said Exchange under the Former Act shall be punished by the fine set forth in the preceding paragraph.

(Transitional measures pertaining to the application of the provisions on exemption to the prohibition of establishing facilities similar to a Commodity Market)

- Article 8 (1) The competent minister shall give public notice with regard to the locations where Old Markets have been opened and Listed Commodities pertaining to the Old Markets which have been listed at the time of the enforcement of this Act, in an official gazette as on the effective date of this Act.
- (2) With regard to the Listed Commodities pertaining to the public notice under the provisions of the preceding paragraph, said Listed Commodities shall be deemed to be Listed Commodities publicly notified pursuant to the provisions of Article 147-2 of the New Act when applying the provisions of Article 145-3 of the New Act.
  - (3) The provisions of Article 148, paragraph (1) of the New Act shall apply mutatis mutandis to the competent minister set forth in paragraph (1).

(Transitional measures pertaining to penal provisions)

Article 9 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

(Delegation of other transitional measures to a Cabinet Order)



Article 10 In addition to what is provided for in Article 2 to the preceding Article of the Supplementary Provisions, the necessary transitional measures pertaining to the enforcement of this Act shall be specified by a Cabinet Order.

**Supplementary Provisions [Act No. 73 of June 5, 1992] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the date specified by a Cabinet Order within six months from the day of promulgation.

**Supplementary Provisions [Act No. 89 of November 12, 1993] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the effective date of the Administrative Procedures Act (Act No. 88 of 1993).

(Transitional measures pertaining to adverse disposition pertaining to an inquiry, etc.)

Article 2 In cases where, based on laws and regulations prior to the revision by this Act, an inquiry or any other request was made to a council or other collegiate organization to take procedures for presenting opinions, such as procedures for a hearing or the grant of opportunities for explanation as prescribed in Article 13 of the Administrative Procedures Act, the provisions then in force shall remain applicable to procedures for adverse dispositions pertaining to said inquiry or other request, notwithstanding the provisions of related Acts revised by this Act.

(Transitional measures pertaining to penal provisions)

Article 13 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

(Transitional measures in accordance with adjustment of provisions pertaining to hearing)

Article 14 A hearing or a council for hearing (excluding those pertaining to adverse dispositions) implemented pursuant to the provisions of Acts prior to the enforcement of this Act or procedures for these shall be deemed to have been implemented pursuant to the equivalent provisions of the related Acts revised by this Act.

(Delegation to a Cabinet Order)

Article 15 In addition to what is provided for in Article 2 to the preceding Article of the Supplementary Provisions, the necessary transitional measures pertaining to the enforcement of this Act shall be specified by a Cabinet Order.

**Supplementary Provisions [Act No. 72 of June 6, 1997]**

(Effective date)

(1) This Act shall come into force as from the effective date of the Act for Partial Revision of the Commercial Code, etc. (Act No. 71 of 1997).

(Transitional measures)

(2) With regard to a merger pertaining to a merger contract concluded prior to the enforcement of this Act, the provisions then in force shall remain applicable even after the enforcement of this Act.

(Transitional measures pertaining to the application of penal provisions)

(3) With regard to the application of penal provisions to acts committed prior to the enforcement of this Act and acts committed after the enforcement of this Act in cases where the provisions then in force shall remain applicable pursuant to the provisions of the preceding paragraph, the provisions then in force shall remain applicable.

**Supplementary Provisions [Act No. 42 of April 22, 1998] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the date specified by a Cabinet Order within one year from the day of promulgation; provided, however, that the provisions set forth in the following items shall come into force as from the date specified in each item.

- (i) The provisions of Article 8 of the Supplementary Provisions: the day of promulgation
- (ii) The provisions revising Article 15 (excluding the provisions revising paragraph (1), item (iv) of the same Article), the provisions revising Article 17, the provisions revising Article 20, and the provisions revising Article 147-2: the day on which three months have elapsed from the day of promulgation
- (iii) The provisions revising the title of Article 97 and the provisions revising paragraph (1) of the same Article (limited to the part deleting "collecting commission fees and"): December 31, 2004

(Transitional measures pertaining to permission for exchanges)

Article 2 (1) With regard to an application for permission filed prior to the

enforcement of the provisions set forth in item (ii) of the preceding Article, pursuant to the provisions of Article 8-2 of the Commodity Exchange Act prior to the revision pursuant to the provisions of the same item, and for which a disposition of permission or non-permission has not been made at the time of enforcing the provisions set forth in the same item, the provisions then in force shall remain applicable to the disposition of permission or non-permission for such application.

- (2) With regard to an application for approval filed prior to the enforcement of the provisions set forth in item (ii) of the preceding Article, pursuant to the provisions of Article 20, paragraph (1) of the Commodity Exchange Act prior to the revision pursuant to the provisions of the same item, and for which a disposition of permission or non-permission has not been made at the time of enforcing the provisions set forth in the same item, the provisions then in force shall remain applicable to the disposition of approval or disapproval for such application.

(Transitional measures pertaining to approval for market transactions surveillance committee rules)

Article 3 (1) A Commodity Exchange which has received the permission under Article 8-2 of the Commodity Exchange Act prior to the revision by this Act (hereinafter referred to as the "Former Act") at the time of the enforcement of this Act shall create market transactions surveillance committee rules and file an application for approval with the competent minister within 30 days from the effective date of this Act (hereinafter referred to as the "Effective Date").

- (2) The provisions of Article 15, paragraph (1), item (iv) of the Commodity Exchange Act revised by this Act (hereinafter referred to as the "New Act") shall apply mutatis mutandis to approval under the preceding paragraph.
- (3) In the case where an Exchange under the Former Act violated the provisions of paragraph (1), the competent minister may rescind the permission for establishment thereof or order suspension of the whole or a part of its business for a fixed period not exceeding one year.
- (4) In the case where an Exchange under the Former Act violated the disposition under the provisions of the preceding paragraph, the representative, an agent, an employee, or other worker thereof who has committed such act shall be punished by imprisonment with work for not more than two years or by a fine of not more than three million yen, or shall be subject to the cumulative imposition thereof.
- (5) In the case where the representative, an agent, an employee, or other worker of an Exchange under the Former Act committed a violation set forth in the preceding paragraph, not only the offender shall be punished but also said Exchange under the Former Act shall be punished by a fine of not more than

300 million yen.

(Transitional measures pertaining to a license for a Futures Commission Merchant)

- Article 4 (1) A person who has, at the time of the enforcement of this Act, obtained a license under Article 41, paragraph (1) of the Former Act pertaining to a person set forth in paragraph (2), item (i) of the same Article or a person set forth in item (ii) of the same paragraph (hereinafter referred to as a "License under the Former Act") shall be deemed to have obtained a license under Article 126, paragraph (1) of the New Act pertaining to a person set forth in paragraph (2), item (i) of the same Article or a person set forth in item (ii) of the same paragraph of the New Act (hereinafter referred to as a "License under the New Act"), respectively, with regard to Types of Licenses including a Commodity Market pertaining to said License under the Former Act (which refer to types of licenses prescribed in Article 126, paragraph (2) of the New Act; the same shall apply hereinafter), deeming a Commodity Market pertaining to a License under the Former Act to be a Commodity Market where brokerage of Transactions on a Commodity Market under Article 128, paragraph (1), item (iv) of the New Act is carried out.
- (2) With regard to a person who is deemed to have obtained a License under the New Act pursuant to the provisions of the preceding paragraph and to have obtained two or more licenses for a single Kind of License, the provisions of this Act shall apply, deeming said two or more licenses to be one license.
- (3) With regard to the application of the provisions of Article 126, paragraph (4) of the New Act to a person who is deemed to have obtained a License under the New Act pursuant to the provisions of the preceding two paragraphs, the day on which said person obtained a License under the Former Act (with regard to a person whose two or more licenses are deemed to be one license pursuant to the provisions of the preceding paragraph, the day on which said person obtained the last license of said two or more licenses) shall be deemed to be the day on which said person obtained a License under the New Act.
- (4) Conditions attached to a License under the Former Act pursuant to the provisions of Article 42, paragraph (1) of the Former Act shall be deemed to be conditions attached to a License under the New Act pursuant to the provisions of Article 127, paragraph (1) of the New Act.
- (5) With regard to the application of the provisions of Article 24, paragraph (1), item (iii) and item (iv), Article 129, paragraph (1), item (v), item (viii) and paragraph (2), Article 136-6, paragraph (1), item (i), Article 136-8, item (ii), Article 136-9, paragraph (1), item (i), Article 136-28, paragraph (1), item (i), Article 136-32, paragraph (1), item (i), Article 136-43, paragraph (1), item (iv) and item (v), and Article 136-52 of the New Act to a person who has his/her

License under the Former Act rescinded pursuant to the provisions of Article 52, paragraph (1) of the Former Act or Article 123 of the Former Act, said person shall be deemed to have had his/her License under the New Act rescinded pursuant to the provisions of Article 136-27, paragraph (1) of the New Act or Article 136-32, paragraph (1) of the New Act as on the day of said rescission.

(Transitional measures pertaining to establishment, etc. of a secondary business office)

Article 5 When a license under Article 46, paragraph (1) has been obtained prior to the Effective Date in cases set forth in paragraph (1), item (ii) or item (iii) of the same Article of the Former Act, and where a secondary business office is established or the location of the head office or a secondary business office is changed after the Effective Date, the notification under the provisions of Article 132, paragraph (1) of the New Act shall not be necessary.

(Transitional measures pertaining to a Sales Representative)

Article 6 (1) A Futures Commission Merchant (which means one prescribed in Article 41, paragraph (3) of the Former Act; the same shall apply hereinafter) who has, at the time of the enforcement of this Act, received registration as a Sales Representative (which means one prescribed in Article 91-2, paragraph (1) of the Former Act; the same shall apply hereinafter) governed by an Exchange under the Former Act pursuant to the provisions of Article 91-2, paragraph (1) of the Former Act shall be deemed to have received registration governed by the competent minister pursuant to the provisions of Article 136-4, paragraph (1) of the New Act.

(2) An Exchange under the Former Act shall notify matters for which it has received registration pursuant to the provisions of Article 91-2, paragraph (1) of the Former Act to the competent minister within 10 days from the Effective Date.

(3) With regard to the application of the provisions of Article 136-4, paragraph (7) of the New Act to a Futures Commission Merchant which is deemed to have received registration as a Sales Representative pursuant to the provisions of paragraph (1) of the same Article pursuant to the provisions of paragraph (1), the day on which said Futures Commission Merchant lastly received registration under the provisions of Article 91-2, paragraph (1) of the Former Act shall be deemed to be the day on which it received registration under the provisions of Article 136-4, paragraph (1) of the New Act.

(Transitional measures pertaining to restriction on use of "commodity futures association," etc. in names)

Article 7 The provisions of Article 136-39 of the New Act shall not apply to a person who has, at the time of the enforcement of this Act, used certain characters which are likely to mislead the public into believing that such person is a commodity futures association or a member thereof in his/her name, for six months after the enforcement of this Act.

(Transitional measures pertaining to the Futures Commission Merchant Association)

Article 8 (1) In the case where the Futures Commission Merchant Association prescribed in Article 54-3, paragraph (1) of the Former Act (hereinafter referred to as the "Association under the Former Act") has been established at the time of the enforcement of this Act, said Association under the Former Act may amend its articles of incorporation and receive the approval of the competent minister, even prior to the Effective Date, in accordance with the provisions of Article 136-41 and Article 136-44 of the New Act.

(2) In the case where the Association under the Former Act intends to receive the approval set forth in the preceding paragraph, it shall provide sanction rules and dispute resolution rules and receive the approval of the competent minister in addition.

(3) The provisions of Article 136-43, paragraph (1), item (i) of the New Act shall apply mutatis mutandis to the approval set forth in the preceding paragraph.

(4) An amendment to the articles of incorporation which received the approval set forth in paragraph (1) and the sanction rules and dispute resolution rules which received the approval set forth in paragraph (2) shall come into force as from the Effective Date.

(Transitional measures pertaining to penal provisions)

Article 9 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

(Delegation of other transitional measures to a Cabinet Order)

Article 10 In addition to what is provided for in Article 2 to the preceding Article of the Supplementary Provisions, the necessary transitional measures pertaining to the enforcement of this Act shall be specified by a Cabinet Order.

### **Supplementary Provisions [Act No. 107 of June 15, 1998] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from December 1, 1998; provided, however, that the provisions set forth in the following items shall come into

force as from the date specified in each item.

(i) The provisions which add one Chapter after Chapter IV of the Securities Exchange Act (limited to the part pertaining to Article 79-29, paragraph (1)) and the provisions revising Article 189, paragraph (2) and paragraph (4) in Article 1, the provisions of Article 21, the provisions revising Part II, Chapter X, Section 2, Subsection 1 of the Insurance Business Act (limited to the part pertaining to Article 265-6) in Article 22, the provisions of Article 23 and the provisions of Article 25 of this Act, and the provisions of Article 40, Article 42, Article 58, Article 136, Article 140, Article 143, Article 147, Article 149, Article 158, Article 164, Article 187 (excluding the provisions revising Article 4, item (lxxix) of the Ministry of Finance Establishment Act [Act No.144 of 1949]), and Articles 188 to 190 inclusive of the Supplementary Provisions: July 1, 1998

(Effect of dispositions, etc.)

Article 188 Dispositions, procedures, and other acts committed pursuant to the provisions of the respective Acts prior to revision (including any orders based on them; hereinafter the same shall apply in this Article) prior to the enforcement of this Act (with regard to the provisions set forth in the respective items of Article 1 of the Supplementary Provisions, said provisions), for which the provisions of the respective Acts after the revision have relevant provisions, shall be deemed to have been made pursuant to the relevant provisions of the respective Acts after the revision, except as otherwise provided by these Supplementary Provisions.

(Transitional measures pertaining to the application of penal provisions)

Article 189 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act (with regard to the provisions set forth in the respective items of Article 1 of the Supplementary Provisions, said provisions) and acts committed after the enforcement of this Act in cases where the provisions then in force shall remain applicable pursuant to the provisions of these Supplementary Provisions and in cases where the provisions prior to the revision shall remain in force pursuant to the provisions of these Supplementary Provisions, the provisions then in force shall remain applicable.

(Delegation of other transitional measures to a Cabinet Order)

Article 190 In addition to what is provided for in Articles 2 to 146 inclusive, Article 153, Article 169, and the preceding Article of the Supplementary Provisions, the necessary transitional measures pertaining to the enforcement of this Act shall be specified by a Cabinet Order.

(Review)

Article 191 (1) Even after the enforcement of this Act, the government shall take the necessary measures for maintaining the credibility of the insurance business when the government deems it necessary in consideration of the status of the implementation of systems pertaining to special measures for protecting insurance policyholders and the soundness of the management of the insurance business pursuant to the provisions of the New Insurance Business Act.

(2) In addition to what is provided for in the preceding paragraph, the government shall carry out a review of the financial systems revised by this Act within five years after the enforcement of this Act, in consideration of the status of the implementation of the provisions revised by this Act and the changes in social and economic situations surrounding the financial systems, and shall take the required measures based on the results, when the government deems it necessary.

#### **Supplementary Provisions [Act No. 102 of July 16, 1999] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the effective date of the Act for Partial Revision of the Cabinet Act (Act No. 88 of 1999); provided, however, that the provisions set forth in the following items shall come into force as from the date specified in each item.

(ii) The provisions of Article 10, paragraph (1) and paragraph (5), Article 14, paragraph (3), Article 23, Article 28, and Article 30 of the Supplementary Provisions: the day of promulgation

(Succession of a status of an official)

Article 3 A person who, at the time of the enforcement of this Act, has been an official (excluding a chairperson and a member of councils, etc. set forth in Article 8 of the National Government Organization Act [Act No. 120 of 1948], a member of the Central Disaster Prevention Council, a chairperson and a member of the Japanese Industrial Standards Committee, and those specified as similar persons by a Cabinet Order) of the prior and existing Prime Minister's Office, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Education, the Ministry of Health and Welfare, the Ministry of Agriculture, Forestry and Fisheries, the Ministry of International Trade and Industry, the Ministry of Transport, the Ministry of Posts and Telecommunications, the Ministry of Labor, the Ministry of Construction or the Ministry of Home Affairs (hereinafter referred to as a "Prior and Existing Ministry or Agency" in this Article) shall, unless an



appointment is announced separately, become a relevant official of the Cabinet Office, the Ministry of Internal Affairs and Communications, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Education, Culture, Sports, Science and Technology, the Ministry of Health, Labour and Welfare, the Ministry of Agriculture, Forestry and Fisheries, the Ministry of Economy, Trade and Industry, the Ministry of Land, Infrastructure and Transport, or the Ministry of the Environment after the enforcement of this Act (hereinafter referred to as a "New Ministry or Agency" in this Article), or a department or organization established thereunder, which is specified by a Cabinet Order as the New Office or Ministry or the department or organization established thereunder that corresponds to the Former Office or Ministry or the department or organization established thereunder to which said official belongs at the time of the enforcement of this Act, with the same working conditions.

(Transitional measures specified separately)

Article 30 In addition to what is provided for in Article 2 to the preceding Article, the necessary transitional measures pertaining to the enforcement of this Act shall be specified separately by an Act.

#### **Supplementary Provisions [Act No. 125 of August 13, 1999] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the date specified by a Cabinet Order within six months from the day of promulgation.

#### **Supplementary Provisions [Act No. 151 of December 8, 1999] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from April 1, 2000.

Article 4 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

#### **Supplementary Provisions [Act No. 160 of December 22, 1999] [Extract]**

(Effective date)

Article 1 This Act (excluding Article 2 and Article 3) shall come into force as from January 6, 2001.

**Supplementary Provisions [Act No. 96 of May 31, 2000] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from December 1, 2000 (hereinafter referred to as the "Effective Date").

(Effect of dispositions, etc.)

Article 49 Dispositions, procedures, and other acts conducted pursuant to the provisions of the respective Acts before the revision prior to the enforcement of this Act (with regard to the provisions set forth in the respective items of Article 1 of the Supplementary Provisions, said provisions) for which the provisions of the respective Acts after the revision have relevant provisions, shall be deemed to have been made pursuant to the relevant provisions of the respective Acts after the revision, except as otherwise provided by these Supplementary Provisions.

(Transitional measures pertaining to the application of penal provisions)

Article 50 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

(Delegation of other transitional measures to a Cabinet Order)

Article 51 In addition to what is provided for in Articles 2 to 11 inclusive, and the preceding Article of the Supplementary Provisions, the necessary transitional measures pertaining to the enforcement of this Act shall be specified by a Cabinet Order.

(Review)

Article 52 In the case where five years have elapsed after the enforcement of this Act, the government shall carry out a review of the systems pertaining to securities exchanges prescribed in Article 2, paragraph (16) of the New Securities Exchange Act and financial futures exchanges prescribed in Article 2, paragraph (6) of the New Financial Futures Transactions Act, in consideration of the status of implementation of the New Securities Exchange Act and the New Financial Futures Transactions Act and the changes in social and economic situations, and shall take any required measures based on the results, when the government deems it necessary.

**Supplementary Provisions [Act No. 129 of November 28, 2001] [Extract]**

(Effective date)

(1) This Act shall come into force as from April 1, 2002.

(Transitional measures pertaining to the application of penal provisions)

(2) With regard to the application of penal provisions to acts committed prior to the enforcement of this Act and acts committed after the enforcement of this Act in cases where the provisions then in force shall remain applicable pursuant to the provisions of this Act, the provisions then in force shall remain applicable

#### **Supplementary Provisions [Act No. 45 of May 29, 2002]**

(Effective date)

(1) This Act shall come into force as from the date specified by a Cabinet Order within one year from the day of promulgation.

(Transitional measures)

(2) In the case where the Effective Date of this Act is prior to the effective date of the provisions of Article 2 of the Act for Partial Revision of the Agricultural Cooperative Association Act, etc. (Act No. 94 of 2001), in Article 9, "Article 30, paragraph (12)" in the provisions revising Article 30, paragraph (12) of the Agricultural Cooperatives Act shall be replaced with "Article 30, paragraph (11)."

#### **Supplementary Provisions [Act No. 54 of May 30, 2003] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from April 1, 2004.

(Transitional measures pertaining to the application of penal provisions)

Article 38 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act, the provisions then in force shall remain applicable.

(Delegation of other transitional measures to a Cabinet Order)

Article 39 In addition to what is provided for in this Act, the necessary transitional measures pertaining to the enforcement of this Act shall be specified by a Cabinet Order.

(Review)

Article 40 In the case where five years have elapsed after the enforcement of this Act, the government shall carry out a review of the financial systems

revised by this Act, in consideration of the status of the implementation of the provisions revised by this Act and the changes in social and economic situations, and shall take any required measures based on the results, when the government deems it necessary.

### **Supplementary Provisions [Act No. 43 of May 12, 2004] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the date specified by a Cabinet Order within one year from the day of promulgation; provided, however, that the provisions set forth in the following items shall come into force as from the date specified in each item.

- (i) The provisions which change Chapter VI to Chapter VII and add one Chapter before the same Chapter (limited to the part pertaining to Article 299 and Article 314): the day on which the first registration under Article 293 of the Commodity Exchange Act revised by this Act (hereinafter referred to as the "New Act") becomes effective
- (ii) The provisions of Article 5, Article 7, paragraph (1), Article 14, paragraph (1) and paragraph (2), Article 18, Article 19, paragraphs (1) to (4) inclusive and paragraph (7), and Article 23 of the Supplementary Provisions: the day of promulgation of this Act
- (iii) The provisions of Article 30 and Article 33 of the Supplementary Provisions: the day specified by a Cabinet Order within nine months from the day of promulgation
- (iv) The provisions of Article 31 of the Supplementary Provisions: the day of the promulgation of the Act for Partial Revision of the Commercial Code, etc. for Introducing a System of Electronic Public Notice (Act No. 87 of 2004) or the day of promulgation of this Act, whichever comes later

(Transitional measures pertaining to permission for a Commodity Exchange)

Article 2 A Commodity Exchange which has, at the time of the enforcement of this Act, received the permission under Article 8-2 of the Commodity Exchange Act prior to the revision by this Act (hereinafter referred to as the "Former Act") shall be deemed to be a Member Commodity Exchange established with the permission under Article 9 of the New Act.

(Transitional measures pertaining to registration of a Commodity Exchange)

Article 3 Matters registered in a Commodity Exchange register set forth in Article 109, paragraph (2) of the Former Act with regard to a Commodity Exchange prior to the enforcement of the New Act pursuant to the provisions of Articles 102 to 108 inclusive of the Former Act shall be deemed to have been

registered in a Member Commodity Exchange register set forth in Article 25, paragraph (2) of the New Act as on the Effective Date of this Act (hereinafter referred to as the "Effective Date") pursuant to the provisions of Articles 20 to 24 inclusive, Article 72, Article 73, or Article 147 of the New Act.

(Transitional measures pertaining to membership guarantee funds)

Article 4 Membership guarantee funds (except for those to be allocated for damages, for which the provisions then in force shall remain applicable pursuant to the provisions of Article 9 of the Supplementary Provisions) which have been deposited pursuant to the provisions of Article 38, paragraph (1) of the Former Act at the time of the enforcement of this Act shall be deemed to be the guarantee funds deposited pursuant to the provisions of Article 101, paragraph (1) of the New Act.

(Transitional measures pertaining to amendment of articles of incorporation, etc. of a Commodity Exchange)

Article 5 A Commodity Exchange shall amend its articles of incorporation, market rules, brokerage contract rules, dispute resolution rules, and market transactions surveillance committee rules in accordance with the provisions of Article 155 and Article 156 of the New Act and receive the approval of the competent minister by the Effective Date. In this case, such approval shall become effective as from the Effective Date.

(Transitional measures pertaining to clearing margins)

Article 6 (1) Clearing margins (limited to those for transactions carried out based on a Commodity Exchange member's own account and except for those to be allocated for damages, for which the provisions then in force shall remain applicable pursuant to the provisions of Article 9 of the Supplementary Provisions) which have been deposited pursuant to the provisions of Article 79, paragraph (1) of the Former Act at the time of the enforcement of this Act shall be deemed to be clearing margins (limited to those which a Member, etc. set forth in item (i) of the same paragraph deposits for Transactions on a Commodity Market carried out based on his/her own account in the case set forth in the same item) which are deposited pursuant to the provisions of Article 103, paragraph (1) of the New Act in the case where said clearing margins are for transactions for which settlement is made by the method set forth in Article 105, item (i) of the New Act, and as clearing margins (limited to those, in the case set forth in item (i) of the same paragraph, which are deposited for Transactions on a Commodity Market carried out based on a Member, etc.'s own account set forth in (a) of the same item in the case set forth in (a) of the same item, and those, in the case set forth in item (ii) of the

same paragraph, which are deposited for Commodity Clearing Transactions which a Member, etc. set forth in item (a) of the same item deposits with a Clearing Participant based on his/her own account in the case set forth in (a) of the same item) which are deposited pursuant to the provisions of Article 179, paragraph (1) of the New Act in the case where said clearing margins are for transactions for which settlement is made by the method set forth in Article 105, item (ii) of the New Act.

- (2) A Commodity Exchange shall return clearing margins (limited to those for transactions which a person has consigned to a member of the Commodity Exchange to be carried out based on such person's own account and except for those to be allocated for damages, for which the provisions then in force shall remain applicable pursuant to the provisions of Article 9 of the Supplementary Provisions) which have been, at the time of the enforcement of this Act, deposited pursuant to the provisions of Article 79, paragraph (1) of the Former Act, to the member who deposited said clearing margins, without delay, after the enforcement of this Act.

(Transitional measures pertaining to Business of Assuming Commodity Transaction Debts)

Article 7 (1) In the case where a Commodity Exchange which has operated a business equivalent to the Business of Assuming Commodity Transaction Debts (which refers to the Business of Assuming Commodity Transaction Debts prescribed in Article 2, paragraph (12) of the New Act; the same shall apply hereinafter) pursuant to the provisions of Article 81, paragraph (2) of the Former Act since before the enforcement of this Act intends to continue said business, it shall receive the approval of the competent minister by the Effective Date in accordance with the provisions of Article 173 of the New Act. In this case, the approval shall become effective as from the Effective Date.

- (2) When a Commodity Exchange received approval pursuant to the provisions of the preceding paragraph, special clearing funds (limited to those deposited by a member who became a Clearing Participant of said Commodity Exchange as a Commodity Clearing Organization as on the Effective Date, and except for those to be allocated for damages, for which the provisions then in force shall remain applicable pursuant to the provisions of Article 9 of the Supplementary Provisions) which have been deposited with said Commodity Exchange pursuant to the provisions of Article 81, paragraph (3) of the Former Act at the time of the enforcement of this Act shall be deemed to be clearing deposits deposited with said Commodity Exchange as a Commodity Clearing Organization pursuant to the provisions of Article 180, paragraph (1) of the New Act.

- (3) A Commodity Exchange shall return the portions other than those deemed to

be clearing deposits pursuant to the provisions of the preceding paragraph among special clearing funds (except for those to be allocated for damages, for which the provisions then in force shall remain applicable pursuant to the provisions of Article 9 of the Supplementary Provisions) which have been deposited pursuant to the provisions of Article 81, paragraph (3) of the Former Act at the time of the enforcement of this Act, to the member who deposited said special clearing fund, without delay, after the enforcement of this Act.

(Transitional measures pertaining to special collateral money)

Article 8 Special collateral money (except for that to be allocated for damages, for which the provisions then in force shall remain applicable pursuant to the provisions of the following Article) which has been deposited pursuant to the provisions of Article 84-2, paragraph (1) of the Former Act at the time of the enforcement of this Act shall be deemed to be special collateral money deposited pursuant to the provisions of Article 109, paragraph (1) of the New Act.

(Transitional measures pertaining to damages due to default)

Article 9 With regard to compensation for damages caused by a member of a Commodity Exchange to other members or to said Commodity Exchange due to a default of obligation based on the Transactions on a Commodity Market prior to the Effective Date, the provisions then in force shall remain applicable.

(Transitional measures pertaining to security money for acceptance of consignment)

Article 10 (1) A Commodity Exchange shall return security money for acceptance of consignment (except for those pertaining to payment or recovery, for which the provisions then in force shall remain applicable pursuant to the provisions of the following paragraph or paragraph (3)) which has been deposited pursuant to the provisions of Article 97-2, paragraph (1) of the Former Act at the time of the enforcement of this Act, to the member who deposited said security money for acceptance of consignment, without delay, after the enforcement of this Act.

(2) With regard to payment of security money for acceptance of consignment for a claim which was made pursuant to the provisions of Article 97-3, paragraph (1) of the Former Act prior to the Effective Date by a person who consigned to a member of a Commodity Exchange Transactions on a Commodity Market, the provisions then in force shall remain applicable.

(3) With regard to payment and recovery of security money for acceptance of consignment deposited by an entity which was a Futures Commission Merchant when the permission under Article 126, paragraph (1) of the Former

Act ceased to be effective or the permission under the same paragraph was rescinded prior to the Effective Date, the provisions then in force shall remain applicable.

(Transitional measures pertaining to completion of settlement of transactions)  
Article 11 In the case where the permission under Article 126, paragraph (1) of the Former Act was rescinded, the permission under the same paragraph ceased to be effective, or brokerage of Transactions on a Commodity Market was suspended pursuant to the provisions of the Former Act or the articles of incorporation of a Commodity Exchange, prior to the Effective Date, or where the permission under the same paragraph ceased to be effective as on the Effective Date (excluding the case where the permission under Article 126, paragraph (1) of the Former Act ceased to be effective pursuant to the provisions of Article 14, paragraph (4) of the Supplementary Provisions), and when an entity which was a Futures Commission Merchant had not completed settlement of Transactions on a Commodity Market pertaining to said brokerage by the Effective Date, the provisions then in force shall remain applicable with regard to said transactions.

(Disposition and penal provisions in supervising a Commodity Exchange)  
Article 12 (1) In the case where a Commodity Exchange violated the provisions of Article 5, Article 6, paragraph (2), Article 7, paragraph (3), or Article 10, paragraph (1) of the Supplementary Provisions, the competent minister may order a suspension of the whole or a part of its business for a fixed period not exceeding one year.  
(2) In the case where a Commodity Exchange violated the disposition pursuant to the provisions of the preceding paragraph, the representative, an agent, an employee, or other worker thereof shall be punished by imprisonment with work for not more than two years or by a fine of not more than three million yen, or shall be subject to a cumulative imposition thereof.  
(3) In the case where the representative, an agent, an employee, or other worker of a Commodity Exchange committed a violation set forth in the preceding paragraph with regard to the business or property of said Commodity Exchange, not only the offender shall be punished but also said Exchange under the Former Act shall be punished by a fine of not more than 300 million yen.

(Transitional measures pertaining to customer margins)  
Article 13 (1) A Futures Commission Merchant shall deposit money and securities (except for those specified by an Order of the competent ministry) which have been, at the time of the enforcement of this Act, deposited as



customer margins pursuant to the provisions of Article 97, paragraph (1) of the Former Act, to a Commodity Exchange which has opened the Commodity Market pertaining to said transactions in the case settlement of said transactions is made by the method set forth in Article 105, item (i) of the New Act, and to a Commodity Exchange which conducts the Business of Assuming Commodity Transaction Debts pertaining to said transactions in the case settlement of said transactions is made by the method set forth in item (ii) of the same Article.

- (2) Money and securities deposited with a Commodity Exchange pursuant to the provisions of the preceding paragraph shall be deemed to be clearing margins which are deposited pursuant to the provisions of Article 103, paragraph (1) of the New Act (limited to those to be deposited by a customer set forth in item (i) of the same paragraph in the case set forth in the same item) with regard to transactions whose settlement is made by the method set forth in the Article 105, item (i) of the New Act, and as clearing margins which are deposited pursuant to the provisions of Article 179, paragraph (1) of the New Act (limited to those, in the case set forth in item (i) of the same paragraph, to be deposited by a customer set forth in (b) of the same item in the case set forth in (b) of the same item, and to those, in the case set forth in item (ii) of the same paragraph, to be deposited by a clearing intermediation customer set forth in (b) of the same item in the case set forth in (b) of the same item) with regard to transactions whose settlement is made by the method set forth in Article 105, item (ii) of the New Act.
- (3) In the case where a Futures Commission Merchant violated the provisions of paragraph (1), the competent minister may rescind the license for said Futures Commission Merchant under Article 190 of the New Act, order the suspension of Transactions on a Commodity Market or Commodity Transactions Brokerage Business (which refers to the Commodity Transactions Brokerage Business prescribed in Article 2, paragraph (17) of the New Act; the same shall apply hereinafter) for a fixed period not exceeding six months, order a change to the method of the Commodity Transactions Brokerage Business, and order other matters necessary for supervision.
- (4) A person who violated an order pursuant to the provisions of the preceding paragraph shall be punished by imprisonment with work for not more than two years or by a fine of not more than three million yen, or shall be subject to the cumulative imposition thereof.
- (5) In the case where the representative, an agent, an employee, or other worker of a Futures Commission Merchant committed a violation set forth in the preceding paragraph with regard to the business or property of said Futures Commission Merchant, not only the offender shall be punished but also said Futures Commission Merchant shall be punished by a fine of not more than

300 million yen.

(Transitional measures pertaining to license for a Futures Commission Merchant)

Article 14 (1) A person who intends to obtain a license under Article 190, paragraph (1) of the New Act may file an application for the license in accordance with the provisions of Article 192 of the New Act even prior to the Effective Date.

(2) In the case where an application for a license was filed pursuant to the provisions of the preceding paragraph, the competent minister may grant the license in accordance with the provisions of Articles 190 to 194 inclusive of the New Act even prior to the Effective Date. In this case, a person who obtained said license shall be deemed to have obtained the license under Article 190, paragraph (1) of the New Act as on the Effective Date.

(3) In the case where a disposition has not been made with regard to an application for a license set forth in paragraph (1) at the time of the enforcement of this Act, a person who filed said application (limited to a person who has presently obtained a license under Article 126, paragraph (1) of the Former Act at the time of the enforcement of this Act) shall be deemed to have obtained a license under Article 190, paragraph (1) of the New Act until said disposition is made.

(4) With regard to a person who is deemed to have obtained a license under Article 190, paragraph (1) of the New Act pursuant to the provisions of the preceding two paragraphs, the license under Article 126, paragraph (1) of the Former Act shall cease to be effective as on the Effective Date.

(Transitional measures pertaining to public notice, etc. of discontinuance of business, etc.)

Article 15 The provisions of Article 197, paragraph (3) of the New Act shall apply to abolition, merger (limited to a merger in the case where a juridical person surviving the merger or a juridical person established by the merger does not engage in Commodity Transactions Brokerage Business), or dissolution due to any reason other than the merger or bankruptcy of a Commodity Transactions Brokerage Business on and after the day on which 30 days have elapsed from the Effective Date.

(Transitional measures pertaining to delivery of a document and explanation prior to conclusion of Brokerage Contracts)

Article 16 The provisions of Article 217 and Article 218 of the New Act shall apply to Brokerage Contracts (which means Brokerage Contracts prescribed in Article 217, paragraph (1) of the New Act) which is concluded by a Futures

Commission Merchant after the enforcement of this Act.

(Transitional measures pertaining to registration of a Sales Representative)

Article 17 (1) A Sales Representative (limited to one pertaining to a person who is deemed to have obtained a license under Article 190, paragraph (1) of the New Act pursuant to the provisions of Article 14, paragraph (2) or paragraph (3) of the Supplementary Provisions) who has received registration pursuant to the provisions of Article 136-4, paragraph (1) of the Former Act at the time of the enforcement of this Act shall be deemed to have received registration pursuant to the provisions of Article 200, paragraph (1) of the New Act as on the Effective Date. In this case, the provisions of paragraph (6) of the same Article shall not apply.

(2) In the case set forth in the preceding paragraph, the period prescribed in Article 200, paragraph (7) of the New Act shall be counted as being from the day of registration or renewal of registration under the Former Act.

(Transitional measures pertaining to establishment of a Consignor Protection Membership Corporation)

Article 18 (1) A person (limited to a person who has obtained a license in accordance with the provisions of Articles 190 to 194 inclusive of the New Act, pursuant to the provisions of Article 14, paragraph (2) of the Supplementary Provisions) who intends to become a founder or a member of a Consignor Protection Membership Corporation (which refers to a Consignor Protection Membership Corporation prescribed in Article 269, paragraph (4) of the New Act; the same shall apply hereinafter) may create articles of incorporation, hold an organizational meeting, and carry out other acts necessary for establishing the Consignor Protection Membership Corporation and any acts necessary for joining the Consignor Protection Membership Corporation, in accordance with the provisions of Chapter VI, Section 2 of the New Act, even prior to the Effective Date.

(2) A Consignor Protection Membership Corporation established prior to the Effective Date pursuant to the provisions of the preceding paragraph may file an application for registration under Article 293 of the New Act, file an application for the approval of market rules under Article 302, paragraph (1) of the New Act, and carry out preparatory acts necessary for these, in accordance with the provisions of Chapter VI, Section 3 of the New Act, even prior to the Effective Date.

(3) In the case where an application for registration under Article 293 of the New Act or an application for approval for market rules under Article 302, paragraph (1) of the New Act was made pursuant to the provisions of the preceding paragraph, the competent minister may grant said registration or

approval even prior to the Effective Date in accordance with the provisions of Articles 293 to 295 inclusive, or Article 302 of the New Act. In this case, said registration or approval shall become effective as from the Effective Date.

(Transitional measures pertaining to succession of businesses, etc. to the Consumer Protection Fund)

Article 19 (1) The Association of Compensation Funds for Consigned Liabilities in Commodity Futures, Inc. (hereinafter referred to as the "Association of Compensation Funds" in this Article) established on October 31, 1975 may propose to the Consignor Protection Membership Corporation that said Consignor Protection Membership Corporation should succeed to the entire businesses operated by and the entire assets and liabilities held by said Association of Compensation Funds during the period until the day specified by a Cabinet Order.

- (2) In the case where a proposal pursuant to the provisions of the preceding paragraph was made, a Consignor Protection Membership Corporation shall obtain approval at a General Meeting (which refers to a general meeting prescribed in Article 285, paragraph (1) of the New Act; the same shall apply in the following paragraph and paragraph (4)) of said Consignor Protection Membership Corporation when it intends to consent to said proposal.
- (3) In the case where a Consignor Protection Membership Corporation files an application for registration under Article 293 of the New Act (including registration in accordance with the provisions of Article 293 of the New Act which is made prior to the Effective Date pursuant to the provisions of paragraph (3) of the preceding Article; hereinafter the same shall apply in this Article), and when it has already obtained a resolution of approval from a General Meeting pursuant to the provisions of the preceding paragraph, it shall file an application with the competent minister for approval for succession from the Association of Compensation Funds, along with an application for said registration.
- (4) When a Consignor Protection Membership Corporation obtained a resolution of approval from a General Meeting pursuant to the provisions of paragraph (2) after an application for registration under Article 293 of the New Act, it shall file an application for the approval of the competent minister without delay.
- (5) When approval under paragraph (3) or the preceding paragraph was granted, businesses operated by and assets and liabilities held by the Association of Compensation Funds shall be succeeded by said Consignor Protection Membership Corporation (referred to as the "Consumer Protection Fund" in paragraph (8) and paragraph (9)) as a Consumer Protection Fund (which means the Consumer Protection Fund prescribed in Article 296 of the New Act; the same shall apply hereinafter) as on the day on which the Consignor

Protection Membership Corporation received said approval (when the day is prior to the day on which the Consignor Protection Membership Corporation pertaining to said approval received registration under Article 293 of the New Act [the Effective Date in the case where the Consignor Protection Membership Corporation received registration in accordance with the provisions of Article 293 of the New Act prior to the Effective Date pursuant to the provisions of paragraph (3) of the preceding Article], the same day), and the Association of Compensation Funds shall be dissolved at that time. In this case, the provisions pertaining to the dissolution and liquidation of juridical persons in other laws and regulations shall not apply.

- (6) Registration of a dissolution in the case where the Association of Compensation Funds was dissolved pursuant to the provisions of the preceding paragraph shall be specified by a Cabinet Order.
- (7) With regard to the application of the provisions of Article 295, paragraph (1) (limited to the part pertaining to item (i)) in the case where a Consignor Protection Membership Corporation filed an application for registration under Article 293 of the New Act and an application for approval for succession from the Association of Compensation Funds simultaneously pursuant to the provisions of paragraph (3), "shall be" in the same item shall be deemed to be replaced with "shall be (with regard to an application for registration filed along with an application for approval pursuant to the provisions of Article 19, paragraph (3) of the Supplementary Provisions of the Act for Partial Revision of the Commodity Exchange Act [Act No. 43 of 2004], calculation shall be done including assets and liabilities held by the Association of Compensation Fund pertaining to said application for approval, if the competent minister intends to grant said approval)".
- (8) The Consumer Protection Fund which succeeded to the business of the Association of Compensation Funds pursuant to the provisions of paragraph (5) may operate businesses (referred to as "Succeeded Businesses" in the following paragraph) of the Association of Compensation Funds pertaining to said succession, notwithstanding the provisions of Article 301 of the New Act.
- (9) In the case where the Consumer Protection Fund set forth in the preceding paragraph operates businesses specified by an ordinance of the competent ministry as being similar businesses to those set forth in Article 269, paragraph (3), item (i) of the New Act among Succeeded Businesses, said businesses shall be deemed to be businesses set forth in the same item.

(Transitional measures pertaining to restriction on use of "Consumer Protection Fund," etc. in names)

Article 20 (1) The provisions of Article 271, paragraph (2) of the New Act shall not apply to a person who has used characters of the "Consignor Protection

Membership Corporation" in his/her name at the time of the enforcement of this Act, until the day on which six months have elapsed from the Effective Date.

(2) The provisions of Article 297, paragraph (2) of the New Act shall not apply to a person who has used characters of the "Consumer Protection Fund" in his/her name at the time of the enforcement of this Act, until the day on which six months have elapsed from the Effective Date.

(Effect of dispositions, etc.)

Article 21 Dispositions, procedures, and other acts conducted pursuant to the provisions of the Former Act prior to the Effective Date, for which the New Act has relevant provisions, shall be deemed to have been made pursuant to the relevant provisions of the New Act, except as otherwise provided by these Supplementary Provisions.

(Transitional measures pertaining to the application of penal provisions)

Article 22 With regard to the application of penal provisions to acts committed prior to the Effective Date, the provisions then in force shall remain applicable.

(Delegation of other transitional measures to a Cabinet Order)

Article 23 In addition to what is provided for in Article 2 to the preceding Article of the Supplementary Provisions, the necessary transitional measures pertaining to the enforcement of this Act (including transitional measures pertaining to penal provisions) shall be specified by a Cabinet Order.

(Review)

Article 24 The government shall carry out a review of the Commodity Exchange system revised by this Act within five years after the enforcement of this Act, in consideration of the status of the implementation of the provisions revised by this Act and the changes in social and economic situations surrounding the commodity futures markets, and shall take the required measures based on the results, when the government deems it necessary.

### **Supplementary Provisions [Act No. 76 of June 2, 2004] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the effective date of the Bankruptcy Act (Act No. 75 of 2004; referred to as the "New Bankruptcy Act" in paragraph (8) of the following Article of this Act and Article 3, paragraph (8), Article 5, paragraph (8), paragraph (16), and paragraph (21), Article 8, paragraph (3) and Article 13 of the Supplementary Provisions).

(Delegation to a Cabinet Order)

Article 14 In addition to what is provided for in Article 2 to the preceding Article of the Supplementary Provisions, the necessary transitional measures pertaining to the enforcement of this Act shall be specified by a Cabinet Order.

**Supplementary Provisions [Act No. 87 of June 9, 2004] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the date specified by a Cabinet Order within one year from the day of promulgation.

**Supplementary Provisions [Act No. 88 of June 9, 2004] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the date specified by a Cabinet Order within five years from the day of promulgation (hereinafter referred to as the "Effective Date").

(Transitional measures pertaining to the application of penal provisions)

Article 135 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act and acts committed after the enforcement of this Act in cases where the provisions then in force shall remain applicable pursuant to the provisions of these Supplementary Provisions and cases where the provisions prior to the revision shall remain in force pursuant to the provisions of these Supplementary Provisions, the provisions then in force shall remain applicable.

(Delegation of other transitional measures to a Cabinet Order)

Article 136 In addition to what is provided for in these Supplementary Provisions, the necessary transitional measures pertaining to the enforcement of this Act shall be specified by a Cabinet Order.

(Review)

Article 137 In the case where five years have elapsed after the enforcement of this Act, the government shall carry out a review of the settlement system pertaining to transactions of shares, etc. revised by this Act, in consideration of the status of implementation of the provisions revised by this Act and the changes in social and economic situations, and shall take required measures based on the results, when the government deems it necessary.

**Supplementary Provisions [Act No. 124 of June 18, 2004] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the effective date of the New Real Property Registration Act.

(Transitional measures)

Article 2 In the case where the Effective Date of this Act comes after the effective date of the Act Concerning the Protection of Personal Information Held by Administrative Organs, in Article 52, "Article 114-3" in the provisions revising Article 114-3, and Articles 117 to 119 inclusive of the Commercial Registration Act shall be deemed to be replaced with "Article 114-4."

**Supplementary Provisions [Act No. 147 of December 1, 2004] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the date specified by a Cabinet Order within six months from the day of promulgation.

**Supplementary Provisions [Act No. 154 of December 3, 2004] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from the date specified by a Cabinet Order within six months from the day of promulgation (hereinafter referred to as the "Effective Date").

(Effect of dispositions, etc.)

Article 121 Dispositions, procedures, and other acts conducted pursuant to the provisions of the respective Acts (including orders based on them; hereinafter the same shall apply in this Article) prior to the enforcement of this Act, for which the provisions of the respective Acts after the revision have relevant provisions, shall be deemed to have been made pursuant to the relevant provisions of the respective Acts after the revision, except as otherwise provided by these Supplementary Provisions.

(Transitional measures pertaining to penal provisions)

Article 122 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act and acts committed after the enforcement of this Act in cases where the provisions then in force shall remain applicable pursuant to the provisions of these Supplementary Provisions and in cases where the provisions prior to the revision shall remain in force pursuant to the



provisions of these Supplementary Provisions, the provisions then in force shall remain applicable.

(Delegation of other transitional measures to a Cabinet Order)

Article 123 In addition to what is provided for in these Supplementary Provisions, the necessary transitional measures pertaining to the enforcement of this Act shall be specified by a Cabinet Order.

(Review)

Article 124 The government shall carry out a review of the status of the implementation of this Act within three years after the enforcement of this Act, and take any required measures based on the results, when the government deems it necessary.

#### **Supplementary Provisions [Act No. 159 of December 8, 2004] [Extract]**

(Effective date)

Article 1 This Act shall come into force as from July 1, 2005.

#### **Supplementary Provisions [Act No. 87 of July 26, 2005] [Extract]**

This Act shall come into force as from the effective date of the Companies Act.

#### **Supplementary Provisions [Act No. 50 of June 2, 2006] [Extract]**

(Effective date)

(1) This Act shall come into force as from the effective date of the General Association and Foundation Act.

(Adjustment provisions)

(2) In the case where the effective date of the Act for Partial Revision of the Penal Code, etc. for Coping with Internationalization and Organization of Crimes and Advancement of Information Processing (Act No. of 2006) comes after the Effective Date, with regard to the application of the provisions of item (lxii) of the appended table of the Act on Punishment of Organized Crimes and Control of Crime Proceeds (Act No. 136 of 1999; referred to as the "Organized Crime Punishment Act" in the following paragraph) during the period between the Effective Date and the day preceding the effective date of the same Act, "the crime set forth in Article 157 (aggravated breach of trust of directors, etc.) of the Intermediate Corporation Act (Act No. 49 of 2001)" in the same item shall be deemed to be replaced with "the crime set forth in Article 334

(aggravated breach of trust of directors, etc.) of the Act Concerning General Corporations and General Foundations (Act No. 48 of 2006)."

- (3) In addition to what is provided for in the preceding paragraph, in the case set forth in the same paragraph, with regard to the application of the provisions of the Organized Crime Punishment Act during the period until the day preceding the effective date of the Act for Partial Revision of the Penal Code, etc. for Coping with Internationalization and Organization of Crimes and Advancement of Information Processing, the crime of Article 157 (aggravated breach of trust of directors, etc.) of the Old Intermediate Corporation Act in the case where the provisions then in force shall remain applicable pursuant to the provisions of Article 457 shall be deemed to be the crime set forth in item (lxii) of the appended table of the Organized Crime Punishment Act.

### **Supplementary Provisions [Act No. 65 of June 14, 2006] [Extract]**

(Effective Date)

Article 1 This Act shall come into force as from the date specified by a Cabinet Order within one year and six months from the day of promulgation (hereinafter referred to as the "Effective Date"); provided, however, that the provisions set forth in the following items shall come into force as from the date specified in each item.

- (i) The provisions of Article 1, the provisions revising Article 30-4, paragraph (2), item (ii) of the Agricultural Cooperatives Act in Article 8 (limited to the portion revising "Article 197, paragraph (1), items (i) to (iv) or item (vii) or paragraph (2), Article 198, items (i) to (x), item (xviii) or item (xix)" to "Article 197, Article 197-2, items (i) to (x) or item (xiii), Article 198, item (viii)"), the provisions revising Article 34-4, paragraph (2), item (ii) of the Fisheries Cooperative Association Act in Article 9 (limited to the portion revising "Article 197, paragraph (1), items (i) to (iv) or item (vii) or paragraph (2), Article 198, items (i) to (x), item (xviii) or item (xix)" to "Article 197, Article 197-2, items (i) to (x) or item (xiii), Article 198, item (viii)"), the provisions revising Article 5-4, item (iv) of the Act on Financial Businesses by Cooperative in Article 11 (limited to the portions revising "Article 197, paragraph (1), items (i) to (iv) or item (vii) or paragraph (2)" to "Article 197," and "Article 198, items (i) to (x), item (xviii) or item (xix) (Offense of Solicitation Without Notification, etc. of Securities)" to "Article 197-2, items (i) to (x) or item (xiii) (Offense of Solicitation Without Notification, etc. of Securities), Article 198, item (viii) (Offense of Violation of Prohibition or Suspension Order by a Court)"), the provisions revising Article 34, item (iv) of the Shinkin Bank Act in Article 13 (limited to the portions revising "Article 197, paragraph (1), items (i) to (iv) or item (vii) or

paragraph (2)" to "Article 197" and "Article 198, items (i) to (x), item (xviii) or item (xix) (Offense of Solicitation Without Notification, etc. of Securities)" to "Article 197-2, items (i) to (x) or item (xiii) (Offense of Solicitation Without Notification, etc. of Securities), Article 198, item (viii) (Offense of Violation of Prohibition or Suspension Order by a Court)", the provisions revising Article 34, item (iv) of the Labor Bank Act in Article 15 (limited to the portions revising "Article 197, paragraph (1), items (i) to (iv) or item (vii) or paragraph (2)" to "Article 197" and "Article 198, items (i) to (x), item (xviii) or item (xix) (Offense of Solicitation Without Notification, etc. of Securities)" to "Article 197-2, items (i) to (x) or item (xiii) (Offense of Solicitation Without Notification, etc. of Securities), Article 198, item (viii) (Offense of Violation of Prohibition or Suspension Order by a Court)", the provisions revising Article 53-2, paragraph (1), item (iii) of the Insurance Business Act in Article 18 (limited to the portions revising "Article 197, paragraph (1), items (i) to (iv) or item (vii) or paragraph (2)" to "Article 197" and "Article 198, items (i) to (x), item (xviii) or item (xix) (Offense of Solicitation Without Notification, etc. of Securities)" to "Article 197-2, items (i) to (x) or item (xiii) (Offense of Solicitation Without Notification, etc. of Securities), Article 198, item (viii) (Offense of Violation of Prohibition or Suspension Order by a Court)", the provisions revising Article 24-4, item (iv) of the Norinchukin Bank Act in Article 19 (limited to the portions revising "Article 197, paragraph (1), items (i) to (iv) or item (vii) or paragraph (2), Article 198, items (i) to (x), item (xviii) or item (xix)" to "Article 197, Article 197-2, items (i) to (x) or item (xiii), Article 198, item (viii)"), and the provisions of Article 2, Article 4, Article 182, paragraph (1), Article 184, paragraph (1), Article 187, paragraph (1), Article 190, paragraph (1), Article 193, paragraph (1), Article 196, paragraph (1) and Article 198, paragraph (1) of the Supplementary Provisions : The day on which 20 days have elapsed from the day of promulgation

(ii) The provisions of Article 3 of the Supplementary Provisions : The day of enforcement of the Act for Partial Revision of the Penal Code, etc. for Coping with Internationalization and Organization of Crimes and Advancement of Information Processing (Act No. of 2006) or the day of enforcement of the provisions set forth in the preceding item, whichever comes later

(iii) The provisions of Article 2 (excluding the provisions revising Article 27-23 of the Securities Exchange Act [excluding the portion adding "and Article 27-26" after "Article 27-25, paragraph (1)"], the provisions revising Article 27-24 of the same Act, the provisions revising Article 27-25 of the same Act, the provisions revising Article 27-26 of the same Act [excluding the portion revising "controlling the business activities of the company which is the issuer of said Share Certificates, etc." to "effecting material changes in or giving material effect to the business activities of the issuer of said Share

- Certificates, etc., as specified by a Cabinet Order (referred to as "Act of Making Important Suggestion, etc." in paragraphs (4) and (5))" and the portion adding paragraph (3) to the same Article], the provisions revising Article 27-27 of the same Act and the provisions revising Article 27-30-2 of the same Act [excluding the portion revising "Article 27-10, paragraph (2)" to "Article 27-10, paragraph (8) and paragraph (12)" and the portion adding "or paragraph (11)" after "Article 27-10, paragraph (1)"] and the provisions of Article 7, Article 8 and Article 12 of the Supplementary Provisions : The date specified by a Cabinet Order within six months from the day of promulgation
- (iv) The provisions revising Article 27-23 of the Securities Exchange Act in Article 2 (excluding the portion adding "and Article 27-26" after "Article 27-25, paragraph (1)"), the provisions revising Article 27-24 of the same Act, the provisions revising Article 27-25 of the same Act, the provisions revising Article 27-26 of the same Act (excluding the portion revising "controlling the business activities of the company which is the issuer of said Share Certificates, etc." to "effecting material changes in or giving material effect to the business activities of the issuer of said Share Certificates, etc., as specified by a Cabinet Order (referred to as "Act of Making Important Suggestion, etc." in paragraphs (4) and (5))" and the portion adding paragraph (3) to the same Article), the provisions revising Article 27-27 of the same Act and the provisions revising Article 27-30-2 of the same Act (excluding the portion revising "Article 27-10, paragraph (2)" to "Article 27-10, paragraph (8) and paragraph (12)" and the portion adding "or paragraph (11)" after "Article 27-10, paragraph (1)") and the provisions of Articles 9 to 11 and Article 13 of the Supplementary Provisions : The date specified by a Cabinet Order within one year from the day of promulgation
- (v) The provisions of Article 4 : The day of enforcement of the Act Concerning General Corporations and General Foundations (Act No. 48 of 2006)

(Transitional measures in accordance with partial revision of the Commodity Exchange Act)

- Article 189 (1) The provisions of the Commodity Exchange Act revised by the provisions of Article 12 (hereinafter referred to as the "New Commodity Exchange Act" in this Article) shall apply to the Commodity Transactions Brokerage Business prescribed in Article 2, paragraph (17) of the New Commodity Exchange Act that are carried out after the enforcement of this Act, and the provisions then in force shall remain applicable to the Commodity Transactions Brokerage Business prescribed in Article 2, paragraph (17) of the Commodity Exchange Act prior to the revision by the provisions of Article 12 that are carried out prior to the enforcement of this Act.
- (2) In cases where a Futures Commission Merchant (which means the Futures

Commission Merchant prescribed in Article 2, paragraph (18) of the New Commodity Exchange Act) has, prior to the enforcement of this Act, given an explanation in accordance with the provisions of Article 218, paragraph (1) of the New Commodity Exchange Act with regard to matters equivalent to the matters prescribed in Article 217, paragraph (1) of the New Commodity Exchange Act, the provisions of the New Commodity Exchange Act shall apply by deeming said explanation as those given pursuant to the provisions of Article 218, paragraph (1) of the same Act.

(Delegation of authority)

Article 216 (1) The Prime Minister may delegate his/her authority under the provisions of these Supplementary Provisions (excluding that specified by a Cabinet Order) to the Commissioner of the Financial Services Agency.

(2) A part of the authority delegated to the Commissioner of the Financial Services Agency pursuant to the provisions of the preceding paragraph may be delegated to the head of a Local Finance Bureau or the head of a Local Finance Branch Bureau pursuant to the provisions of a Cabinet Order.

(Effect of dispositions, etc.)

Article 217 Dispositions, procedures, and other acts issued or carried out prior to the enforcement of this Act pursuant to the provisions of the Old Securities Exchange Act, the Old Investment Trust Act, or the Old Trust Business Act, or an order based on any of these Acts for which corresponding provisions exist in the New Financial Instruments and Exchange Act shall be deemed to have been issued or carried out pursuant to the corresponding provisions of the New Financial Instruments and Exchange Act, except as otherwise provided for by these Supplementary Provisions.

(Transitional measures pertaining to the application of penal provisions)

Article 218 With regard to the application of penal provisions to acts committed prior to the enforcement of this Act (for the provisions listed in the items of Article 1 of the Supplementary Provisions, such provisions; hereinafter the same shall apply in this Article) and acts committed after the enforcement of this Act in cases where the provisions then in force shall remain applicable pursuant to the provisions of these Supplementary Provisions and cases where the provisions prior to the revision shall remain in force pursuant to the provisions of these Supplementary Provisions, the provisions then in force shall remain applicable.

(Delegation of other transitional measures to a Cabinet Order)

Article 219 (1) In addition to what is provided for in these Supplementary

Provisions, the necessary transitional measures pertaining to the enforcement of this Act shall be specified by a Cabinet Order.

- (2) The necessary transitional measures concerning registration procedures in line with the partial revision of the Securities Exchange Act by the provisions of Article 3 shall be specified by an Ordinance of the Ministry of Justice.

(Review)

Article 220 The government shall carry out a review of the status of the implementation of this Act within five years after the enforcement of this Act, and take any required measures based on the results, when the government deems it necessary.