

Commodity Futures Act

(Act No. 239 of August 5, 1950)

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Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to ensure fairness in Commodity price formation, in purchase and sales and other transactions in Commodities, and in persons' becoming entrusted with Transactions on Commodity Markets, etc., as well as to facilitate the production and distribution of Commodities, by, inter alia, making stipulations for the organization of Commodity Exchanges, the management of Transactions on Commodity Markets, and other matters, and by ensuring their sound operation, as well as by ensuring the appropriate operation of the business of persons conducting Commodity Futures Business, thereby contributing to the sound development of the national economy and to the protection of Entrustors, etc. in respect of persons' becoming entrusted with Transactions on Commodity Markets, etc.

(Definitions)

Article 2 (1) The term "Commodity" as used in this Act means the following goods:

- (i) agricultural products, forestry products, livestock products, fishery products, edible or potable goods manufactured or processed using these products as ingredients or materials, and other goods specified by Cabinet Order;
- (ii) minerals as prescribed in Article 3, paragraph (1) of the Mining Act (Act No. 289 of 1950), other minerals specified by Cabinet Order, and goods produced by smelting or refining these minerals;
- (iii) goods other than what is listed in the preceding two items, which are specified by Cabinet Order as ingredients or materials that are important to the national economy and highly likely to be the subject of transactions similar to Futures Transactions due to extreme fluctuations in their prices (including those that are already the subject of Futures Transactions or transactions similar thereto).

(2) The term "Commodity Index" as used in this Act means a numerical value that comprehensively expresses the price level of two or more goods that are Commodities, a numerical value calculated on the basis of the price difference between one type of goods that are Commodities and the price of another type of goods that are Commodities, or a numerical value calculated otherwise on the basis of the prices of two or more types of goods that are Commodities.

(3) The term "Futures Transaction" as used in this Act means one of the following transactions effected on a Commodity Market in accordance with the standards and methods specified by a Commodity Exchange:

- (i) a purchase and sale transaction comprising the parties' agreement to deliver

- and receive a Commodity and its consideration at a fixed time in the future, which the parties may settle by delivering and receiving the difference if they resell or buy back the underlying Commodity;
- (ii) a transaction comprising the parties' agreement to deliver and receive an amount of money calculated based on the difference between the agreed price (meaning the price of a Commodity upon which the parties agree in advance (including a numerical value that expresses the price level of a single Commodity or any other numerical value calculated based on the price of a single Commodity; hereinafter the same applies in this item); hereinafter the same applies) and the actual price (meaning the actual price of the relevant Commodity at a fixed time in the future; hereinafter the same applies);
 - (iii) a transaction comprising the parties' agreement to deliver and receive an amount of money calculated based on the difference between the numerical value of a Commodity Index upon which the parties agree in advance (hereinafter referred to as the "Agreed Figure") and the actual numerical value of such Commodity Index at a fixed time in the future (hereinafter referred to as the "Actual Figure");
 - (iv) a transaction comprising the first party's agreement to grant the second party the right to effect one of the following transactions between them by a unilateral manifestation of the second party's intention alone (hereinafter referred to as an "Option") and the second party's agreement to pay a consideration for that Option:
 - (a) the transaction referred to in item (i);
 - (b) the transaction referred to in item (ii) (including equivalent transactions that are specified by a Commodity Exchange);
 - (c) the transaction referred to in the preceding item (including equivalent transactions that are specified by a Commodity Exchange);
 - (d) the transaction referred to in the following item (including equivalent transactions that are specified by a Commodity Exchange);
 - (e) the transaction referred to in item (vi) (including equivalent transactions that are specified by a Commodity Exchange).
 - (v) a transaction comprising the parties' mutual agreement that, for a Commodity whose volume they have set, the first party will pay money to the second based on the rate of change in the agreed-upon price for that Commodity during the period they have agreed to, and the second party will pay money to the first based on the rate of change in the agreed-upon price for that Commodity during the period they have agreed to;
 - (vi) a transaction comprising the parties' mutual agreement that, for a Commodity whose volume they have set, the first party will pay money to the second based on the rate of change in the agreed-upon Commodity Index for that Commodity during the period they have agreed to, and the second party

- will pay money to the first based on the rate of change in that agreed-upon Commodity Index during the period they have agreed to;
- (vii) a transaction which is similar to what is listed in one of the preceding items and which is specified by Cabinet Order.
- (4) The term "Commodity Exchange" as used in this Act means a Mutually Owned Commodity Exchange or a Stock Company-Operated Commodity Exchange.
- (5) The term "Mutually Owned Commodity Exchange" as used in this Act means a mutual association incorporated based on this Act for the main purpose of operating the necessary markets for effecting Futures Transactions in Commodities or Commodity Indices.
- (6) The term "Stock Company-Operated Commodity Exchange" as used in this Act means a stock company that operates the necessary market for effecting Futures Transactions in Commodities or Commodity Indices after obtaining the license referred to in Article 78.
- (7) The term "Listed Commodity" as used in this Act means the one good that is a Commodity or the two or more goods that are Commodities, which a Commodities Exchange specifies in its articles of incorporation or operational rules as goods that are to be traded on a single Commodity Market, and to which the permission referred to in Article 9, the license referred to in Article 78, or the authorization referred to Article 155, paragraph (1) or Article 156, paragraph (1) pertains.
- (8) The term "Listed Commodity Index" as used in this Act means the one Commodities Index or the two or more Commodities Indices which a Commodities Exchange specifies in its articles of incorporation or operational rules as indices in connection with which trading is to take place on a single Commodity Market, and to which the permission referred to in Article 9, the license referred to in Article 78, or the authorization referred to in Article 155, paragraph (1) or Article 156, paragraph (1) pertains.
- (9) The term "Commodity Market" as used in this Act means the market that a Commodity Exchange operates for each single kind of Listed Commodity or Listed Commodity Index in order to carry out the transactions provided for in one of the following items for the category set forth in that item:
- (i) the Commodity Market for a Listed Commodity: transactions set forth in paragraph (3), item (i); transactions set forth in item (ii) of that paragraph or transactions set forth in item (v) of that paragraph; or the transactions set forth in item (vii) of that paragraph that are specified by Cabinet Order as being similar such transactions; in that Listed Commodity;
- (ii) the Commodity Market for a Listed Commodity Index: transactions set forth in paragraph (3), item (iii); transactions set forth in item (vi) of that paragraph; or the transactions set forth in item (vii) of that paragraph that

are specified by Cabinet Order as being similar to such transactions; which are linked to that Listed Commodity Index.

(10) The term "Transaction on a Commodity Market" as used in this Act includes a transaction set forth in one of the items of the preceding paragraph, as well as a transaction prescribed in one of the following items which a Commodity Exchange has decided to effect for the category of Commodity Market set forth in that item pursuant to the provisions of its articles of incorporation or operational rules:

- (i) the Commodity Market for a Listed Commodity: one of the following transactions:
 - (a) a transaction set forth in paragraph (3), item (iii) or (vi) linked to a Commodity Index covering goods that constitute or include that Listed Commodity;
 - (b) a transaction set forth in paragraph (3), item (iv) linked with a transaction set forth in (a), (b), or (d) of that item in connection with that Listed Commodity;
 - (c) a transaction set forth in paragraph (3), item (iv) linked with a transaction set forth in (c) or (e) of that item, in connection with a Commodity Index covering goods that constitute or include that Listed Commodity;
 - (d) a purchase and sale transaction (other than one falling under the category of transactions set forth in paragraph (3), item (i); hereinafter the same applies in this item) in that Listed Commodity;
 - (e) a transaction comprising the first party's agreement to grant the second party the right to effect a purchase and sale transaction between them for that Listed Commodity by a unilateral manifestation of the second party's intention alone (hereinafter referred to as a "Spot Option") and the second party's agreement to pay a consideration for that Spot Option;
 - (f) one of the following transactions in that Listed Commodity, or in connection with a Commodity Index covering goods that constitute or include that Listed Commodity:
 - 1. a transaction comprising the parties' mutual agreement that, for a Commodity whose volume they have set, the first party will pay money to the second based on the rate of change in the agreed-upon price for a Commodity during the period they have agreed to, and the second party will pay money to the first based on the rate of change in an agreed-upon price for a Commodity other than that Commodity during the period they have agreed to;
 - 2. a transaction constituting the parties' mutual agreement that, for a Commodity whose volume they have set, the first party will pay money to the second based on the rate of change in the agreed-upon price for

- the Commodity during the period they have agreed to, and the second party will pay money to the first based on the rate of change in an agreed-upon Commodity Index during the period they have agreed to;
3. a transaction constituting the parties' mutual agreement that, for a Commodity whose volume they have set, the first party will pay money to the second based on the rate of change in an agreed-upon Commodity Index during the period they have agreed to, and the second party will pay money to the first based on the rate of change in an agreed-upon Commodity Index during the period they have agreed to.
- (g) a transaction comprising the first party's agreement to grant the second party the right to effect one of the transactions listed in (f) above between them by a unilateral manifestation of the second party's intention alone (hereinafter referred to as a "Specified Swap Option") and the second party's agreement to pay a consideration for that Specified Swap Option;
- (h) a transaction which is similar to what is listed in one of the preceding (a) to (g) inclusive and which is specified by Cabinet Order.
- (i) the Commodity Market for a Listed Commodity Index: a transaction set forth in paragraph (3), item (iv) linked with a transaction listed in (c) or (e) of that item in connection with that Listed Commodity Index and any other transaction which is similar to such a transaction and which is specified by Cabinet Order.
- (11) The term "Commodity Exchange Holding Company" as used in this Act means a stock company whose Subsidiary Company (meaning a Subsidiary Company as prescribed in Article 3-2, paragraph (3)) is a Stock Company-Operated Commodity Exchange incorporated with the authorization referred to in in Article 96-25, paragraph (1) or a Stock Company-Operated Commodity Exchange that has obtained the authorization referred to in the same paragraph or in the proviso to paragraph (3) of that Article.
- (12) The term "Foreign Commodity Market" as used in this Act means a market that is similar to a Commodity Market and that is located in a foreign country.
- (13) The term "Foreign Commodity Market Transaction" as used in this Act means a transaction that is effected on a Foreign Commodity Market and that is similar to a Transaction on a Commodity Market.
- (14) The term "Over-the-Counter Commodity Derivative Transaction" as used in this Act means one of the following transactions effected outside a Commodity Market or Foreign Commodity Market (other than a transaction effected through the facilities listed in each of the items of Article 331):
- (i) a purchase and sale transaction comprising the parties agreement to deliver and receive a Commodity and its consideration at a fixed time in the future, which the parties may settle by delivering and receiving the difference if

- they resell or buy back the underlying Commodity;
- (ii) a transaction comprising the parties agreement to deliver and receive an amount of money calculated based on the difference between the agreed price and the actual rice, or a transaction similar thereto;
 - (iii) a transaction comprising the parties agreement to deliver and receive an amount of money calculated based on the difference between the Agreed Figure and the Actual Figure, or a transaction similar thereto;
 - (iv) a transaction comprising the first party's agreement to grant the second party the right to effect one of the following transactions between them by a unilateral manifestation of the second party's intention alone, and the second party's agreement to pay a consideration for this; or a transaction similar thereto:
 - (a) the transaction set forth in item (i);
 - (b) the transaction set forth in item (ii);
 - (c) the transaction set forth in the previous item;
 - (d) the transaction set forth in item (vi).
 - (v) a transaction comprising the first party's agreement to grant the second party the right, by a unilateral manifestation of the second party's intention alone, to effect a transaction in which the parties deliver and receive an amount of money calculated based on the difference between the price they have agreed upon in advance as the price for a Commodity in the event that the party manifests the intention to effect the transaction (including a numerical value that expresses the price level of the Commodity or any other numerical value calculated based on the price of the Commodity; hereinafter the same applies in this item), or the numerical value they have agreed upon in advance as that for the Commodity Index in the event that the party manifests that intention, and the current price of that Commodity or numerical value of that Commodity Index at the time that the party actually manifests that intention, and the second party's agreement to pay a consideration for this; or a transaction similar thereto;
 - (vi) a transaction comprising the parties' mutual agreement that, for a Commodity whose volume they have set, the first party will pay money to the second based on the rate of change in the agreed-upon price or Commodity Index for a Commodity during the period they have agreed to, and the second party will pay money to the first based on the rate of change in the agreed-upon price or Commodity Index for a Commodity during the period they have agreed to; or a transaction similar thereto;
 - (vii) a transaction other than one set forth in the preceding items, which is of an economic nature similar thereto and which is specified by Cabinet Order as a transaction with regard to which it is found to be necessary to ensure the public interest or the protection of the parties thereto.

- (15) The term "Commodity Derivative Transaction" as used in this Act means a Transaction on a Commodity Market, a Foreign Commodity Market Transaction, or an Over-the-Counter Commodity Derivative Transaction (other than an Over-the-Counter Commodity Derivative Transaction specified by Cabinet Order as one that, in consideration of its content and other factors, is found to be unlikely to result in insufficient protection of the parties thereto, and any Over-the-Counter Commodity Derivative Transaction effected with or on behalf of a party specified by ordinance of the competent ministry as being highly skilled in such transactions or with a stock company whose amount of stated capital is at least the amount specified by ordinance of the competent ministry (each such an excluded transaction is referred to as an "Out-of-Scope Over-the-Counter Commodity Derivative Transaction" in Article 349, paragraph (1))).
- (16) The term "Trading Participant" as used in this Act means a person that is permitted to participate in Transactions on a Commodity Market that is operated by a Stock Company-Operated Commodity Exchange, based on trading eligibility granted pursuant to the provisions of Article 82, paragraph (1).
- (17) The term "Commodity Transaction Debt Assumption Services" as used in this Act means the business of assuming debts arising from Transactions on a Commodity Market.
- (18) The term "Commodity Transaction Clearing Organization" as used in this Act means a person that has been licensed by or has obtained the approval of the competent minister pursuant to the provisions of Article 167 or Article 173, paragraph (1) for operating Commodity Transaction Debt Assumption Services.
- (19) The term "Clearing Member" as used in this Act means a person that stands as the counterparty to the Commodity Transaction Debt Assumption Services a Commodity Transaction Clearing Organization performs, based on eligibility granted pursuant to the provisions of Article 174, paragraph (1).
- (20) The term "Commodity Clearing Transaction" as used in this Act means a Transaction on a Commodity Market that a Clearing Member effects, having been entrusted to do so by the member or Trading Participant (hereinafter referred to as the "Member, etc.") of a Commodity Exchange, pursuant to the provisions of the business rules of a Commodity Transaction Clearing Organization, on the condition that the Commodity Transaction Clearing Organization will be made to assume any debt arising from such transaction and that the Member, etc. will be made to effect such transaction on behalf of such Clearing Member.
- (21) The term "Transaction on a Commodity Market, etc." as used in this Act means one of the following acts:
- (i) a transaction on a Commodity Market;

- (ii) acting as the intermediary, broker, or agent in entrusting a person with the act set forth in the preceding item;
 - (iii) acting as the broker in entrusting a person with a Commodity Clearing Transaction;
 - (iv) acting as the intermediary, broker, or agent for the act set forth in the preceding item.
- (22) The term "Commodity Futures Business" as used in this Act means the business of engaging in one of the following acts in the course of trade (other than an act specified by Cabinet Order as one that, in consideration of its content and other factors, is found to be unlikely to result in insufficient protection for the entrustor or for the other party to an Over-the-Counter Commodity Derivative Transaction (hereinafter referred to as the "Entrustor, etc."); other than effecting an Over-the-Counter Commodity Derivative Transaction with the party specified by ordinance of the competent ministry which is referred to in paragraph (15) or with a stock company whose amount of stated capital is at least the amount specified by ordinance of the competent ministry which is referred to in the same paragraph; and other than acting as the intermediary, broker, or agent for such a person in an Over-the-Counter Commodity Derivative Transaction):
- (i) becoming entrusted with a Transaction on a Commodity Market (other than a Commodity Clearing Transaction) or acting as the intermediary, broker, or agent for entrusting a person with such a transaction;
 - (ii) becoming entrusted with brokerage for entrusting a person with a Commodity Clearing Transaction or acting as the intermediary, broker, or agent for entrusting a person with brokering such entrustment;
 - (iii) becoming entrusted with a Foreign Commodity Market Transaction (other than a transaction that is similar to a Commodity Clearing Transaction) or acting as the intermediary, broker, or agent for entrusting a person with such a transaction;
 - (iv) becoming entrusted with brokering the entrustment of a Foreign Commodity Market Transaction that is similar to a Commodity Clearing Transaction, or acting as the intermediary, broker, or agent for entrusting a person with brokering such entrustment;
 - (v) effecting an Over-the-Counter Commodity Derivative Transaction or acting as the intermediary, broker, or agent for such a transaction.
- (23) The term "Commodity Futures Business Operator" as used in this Act means a person licensed by the competent minister pursuant to the provisions of Article 190, paragraph (1) to conduct Commodity Futures Business.
- (24) The term "Commodity Contract" as used in this Act means a contract for a Commodity Futures Business Operator to perform an act set forth in one of the items of paragraph (22) with or on behalf of a customer.

- (25) The term "Specified Entrustor" as used in this Act means the following:
- (i) a Commodity Futures Business Operator;
 - (ii) a commodities investment advisor as prescribed in Article 2, paragraph (4) of the Act Regulating the Commodity Investment Business (Act No. 66 of 1991) (hereinafter referred to as a "Commodities Investment Advisor");
 - (iii) a person specified by ordinance of the competent ministry as having expert knowledge of and experience with Commodity Derivative Transactions;
 - (iv) the nation;
 - (v) the Bank of Japan;
 - (vi) the Member, etc. of a Commodity Exchange;
 - (vii) the Member, etc. of a foreign facility equivalent to a Commodity Exchange;
 - (viii) an Entrustor Protection Fund as prescribed in Chapter VI and any other corporation specified by ordinance of the competent ministry, other than one as set forth in the preceding items;
- (26) The term "Specified Professional" as used in this Act means the other party to a Commodity Futures Business Operator's solicitation to conclude a Commodity Contract; a person making an offer for a Commodity Contract to a Commodity Futures Business Operator; or a person concluding a Commodity Contract with a Commodity Futures Business Operator; which, in the course of trade, engages in the purchase and sale, or acts as the intermediary, broker, or agent for the purchase and sale, production, processing, or use (hereinafter referred to as the "Purchase and Sale, etc.") of goods that constitute Underlying Commodities in respect of all of the Underlying Commodities in the Commodity Derivative Transactions that are based on its Commodity Contract and specified by ordinance of the competent ministry as being related to these; and which is a corporation satisfying the requirements specified by ordinance of the competent ministry (other than a corporation that falls under the category of a Specified Entrustor).
- (27) The term "Underlying Commodity" as used in this Act means the Commodity underlying a Transaction on a Commodity Market, Foreign Commodity Market Transaction, or Over-the-Counter Commodity Derivative Transaction, or a Commodity that is a constituent of the Commodity Index underlying these transactions.
- (28) The term "Commodity Futures Intermediation Services" as used in this Act means undertaking entrustment by a Commodity Futures Business Operator to act as the intermediary prescribed in one of the items of paragraph (22) on behalf of that Commodity Futures Business Operator, in the course of trade.
- (29) The term "Commodity Futures Intermediary" as used in this Act means a person that has obtained the registration of the competent minister pursuant to Article 240-2, paragraph (1).

Chapter II Commodity Exchanges

Section 1 General Provisions

(Scope of Business)

Article 3 (1) A Commodity Exchange must not conduct business other than the business of operating the necessary market for effecting Futures Transactions for a Commodity or Commodity Index (hereinafter referred to as the "Operation of a Commodity Market"), appraising the quality of Listed Commodities, issuing publications, and business otherwise incidental thereto; provided, however, that a Commodity Exchange that obtains the authorization of the competent minister pursuant to ordinance of the competent ministry may engage in business that is connected with the Operation of a Commodity Market and business otherwise incidental thereto; the business of operating a market for trading carbon dioxide equivalent quotas (meaning carbon dioxide equivalent quotas as prescribed in Article 2, paragraph (6) of the Act on Promotion of Global Warming Countermeasures (Act No. 117 of 1998); hereinafter the same applies) and business otherwise incidental thereto; the business of operating a Financial Instruments Market (meaning a Financial Instruments Market as prescribed in Article 2, paragraph (14) of the Financial Instruments and Exchange Act (Act No. 25 of 1948); hereinafter the same applies) and business otherwise incidental thereto (provided that such business is conducted by a Stock Company-Operated Commodity Exchange); or perform Financial Instruments Debt Assumption Services, etc. (meaning Financial Instruments Obligation Assumption Services, etc. as prescribed in Article 156-3, paragraph (1), item (vi) of that Act; hereinafter the same applies) and business otherwise incidental thereto.

(2) The competent minister may attach conditions to the authorization referred to in the proviso to the preceding paragraph.

(3) The conditions referred to in the preceding paragraph must constitute the minimum level of conditions that are necessary for the public interest, for ensuring the fairness of transactions, or for protecting the entrustors.

(4) If an application is filed for the authorization referred to in the proviso to paragraph (1) and the competent minister finds that the applicant's engagement in the business to which the application pertains is likely to impair confidence in the public nature of the business of the Commodity Exchange or to obstruct the sound and proper administration of the Operation of a Commodity Market or business incidental thereto, the minister must not give that authorization.

(Scope of Subsidiary Companies)

Article 3-2 (1) A Commodity Exchange must not have a company other than one

engaging in the Operation of a Commodity Market or business incidental thereto as its Subsidiary Company; provided, however, that a Commodity Exchange that obtains the authorization of the competent minister pursuant to ordinance of the competent ministry may have as its Subsidiary Company a company engaging in business that is connected with the Operation of a Commodity Market and business incidental thereto; a company engaging in the business of operating a market for trading carbon dioxide equivalent quotas and business incidental thereto; a company engaging in the business of operating a Financial Instruments Exchange Market (meaning a Financial Instruments Exchange Market as prescribed in Article 2, paragraph (17) of the Financial Instruments and Exchange Act; hereinafter the same applies) and business incidental thereto; or a company engaging in business that is connected with the operation of a Financial Instruments Exchange Market and business incidental thereto.

- (2) The provisions of paragraph (2) through paragraph (4) of the preceding Article apply mutatis mutandis to the authorization referred to in the proviso to the preceding paragraph. In such case, the phrase "the business to which the application pertains" in paragraph (4) of that Article is deemed to be replaced with "the Subsidiary Company to which the application pertains" and the term "Operation of a Commodity Market" in that paragraph is deemed to be replaced with "the Commodity Exchange's Operation of a Commodity Market".
- (3) The term "Subsidiary Company" as used in the preceding two paragraphs means a company in which a corporation holds the majority of all shareholders' or all members' voting rights (for a stock company, this excludes voting rights in respect of shares that do not allow voting rights to be exercised with regard to all matters that can be resolved at a shareholders meeting, and includes voting rights in respect of shares that are deemed to have voting rights pursuant to the provisions of Article 879, paragraph (3) of the Companies Act (Act No. 86 of 2005); hereinafter the same applies in this paragraph and in Article 196, paragraph (2)). In such a case, a company in which a corporation and one or more of its Subsidiary Companies hold the majority of all shareholders' or members' voting rights, or in which one or more of a corporation's Subsidiary Companies hold the majority of all shareholders' or members' voting rights, is deemed to be the Subsidiary Company of that corporation.

(Name or trade name)

- Article 4 (1) A Commodity Exchange must use the term "取引所" (pronounced "torihikijo" and meaning "exchange") in its name or trade name.
- (2) A person that is not a Commodity Exchange must not use a term in its name or trade name which could give rise to the misconception that it is a

Commodity Exchange.

(Restriction on the operation of a market)

Article 5 (1) A Commodity Exchange must not operate a market other than the Commodity Markets prescribed by the articles of incorporation (in the case of a Stock Company-Operated Commodity Market, the articles of incorporation or operational rules; hereinafter the same applies in this paragraph and Article 105), including a Commodity Market for which the operative term specified in the articles of incorporation has passed, or for which the term for a change of scope as prescribed in Article 11, paragraph (4), or Article 102, paragraph (3) has ended.

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

(Self-Regulatory Services)

Article 5-2 (1) A Commodity Exchange must perform Self-Regulatory Services in an appropriate manner, in accordance with this Act and with its articles of incorporation and other rules, in order to ensure the fairness of Transactions on the Commodity Market and to protect entrustors.

(2) The term "Self-Regulatory Services" as used in the preceding paragraph means the following services conducted in respect of a Commodity Market:

(i) the investigation of Members', etc. compliance with this Act, orders based on this Act, and dispositions made by the competent minister based on this Act (hereinafter referred to as "this Act, etc." in Article 96-22, Article 96-34, Article 96-40, Article 159, Article 160, and Article 165), with the articles of incorporation, operational rules, brokerage contract rules, dispute resolution rules, and other rules of the Commodity Exchange, and with the principle of good faith in transactions;

(ii) business related to expulsion and other dispositions against Members, etc.;

(iii) other business specified by ordinance of the competent ministry as necessary for ensuring the fairness of Transactions on a Commodity Market and protecting entrustors.

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

Article 6 (1) It is prohibited for any person to operate a facility on which transactions that are similar to Futures Transactions in Commodities or Commodity Indices are effected (including indices similar thereto) (this excludes Financial Instruments Exchange Markets).

(2) It is prohibited for any person to carry out transactions that are similar to Futures Transactions in a facility as referred to in in the preceding paragraph.

Section 2 Mutually Owned Commodity Exchanges

Subsection 1 Incorporation

(Legal personality)

Article 7 (1) A Mutually Owned Commodity Exchange has legal personality.

(2) A Mutually Owned Commodity Exchange must not conduct business for profit.

(Address)

Article 8 The address of a Mutually Owned Commodity Exchange is its address in the locality of its principal office.

(Permission for incorporation)

Article 9 A person seeking to incorporate a Mutually Owned Commodity Exchange must obtain the permission of the competent minister to do so.

(Requirements for incorporation)

Article 10 (1) In order to incorporate a Mutually Owned Commodity Exchange, 20 or more persons that seek to become its members must become the founders.

(2) With regard to the founders, the persons prescribed in the relevant of the following items for the category of Commodity Market set forth in that item must constitute the majority of the founders of a single Commodity Market:

- (i) a Commodity Market for a Listed Commodity: persons that have been engaging continuously in the Purchase and Sale, etc. of goods that are included in the relevant Listed Commodity (hereinafter referred to as "Goods Comprising the Listed Commodity") in the course of trade, for one year or more;
- (ii) the Commodity Market for a Listed Commodity Index: persons that have been engaging continuously in the Purchase and Sale, etc. of goods underlying the Commodity Index (or Indices) to which the Listed Commodity Index pertains (hereinafter referred to as the "Goods Underlying the Listed Commodity Index") in the course of trade, for one year or more.

(Articles of incorporation)

Article 11 (1) The founders must prepare the articles of incorporation of the Mutually Owned Commodity Exchange, and if the articles of incorporation are prepared in the form of a paper document, the founders must sign the document or have their names and seals affixed to the document.

(2) The following particulars must be included or recorded in the articles of incorporation referred to in the preceding paragraph:

- (i) the business;
- (ii) the name;

- (iii) the locality of the office;
 - (iv) the particulars of eligibility as a member;
 - (v) the amount for one unit of contribution and the timing and method of its payment;
 - (vi) the particulars of joining and withdrawing as a member;
 - (vii) the particulars of the guarantee funds and clearing margins;
 - (viii) the particulars of the sharing of costs among members;
 - (ix) the particulars of audits of and sanctions against members;
 - (x) the particulars of the set number of officers and their term of office and appointment;
 - (xi) particulars related to general meetings of members;
 - (xii) the particulars of the binding effect that the articles of incorporation, operational rules, brokerage contract rules, and dispute resolution rules have on contracts between members concluded outside the Commodity Market;
 - (xiii) the following particulars about the Commodity Market:
 - (a) the listed Commodity or Listed Commodity Index;
 - (b) the types of transaction for each Listed Commodity or Listed Commodity Index;
 - (c) the settlement method for transactions.
 - (xiv) the business year;
 - (xv) particulars related to the allocation of surplus and the handling of losses;
 - (xvi) the means of public notice (meaning the means by which the Mutually Owned Commodity Exchange issues public notice (other than public notice that must be issued through publication in the official gazette pursuant to the provisions of this Act or other Acts); hereinafter the same applies).
- (3) The costs of incorporation to be borne by the Mutually Owned Commodity Exchange and the remuneration that the founders are to receive do not come into effect if not included or recorded in the articles of incorporation.
- (4) If the term of existence of a Mutually Owned Commodity Exchange, the operative term of a Commodity Market, or the term for a change of scope in a Commodity Market (meaning the term during which the scope of a Listed Commodity or a Listed Commodity Index on a Commodity Market (excluding a fixed-term Commodity Market as prescribed in Article 155, paragraph (3), item (ii)) can be changed (other than a discontinuation or narrowing of the scope; hereinafter the same applies in Article 155); hereinafter the same applies in this paragraph and Article 155) is set, this term of existence, operative term, or term for a change of scope is to be included or recorded in the articles of incorporation of the Mutually Owned Commodity Exchange, in addition to the particulars set forth in the items of paragraph (2).
- (5) The articles of incorporation referred to in paragraph (1) may be prepared in the form of an electronic or magnetic record (meaning a record used in

- computer data processing which is created in electronic form, magnetic form, or any other form that cannot be perceived through the human senses, and which is specified by ordinance of the competent ministry; hereinafter the same applies). In such a case, the measures in lieu of signing or having names and seals affixed which are specified by ordinance of the competent ministry must be taken for the information contained in that electronic or magnetic record.
- (6) A Mutually Owned Commodity Exchange may specify one of the following means as the means of public notice in its articles of incorporation, in addition to the means of placing a posting at the store front of the office of the Mutually Owned Commodity Exchange:
- (i) publication in the official gazette;
 - (ii) publication in a daily newspaper that publishes information about current events;
 - (iii) electronic public notice (meaning a means of public notice that involves implementing measures that make the information that is required to be publicized available to many and unspecified persons by an electronic or magnetic means (meaning an electronic or magnetic means prescribed in Article 2, item (xxxiv) of the Companies Act (Act No. 86 of 2005)), which is prescribed in the same item; hereinafter the same applies).
- (7) If a Mutually Owned Commodity Exchange specifies in its articles of incorporation that the means set forth in item (iii) of the preceding paragraph is the means of public notice, it is sufficient for it to specify in the articles of incorporation that electronic public notice is the means of public notice. In such a case, either of the means set forth in item (i) and item (ii) of that paragraph may be specified as the means of public notice for cases in which public notice cannot be given by electronic public notice as a result of an accident or other unavoidable circumstances.
- (8) If a Mutually Owned Commodity Exchange issues a public notice as an electronic public notice, it must do so on a continuous basis until the day provided for in the relevant of the following items for the category of public notice set forth in that item:
- (i) a public notice indicating that an objection may be stated within the period specified in the public notice: the day on which that period expires;
 - (ii) a public notice other than one as set forth in the preceding item: the day on which one month has passed since the issuance of that public notice.
- (9) 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 apply mutatis mutandis when a Mutually Owned Commodity Exchange issues public notice pursuant to the provisions of this Act or other Acts. In this case, the phrase "Notwithstanding the provisions of the preceding two paragraphs, pursuant to these provisions" in Article 940, paragraph (3) of

the Companies Act is 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 (1)" in Article 941 of that Act is deemed to be replaced with "Article 68-3 of the Commodity Exchange Act", and any other technical replacement of terms is specified by Cabinet Order.

- (10) Particulars other than those listed in the items of paragraph (2) which do not come into effect unless prescribed in the articles of incorporation pursuant to this Act, and any other particulars that do not violate this Act, may be included or recorded in the articles of incorporation of a Mutually Owned Commodity Exchange.

(Application to join)

Article 12 (1) Before the incorporation of a Mutually Owned Commodity Exchange, the founders must notify persons seeking to become its members of the following particulars:

- (i) the particulars included or recorded in the articles of incorporation;
- (ii) the names or trade names and addresses of the founders;
- (iii) the method, due date and place for the payment of the contribution;
- (iv) that the application for membership may be rescinded if the organizational meetings fail to be concluded by a certain time.

- (2) The president must notify persons seeking to become members after the establishment of the Mutually Owned Commodity Exchange, of the following particulars:

- (i) the date of establishment;
- (ii) the particulars included or recorded in the articles of incorporation;
- (iii) the names and addresses of the officers;
- (iv) the method, due date and place for the payment of the contribution.

- (3) A person seeking to become a member of a Mutually Owned Commodity Exchange (including a founder) must deliver to the founders (or to the president, if the exchange has been established; the same applies in the following paragraph) a document stating 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 seeks to trade on the Commodity Market.

- (4) With the consent of the founders, in lieu of delivering the document referred to in the preceding paragraph, a person seeking to become the member of a Mutually Owned Commodity Exchange may provide the founders with the particulars that are required to be included in the document referred to in that paragraph by electronic or magnetic means (meaning by a means that makes use of an electronic data processing system or by a means that makes use of

any other information and communications technology specified by ordinance of the competent ministry; hereinafter the same applies) pursuant to Cabinet Order provisions. In such a case, the person seeking to become a member is deemed to have delivered the document referred to in that paragraph.

(Organizational meetings)

- Article 13 (1) After preparing the articles of incorporation, the founders must invite persons to become members, and hold the organizational meetings within five days after the day on which 10 days have passed since the due date for the payment of the contribution provided for in paragraph (1), item (iii) of the preceding Article.
- (2) The founders must pay the full amount of contribution before the organizational meetings.
 - (3) Approval of the articles of incorporation and decisions about matters that are otherwise necessary for incorporation must be effected by organizational meeting resolution.
 - (4) The articles of incorporation may be revised at an organizational meeting; provided, however, that this does not apply to the particulars of eligibility as a member.
 - (5) The items of organizational meeting business are decided with at least a two-thirds majority of the votes of the attendees, at a meeting where at least half of the persons seeking to become members (limited to those that have paid the full amount of the contribution) are present.
 - (6) If a resolution is adopted at an organizational meeting with regard to the meeting's 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 do not apply.
 - (7) The minutes of an organizational meeting must be taken pursuant to the provisions of ordinance of the competent ministry.
 - (8) The provisions of Article 33; the main clause of Article 59, paragraph (8); and Article 59, paragraph (10) apply *mutatis mutandis* to an organizational meeting, and the provisions of Article 830 of the Companies Act and of Article 831; Article 834 (limited to the part that involves 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 that involves item (i) (g)) of that Act (excluding the part that involves corporate auditors) apply *mutatis mutandis* to an action seeking a declaratory judgment as to the absence or invalidity of an organizational meeting resolution or an action seeking the rescission of such a resolution. In this case, the phrase "the head office (or, in the case prescribed in item (i) (g), if the particulars listed in the items of Article 930 (2) have been registered as a result of such resolution, the

head office and the branch office(s) pertaining to such registration)" in Article 937, paragraph (1) is to be deemed to be replaced with "the principal office of the Mutually Owned Commodity Exchange (or, in the case prescribed in item (i) (g), if a particular set forth in one of the items of Article 24, paragraph (2) of the Commodity Exchange Act is registered pursuant to that resolution, the principal office and the secondary office to which the registration pertains)".

(Application for permission)

Article 14 (1) Following an organizational meeting, the founders must enter the following particulars in a written application for the permission referred to in Article 9, and submit it to the competent minister without delay:

- (i) the name;
 - (ii) the locality of the office;
 - (iii) the Listed Commodity or Listed Commodity Index;
 - (iv) the names and addresses of the officers;
 - (v) the names or trade names of the members and the Listed Commodity or Listed Commodity Index on the Commodity Market on which the members will trade.
- (2) The articles of incorporation, operational rules, brokerage contract rules, dispute resolution rules, market transactions surveillance committee rules, and documents specified by ordinance of the competent ministry must accompany the written application referred to in the preceding paragraph.

(Criteria for permission and hearing of opinions)

Article 15 (1) If the competent minister finds that an application for the permission referred to in Article 9 conforms to the following criteria, the minister must give permission:

- (i) the volume of transactions is expected to be sufficient for ensuring fair and smooth Futures Transactions in the Listed Commodity or Listed Commodity Index to which the application pertains, and in light of the conditions of transactions in Goods Comprising the Listed Commodity or Goods Underlying the Listed Commodity Index (hereinafter referred to as the "Goods Comprising the Listed Commodity, etc."), it is necessary and appropriate for a Mutually Owned Commodity Exchange on which those Futures Transactions are effected to be incorporated in order to facilitate the production and distribution of the Goods Comprising the Listed Commodity, etc.;
- (ii) if the founders seek to operate a Commodity Market for a Listed Commodity, the situation conforms to the criteria specified by Cabinet Order as a situation in which it is appropriate for the Goods Comprising the Listed Commodity to be traded on a single Commodity Market, in light of the

trading conditions of the persons effecting Purchase and Sales, etc. of Goods Comprising the Listed Commodity in the course of trade, and in light of other circumstances of economic activities involving the Goods Comprising the Listed Commodity;

- (iii) if the founders seek to operate a Commodity Market with two or more Commodity Indices as a single Listed Commodity Index, the majority of the goods underlying those two or more Commodity Indices are the same goods;
- (iv) the provisions of the articles of incorporation, operational rules, brokerage contract rules, dispute resolution rules, and market transactions surveillance committee rules do not violate laws and regulations, and the transaction method or management of transactions; membership eligibility; maximum number of members, if specified; particulars of deposits, if the obligation to make a special security deposit is stipulated; and other particulars prescribed in the articles of incorporation, operational rules, brokerage contract rules, dispute resolution rules, and market transactions surveillance committee rules are appropriate and sufficient for ensuring the fairness of Transactions on the Commodity Market and for protecting entrustors;
- (v) the Mutually Owned Commodity Exchange to which the application pertains will be organized in a manner that conforms to the provisions of this Act.

(2) Notwithstanding the provisions of the preceding paragraph, if an application for the permission referred to in Article 9 falls under one of the following items, the competent minister must not give the permission referred to in that Article:

- (i) a person falling under one of the following categories is among the founders:
 - (a) an adult ward, a person under curatorship, or a person that is treated in the same manner under foreign laws and regulations;
 - (b) a bankrupt that has not obtained a restoration of rights, or a person that is treated in the same manner under foreign laws and regulations;
 - (c) a person that has been sentenced to imprisonment or a heavier punishment (including an equivalent sentence under foreign laws and regulations) or to a fine (including an equivalent sentence under foreign laws and regulations) pursuant to this Act or pursuant to the provisions of a foreign law or regulation that is equivalent to this Act, if five years have not yet passed since the day on which the person finished serving the sentence or ceased to be subject to its enforcement;
 - (d) a person that has had the authorization referred to in Article 96-19, paragraph (1); Article 96-31, paragraph (1); Article 96-25, paragraph (1) or the proviso to (3) rescinded pursuant to the provisions of Article 96-22, paragraph (1); Article 96-34, paragraph (1); or Article 96-40, paragraph (1); had the permission referred to in Article 9, the license referred to in

Article 78, Article 167, or Article 190, paragraph (1), or the license referred to in Article 332, paragraph (1) or Article 342, paragraph (1) 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 as applied mutatis mutandis pursuant to Article 345); had the registration referred to in Article 240-2, paragraph (1) rescinded pursuant to the provisions of Article 240-23, paragraph (1); if five years have not yet passed since the day of the rescission, or a person that had obtained permission, license, or registration of the same kind in a foreign state pursuant to the provisions of a foreign law or regulation that is equivalent to this Act (including registration or any other administrative disposition similar to such permission, license, or registration; referred to as "Permission, etc." in (f)) but that has had that Permission, etc. rescinded, if five years have not yet passed since the day of the rescission;

- (e) a person that 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 a foreign law or regulation that are equivalent to such provisions (including any equivalent administrative disposition under foreign laws and regulations; the same applies in (g) and (h)) or whose trading eligibility has been rescinded, if five years have not passed since the day of the expulsion or rescission;
- (f) a person that, during the 30 days prior to the date of rescission, was the officer of a person that had obtained the authorization referred to in Article 96-19, paragraph (1) or Article 96-31, paragraph (1) (hereinafter referred to as a "Major Shareholder" in this item) but that has had that authorization rescinded pursuant to the provisions of Article 96-22, paragraph (1) or Article 96-34, paragraph (1); the officer of a Commodity Exchange Holding Company that has had the authorization referred to in Article 96-25, paragraph (1) or the proviso of paragraph (3) of that Article rescinded pursuant to the provisions of Article 96-40, paragraph (1); the officer of a Commodity Exchange that has had the permission referred to in Article 9 or the license referred to in Article 78 rescinded pursuant to the provisions of Article 159, paragraph (1) or (2); the officer of a Commodity Transaction Clearing Organization that has had the license referred to in Article 167 rescinded pursuant to the provisions of Article 186, paragraph (1) or (2); the officer of a Commodity Futures Business Operator that has had the license referred to in Article 190, paragraph (1) rescinded pursuant to the provisions of Article 235, paragraph (3) or Article 236, paragraph (1); the officer of a Commodity Futures Intermediary that has had the registration referred to in Article 240-2, paragraph (1) rescinded pursuant

- to the provisions of Article 240-23, paragraph (1); or the officer of a corporation that is the Operator of a Type 1 Specified Facility (meaning the Operator of a Type 1 Specified Facility as prescribed in Article 331, item (ii); hereinafter the same applies in this item) or the Operator of a Type 2 Specified Facility (meaning the Operator of a Type 2 Specified Facility as prescribed in Article 331, item (iii); hereinafter the same applies in this item) and that has had the license referred to in Article 332, paragraph (1) or Article 342, paragraph (1) rescinded pursuant to the provisions of Article 340, paragraph (1) (including as applied mutatis mutandis pursuant to Article 345); if five years have yet to pass since the day of the rescission; or that, during the 30 days prior to the date of rescission, was the officer of a corporation that had obtained similar Permission, etc. in a foreign state, but that has had that Permission, etc. rescinded pursuant to the provisions of a foreign law or regulation that is equivalent to this Act, if five years have not yet passed since the day of the rescission;
- (g) a person that, during the 30 days prior to the date of expulsion or rescission, was the officer of a corporation that was the Member, etc. of a Commodity Exchange or the Member, etc. of a facility equivalent to a Commodity Exchange in a foreign state, but that has been expelled from the Commodity Exchange or the facility or has had its trading eligibility rescinded pursuant to an order under Article 160, paragraph (1) or under the equivalent provisions of a foreign law or regulation, if five years have not yet passed since the day of the expulsion or rescission;
- (h) an officer that has been dismissed pursuant to an order under Article 96-40, paragraph (2); Article 159, paragraph (3); Article 160, paragraph (1); Article 186, paragraph (4); Article 236, paragraph (2); or Article 240-23, paragraph (2); or under the equivalent provisions of a foreign law or regulation, if five years have not yet passed since the day of the dismissal;
- (i) a person that has not yet had one year pass after becoming subject to a court order under Article 328, paragraph (1) or a foreign court order under the equivalent provisions of a foreign law or regulation;
- (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 a category of person referred to in one of (a) to (j) inclusive;
- (l) a corporation that has a person falling under a category of person referred to in one of (a) to (k) inclusive as an officer.
- (ii) the written application or a document that is required to accompany it contains a false statement about a material particular.
- (3) If an application is filed for the permission referred to in Article 9, and the

term of existence of the Mutually Owned Commodity Exchange or the operative term of the Commodity Market is included or recorded in the articles of incorporation, the criterion set forth in paragraph (1), item (i) is replaced by the criteria that the volume of transactions is not expected to fall short in terms of ensuring fair and smooth Futures Transactions in the Listed Commodity or Listed Commodity Index to which the application pertains, and that, in light of the status of transactions in the Goods Comprising the Listed Commodity, etc., the incorporation of a Mutually Owned Commodity Exchange on which such Futures Transactions are conducted does not and is not likely to cause an extreme hindrance to the production or distribution of the Goods Comprising the Listed Commodity, etc., and the competent minister must apply such criteria and the criteria referred to in items (ii) and (iii) of that paragraph to reach a judgment with respect to the period up until the end of that term of existence or that operative term.

- (4) The competent minister must not give the permission referred to in Article 9 until after three months have passed since the day of the public notice under Article 352 (limited to the part that involves item (iii)).
- (5) Before the competent minister finds an application for the permission referred to in Article 9 not to conform to one of the items of paragraph (1) or to fall under one of the items of paragraph (2), the minister must notify the applicant of this, ask the applicant or its representative to appear, and have ministry officials conduct a hearing of opinions so as to give that person an opportunity to submit explanatory evidence.
- (6) In the case referred to in the preceding paragraph, if the person whose opinion is to be heard fails to take part in the hearing of opinions and has no legitimate grounds for failing to do so, the hearing of opinions is not required to be conducted.
- (7) When notifying a person as referred to in paragraph (5), the competent minister must clarify the particulars of the hearing of opinions and the location and date for the same.
- (8) The hearing of opinions referred to in paragraph (5) must be open to the public; provided, however, that this does not apply if the competent minister finds there to be a need to maintain the trade secret of a person whose opinion is to be heard, or finds there to be a need from a public interest perspective.
- (9) If the competent minister finds it to be necessary in order for the hearing of opinions referred to in paragraph (5) to be conducted, the minister may ask a person of reference to appear so as to hear the opinion thereof, ask a person of reference to submit an opinion or report, or ask an expert to appear and have the expert give an expert opinion.
- (10) If an application is filed for the permission referred to in Article 9 and the term of existence of the Mutually Owned Commodity Exchange or the operative

term of the Commodity Market is included or recorded in the articles of incorporation, the competent minister must issue a permission notice or a non-permission notice to the applicant within four months from the day of the public notice under Article 352 (limited to the part that involves item (iii)).

(11) If the competent minister does not issue the notice referred to in the preceding paragraph within the period set forth in that paragraph, the permission referred to in Article 9 is deemed to have been given on the final day of that period.

(Timing of establishment and notification)

Article 16 (1) A Mutually Owned Commodity Exchange is established by registration of its incorporation.

(2) A Mutually Owned Commodity Exchange must notify the competent minister of its establishment within two weeks from the day of its establishment.

(The handing over of administrative affairs to the president)

Article 17 Upon having the permission referred to in Article 9 (including in a case under Article 15, paragraph (11)), the founders must hand over their administrative affairs to the president without delay.

(Application mutatis mutandis of the Companies Act)

Article 18 (1) The provisions of Articles 53 through 56 of the Companies Act apply mutatis mutandis to the founders of a Mutually Owned 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 apply mutatis mutandis to an action seeking to hold the founders of a Mutually Owned Commodity Exchange liable. In this case, the term "Ordinance of the Ministry of Justice" in Article 847, paragraphs (1) and (4) of that Act are deemed to be replaced with "ordinance of the competent ministry", and any other necessary technical replacement of terms is specified by Cabinet Order.

(3) The provisions of Article 828, paragraph (1) (limited to the part that involves item (i)) and paragraph (2) (limited to the part that involves item (i)); Article 834 (limited to the part that involves item (i)); Article 835, paragraph (1); Article 836, paragraphs (1) and (3); Articles 837 through 839; and Article 846 apply mutatis mutandis to an action to invalidate the incorporation of a Mutually Owned Commodity Exchange.

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

Article 19 (1) If a particular set forth in Article 14, paragraph (1), item (iv) or (v)

changes, the Mutually Owned Commodity Exchange must submit a change notification form indicating this to the competent minister without delay.

- (2) The written notification of change referred to in the preceding paragraph must be accompanied by a document evidencing the change and by the documents specified by ordinance of the competent ministry.

(Registration of incorporation)

Article 20 (1) Incorporation of a Mutually Owned Commodity Exchange must be registered in the locality of its principal office within two weeks from the day on which it obtains the permission referred to in Article 9.

- (2) The following particulars must be registered in the registration referred to in the preceding paragraph:

- (i) purpose;
- (ii) name;
- (iii) office address;
- (iv) term of existence and grounds for dissolution, if specified;
- (v) total amount of contribution;
- (vi) amount for one unit of contribution and its method of payment;
- (vii) name, address, and credentials of the person with the authority for representation;
- (viii) means of public notice;
- (ix) if the provisions of the articles of incorporation which are referred to in Article 11, paragraph (6) specify electronic public notice as the means of public notice, the following particulars:
 - (a) the matters that are necessary for allowing many and unspecified persons to receive information of which public notice will be given as an electronic public notice, and which are specified by Ordinance of the Ministry of Justice;
 - (b) if there are provisions in the articles of incorporation as under the second sentence of Article 11, paragraph (7), those provisions.

(Registration of a change)

Article 21 (1) If there is a change in a particular set forth in one of the items of paragraph (2) of the preceding Article at a Mutually Owned Commodity Exchange, the change must be registered in the locality of its principal office within two weeks.

- (2) Notwithstanding the provisions of the preceding paragraph, it is sufficient to register a change to the particular set forth in paragraph (2), item (v) of the preceding Article as it stands on the last day of each business year, within four weeks after the last day of the relevant business year.

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

Article 22 If a Mutually Owned Commodity Exchange relocates its principal office to the jurisdictional district of another registry office, it must register the relocation in its former locality, and register the particulars set forth in the items of Article 20, paragraph (2) in its new locality, within two weeks.

(Registration of a provisional disposition suspending persons from discharging their duties)

Article 23 If an order for a provisional disposition is issued suspending the person representing a Mutually Owned Commodity Exchange from discharging that person's duties or appointing a person to act in that person's stead in the performance of those duties, or if a decision is reached that changes or rescinds such a provisional disposition, this must be registered in the locality of the Exchange's principal office.

(Registration in the locality of secondary offices)

Article 24 (1) In a case set forth in one of the following items (unless the secondary office set forth in the relevant item is located within the jurisdictional district of the registry office that has jurisdiction in the locality of the principal office), a registration in the locality of any secondary office must be made in the locality of that secondary office within the period specified in that item:

(i) the secondary office is established upon the incorporation of the Mutually Owned Commodity Exchange (other than in the case set forth in the following item): within two weeks from the day on which the registration of incorporation is recorded in the locality of the principal office;

(ii) the Mutually Owned Commodity Exchange that is incorporated in a consolidation-type merger establishes the secondary office at the time of that consolidation-type merger: within three weeks from the day set forth in Article 147-2, paragraph (1);

(iii) secondary office is established after the incorporation of the Mutually Owned Commodity Exchange: within three weeks from the day on which the secondary office is established.

(2) The following particulars must be registered in a registration in the locality of a secondary office; provided, however, that if a secondary office is being newly established within the jurisdictional district of a registry office that has jurisdiction in the locality of an existing secondary office, it is sufficient for the particular set forth in item (iii) to be registered:

(i) name;

(ii) location of the principal office;

(iii) addresses of the secondary offices (limited to secondary offices located in the jurisdictional district of the registry office that has jurisdiction in the locality of the secondary office in question).

(3) If there is a change in a particular set forth in one of the items of the preceding paragraph, the change must be registered in the locality of that secondary office within three weeks.

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

Article 24-2 If a Mutually Owned Commodity Exchange relocates its secondary office to the jurisdictional district of another registry office, it must register the relocation in its former locality (unless this is within the jurisdictional district of the registry office that has jurisdiction in the locality of the principal office) within three weeks, and must register the particulars set forth in the items of paragraph (2) of the preceding Article in its new locality (unless this is within the jurisdictional district of the registry office that has jurisdiction in the locality of the principal office; hereinafter the same applies in this Article) within four weeks; provided, however, that if a Mutually Owned Commodity Exchange newly relocates a secondary office into the jurisdiction of a registry office that has jurisdiction in the locality of an existing secondary office, it is sufficient for the particulars set forth in item (iii) of that paragraph to be registered in its new locality.

(Competent registry office and the register)

Article 25 (1) The Legal Affairs Bureau or the District Legal Affairs Bureau with jurisdiction or the branch office or sub-branch office of that bureau that has jurisdiction in the locality of the office of the Mutually Owned Commodity Exchange, is the competent registry office for administrative affairs involved in the registration of a Mutually Owned Commodity Exchange.

(2) A registry office keeps a register of Mutually Owned Commodity Exchanges.

(Application for a registration of incorporation)

Article 26 (1) A registration of incorporation is made for a Mutually Owned Commodity Exchange at the application of the person that is to represent the Mutually Owned Commodity Exchange.

(2) The written application for a registration of the incorporation of a Mutually Owned Commodity Exchange must be accompanied by a document evidencing the credentials of the person that is to represent the Mutually Owned Commodity Exchange.

(Application for the registration of a change)

Article 27 A written application for the registration of a change in a particular set forth in one of the items of Article 20, paragraph (2) must be accompanied by a document evidencing the change in that particular.

(Procedure for registering the invalidation of incorporation)

Article 28 The provisions of Article 937, paragraph (1) of the Companies Act (limited to the part that involves item (i) (a)) applies mutatis mutandis when a judgment affirming the claim in an action to invalidate the incorporation of a Mutually Owned Commodity Exchange becomes final and binding. In this case, the phrase "the location of the head office of the company (or, in the cases prescribed in item (i) (g), if the matters listed in the items of Article 930 (2) have been registered as a result of such resolution, the head office and the branch office(s) pertaining to such registration)" in the same paragraph is deemed to be replaced with "the principal office location of the Mutually Owned 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) apply mutatis mutandis to the registration of a Mutually Owned 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 that Act is deemed to be replaced with "the items of Article 24, paragraph (2) of the Commodity Exchange Act".

Subsection 2 Membership

Article 30 Deleted

(Conditions for ineligibility)

Article 31 (1) A person falling under one of the categories referred to in Article 15, paragraph (2), item (i), (a) to (l) inclusive may not become a member.

(2) With regard to the application of the provisions of the preceding paragraph (limited to the part that involves Article 15, paragraph (2), item (i), (c) to (e) inclusive, (i) and (l)), the corporation that survives a merger or the corporation incorporated in a merger is deemed to be the same corporation as that which disappeared in the merger.

(Contribution)

- Article 32 (1) A member must make a contribution of one or more units.
- (2) Contributions may not be made using property other than money.
- (3) The amount for one unit of contribution must be uniform.
- (4) Other than a member's liability for the expenses under Article 34 and for the amount of loss under Article 45, paragraph (3), a member's liability for the obligations of a Mutually Owned Financial Instruments Corporation is limited to the amount of its contribution.
- (5) A member may not assert a set-off against a Mutually Owned Commodity Exchange for payment of its contribution.

(Voting rights and right to elect)

- Article 33 (1) A member has a single voting right and a single right to elect officers, irrespective of that member's number of units of contribution.
- (2) A member may exercise a voting right or right to elect by written ballot or by proxy in respect of particulars of which the member is notified in advance pursuant to the provisions of Article 59, paragraph (8). In such a case, a person may not act as a proxy unless that person has the credentials specified in the articles of incorporation.
- (3) In lieu of exercising a voting right by written ballot pursuant to the preceding paragraph, a member may exercise a voting right by electronic or magnetic means, pursuant to the provisions of the articles of incorporation.
- (4) A person that exercises a voting right or a right to vote pursuant to the provisions of the preceding two paragraphs is deemed to be present at the relevant meeting.
- (5) A proxy must submit a document certifying its authority for representation to the Mutually Owned Commodity Exchange. In such a case, if the articles of incorporation provide that voting rights may be exercised by electronic or magnetic means, the proxy may attest to its authority for representation through electronic or magnetic means in lieu of submitting such a document.

(Imposition of expenses)

- Article 34 (1) A Mutually Owned Commodity Exchange may impose expenses on its members pursuant to the provisions of its articles of incorporation.
- (2) The provisions of Article 32, paragraph (5) apply mutatis mutandis to the payment of the expenses referred to in the preceding paragraph.

(Joining)

- Article 35 (1) A person that, as of the time of incorporation of a Mutually Owned Commodity Exchange, seeks to join the Mutually Owned Commodity Exchange and has finished paying the full amount of the contribution that person has undertaken, becomes a member at the time of the establishment of the

Mutually Owned Commodity Exchange.

- (2) A person that, as of the time of incorporation of a Mutually Owned Commodity Exchange, seeks to join the Mutually Owned Commodity Exchange but has not finished making the payment prescribed in the preceding paragraph by the time of the establishment of the Mutually Owned Commodity Exchange, is deemed to have rescinded the application for membership at the time of the establishment of the Mutually Owned Commodity Exchange.
- (3) A person seeking to join a Mutually Owned Commodity Exchange after its establishment becomes a member at the time that, pursuant to the provisions of the articles of incorporation, the person obtains the Mutually Owned Commodity Exchange's consent to join it, finishes paying the full amount of the contribution that person has undertaken, and finishes paying the membership fee, if the Mutually Owned Commodity Exchange has stipulated that it will collect one; or at the time that, pursuant to the provisions of the articles of incorporation, the person obtains the Mutually Owned Commodity Exchange's consent to join it, acquires the whole or a part of a member's equity, and finishes paying the membership fee, if the Mutually Owned Commodity Exchange has stipulated that it will collect one.
- (4) If a person that is qualified to become a member seeks to join a Mutually Owned Commodity Exchange, the Mutually Owned Commodity Exchange must not refuse membership without just cause.

(Acquisition of equity)

- Article 36 (1) A member may transfer the whole or a part of its equity to a person that is qualified to become a member, pursuant to the provisions of the articles of incorporation.
- (2) If a person that is qualified to become a member seeks to acquire equity, the acquisition must be governed by the same rules as those for joining.
 - (3) A person acquiring equity succeeds to the rights and obligations of the person transferring that equity.

(Succession to equity)

- Article 37 (1) If a member dies and that member's heir or donee (hereinafter referred to as the "Heir, etc." in this Article) is a member, such a person succeeds to the equity of the decedent and the rights and obligations of the decedent in connection with that equity. In such a case, the Heir, etc. must notify the Mutually Owned Commodity Exchange of this without delay.
- (2) If a member dies and the Heir, etc. is a person that is qualified to become a member, such a person may succeed to the share of the decedent and the rights and obligations of the decedent in connection with that share upon obtaining the Mutually Owned Commodity Exchange's consent for the person to join it

within the period specified in the articles of incorporation.

(3) Once an Heir, etc. succeeds to the equity of the decedent and to the rights and obligations of the decedent in connection with that equity pursuant to the provisions of the preceding paragraph, the Heir, etc. is deemed to have become a member at the decedent's time of death.

(4) In the case referred to in paragraph (1) or (2), if there are two or more Heirs, etc., the provisions of these paragraphs apply only to the one Heir, etc. that all the Heirs, etc. consent to select.

(Prohibition on co-ownership of equity)

Article 38 Members may not co-own equity.

(Succession to rights and obligations in transactions)

Article 39 A person that succeeds to the equity of a member and to the rights and obligations connected with that equity pursuant to the provisions of Article 37, paragraph (1) or (2) succeeds to the rights and obligations in the transactions that the member has effected on the Commodity Market.

(Succession to member status)

Article 40 If a member merges, the corporation surviving the merger or the corporation incorporated in the merger succeeds to member status.

(Voluntary withdrawal)

Article 41 (1) A member may withdraw from a Mutually Owned Commodity Exchange with 30 days' advance notice.

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

(Withdrawal by operation of law)

Article 42 In addition to being withdrawn in the case prescribed in the preceding Article or Article 44, paragraph (1), membership is withdrawn for the following reasons:

(i) all of the Commodity Markets in which the person trades close pursuant to the provisions of Article 70;

(ii) transfer of the whole of the member's share;

(iii) death or dissolution;

(iv) expulsion.

(Expulsion)

Article 43 (1) With the exception of expulsion pursuant to the provisions of

Article 99, paragraph (5) and expulsion by order of the competent minister under Article 160, paragraph (1), the expulsion of a member is to be effected through a general meeting resolution as provided in Article 61, in respect of a member against which there exists a reason as specified by the articles of incorporation.

- (2) In a case as referred to in the preceding paragraph, the Mutually Owned Commodity Exchange must send a document indicating this to and giving the reason for the expulsion to the member by 10 days prior to the day of the relevant general meeting, and must give the member an opportunity to provide an explanation at the general meeting.
- (3) , Expulsion may not be asserted against a member unless the expelled member is notified of the expulsion.

(Withdrawal due to attachment of the share)

Article 44 (1) A creditor that attaches the share of a member may cause the member to withdraw from membership; provided, however, that the creditor must give 30 days' advance notice to the Mutually Owned Commodity Exchange and the member.

- (2) The advance notice referred to in the proviso to the preceding paragraph ceases to be in effect if the member referred to in that paragraph repays the debt or provides reasonable collateral to the creditor referred to in in that paragraph.
- (3) Attachment of the share of a member is also effective against the right to claim a refund of that share.

(Refund of equity)

Article 45 (1) A member that withdraws from membership may receive a refund of the whole or a part of its equity, pursuant to the provisions of the articles of incorporation.

- (2) The share referred to in the preceding paragraph is decided based on the property of the Mutually Owned Commodity Exchange on the last day of the month preceding that in which the member withdraws from membership.
- (3) In calculating the share referred to in the preceding paragraph, if a debt cannot be repaid in full out of the property of the Mutually Owned Commodity Exchange, the Mutually Owned Commodity Exchange may file a claim against the withdrawn member for payment of the amount of loss that the withdrawn member is to bear.
- (4) A claim under paragraph (1) or the preceding paragraph extinguishes by prescription if not exercised in the two years after the withdrawal.
- (5) A Mutually Owned Commodity Exchange may suspend the refund of the share until the withdrawn member repays its debt to the Mutually Owned

Commodity Exchange in full.

Subsection 3 Organization

(Officers)

Article 46 (1) A Mutually Owned Commodity Exchange has the following officers:

One president;

Two or more directors;

Two or more auditors.

(Authority of the president and directors)

Article 47 (1) The president represents the Mutually Owned Commodity Exchange and presides over its administrative affairs.

(2) A director, pursuant to the provisions of the articles of incorporation, represents the Mutually Owned Commodity Exchange, assists the president in administering the affairs of the Mutually Owned Commodity Exchange, acts as a proxy in handling the duties of the president if the president is unable to attend to them, and performs the duties of the president if the position is vacant.

(3) The execution of the administrative affairs of a Mutually Owned Commodity Exchange is decided by majority vote among 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 for specific actions to another person, unless such delegation is prohibited by the articles of incorporation or general meeting resolution.

(Authority of the auditors)

Article 48 (1) An auditor audits the administrative affairs of the Mutually Owned 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) An auditor must examine the documents that the president seeks to submit to a general meeting of members and report an opinion to the members.

(Conditions for ineligibility as an officer)

Article 49 (1) A person falling under a category of person referred to in one of Article 15, paragraph (2), item (i), (a) to (k) inclusive may not become the

officer of a Mutually Owned Commodity Exchange.

- (2) If the officer of a Mutually Owned Commodity Exchange comes to fall under a category of person provided for in the preceding paragraph, that officer loses the position of officer.

(Appointment of officers)

Article 50 (1) The members elect the officers of a Mutually Owned Commodity Exchange at a general meeting pursuant to the provisions of the articles of incorporation, with the exception of the directors that are appointed pursuant to the following paragraph; provided, however, that the persons seeking to become members elect the officers at the time of incorporation at an organizational meeting.

- (2) If there are special provisions in the articles of incorporation, the president appoints the number of directors specified by the articles of incorporation with the consent of a majority of the directors.

(Relationship between a Mutually Owned Commodity Exchange and officers)

Article 50-2 The relationship between a Mutually Owned Commodity Exchange and its officers is in accordance with the provisions concerning delegation.

(Term of office of officers)

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

- (2) Notwithstanding the provisions of the preceding paragraph, the term of office of an officer at the time of incorporation is the period decided at the organizational meeting; provided, however, that such a period may not exceed one year.

(Provisional directors and provisional auditors)

Article 52 If there is no person to perform the duties of a director or auditor and if the competent minister finds it to be necessary, the minister may appoint a provisional director or provisional auditor.

(Liability of the president and directors)

Article 53 (1) If the president or a director neglects their duties, such president and directors are held jointly and severally liable for damages to the Mutually Owned Commodity Exchange.

- (2) If the president or a director commits an act that violates a law or regulation or the articles of incorporation, even if this was based on a general meeting resolution, such president and directors are held jointly and severally liable for damages to third parties.

(Requesting the dismissal of an officer)

- Article 54 (1) A member may request the dismissal of an officer, with the countersignatures of at least one-fifth of all of the members. In such a case, with the consent of at least two-thirds of the attending members at a general meeting about that request where at least half of all members are present, the officer to which the request pertains loses the position of officer.
- (2) A request for dismissal under the preceding paragraph must be made simultaneously by the president and all of the directors or simultaneously by all of the auditors; provided, however, that this does not apply if dismissal is requested due to the violation of a law or regulation, the articles of incorporation, or the operational rules.
- (3) To make request for dismissal under paragraph (1), a document stating the reason for the request must be submitted to the president.
- (4) If a request for dismissal under paragraph (1) is made, the president must refer the request to a general meeting and send the document under the preceding paragraph to the officer to which the request pertains by 10 days before the day of the general meeting, and must give that officer an opportunity to provide an explanation at the general meeting.
- (5) The provisions of Article 59, paragraphs (3), (6), and (7) apply mutatis mutandis to the case referred to in the preceding paragraph.

(Prohibition on the concurrent holding of positions by officers)

- Article 55 (1) The officer of a Mutually Owned Commodity Exchange must not hold the position of officer at another Commodity Exchange.
- (2) It is prohibited for the president or a director to concurrently hold the position of auditor at the Mutually Owned Commodity Exchange where the person serves as president or director, and for an auditor to concurrently hold the position of employee, president, or director at the Mutually Owned Commodity Exchange where the person serves as auditor.

(Prohibition against directors' concluding contracts with themselves)

- Article 56 When a Mutually Owned Commodity Exchange concludes a contract with the president or a director, an auditor represents the Mutually Owned Commodity Exchange. The same applies to litigation between a Mutually Owned Commodity Exchange and the president or a director.

(Keeping and inspection of the articles of incorporation)

- Article 57 (1) A Mutually Owned Commodity Exchange must keep copies of the articles of incorporation and operational rules at each office of the Mutually Owned Commodity Exchange, and must keep a register of members at its

principal office.

- (2) A Mutually Owned Commodity Exchange must keep the minutes of general meetings at its principal office for 10 years, and must keep copies of those minutes at its secondary offices for five years.
- (3) The following particulars concerning each member must be included or recorded in a register of members:
 - (i) name or trade name and address;
 - (ii) date joined;
 - (iii) number of units of contribution, amount of contribution, and date of payment;
 - (iv) the listed Commodity or Listed Commodity Index on the Commodity Market on which the member trades;
 - (v) if it is a Commodity Futures Business Operator, the license date.
- (4) The member or creditor of a Mutually Owned Commodity Exchange may make the following requests at any time during the business hours of the Mutually Owned Commodity Exchange; provided, however, that in making the request set forth in item (ii) or (iv), the member or creditor must pay the cost stipulated by the Mutually Owned Commodity Exchange:
 - (i) a request to inspect a document referred to in paragraph (1) or (2);
 - (ii) a request to be issued a certified copy or extract of a document referred to in paragraph (1) or (2);
 - (iii) if an electronic or magnetic record has been created in lieu of a document referred to in paragraph (1) or (2), a request to inspect something that shows the particulars that have been recorded in that electronic or magnetic record, through a means specified by ordinance of the competent ministry;
 - (iv) a request to be provided with the particulars that have been recorded in an electronic or magnetic record referred to in the preceding item by an electronic or magnetic means specified by ordinance of the competent ministry, or a request to be issued a document that states those particulars.
- (5) If a Mutually Owned Commodity Exchange has had a request as under the preceding paragraph, it must not refuse that request without legitimate grounds.

(Application mutatis mutandis of the Companies Act)

Article 58 The provisions of Article 424 and Article 430 of the Companies Act 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 that Act apply mutatis mutandis to an action seeking to hold the president, directors, and auditors liable; the provisions of Article 349, paragraphs (4) and (5), Article 350, Article 354, and Article 361 of that Act apply mutatis

mutandis to the president and directors; and the provisions of Article 53 apply mutatis mutandis to the auditors. In this case, the phrase "paragraph (1) of the preceding Article" in Article 424 of that Act is deemed to be replaced with "Article 53, paragraph (1) of the Commodity Exchange Act"; the term "In cases where Officers, Etc." in Article 430 of that Act is deemed to be replaced with "If the president or a director"; the phrase "another Officer, Etc." in the same Article is deemed to be replaced with "an auditor"; the term "Ordinance of the Ministry of Justice" in Article 847, paragraphs (1) and (4) of that Act is deemed to be replaced with "ordinance of the competent ministry"; and any other technical replacement of terms is as specified by Cabinet Order.

(The calling of a general meeting)

- Article 59 (1) The president must call an ordinary general meeting once every business year, pursuant to the provisions of the articles of incorporation.
- (2) The president may call an extraordinary general meeting pursuant to the provisions of the articles of incorporation, whenever the president finds this to be necessary.
- (3) If a member, with the consent of at least one-fifth of all of the members, submits a document to the president specifying the purpose of a Board Meeting and the grounds for calling one, the president must convene an extraordinary general meeting within 20 days after the day of the request.
- (4) In the case referred to in the preceding paragraph, if the articles of incorporation provide that a voting right may be exercised by electronic or magnetic means, in lieu of submitting the document under that paragraph, a member may submit the purpose and grounds that are to be stated in that document by electronic or magnetic means. In such a case, a member that submits the purpose and grounds that are to be stated in a document by electronic or magnetic means is deemed to have submitted that document.
- (5) In providing the purpose and grounds that are to be stated in a document by the electronic or magnetic means (excluding any means specified by ordinance of the competent ministry) referred to in the first sentence of the preceding paragraph, the purpose and grounds are deemed to have reached the president at the time that they are recorded in a file on a computer used by the president.
- (6) If there is no person to perform the duties of the president, or if a request set forth in paragraph (3) is made but the president fails to implement convocation procedures without a legitimate grounds for failing to do so, an auditor must convene a general meeting without delay.
- (7) In the case referred to in the preceding paragraph, if there is no person to perform the duties of auditor, or if an auditor fails to implement the procedures referred to in that paragraph without legitimate grounds for failing to do so, the member referred to in paragraph (3) may convene a general meeting with

the approval of the competent minister.

- (8) In order to convene a general meeting, a written notice to convene must be sent 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 for a convocation as prescribed in paragraph (2), (3), (6), or the preceding paragraph.
- (9) The purpose of the meeting must be stated in the notice referred to in the preceding paragraph.
- (10) In lieu of sending a written notice under paragraph (8), the person calling a general meeting may send notice by electronic or magnetic means, with the consent of the members and pursuant to the provisions of Cabinet Order. In such a case, the person convening a general meeting that sends such a notice by electronic or magnetic means is deemed to have sent the written notice under that paragraph.

(Matters requiring a general meeting resolution)

Article 60 The following matters, beyond those that are otherwise prescribed in this Act, require a general meeting resolution:

- (i) a change in the articles of incorporation;
- (ii) approval of the balance sheet, profit and loss statement, business report, and proposed allocation of surplus or proposed allocation of loss;
- (iii) the means of imposing and collecting costs;
- (iv) dissolution;
- (v) merger;
- (vi) expulsion of a member;
- (vii) any other matter specified by the articles of incorporation.

(Matters requiring a special general meeting resolution)

Article 61 The matters set forth in item (i) and items (iv) to (vi) inclusive of the preceding Article require a resolution to be passed with at least a two-thirds majority vote of the attendees, at a meeting where at least half of all members are present.

(Items of general meeting business)

- Article 62 (1) Unless otherwise provided for in this Act or in the articles of incorporation, items of general meeting business are decided by majority vote of the members in attendance, and by the chairperson in the event of a tie.
- (2) The chairperson is appointed at a general meeting.
 - (3) The chairperson is not entitled to take part in a general meeting resolution as a member.
 - (4) Only the particulars of which notice is given in advance pursuant to the

provisions of Article 59, paragraph (8) may be put to a resolution at a general meeting; provided, however, that this does not apply if otherwise provided in the articles of incorporation.

- (5) The minutes of a general meeting of members must also be signed by the auditors in attendance.

(Resolution to postpone or continue)

Article 62-2 At a general meeting, if a resolution is passed to postpone or continue that meeting, the provisions of the main clause of Article 59, paragraph (8) do not apply.

(Minutes)

Article 62-3 The minutes of a general meeting must be prepared pursuant to the provisions of ordinance of the competent ministry.

(Application mutatis mutandis of the Companies Act)

Article 63 The provisions of Article 830 of the Companies Act and of Article 831; Article 834 (limited to the part that involves 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 that involves item (i) (g)) of that Act apply mutatis mutandis to an action seeking a declaratory judgment as to the absence or invalidity of a general meeting resolution or an action seeking the rescission of such a resolution. In this case, the phrase "the head office (or, in the cases prescribed in item (i) (g), if the matters listed in the items of Article 930 (2) have been registered as a result of such resolution, the head office and the branch office(s) pertaining to such registration)" in Article 937, paragraph (1) is deemed to be replaced with "the principal office of the Mutually Owned Commodity Exchange (or, in the case prescribed in item (i) (g), if a particular set forth in one of the items of Article 24, paragraph (2) of the Commodity Exchange Act is registered pursuant to that resolution, the principal office and the secondary office to which the registration pertains)".

Subsection 4 Accounts

(Loss reserves)

Article 64 (1) A Mutually Owned Commodity Exchange must set aside at least ten percent of surplus in every business year as loss reserves, pursuant to the provisions of the articles of incorporation.

- (2) The reserves set forth in the preceding paragraph must not be broken into other than when allocated to cover a loss.

(Prohibition on the distribution of surplus)

Article 65 A Mutually Owned Commodity Exchange may not distribute its surplus.

(Preparation of Account Settlement Documents)

Article 66 (1) A Mutually Owned Commodity Exchange must prepare an inventory of assets, balance sheet, profit and loss statement, business report, and proposed allocation of surplus or proposed allocation of loss (hereinafter referred to as "Account Settlement Documents") in accordance with the provisions of ordinance of the competent ministry .

(2) An Account Settlement Document may be prepared as an electronic or magnetic record.

(Submission of Account Settlement Documents)

Article 67 The president must submit or provide Account Settlement Documents (including an electronic or magnetic record, if these documents have been prepared as electronic or magnetic records or if electronic or magnetic records are prepared in lieu of the paper documents) to the auditors by two weeks before the day of an ordinary general meeting.

(Approval and reporting of Account Settlement Documents)

Article 68 (1) Account Settlement Documents (excluding the inventory of property and business report) must be approved by an ordinary general meeting of members.

(2) The president must report the content of the business report at an ordinary general meeting.

(Keeping and inspection of Account Settlement Documents)

Article 68-2 (1) A Mutually Owned Commodity Exchange must keep Account Settlement Documents at its principal office for five years, beginning from the day two weeks prior to the day of the relevant ordinary general meeting.

(2) A Mutually Owned Commodity Exchange must keep a copy of Account Settlement Documents at its secondary offices for three years, beginning from the day two weeks prior to the day of the relevant ordinary general meeting; provided, however, that this does not apply if the Account Settlement Documents have been prepared as electronic or magnetic records and a measure specified by ordinance of the competent ministry as one that enables a secondary office to respond to the requests set forth in items (iii) and (iv) of the following paragraph has been taken.

(3) The member or creditor of a Mutually Owned Commodity Exchange may

make the following requests of the Mutually Owned Commodity Exchange at any time during its business hours; provided, however, that in making the request set forth in item (ii) or (iv), the member or creditor must pay the cost stipulated by the Mutually Owned Commodity Exchange:

- (i) if an Account Settlement Document has been prepared as a written document, a request to inspect that document or a copy of it;
- (ii) a request to be issued a certified copy or extract of a document referred to in the preceding item;
- (iii) if an Account Settlement Document has been prepared as an electronic or magnetic record, a request to inspect something that shows the particulars that have been recorded in that electronic or magnetic record, through a means specified by ordinance of the competent ministry;
- (iv) a request to be provided with the particulars that have been recorded in an electronic or magnetic record referred to in the preceding item by an electronic or magnetic means specified by ordinance of the competent ministry, or a request to be issued a document that states those particulars.

(Public notice of the balance sheet)

Article 68-3 A Mutually Owned Commodity Exchange must issue public notice of its balance sheet pursuant to the provisions of ordinance of the competent ministry without delay after the conclusion of an ordinary general meeting.

Subsection 5 Dissolution and Liquidation

(Dissolution of a Mutually Owned Commodity Exchange)

Article 69 A Mutually Owned Commodity Exchange is dissolved for the following reasons:

- (i) expiration of the term of existence specified in the articles of incorporation or the occurrence of grounds for dissolution specified in the articles of incorporation;
- (ii) general meeting resolution;
- (iii) merger (limited to a merger in which the Mutually Owned Commodity Exchange disappears; the same applies in Articles 71 and 72);
- (iv) an order to commence bankruptcy proceedings;
- (v) rescission of permission for incorporation;
- (vi) the number of members on all of its Commodity Markets falls to 10 or below.

(Partial closure of Commodity Markets)

Article 70 If the number of members effecting Transactions on a Commodity Market that a Mutually Owned Commodity Exchange operates falls to 10 or

below, the Mutually Owned Commodity Exchange must suspend the Transactions on that Commodity Market and apply for authorization for a change to the articles of incorporation under Article 155, paragraph (1), unless it is dissolved for the reason set forth in item (vi) of the preceding Article.

(Liquidators)

Article 71 If a Mutually Owned Commodity Exchange is dissolved, the president and directors become the liquidators, unless it is dissolved in a merger or due to an order to commence bankruptcy proceedings; provided, however, that this does not apply if another person is appointed at a general meeting.

(Distribution of residual assets)

Article 71-2 Residual assets must be distributed based on a member's number of units of contribution.

(Registration of dissolution)

Article 72 If a Mutually Owned Commodity Exchange is dissolved, the dissolution must be registered in the locality of its principal office within two weeks, unless it is dissolved in a merger or due to an order to commence bankruptcy proceedings.

(Registration of completion of liquidation)

Article 73 Once a liquidation is complete, the completion of liquidation must be registered in the locality of the principal office within two weeks, and in the locality of any secondary office within three weeks, from the day of the approval referred to in Article 507, paragraph (3) of the Companies Act as applied mutatis mutandis pursuant to Article 77, paragraph (1) of this Act.

(Application for the registration of a dissolution)

Article 74 (1) A document evidencing the reason for dissolution must accompany the written application to register the dissolution of a Mutually Owned Commodity Exchange, and if the president or director representing the Mutually Owned Commodity Exchange is not the liquidator, a document certifying that the liquidator is the person that is to represent the Mutually Owned Commodity Exchange.

(2) If a Mutually Owned Commodity Exchange is dissolved at the disposition of the competent minister to rescind the permission for incorporation, the registration of its dissolution is made at the request of the competent minister.

(Application for the registration of the completion of liquidation)

Article 75 A document evidencing that the approval referred to in Article 507,

paragraph (3) of the Companies Act as applied mutatis mutandis pursuant to Article 77, paragraph (1) has been obtained must accompany the written application for a registration under Article 73.

(Approval of the merger of a Mutually Owned Commodity Exchange)

Article 76 (1) A merger in which Mutually Owned Commodity Exchanges constitute all or part of the parties (excluding a merger set forth in Article 145, paragraph (1)) does not become effective without the authorization of the competent minister.

- (2) If a Mutually Owned Commodity Exchange is dissolved for one of the following reasons, the person that was its representative must notify the competent minister of this without delay:
- (i) expiration of the term of existence specified in the articles of incorporation or the occurrence of grounds for dissolution specified in the articles of incorporation;
 - (ii) general meeting resolution;
 - (iii) an order to commence bankruptcy proceedings;
 - (iv) the number of members in all Commodity Markets falls to 10 or below.

(Application mutatis mutandis of the Companies Act)

Article 77 (1) The provisions of Article 475 of the Companies Act (excluding items (i) and (iii)) and of 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 that involves item (ii)); Article 871; Article 872 (limited to the part that involves item (iv)); Article 874 (limited to the part that involves items (i) and (iv)); Article 875; and Article 876 of that Act apply mutatis mutandis to the liquidation of a Mutually Owned Commodity Exchange. In this case, the term "Ordinance of the Ministry of Justice" in Article 492, paragraph (1) and Article 507, paragraph (1) of that Act is deemed to be replaced with "ordinance of the competent ministry"; and the phrase "give public notice in an official gazette" in Article 499, paragraph (1) of that Act is deemed to be replaced with "issue 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 the provisions of Article 361 of the Companies Act and of Article 424, Article 430, Article 599, and Article 600 of that Act apply mutatis mutandis to the liquidators of a Mutually Owned 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 that Act apply mutatis mutandis to an action seeking to hold the liquidators of a Mutually Owned Commodity Exchange liable. In this case, the phrase "inventory of property, balance sheet, profit and loss statement, business report, and proposed allocation of surplus or proposed allocation of loss" in Article 66, paragraph (1) of this Act is deemed to be replaced with "inventory of property, balance sheet, and business report"; the phrase "paragraph (1) of the preceding Article" in Article 424 of the Companies Act is deemed to be replaced with "Article 53, paragraph (1) of the Commodity Exchange Act"; the phrase " Ordinance of the Ministry of Justice" in Article 847, paragraphs (1) and (4) of that Act is deemed to be replaced with "ordinance of the competent ministry"; and any other technical replacement of terms is specified by Cabinet Order.

- (3) The court supervising the liquidation of a Mutually Owned Commodity Exchange may seek the opinion of, or commission an investigation by, the competent minister.
- (4) The competent minister may state an opinion to the court prescribed in the preceding paragraph.
- (5) The provisions of Article 71, paragraph (1) of the Commercial Registration Act apply mutatis mutandis to the registration of the dissolution of a Mutually Owned Commodity Exchange.

Section 3 Stock Company-Operated Commodity Exchanges

Subsection 1 General Provisions

(Licensing a Stock Company-Operated Commodity Exchange)

Article 78 A person that seeks to become a Stock Company-Operated Commodity Exchange must obtain a license from the competent minister.

(Application for a license)

Article 79 (1) A person seeking the license referred to in the preceding Article must submit a written application stating the following particulars to the competent minister:

- (i) its trade name;
- (ii) its amount of stated capital;
- (iii) the localities of the head office, branch offices, and any other business offices;
- (iv) the Listed Commodity or Listed Commodity Index;
- (v) the names or trade names and addresses of its officers;
- (vi) the names or trade names of the Trading Participants and the Listed Commodity or Listed Commodity Index for the Commodity Market on which

the Trading Participants will trade, and an indication that the Trading Participant has been engaging continuously in the Purchase and Sale, etc. of Goods Comprising the Listed Commodity, etc. in the course of trade, for one year or more, if applicable.

- (2) The articles of incorporation, operational rules, brokerage contract rules, dispute resolution rules, market transactions surveillance committee rules, and other documents specified by ordinance of the competent ministry must accompany the written application referred to in the preceding paragraph.

(Criteria for licensing)

Article 80 (1) If the competent minister finds that an application for the license referred to in Article 78 conforms to the following criteria, the minister must grant the license:

- (i) the license applicant is a stock company whose stated capital is at least the amount specified by Cabinet Order;
- (ii) the Commodity Market to which the application pertains conforms to the criteria prescribed in the relevant of the following for the category of Commodity Market set forth therein:
 - (a) a Commodity Market for a Listed Commodity: the total number of Trading Participants that seek to trade on the Commodity Market is 20 or greater, and the majority of them have been engaging continuously in the Purchase and Sale, etc. of the Goods Comprising the Listed Commodity on the Commodity Market in the course of trade, for one year or more;
 - (b) a Commodity Market for a Listed Commodity Index: the total number of Trading Participants that seek to trade on the Commodity Market is 20 or greater, and the majority of them have been engaging continuously in the Purchase and Sale, etc. of the Goods Underlying the Listed Commodity Index on the Commodity Market in the course of trade, for one year or more.
- (iii) the volume of transactions is expected to be sufficient for ensuring fair and smooth Futures Transactions in the Listed Commodity or Listed Commodity Index to which the application pertains, and in light of the status of transactions in the Goods Comprising the Listed Commodity, etc., it is necessary and appropriate for the license applicant to become a Stock Company-Operated Commodity Exchange on which such Futures Transactions are effected, in order to facilitate the production and distribution of the Goods Comprising the Listed Commodity, etc.;
- (iv) if the applicant seeks to operate a Commodity Market for a Listed Commodity, the situation conforms to the criteria specified by Cabinet Order as a situation in which it is appropriate for the Goods Comprising the Listed Commodity to be traded on a single Commodity Market, in light of the

- trading conditions of persons effecting Purchase and Sales, etc. of Goods Comprising the Listed Commodity in the course of trade, and in light of other circumstances of economic activities involving the Goods Comprising the Listed Commodity;
- (v) if the applicant seeks to operate a Commodity Market with two or more Commodity Indices as a single Listed Commodity Index, most of the goods underlying those two or more Commodity Indices are the same goods;
 - (vi) the provisions of the articles of incorporation, operational rules, brokerage contract rules, dispute resolution rules, and market transactions surveillance committee rules do not violate laws and regulations, and the transaction method or management of transactions; eligibility as a Trading Participant; maximum number of Trading Participants, if specified; particulars of deposits, if the obligation to make a special security deposit is stipulated; and other particulars prescribed in the articles of incorporation, operational rules, brokerage contract rules, dispute resolution rules, and market transactions surveillance committee rules are appropriate and sufficient for ensuring the fairness of Transactions on the Commodity Market and for protecting entrustors;
 - (vii) the license applicant has a sufficient personnel structure to appropriately manage the Commodity Market;
 - (viii) the license applicant will be organized as a Stock Company-Operated Commodity Exchange in a manner that conforms to the provisions of this Act;
 - (ix) the license applicant has in place the following mechanisms:
 - (a) a board of directors;
 - (b) a board of auditors or audit committee;
 - (c) an accounting auditor.
- (2) Notwithstanding the provisions of the preceding paragraph, if an application for the license referred to in Article 78 falls under one of the following items, the competent minister must not grant the license referred to in that Article:
- (i) the license applicant falls under a category of person referred to in one of Article 15, paragraph (2), item (i) (c) to (e) inclusive, (i), or (l);
 - (ii) the written application or a document that is required to accompany it contains a false statement about a material particular.
- (3) If an application is filed for the license referred to in Article 78, and the applicant's term of existence as a Stock Company-Operated Commodity Exchange or the operative term of the Commodity Market is included or recorded in the operational rules, the criterion set forth in paragraph (1), item (iii) is replaced by the criteria that the volume of transactions is not expected to fall short in terms of ensuring fair and smooth Futures Transactions of the Listed Commodity or Listed Commodity Index to which the application

pertains, and that, in light of the status of transactions in the Goods Comprising the Listed Commodity, etc., the applicant's becoming a Stock Company-Operated Commodity Exchange on which such Futures Transactions are effected does not and is not likely to cause an extreme hindrance to the production or distribution of the Goods Comprising the Listed Commodity, etc., and the competent minister is to apply these criteria and the criteria referred to in items (iv) and (v) of that paragraph to reach a judgment with respect to the period up until the end of that term of existence or that operative term.

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

(Articles of incorporation)

Article 81 In addition to the particulars set forth in the items of Article 27 of the Companies Act, the following particulars must be included in the articles of incorporation of a Stock Company-Operated Commodity Exchange:

- (i) the particulars involved in audits of and sanctions against Trading Participants;
- (ii) the particulars of the binding effect that the articles of incorporation, operational rules, brokerage contract rules, and dispute resolution rules have on contracts between Trading Participants concluded outside the Commodity Market;
- (iii) the particulars of the Commodity Market;
- (iv) if a Self-Regulatory Committee will be established, an indication of this.

(Special provisions on the scope of the Subsidiary Companies of a Stock Company-Operated Commodity Exchange)

Article 81-2 Notwithstanding the provisions of Article 3-2, paragraph (1), a Stock Company-Operated Commodity Exchange that operates a Financial Instruments Exchange Market under the authorization referred to in the proviso of Article 3, paragraph (1) or the license referred to in Article 80, paragraph (1) of the Financial Instruments and Exchange Act may have a company engaging in the business of operating a Financial Instruments Exchange Market and other business incidental thereto as its Subsidiary Company (meaning a Subsidiary Company as prescribed in Article 3-2, paragraph (3)), without obtaining the authorization of the competent minister.

(Trading Participants of a Stock Company-Operated Commodity Exchange)

Article 82 (1) Pursuant to the provisions of its operational rules, a Stock Company-Operated Commodity Exchange may grant a person trading eligibility for effecting Transactions on the Commodity Markets it operates.

(2) A Stock Company-Operated Commodity Exchange must not grant trading

eligibility to a person falling under a category of person in one of Article 15, paragraph (2), item (i) (a) to (l) inclusive.

- (3) A corporation surviving a merger or a corporation incorporated a merger is deemed to be the same corporation as that which disappears in the merger with regard to the application of the provisions of the preceding paragraph (limited to the part that involves Article 15, paragraph (2), item (i), (c) to (e) inclusive, (i) and (l)).

(Succession to the status of Trading Participant)

Article 83 If a Trading Participant merges, the corporation surviving the merger or the corporation incorporated in the merger succeeds to the status of Trading Participant.

(Forfeiture of trading eligibility)

Article 84 (1) A Trading Participant may forfeit trading eligibility granted pursuant to the provisions of Article 82, paragraph (1) with 30 days' advance notice.

- (2) The period of advance notice referred to in the preceding paragraph may be extended by the operational rules; provided, however, that such a period may not exceed one year.

(3) In addition to forfeiture in the case prescribed in paragraph (1), a Trading Participant forfeits trading eligibility granted pursuant to the provisions of Article 82, paragraph (1) for the following reasons:

- (i) all of the Commodity Markets in which the person carries out transactions are closed pursuant to the provisions of Article 95;
- (ii) death or dissolution;
- (iii) rescission of trading eligibility.

(Changes to the name of an officer or Trading Participant)

Article 85 (1) If a particular set forth in Article 79, paragraph (1), item (iii), (v) or (vi) (excluding the locality of the head office) changes, the Stock Company-Operated Commodity Exchange must submit a change notification form indicating this to the competent minister without delay.

- (2) The change notification form referred to in the preceding paragraph must be accompanied by a document evidencing the change and by the documents specified by ordinance of the competent ministry.

(Holding limits on voting rights)

Article 86 (1) No person may acquire or possess voting rights (this excludes voting rights in respect of shares that do not allow voting rights to be exercised with regard to all matters that can be resolved at a shareholders meeting, and

includes shares that are deemed to have voting rights pursuant to the provisions of Article 879, paragraph (3) of the Companies Act; hereinafter the same applies) constituting twenty percent or more (or fifteen percent or more, if there exists a fact that is specified by ordinance of the competent ministry as something that is presumed to have material influence on decisions about financial and operational policies; hereinafter referred to as the "Threshold Holding Ratio" in this Article, Subsection 3, and Article 96-40, paragraph (4)) of all shareholders' voting rights in a Stock Company-Operated Commodity Exchange (including voting rights in respect of shares that cannot be asserted against the issuer pursuant to the provisions of Article 147, paragraph (1) or Article 148, paragraph (1) of the Act on the Book-Entry Transfer of Bonds, Shares, etc. (Act No. 75 of 2001) and excluding those specified by ordinance of the competent ministry in consideration of the manner in which they are acquired or held and other circumstances; hereinafter referred to as "Subject Voting Rights" in this Section); provided, however, that this does not apply to voting rights acquired or possessed by a Commodity Exchange, Commodity Exchange Holding Company, Financial Instruments Exchange (meaning a Financial Instruments Exchange as prescribed in Article 2, paragraph (16) of the Financial Instruments and Exchange Act and limited to one specified by Cabinet Order; hereinafter the same applies), or Financial Instruments Exchange Holding Company (meaning a Financial Instruments Exchange Holding Company as prescribed in paragraph (18) of that Article and limited to one specified by Cabinet Order; hereinafter the same applies).

- (2) If the number of Subject Voting Rights that the person holds does not increase or in any other case specified by ordinance of the competent ministry, the main clause of the preceding paragraph does not apply to a person acquiring or holding a number of Subject Voting Rights in a Stock Company-Operated Commodity Exchange which is equal to or greater than the Threshold Holding Ratio of all shareholders' voting rights.
- (3) In the case referred to in the preceding paragraph, a person that comes to acquire or hold a number of Subject Voting Rights that is greater than the Threshold Holding Ratio of all shareholders' voting rights in a Stock Company-Operated Commodity Exchange (hereinafter referred to as a "Specified Holder" in this Article) must notify the competent minister without delay that that person has become a Specified Holder, and of the particulars specified by ordinance of the competent ministry.
- (4) In the case referred to in paragraph (2), a Specified Holder must take the necessary measures to become the holder of a number of Subject Voting Rights in the Stock Company-Operated Commodity Exchange which is less than the Threshold Holding Ratio within three months from the day on which the person becomes a Specified Holder; provided, however, that this does not apply

if the Specified Holder is a local government, etc. provided for in Article 96-19, paragraph (1) and obtains the authorization of the competent minister pursuant to the provisions of that paragraph.

- (5) With regard to application of the provisions of the preceding paragraphs to a case set forth in one of the following items, the relevant person is deemed to acquire or hold the Subject Voting Rights specified in the relevant item:
- (i) a person has or will have the authority to exercise Subject Voting Rights in a Stock Company-Operated Commodity Exchange or the authority to give instructions on the exercise of such voting rights pursuant to the provisions of a money trust contract or other contract or based on the provisions of law: the Subject Voting Rights in question;
 - (ii) a person that is related to the person in question through a shareholding relationship, familial relationship, or other special relationship specified by Cabinet Order, acquires or holds Subject Voting Rights in a Stock Company-Operated Commodity Exchange: the Subject Voting Rights acquired or held by the person with the special relationship to the person in question.
- (6) Necessary particulars relevant to the application of the provisions of the preceding paragraphs are specified by Cabinet Order.

(Submission of a statement of holdings in Subject Voting Rights)

- Article 86-2 (1) A person that becomes the holder of Subject Voting Rights exceeding five percent of all shareholders' voting rights in a Stock Company-Operated Commodity Exchange (hereinafter referred to as a "Holder of Subject Voting Rights" in this paragraph) must submit a statement of holdings in Subject Voting Rights to the competent minister, pursuant to the provisions of ordinance of the competent ministry and without delay, in which the holder states the Subject Voting Rights holding rate (meaning the rate arrived at by dividing the number of Subject Voting Rights held by the Holder of Subject Voting Rights by the number representing all shareholders' voting rights in the Stock Company-Operated Commodity Exchange), the purpose of the holding, and other particulars specified by ordinance of the competent ministry.
- (2) The provisions of paragraph (5) of the preceding Article apply mutatis mutandis when the provisions of the preceding paragraph are applicable.

(Collection of reports and on-site inspection of a person submitting a statement of holdings in Subject Voting Rights)

- Article 86-3 (1) Whenever the competent minister finds it to be necessary for the enforcement of this Act, the minister may order the person submitting a statement of holdings in Subject Voting Rights pursuant to the provisions of paragraph (1) of the preceding Article to submit reports or materials that should serve as a reference with respect to its business or assets, and may have

ministry officials enter that person's office or business office to inspect that person's books and documents or any other article (but only as is necessary in connection with the statements contained in the statement of holdings in Subject Voting Rights).

- (2) An official conducting an inspection pursuant to the provisions of the preceding paragraph must carry identification and present it to the persons concerned.
- (3) The authority for an on-site inspection under paragraph (1) must not be interpreted as having been accorded for the purpose of a criminal investigation.

(Public inspection of the total number of issued shares)

Article 87 A Stock Company-Operated Commodity Exchange must make available for public inspection its total number of issued shares, the number that represents all shareholders' voting rights, and other particulars specified by ordinance of the competent ministry, pursuant to the provisions of ordinance of the competent ministry.

(Approval for a reduction of stated capital)

- Article 88 (1) If a Stock Company-Operated Commodity Exchange seeks to reduce its stated capital, it must obtain the authorization of the competent minister to do so, pursuant to the provisions of ordinance of the competent ministry.
- (2) If a Stock Company-Operated Commodity Exchange seeks to increase its stated capital, it must notify the competent minister pursuant to ordinance of the competent ministry.

(Provisional directors and provisional auditors)

- Article 89 (1) The competent minister may appoint a provisional director, provisional representative director, provisional executive officer, provisional representative executive officer, or provisional corporate auditor if there is no one to perform the duties of director, representative director, executive officer, representative executive officer, or auditor at a Stock Company-Operated Commodity Exchange and if the minister finds it to be necessary to do so.
- (2) The provisions of Article 346, paragraphs (2) and (3) of the Companies Act and of Article 351, paragraphs (2) and (3); and Article 401, paragraphs (3) and (4) of that Act (including as applied mutatis mutandis pursuant to Article 403, paragraph (3) and Article 420, paragraph (3) of the Companies Act) do not apply to a Stock Company-Operated Commodity Exchange.

(Registration by request of the competent minister)

Article 90 (1) If the competent minister appoints a provisional director,

provisional representative director, provisional executive officer, provisional representative executive officer, or provisional auditor pursuant to the provisions of paragraph (1) of the preceding Article, the minister must commission the registry office for the locality of the head office of the Stock Company-Operated Commodity Exchange to register this.

- (2) If the competent minister commissions a registration pursuant to the provisions of the preceding paragraph, the commission form must be accompanied by a document certifying that the minister has reached a disposition in connection with the circumstances causing the registration.

(Prohibition on the concurrent holding of positions by officers)

Article 91 (1) The officer of a Stock Company-Operated Commodity Exchange must not hold the position of officer at another Commodity Exchange.

- (2) The provisions of the preceding paragraph apply mutatis mutandis to the liquidators of a Stock Company-Operated Commodity Exchange.

(Conditions for ineligibility as an officer)

Article 92 The provisions of Article 49 apply mutatis mutandis to the officer of a Stock Company-Operated Commodity Exchange.

(The keeping and inspection of operational rules)

Article 93 (1) A Stock Company-Operated Commodity Exchange must keep its operational rules at each of the business offices of the Stock Company-Operated Commodity Exchange, and must keep a Trading Participant register at its head office.

- (2) The following particulars of each Trading Participant must be stated or recorded in a Trading Participant register:
- (i) name or trade name and address;
 - (ii) date of acquiring trading eligibility;
 - (iii) the Listed Commodity or Listed Commodity Index on the Commodity Market on which the Trading Participant trades;
 - (iv) if it is a Commodity Futures Business Operator, the date it was licensed.
- (3) The provisions of Article 57, paragraphs (4) and (5) apply mutatis mutandis to the operational rules and Trading Participant register that are kept pursuant to the provisions of paragraph (1). In this case, the phrase "The member or creditor of a Mutually Owned Commodity Exchange" in paragraph (4) of that Article is deemed to be replaced with "The shareholder, Trading Participant, or creditor of a Stock Company-Operated Commodity Exchange"; the phrase "during the business hours of the Mutually Owned Commodity Exchange" in the same paragraph is deemed to be replaced with "during the business hours of the Stock Company-Operated Commodity Exchange"; the phrase "decided by

the Mutually Owned Commodity Exchange" in the proviso to the same paragraph is deemed to be replaced with "decided by the Stock Company-Operated Commodity Exchange"; and the term "Mutually Owned Commodity Exchange" in paragraph (5) of that Article is deemed to be replaced with "Stock Company-Operated Commodity Exchange".

- (4) The Trading Participant of a Stock Company-Operated Commodity Exchange may make the requests set forth in the items of Article 31, paragraph (2) of the Companies Act with regard to the articles of incorporation of a Stock Company-Operated Commodity Exchange; provided, however, that in making the request set forth in item (ii) or (iv), the trading participant must pay the cost stipulated by the Stock Company-Operated Commodity Exchange.

(License expiration)

Article 94 (1) If a Stock Company-Operated Commodity Exchange falls under one of the following items, the license under Article 78 ceases to be valid:

- (i) its term of existence as a Stock Company-Operated Commodity Exchange as specified by its operational rules expires;
 - (ii) the Stock Company-Operated Commodity Exchange transfers all of its business through a split or a business transfer;
 - (iii) the number of Trading Participants on all of its Commodity Markets falls to 10 or below;
 - (iv) the Stock Company-Operated Commodity Exchange is dissolved;
 - (v) a judgment invalidating its incorporation, merger (but only if the person incorporated in the merger is a Stock Company-Operated Commodity Exchange), or incorporation-type company split (but only if the person incorporated in the incorporation-type company split is a Stock Company-Operated Commodity Exchange) has become final and binding.
- (2) If the license of a Stock Company-Operated Commodity Exchange expires pursuant to the provisions of item (ii), (iii), or (v) of the preceding paragraph, the person that is or was its representative must notify the competent minister of this without delay.

(Partial closure of Commodity Markets)

Article 95 If the number of Trading Participants effecting Transactions on a Commodity Market that a Stock Company-Operated Commodity Exchange operates falls to 10 or below, the Stock Company-Operated Commodity Exchange must suspend the Transactions on that Commodity Market and apply for the authorization to amend its operational rules under Article 156, paragraph (1), unless it is a case that falls under paragraph (1), item (iii) of the preceding Article.

(Approval for the merger of Stock Company-Operated Commodity Exchanges)
Article 96 (1) The following matters do not become effective without the authorization of the competent minister:

- (i) a shareholders resolution to dissolve a Stock Company-Operated Commodity Exchange;
 - (ii) a merger in which Stock Company-Operated Commodity Exchanges constitute all or some of the parties (excluding a merger as provided in Article 145, paragraph (1)).
- (2) If a Stock Company-Operated Commodity Exchange is dissolved for a reason other than one of those set forth in the preceding paragraph, the person that was its representative must notify the competent minister of this without delay; provided, however, that this does not apply to cases specified by ordinance of the competent ministry.

Subsection 2 Self-Regulatory Committees

(Authority)

Article 96-2 (1) A Stock Company-Operated Commodity Exchange may set in place a self-regulatory committee pursuant to the provisions of its articles of incorporation.

- (2) A self-regulatory committee makes the decisions about matters related to the Self-Regulatory Services (meaning Self-Regulatory Services as prescribed in Article 5-2, paragraph (2); hereinafter the same applies in this Subsection) of the Stock Company-Operated Commodity Exchange that has in place that self-regulatory committee (hereinafter referred to as a "Specified Stock Company-Operated Commodity Exchange" in this Subsection).
- (3) A self-regulatory committee is deemed to be entrusted by the board of directors with decisions about matters related to Self-Regulatory Services.
- (4) The self-regulatory committee of a Specified Stock Company-Operated Commodity Exchange is not permitted to entrust executive officers or directors with a decisions about a matter related to Self-Regulatory Services.
- (5) Notwithstanding the provisions of Article 362, paragraph (4) of the Companies Act and of Article 416, paragraph (4) of that Act, the board of directors of a Specified Stock Company-Operated Commodity Exchange is not permitted to entrust executive officers or directors with decisions about a matters related to the appointment of members of the self-regulatory committee as prescribed in paragraph (2) of the following Article or about removal of the members of the self-regulatory committee as prescribed in Article 96-5, paragraph (1).

(Organization)

Article 96-3 (1) A self-regulatory committee must be composed of three or more members of the Committee, and the majority of those members must be outside directors.

(2) Members of a self-regulatory committee are selected from among the directors of a Specified Stock Company-Operated Commodity Exchange and appointed by resolution of the board of directors.

(3) The resolution prescribed in the preceding paragraph is adopted by a majority (or, if a higher proportion is provided for in the articles of incorporation, at least such a proportion) of the attending directors and by a majority of the attending outside directors, at a meeting where the majority (or, if a higher proportion is provided for in the articles of incorporation, at least such a proportion) of the directors that are entitled to participate in the vote are present.

(4) A self-regulatory committee has a chairperson, and this chairperson is designated from among the outside directors based on a vote among the members of the self-regulatory committee.

(5) The chairperson of a self-regulatory committee presides over the affairs of the self-regulatory committee.

(6) A self-regulatory committee must designate a person from among the members of the self-regulatory committee to act as a proxy in handling the duties of the chairperson of the self-regulatory committee in the event that the chairperson is unable to attend to them, in advance.

(Term of office)

Article 96-4 (1) The term of office of the members of a self-regulatory committee continues until the conclusion of the annual shareholders meeting for the last business year that ends within one year from the time of the member's selection.

(2) The members of a self-regulatory committee may be reselected a maximum of four times.

(Removal)

Article 96-5 (1) The member of a self-regulatory committee may be removed by a resolution of the board of directors of the Specified Stock Company-Operated Commodity Exchange.

(2) The resolution referred to in the preceding paragraph is adopted by a majority (or, if a higher proportion is provided for in the articles of incorporation, at least such a proportion) of the attending directors and by a majority of the attending members of the self-regulatory committee, at a meeting where the majority (or, if a higher proportion is provided for in the articles of incorporation, at least such a proportion) of the directors that are

entitled to participate in the vote are present.

- (3) If there is a position vacancy that results in a shortfall in the number of members of a self-regulatory committee provided for in Article 96-3, paragraph (1), a member of the self-regulatory committee that has left the position due to the expiration of the term of office or because the member resigned continues to have rights and obligations as a member of the self-regulatory committee until a newly selected self-regulatory committee member (including a person as referred to in the following paragraph that will temporarily perform the duties of a member of the self-regulatory committee) assumes that position.
- (4) In the case prescribed in the preceding paragraph, if the court finds it to be necessary, it may appoint a person to temporarily perform the duties of a member of the self-regulatory committee, at the petition of an interested party.
- (5) If the court appoints a person to temporarily perform the duties of a member of the self-regulatory committee as referred to in the preceding paragraph, it may set the amount of the remuneration that the Specified Stock Company-Operated Commodity Exchange is to pay that person.
- (6) The provisions of Article 868, paragraph (1) of the Companies Act and of Article 870 (limited to the part that involves item (ii)), Article 871, Article 872 (limited to the part that involves item (iv)), Article 874 (limited to the part that involves item (i)), Article 875, and Article 876 of that Act apply mutatis mutandis if the petition referred to in paragraph (4) is filed. The necessary technical replacement of terms for such a case is specified by Cabinet Order.

(Election and dismissal of directors)

Article 96-6 The provisions of Article 96-3, paragraph (3) apply mutatis mutandis when a Specified Stock Company-Operated Commodity Exchange which is a company with a board of auditors reaches a decision on the contents of a proposal regarding the appointment or dismissal of a director which is to be submitted to the shareholders.

(Emergency handling)

- Article 96-7 (1) Notwithstanding the provisions of Article 96-2, paragraph (2) and paragraph (3), if the representative director or representative executive officer of a Specified Stock Company-Operated Commodity Exchange finds it to be particularly necessary for ensuring the public interest or the protection of entrustors, and there is an urgent necessity in light of the circumstances, the representative director or representative executive officer may reach a disposition against a member, etc. or reach a decision on any other matter prescribed by ordinance of the competent ministry in connection with Self-Regulatory Services.
- (2) If a Specified Stock Company-Operated Commodity Exchange reaches a

disposition against a Member, etc. or reaches a decision on any other matter prescribed by ordinance of the competent ministry in connection with Self-Regulatory Services pursuant to the provisions of the preceding paragraph, the representative director or the representative executive officer of the Specified Stock Company-Operated Commodity Exchange must promptly report this to the self-regulatory committee.

(Enjoinment of the act of an executive officer or director)

Article 96-8 (1) If the executive officer or director of a Specified Stock Company-Operated Commodity Exchange acts, or is likely to act, in way that violates a decision of the self-regulatory committee with regard to Self-Regulatory Services, and if that act is likely to substantially compromise the appropriate operation of Self-Regulatory Services, a member of the self-regulatory committee may demand the executive officer or director to cease engaging in such act.

(2) In the case referred to in the preceding paragraph, if the court issues a provisional disposition ordering the executive officer or director referred to in that paragraph to cease engaging in that act, the court is not to make the executive officer or director provide collateral.

(Treatment of a change in the operational rules)

Article 96-9 A Specified Stock Company-Operated Commodity Exchange must obtain the consent of the self-regulatory committee if it seeks to change or discontinue a particular prescribed in the operational rules or other rules of the Specified Stock Company-Operated Commodity Exchange, and that is specified by ordinance of the competent ministry as being related to Self-Regulatory Services.

(Convenor)

Article 96-10 A self-regulatory committee is convened by the chairperson of the Committee prescribed in Article 96-3, paragraph (4) (or by the person that acts as a proxy in handling the duties of the chairperson of the self-regulatory committee as prescribed in Article 96-3, paragraph (6), if the chairperson of the self-regulatory committee is unable to attend to those duties; hereinafter the same applies in the following Article and Article 96-12, paragraph (1)).

(Demanding the calling of a meeting)

Article 96-11 The member of a self-regulatory committee may call a meeting of the self-regulatory committee by specifying the purpose of a self-regulatory committee meeting and showing grounds for calling one.

(Procedures for calling meetings)

- Article 96-12 (1) To call a meeting of the self-regulatory committee, the chairperson of the self-regulatory committee must dispatch a notice of the meeting to each member of the self-regulatory committee, no later than one week prior to the day of the self-regulatory committee meeting (or, if a shorter period of time has been specified by the self-regulatory committee, such a period).
- (2) Notwithstanding the provisions of the preceding paragraph, with the consent of all members of the self-regulatory committee, a meeting of the self-regulatory committee may be held without the procedures for calling meetings being followed.
- (3) If the executive officer, director, accounting advisor, or accounting auditor of a Specified Stock Company-Operated Commodity Exchange is so requested by the self-regulatory committee, the officer, director, accounting advisor, or accounting auditor must attend a meeting of the self-regulatory committee and explain a matter regarding which the self-regulatory committee requests an explanation.

(Resolutions)

- Article 96-13 (1) A self-regulatory committee resolution is adopted by a majority of the attending members of the self-regulatory committee and by a majority of the attending members of the self-regulatory committee that are outside directors, at a meeting where the majority of the members of the self-regulatory committee that are entitled to participate in the vote are present.
- (2) A member of the self-regulatory committee with a special interest in the resolution prescribed in the preceding paragraph may not participate in the vote.
- (3) The minutes of a self-regulatory committee meeting must be prepared pursuant to the provisions of ordinance of the competent ministry, and if the minutes are prepared in writing, the members of the self-regulatory committee present at the meeting must sign them or have their names and seals affixed to them.
- (4) Without delay following a resolution under paragraph (1), the member of the self-regulatory committee that the self-regulatory committee selects must report the content of the resolution to the board of directors.
- (5) The minutes referred to in paragraph (3) may be prepared as electronic or magnetic records. In such a case, the relevant persons must use the measures in lieu of signing or having their names and seals affixed which are prescribed by ordinance of the competent ministry, for the particulars that are recorded in the electronic or magnetic records.
- (6) Beyond what is provided in the preceding paragraphs, meeting proceedings

necessary particulars otherwise relevant to the operation of the self-regulatory committee are specified by the self-regulatory committee.

(Minutes)

Article 96-14 (1) A Specified Stock Company-Operated Commodity Exchange must keep the minutes set forth in paragraph (3) of the preceding Article at its head office for a ten-year period beginning from the day of the self-regulatory committee meeting.

(2) The directors of a Stock Company-Operated Commodity Exchange may inspect or copy the following:

(i) if the minutes referred to in the preceding paragraph are prepared in writing, the relevant written documents;

(ii) if the minutes referred to in the preceding paragraph are prepared as electronic or magnetic records, something that shows the particulars that have been recorded in such electronic or magnetic records, through a means prescribed by ordinance of the competent ministry.

(3) If it is necessary in order for the shareholder of a Stock Company-Operated Commodity Exchange to exercise its rights, with the permission of the court, the shareholder may make request to inspect or copy the things set forth in the items of the preceding paragraph as respects the minutes referred to in paragraph (1).

(4) The provisions of the preceding paragraph apply mutatis mutandis if it is necessary in order for the creditor of a Stock Company-Operated Commodity Exchange to inquire into the liability of the members of the self-regulatory committee, or if it is necessary in order for the shareholder or member of a person that has the Stock Company-Operated Commodity Exchange as its Subsidiary Company to exercise their voting rights.

(5) The court may not give the permission referred to paragraph (3) (including as applied mutatis mutandis pursuant to the provisions of the preceding paragraph; hereinafter the same applies in this Article) if the court finds that inspection or copying to which the request referred to in that paragraph pertains is likely to cause substantial detriment to the Stock Company-Operated Commodity Exchange, to a person that has the Stock Company-Operated Commodity Exchange as its Subsidiary Company, or to a Subsidiary Company of the Stock Company-Operated Commodity Exchange.

(6) The provisions of Article 868, paragraph (1) of the Companies Act and of Article 869; Article 870 (limited to the part that involves item (i)); the main clause of Article 871; Article 872 (limited to the part that involves item (iv)); the main clause of Article 873; Article 875; and Article 876 of that Act apply mutatis mutandis to the permission referred to in paragraph (3). the necessary technical replacement of terms for such a case is specified by Cabinet Order.

(Omission of reports)

Article 96-15 If the executive officer, director, accounting advisor, or accounting auditor of a Specified Stock Company-Operated Commodity Exchange notifies all members of the self-regulatory committee of the particulars that are required to be reported to the self-regulatory committee, it is not required that those particulars be reported to the self-regulatory committee.

(Public inspection)

Article 96-16 A Specified Stock Company-Operated Commodity Exchange must make the directory of the members of the self-regulatory committee available for public inspection.

(Decisions that allow a self-regulatory committee to discharge its functions)

Article 96-17 The board of directors of a Specified Stock Company-Operated Commodity Exchange must decide on the particulars that are specified by ordinance of the competent ministry as being necessary in order to allow the self-regulatory committee to discharge its functions.

(Attendance of auditors, etc.)

Article 96-18 A corporate auditor of a Specified Stock Company-Operated Commodity Exchange which is a company with a board of corporate auditors, or an audit committee member appointed by the audit committee of a Specified Stock Company-Operated Commodity Exchange which is a company with committees may, if the auditor finds it to be necessary, attend the self-regulatory committee of the Specified Stock Company-Operated Commodity Exchange to state their opinions.

Subsection 3 Major Shareholders

(Approval, etc.)

Article 96-19 (1) Notwithstanding the provisions of the main clause of Article 86, paragraph (1), with the authorization of the competent minister, a local government or any other person specified by Cabinet Order (hereinafter referred to as the "Local Government, etc." in this Article, Article 96-28, paragraph (4) and Article 96-31) may acquire or hold a number of Subject Voting Rights that is equal to or greater than the Threshold Holding Ratio, but no greater than fifty percent, of all shareholders' voting rights in a Stock Company-Operated Commodity Exchange, pursuant to the provisions of ordinance of the competent ministry.

(2) Notwithstanding the provisions of the preceding paragraph and the main

clause of Article 86, paragraph (1), if the number of Subject Voting Rights that it holds does not increase or in any other case specified by ordinance of the competent ministry, a Local Government, etc. that obtains the authorization referred to in the preceding paragraph may acquire or hold Subject Voting Rights exceeding fifty percent of all shareholders' voting rights in a Stock Company-Operated Commodity Exchange.

- (3) In the case referred to in the preceding paragraph, a Local Government, etc. that comes to acquire or hold Subject Voting Rights exceeding fifty percent of all shareholders' voting rights in a Stock Company-Operated Commodity Exchange (hereinafter referred to as a "Specified Holding Entity, etc." in this Article) must notify the competent minister without delay that it has become a Specified Holding Entity, etc., and of any other particulars specified by ordinance of the competent ministry.
- (4) In the case referred to in paragraph (2), the Specified Holding Entity, etc. must take the necessary measures to become the holder of a number of Subject Voting Rights which constitutes fifty percent or less of all shareholders' voting rights in a Stock Company-Operated Commodity Exchange, within three months from the day on which it becomes a Specified Holding Entity, etc.
- (5) When a Specified Holding Entity, etc. becomes the holder of a number of Subject Voting Rights which constitutes fifty percent or less of all shareholders' voting rights in a Stock Company-Operated Commodity Exchange pursuant to the provisions of the preceding paragraph, it must notify the competent minister of this without delay.
- (6) The provisions of Article 3, paragraph (2) and paragraph (3) apply mutatis mutandis to the authorization referred to in paragraph (1).

(Criteria for authorization)

Article 96-20 (1) Whenever an application is filed for the authorization referred to in paragraph (1) of the preceding Article, the competent minister must examine whether the application conforms to the criteria listed in the following:

- (i) the applicant for authorization's exercise of the Subject Voting Rights is not likely to impair the sound and appropriate operation of the business of the Stock Company-Operated Commodity Exchange;
 - (ii) the applicant for authorization has a sufficient understanding of the public nature of the business of a Commodity Exchange.
- (2) If, as a result of having conducted an examination pursuant to the provisions of the preceding paragraph, the competent minister finds that the application conforms to the criteria in that paragraph, the minister must grant the authorization, except in a case that falls under one of the following items:
- (i) the applicant for authorization is a person falling under one of the

categories set forth in Article 15, paragraph (2), item (i) (a) to (l) inclusive; (ii) the application or a document that is required to accompany it contains a false statement about a material particular.

(Collection of reports and on-site inspections)

Article 96-21 (1) Whenever the competent minister finds it to be necessary for the enforcement of this Act, the minister may order the major shareholder of a Stock Company-Operated Commodity Exchange (meaning a person that has obtained the authorization referred to in Article 96-19, paragraph (1); hereinafter the same applies in this Subsection) to submit reports or materials that should serve as a reference with respect to the business or assets of the Stock Company-Operated Commodity Exchange, and may have ministry officials enter the office or business office of such a major shareholder to inspect its books and documents or any other article (but only as is necessary in connection with the business or assets of the Company-Operated Commodity Exchange).

(2) The provisions of the preceding paragraph apply mutatis mutandis to a Financial Instruments Exchange or Financial Instruments Exchange Holding Company that holds a number of Subject Voting Rights in a Stock Company-Operated Commodity Exchange which is equal to or greater than the Threshold Holding Ratio, but no greater than fifty percent.

(3) The provisions of Article 86-3, paragraph (2) and paragraph (3) apply mutatis mutandis to an on-site inspection under paragraph (1) (including as applied mutatis mutandis pursuant to the preceding paragraph).

(Supervisory measures)

Article 96-22 (1) If the major shareholder of a Stock Company-Operated Commodity Exchange violates this Act, etc., or it is found that the act of a major shareholder is likely to impair the sound and appropriate operation of the business of a Stock Company-Operated Commodity Exchange, the competent minister may rescind its Article 96-19, paragraph (1) authorization, or may order it to otherwise take measures that are necessary from a supervisory perspective.

(2) A person whose Article 96-19, paragraph (1) authorization is rescinded pursuant to the provisions of the preceding paragraph must take the necessary measures to become the holder of a number of Subject Voting Rights in a Stock Company-Operated Commodity Exchange which is less than the Threshold Holding Ratio, within three months from the date that the authorization is rescinded.

(3) If the competent minister finds it to be necessary in contemplating a disposition pursuant to the provisions of paragraph (1), the minister may ask a

person of reference to appear so as to hear the opinion thereof, ask a person of reference to submit an opinion or report, or ask an expert to appear and have the expert give an expert opinion.

- (4) The proceedings taking place on the date for a hearing on the rescission of authorization under paragraph (1) must be open to the public; provided, however, that this does not apply if the competent minister finds it to be necessary not to do so in order to maintain the trade secret of the person that could become subject to the disposition, or finds it to be necessary not to do so in the public interest.
- (5) The provisions of paragraph (1) apply mutatis mutandis to a Commodity Exchange, Commodity Exchange Holding Company, Financial Instruments Exchange, or Financial Instruments Exchange Holding Company that holds a number of Subject Voting Rights in a Stock Company-Operated Commodity Exchange which is equal to or greater than the Threshold Holding Ratio, but no greater than fifty percent; and the provisions of paragraph (3) apply mutatis mutandis to the disposition under paragraph (1) as applied mutatis mutandis pursuant to this paragraph.

(Expiration of authorization)

- Article 96-23 (1) If the major shareholder of a Stock Company-Operated Commodity Exchange comes to fall under one of the following items, the authorization referred to in Article 96-19, paragraph (1) ceases to be valid:
- (i) it fails to become the holder of a number of Subject Voting Rights which is equal to or greater than the Threshold Holding Ratio within six months from the date on which it obtains the authorization;
 - (ii) it becomes the holder of a number of Subject Voting Rights which is less than the Threshold Holding Ratio;
 - (iii) it becomes a Commodity Exchange, Commodity Exchange Holding Company, Financial Instruments Exchange, or Financial Instruments Exchange Holding Company.
- (2) If an authorization ceases to be valid pursuant to the provisions of the preceding paragraph (in a case under item (iii) of that paragraph, this is limited to if the major shareholder becomes a Financial Instruments Exchange or Financial Instruments Exchange Holding Company), the person that was formerly a major shareholder must notify the competent minister of this without delay.

(Application mutatis mutandis of provisions on Subject Voting Rights)

- Article 96-24 The provisions of Article 86, paragraph (5) apply mutatis mutandis when the provisions of Article 96-19, paragraph (1) to paragraph (5) inclusive; Article 96-20, paragraph (1); Article 96-21, paragraph (2); Article 96-22,

paragraph (2) and paragraph (5); and paragraph (1) of the preceding Article are applicable.

Subsection 4 Commodity Exchange Holding Companies

(Approvals, etc.)

- Article 96-25 (1) A person seeking to have a Stock Company-Operated Commodity Exchange as its Subsidiary Company, or a person seeking to incorporate a company that will have a Stock Company-Operated Commodity Exchange as its Subsidiary Company, must obtain the authorization of the competent minister in advance; provided, however, that this does not apply if a Commodity Exchange, Financial Instruments Exchange, or Financial Instruments Exchange Holding Company will have a Stock Company-Operated Commodity Exchange as its Subsidiary Company.
- (2) If the number of Subject Voting Rights that the relevant person holds does not increase or in any other case specified by ordinance of the competent ministry, the provisions of the preceding paragraph do not apply a Stock Company-Operated Commodity Exchange becoming a Subsidiary Company.
- (3) In the case referred to in the preceding paragraph, a company that comes to have a Stock Company-Operated Commodity Exchange as its Subsidiary Company (hereinafter referred to in this Article as a "Specified Holding Company" in this Article) must take the necessary measures to cease to be a company that has a Stock Company-Operated Commodity Exchange as its Subsidiary Company, within three months from the day on which it becomes a Specified Holding Company; provided, however, that this does not apply if the Specified Holding Company obtains the authorization of the competent minister as a company that has a Stock Company-Operated Commodity Exchange as its Subsidiary Company.
- (4) The provisions of Article 96-19, paragraph (3) and paragraph (5) apply mutatis mutandis to a Specified Holding Company. In this case, the phrase "the preceding paragraph" in paragraph (3) of that Article is deemed to be replaced with "Article 96-25, paragraph (2)"; the phrase "the preceding paragraph" in paragraph (5) of that Article is deemed to be replaced with "Article 96-25, paragraph (3)"; and the phrase "becomes the holder of a number of Subject Voting Rights which constitutes fifty percent or less of all shareholders' voting rights in a Stock Company-Operated Commodity Exchange" in that paragraph is deemed to be replaced with "ceases to be a company that has a Stock Company-Operated Commodity Exchange as its Subsidiary Company".
- (5) The provisions of Article 3, paragraph (2) and paragraph (3) apply mutatis mutandis to the authorization under paragraph (1) and the proviso to

paragraph (3).

(Application for authorization)

Article 96-26 (1) A person seeking the authorization referred to in paragraph (1) or the proviso to paragraph (3) of the preceding Article must submit an application for authorization to the competent minister in which it states the following particulars:

- (i) its trade name;
 - (ii) the amount of stated capital;
 - (iii) the localities of its head office, branch offices, and other business offices;
 - (iv) the names and addresses of its officers.
- (2) The articles of incorporation and the documents specified by ordinance of the competent ministry must accompany the application referred to in the preceding paragraph.
- (3) In a case referred to in the preceding paragraph, if the articles of incorporation have been prepared in the form of an electronic or magnetic record, the electronic or magnetic records may accompany the application in lieu of paper documents.

(Criteria for examination for authorization)

Article 96-27 (1) Whenever an application is filed for the authorization referred to in paragraph (1) of the preceding Article, the competent minister must examine whether the application conforms to the following criteria:

- (i) the applicant for authorization or the company to be incorporated with that authorization (hereinafter referred to as an "Applicant, etc. for Authorization" in this Article) is a person whose sole purpose is to have a Stock Company-Operated Commodity Exchange, Stock Company-Operated Commodity Exchange, or Commodity Exchange-affiliated company (meaning a company engaging in business incidental to the Operation of a Commodity Market; a company engaging in business that is connected to the Operation of a Commodity Market and business incidental thereto; a company engaging in the business of operating a market for trading carbon dioxide equivalent quotas and business incidental thereto; a company engaging in the business of operating a Financial Instruments Exchange Market and business incidental thereto; or a company engaging in business that is connected with the operation of a Financial Instruments Exchange Market and business incidental thereto; the same applies in Article 96-36) as its Subsidiary Company or Subsidiary Companies;
- (ii) the Applicant, etc. for Authorization and the Stock Company-Operated Commodity Exchange that would become its Subsidiary Company have good prospects in terms of income and expenditures;

- (iii) in light of its personnel structure, the Applicant, etc. for Authorization has the knowledge and experience to manage and control the Stock Company-Operated Commodity Exchange that would become its Subsidiary Company properly and reliably;
 - (iv) the applicant for authorization has sufficient social credibility.
- (2) If, as a result of having conducted an examination pursuant to the provisions of the preceding paragraph, the competent minister finds that the application conforms to the criteria in that paragraph, the minister must grant the authorization, except in a case that falls under one of the following items:
- (i) the Applicant, etc. for Authorization is not a stock company (meaning a stock company with the following organs):
 - (a) a board of directors;
 - (b) an auditor or audit committee;
 - (ii) the applicant for authorization is a person that has been sentenced to a fine (including an equivalent sentence under foreign laws and regulations) pursuant to the provisions of this Act or pursuant to a foreign law or regulation that is equivalent to this Act, and five years have not yet passed since the day on which the person finished serving the sentence or ceased to be subject to its enforcement;
 - (iii) the applicant for authorization is a person that has had an authorization rescinded pursuant to the provisions of Article 96-22, paragraph (1); Article 96-34, paragraph (1); or Article 96-40, paragraph (1); had permission rescinded pursuant to the provisions of Article 159, paragraph (1) or paragraph (2); Article 186, paragraph (1) or paragraph (2); Article 235, paragraph (3); Article 236, paragraph (1); or Article 340, paragraph (1) (including as applied mutatis mutandis pursuant to Article 345); or had a registration rescinded pursuant to the provisions of Article 240-23, paragraph (1); and five years have not yet passed since the date of the rescission; or is a person that had obtained authorization, permission, or registration of the same kind in a foreign state, pursuant to a foreign law or regulation that is equivalent to this Act (including a license or other administrative disposition similar to such authorization, permission, or registration), but that has had the authorization, permission, or registration rescinded, and five years have not yet passed since the date of the rescission;
 - (iv) the Applicant, etc. for Authorization has a person falling under one of the categories in Article 15, paragraph (2), item (i) (a) to (k) inclusive as an officer; or;
 - (v) the application for authorization or a document or electronic or magnetic record that is required to accompany it contains a false statement or false record about a material particular.

(Limitation on the holding of voting rights)

- Article 96-28 (1) It is prohibited for any person to acquire or hold a number of Subject Voting Rights constituting twenty percent or more (or fifteen percent or more, if there exists a fact that is specified by ordinance of the competent ministry as something that is presumed to have a material influence on decisions about financial and operational policies; hereinafter referred to as "Threshold Holding Ratio" in this Subsection (excluding Article 96-40, paragraph (4))) of all shareholders' voting rights in a Commodity Exchange Holding Company; provided, however, that this does not apply if a Commodity Exchange or a Financial Instruments Exchange acquires or holds Subject Voting Rights.
- (2) If the number of Subject Voting Rights that the relevant person holds does not increase or in any other case specified by ordinance of the competent ministry, the provisions of the main clause of the preceding paragraph do not apply to a person acquiring or holding a number of Subject Voting Rights in a Commodity Exchange Holding Company which is equal to or greater than the Threshold Holding Ratio of all shareholders' voting rights.
- (3) In the case referred to in the preceding paragraph, a person that comes to acquire or hold a number of Subject Voting Rights in a Commodity Exchange Holding Company that is equal to or greater than the Threshold Holding Ratio of all shareholders' voting rights (hereinafter referred to as a "Specified Holder" in this Article) must notify the competent minister without delay that that person has become a Specified Holder, and of other particulars specified by ordinance of the competent ministry.
- (4) In the case referred to in paragraph (2), a Specified Holder must take the necessary measures to become the holder of a number of Subject Voting Rights in a Commodity Exchange Holding Company which is less than the Threshold Holding Ratio within three months from the day on which that person becomes a Specified Holder; provided, however, that this does not apply if the Specified Holder is a Local Government, etc. and the Local Government, etc. obtains the authorization referred to in Article 96-31, paragraph (1).
- (5) Necessary particulars relevant to the application of the provisions of the preceding paragraphs are specified by Cabinet Order.

(Submission of a statement of holdings in Subject Voting Rights)

Article 96-29 A person that becomes the holder of Subject Voting Rights exceeding five percent of all shareholders' voting rights in a Commodity Exchange Holding Company (hereinafter referred to as "Holder of Subject Voting Rights" in this Article) must submit a statement of holdings in Subject Voting Rights to the competent minister, pursuant to the provisions of ordinance of the competent ministry and without delay, in which the holder

states the Subject Voting Rights holding rate (meaning the rate arrived at by dividing the number of Subject Voting Rights held by the Holder of Subject Voting Rights by the number representing all shareholders' voting rights in the Commodity Exchange Holding Company), the purpose of the holding, and other particulars specified by ordinance of the competent ministry.

(Collection of reports and on-site inspection of a person submitting a statement of holdings in Subject Voting Rights)

Article 96-30 (1) Whenever the competent minister finds it to be necessary for the enforcement of this Act, the minister may order the person submitting a statement of holdings in Subject Voting Rights pursuant to the provisions of the preceding Article to submit reports or materials that should serve as a reference with respect to its business or property, and may have ministry officials enter such a person's office or business office to inspect its books and documents or any other article (but only as is necessary in connection with the entries in the statement of holdings in Subject Voting Rights).

(2) The provisions of Article 86-3, paragraph (2) and paragraph (3) apply mutatis mutandis to an on-site inspection as referred to in the preceding paragraph.

(Authorization as a major shareholder)

Article 96-31 (1) Notwithstanding the provisions of the main clause of Article 96-28, paragraph (1), with the authorization of the competent minister, a Local Government, etc. may acquire or hold a number of Subject Voting Rights that is equal to or greater than the Threshold Holding Ratio, but no greater than fifty percent, of all shareholders voting rights in a Commodity Exchange Holding Company, pursuant to the provisions of ordinance of the competent ministry.

(2) Notwithstanding the provisions of the preceding paragraph and the main clause of Article 96-28, paragraph (1), if the number of Subject Voting Rights that it holds does not increase or in any other case specified by ordinance of the competent ministry, a Local Government, etc. that has obtained the authorization referred to in the preceding paragraph may acquire or hold Subject Voting Rights exceeding fifty percent of all shareholders' voting rights in a Commodity Exchange Holding Company.

(3) In the case referred to in the preceding paragraph, a Local Government, etc. that comes to acquire or hold Subject Voting Rights exceeding fifty percent of all shareholders' voting rights in a Commodity Exchange Holding Company (hereinafter referred to as a "Specified Holding Entity, etc." in this Article) must take the necessary measures to become the holder of a number of Subject Voting Rights which constitutes 50 percent or less of all shareholders' voting rights in the Commodity Exchange Holding Company, within three months

from the day on which it becomes a Specified Holding Entity, etc..

- (4) The provisions of Article 96-19, paragraph (3) and paragraph (5) apply mutatis mutandis to a Specified Holding Entity, etc. In this case, the phrase "the preceding paragraph" in paragraph (3) of that Article is deemed to be replaced with "Article 96-31, paragraph (2)" and the phrase "the preceding paragraph" in paragraph (5) of that Article is deemed to be replaced with "Article 96-31, paragraph (3)".
- (5) The provisions of Article 3, paragraph (2) and paragraph (3) apply mutatis mutandis to the authorization referred to in paragraph (1).

(Criteria for authorization as a major shareholder)

Article 96-32 (1) Whenever an application is filed for the authorization referred to in paragraph (1) of the preceding Article, the competent minister must examine whether the application conforms to the following criteria:

- (i) the applicant for authorization's exercise of the Subject Voting Rights is not likely to impair the sound and appropriate operation of the business of a Stock Company-Operated Commodity Exchange that is the Subsidiary Company of the Commodity Exchange Holding Company; and
- (ii) the applicant for authorization has a sufficient understanding of the public nature of the business of a Commodity Exchange.
- (2) The provisions of Article 96-20, paragraph (2) apply mutatis mutandis to the authorization referred to in paragraph (1) of the preceding Article. In this case, the term "the preceding paragraph" in Article 96-20, paragraph (2) is deemed to be replaced with "Article 96-32, paragraph (1)".

(Collection of reports and on-site inspection of a major shareholder)

Article 96-33 (1) Whenever the competent minister finds it to be necessary for the enforcement of this Act, the minister may order the major shareholder of a Commodity Exchange Holding Company (meaning a person that has obtained the authorization referred to in Article 96-31, paragraph (1); hereinafter the same applies in this Subsection) to submit reports or materials that should serve as a reference with respect to the business or assets of the Commodity Exchange Holding Company or a Stock Company-Operated Commodity Exchange that is the Subsidiary Company of the Commodity Exchange Holding Company, and may have ministry officials enter the office or business office of such a major shareholder to inspect its books and documents or any other article (but only as is necessary in connection with the business or assets of the Commodity Exchange Holding Company or of a Stock Company-Operated Commodity Exchange that is its Subsidiary Company).

- (2) The provisions of the preceding paragraph apply mutatis mutandis to a Financial Instruments Exchange that holds a number of Subject Voting Rights

in a Commodity Exchange Holding Company which is equal to or greater than the Threshold Holding Ratio, but no greater than fifty percent.

- (3) The provisions of Article 86-3, paragraph (2) and paragraph (3) apply mutatis mutandis to an on-site inspection under paragraph (1) (including as applied mutatis mutandis pursuant to the preceding paragraph).

(Supervisory measures for major shareholders)

Article 96-34 (1) If the major shareholder of a Commodity Exchange Holding Company violates this Act, etc., or if it is found that the act of a major shareholder is likely to impair the sound and appropriate operation of the business of a Stock Company-Operated Commodity Exchange that is the Subsidiary Company of that Commodity Exchange Holding Company, the competent minister may rescind its Article 96-31, paragraph (1) authorization, or may order the major shareholder to otherwise take measures that are necessary from a supervisory perspective.

- (2) A person whose Article 96-31, paragraph (1) authorization is rescinded pursuant to the provisions of the preceding paragraph must take the necessary measures to become the holder of a number of Subject Voting Rights in a Commodity Exchange Holding Company which is less than the Threshold Holding Ratio, within three months from the date of the rescission of that authorization.

- (3) The provisions of Article 96-22, paragraph (3) apply mutatis mutandis to a disposition under paragraph (1), and the provisions of paragraph (4) of that Article apply mutatis mutandis to a hearing on the rescission of authorization under paragraph (1).

- (4) The provisions of paragraph (1) apply mutatis mutandis to a Commodity Exchange or Financial Instruments Exchange that holds a number of Subject Voting Rights in a Commodity Exchange Holding Company that is equal to or greater than the Threshold Holding Ratio, but no greater than fifty percent; and the provisions of Article 96-22, paragraph (3) apply mutatis mutandis to the disposition under paragraph (1) as applied mutatis mutandis pursuant to this paragraph.

(Expiration of authorization as a major shareholder)

Article 96-35 (1) If the major shareholder of a Commodity Exchange Holding Company comes to fall under one of the following items, the authorization referred to in Article 96-31, paragraph (1) ceases to be valid:

- (i) it fails to become the holder of a number of Subject Voting Rights which is equal to or greater than the Threshold Holding Ratio within six months from the date of obtaining authorization;
- (ii) it becomes the holder of a number of Subject Voting Rights that is less than

the Threshold Holding Ratio;

(iii) it becomes a Commodity Exchange or a Financial Instruments Exchange.

(2) If authorization ceases to be valid pursuant to the provisions of the preceding paragraph (in a case under item (iii) of that paragraph, this is limited to if the major shareholder becomes a Financial Instruments Exchange), the person that was formerly the major shareholder must notify the competent minister of this without delay.

(Scope of business)

Article 96-36 (1) A Commodity Exchange Holding Company may not conduct any business other than the management and administration of a Stock Company-Operated Commodity Exchange and of the Commodity Exchange-affiliated companies which are its Subsidiary Companies and other business incidental thereto.

(2) A Commodity Exchange Holding Company, in performing its business, must endeavor to ensure appropriate business management of the Stock Company-Operated Commodity Exchange that is its Subsidiary Company or of the Stock Company-Operated Commodity Exchange and Commodity Exchange-affiliated companies that are its Subsidiary Companies, so as not to impair the confidence in the public nature of the Stock Company-Operated Commodity Exchange that is its Subsidiary Company, and in its sound and appropriate operation.

(Scope of Subsidiary Companies)

Article 96-37 (1) A Commodity Exchange Holding Company must not have a company that engages in business other than the Operation of a Commodity Market and business incidental thereto as its Subsidiary Company; provided, however, that a Commodity Exchange Holding Company that obtains the authorization of the competent minister pursuant to ordinance of the competent ministry may have as its Subsidiary Company a company engaging in business that is connected with the Operation of a Commodity Market and business incidental thereto; a company engaging in the business of operating a market for trading carbon dioxide equivalent quotas and business incidental thereto; a company engaging in the business of operating a Financial Instruments Exchange Market and business incidental thereto; or a company engaging in business that is connected with the operation of a Financial Instruments Exchange Market and business incidental thereto.

(2) The provisions of Article 3, paragraph (2) to paragraph (4) inclusive apply mutatis mutandis to the authorization prescribed in the proviso to the preceding paragraph. In this case, the phrase "the applicant's engagement in business to which the application pertains" in paragraph (4) of that Article is

deemed to be replaced with "the applicant having the company to which the application pertains as its Subsidiary Company", and the phrase "Operation of a Commodity Market" in that paragraph is deemed to be replaced with "Commodity Exchange's Operation of a Commodity Market".

(Rescission of authorization)

Article 96-38 If a Commodity Exchange Holding Company is discovered to have fallen under one of the categories in the items of Article 96-27, paragraph (2) at the time it obtained the authorization referred to in Article 96-25, paragraph (1) or in the proviso to paragraph (3), the competent minister may rescind its authorization.

(Collection of reports and on-site inspections)

Article 96-39 (1) Whenever the competent minister finds it to be necessary for the enforcement of this Act, the minister may order a Commodity Exchange Holding Company or its Subsidiary Company to submit reports or materials that should serve as a reference with respect to the business or assets of that Commodity Exchange Holding Company, and may have ministry officials enter the office or business office of a Commodity Exchange Holding Company or its Subsidiary Company to inspect its books and documents or any other article (but may only have the relevant officials inspect such a Subsidiary Company as is necessary in connection with the business or assets of the Commodity Exchange Holding Company).

(2) The provisions of Article 86-3, paragraph (2) and paragraph (3) apply mutatis mutandis to an on-site inspection under the preceding paragraph.

(Supervisory measures)

Article 96-40 (1) If a Commodity Exchange Holding Company violates this Act, etc., if it is found that the act of a Commodity Exchange Holding Company is likely to impair the sound and appropriate operation of the business of a Stock Company-Operated Commodity Exchange which is its Subsidiary Company, or if a Commodity Exchange Holding Company fails to take the necessary measures to correct the act of its Subsidiary Company despite it being likely that such an act will impair the sound operation of the business of a Stock Company-Operated Commodity Exchange which is a Subsidiary Company of that Commodity Exchange Holding Company, the competent minister may rescind the Commodity Exchange Holding Company's Article 96-25, paragraph (1) authorization, the authorization referred to in the proviso to Article 96-25, paragraph (3), or the authorization referred to in the proviso to Article 96-37, paragraph (1), or may order the Commodity Exchange Holding Company to otherwise take measures that are necessary from a supervisory perspective.

- (2) If the officer of a Commodity Exchange Holding Company violates this Act, etc., the competent minister may order the Commodity Exchange Holding Company to dismiss that officer.
- (3) A Commodity Exchange Holding Company that has had the authorization referred to in Article 96-25, paragraph (1) or in the proviso of paragraph (3) of that Article rescinded pursuant to the provisions of paragraph (1) must promptly take the necessary measures for it to cease to be a company that has a Stock Company-Operated Commodity Exchange as its Subsidiary Company.
- (4) If the measures referred to in the preceding paragraph are taken but the person that takes those measures remains the holder of a number of Subject Voting Rights in a Stock Company-Operated Commodity Exchange which is equal to or greater than the Threshold Holding Ratio, the date on which that person ceases to be a company that has that Stock Company-Operated Commodity Exchange as its Subsidiary Company is deemed to be the date on which it becomes a Specified Holder as referred to in that paragraph, and the provisions of Article 86, paragraph (4) apply.
- (5) The provisions of Article 96-22, paragraph (3) apply mutatis mutandis to a disposition under paragraph (1) or paragraph (2), and the provisions of paragraph (4) of that Article apply mutatis mutandis to a hearing on the rescission of authorization or an order to dismiss an officer under paragraph (1) or paragraph (2).

(Expiration of authorization)

Article 96-41 (1) If a Commodity Exchange Holding Company comes to fall under one of the following items, the authorization referred to in Article 96-25, paragraph (1) or in the proviso to paragraph (3) of that Article ceases to be valid:

- (i) it ceases to be a company that has a Stock Company-Operated Commodity Exchange as its Subsidiary Company (excluding cases that are specified by ordinance of the competent ministry in consideration of the manner in which the voting rights in that Stock Company-Operated Commodity Exchange are acquired or held, or any other relevant circumstances);
- (ii) it is dissolved;
- (iii) a judgment invalidating its incorporation, merger (but only if the company incorporated in the merger is a Commodity Exchange Holding Company), or incorporation-type split (but only if the company incorporated in the incorporation-type split is a Commodity Exchange Holding Company) becomes final and binding;
- (iv) it fails to become a company that has a Stock Company-Operated Commodity Exchange as its Subsidiary Company within six months from the date on which it obtains authorization.

(2) If an authorization ceases to be valid pursuant to the provisions of the preceding paragraph, the person that was the Commodity Exchange Holding Company must notify the competent minister of this without delay.

(Application mutatis mutandis of provisions on Subject Voting Rights)

Article 96-42 The provisions of Article 86, paragraph (5) apply mutatis mutandis when Article 96-25, paragraph (2); Article 96-19, paragraph (3) and paragraph (5) as applied mutatis mutandis pursuant to paragraph (4) of that Article; Article 96-28, paragraph (1) to paragraph (4) inclusive; Article 96-29; Article 96-31, paragraph (1) to paragraph (3) inclusive; Article 96-19, paragraph (3) and paragraph (5) as applied mutatis mutandis pursuant to paragraph (4) of that Article; Article 96-32, paragraph (1); Article 96-33, paragraph (2); Article 96-34, paragraph (2) and paragraph (4); Article 96-35, paragraph (1); and Article 96-40, paragraph (4) are applicable.

(Application mutatis mutandis of provisions on supervisory measures)

Article 96-43 The provisions of Article 96-36, paragraph (2) and Article 96-40, paragraph (1) apply mutatis mutandis to a Commodity Exchange that has a Stock Company-Operated Commodity Exchange as its Subsidiary Company or to a Commodity Exchange that has a Commodity Exchange Holding Company as its Subsidiary Company; the provisions of Article 96-36, paragraph (2), Article 96-39, and Article 96-40, paragraph (1) apply mutatis mutandis to a Financial Instruments Exchange or Financial Instruments Exchange Holding Company that has a Stock Company-Operated Commodity Exchange as its Subsidiary Company or to a Financial Instruments Exchange that has a Commodity Exchange Holding Company as its Subsidiary Company; and the provisions of Article 96-22, paragraph (3) apply mutatis mutandis to a disposition under Article 96-40, paragraph (1) as applied mutatis mutandis pursuant to this Article.

Section 4 Transactions on a Commodity Market

(Trading eligibility)

Article 97 (1) Transactions on a Commodity Market operated by a Mutually Owned Commodity Exchange may only be effected by a member of that Mutually Owned Commodity Exchange.

(2) Transactions on a Commodity Market operated by a Stock Company-Operated Commodity Exchange may only be effected by a Trading Participant of the relevant Commodity Market.

(3) The provisions of the preceding two paragraphs do not apply if a person carries out a Commodity Clearing Transaction with which the person is

entrusted by the member referred to in paragraph (1) or the Trading Participant referred to in the preceding paragraph.

(Trading eligibility in respect of an agreement on intermarket linkage)

Article 98 (1) Notwithstanding the provisions of the preceding Article, a Commodity Exchange, pursuant to the provisions of its articles of incorporation (or pursuant to the operational rules, if it is a Stock Company-Operated Commodity Exchange; the same applies in paragraph (1) of the following Article; Article 100; Article 101, paragraph (1); Article 109, paragraph (1); Article 113, paragraph (1) (including as applied pursuant to Article 114); and Article 114), may accord the member, etc. of another Commodity Exchange (including a foreign facility equivalent to a Commodity Exchange; the same applies in the following paragraph) with which that Commodity Exchange has concluded an agreement on intermarket linkage, the eligibility for carrying out Transactions on a Commodity Market of that Commodity Exchange, inasmuch as the objective of executing trades in order to enable the completion of settlement for transactions pursuant to that agreement on intermarket linkage is concerned.

(2) An agreement on intermarket linkage as prescribed in the preceding paragraph means an agreement under which a Commodity Exchange and a counterparty Commodity Exchange mutually recognize that the members, etc. of the counterparty Commodity Exchange will execute trades on the Commodity Market of the relevant Commodity Exchange in order to complete settlement for transactions for which settlement has not been completed on the Commodity Market (including a market in a foreign state equivalent to a Commodity Market; hereinafter the same applies in this paragraph) of the counterparty Commodity Exchange; and that the members, etc. of the relevant Commodity Exchange will execute trades on the Commodity Market of the counterparty Commodity Exchange in order to enable the completion of settlement for transactions for which settlement has not been completed on the Commodity Market of the relevant Commodity Exchange.

(3) A person accorded trading eligibility by a Commodity Exchange pursuant to the provisions of paragraph (1) is deemed to be a member, etc., inasmuch as the objective prescribed in that paragraph is concerned, with regard to the 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 "withdraws from" in Article 113, paragraph (1) (including as applied *mutatis mutandis* pursuant to Article 114 and Article 188) is deemed to be replaced with "forfeits the eligibility for effecting transactions on" and the

phrase "expel that member" in Article 160, paragraph (1) and Article 165 is deemed to be replaced with "rescind that member's eligibility that allow it to trade".

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

Article 99 (1) A Commodity Exchange must specify, for each Commodity Market, the minimum amount of net assets of a member, etc. trading on that Commodity Market in its articles of incorporation, pursuant to the provisions of ordinance of the competent ministry; provided, however, that this does not apply if settlement is done by the method set forth in Article 105, item (ii) or (iii) on that Commodity Market.

- (2) In setting the minimum amount of net assets of a member, etc. pursuant to the provisions of the preceding paragraph, a Commodity Exchange must specify the minimum amount of net assets of a member, etc. trading on two or more Commodity Markets or on the Commodity Market of another Commodity Exchange to be higher than the minimum amount of net assets of other members, etc.
- (3) If the net assets of a member, etc. fall below the minimum amount prescribed in the preceding two paragraphs, the Commodity Exchange must suspend that person's Transactions on the Commodity Market and report this to the competent minister without delay.
- (4) In the case referred to in the preceding paragraph, if the net assets of the member, etc. reach or exceed the minimum amount prescribed in paragraph (1) or (2) within six months from the day of the suspension of that person's Transactions on the Commodity Market, the Commodity Exchange must cancel the suspension of transactions under the preceding paragraph and report this to the competent minister without delay.
- (5) In the case referred to in paragraph (3), if the net assets of the 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 must expel the member or rescind the Trading Participant's trading eligibility without delay.
- (6) If a Commodity Exchange suspends transactions pursuant to the provisions of paragraph (3) or expels a member or rescinds a Trading Participant's trading eligibility pursuant to the provisions of the preceding paragraph, the Commodity Exchange must notify that person of this without delay, indicating the reason therefor.
- (7) The amount of net assets set forth in paragraphs (1) to (5) inclusive must be arrived at by deducting the total amount of debts from the total amount of assets, and must be calculated pursuant to the provisions of ordinance of the competent ministry.

(Number of members, etc.)

Article 100 For each Commodity Market, a Commodity Exchange may set an upper limit to the number of members, etc. trading on that Commodity Market, or the number of members, etc. that are entrusted to trade on that Commodity Market, by stipulating that limit in its articles of incorporation.

(Guarantee funds)

- Article 101 (1) A member, etc. must deposit guarantee funds with the Commodity Exchange for each Commodity Market on which the member, etc. trades, pursuant to the provisions of the articles of incorporation.
- (2) A member, etc. must not trade on a Commodity Market until it has deposited the guarantee funds referred to in the preceding paragraph.
- (3) Securities (meaning national government bond certificates, local government bond certificates, bond certificates issued by a corporation pursuant to special laws, corporate bond certificates and share certificates traded on a Financial Instruments Exchange Market, and other securities specified by Cabinet Order) may be allocated for use as guarantee funds.
- (4) The allocation value of the securities referred to in the preceding paragraph must not exceed the value calculated pursuant to the provisions of ordinance of the competent ministry in consideration of the current market price.
- (5) A person that entrusts a member, etc. that is a Commodity Futures Business Operator with Transactions on a Commodity Market (referred to as the "Entrusting Party" in the following paragraph and Article 108, paragraph (2)) has the right to receive payment from the guarantee funds of the member, etc. of that Commodity Market for a claim arising from that entrustment, in preference over other creditors.
- (6) If rights to receive preferential payment as referred to in the preceding paragraph conflict with each other, the right of an Entrusting Party that is not a member, etc. takes precedence over the right of an Entrusting Party that is a member, etc.
- (7) A Commodity Exchange must not set off a claim against a member, etc. that it acquires by performing Commodity Transaction Debt Assumption Services, against its obligations to that member, etc. in connection with guarantee funds.

(operational rules)

Article 102 (1) A Commodity Exchange must establish detailed regulations in respect of the following matters (excluding the matters listed in items (i) to (iii) and (v) inclusive if it is a Mutually Owned Commodity Exchange) in connection with the Commodity Markets it operates, for each of its Commodity Markets, in its operational rules:

- (i) the particulars of its Trading Participants;
 - (ii) the particulars of guarantee funds;
 - (iii) the particulars of clearing margins;
 - (iv) the goods that constitute the Commodities, Commodity Indices, or Options (including Spot Options and Specified Swap Options) underlying the Transactions on the Commodity Market;
 - (v) the types of transaction for each Listed Commodity or Listed Commodity Index;
 - (vi) expiration times in trading;
 - (vii) the start and end of a transaction;
 - (viii) the suspension of a transaction
 - (ix) the particulars of the conclusion of transaction contracts and restraint thereof;
 - (x) delivery or other means of settlement;
 - (xi) necessary particulars relevant to transactions, other than the particulars set forth in the preceding items.
- (2) With respect to the particulars set forth in item (ix) of the preceding paragraph, a Commodity Exchange must specify that it may take measures to limit fluctuations in the quotations or the volume of transactions for which settlement has not been completed.
- (3) If an entity's term of existence as a Stock Company-Operated Commodity Exchange, the operative term, or the term for a change of scope (meaning the period during which the scope of a Listed Commodity or a Listed Commodity Index on a Commodity Market (excluding a fixed-term Commodity Market as prescribed in Article 156, paragraph (5), item (ii)) can be changed (excluding by discontinuation or by narrowing the scope; the same applies in Article 156); hereinafter the same applies in this paragraph and Article 156) of a Commodity Market has been set, the term of existence, operative term, or term for a change of scope is to be included or recorded in the operational rules of the Stock Company-Operated Commodity Exchange, in addition to the particulars set forth in one of the items of paragraph (1).

(Clearing margin)

Article 103 (1) A Commodity Exchange must receive a deposit of clearing margin from the person prescribed in the relevant of the following items for the category set forth in that item, in connection with Transactions on a Commodity Market (limited to Transactions on a Commodity Market for which settlement is completed by the means set forth in Article 105, item (i), and excluding transactions as set forth in Article 2, paragraph (10), item (i) (d); hereinafter the same applies in this Article) pursuant to the provisions of ordinance of the competent ministry:

- (i) a member, etc. effects a Transaction on a Commodity Market on its own account, or effects a Transaction on a Commodity Market with which it has been entrusted (limited to transactions with which it becomes entrusted after receiving a deposit of customer margin based on the provisions of the following paragraph): that member, etc.;
 - (ii) a member, etc. effects a Transaction on a Commodity Market with which it has been entrusted (excluding a transaction with which it has been entrusted by a person that has undertaken to broker that entrustment (hereinafter referred to as a "Broker" in this Article)) (other than in a case as set forth in the preceding item): the person entrusting the member, etc. with that transaction (meaning the person that entrusts the member, etc. with the Transaction on the Commodity Market, and which is not a Broker; the same applies in the following paragraph);
 - (iii) a member, etc. effects a Transaction on a Commodity Market with which it has been entrusted (limited to a transaction with which it has been entrusted by a Broker that has received a deposit of brokerage margin based on the provisions of paragraph (3)) (other than in a case set forth in item (i)): the Broker;
 - (iv) a member, etc. effects a Transaction on a Commodity Market with which it has been entrusted (limited to a transaction with which it has been entrusted by a Broker) (other than in a case set forth in item (i) or the preceding item): the person that requested a person to broker the entrustment of that transaction (hereinafter referred to as the "Person Requesting Brokerage" in this Article).
- (2) In becoming entrusted with a Transaction on a Commodity Market, a member, etc. may have the entrustor or the Broker (or the Person Requesting Brokerage, if the transaction is one with which the member, etc. has been entrusted by a Broker that has not received a deposit of brokerage margin based on the provisions of the following paragraph from the Person Requesting Brokerage) deposit a customer margin with the member, etc. by gaining the consent of such person, pursuant to the provisions of ordinance of the competent ministry.
- (3) In undertaking a request to broker the entrustment of a Transaction on a Commodity Market, a Broker may have the Person Requesting Brokerage deposit brokerage margin with the Broker, with the consent of such person.
- (4) A Commodity Exchange must manage clearing margin deposited based on the provisions of paragraph (1), pursuant to the provisions of ordinance of the competent ministry.
- (5) The securities prescribed in Article 101, paragraph (3) or a warehouse receipt certifying retention of a Listed Commodity that is listed on a Commodity Market and that can be made the subject of delivery in order to settle a Transaction on a Commodity Market operated by the relevant Commodity

- Exchange or by another Commodity Exchange may be allocated for use as the clearing margin referred to in paragraph (1), the customer margin referred to in paragraph (2), or the brokerage margin referred to in paragraph (3).
- (6) The provisions of Article 101, paragraph (4) apply mutatis mutandis to the allocation value of the securities or warehouse receipt referred to in the preceding paragraph.
- (7) In the case referred to in paragraph (2) or (3), the member, etc. referred to in paragraph (2) or the Broker referred to in paragraph (3) (hereinafter referred to as the "Member, etc. or Broker" in this paragraph and paragraph (10)), with the approval of the competent minister and pursuant to the provisions of ordinance of the competent ministry, may conclude a contract with a bank or other financial institution specified by 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 its behalf as instructed by the Commodity Exchange, and notify the Commodity Exchange of this.
- (8) In the case referred to in paragraph (1), item (i) (limited to one in which a member, etc. effects a Transaction on a Commodity Market on its own account) or in the case referred to in item (ii) or item (iv) of that paragraph, the member, etc. prescribed in item (i) of that paragraph, the person entrusting the relevant party with the Transaction on the Commodity Market which is prescribed in item (ii) of that paragraph, or the Person Requesting Brokerage that is prescribed in item (iv) of that paragraph (hereinafter referred to as a "Member, etc., Person Entrusting the Member, etc. with the Transaction, or Person Requesting Brokerage" in this Article), pursuant to the provisions of ordinance of the competent ministry, may conclude a contract with a Bank, etc. to have an amount corresponding to the required clearing margin deposited with the Commodity Exchange on its behalf as instructed by the Commodity Exchange, and notify the Commodity Exchange of this.
- (9) In a case referred to in one of the preceding two paragraphs, the Commodity Exchange may allow a grace period for the depositing of the whole or a part of the clearing margin corresponding to the amount of money to be deposited with the Commodity Exchange under the relevant contract, but only as long as the contract remains in effect.
- (10) If a Commodity Exchange finds it to be necessary for ensuring the fairness of Transactions on a Commodity Market or for the protection of entrustors, it must instruct a Bank, etc. that has concluded a contract as referred to in paragraph (7) with a Member, etc. or Broker, or instruct that Member, etc. or Broker, to deposit an amount of money with the Commodity Exchange which is equivalent to the required clearing margin or the clearing margin for which it has given a grace period pursuant to the provisions of the preceding paragraph.

(11) If a Commodity Exchange finds it to be necessary for ensuring the fairness of Transactions on a Commodity Market, it must instruct a Bank, etc. that has concluded a contract as referred to in paragraph (8) with a Member, etc., Person Entrusting a Member, etc. with a Transaction, or Person Requesting Brokerage or instruct the relevant Member, etc., Person Entrusting the Member, etc. with a Transaction, or Person Requesting Brokerage, to deposit an amount of money with the Commodity Exchange which is equivalent to the required clearing margin or the clearing margin for which it has given a grace period pursuant to the provisions of paragraph (9).

(Grading of a Listed Commodity)

Article 104 (1) The method of grading, the grade table, and other particulars relevant to the grading of a Listed Commodity must be specified by the operational rules.

(2) In the case referred to in the preceding paragraph, if a set national standard exists for the grading of a Listed Commodity for Transactions on a Commodity Market, the Commodity Exchange must comply with such standard.

(3) A member, etc. must comply with the grading done by a Commodity Exchange pursuant to the provisions of the operational rules.

(4) If it is necessary to appoint a grader, a Commodity Exchange must appoint the grader from among persons other than the members, etc. of the Commodity Exchange.

(5) The grader referred to in the preceding paragraph must be the employee of the Commodity Exchange; provided, however, that this does not apply if the approval of the competent minister is obtained.

(Settlement of transactions)

Article 105 Settlement of Transactions on Commodity Markets must be effected, for each Commodity Market, by one of the means set forth in the following items, pursuant to the provisions of the articles of incorporation:

(i) through the Commodity Exchange;

(ii) by the Commodity Exchange taking over the obligations arising from Transactions on a Commodity Market that it operates, with the approval referred to in Article 173, paragraph (1);

(iii) by a Commodity Transaction Clearing Organization taking over the obligations arising from Transactions on a Commodity Market (other than the means set forth in the preceding item).

(Prohibition against deferring the settlement of transactions)

Article 106 Transactions on a Commodity Market must not be settled by deferring the time of performance, unless the deferment is caused by a delay in

grading by the Commodity Exchange or another cause attributable to the Commodity Exchange (including a Commodity Transaction Clearing Organization that performs Commodity Transaction Debt Assumption Services for the Commodity Market, in the case of a Commodity Market where settlement is done by the means set forth in item (iii) of the preceding Article).

(Notification of the irregular or temporary start of trading)

Article 107 When a Commodity Exchange has effected transactions for the first time after the day on which it became possible to operate the Commodity Market, or if it irregularly or temporarily opened, closed, or suspended trading or cancelled such a suspension, the Commodity Exchange must notify the competent minister to that effect without delay, for each Commodity Market.

(Damages due to default)

Article 108 (1) If a member, etc. (limited to a member, etc. that is a clearing member, if settlement is done by the means set forth in Article 105, item (ii) or (iii); hereinafter the same applies in this Article) causes damage to another member, etc. or to a Commodity Transaction Clearing Organization as a result of defaulting on an obligation arising from a Transaction on a Commodity Market, the damaged member, etc. or Commodity Transaction Clearing Organization has the right to receive payment out of the guarantee funds associated with the Commodity Market for the transactions by the member, etc. that has caused the damage, and out of the clearing margin for those transactions (limited to the margin for transactions on the member's, etc. own account), in preference over other creditors.

(2) Notwithstanding the provisions of the preceding paragraph, the right of a Entrusting Party to receive preferential payment under Article 101, paragraph (5) takes precedence over the right of a member, etc. or Commodity Transaction Clearing Organization in respect of the guarantee funds referred to in that paragraph.

(Special security deposits)

Article 109 (1) If settlement is done by the means set forth in Article 105, item (i), the Commodity Exchange may have a member, etc. deposit a special security deposit for each Commodity Market on which the member, etc. trades, pursuant to the provisions of its articles of incorporation.

(2) A member, etc. has the right to receive payment, in association with a claim based on a party's default on an obligation arising from a Transaction on a Commodity Market, from out of the guarantee funds or clearing margin prescribed in paragraph (1) of the preceding Article pursuant to the provisions of the that paragraph, and if this amount is still insufficient, to receive

payment in preference over other creditors out of the special security deposit of the member, etc. that is the counterparty to the relevant transaction for that Commodity Market .

- (3) If a member, etc. receives payment out of a special security deposit pursuant to the provisions of the preceding paragraph, and the amount is still insufficient, the member, etc. has the right to receive payment out of other members', etc. special security deposits for that Commodity Market, in preference over other creditors and in proportion to the amount of its special security deposit; provided, however, that this is limited to the amount that remains after the shortfall is multiplied by a percentage representing the amount of that member's, etc. special security deposit for the relevant Commodity Market in proportion to the total amount of special security deposits, for that Commodity Market, of members, etc. other than the member, etc. that was the counterparty to the transactions prescribed in the preceding paragraph, and the product of this is deducted from the shortfall.
- (4) If a payment under the preceding paragraph is made, the other members, etc. prescribed in that paragraph have the right to claim reimbursement from the member, etc. that was the counterparty to the transactions prescribed in paragraph (2).

(How guarantee funds are managed)

Article 110 A Commodity Exchange may not manage guarantee funds or special security deposits that have been deposited with it except through holdings in national government bonds and in other ways specified by ordinance of the competent ministry.

(Disclosure of total transaction volume)

Article 111 A Commodity Exchange must promptly notify its members, etc. of and disclose the following particulars in respect of a Commodity Market it operates, pursuant to ordinance of the competent ministry:

- (i) the daily total transaction volume;
- (ii) the amount of consideration for which a transaction is closed, or the agreed price or Agreed Figure (hereinafter referred to as the "Agreed Price, etc.") which is specified by ordinance of the competent ministry.

(Reporting of quotations and transaction volume)

Article 112 A Commodity Exchange must report the following particulars in respect of a Commodity Market it operates to the competent minister, pursuant to the provisions of ordinance of the competent ministry:

- (i) daily and monthly quotations, transaction volumes, and other particulars specified by ordinance of the competent ministry;

(ii) if the daily volume of unsettled trades made by a single member, etc. on its own account exceeds the volume that is specified by ordinance of the competent ministry for each Commodity Market, or if the state of Transactions on a Commodity Market comes under the purview of a requirement specified by ordinance of the competent ministry, the name of the member, etc., the relevant volume, and other particulars specified by ordinance of the competent ministry.

(Completing settlement for trades executed prior to withdrawal or forfeiture of trading eligibility)

Article 113 (1) If a member withdraws from a Mutually Owned Commodity Exchange or a Trading Participant forfeits trading eligibility in a Stock Company-Operated Commodity Exchange, but the member or Trading Participant has not completed settlement for a Transaction on a Commodity Market, the Commodity Exchange must have that person or the person that succeeds to the rights and obligations linked with those unsettled transactions (hereinafter referred to as the "Successor" in this Article) or another member, etc. (limited to another member, etc. who is qualified to trade on the relevant Commodity Market; hereinafter the same applies in this Article) complete settlement for those transactions, pursuant to the provisions of the articles of incorporation, unless there is a person that succeeds to those rights and obligations 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, the person or its Successor (other than a Successor that is a member or Trading Participant) is deemed to be a member or Trading Participant, inasmuch as the task of completing settlement for those transactions is concerned.

(3) If a Commodity Exchange has another member, etc. complete settlement for transactions pursuant to the provisions of paragraph (1), an entrustment contract is deemed to be established between the relevant person or its Successor and that member, etc.

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

Article 114 The provisions of the preceding Article apply mutatis mutandis if a member's, etc. Transactions on a Commodity Market are suspended pursuant to the provisions of this Act or the articles of incorporation of the Commodity Exchange.

(Separate accounting in the books and archiving)

Article 115 A member, etc. must keep its accounting for Transactions on a

Commodity Market separate from that for other transactions on its books and archive its books and business documents pursuant to the provisions of ordinance of the competent ministry.

(Prohibition on wash trading and accommodation trading)

Article 116 It is prohibited for any person to perform the following acts:

- (i) effecting a purchase and sale transaction that constitutes a Transaction on a Commodity Market, without the intention of transferring ownership of the Listed Commodity;
- (ii) engaging in wash trading that constitutes a Transaction on a Commodity Market, or engaging in trading that constitutes a Transaction on a Commodity Market while deceptively avoiding the use of one's own name;
- (iii) making an offer for a trade that constitutes a Transaction on a Commodity Market after colluding with another person in advance to offer to effect a trade for one's self at the same time that the person makes an offer that will allow that trade to be completed for an identical amount of consideration or at an identical Agreed Price, etc.;
- (iv) executing a series of trades that constitute Transactions on a Commodity Market and that could mislead people into believing that Transactions on a Commodity Market are thriving or that could change the quotations on that Commodity Market, either independently or jointly with another person;
- (v) entrusting or becoming entrusted with one of the acts listed in the preceding items, or undertaking a request to broker such entrustment;
- (vi) effecting Transactions on a Commodity Market and making a purchase and sale or other transaction of Goods Comprising a Listed Commodity or Goods Underlying a Listed Commodity Index off of the Commodity Market with the intention of causing quotations on the Commodity Market to fluctuate;
- (vii) spreading a rumor in connection with Transactions on a Commodity Market, that the quotations on a Commodity Market will fluctuate due to one's own or another party's market manipulation;
- (viii) carrying out Transactions on a Commodity Market and intentionally making a false representation about a material particular or a representation about a material particular that is likely to be misleading.

(Compensatory liability of a person engaging in wash trading)

Article 117 (1) A person that violates the provisions of the preceding Article is liable to compensate for damages that a person effecting a transaction on the relevant Commodity Market, or a person entrusting a person with the same, incurs in effecting, or entrusting, a transaction that is based on an amount of consideration or Agreed Price, etc. that is formed due to that violation.

(2) A claim for damages under the preceding paragraph extinguishes by

prescription if not exercised within one year from when the claimant learns that an act in violation of the provisions of the preceding Article has taken place or within three years from when the act takes place.

(Restriction on transactions by a member, etc.)

Article 118 If an excessive volume of transactions are being effected or are likely to be effected through cornering, bear raids, or any other method, or an unfair amount of consideration or Agreed Price, etc. is being formed or is likely to be formed on a Commodity Market, and the competent minister finds it to be necessary in order to maintain order on the Commodity Market and to protect the public interest, the minister may issue the orders specified in the relevant of the following items to the persons set forth in that item:

- (i) a member, etc.: restrictions on Transactions on a Commodity Market or on becoming entrusted with such transactions;
- (ii) a Commodity Exchange: to take measures to limit fluctuations in the quotations or volume of unsettled transactions on a Commodity Market that the Commodity Exchange operates, to change the amount of clearing margins, or to do one of the things specified by ordinance of the competent ministry as something that ensures the fairness of Transactions on a Commodity Market;
- (iii) a Commodity Transaction Clearing Organization: to change the amount of clearing margin or to do one of the things specified by ordinance of the competent ministry as something that ensures the fairness of Transactions on a Commodity Market.

(Brokerage contract rules)

Article 119 A Commodity Exchange must establish detailed regulations in respect of the following particulars in its brokerage contract rules:

- (i) requirements for becoming entrusted with Transactions on a Commodity Market, etc. (excluding Commodity Clearing Transactions; the same applies in item (iii));
- (ii) delivery and other means of settlement;
- (iii) necessary particulars relevant to becoming entrusted with Transactions on a Commodity Market, etc., other than the particulars set forth in the preceding two items.

(Dispute resolution)

Article 120 (1) Whenever a Commodity Exchange receives an application for mediation from a member, etc., Commodity Futures Business Operator, or entrustor that is party to a dispute arising between members, etc., between Commodity Futures Business Operators, or between a Commodity Futures Business Operator and an entrustor in connection with a Transaction on that

Commodity Exchange's Commodity Market, the Commodity Exchange is to mediate pursuant to the provisions of its dispute resolution rules.

- (2) A Commodity Exchange must establish detailed regulations in respect of the following particulars in its dispute resolution rules:
- (i) the process for applying for mediation;
 - (ii) the mediation method;
 - (iii) necessary particulars relevant to mediation, other than the particulars set forth in the preceding two items.

Section 5 Entity Conversion

(Entity Conversion from a Mutually Owned Commodity Exchange to a Stock Company-Operated Commodity Exchange)

Article 121 A Mutually Owned Commodity Exchange may become a Stock Company-Operated Commodity Exchange through an Entity Conversion.

(Entity conversion plan)

Article 122 (1) In order to implement the Entity Conversion referred to in the preceding Article (hereinafter referred to as "Entity Conversion" in this Section), a Mutually Owned Commodity Exchange must prepare an Entity Conversion plan and have it approved by general meeting resolution.

- (2) The provisions of Article 61 apply mutatis mutandis to the resolution referred to in the preceding paragraph.
- (3) To call the general meeting referred to in paragraph (1) an outline of the Entity Conversion plan and the articles of incorporation of the stock company after the Entity Conversion (hereinafter referred to as the "Stock Company-Operated Commodity Exchange after Entity Conversion") must be presented.
- (4) If a Mutually Owned Commodity Exchange implements an Entity Conversion, that Mutually Owned Commodity Exchange must provide for the following matters in its Entity Conversion plan:
- (i) the purpose, trade name, locality of the head office, and total number of authorized shares of the Stock Company-Operated Commodity Exchange after Entity Conversion;
 - (ii) matters beyond those set forth in the preceding item, which are specified by the articles of incorporation of the Stock Company-Operated Commodity Exchange after Entity Conversion;
 - (iii) the names of directors and name of the accounting auditor of the Stock Company-Operated Commodity Exchange after Entity Conversion;
 - (iv) the particulars prescribed in the relevant of the following for the category of cases set forth therein:
 - (a) if the Stock Company-Operated Commodity Exchange after Entity

- Conversion will be a company with an accounting advisor: the name of the accounting advisor of the Stock Company-Operated Commodity Exchange after Entity Conversion;
- (b) if the Stock Company-Operated Commodity Exchange after Entity Conversion will be a company with company auditors (including a stock company whose articles of incorporation provide that the scope of audits by a company auditor is limited to accounting matters): the names of the company auditors of the Stock Company-Operated Commodity Exchange after Entity Conversion.
 - (v) the number of shares in the Stock Company-Operated Commodity Exchange after Entity Conversion which the members of the Mutually Owned Commodity Exchange implementing the Entity Conversion will acquire upon Entity Conversion (if the Stock Company-Operated Commodity Exchange after Entity Conversion will be a company with class shares, the classes of shares and the number of shares in each class) or the method of calculating it;
 - (vi) the particulars of the allotment of the shares referred to in the preceding item to members of the Mutually Owned Commodity Exchange implementing the Entity Conversion;
 - (vii) if, upon Entity Conversion, the Stock Company-Operated Commodity Exchange after Entity Conversion will deliver money to members of the Mutually Owned Commodity Exchange implementing the Entity Conversion to replace their equity, the amount of money or the method of calculating it;
 - (viii) in the case prescribed in the preceding item, the particulars of the allotment of money referred to in that item to members of the Mutually Owned Commodity Exchange implementing the Entity Conversion;
 - (ix) the particulars of the amount of stated capital and reserves of the Stock Company-Operated 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) the particulars specified by ordinance of the competent ministry, beyond what is set forth in the preceding items.

(Keeping and inspection of Entity Conversion plan documents)

Article 123 (1) During the period from 10 days prior to the day of the general meeting referred to in paragraph (1) of the preceding Article until the day preceding that on which the Entity Conversion comes into effect, a Mutually Owned Commodity Exchange implementing an Entity Conversion must keep the documents or electronic or magnetic records that state or contain a record of the details of the Entity Conversion plan and the particulars specified by ordinance of the competent ministry, at its principal office.

- (2) The member or creditor of a Mutually Owned Commodity Exchange implementing an Entity Conversion may make the following requests of the Mutually Owned Commodity Exchange at any time during its business hours; provided, however, that in making the request set forth in item (ii) or (iv), the member or creditor must pay the cost stipulated by the Mutually Owned Commodity Exchange implementing the Entity Conversion:
- (i) a request to inspect a document referred to in the preceding paragraph;
 - (ii) a request to be issued a certified copy or extract of a document referred to in the preceding paragraph;
 - (iii) a request to inspect something that shows the particulars that have been recorded in an electronic or magnetic record referred to in the preceding paragraph, through the means specified by ordinance of the competent ministry;
 - (iv) a request to be provided with the particulars recorded in an electronic or magnetic record referred to in the preceding paragraph by an electronic or magnetic means specified by ordinance of the competent ministry, or a request to be issued a document that states those particulars.
- (3) If a Mutually Owned Commodity Exchange implementing an Entity Conversion has had a request as under the preceding paragraph, it must not refuse that request without legitimate grounds.

(Objection by a creditor)

- Article 124 (1) The creditor of a Mutually Owned Commodity Exchange implementing an Entity Conversion may state an objection to the Mutually Owned Commodity Exchange with regard to the Entity Conversion.
- (2) A Mutually Owned Commodity Exchange implementing an Entity Conversion must issue public notice of the following particulars in the official gazette, and must issue a notice of those particulars to its known creditors individually; provided, however, that the period referred to in item (ii) may not be shorter than one month:
- (i) that an Entity Conversion will be implemented;
 - (ii) that creditors may state an objection within a specified period.
- (3) Notwithstanding the provisions of the preceding paragraph, if a Mutually Owned Commodity Exchange implementing an Entity Conversion issues the public notice prescribed in the same paragraph both in the official gazette and by the means of public notice set forth in Article 11, paragraph (6), item (ii) or (iii), in accordance with the provisions of the articles of incorporation under the same paragraph, the Mutually Owned Commodity Exchange is not required to give the individual notice under the preceding paragraph.
- (4) If a creditor does not state an objection within the period referred to in paragraph (2), item (ii), the creditor is deemed to accept the Entity Conversion.

(5) If a creditor states an objection within the period referred to in paragraph (2), item (ii), the Mutually Owned Commodity Exchange implementing the Entity Conversion must pay its debt or provide suitable collateral to the creditor, or must deposit suitable property with a trust company, etc. (meaning a trust company or a Financial Institution Engaged in Trust Business (meaning a financial institution that has obtained the approval set forth in Article 1, paragraph (1) of the Act on the Provision of Trust Services by Financial Institutions (Act No. 43 of 1943)); the same applies hereinafter) for the purpose of allowing the creditor to receive payment for the debt; provided, however, that this does not apply if the Entity Conversion is not likely to harm the creditor.

(Keeping and inspection documents on the progress of the Entity Conversion process)

Article 125 (1) During the period of six months from the day on which an Entity Conversion comes into effect, the Stock Company-Operated Commodity Exchange after Entity Conversion must keep the documents or electronic or magnetic records referred to in Article 123, paragraph (1) and documents or electronic or magnetic records stating or containing a record of the progress of the process under the preceding Articles and other particulars specified by ordinance of the competent ministry as pertinent to the Entity Conversion, at its head office.

(2) The shareholder or creditor of a Stock Company-Operated Commodity Exchange after Entity Conversion may make the following requests of the Stock Company-Operated Commodity Exchange at any time during its business hours; provided, however, that in making the request set forth in item (ii) or (iv), the shareholder or creditor must pay the cost stipulated by the Mutually Owned Commodity Exchange implementing the Entity Conversion:

(i) a request to inspect a document referred to in the preceding paragraph;

(ii) a request to be issued a certified copy or extract of a document referred to in the preceding paragraph;

(iii) a request to inspect something that shows the particulars that have been recorded in an electronic or magnetic record referred to in the preceding paragraph, through a means specified by ordinance of the competent ministry;

(iv) a request to be provided with the particulars that have been recorded in an electronic or magnetic record referred to in the preceding paragraph by an electronic or magnetic means specified by ordinance of the competent ministry, or a request to be issued a document that states those particulars.

(3) If a Stock Company-Operated Commodity Exchange after Entity Conversion has had a request as under the preceding paragraph, it must not refuse that

request without legitimate grounds.

(Allotment of shares to a member)

Article 126 (1) The member of a Mutually Owned Commodity Exchange is to receive an allotment of shares in the Stock Company-Operated Commodity Exchange after Entity Conversion or an allotment of money, pursuant to the provisions of the Entity Conversion plan.

(2) The provisions of Article 234, paragraphs (1) to (5) inclusive of the Companies Act and of Article 868, paragraph (1), Article 869, Article 871, Article 874 (limited to the part that involves item (iv)), Article 875, and Article 876 of that Act apply mutatis mutandis if shares of or money are allotted pursuant to the provisions of the preceding paragraph. The necessary technical replacement of terms for such a case is specified by Cabinet Order.

(Amount required to be reported as stated capital)

Article 127 The amount that is required to be reported as the stated capital of a Stock Company-Operated Commodity Exchange after Entity Conversion is specified by ordinance of the competent ministry.

(Amount required to be reported as capital reserves)

Article 128 The amount that is required to be reported as the capital reserves at the time of Entity Conversion and necessary particulars otherwise relevant to the accounting at the time of Entity Conversion are specified by ordinance of the competent ministry.

(Issuance of shares upon Entity Conversion)

Article 129 At the time of an Entity Conversion, a Mutually Owned Commodity Exchange may issue shares in the Stock Company-Operated Commodity Exchange after Entity Conversion, in addition to allotting shares under Article 126, paragraph (1). In such a case, it must specify the following particulars 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) (if it is a company with class shares, the classes and the number of Shares Issued upon Entity Conversion; hereinafter the same applies in this Section);
- (ii) the amount to be paid in for the Shares Issued upon Entity Conversion (meaning the amount of money to be paid in or property other than money to be delivered in exchange for a single Share Issued upon Entity Conversion; hereinafter the same applies in this Section) or the method of calculating it;
- (iii) if property other than money will be the subject of contribution, an

- indication of this, as well as a description and the value of such property;
- (iv) the date for the payment of money or the delivery of the property referred to in the preceding item, in exchange for a Shares Issued upon Entity Conversion;
- (v) the particulars of the increased stated capital or capital reserves.

(Offers involving Shares Issued upon Entity Conversion)

- Article 130 (1) A Mutually Owned Commodity Exchange must notify a person that seeks to make an offer to subscribe for Shares Issued upon Entity Conversion of the following particulars:
- (i) the trade name of the Stock Company-Operated Commodity Exchange after Entity Conversion;
 - (ii) the particulars set forth in the items of the preceding Article;
 - (iii) if money is to be paid in, the place handling payments;
 - (iv) particulars beyond what is set forth in the preceding three items, which are specified by ordinance of the competent ministry.
- (2) A person making an offer to subscribe for Shares Issued upon Entity Conversion must deliver a document to the Mutually Owned Commodity Exchange, in which the person states the following particulars:
- (i) the name and address of the person offering to subscribe;
 - (ii) the number of the Shares Issued upon Entity Conversion for which the person seeks to subscribe.
- (3) With the consent of the Mutually Owned Commodity Exchange and pursuant to the provisions of Cabinet Order, in lieu of delivering the document referred to in the preceding paragraph, a person making the offer referred to in that paragraph may provide a Mutually Owned Commodity Exchange with the particulars that are required to be stated in the document referred to in that paragraph by electronic or magnetic means. In doing this, the person making the offer is deemed to have delivered the document referred to in that paragraph.
- (4) If a particular set forth in one of the items of paragraph (1) changes, the Mutually Owned Commodity Exchange must immediately notify any person that has made the offer referred to in paragraph (2) (hereinafter referred to as an "Offeror" in this Section) of this and about the particular that has changed.
- (5) It is sufficient for a notice or demand that a Mutually Owned Commodity Exchange issues to an Offeror to be sent to the address referred to in paragraph (2), item (i) (or, if the Offeror notifies the Mutually Owned Commodity Exchange of another place or contact address for receiving notices or demands, such a place or contact address).
- (6) The notice or demand referred to in the preceding paragraph is deemed to have arrived at the time that such a notice or demand would normally arrive.

(Allotment of Shares Issued upon Entity Conversion)

Article 131 (1) A Mutually Owned Commodity Exchange must decide which persons among the Offerors the Shares Issued upon Entity Conversion will be allotted to, and decide the number of the Shares Issued upon Entity Conversion that will be allotted to such persons. In doing this, the Mutually Owned Commodity Exchange may reduce the number of Shares Issued upon Entity Conversion that it will allot to such Offerors to below the number referred to in paragraph (2), item (ii) of the preceding Article.

(2) A Mutually Owned Commodity Exchange must notify an Offeror of the number of Shares Issued upon Entity Conversion that will be allotted to the Offeror by the day preceding the date referred to in Article 129, item (iv).

(Subscription for Shares Issued upon Entity Conversion)

Article 131-2 An Offeror becomes a subscriber for Shares Issued upon Entity Conversion, in respect of the number of Shares Issued upon Entity Conversion allotted to that Offeror by the Mutually Owned Commodity Exchange.

(Contribution)

Article 131-3 (1) On the date referred to in Article 129, item (iv), a subscriber for Shares Issued upon Entity Conversion (excluding a person delivering the property referred to in Article 129, item (iii) (hereinafter referred to as "Property Contributed in Kind")) must pay the full amount of the amount to be paid in for each Share Issued upon Entity Conversion, at the bank, etc. (meaning a bank, etc. provided for in Article 34, paragraph (2) of the Companies Act) that the Mutually Owned Commodity Exchange specifies which constitutes the place for handling payments.

(2) On the date referred to in Article 129, item (iv), a subscriber for Shares Issued upon Entity Conversion (limited to a person who delivers the Property Contributed in Kind) must deliver Property Contributed in Kind that is equivalent to the full amount to be paid in for each Share Issued upon Entity Conversion.

(3) A subscriber for Shares Issued upon Entity Conversion may not set off its obligation to make the payment under paragraph (1) or to effect the delivery under the preceding paragraph (hereinafter referred to as the "Contribution" in this Section) against a claim that the subscriber has against the Mutually Owned Commodity Exchange.

(4) The transfer of the right to become the shareholder of Shares Issued upon Entity Conversion through the making of the Contribution may not be asserted against the Stock Company-Operated Commodity Exchange after Entity Conversion.

(5) If a subscriber for Shares Issued upon Entity Conversion fails to make the Contribution, it loses the right to become the shareholder of Shares Issued upon Entity Conversion through the making of such a Contribution.

(Timing of becoming a shareholder)

Article 131-4 A subscriber for Shares Issued upon Entity Conversion becomes the shareholder of the Shares Issued upon Entity Conversion for which the subscriber has made a Contribution, on the day on which the Entity Conversion comes into effect.

(Restriction on the invalidation or rescission of a 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 1896) do not apply to the manifestation of an intention involving an offer to subscribe for Shares Issued upon Entity Conversion or the allotment of such shares.

(2) Once one year has passed since the day on which an Entity Conversion comes into effect or once the subscriber for Shares Issued upon Entity Conversion exercises a right in respect of those shares, the subscriber may not assert the invalidity of its subscription for Shares Issued upon Entity Conversion on the basis of a mistake, nor may the subscriber rescind the subscription for the Shares Issued upon Entity Conversion on the grounds of fraud or duress.

(Application mutatis mutandis of the Companies Act when property other than money is the subject of contribution)

Article 131-6 The provisions of Article 207 of the Companies Act and of 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 that involves items (ii) and (vii)); Article 871; Article 872 (limited to the part that involves item (iv)); Article 874 (limited to the part that involves item (i)); Article 875; and Article 876 of that Act apply mutatis mutandis in a case as provided in Article 129, item (iii). In this case, 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 that Act, the phrase "Article 199, paragraph (1), item (iii)" is deemed to be replaced with "Article 129, item (iii) of the Commodity Exchange Act"; in Article 207, paragraph (4), paragraph (6), and paragraph (9), item (iii) and Article 213, paragraph (1), item (ii) of that Act, the phrase "ordinance of the Ministry of Justice" is deemed to be replaced with "ordinance of the competent ministry"; in Article 207, paragraph (8) and Article 212, paragraph (2) of that Act, the phrase "subscription for an offered share or a contract under Article 205" is deemed to be replaced with "subscription for an offered share"; in Article 207, paragraph (10), item (i) of that Act, the phrase

"A director, accounting advisor, corporate auditor or executive officer" is deemed to be replaced with "The president, director, or auditor of a Mutually Owned Commodity Exchange"; in Article 212, paragraph (1), item (ii) of that Act, the phrase "Article 209" is deemed to be replaced with "Article 131-4 of the Commodity Exchange Act"; in Article 870, item (vii) of that Act, the phrase "Article 199, paragraph (1), item (iii) or Article 236, paragraph (1), item (iii)" is deemed to be replaced with "Article 129, item (iii) of the Commodity Exchange Act"; and other necessary technical replacement of terms is specified by Cabinet Order.

(Authorization for Entity Conversion)

Article 132 (1) An Entity Conversion does not come into effect without the authorization of the competent minister.

(2) A person seeking the authorization referred to in the preceding paragraph must submit a written application to the competent minister in which it states the particulars set forth in Article 79, paragraph (1), items (i) to (iii) inclusive, item (v) and item (vi) with respect to the Stock Company-Operated Commodity Exchange after Entity Conversion.

(3) A document detailing the content of the Entity Conversion plan as well as the articles of incorporation, operational rules, brokerage contract rules, dispute resolution rules, and market transactions surveillance committee rules of the Stock Company-Operated Commodity Exchange after Entity Conversion, and other documents specified by ordinance of the competent ministry must accompany the written application referred to in the preceding paragraph.

(Criteria for authorization)

Article 133 (1) If the competent minister finds that an application for the authorization referred to in paragraph (1) of the preceding Article conforms to the following criteria, the prime minister must give authorization:

(i) the amount of stated capital of the Stock Company-Operated Commodity Exchange after Entity Conversion will be equal to or greater than the amount specified by Cabinet Order which is referred to in Article 80, paragraph (1), item (i);

(ii) the provisions of the articles of incorporation, operational rules, brokerage contract rules, dispute resolution rules, and market transactions surveillance committee rules of the Stock Company-Operated Commodity Exchange after Entity Conversion do not violate laws and regulations, and the transaction method or management of transactions; eligibility of Trading Participants; maximum number of Trading Participants, if specified; particulars of deposits, if the obligation to make a special security deposit is stipulated; and other particulars prescribed in the articles of incorporation, operational

- rules, brokerage contract rules, dispute resolution rules, and market transactions surveillance committee rules are appropriate and sufficient for ensuring the fairness of Transactions on the Commodity Market and for protecting entrustors;
- (iii) the Stock Company-Operated Commodity Exchange after Entity Conversion will have a sufficient personnel structure to appropriately manage the Commodity Market;
 - (iv) the Stock Company-Operated Commodity Exchange after Entity Conversion will be organized as a Stock Company-Operated Commodity Exchange in a manner that conforms to the provisions of this Act.
- (2) Notwithstanding the provisions of the preceding paragraph, if an application for the authorization referred to in paragraph (1) of the preceding Article falls under one of the following items, the competent minister must not give the authorization referred to in that paragraph:
- (i) the Stock Company-Operated Commodity Exchange after Entity Conversion would have a person falling under one of the categories in Article 15, paragraph (2), item (i) (a) to (k) inclusive as an officer;
 - (ii) the application or a document that is required to accompany it contains a false statement about a material particular.
- (3) The provisions of Article 15, paragraphs (5) to (9) inclusive apply mutatis mutandis to the authorization referred to in paragraph (1) of the preceding Article.
- (4) A stock company that has undergone an Entity Conversion with the authorization referred to in paragraph (1) of the preceding Article is deemed to have received the license referred to in Article 78 at the time of Entity Conversion.
- (5) A member that has been trading on a Commodity Market operated by a Mutually Owned Commodity Exchange implementing Entity Conversion, and that seeks to trade on a Commodity Market operated by the Stock Company-Operated Commodity Exchange after Entity Conversion which is the same as that Commodity Market (meaning 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 applies in Article 149, paragraphs (2) and (4)) is deemed to have been granted the trading eligibility referred to in Article 82, paragraph (1) for that Commodity Market at the time of Entity Conversion.

(Registration)

Article 134 (1) Once a Mutually Owned Commodity Exchange implements an Entity Conversion, it must register the dissolution of the Mutually Owned Commodity Exchange implementing the Entity Conversion; register the

incorporation in the locality of the head office of the Stock Company-Operated Commodity Exchange after the Entity Conversion; and register the particulars set forth in the items of Article 930, paragraph (2) of the Companies Act as regards any branch office of the Stock Company-Operated Commodity Exchange after the Entity Conversion; and these registrations must be made within two weeks from the day on which the Entity Conversion comes into effect, in the localities of the principal office and head office, and within three weeks from that day, in the locality of any secondary office or branch office.

(2) In addition to the documents specified in Article 18, Article 19, and Article 46 of the Commercial Registration Act, the following documents must accompany a written application for the registration of incorporation referred to in the preceding paragraph:

- (i) the Entity Conversion plan;
- (ii) the articles of incorporation;
- (iii) the minutes of the general meeting concerning the Entity Conversion of the Mutually Owned Commodity Exchange implementing the Entity Conversion;
- (iv) a document evidencing that the officers of the Stock Company-Operated Commodity Exchange after the Entity Conversion (or, if the Stock Company-Operated Commodity Exchange after Entity Conversion will be a company with company auditors (including a stock company whose articles of incorporation provide that audits by company auditors are limited to accounting matters), the officers and company auditors) have accepted those positions;
- (v) a document evidencing the amount of net assets the pre-Entity Conversion Mutually Owned Commodity Exchange has as of the time of the Entity Conversion;
- (vi) if an accounting advisor or accounting auditor has been appointed for the Stock Company-Operated Commodity Exchange after Entity Conversion, the documents set forth in the items of Article 54, paragraph (2) of the Commercial Registration Act;
- (vii) if an administrator of the shareholder register has been appointed, a document evidencing the contract with that person;
- (viii) a document evidencing that the public notice under Article 124, paragraph (2) (or, if public notice is issued both in the official gazette and by publication in a daily newspaper that publishes the particulars of current events or electronic public notice pursuant to the provisions of the paragraph (3) of that Article, public notice through such means) has been issued, and, if a creditor has stated an objection, a document evidencing that the debt has been repaid or suitable collateral has been provided to the creditor, that suitable property has been deposited in trust for the purpose of allowing the

creditor to receive payment for the debt, or that the Entity Conversion is unlikely to harm the creditor;

- (ix) if shares have been issued upon Entity Conversion pursuant to the provisions of Article 129, the following documents:
- (a) a document evidencing offers to subscribe for shares;
 - (b) if money is the subject of contributions, a document evidencing that the payments under Article 131-3, paragraph (1) have been made;
 - (c) if property other than money is the subject of contribution, the following documents:
 - 1. if an inspector has been appointed, a document containing the investigation report by the inspector and the annexed documents to the same;
 - 2. in a 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 evidencing the market price of the securities;
 - 3. in a 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 verification prescribed in that item and the annexed documents thereto;
 - 4. in a case set forth in Article 207, paragraph (9), item (v) of the Companies Act as applied mutatis mutandis pursuant to Article 131-6, the account book in which the monetary claim set forth in that item has been entered.
 - (d) if a judicial decision has been reached in connection with a report by an inspector, a certified copy of that judicial decision.
- (3) The provisions of Article 76 and Article 78 of the Commercial Registration Act applies mutatis mutandis to the registration referred to in paragraph (1) of the Entity Conversion of a Mutually Owned Commodity Exchange.

(The coming into effect of an Entity Conversion)

Article 135 (1) A Mutually Owned Commodity Exchange implementing an Entity Conversion becomes a Stock Company-Operated Commodity Exchange on the Effective Date or on the day on which it obtains the authorization of the competent minister which is referred to in Article 132, paragraph (1), whichever comes later.

(2) A Mutually Owned Commodity Exchange implementing an Entity Conversion is deemed to have changed its articles of incorporation in respect of the particulars set forth in Article 122, paragraph (4), items (i) and (ii), in accordance with the provisions about those particulars, on the day on which the Entity Conversion comes into effect.

(3) The member of a Mutually Owned Commodity Exchange implementing an

Entity Conversion becomes the shareholder of the shares referred to in Article 122, paragraph (4), item (v), in accordance with the provisions about the particulars set forth in item (vi) of that paragraph, on the day on which the Entity Conversion comes into effect.

- (4) The provisions of the preceding three paragraphs do not apply if the process under Article 124 is not complete or if the Entity Conversion is suspended.

Article 136 Deleted.

(Action to invalidate an Entity Conversion)

Article 137 The provisions of Article 828, paragraph (1) (limited to the part that involves item (vi)) and paragraph (2) of the Companies Act (limited to the part that involves item (vi)) and of Article 834 (limited to the part that involves item (vi)); Article 835, paragraph (1); Articles 836 to 839 inclusive; Article 846; and Article 937, paragraph (3) (limited to the part that involves item (i)) of that Act apply mutatis mutandis to an action to invalidate an Entity Conversion. In this case, in that paragraph, the phrase "the head office of each company" is deemed to be replaced with "the head office and branch offices of the Stock Company-Operated Commodity Exchange and the principal office and secondary offices of the Mutually Owned Commodity Exchange".

(Delegation to Cabinet Order)

Article 138 Beyond what is provided for in this Act, necessary particulars relevant to the Entity Conversion of a Commodity Exchange are specified by Cabinet Order.

Section 6 Mergers

Subsection 1 General Provisions

Article 139 (1) A Mutually Owned Commodity Exchange may merge with another Mutually Owned Commodity Exchange or with a Stock Company-Operated Commodity Exchange. In such a case, the Commodity Exchanges effecting the merger must conclude a merger agreement.

- (2) If a Mutually Owned Commodity Exchange effects an absorption-type merger (meaning the merger of one Commodity Exchange with another Commodity Exchange, in which the Commodity Exchange surviving the merger (hereinafter referred to as the "Commodity Exchange Surviving the Absorption-Type Merger" in this Section) succeeds to all of the rights and obligations of the Commodity Exchange that disappears in the merger (hereinafter referred to as the "Commodity Exchange Disappearing in an Absorption-Type Merger" in this Section); the same applies hereinafter) or an

consolidation-type merger (meaning the merger of two or more Commodity Exchanges, in which the Commodity Exchange incorporated in the merger (hereinafter referred to as the "Commodity Exchange Incorporated in the Consolidation-Type Merger" in this Section) succeeds to all of the rights and obligations of the Commodity Exchanges disappearing as a result of the merger (hereinafter referred to as the "Commodity Exchange Disappearing in the Consolidation-Type Merger" in this Section); the same applies hereinafter), the Commodity Exchange Surviving the Absorption-Type Merger or the Commodity Exchange Incorporated in the Consolidation-Type Merger must be the entity prescribed in the relevant of the following items for the category set forth in that item:

- (i) a merger between a Mutually Owned Commodity Exchange and a Mutually Owned Commodity Exchange: a Mutually Owned Commodity Exchange;
- (ii) a merger between a Mutually Owned Commodity Exchange and a Stock Company-Operated Commodity Exchange: a Stock Company-Operated Commodity Exchange.

Subsection 2 Mergers between a Mutually Owned Commodity Exchange and a Mutually Owned Commodity Exchange

(Absorption-type merger agreements between a Mutually Owned Commodity Exchange and a Mutually Owned Commodity Exchange)

Article 140 If a Mutually Owned Commodity Exchange and a Mutually Owned Commodity Exchange effect an absorption-type merger, the following particulars must be specified in the absorption-type merger agreement:

- (i) the name and address of the Mutually Owned Commodity Exchange that constitutes the Commodity Exchange Surviving the Absorption-Type Merger (hereinafter referred to as the "Mutually Owned Commodity Exchange Surviving the Absorption-Type Merger" in this Section) and the name and address of the Mutually Owned Commodity Exchange that constitutes the Commodity Exchange Disappearing in the Absorption-Type Merger (hereinafter referred to as the "Mutually Owned Commodity Exchange Disappearing in the 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) particulars specified by ordinance of the competent ministry other than those listed in the preceding two items.

(Consolidation-type merger agreements between a Mutually Owned Commodity Exchange and a Mutually Owned Commodity Exchange)

Article 141 If a Mutually Owned Commodity Exchange and a Mutually Owned

Commodity Exchange effect a consolidation-type merger, the following particulars must be specified in the consolidation-type merger agreement:

- (i) the names and addresses of the Mutually Owned Commodity Exchanges that constitute the Commodity Exchanges Disappearing in the Consolidation-Type Merger (hereinafter each such exchange is referred to as a "Mutually Owned Commodity Exchange Disappearing in the Consolidation-Type Merger" in this Section);
- (ii) the purpose, name, and locality of the principal office of the Mutually Owned Commodity Exchange that constitutes the Commodity Exchange Incorporated in the Consolidation-Type Merger (hereinafter referred to as the "Mutually Owned Commodity Exchange Incorporated in the Consolidation-Type Merger" in this Section)
- (iii) particulars specified by the articles of incorporation of the Mutually Owned Commodity Exchange Incorporated in the Consolidation-Type Merger, other than what is set forth in the preceding item;
- (iv) the names of the persons that will become the president, officers, and auditors at the time of the incorporation of the Mutually Owned Commodity Exchange Incorporated in the Consolidation-Type Merger;
- (v) particulars specified by ordinance of the competent ministry, other than those set forth in the preceding items.

Subsection 3 Mergers between a Mutually Owned Commodity Exchange and a Stock Company-Operated Commodity Exchange

(Absorption-type merger agreement between a Mutually Owned Commodity Exchange and a Stock Company-Operated Commodity Exchange)

Article 142 If a Mutually Owned Commodity Exchange and a Stock Company-Operated Commodity Exchange effect an absorption-type merger, the following particulars must be specified in the absorption-type merger agreement:

- (i) the trade name and address of the Stock Company-Operated Commodity Exchange that constitutes the Commodity Exchange Surviving the Absorption-Type Merger (hereinafter referred to as the "Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger" in this Section) and the name and address of the Stock Company-Operated Commodity Exchange that constitutes the Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger;
- (ii) if, at the time of the absorption-type merger, the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger will deliver shares, etc. (meaning shares or money; the same applies hereinafter) to the members of the Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger to replace their equity, the following matters in

connection with those shares, etc.:

- (a) if the shares, etc. are shares in the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger, the number of them (or, for a company issuing class shares, the classes of shares and the number of shares in each class) or the method of calculating their number, and the particulars of the amount of stated capital and reserves of the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger;
- (b) if the shares, etc. are money, the amount of that money or the method of calculating it.
- (iii) in the case prescribed in the preceding item, the particulars of the allotment of the shares, etc. referred to in that item to members of the Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger;
- (iv) the Effective Date;
- (v) particulars specified by ordinance of the competent ministry, other than those set forth in the preceding items.

(Consolidation-type merger agreements between a Mutually Owned Commodity Exchange and a Stock Company-Operated Commodity Exchange)

Article 143 (1) If a Mutually Owned Commodity Exchange and a Stock Company-Operated Commodity Exchange effect a consolidation-type merger, the following particulars must be specified in the consolidation-type merger agreement:

- (i) the name and address of the Mutually Owned Commodity Exchanges Disappearing in the Consolidation-Type Merger and the trade name and address of the Stock Company-Operated Commodity Exchange that constitutes the Commodity Exchange Disappearing in the Consolidation-Type Merger (hereinafter referred to as the "Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger" in this Section);
- (ii) the purpose, trade name, locality of the head office, and total number of authorized shares of the Stock Company-Operated Commodity Exchange that constitutes the Commodity Exchange Incorporated in the Consolidation-Type Merger (hereinafter referred to as the "Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger" in this Section);
- (iii) particulars specified in the articles of incorporation of the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger, other than what is set forth in the preceding item;
- (iv) the name of the persons that will become directors at the time of the incorporation of the Stock Company-Operated Commodity Exchange

- Incorporated in the Consolidation-Type Merger, and the name of the person that will become the accounting auditor at the time of its incorporation;
- (v) the matters prescribed in the relevant of the following for the category of case set forth therein:
 - (a) if the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger will be a company with an accounting advisor: the name of the person that will become the accounting advisor at the time of the incorporation of the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger;
 - (b) if the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger will be a company with a company auditor (including a stock company whose articles of incorporation provide that the scope of audits by a company auditor is limited to accounting matters): the name of the person that will become the company auditor at the time of the incorporation of the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger.
 - (vi) the number of shares in the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger (for a company with class shares, the classes of shares and the number of shares in each class) that the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger will deliver to members of the Mutually Owned Commodity Exchange Disappearing in the Consolidation-Type Merger or shareholders of the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger to replace their equity or shares, at the time of the Consolidation-Type Merger, or the method of calculating that number, and the particulars of the amount of stated capital and reserves of the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger;
 - (vii) the particulars of the allotment of the shares referred to in the preceding item to members of the Mutually Owned Commodity Exchange Disappearing in the Consolidation-Type Merger and shareholders of the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger (meaning shareholders other than the Commodity Exchange Disappearing in the Consolidation-Type Merger);
 - (viii) if the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger has issued share options, the following matters as regards share options in the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger or the money that the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger will deliver to the holders of share options in the Stock Company-Operated Commodity Exchange Disappearing in the

Consolidation-Type Merger at the time of the Consolidation-Type Merger to replace their share options:

- (a) if it will issue share options in the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger to the holders of share options in the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger, the content and number of share options or the method of calculating it;
 - (b) in the case prescribed in (a), if share options in the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger which are referred to in (a) are the share options that are attached to bonds with share options, the fact that the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger will succeed to the obligations connected with bonds in respect of those bonds with share options, the classes of bonds subject to the succession, and the total amounts of the bonds in each class or the method of calculating such amounts;
 - (c) if it will deliver money to the holders of share options in the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger, the amount that money or the method of calculating it.
 - (ix) in the case prescribed in the preceding item, the particulars of the allotment of share options in the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger or of the money referred to in the same item to the holders of share options in the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger.
- (2) In a case prescribed in the preceding paragraph, if the whole or a part of the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger is a company with class shares, the following particulars may be specified as the particulars set forth in item (vii) of that paragraph (limited to particulars of the shareholders of the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger; the same applies in the following paragraph) in accordance with the features of the classes of shares issued by the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger:
- (i) it will not allot shares in the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger to shareholders of certain classes of shares, an indication of this and the relevant classes of shares;
 - (ii) if it will handle the allotment of shares in the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger

differently for each class of shares but other than as is set forth in the preceding item, an indication of this and the details of the differential handling.

- (3) in a case prescribed in paragraph (1), the provisions with regard to the particulars set forth in item (vii) of that paragraph must prescribe that shares in the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger will be issued in proportion to the number of shares (if the particulars set forth in item (ii) of the preceding paragraph are provided for, the number of shares in each class) held by the shareholders of the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger (meaning shareholders other than the Commodity Exchanges Disappearing in the Consolidation-Type Merger and shareholders in the classes of shares referred to in item (i) of the preceding paragraph).

Subsection 4 Merger Procedures for Mutually Owned Commodity Exchanges

(Procedures for a Mutually Owned Commodity Exchange Disappearing in an Absorption-Type Merger)

Article 144 (1) During the period from 10 days prior to the day of the general meeting referred to in paragraph (4) until the day on which the absorption-type merger comes into effect, the Mutually Owned Commodity Exchange Disappearing in an Absorption-Type Merger must keep documents or electronic or magnetic records that state or contain a record of the details of the absorption-type merger agreement and the particulars specified by ordinance of the competent ministry, at its principal office.

(2) The member or creditor of a Mutually Owned Commodity Exchange Disappearing in an Absorption-Type Merger may make the following requests of the Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger at any time during its business hours; provided, however, that in making the request set forth in item (ii) or (iv), the member or creditor must pay the cost stipulated by the Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger:

- (i) a request to inspect a document referred to in the preceding paragraph;
- (ii) a request to be issued a certified copy or extract of a document referred to in the preceding paragraph;
- (iii) a request to inspect something that shows the particulars that have been recorded in an electronic or magnetic record referred to in the preceding paragraph, through a means specified by ordinance of the competent ministry;
- (iv) a request to be provided with the particulars that have been recorded in an

- electronic or magnetic record referred to in the preceding paragraph by an electronic or magnetic means specified by ordinance of the competent ministry, or a request to be issued a document that states those particulars.
- (3) If a Mutually Owned Commodity Exchange Disappearing in an Absorption-Type Merger has had a request as under the preceding paragraph, it must not refuse that request without legitimate grounds.
 - (4) A Mutually Owned Commodity Exchange Disappearing in an Absorption-Type Merger must gain approval for the absorption-type merger agreement by general meeting resolution by the day preceding the Effective Date.
 - (5) The provisions of Article 124 apply mutatis mutandis to a Mutually Owned Commodity Exchange Disappearing in an Absorption-Type Merger.
 - (6) A Mutually Owned Commodity Exchange Disappearing in an Absorption-Type Merger may change the Effective Date by agreement with the Commodity Exchange Surviving the Absorption-Type Merger.
 - (7) In the case referred to in the preceding paragraph, the Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger must issue public notice of the new Effective Date by the day preceding the old Effective Date (or, if the new Effective Date comes before the old Effective Date, by the day immediately preceding the new Effective Date).
 - (8) If the Effective Date is changed pursuant to the provisions of paragraph (6), the new Effective Date is deemed to be the Effective Date and the provisions of this Section apply.

(Procedures for a Mutually Owned Commodity Exchange Surviving an Absorption-Type Merger)

- Article 144-2 (1) During the period from 10 days prior to the day of the general meeting referred to in the following paragraph until the day on which six months have passed from the day the absorption-type merger comes into effect, a Mutually Owned Commodity Exchange Surviving an Absorption-Type Merger must keep documents or electronic or magnetic records that state or contain a record of the details of the absorption-type merger agreement and the particulars specified by ordinance of the competent ministry, at its principal office.
- (2) A Mutually Owned Commodity Exchange Surviving an Absorption-Type Merger must obtain approval for the absorption-type merger agreement by general meeting resolution by the day preceding the Effective Date.
 - (3) The provisions of Article 124 apply mutatis mutandis to a Mutually Owned Commodity Exchange Surviving an Absorption-Type Merger.
 - (4) A Mutually Owned Commodity Exchange Surviving an Absorption-Type Merger must create a document or an electronic or magnetic record that states or contains a record of the particulars of the rights and obligations of the

Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger to which the Mutually Owned Commodity Exchange Surviving the Absorption-Type Merger has succeeded as a result of the absorption-type merger, and that state or contain a record of other particulars specified by ordinance of the competent ministry as pertinent to the absorption-type merger, without delay after the day on which the absorption-type merger comes into effect.

- (5) During a six-month period beginning from the day on which an absorption-type merger comes into effect, the Mutually Owned Commodity Exchange Surviving the Absorption-Type Merger must keep the document or electronic or magnetic record referred to in the preceding paragraph at its principal office.
- (6) The member or creditor of a Mutually Owned Commodity Exchange Surviving an Absorption-Type Merger may make the following request of the Mutually Owned Commodity Exchange Surviving the Absorption-Type Merger at any time during its business hours; provided, however, that in making the request set forth in item (ii) or (iv), the member or creditor must pay the cost stipulated by the Mutually Owned Commodity Exchange Surviving the Absorption-Type Merger:
 - (i) a request to inspect a document referred to in paragraph (1) or the preceding paragraph;
 - (ii) a request to be issued a certified copy or extract of a document referred to in paragraph (1) or the preceding paragraph;
 - (iii) a request to inspect something that shows the particulars that have been recorded in an electronic or magnetic record referred to in paragraph (1) or the preceding paragraph, through a means specified by ordinance of the competent ministry;
 - (iv) a request to be provided with the particulars that have been recorded in an electronic or magnetic record referred to in paragraph (1) or the preceding paragraph by an electronic or magnetic means specified by ordinance of the competent ministry, or a request to be issued a document that states those particulars.
- (7) If a Mutually Owned Commodity Exchange Surviving an Absorption-Type Merger has had a request as under the preceding paragraph, it must not refuse that request without legitimate grounds.

(Procedures for a Mutually Owned Commodity Exchange Disappearing in a Consolidation-Type Merger)

Article 144-3 (1) During the period from 10 days prior to the day of the general meeting set forth in paragraph (4) until the day of the establishment of the Commodity Exchange Incorporated in the Consolidation-Type Merger, a Mutually Owned Commodity Exchange Disappearing in the Consolidation-Type

Merger must keep documents or electronic or magnetic records that state or contain a record of the details of the consolidation-type merger agreement and the particulars specified by ordinance of the competent ministry, at its principal office.

- (2) The member or creditor of a Mutually Owned Commodity Exchange Disappearing in a Consolidation-Type Merger may make the following requests of a Mutually Owned Commodity Exchange Disappearing in the Consolidation-Type Merger at any time during its business hours; provided, however, that in making the request set forth in item (ii) or (iv), the member or creditor must pay the cost stipulated by the Mutually Owned Commodity Exchange Disappearing in the Consolidation-Type Merger:
- (i) a request to inspect a document referred to in the preceding paragraph;
 - (ii) a request to be issued a certified copy or extract of a document referred to in the preceding paragraph;
 - (iii) a request to inspect something that shows the particulars that have been recorded in an electronic or magnetic record referred to in the preceding paragraph, through a means specified by ordinance of the competent ministry;
 - (iv) a request to be provided with the particulars that have been recorded in an electronic or magnetic record referred to in the preceding paragraph by an electronic or magnetic means specified by ordinance of the competent ministry, or a request to be issued a document that states those particulars.
- (3) If a Mutually Owned Commodity Exchange Disappearing in a Consolidation-Type Merger has had a request as under the preceding paragraph, it must not refuse that request without legitimate grounds.
- (4) A Mutually Owned Commodity Exchange Disappearing in a Consolidation-Type Merger must obtain approval for the consolidation-type merger agreement by general meeting resolution.
- (5) The provisions of Article 124 apply mutatis mutandis to a Mutually Owned Commodity Exchange Disappearing in a Consolidation-Type Merger.

(Procedures for a Mutually Owned Commodity Exchange Incorporated in 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) do not apply to the incorporation of the Mutually Owned Commodity Exchange Incorporated in a Consolidation-Type Merger.

- (2) The articles of incorporation of a Mutually Owned Commodity Exchange Incorporated in a Consolidation-Type Merger are created by the Mutually

- Owned Commodity Exchanges Disappearing in the Consolidation-Type Merger.
- (3) A Mutually Owned Commodity Exchange Incorporated in a Consolidation-Type Merger must create a document or an electronic or magnetic record that states or contains a record of the of the rights and obligations of the Mutually Owned Commodity Exchanges Disappearing in the Consolidation-Type Merger to which the Mutually Owned Commodity Exchange Incorporated in the Consolidation-Type Merger will succeed as a result of the consolidation-type merger, and of other particulars specified by ordinance of the competent ministry as matters pertinent to the consolidation-type merger, without delay after the day of its establishment.
- (4) During the six-month period beginning from its establishment, a Mutually Owned Commodity Exchange Incorporated in a Consolidation-Type Merger must keep the documents or electronic or magnetic records referred to in the preceding paragraph and documents or electronic or magnetic records that state or contain a record of the details of the consolidation-type merger agreement and the particulars specified by ordinance of the competent ministry, at its principal office.
- (5) The member or creditor of a Mutually Owned Commodity Exchange Incorporated in a Consolidation-Type Merger may make the following requests of the Mutually Owned Commodity Exchange Incorporated in the Consolidation-Type Merger at any time during its business hours; provided, however, that in making the request set forth in item (ii) or (iv), the member or creditor must pay the cost stipulated by the Mutually Owned Commodity Exchange Incorporated in the Consolidation-Type Merger:
- (i) a request to inspect a document referred to in the preceding paragraph;
 - (ii) a request to be issued a certified copy or extract of a document referred to in the preceding paragraph;
 - (iii) a request to inspect something that shows the particulars that have been recorded in an electronic or magnetic record referred to in the preceding paragraph, through a means specified by ordinance of the competent ministry;
 - (iv) a request to be provided with the particulars that have been recorded in an electronic or magnetic record referred to in the preceding paragraph by an electronic or magnetic means specified by ordinance of the competent ministry, or a request to be issued a document that states those particulars.
- (6) If a Mutually Owned Commodity Exchange Incorporated in a Consolidation-Type Merger has had a request as under the preceding paragraph, it must not refuse that request without legitimate grounds.

**Subsection 5 Merger Procedures for Stock Company-Operated
Commodity Exchanges**

Division 1 Procedures for the Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger

(The keeping and inspection absorption-type merger agreement documents)
Article 144-5 (1) During the period from one of the following days, whichever comes the earliest, until the day on which six months have elapsed since the day on which the absorption-type merger comes into effect, the Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger (limited to the Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger in an absorption-type merger between a Mutually Owned Commodity Exchange and a Stock Company-Operated Commodity Exchange; hereinafter the same applies in this Division) must keep documents electronic or magnetic records that state or contain a record of the details of the absorption-type merger agreement and the particulars specified by ordinance of the competent ministry, at its head office:

- (i) if approval for the absorption-type merger agreement must be obtained by a shareholders resolution (including a class shareholders resolution): the day two weeks prior to the day of the relevant shareholders meeting;
 - (ii) the day of the notice under Article 144-8, paragraph (1) or the day of the public notice referred to in paragraph (2) of that Article, whichever comes earlier;
 - (iii) the day of the public notice under Article 144-10, paragraph (2) or the day of the notice under the same paragraph, whichever comes earlier.
- (2) The shareholder or creditor of a Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger may make the following requests of the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger at any time during its business hours; provided, however, that in making the request set forth in item (ii) or (iv), the shareholder or creditor must pay the cost stipulated by the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger:
- (i) a request to inspect a document referred to in the preceding paragraph;
 - (ii) a request to be issued a certified copy or extract of a document referred to in the preceding paragraph;
 - (iii) a request to inspect something that shows the particulars that have been recorded in an electronic or magnetic record referred to in the preceding paragraph, through a means specified by ordinance of the competent ministry;
 - (iv) a request to be provided with the particulars that have been recorded in an electronic or magnetic record referred to in the preceding paragraph by an electronic or magnetic means specified by ordinance of the competent ministry or a request to be issued a document that states those particulars.

(3) If a Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger has had a request as under the preceding paragraph , it must not refuse that request without legitimate grounds.

(Approval of absorption-type merger agreements)

Article 144-6 (1) A Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger must obtain approval for the absorption-type merger agreement by resolution at a shareholders meeting by the day preceding the Effective Date.

(2) In the following cases, the directors must explain that such is the case at the shareholders meeting set forth in the preceding paragraph:

(i) the amount specified by ordinance of the competent ministry as the amount of liabilities of the Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger to which the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger will succeed (referred to as the "Liabilities Assumed" in the following item) exceeds the amount specified by ordinance of the competent ministry as the amount of assets of the Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger to which the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger will succeed (referred to as the "Assets Assumed" in the same item);

(ii) the amount of money to be delivered to members of the Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger by the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger exceeds the amount arrived at by deducting the Liabilities Assumed from the Assets Assumed.

(3) If the assets of the Mutually Owned Commodity Exchange Disappearing in an Absorption-Type Merger to be succeeded to include shares in the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger, the directors must explain matters relevant to those shares at the shareholders meeting set forth in paragraph (1).

(4) If the Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger is a company with class shares, and the shares, etc. that will be delivered to members of the Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger are shares in the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger, the absorption-type merger does not come into effect without a resolution at a class shareholders meeting consisting of class shareholders for the classes of shares set forth in Article 142, item (ii) (a) (limited to shares with a restriction on transfer for which there are no provisions in the articles of incorporation as set forth in Article 199, paragraph (4) of the Companies Act)(or, if there are two or

more classes of shares associated with such class shareholders, without the resolutions of each group of class shareholders whose constituent members are the class shareholders in each separate class of those two or more classes of shares); provided, however, that this does not apply if no shareholder is entitled to exercise a voting right at the relevant class shareholders meeting.

- (5) The shareholders resolution set forth in paragraph (1) must be effected with at least a two-thirds majority (or, if a larger proportion is specified by the articles of incorporation, such a proportion) of the votes of the attending shareholders, at a meeting where shareholders holding over half (or, if a proportion of one-third or more is specified by the articles of incorporation, at least such a proportion) of the voting rights of the shareholders that are entitled to exercise voting rights at the relevant shareholders meeting are present. In such a case, the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger is not precluded from setting provisions in its articles of incorporation requiring at least a certain number of affirmative votes from the shareholders or other requirements, in addition to the requirement for such a resolution.
- (6) The provisions of the preceding paragraph apply mutatis mutandis to the class shareholders meeting referred to in paragraph (4).

(When approval for an absorption-type merger agreement is not required)

Article 144-7 (1) The provisions of paragraphs (1) to (3) inclusive of the preceding Article do not apply if 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 is specified by the articles of incorporation of the Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger, such a proportion); provided, however, that this does not apply in the cases set forth the items of paragraph (2) of that Article or if the whole or a part of the shares, etc. delivered to members of the Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger are shares with a restriction on transfer in the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger and the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger is a public company (meaning a public company as prescribed in Article 2, item (v) of the Companies Act; hereinafter the same applies in this Section).

(i) the total of the following amounts:

- (a) the amount arrived at by multiplying the number of shares in the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger that will be delivered to members of the Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger by the amount of net assets per share (meaning the amount of net assets per

- share as prescribed in Article 141, paragraph (2) of the Companies Act);
- (b) the total of the amounts of money that will be delivered to members of the Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger.
- (ii) the amount calculated in the way specified by ordinance of the competent ministry as the amount of net assets of the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger.
- (2) In a case prescribed in the main clause of the preceding paragraph, if shareholders holding the number of shares specified by ordinance of the competent ministry (limited to shares in respect of which voting rights may be exercised at the shareholders meeting set forth in paragraph (1) of the preceding Article) notify the Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger that they are against the absorption-type merger within two weeks from the day of the notice under paragraph (1) of the following Article or within two weeks from the day of the public notice under paragraph (2) of that Article, the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger must obtain approval for the absorption-type merger agreement by resolution at a shareholders meeting, by the day preceding the Effective Date.
- (3) The provisions of paragraph (5) of the preceding Article apply mutatis mutandis to the shareholders meeting referred to in the preceding paragraph.

(Notifying the shareholders)

- Article 144-8 (1) The Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger must notify its shareholders that the absorption-type merger will be effected and indicate the name and address of the Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger (including the particulars of the shares referred to in Article 144-6, paragraph (3), in the case prescribed in that paragraph) by 20 days prior to the Effective Date.
- (2) In the following cases, public notice may be substituted for the notice under the preceding paragraph:
- (i) the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger is a public company;
- (ii) the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger has obtained approval for the absorption-type merger agreement by the resolution at the shareholders meeting referred to in Article 144-6, paragraph (1).
- (3) The provisions of Article 940, paragraph (1) (limited to the part that involves item (i)) and paragraph (3) of the Companies Act apply mutatis mutandis if the Stock Company-Operated Commodity Exchange Surviving an Absorption-Type

Merger issues the public notice referred to in the preceding paragraph by the means set forth in Article 939, paragraph (1), item (iii) of the Companies Act. The necessary technical replacement of terms for such a case is specified by Cabinet Order.

(Demanding a share buy-out)

- Article 144-9 (1) If an absorption-type merger is effected, a Dissenting Shareholder may demand that the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger buy out its shares at a fair price.
- (2) The "Dissenting Shareholder" prescribed in the preceding paragraph means a shareholder as prescribed in the relevant of the following items for the case set forth in that item:
- (i) a shareholders resolution (including a class shareholders resolution) is required in order for the absorption-type merger to be effected: the following shareholders:
 - (a) a shareholder that notifies the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger that it is against the absorption-type merger prior to the shareholders meeting, and that opposes the absorption-type merger at that shareholders meeting (limited to a shareholder that is entitled to exercise a voting right at that shareholders meeting);
 - (b) a shareholder that is not entitled to exercise a voting right at the shareholders meeting.
 - (ii) cases other than that 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 that involves item (iv)); the main clause of Article 871; Article 872 (limited to the part that involves item (iv)); the main clause of Article 873; Article 875; and Article 876 apply mutatis mutandis to a demand under paragraph (1). The necessary technical replacement of terms for such a case is specified by Cabinet Order.

(Objection of the creditors)

- Article 144-10 (1) The creditor of a Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger may state an objection to the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger with regard to the absorption-type merger.
- (2) The Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger must issue public notice of the following particulars in the official gazette and must issue a notice of those particulars to its known creditors (including to the bond administrator (meaning the bond administrator referred

to in Article 702 of the Companies Act) if there is a bond administrator) individually; provided, however, that the period referred to in item (iv) may not be less than one month:

- (i) that an absorption-type merger will be effected;
 - (ii) the name and address of the Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger;
 - (iii) the particulars specified by ordinance of the competent ministry as pertinent to the financial statements of the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger;
 - (iv) that a creditor may state an objection within a specified period.
- (3) Notwithstanding the provisions of the preceding paragraph, if the Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger issues the public notice under that paragraph both in the official gazette and by the means 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 under the same paragraph, the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger is not required to issue the individual notice under the preceding paragraph.
- (4) If a creditor does not state an objection within the period referred to in paragraph (2), item (iv), the creditor is deemed to accept the absorption-type merger.
- (5) If a creditor states an objection within the period referred to in paragraph (2), item (iv), the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger must pay its debt or provide suitable collateral to the creditor, or must deposit suitable property with a trust company, etc. for the purpose of allowing the creditor to receive payment for the debt; provided, however, that this does not apply if the absorption-type merger is unlikely to harm the creditor.
- (6) The provisions of Article 940, paragraph (1) (limited to the part that involves item (iii)) and paragraph (3) of the Companies Act applies mutatis mutandis if the Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger issues the public notice under paragraph (2) by the means set forth in Article 939, paragraph (1), item (iii) of the Companies Act. The necessary technical replacement of terms for such a case is specified by Cabinet Order.
- (7) The statement of an objection by the bondholders pursuant to the provisions of paragraph (1) must be based on a bondholder resolution. In such a case, the court may extend the period for stating an objection for the bondholders, at the motion of an interested person.
- (8) Notwithstanding the provisions of the preceding paragraph, the bond administrator may state an objection on behalf of the bondholders; provided,

however, that this does not apply if otherwise provided in a contract for the entrustment under Article 702 of the Companies Act.

- (9) The provisions of Article 868, paragraph (3) of the Companies Act and of Article 870 (limited to the part that involves item (xi)); the main clause of Article 871; Article 872 (limited to the part that involves item (iv)); Article 875; and Article 876 of that Act apply mutatis mutandis to a case involving a motion under paragraph (7).

(The keeping and inspection of absorption-type merger documents)

Article 144-11 (1) The Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger must prepare documents or electronic or magnetic records in which it states or records the particulars of the rights and obligations of the Mutually Owned Commodity Exchange Disappearing in the Absorption-Type Merger to which the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger has succeeded as a result of the Absorption-Type Merger, and of the particulars specified by ordinance of the competent ministry as pertinent to the absorption-type merger, without delay after the day on which the absorption-type merger comes into effect.

- (2) During the six-month period beginning from the day on which an absorption-type merger comes into effect, the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger must keep the documents or electronic or magnetic records referred to in the preceding paragraph at its head office.

- (3) The member or creditor of a Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger may make the following requests of the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger at any time during its business hours; provided, however, that in making the request set forth in item (ii) or (iv), the member or creditor must pay the cost stipulated by the Stock Company-Operated Commodity Exchange Surviving the Absorption-Type Merger:

(i) a request to inspect a document referred to in the preceding paragraph;

(ii) a request to be issued a certified copy or extract of a document referred to in the preceding paragraph;

(iii) a request to inspect something that shows the particulars that have been recorded in an electronic or magnetic record referred to in the preceding paragraph, through a means specified by ordinance of the competent ministry;

(iv) a request to be provided with the particulars that have been recorded in an electronic or magnetic record referred to in the preceding paragraph by an electronic or magnetic means specified by ordinance of the competent ministry, or a request to be issued a document that states those particulars.

- (4) If a Stock Company-Operated Commodity Exchange Surviving an Absorption-Type Merger has had a request as under the preceding paragraph, it must not refuse that request without legitimate grounds.

Division 2 Procedures for a Stock Company-Operated Commodity Exchange Disappearing in a Consolidation-Type Merger

(The keeping and inspection of consolidation-type merger agreement documents)

Article 144-12 (1) During the period from one of the following days, whichever comes the earliest, until the day on which the consolidation-type merger comes into effect, the Stock Company-Operated Commodity Exchange Disappearing in a Consolidation-Type Merger (limited to the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger in a consolidation-type merger effected between a Mutually Owned Commodity Exchange and a Stock Company-Operated Commodity Exchange; hereinafter the same applies in this Division) must keep documents or electronic or magnetic records that state or contain a record of the consolidation-type merger agreement and the particulars specified by ordinance of the competent ministry, at its head office:

- (i) the day two weeks prior to the shareholders meeting referred to in paragraph (1) of the following Article;
 - (ii) if approval for the consolidation-type merger agreement must be obtained by a class shareholders resolution, the day two weeks prior to the day of the relevant class shareholders meeting;
 - (iii) the day of the notice under in Article 144-14, paragraph (1) or the day of the public notice referred to in paragraph (2) of that Article, whichever comes earlier;
 - (iv) the day of the public notice under Article 144-10, paragraph (2) or the day of the notice under that paragraph as applied mutatis mutandis pursuant to Article 144-17, whichever comes earlier.
- (2) The shareholder or creditor of a Stock Company-Operated Commodity Exchange Disappearing in a Consolidation-Type Merger may make the following requests of the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger at any time during its business hours; provided, however, that in making the request set forth in item (ii) or (iv), the shareholder or creditor must pay the cost stipulated by the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger:
- (i) a request to inspect a document referred to in the preceding paragraph;
 - (ii) a request to be issued a certified copy or extract of a document referred to

- in the preceding paragraph;
- (iii) a request to inspect something that shows the particulars that have been recorded in an electronic or magnetic record referred to in the preceding paragraph, through a means specified by ordinance of the competent ministry;
 - (iv) a request to be provided with the particulars that have been recorded in an electronic or magnetic record referred to in the preceding paragraph by an electronic or magnetic means specified by ordinance of the competent ministry, or a request to be issued a document that states those particulars.
- (3) If the Stock Company-Operated Commodity Exchange Disappearing in a Consolidation-Type Merger has had a request as under the preceding paragraph, it must not refuse that request without legitimate grounds.

(Approval of the consolidation-type merger agreement)

- Article 144-13 (1) The Stock Company-Operated Commodity Exchange Disappearing in a Consolidation-Type Merger must obtain approval for the consolidation-type merger agreement by a shareholders resolution.
- (2) The shareholders resolution referred to in the preceding paragraph must be effected with at least a two-thirds majority (or, if a larger proportion is specified in the articles of incorporation, such a proportion) of the votes of attending shareholders, at a meeting where shareholders holding over half (or, if a proportion of one-third or more is specified in the articles of incorporation, at least such a proportion) of the voting rights of shareholders that are entitled to exercise a voting right at that shareholders meeting are present. In such a case, the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger is not precluded from setting provisions in its articles of incorporation requiring at least a certain number of affirmative votes from the shareholders or other requirements, in addition to the requirement for such a resolution.
- (3) Notwithstanding the provisions of the preceding paragraph, if the Stock Company-Operated Commodity Exchange Disappearing in a Consolidation-Type Merger is a public company and the whole or a part of the shares in the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger that will be delivered to shareholders of the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger are shares with a restriction on transfer, the shareholders resolution referred to in paragraph (1) (excluding a shareholders resolution at a company with class shares) must be a resolution as specified in Article 309, paragraph (3) of the Companies Act.
- (4) If the Stock Company-Operated Commodity Exchange Disappearing in a Consolidation-Type Merger is a company with class shares and the whole or a

part of shares in the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger that will be delivered to shareholders of the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger are shares with a restriction on transfer, the Consolidation-Type Merger does not come into effect without a resolution at a class shareholders meeting consisting of the class shareholders for the class of shares (other than shares with a restriction on transfer) that is subject to the allotment of shares with a restriction on transfer (or, if there are two or more classes of shares associated with such class shareholders, without the resolutions of each group of class shareholders whose constituent members are the class shareholders in each separate class of those two or more classes of shares); provided, however, that this does not apply if no shareholder is entitled to exercise a voting right at the relevant class shareholders meeting.

- (5) The class shareholders resolution referred to in the preceding paragraph must be effected with a majority that constitutes at least two-thirds (or, if a higher proportion is specified in the articles of incorporation, such a proportion) of the votes of at least half (or, if a higher proportion is specified in the articles of incorporation, such a proportion) of the number of shareholders that are entitled to exercise voting rights at the relevant class shareholders meeting.

(Notifying the shareholders)

Article 144-14 (1) The Stock Company-Operated Commodity Exchange Disappearing in a Consolidation-Type Merger must notify its shareholders and registered pledgees of its shares (meaning registered pledgees of shares as provided in Article 149, paragraph (1) of the Companies Act) as well as holders of its share options and registered pledgees of its share option (meaning registered pledgees of share option as provided in Article 270, paragraph (1) of that Act) that the consolidation-type merger will be effected, indicating the names or trade names and addresses of the other Commodity Exchanges Disappearing in the Consolidation-Type Merger and of the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger, within two weeks from the day of the shareholders meeting resolution referred to in paragraph (1) of the preceding Article.

(2) Public notice may be substituted for the notice under the preceding paragraph.

(3) The provisions of Article 940, paragraph (1) (limited to the part that involves item (iv)) and paragraph (3) of the Companies Act apply mutatis mutandis if the Stock Company-Operated Commodity Exchange Disappearing in a Consolidation-Type Merger issues the public notice referred to in the preceding paragraph by the means set forth in Article 939, paragraph (1), item (iii) of the Companies Act. The necessary technical replacement of terms for such a case is specified by Cabinet Order.

(Demanding a share buy-out)

Article 144-15 (1) If a consolidation-type merger is effected,, the following shareholders may demand that a Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger buy out their shares at a fair price:

(i) a shareholder that notifies the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger that it is against the consolidation-type merger prior to the shareholders meeting (including a class shareholders meeting) for approving the consolidation-type merger agreement, and that opposes the consolidation-type merger at that shareholders meeting (limited to a shareholder that is entitled to exercise a voting right at that shareholders meeting);

(ii) a shareholder that is not entitled to exercise a voting right at the relevant shareholders meeting.

(2) The provisions of Article 806, paragraphs (5) to (7) of the Companies Act and of Article 807; Article 868, paragraph (1); Article 870 (limited to the part that involves item (iv)); the main clause of Article 871; Article 872 (limited to the part that involves item (iv)); the main clause of Article 873; Article 875; and Article 876 of that Act apply mutatis mutandis to a demand under the preceding paragraph. The necessary technical replacement of terms for such a case is specified by Cabinet Order.

(Demanding a share option buy-out)

Article 144-16 (1) If a consolidation-type merger is effected, the holder of a share option in the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger may demand that the Stock Company-Operated Commodity Exchange Disappearing in the Consolidation-Type Merger buy out that share option at a fair price.

(2) The provisions of Article 808, paragraphs (5) to (7) inclusive of the Companies Act and of Article 809; Article 868, paragraph (1); Article 870 (limited to the part that involves item (iv)); the main clause of Article 871; Article 872 (limited to the part that involves item (iv)); the main clause of Article 873; Article 875; and Article 876 of that Act apply mutatis mutandis to a demand under the preceding paragraph. The necessary technical replacement of terms for such a case is specified by Cabinet Order.

(Provisions applied mutatis mutandis)

Article 144-17 The provisions of Article 144-10 apply mutatis mutandis to the Stock Company-Operated Commodity Exchange Disappearing in a Consolidation-Type Merger.

Division 3 Procedures for the Stock Company-Operated Commodity Exchange Incorporated in a Consolidation-Type Merger

(Special provisions on the incorporation of a Stock Company-Operated Commodity Exchange)

Article 144-18 (1) The provisions of Part II, Chapter I of the Companies Act (excluding Article 27 (excluding items (iv) and (v)), Article 29, Article 31, Article 39, and Articles 47 to 49 inclusive) do not apply to the incorporation of the Stock Company-Operated Commodity Exchange Incorporated in a Consolidation-Type Merger (limited to the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger in a consolidation-type merger between a Mutually Owned Commodity Exchange and a Stock Company-Operated Commodity Exchange; hereinafter the same applies in this Division).

(2) The articles of incorporation of the Stock Company-Operated Commodity Exchange Incorporated in a Consolidation-Type Merger are created by the Commodity Exchanges Disappearing in the Consolidation-Type Merger.

(The keeping and inspection of consolidation-type merger agreement documents)

Article 144-19 (1) The Stock Company-Operated Commodity Exchange Incorporated in a Consolidation-Type Merger must prepare documents or electronic or magnetic records in which it states or records the particulars of the rights and obligations of the Commodity Exchanges Disappearing in the Consolidation-Type Merger to which the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger will succeed as a result of the consolidation-type merger and any other particulars specified by ordinance of the competent ministry as pertinent to the consolidation-type merger, without delay after the day of its establishment.

(2) During the six-month period beginning from its establishment, the Stock Company-Operated Commodity Exchange Incorporated in a Consolidation-Type Merger keep the documents or electronic or magnetic records referred to in the preceding paragraph and documents or electronic or magnetic records that state or contain a record of the details of the consolidation-type merger agreement and the particulars specified by ordinance of the competent ministry, at its head office.

(3) The shareholder or creditor of the Stock Company-Operated Commodity Exchange Incorporated in a Consolidation-Type Merger may make the following requests of the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger at any time during its business

hours; provided, however, that in making the request set forth in item (ii) or (iv), the shareholder or creditor must pay the cost stipulated by the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger:

- (i) a request to inspect a document referred to in the preceding paragraph;
 - (ii) a request to be issued a certified copy or extract of a document referred to in the preceding paragraph;
 - (iii) a request to inspect something that shows the particulars that have been recorded in an electronic or magnetic record referred to in the preceding paragraph, through a means specified by ordinance of the competent ministry;
 - (iv) a request to be provided with the particulars that have been recorded in an electronic or magnetic record referred to in the preceding paragraph by an electronic or magnetic means specified by ordinance of the competent ministry or a request to be issued a document that states those particulars.
- (4) If the Stock Company-Operated Commodity Exchange Incorporated in a Consolidation-Type Merger has had a request as under the preceding paragraph, it must not refuse that request without legitimate grounds.

Subsection 6 The Coming into Effect of a Merger

(Authorization for a merger)

Article 145 (1) A merger in which Commodity Exchanges constitute all or part of the parties (limited to a merger in which the person surviving the merger or the person incorporated in the merger is a Commodity Exchange) does not come into effect without the authorization of the competent minister.

(2) A person seeking the authorization referred to in the preceding paragraph must submit a written application to the competent minister in which the person states the following particulars of the Commodity Exchange surviving the merger or the Commodity Exchange incorporated in the merger (hereinafter referred to as the "Commodity Exchange Resulting from the Merger") (excluding the particulars set forth in item (ii), if the Commodity Exchange Resulting from the Merger will be a Mutually Owned Commodity Exchange):

- (i) its name or trade name
- (ii) the amount of stated capital
- (iii) the localities of its office or head office, the branch offices, and any other business offices;
- (iv) the Listed Commodity or Listed Commodity Index;
- (v) the names or trade names and addresses of the officers;
- (vi) the names or trade names of the members, etc. and the Listed Commodity

or Listed Commodity Index on the Commodity Market on which the members, etc. will trade.

- (3) Documents giving the details of the merger agreement and the articles of incorporation, operational rules, brokerage contract rules, dispute resolution rules, market transactions surveillance committee rules, and documents specified by ordinance of the competent ministry for the Commodity Exchange Resulting from the Merger must accompany the written application referred to in the preceding paragraph.

(Criteria for authorization)

Article 146 (1) If the competent minister finds that an application for the authorization referred to in paragraph (1) of the preceding Article conforms to the following criteria (excluding the criteria set forth in items (i) and (vi), if the Commodity Exchange Resulting from the Merger is a Mutually Owned Commodity Exchange), the minister must grant the license:

- (i) the amount of stated capital of the Commodity Exchange Resulting from the Merger is at least the amount specified by Cabinet Order which is referred to in Article 80, paragraph (1), item (i);
- (ii) the volume of transactions is expected to be sufficient for ensuring fair and smooth Futures Transactions of the Listed Commodity or Listed Commodity Index to which the application pertains and, in light of the status of transactions in the Goods Comprising the Listed Commodity, etc., it is necessary and appropriate for the Commodity Exchange on which such Futures Transactions are effected to survive the merger, or for a Commodity Exchange on which such Futures Transactions are effected to be incorporated in the merger, in order to facilitate the production and distribution of the Goods Comprising the Listed Commodity, etc.;
- (iii) if the applicant seeks to operate a Commodity Market for a Listed Commodity, the situation conforms to the criteria specified by Cabinet Order as a situation in which it is appropriate for the Listed Commodity to be traded on a single Commodity Market in light of the trading status of persons effecting Purchase and Sales, etc. of Goods Comprising the Listed Commodity in the course of trade, and in light of other circumstances of economic activities involving the Goods Comprising the Listed Commodity;
- (iv) if the applicant seeks to operate a Commodity Market with two or more Commodity Indices as a single Listed Commodity Index, the majority of the goods underlying those two or more Commodity Indices are the same goods;
- (v) the provisions of the articles of incorporation, operational rules, brokerage contract rules, dispute resolution rules, and market transactions surveillance committee rules of the Commodity Exchange Resulting from the Merger do not violate laws and regulations, and the transaction method or management

- of transactions; member, etc. eligibility; maximum number of members, etc., if specified; particulars of deposits, if the obligation to make a special security deposit is stipulated; and other particulars prescribed in the articles of incorporation, operational rules, brokerage contract rules, dispute resolution rules, and market transactions surveillance committee rules are appropriate and sufficient for ensuring the fairness of Transactions on the Commodity Market and for protecting entrustors;
- (vi) the Commodity Exchange Resulting from the Merger will have a sufficient personnel structure to appropriately manage the Commodity Market;
 - (vii) the Commodity Exchange Resulting from the Merger will be organized in a manner that conforms to the provisions of this Act;
 - (viii) it is fully expected that the Commodity Exchange Resulting from the Merger will smoothly and appropriately succeed to the business related to Transactions on the Commodity Markets operated by the Commodity Exchanges that will disappear in the merger.
- (2) Notwithstanding the provisions of the preceding paragraph, if an application for the authorization referred to in paragraph (1) of the preceding Article falls under one of the following items, the competent minister must not give the authorization referred to in that paragraph:
- (i) the Commodity Exchange Resulting from the Merger has a person falling under one of the categories in Article 15, paragraph (2), item (i) (a) to (k) inclusive as an officer;
 - (ii) the written application or a document that is required to accompany it contains a false statement about a material particular.
- (3) If an application is filed for the authorization referred to in paragraph (1) of the preceding Article and the term of existence of the Commodity Exchange (if the exchange is a Stock Company-Operated Commodity Exchange, its term of existence as a Stock Company-Operated Commodity Exchange) or the operative term of the Commodity Market is stated in the articles of incorporation (or, if the exchange is a Stock Company-Operated Commodity Exchange, in its operational rules), the criterion set forth in paragraph (1), item (ii) is replaced by the criteria that the volume of transactions is not expected to fall short in terms of ensuring fair and smooth Futures Transactions in the Listed Commodity or Listed Commodity Index to which the application pertains, and that, in light of the status of transactions in the Goods Comprising the Listed Commodity, etc., the survival, in the merger, of the Commodity Exchange on which such Futures Transactions are effected, or the incorporation, in the merger, of a Commodity Exchange on which such Futures Transactions are effected does not and is not likely to cause an extreme hindrance to the production and distribution of the Goods Comprising the Listed Commodity, etc., and the competent minister must apply such criteria and the criteria

referred to in items (iii) and (iv) of that paragraph to reach a judgment with respect to the period up until the end of that term of existence or that operative term.

- (4) The provisions of Article 15, paragraphs (5) to (11) inclusive apply mutatis mutandis to the authorization referred to in paragraph (1) of the preceding Article. In this case, the term "item (iii)" in Article 15, paragraph (10) is deemed to be replaced with "item (vi)".

(Registration of an absorption-type merger)

Article 147 (1) If a Mutually Owned Commodity Exchange has effected an absorption-type merger and the Commodity Exchange Surviving the Absorption-Type Merger is a Mutually Owned Commodity Exchange, it must register the dissolution of the Commodity Exchange Disappearing in the Absorption-Type Merger and register a change for the Commodity Exchange Surviving the Absorption-Type Merger; and these registrations must be made within two weeks from the day on which the absorption-type merger comes into effect in the locality of the principal office, and within three weeks from that day in the locality of any secondary office; provided, however, that the registration of a change in the locality of a secondary office is to be made only if a particular set forth in one of the items of Article 24, paragraph (2) changes as concerns the Commodity Exchange Surviving the Absorption-Type Merger.

- (2) If a Mutually Owned Commodity Exchange implements an Absorption-Type Merger and the Commodity Exchange Surviving the Absorption-Type Merger is a Stock Company-Operated Commodity Exchange, it must register the dissolution of the Commodity Exchange Disappearing in the Absorption-Type Merger and register a change for the Commodity Exchange Surviving the Absorption-Type Merger; and these registrations must be made within two weeks from the day on which the Absorption-Type Merger comes into effect in the localities of the principal office and head office, and within three weeks from that day in the locality of any secondary office or branch office; provided, however, that the registration of a change in the locality of a branch office is to be made only if a particular set forth in one of the items of Article 930, paragraph (2) of the Companies Act changes as concerns the Commodity Exchange Surviving the Absorption-Type Merger.

(Registration of a consolidation-type merger)

Article 147-2 (1) If a Mutually Owned Commodity Exchange effects a consolidation-type merger and the Commodity Exchange Incorporated in the Consolidation-Type Merger is a Mutually Owned Commodity Exchange, it must register the dissolution of the Commodity Exchanges Disappearing in the Consolidation-Type Merger and register the incorporation of the Commodity

Exchange Incorporated in the Consolidation-Type Merger; and such registrations must be made within two weeks from whichever of the following days is the latest in the locality of the principal office, and within three weeks from that day in the locality of any secondary office. With regard to the application of Article 20, paragraph (2) in such a case, the phrase "referred to in the preceding paragraph" in that paragraph is deemed to be replaced with "of incorporation as regards the Commodity Exchange Incorporated in the Consolidation-Type Merger":

- (i) the day of the general meeting resolution referred to Article 144-3, paragraph (4)
 - (ii) the day that the process under Article 124 as applied mutatis mutandis pursuant to Article 144-3, paragraph (5) is complete;
 - (iii) a day set based on the agreement of the Commodity Exchanges Disappearing in the Consolidation-Type Merger;
 - (iv) the day that the authorization referred to in Article 145, paragraph (1) is obtained.
- (2) If a Mutually Owned Commodity Exchange effects a consolidation-type merger and the Commodity Exchange Incorporated in the Consolidation-Type Merger is a Stock Company-Operated Commodity Exchange, it must register the dissolution of the Commodity Exchanges Disappearing in the Consolidation-Type Merger and register the incorporation of the Commodity Exchange Incorporated in the Consolidation-Type Merger; and these registrations must be made within two weeks from whichever of the following days is the latest, in the localities of the principal office and head office, and within three weeks from such day in the locality of any secondary office or branch office:
- (i) the day of the shareholders resolution referred to in Article 144-13, paragraph (1);
 - (ii) if a class shareholders resolution is required for a consolidation-type merger, the day of that resolution;
 - (iii) the day on which 20 days have elapsed since the day of the notice under Article 144-14, paragraph (1) or the public notice referred to in paragraph (2) of that Article;
 - (iv) the day on which the process referred to in Article 144-10 as applied mutatis mutandis pursuant to Article 144-17 is complete;
 - (v) the days set forth in the items of the preceding paragraph.

(The coming into effect of a merger)

Article 148 (1) The Commodity Exchange Surviving an Absorption-Type Merger succeeds to the rights and obligations of a Commodity Exchange Disappearing in the Absorption-Type Merger (including rights and obligations that are

connected with the business that a Commodity Exchange does and that are based on permission, license, authorization, or any other disposition by an administrative agency; the same applies in paragraph (3)) on the Effective Date or on the day it obtains the authorization of the competent minister referred to in Article 145, paragraph (1), whichever is later.

- (2) The dissolution of the Commodity Exchange Disappearing in an Absorption-Type Merger as a result of that absorption-type merger may not be asserted against a third party until after the registration of the absorption-type merger.
- (3) A Commodity Exchange Incorporated in a Consolidation-Type Merger succeeds to the rights and obligations of the Commodity Exchanges Disappearing in the Consolidation-Type Merger on the day of its establishment.
- (4) In the cases prescribed in the provisions set forth in the following items, the member of a Mutually Owned Commodity Exchange Disappearing in an Absorption-Type Merger or a Mutually Owned Commodity Exchange Disappearing in a Consolidation-Type Merger, or the shareholder of a Stock Company-Operated Commodity Exchange Disappearing in a Consolidation-Type Merger becomes a shareholder of the shares stipulated in the provisions set forth in the relevant item in accordance with the rules with regard to the particulars set forth in each item, on the day on which the absorption-type merger comes into effect or the day of the establishment of the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger:
 - (i) Article 142, item (ii) (a): the particulars set forth in item (iii) of that Article;
 - (ii) Article 143, paragraph (1), item (vi): the particulars set forth in item (vii) of that paragraph.
- (5) A share option in a Stock Company-Operated Commodity Exchange Disappearing in a Consolidation-Type Merger extinguishes on the day of the establishment of the Stock Company-Operated Commodity Exchange Incorporated in the Consolidation-Type Merger.

Article 149 (1) A Commodity Exchange that is incorporated with the authorization referred to in Article 145, paragraph (1) is deemed to have obtained the permission referred to in Article 9 or the license referred to in Article 78 at the time of its incorporation.

- (2) If there are transactions that have been completed on the Commodity Market of the Commodity Exchange Disappearing in an Absorption-Type Merger or Commodity Exchange Disappearing in a Consolidation-Type Merger, but not settled, unless the Commodity Exchange Resulting from the Merger operates a Commodity Market identical to the Commodity Market the that is connected with those transactions (including an identical type of Commodity Market as specified by Cabinet Order), the Commodity Exchange Resulting from the

Merger must operate a Commodity Market that is identical to that of the Commodity Exchange Disappearing in the Absorption-Type Merger or Commodity Exchange Disappearing in the Consolidation-Type Merger, inasmuch as the task of completing settlement for those transactions is concerned.

- (3) The provisions of Article 5, paragraph (1) do not apply if the Commodity Exchange Resulting from a Merger operate a Commodity Market pursuant to the provisions of the preceding paragraph.
- (4) Transactions that have been completed on the Commodity Market of the Commodity Exchange Disappearing in an Absorption-Type Merger or Commodity Exchange Disappearing in a Consolidation-Type Merger, but not settled, are deemed to have been completed on the identical Commodity Market of the Commodity Exchange Resulting from the Merger (including an identical type of Commodity Market as specified by Cabinet Order) under the same conditions.

(Dealing with parts less than the whole)

Article 150 The provisions of Article 234, paragraphs (1) to (5) inclusive of the Companies Act and of Article 868, paragraph (1); Article 869; Article 871; Article 874 (limited to the part that involves item (iv)); Article 875; and Article 876 of that Act apply mutatis mutandis to the absorption-type merger referred to in Article 142 and to the consolidation-type merger referred to in Article 143, paragraph (1). The necessary technical replacement of terms for such a case is specified by Cabinet Order.

(Submission of share certificates)

- Article 151 (1) The provisions of Article 219, paragraph (1) (limited to the part that involves item (vi)), paragraph (2), and paragraph (3) of the Companies Act and of Article 220 and Article 293, paragraph (1) (limited to the part that involves item (iii)) and paragraphs (2) to (4) inclusive of that Act apply mutatis mutandis to the Stock Company-Operated Commodity Exchange Disappearing in a Consolidation-Type Merger. The necessary technical replacement of terms for such a case is specified by Cabinet Order.
- (2) The provisions of Article 940, paragraph (1) (limited to the part that involves item (i)) and paragraph (3) of the Companies Act apply mutatis mutandis if the Stock Company-Operated Commodity Exchange Disappearing in a Consolidation-Type Merger issues the public notice under Article 219, paragraph (1) or Article 293, paragraph (1) of that Act as applied mutatis mutandis pursuant to the preceding paragraph by the means set forth in Article 939, paragraph (1), item (iii) of that Act; and the provisions of Article 940, paragraph (1) (limited to the part that involves item (iii)) and paragraph

(3) of that Act apply mutatis mutandis if the Stock Company-Operated Commodity Exchange Disappearing in a Consolidation-Type Merger issues the public notice under Article 220, paragraph (1) of that Act as applied mutatis mutandis pursuant to the preceding paragraph (including as applied mutatis mutandis pursuant to Article 293, paragraph (4) of that Act, pursuant to the preceding paragraph) by the means set forth in Article 939, paragraph (1), item (iii) of that Act. The necessary technical replacement of terms for such a case is specified by Cabinet Order.

(Application mutatis mutandis of the Commercial Registration Act)

Article 152 (1) The provisions of Article 79 of the Commercial Registration Act and of Article 80 (excluding items (ii), (vi), (ix), and (x)), Article 81 (excluding items (iii), (vi), (ix), and (x)), Article 82, and Article 83 of that Act apply mutatis mutandis to the registration of a Mutually Owned Commodity Exchange as the result of a merger in a case as set forth in Article 139, paragraph (2), item (i). In this case, in Article 79 of that Act, the phrase "trade name and the head office" is deemed to be replaced with "name and the principal office"; in Article 80, item (iv) of that Act, the phrase "amount of stated capital" is deemed to be replaced with "total amount of contribution"; in item (v) of that Article and Article 81, item (v) of that Act, the term "head office" is deemed to be replaced with "office"; in Article 80, item (vii) of that Act, 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)" is deemed to be replaced with "minutes of the general meeting regarding the merger of the Mutually Owned Commodity Exchange implementing the Absorption-Type Merger"; in Article 81 of that Act, the phrase "the following documents" is deemed to be replaced with "the following documents and a document evidencing the credentials of the person with the authority for representation"; in item (vii) of that Article, the phrase "when a company dissolved in an incorporation-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)" is deemed to be replaced with "minutes of the general meeting regarding the merger of the Mutually Owned Commodity Exchange Disappearing in the Consolidation-Type Merger"; in Article 82, paragraphs (2) to (4) inclusive and Article 83 of that Act, the term "the head office" is deemed to be replaced with "the principal office"; and any other necessary technical replacement of terms is specified by Cabinet Order.

(2) The provisions of Article 79 of the Commercial Registration Act and of Article 80 (excluding items (vi), (ix), and (x)) and Articles 81 to 83 inclusive of that Act

apply mutatis mutandis to the registration of a Mutually Owned Commodity Exchange or Stock Company-Operated Commodity Exchange as the result of a merger in a case as set forth in Article 139, paragraph (2), item (ii). In this case, in Article 79 of that Act, the phrase "trade name and the head office" is deemed to be replaced with "name and the principal office or the head office"; in Article 80, item (v) of that Act, the term "head office" is deemed to be replaced with "office"; in item (vii) of that Article, 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)" is deemed to be replaced with "the minutes of the general meeting regarding the merger of the Mutually Owned Commodity Exchange Surviving the Absorption-Type Merger"; in Article 81, item (v) of that Act, the term "head office" is deemed to be replaced with "head office or office"; in item (vii) of that Article, the phrase "when a company dissolved in an incorporation-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)" is deemed to be replaced with "the minutes of the general meeting regarding the merger of the Mutually Owned Commodity Exchange Disappearing in the Consolidation-Type Merger"; and any other necessary technical replacement of terms is specified by Cabinet Order.

(Action to invalidate a merger)

Article 153 The provisions of Article 828, paragraph (1) (limited to the part that involves item (vii) and item (viii)) and paragraph (2) (limited to the part that involves item (vii) and item (viii)) of the Companies Act and of Article 834 (limited to the part that involves 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 to paragraph (2)); Article 846; and Article 937, paragraph (3) (limited to the part that involves item (ii) and item (iii)) and paragraph (4) of that Act apply mutatis mutandis to an action to invalidate a merger under Article 139, paragraph (1); and the provisions of Article 868, paragraph (5) of that Act and of Article 870 (limited to the part that involves item (xv)); the main clause of Article 871; Article 872 (limited to the part that involves item (iv)); the main clause of Article 873; Article 875; and Article 876 of that Act apply mutatis mutandis to a motion under Article 843, paragraph (4) of that Act as applicable mutatis mutandis pursuant to this Article. In this case, in Article 937, paragraph (3) of that Act, the phrase "the head office of each company" is deemed to be replaced with "the head office of each Stock Company-Operated Commodity Exchange or the principal office of each Mutually Owned Commodity Exchange"; and in paragraph (4) of that

Article, the phrase "the respective items of Article 930, paragraph (2)" is deemed to be replaced with "the items of Article 930, paragraph (2) of the Companies Act and the items of Article 24, paragraph (2) of the Commodity Exchange Act" and the phrase "the branch offices of each company" in that paragraph is deemed to be replaced with "the branch offices of each Stock Company-Operated Commodity Exchange and the secondary offices of each Mutually Owned Commodity Exchange".

(Delegation to Cabinet Order)

- Article 154 (1) Beyond what is provided for in this Act, the necessary particulars relevant to the merger of Commodity Exchanges are specified by Cabinet Order.
- (2) The amounts that are required to be reported as capital reserves at the time of a merger and any other necessary particulars relevant to the accounting at the time of a merger are specified by ordinance of the competent ministry.

Section 7 Supervision

(Changing the articles of incorporation)

- Article 155 (1) A change to the articles of incorporation of a Commodity Exchange does not come into effect without the authorization of the competent minister.
- (2) If a Commodity Exchange seeks the authorization referred to in the preceding paragraph, it must submit a written application accompanied by the documents specified by ordinance of the competent ministry to the competent minister.
- (3) If an application is filed by a Mutually Owned Commodity Exchange for the authorization referred to in paragraph (1) and the competent minister finds the application to conform to the criteria prescribed in the relevant of the following items for the category set forth in that item, the minister must grant that approval:
- (i) an application that concerns the operation of a Commodity Market (other than what is prescribed in the following item): the following criteria:
 - (a) the total number of members of the Mutually Owned Commodity Exchange seeking to operate the Commodity Market which seek to trade on that Commodity Market, and persons that seek to become members of that Mutually Owned Commodity Exchange and trade on that Commodity Market (limited to those that have finished paying the full amount of their contribution) is at least 20 and the majority of them are persons specified in the items of Article 10, paragraph (2);
 - (b) criteria set forth in Article 15, paragraph (1), items (i) through (iv).
 - (ii) an application that concerns the operation of a fixed-term Commodity Market (meaning the Commodity Market of a Mutually Owned Commodity

Exchange whose term of existence is stated or recorded in the articles of incorporation, or a Commodity Market whose operative term is stated or recorded in the articles of incorporation; hereinafter the same applies in this Article); the following criteria:

- (a) the criteria set forth in (a) of the preceding item;
- (b) the volume of transactions is not expected to fall short in terms of ensuring fair and smooth Futures Transactions in the Listed Commodity or Listed Commodity Index that the application concerns, and, in light of the status of transactions in the Goods Comprising the Listed Commodity, etc., the operation of a Commodity Market on which such Futures Transactions are effected does not and is not likely to cause an extreme hindrance to the production or distribution of the Goods Comprising the Listed Commodity, etc.;
- (c) the criteria set forth in Article 15, paragraph (1), items (ii) to (iv) inclusive.
- (iii) an application that concerns a change in the scope of a Listed Commodity or Listed Commodity Index (other than a change of scope for which there is a set term) on a Commodity Market (excluding a fixed-term Commodity Market) or the abolition of the term of existence of a Mutually Owned Commodity Exchange, the operative term of a Commodity Market, or the term for a change of scope; the criteria set forth in Article 15, paragraph (1), items (i) to (iv) inclusive;
- (iv) an application that concerns a change in the scope of a Listed Commodity or Listed Commodity Index (but only a change of scope for which there is a set term) on a Commodity Market (excluding a fixed-term Commodity Market), or a change in the scope of a Listed Commodity or a Listed Commodity Index on a fixed-term Commodity Market, or to a change in the term of existence of a Mutually Owned Commodity Exchange, the operative term of a Commodity Market, or the term for a change of scope: the following criteria:
 - (a) the volume of transactions is not expected to fall short in terms of ensuring fair and smooth Futures Transactions in the Listed Commodity or Listed Commodity Index to which the application pertains, and, in light of the status of transactions in the Goods Comprising the Listed Commodity, etc., the change in the scope of the Listed Commodity or Listed Commodity Index or the change in the term of existence of the Mutually Owned Commodity Exchange, the operative term of the Commodity Market, or the change in the term for a change of scope does not and is not likely to cause an extreme hindrance to the production or distribution of the Goods Comprising the Listed Commodity, etc.;
 - (b) the criteria set forth in Article 15, paragraph (1), items (ii) to (iv)

inclusive.

- (v) an application other than one set forth in the preceding items: the criteria set forth in Article 15, paragraph (1), item (iv).
- (4) If an application is filed by a Stock Company-Operated Commodity Exchange for the authorization referred to in paragraph (1) and the competent minister finds that the application conforms to the criteria prescribed in Article 80, paragraph (1), item (vi), the minister must give authorization.
- (5) Before giving the authorization referred to in paragraph (1) to a Mutually Owned Commodity Exchange, the competent minister is to apply the criteria set forth in paragraph (3), item (ii) (b) and (c) (excluding the part that involves Article 15, paragraph (1), item (iv)) and paragraph (3), item (iv) (a) and (b) (excluding the part that involves paragraph (1), item (iv) of that Article) to reach a judgment with respect to the term of existence of the Mutually Owned Commodity Exchange, the period up until the end of the operative term of the Commodity Market, or the term for a change of scope.
- (6) The provisions prescribed in the following items apply mutatis mutandis to the authorization referred to in paragraph (1) for a Mutually Owned Commodity Exchange, as regards the matter set forth in the relevant item:
 - (i) the operation of a Commodity Market, a change to a particular set forth in Article 11, paragraph (2), item (xiii) with regard to a Commodity Market (excluding one set forth in the following item), the abolition of the term of existence of a Mutually Owned Commodity Exchange, the operative term of a Commodity Market, or the term for a change of scope, or the establishment of, a change to, or the abolition of the maximum number of members: the provisions of Article 15, paragraphs (5) to (9) inclusive;
 - (ii) a change in the scope of a Listed Commodity or Listed Commodity Index (but only a change of scope for which there is a set term) on a Commodity Market (excluding a fixed-term Commodity Market), the operation of a fixed-term Commodity Market, or a change in the scope of a Listed Commodity or a Listed Commodity Index on a fixed-term Commodity Market, or a change in the term of existence of a Mutually Owned Commodity Exchange, the operative term of a Commodity Market, or the term for a change of scope: the provisions of Article 15, paragraphs (5) to (11) inclusive.
- (7) In considering the authorization referred to in paragraph (1) in relation to the abolition of the term of existence of a Mutually Owned Commodity Exchange, the operative term of a Commodity Market, or the term for a change of scope, the competent minister must take into consideration the status of the Mutually Owned Commodity Exchange or the status of Transactions on the Commodity Market during the period that the authorization is being considered.
- (8) If an application for the authorization referred to in paragraph (1) concerns a change in the scope of a Listed Commodity or Listed Commodity Index, the

competent minister must not give the authorization referred to in that paragraph until after three months have elapsed since the day of the public notice under Article 352 (limited to the part that involves item (viii)).

(Changing the operational rules, brokerage contract rules, dispute resolution rules, or market transactions surveillance committee rules)

Article 156 (1) A change to the operational rules, brokerage contract rules, dispute resolution rules, or market transactions surveillance committee rules of a Commodity Exchange does not come into effect without the authorization of the competent minister; provided, however, that this does not apply to minor changes to its operational rules as provided for by ordinance of the competent ministry.

- (2) If a Commodity Exchange seeks the authorization referred to in the preceding paragraph, it must submit a written application accompanied by the documents specified by ordinance of the competent ministry, to the competent minister.
- (3) If a Commodity Market makes a minor change as provided for by ordinance of the competent ministry which is referred to in the proviso to paragraph (1), it must notify the competent minister of this without delay.
- (4) If the competent minister finds that an application for the authorization referred to in paragraph (1) (excluding one that concerns the operational rules of a Stock Company-Operated Commodity Exchange) conforms to the criteria prescribed in the relevant of the following items for the category set forth in that item, the minister must give authorization:
 - (i) an application that concerns a Mutually Owned Commodity Exchange: the criteria set forth in Article 15, paragraph (1), item (iv);
 - (ii) an application that concerns a Stock Company-Operated Commodity Exchange: the criteria set forth in Article 80, paragraph (1), item (vi).
- (5) If the competent minister finds that an application for the authorization referred to in paragraph (1) which concerns the operational rules of a Stock Company-Operated Commodity Exchange conforms to the criteria prescribed in the relevant of the following items for the category set forth in that item, the minister must give authorization:
 - (i) an application that concerns the operation of a Commodity Market (other than what is set forth in the following item): the criteria set forth in Article 80, paragraph (1), items (ii) to (vi) inclusive;
 - (ii) an application that concerns the operation of a fixed-term Commodity Market (meaning the Commodity Market of a Stock Company-Operated Commodity Exchange whose term of existence is stated or recorded in its operational rules, or a Commodity Market whose operative term is stated or recorded in its operational rules; hereinafter the same applies in this Article): the following criteria:

- (a) the volume of transactions is not expected to fall short in terms of ensuring fair and smooth Futures Transactions in the Listed Commodity or Listed Commodity Index that the application concerns, and, in light of the status of transactions in the Goods Comprising the Listed Commodity, etc., the operation of a Commodity Market on which such Futures Transactions are effected does not and is not likely to cause an extreme hindrance to the production or distribution of the Goods Comprising the Listed Commodity, etc.;
- (b) the criteria set forth in Article 80, paragraph (1), item (ii) and items (iv) to (vi) inclusive.
- (iii) an application that concerns a change in the scope of a Listed Commodity or Listed Commodity Index (other than a change of scope for which there is a set term) on a Commodity Market (other than a fixed-term Commodity Market), or the abolition of the exchange's term of existence as a Stock Company-Operated Commodity Exchange, the operative term of a Commodity Market, or the term for a change of scope: the criteria set forth in Article 80, paragraph (1), items (iii) to (vi) inclusive;
- (iv) an application that concerns a change in the scope of a Listed Commodity or Listed Commodity Index (but only a change of scope for which there is a set term) on the Commodity Market (other than a fixed-term Commodity Market), a change in the scope of a Listed Commodity or Listed Commodity Index on a fixed-term Commodity Market, or a change in the exchange's term of existence as a Stock Company-Operated Commodity Exchange, the operative term of a Commodity Market, or the term for a change of scope: the following criteria:
 - (a) the volume of transactions is not expected to fall short in terms of ensuring fair and smooth Futures Transactions in the Listed Commodity or Listed Commodity Index that the application concerns, and, in light of the status of transactions in the Goods Comprising the Listed Commodity, etc., the change in the scope of the Listed Commodity or Listed Commodity Index, the change in the exchange's term of existence as a Stock Company-Operated Commodity Exchange on which such Futures Transactions are effected, the change in the operative term of the Commodity Market, or the change in the term for a change of scope does not and is not likely to cause an extreme hindrance to the production or distribution of the Goods Comprising the Listed Commodity, etc.;
 - (b) the criteria set forth in Article 80, paragraph (1), items (iv) to (vi) inclusive.
 - (v) an application other than one set forth in the preceding items: the criteria set forth in Article 80, paragraph (1), item (vi).
- (6) If an application for the authorization referred to in paragraph (1) concerns

the operational rules of a Stock Company-Operated Commodity Exchange, the competent minister is to apply the criteria set forth in item (ii) (a) and (b) of the preceding paragraph (excluding the part that involves Article 80, paragraph (1), items (ii) and (vi)) and item (iv) (a) and (b) of the preceding paragraph (excluding the part that involves paragraph (1), item (vi) of that Article) to reach a judgment with respect to the exchange's term of existence as a Stock Company-Operated Commodity Exchange, the period up until the end of the operative term of the Commodity Market, or the term for a change of scope.

- (7) If the authorization referred to in paragraph (1) pertains to the operational rules of a Stock Company-Operated Commodity Exchange, the provisions prescribed in the following items apply *mutatis mutandis* as regards the matter set forth in the relevant item:
- (i) the operation of a Commodity Market, a change to a particular set forth in Article 102, paragraph (1), items (iv), (v) or (x) with regard to a Commodity Market (other than one set forth in the following item), the abolition of the exchange's term of existence as a Stock Company-Operated Commodity Exchange, the operative term of a Commodity Market, or the term for a change of scope, or the establishment of, a change to, or the abolition of the maximum number of Trading Participants of a Stock Company-Operated Commodity Exchange: the provisions of Article 15, paragraphs (5) to (9) inclusive;
 - (ii) a change in the scope of a Listed Commodity or Listed Commodity Index (but only a change of scope for which there is a set term) on a Commodity Market (other than a fixed-term Commodity Market), the operation of a fixed-term Commodity Market, a change in the scope of a Listed Commodity or Listed Commodity Index on a fixed-term Commodity Market, or a change in the exchange's term of existence as a Stock Company-Operated Commodity Exchange, the operative term of a Commodity Market, or the term for a change of scope: the provisions of Article 15, paragraphs (5) to (11) inclusive.
- (8) In considering the authorization referred to in paragraph (1) in relation to the abolition of an exchange's term of existence as a Stock Company-Operated Commodity Exchange, the operative term of a Commodity Market, or the term for a change of scope, the competent minister must take into consideration the status of the Stock Company-Operated Commodity Exchange or the status of Transactions on the Commodity Market during the period that the authorization is being considered.
- (9) If an application for the authorization referred to in paragraph (1) concerns a change in the scope of the Listed Commodity or Listed Commodity Index of a Stock Company-Operated Commodity Exchange, the competent minister must

not give the authorization referred to in that paragraph until after three months have elapsed since the day of the public notice under Article 352 (limited to the part that involves item (viii)).

(Collection of reports and on-site inspections)

Article 157 (1) Whenever the competent minister finds it to be necessary for the enforcement of this Act, the minister may order a Commodity Exchange, its subsidiary company, or its member, etc. to submit reports or materials that should serve as a reference with respect to its business or assets, and may have ministry officials enter into the office or business office of a Commodity Exchange, its subsidiary company, or its member, etc. to inspect its books and documents or any other article connected with its business.

(2) If an on-site inspection is conducted pursuant to the provisions of the preceding paragraph and an official finds it to be necessary, in order to achieve the purpose of the inspection, to inspect a Listed Commodity that the member, etc. owns or that has been deposited with the member, etc., and is stored at a place other than the member's, etc. office or business office, the official may have the member, etc. present a document certifying the storage of the Listed Commodity to the manager of that place, and may enter that place and inspect the Listed Commodity in the presence of the member, etc.

(3) An officials conducting an on-site inspection pursuant to the provisions of the preceding two paragraphs must carry an identification card and present it to the persons concerned.

(4) The authority for an on-site inspection under paragraph (1) or paragraph (2) must not be interpreted as having been accorded for the purpose of a criminal investigation.

(Business improvement orders)

Article 158 (1) If the competent minister finds it to be necessary and appropriate for ensuring the principle of good faith in transactions or for the protection of entrustors as concerns the business operations of a Commodity Exchange, the minister, within the scope of this necessity, may order the Commodity Exchange to change its articles of incorporation or other rules, to change its business methods, or to otherwise take the necessary measures to improve its business operations.

(2) If the competent minister seeks to issue an order under the preceding paragraph and finds it to be necessary, the minister may ask a person of reference to appear so as to hear the opinion thereof, ask a person of reference to submit an opinion or report, or ask an expert to appear and have the expert give an expert opinion.

(Supervisory measures for Commodity Exchanges)

Article 159 (1) If a Commodity Exchange falls under one of the following items and the competent minister finds it to be necessary and appropriate for ensuring the public interest or the principle of good faith in transactions or for the protection of entrustors, the minister may reach the disposition set forth in the relevant item against that Commodity Exchange:

- (i) the Commodity Exchange violates this Act, etc. violates a condition attached to the authorization referred to in the proviso to Article 3, paragraph (1) or in Article 3-2, or violates its articles of incorporation or other rules, or, even though a member, etc. violates this Act, etc. or the articles of incorporation or other rules of the Commodity Exchange, the Commodity Exchange fails to exercise the powers accorded it under this Act, an order based on this Act, or its articles of incorporation or other rules, or fails to take other necessary measures to cause the member, etc. to observe this Act, etc. or its articles of incorporation or other rules: rescinding the permission referred to in Article 9 or the license referred to in Article 78, or ordering the suspension of the whole or a part of its business activities during a fixed period of no longer than one year;
- (ii) without legitimate grounds for doing so, the Commodity Exchange does not begin to operate all or some of its Commodity Markets within three months from the day on which it is permitted to begin operating those Commodity Markets; it suspends Futures Transactions (limited to those that constitute the transactions set forth in Article 2, paragraph (3), item (i) or (ii), in the case of a Commodity Market for a Listed Commodity, and limited to those that constitute the transactions set forth in item (iii) of that paragraph, in the case of a Commodity Market for a Listed Commodity Index; hereinafter the same applies in this item) on all or some of its Commodity Markets for three months or more; or the Futures Transactions on all or some of its Commodity Markets no longer conform to the criteria set forth in Article 15, paragraph (1), item (i) or Article 80, paragraph (1), item (iii): rescinding the permission referred to in Article 9, the license referred to in Article 78, or its authorization to change the articles of incorporation;
- (iii) the competent minister finds the conduct of the Commodity Exchange or the status of the Transactions on a Commodity Market it operates to be harmful to the public interest: ordering the suspension of the whole or a part of its business activities during a fixed period of no longer than three months;
- (iv) the competent minister finds that the business that a Commodity Exchange conducts under approval obtained pursuant to the proviso of Article 3, paragraph (1) is likely to impair confidence in the public nature of the business of the Commodity Exchange or the sound and proper

- administration of the Operation of a Commodity Market and business incidental thereto, or finds that the Commodity Exchange violates the conditions attached to the approval referred to in the proviso to the same paragraph: rescinding the permission referred to in the proviso to that paragraph;
- (v) the competent minister finds that although the conduct of a Subsidiary Company owned by the Commodity Exchange with authorization it has obtained pursuant to the proviso of Article 3-2, paragraph (1) is likely to impair confidence in the public nature of the business of the Commodity Exchange or the sound and proper administration of the Operation of a Commodity Market and business incidental thereto, the Commodity Exchange fails to take the necessary measures to correct that conduct, or the competent minister finds that the Commodity Exchange violates the conditions attached to the approval referred to in the proviso to the same paragraph: rescinding the permission referred to in the proviso to that paragraph.
- (2) If the competent minister discovers that the contents of a written application for the permission referred to in Article 9, the license referred to in Article 78, the authorization referred to in Article 155, paragraph (1) or Article 156, paragraph (1), or a document that is required to accompany one of these contains a false statement about a material particular or omits a statement as to a material fact, the minister may rescind that permission, license, or authorization or order it to change the part of its articles of incorporation, operational rules, brokerage contract rules, dispute resolution rules, or market transactions surveillance committee rules that involves that material particular.
- (3) If the competent minister discovers that a person has become the officer of a Commodity Exchange by wrongful means or if the officer of a Commodity Exchange violates this Act, etc., the minister may order the Commodity Exchange to dismiss that officer.
- (4) The proceedings taking place on the date for a hearing on the rescission of permission, license, or authorization, or order to dismiss an officer under the preceding three paragraphs must be open to the public; provided, however, that this does not apply if the competent minister finds it to be necessary not to do so in order to maintain the trade secret of the person that could become subject to the disposition or finds it to be necessary not to do so in the public interest.
- (5) The provisions of paragraph (2) of the preceding Article apply mutatis mutandis to a disposition under paragraph (1) to (3) inclusive.
- (6) No appeal may be entered against a disposition under paragraph (1), item (iii) based on the Administrative Appeals Act (Act No. 160 of 1962).

(Supervisory measures for members, etc.)

Article 160 (1) If a member or a Trading Participant violates this Act, etc., the competent minister may order the Commodity Exchange to expel that member or rescind that Trading Participant's trading eligibility during a fixed period of no longer than six months, or to suspend the member's or Trading Participant's Transactions on Commodity Markets or the entrustment of the member's or Trading Participant's Commodity Clearing Transactions, or, if the violation involves the officer of a member or Trading Participant that is a corporation, the minister may order that member or Trading Participant to dismiss the officer that engages in the violation.

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

Section 8 Miscellaneous Provisions

(Duty of confidentiality of the officers and employees of a Commodity Exchange)

Article 161 It is prohibited for the officer (or, if the officer is a corporation, the person that performs the duties of an officer) or employee of a Commodity Exchange, or a person that has held one of these positions, to divulge or misappropriate any secret learned in the course of duty.

(Period for registration)

Article 162 The period for registration of the particulars that are required to be registered which require the permission or authorization of the competent minister begins from the day on which the written permission or written authorization is received.

Article 163 Deleted

(Validity of registration)

Article 164 A particular that is required to be registered pursuant to the provisions of this Act may not be asserted against a third party until after it is registered.

(Sanction rules)

Article 165 A Commodity Exchange must stipulate in its articles of incorporation that if a member or a Trading Participant violates this Act, etc.

or the articles of incorporation, operational rules, brokerage contract rules, dispute resolution rules, or other rules of the Commodity Exchange, or if such a person engages in an act that is contrary to the principle of good faith in transactions, the Commodity Exchange will impose a monetary penalty on that member or Trading Participant, order the suspension or restriction of all or a part of its Transactions on the Commodity Markets or its entrustment of Commodity Clearing Transactions in connection with these with that Commodity Exchange, or expel the member or rescind the Trading Participant's trading eligibility.

(Market transactions surveillance committee)

Article 166 (1) A Commodity Exchange must stipulate in its market transactions surveillance committee rules that it establishes the market transactions surveillance committee (hereinafter referred to as a "Committee" in this Article) comprised of committee members with the relevant knowledge and experience in Transactions on a Commodity Market, which satisfy the other requirements specified by ordinance of the competent ministry, for the purpose of ensuring the fairness of Transactions on the Commodity Market.

(2) A Committee may state its opinion to the president or the representative director (or the representative executive officer, in the case of a company with committees) 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 must specify the particulars of the organization and authority of the Committee and the other particulars specified by ordinance of the competent ministry, in its market transactions surveillance committee rules.

Chapter III Commodity Transaction Clearing Organizations

Section 1 Commodity Transaction Clearing Organizations

(Licensing)

Article 167 Commodity Transaction Debt Assumption Services may only be operated by a stock company that has obtained a license from the competent minister.

(Application for a license)

Article 168 (1) A person seeking the license set forth in the preceding Article must submit a written application stating the following particulars to the competent minister:

(i) its trade name;

- (ii) its amount of stated capital;
 - (iii) the localities of its head office, branch offices, and any other business office;
 - (iv) the Commodity Markets on which transactions that give rise to obligations that are subject to Commodity Transaction Debt Assumption Services will be carried out;
 - (v) the names or trade names and addresses of its officers.
- (2) The articles of incorporation, business rules, and documents specified by ordinance of the competent ministry must accompany the written application referred to in the preceding paragraph.

(Criteria for licensing)

Article 169 (1) If the competent minister finds that an application for the license referred to in Article 167 conforms to the following criteria, the minister must grant the license:

- (i) the license applicant 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 allowing Commodity Transaction Debt Assumption Services to be performed properly and securely;
 - (iii) the license applicant has a sufficient financial basis to soundly perform Commodity Transaction Debt Assumption Services, and has good prospects in terms of income and expenditures in Commodity Transaction Debt Assumption Services;
 - (iv) in light of its personnel structure, the license applicant has the knowledge and experience to properly and securely perform Commodity Transaction Debt Assumption Services, and has sufficient social credibility.
- (2) Notwithstanding the provisions of the preceding paragraph, if an application for the license referred to in Article 167 falls under one of the following items, the competent minister must not give the approval referred to in that Article:
- (i) the license applicant is a person that falls under one of the categories in Article 15, paragraph (2), item (i) (c) to (e) inclusive or (i) or (l);
 - (ii) the written application or a document that is required to accompany it contains a false statement about a material particular.
- (3) The provisions of Article 15, paragraphs (5) to (9) inclusive apply mutatis mutandis to the license referred to in Article 167.

(Scope of business)

Article 170 (1) A Commodity Transaction Clearing Organization may engage in the business of taking over obligations arising from Over-the-Counter Commodity Derivative Transactions for a Clearing Member, pursuant to the

provisions of its business rules.

- (2) A Commodity Transaction Clearing Organization (unless the Commodity Transaction Clearing Organization is a Commodity Exchange; hereinafter the same applies from this Article to Article 172 inclusive) may not engage in any business other than Commodity Transaction Debt Assumption Services, the business prescribed in the preceding paragraph (hereinafter referred to as "Commodity Transaction Debt Assumption Services, etc."), and other business incidental thereto; provided, however, that this does not apply if a Commodity Transaction Clearing Organization has obtained the approval of the competent minister for Financial Instruments Debt Assumption Services, etc. or other business related to Commodity Transaction Debt Assumption Services, pursuant to the provisions of ordinance of the competent ministry, which is found to involve no risk of hindering the proper and secure operation of Commodity Transaction Debt Assumption Services by that Commodity Transaction Clearing Organization.
- (3) If a Commodity Transaction Clearing Organization discontinues the business for which it has obtained the approval referred to in the proviso to the preceding paragraph, it must notify the competent minister of this pursuant to the provisions of ordinance of the competent ministry.
- (4) The competent minister may attach conditions to the approval prescribed in the proviso to paragraph (2).
- (5) The conditions referred to in the preceding paragraph must constitute the minimum level of conditions that are necessary for the public interest and the protection of entrustors.

(Notification of a change)

Article 171 If a particular set forth in Article 168, paragraph (1), item (ii), item (iii), or item (v) changes (other than the locality of the head office), the Commodity Transaction Clearing Organization must submit a notification indicating this to the competent minister, accompanied by the documents specified by ordinance of the competent ministry, pursuant to the provisions of ordinance of the competent ministry.

(Conditions for ineligibility as an officer)

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

(Commodity Transaction Debt Assumption Services, etc. by a Commodity Exchange)

Article 173 (1) Notwithstanding the provisions of paragraph (1), Article 3, and Article 167, a Commodity Exchange may operate Commodity Transaction Debt

Assumption Services, etc. and business incidental thereto with the approval of the competent minister, pursuant to the provisions of ordinance of the competent ministry.

- (2) A Commodity Exchange that seeks the approval referred to in the preceding paragraph must submit a written application stating the following particulars to the competent minister:
 - (i) its name or trade name;
 - (ii) the Commodity Markets on which transactions are carried out that give rise to obligations subject to Commodity Transaction Debt Assumption Services.
- (3) The business rules and the documents specified by ordinance of the competent ministry must accompany the written application referred to in the preceding paragraph.
- (4) The provisions of Article 169, paragraph (1) (excluding the part that involves item (i)), paragraph (2) (limited to the part that involves item (ii)), and paragraph (3) applies mutatis mutandis to the approval referred to in paragraph (1).

(Clearing Members)

Article 174 (1) A Commodity Transaction Clearing Organization, pursuant to the provisions of its business rules, may grant a person that satisfies the requirements specified by its business rules the eligibility to become the counterparty to Commodity Transaction Debt Assumption Services that the Commodity Transaction Clearing Organization performs.

- (2) If a Clearing Member no longer satisfies the requirements with respect to the amount of net assets prescribed in the business rules, the Commodity Transaction Clearing Organization, pursuant to the provisions of its business rules, must stop taking on obligations with that Clearing Member as the counterparty or rescind the Clearing Member's eligibility as a Clearing Member.

(Business rules)

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

- (2) The following particulars must be prescribed in the business rules:
 - (i) if the Commodity Transaction Clearing Organization engages in the business prescribed in Article 170, paragraph (1), an indication of this;
 - (ii) the Commodity Markets in which transactions are carried out that give rise to obligations subject to Commodity Transaction Debt Assumption Services;
 - (iii) the particulars of the requirements for Clearing Members (including those concerning the amount of net assets of a Clearing Member);

- (iv) the particulars of the taking on and performance of obligations that are done as Commodity Transaction Debt Assumption Services (or Commodity Transaction Debt Assumption Services, etc., if the Commodity Transaction Clearing Organization engages in the business prescribed in Article 170, paragraph (1); the same applies in Article 178);
 - (v) the particulars of ensuring the performance of obligations by Clearing Members (including the particulars of clearing margins);
 - (vi) the particulars of Commodity Clearing Transactions;
 - (vii) other particulars specified by ordinance of the competent ministry.
- (3) The provisions of Article 99, paragraph (7) applies mutatis mutandis to the amount of net assets under item (iii) of the preceding paragraph.

(Duty of Confidentiality of the officers and employees of a Commodity Transaction Clearing Organization)

Article 176 It is prohibited for the officer (or, if the officer is a corporation, the person that performs the duties of an officer) or employee of a Commodity Transaction Clearing Organization, or a person that has held one of these positions, to divulge or misappropriate any secret learned in the course of duty.

(Prohibition on unfairly differential treatment)

Article 177 A Commodity Transaction Clearing Organization must not subject any particular Clearing Member to unfairly differential treatment.

(Measures for ensuring appropriate performance of Commodity Transaction Debt Assumption Services)

Article 178 A Commodity Transaction Clearing Organization must stipulate in its business rules that a Clearing Member bears the entire loss if a loss occurs due to default on an obligation arising from a Transaction on a Commodity Market, and must take other measures to ensure the appropriate performance of Commodity Transaction Debt Assumption Services.

(Clearing margin)

Article 179 (1) A Commodity Transaction Clearing Organization must receive a deposit of clearing margin from the person prescribed in the relevant of the following items for the category set forth in that item, in connection with Transactions on a Commodity Market (limited to Transactions on a Commodity Market that give rise to obligations that are subject to its Commodity Transaction Debt Assumption Services and excluding those set forth in Article 2, paragraph (10), item (i) (d); hereinafter the same applies in this Article) pursuant to the provisions of ordinance of the competent ministry:

- (i) a member, etc. that is a Clearing Member effects a Transaction on a

Commodity Market (other than in a case set forth in the following item): the person prescribed in the relevant of (a) to (d) below for the category of case set forth therein:

- (a) a member, etc. effects a Transaction on a Commodity Market on its own account, or effects a Transaction on a Commodity Market with which it has been entrusted (limited to transactions with which the member, etc. becomes entrusted after receiving a deposit of customer margin pursuant to the provisions of the following paragraph): that member, etc.;
 - (b) a member, etc. effects a Transaction on a Commodity Market with which it has been entrusted (excluding a transaction with which it has been entrusted by a person that has undertaken to broker that entrustment (hereinafter referred to as a "Broker" in this Article)) (other than in a case as set forth in (a)): the person entrusting the member, etc. with the transaction (meaning the person that entrusts the member, etc. with the Transaction on the Commodity Market, and which is not a Broker; the same applies in the following paragraph);
 - (c) a member, etc. effects a Transaction on a Commodity Market with which it has been entrusted (limited to a transaction with which it has been entrusted by a Broker that has received a deposit of brokerage margin based on the provisions of paragraph (3)) (other than in a case as set forth in (a)): the Broker;
 - (d) a member, etc. effects a Transaction on a Commodity Market with which it has been entrusted (limited to a transaction with which it has been entrusted by a Broker) (other than in a case as set forth in (a) and (c)): the person that requested a person to broker the entrustment of that transaction (hereinafter referred to as the "Person Requesting Brokerage" in this Article).
- (ii) a Clearing Member effects a Commodity Clearing Transaction with which it has been entrusted: the person prescribed in the relevant of (a) to (d) below for the category of case set forth therein:
- (a) a Clearing Member effects a Commodity Clearing Transaction on the account of the member, etc. that has entrusted it with that, transaction or a Clearing Member effects a Commodity Clearing Transaction with which it has been entrusted by a member, etc. that has received a deposit of customer margin based on the following paragraph: that member, etc.;
 - (b) a Clearing Member effects a Commodity Clearing Transaction with which it has been entrusted (other than a transaction with which it has been entrusted by a member, etc. that has itself been entrusted by a person that has undertaken to broker a request to broker a person's entrustment with that transaction (hereinafter referred to as a "Clearing Broker" in this Article)) (other than a case as set forth in (a)): the person that has

- requested a person to broker the entrustment of the Commodity Clearing Transaction (excluding a Clearing Broker; hereinafter referred to as a "Person Requesting Clearing Brokerage" in this Article);
- (c) a Clearing Member effects a Commodity Clearing Transaction with which it has been entrusted (limited to a transaction with which it has been entrusted by a member, etc. entrusted by a Clearing Broker that has received a deposit of clearing brokerage margin based on the provisions of paragraph (4)) (other than a case as set forth in (a)): the Clearing Broker;
- (d) a Clearing Member effects a Commodity Clearing Transaction with which it has been entrusted (limited to a transaction with which it has been entrusted by a member, etc. entrusted by a Clearing Broker) (other than a case as set forth in (a) or (c)): the person requesting brokerage for a request to broker a person's entrustment with that Commodity Clearing Transaction (hereinafter referred to as the "Person Making the Request of the Clearing Broker" in this Article).
- (2) In the case set forth in item (i) of the preceding paragraph, a member, etc., in becoming entrusted with a Transaction on a Commodity Market or in being requested to broker a person's entrustment with a Commodity Clearing Transaction, may have the entrustor, requestor, or Broker (or the Person Requesting Brokerage, if the transaction is one with which the member, etc. has been entrusted by a Broker that has not received a deposit of brokerage margin based on the provisions of the following paragraph from the Person Requesting Brokerage) deposit customer margin with the member, etc. with the consent of that person, and in the case set forth in item (ii) of the preceding paragraph, it may have the Person Requesting Clearing Brokerage or the Clearing Broker (or the Person Making the Request of the Clearing Broker, if the Commodity Clearing Transaction is one with which the member, etc. has been entrusted by a Clearing Broker that has not received a deposit of clearing brokerage margin based on the provisions of paragraph (4) from the Person Making the Request of the Clearing Broker) deposit customer margin with the member, etc. with the consent of that person, pursuant to the provisions of ordinance of the competent ministry.
- (3) In undertaking to broker a person's entrustment with a Transaction on a Commodity Market, a Broker may have the Person Requesting Brokerage deposit brokerage margin with the Broker, with the consent of that person.
- (4) In undertaking to broker a request to broker a person's entrustment with a Commodity Clearing Transaction, a Clearing Broker may have the Person Making the Request of the Clearing Broker deposit clearing brokerage margin with the Clearing Broker, with the consent of that person.
- (5) The provisions of Article 103, paragraph (4) apply mutatis mutandis to the Commodity Transaction Clearing Organization referred to in paragraph (1). In

this case, the term "paragraph (1)" in paragraph (4) of that Article is deemed to be replaced with "Article 179, paragraph (1)".

- (6) The provisions of Article 103, paragraph (5) and paragraph (6) apply mutatis mutandis to the clearing margin referred to in paragraph (1), the customer margin referred to in paragraph (2), the brokerage margin referred to in paragraph (3), and the clearing brokerage margin referred to in paragraph (4).
- (7) The provisions of Article 103, paragraphs (7), (9), and (10) inclusive shall apply mutatis mutandis to the cases referred to in paragraphs (2) to (4) inclusive. In this case, the phrase "the member, etc. referred to in paragraph (2) or the Broker referred to in paragraph (3)" in paragraph (7) of that Article is deemed to be replaced with "the member, etc. referred to in Article 179, paragraph (2), the broker referred to in paragraph (3) of that Article, or the Clearing Broker referred to in paragraph (4) of that Article"; the phrase "the member, etc. or Broker" in the same paragraph and in paragraph (10) of that Article is deemed to be replaced with "the member, etc. or Broker, etc."; the term "Commodity Exchange" in the provisions of paragraphs (7), (9), and (10) of that Article is deemed to be replaced with "Commodity Transaction Clearing Organization"; and the phrase "the two preceding paragraphs" in paragraph (9) of that Article is deemed to be replaced with "Article 103, paragraph (7) as applied mutatis mutandis through a replacement of terms pursuant to Article 179, paragraph (7)".
- (8) The provisions of Article 103, paragraphs (8), (9), and (11) apply mutatis mutandis to a case referred to in paragraph (1), item (i) (a) (limited to a case in which a member, etc. effects a Transaction on a Commodity Market on its own account), (b) or (d) or in paragraph (1), item (ii) (a) (limited to a case in which a Clearing Member effects a Commodity Clearing Transaction on the account of the member, etc. that has entrusted it with that transaction), (b) or (d). In this case, the phrase "the member, etc. prescribed in item (i) of that paragraph, the person entrusting the relevant party with the Transaction on the Commodity Market which is prescribed in item (ii) of that paragraph, or the Person Requesting Brokerage that is prescribed in item (iv) of that paragraph" in paragraph (8) of that Article is deemed to be replaced with "the member, etc. prescribed in Article 179, paragraph (1), item (i) (a), the person entrusting the relevant party with the Transaction on the Commodity Market which is prescribed in (b) of that item, the Person Requesting Brokerage that is prescribed in (d) of that item, the member, etc. prescribed in Article 179, paragraph (1), item (ii) (a), the Person Requesting Clearing Brokerage that is prescribed in (b) of that item, or the Person Making the Request of the Clearing Broker that is prescribed in (d) of that item"; the phrase "Member, etc., Person Entrusting Transactions, or Person Requesting Brokerage" in that paragraph and paragraph (11) of that Article is deemed to be replaced with

"Member, etc., Person Entrusting Transactions, or Person Requesting Brokerage; the Person Requesting Clearing Brokerage, or the Person Making the Request of the Clearing Broker"; the term "Commodity Exchange" in paragraphs (8), (9), and (11) of that Article is deemed to be replaced with "Commodity Transaction Clearing Organization"; and the phrase "the two preceding paragraphs" in paragraph (9) of that Article is deemed to be replaced with "Article 103, paragraph (8) as applied mutatis mutandis through a replacement of terms pursuant to Article 179, paragraph (8)".

(Clearing deposit)

- Article 180 (1) A Commodity Transaction Clearing Organization may have a Clearing Member deposit clearing funds in order to guarantee the performance of its obligations to the Commodity Transaction Clearing Organization, pursuant to the provisions of its business rules.
- (2) If a Commodity Transaction Clearing Organization incurs damage as a result of a Clearing Member's default on its obligation, the organization has the right to receive payment in preference over other creditors out of the clearing funds of the Clearing Member that has caused the damage.
- (3) If a Commodity Transaction Clearing Organization receives payment out of the clearing deposit referred to in the preceding paragraph pursuant to the provisions of that paragraph and the amount is still insufficient, the Commodity Transaction Clearing Organization has the right to receive payment in preference over other creditors out of the clearing funds of Clearing Members other than the Clearing Member under the same paragraph, in proportion to the amount of their clearing deposits.
- (4) If a payment under the preceding paragraph is made, the other Clearing Members prescribed in the same paragraph have the right to claim reimbursement from the Clearing Member that has caused the damage prescribed in paragraph (2).
- (5) The provisions of Article 110 apply mutatis mutandis to a clearing deposit. In this case, the term "Commodity Exchange" in the same Article is deemed to be replaced with "Commodity Transaction Clearing Organization".

(Settlement of outstanding obligations)

- Article 181 (1) If a Commodity Transaction Clearing Organization provides in its business rules for the means of settling outstanding obligations (meaning obligations arising from Transactions on a Commodity Market, Over-the-Counter Commodity Derivatives Transactions, or subject transactions prescribed in Article 2, paragraph (28) of the Financial Instruments and Exchange Act that a Clearing Member has effected, and which the Commodity Transaction Clearing Organization has taken over from the other parties to the

transactions or has novated or in any other way borne as Commodity Transaction Debt Assumption Services, etc. or as Financial Instruments Debt Assumption Services, and obligations arising from such transactions that the Commodity Transaction Clearing Organization takes over from such a Clearing Member; and claims (limited to claims with the same contents as such obligations) that the Commodity Transaction Clearing Organization has acquired against such a Clearing Member as the value of the obligations which have arisen out of such transactions and which the Commodity Transaction Clearing Organization has assumed, taken over, novated, or in any other way borne for that Clearing Member; hereinafter the same applies in this paragraph) in the event that special liquidation proceedings, bankruptcy proceedings, rehabilitation proceedings, or reorganization proceedings commence for a Clearing Member, and such proceeding commences for a Clearing Member, the calculation of the amount of the claim that the Commodity Transaction Clearing Organization or the Clearing Member has in terms of outstanding obligations, and other means of settlement, are to be in accordance with the provisions of the business rules of such Commodity Transaction Clearing Organization.

(2) The claims provided for in the preceding paragraph which a Commodity Transaction Clearing Organization has are bankruptcy claims, rehabilitation claims, and reorganization claims, and the claims provided for in that paragraph which a Clearing Member has are claims to the property of the bankruptcy estate, the property of the rehabilitation debtor, the property of the corporation in need of reorganization, or the property of the cooperative financial institution in need of reorganization.

(Authorization to change the articles of incorporation or business rules)

Article 182 A change to the articles of incorporation or business rules of a Commodity Transaction Clearing Organization does not come into effect unless it receives the authorization of the competent minister pursuant to the provisions of ordinance of the competent ministry.

(Authorization for dissolution)

Article 183 A resolution to discontinue the Commodity Transaction Debt Assumption Services of a Commodity Transaction Clearing Organization or a resolution to dissolve a Commodity Transaction Clearing Organization does not come into effect without the authorization of the competent minister.

(Collection of reports and on-site inspections)

Article 184 (1) Whenever the competent minister finds it to be necessary for the enforcement of this Act, the minister may order a Commodity Transaction

Clearing Organization or its Clearing Member to submit reports or materials that should serve as a reference with respect to its business or assets, and may have ministry officials enter the office or business office of a Commodity Transaction Clearing Organization or its Clearing Member to inspect its books and documents or any other article related to its business.

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

(Business improvement orders)

Article 185 If the competent minister finds it to be necessary and appropriate for the proper and reliable performance of Commodity Transaction Debt Assumption Services, the minister, within the scope of this necessity, may order the Commodity Transaction Clearing Organization to amend its articles of incorporation or its business rules or other rules, to change its business methods, or to otherwise take the necessary measures to improve its business operations or the state of its assets.

(Supervisory measures)

- Article 186 (1) If a Commodity Transaction Clearing Organization violates 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), and the competent minister finds it to be necessary and appropriate for the proper and reliable performance of Commodity Transaction Debt Assumption Services, the minister may rescind the Commodity Transaction Clearing Organization's Article 167 license or its proviso to Article 170, paragraph (2) or Article 173, paragraph (1) approval, or may order it to suspend the whole or a part of its business activities for a fixed period not exceeding six months.
- (2) If the competent minister discovers that a written application for the license referred to in Article 167, the approval referred to the proviso of Article 170, paragraph (2), Article 173, paragraph (1), or the authorization referred to in Article 182, or a document accompanying it, contains a false statement about a material particular or omits a statement of material fact, the minister may rescind the license, approval, or authorization.
- (3) If a Commodity Exchange that has obtained the approval referred to in Article 173, paragraph (1) has its Article 9 permission or Article 78 license rescinded or if it falls under one of the items of Article 69 or one of the items of Article 94, paragraph (1), that approval ceases to be valid.
- (4) If the competent minister discovers that a person has become the officer of a Commodity Transaction Clearing Organization by wrongful means or if the officer of a Commodity Transaction Clearing Organization violates This Act, etc., the minister may order the Commodity Transaction Clearing Organization

to dismiss that officer.

(Application mutatis mutandis of special provisions on the means of conducting hearings)

Article 187 The provisions of Article 158, paragraph (2) apply mutatis mutandis to a disposition under the preceding two Articles; and the provisions of Article 159, paragraph (4) apply mutatis mutandis to a hearing on the rescission of permission, license, or authorization or on an order to dismiss an officer as prescribed in the preceding Article.

Section 2 Miscellaneous Provisions

(Application mutatis mutandis of provisions on the completion of settlement of transactions)

Article 188 The provisions of Article 113 (including as applied mutatis mutandis pursuant to Article 114) apply mutatis mutandis to a Commodity Clearing Transaction if the member that entrusts a person with the Commodity Clearing Transaction withdraws from a Mutually Owned Commodity Exchange or if the Trading Participant that entrusts a person with the Commodity Clearing Transaction loses trading eligibility on a Stock Company-Operated Commodity Exchange, or if Transactions on a Commodity Market are suspended for the member, etc. that entrusts a person with the Commodity Clearing Transactions, and the settlement of those Commodity Clearing Transactions is not complete.

(Delegation to Cabinet Order)

Article 189 Beyond what is provided for in Article 167 to the preceding Article, the necessary particulars of Commodity Transaction Clearing Organizations, etc. are specified by Cabinet Order.

Chapter IV Commodity Futures Business Operators

Section 1 Licensing

(License for Commodity Futures Business)

Article 190 (1) Commodity Futures Business may only be conducted by a person that has been licensed by the competent minister.

(2) The license referred to in the preceding paragraph loses its validity at the expiration of the license period unless it is renewed every six years.

(Licensing conditions)

Article 191 (1) Conditions may be attached to the license referred to in

paragraph (1) of the preceding Article (including the renewal of a license as referred to in paragraph (2) of that Article; the same applies hereinafter).

(2) The conditions attached pursuant to the preceding paragraph must constitute the minimum level of conditions that are necessary for maintaining order in the Commodity Markets or protecting the Entrustor, etc.

(Application for a license)

Article 192 (1) A person seeking the license referred to in Article 190, paragraph (1) must submit a written application to the competent minister, in which it states the following particulars:

(i) its trade name or name;

(ii) the amount of its net assets;

(iii) the names and localities of its head office, branch offices, business offices, and any other offices;

(iv) the names or trade names and addresses of its officers;

(v) the business classification of the acts listed in the items of Article 2, paragraph (22);

(vi) other particulars specified by ordinance of the competent ministry.

(2) The articles of incorporation, certificate of registered information of the company, balance sheet, profit and loss statement, and documents specified by ordinance of the competent ministry must accompany the written application referred to in the preceding paragraph.

(3) The provisions of Article 99, paragraph (7) applies mutatis mutandis to the amount of net assets referred to in paragraph (1), item (ii).

(Criteria for licensing)

Article 193 (1) The competent minister must not grant the license referred to in Article 190, paragraph (1) unless the minister finds that the application for the license referred to in that paragraph conforms to all of the following items:

(i) the license applicant falls under either of the following sub-items:

(a) a stock company (or, in the case of a corporation established in accordance with the laws and regulations of a foreign state, a corporation of the same type as a stock company, which has a business office or an office in Japan);

(b) a corporation other than a stock company, or a person domiciled in a foreign state (other than one falling under (a)), that is specified by Cabinet Order.

(ii) the license applicant has a sufficient financial basis to soundly perform Commodity Futures Business and good prospects in terms of income and expenditures in the Commodity Futures Business;

(iii) the license applicant has the knowledge and experience to fairly and appropriately perform its Commodity Futures Business, has sufficient social

- credibility, and its performance of Commodity Futures Business is unlikely to result in insufficient Entrustor, etc. protection;
- (iv) the license applicant is not a person falling under one of the categories in Article 15, paragraph (2), item (i) (c) to (e) inclusive or (i) or (l);
 - (v) the written application and the documents that are required to accompany it contain no false statement about a material particular.
- (2) With regard to the application of the provisions of item (ii) of the preceding paragraph if the amount of net assets of a license applicant is below the amount prescribed by ordinance of the competent ministry as the amount that is necessary in order to protect Entrustors, etc., the applicant lacks the sufficient financial basis to soundly perform its Commodity Futures Business.

(Disposition procedures)

Article 194 The provisions of Article 15, paragraphs (5) to (9) inclusive apply *mutatis mutandis* to the license referred to in Article 190, paragraph (1).

(Particulars of which notification is required)

Article 195 (1) If a Commodity Futures Business Operator comes to fall under one of the following cases, it must submit a written notification of this to the competent minister within two weeks from the day in question:

- (i) a particular set forth in Article 192, paragraph (1), item (i) or item (iii) to (vi) inclusive, changes;
 - (ii) it discontinues business in connection with the acts listed in Article 2, paragraph (22), item (i) and item (ii) at all the business offices and offices that have been established in Japan;
 - (iii) it commences, suspends, or resumes Commodity Futures Business;
 - (iv) it files a petition to commence bankruptcy proceedings, to commence rehabilitation proceedings, or to commence reorganization proceedings;
 - (v) it falls under any other case specified by ordinance of the competent ministry.
- (2) The documents specified by ordinance of the competent ministry must accompany the written notification referred to in the preceding paragraph.

(Notification of Concurrent Business)

Article 196 (1) If a Commodity Futures Business Operator seeks to engage in a business other than the Commodity Futures Business or business incidental thereto (such other business is hereinafter referred to as "Concurrent Business"), the Commodity Futures Business Operator must submit a written notification of this to the competent minister, pursuant to the provisions of ordinance of the competent ministry. The same applies if the Commodity Futures Business Operator seeks to change a particular of which it has

submitted notification or discontinues such Concurrent Business.

- (2) If a Commodity Futures Business Operator gains a controlling interest in another corporation (meaning a relationship with another corporation in which the Commodity Futures Business Operator holds voting rights equivalent to at least a half of all shareholders' or all members' voting rights in that corporation (including voting rights in respect of shares that 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 a relationship specified by ordinance of the competent ministry as one that allows the Commodity Futures Business Operator to substantially control the business activities of that corporation), the Commodity Futures Business Operator must submit a written notification of this to the competent minister without delay, pursuant to the provisions of ordinance of the competent ministry. The same applies if a particular of which it has submitted notification changes or if its controlling interest ceases to exist.

(Notification of business discontinuance)

Article 197 (1) If a Commodity Futures Business Operator comes to fall under one of the following items, the person set forth in that item must notify the competent minister of this within 30 days from the day in question:

- (i) it discontinues Commodity Futures Business: the Commodity Futures Business Operator;
 - (ii) it disappears in a merger: the officer that represented the Commodity Futures Business Operator;
 - (iii) it is dissolved due to an order to commence bankruptcy proceedings: the bankruptcy trustee;
 - (iv) it is dissolved for reasons other than a merger or an order to commence bankruptcy proceedings: the liquidator;
 - (v) it has the whole or a part of its Commodity Futures Business succeeded to in a company split: the Commodity Futures Business Operator;
 - (vi) it transfers the whole or a part of its Commodity Futures Business: the Commodity Futures Business Operator.
- (2) If a Commodity Futures Business Operator comes to fall under one of the items of the preceding paragraph (but only if it transfers the whole of the Commodity Futures Business in a company split, if it falls under item (v) of that paragraph; and only if it transfers the whole of the Commodity Futures Business, if it falls under item (vi) of that paragraph), the Commodity Futures Business Operator's Article 190, paragraph (1) license ceases to be valid.
- (3) If a Commodity Futures Business Operator seeks to discontinue Commodity Futures Business, effect a merger (limited to one following which the corporation surviving the merger or the corporation incorporated in the merger

does not engage in Commodity Futures Business) or dissolve for reasons other than a merger or an order to commence bankruptcy proceedings, by 30 days prior to that day, it must issue public notice of this, along with posting a notice of this in a place easily seen by the public at all of its business offices and offices, pursuant to the provisions of ordinance of the competent ministry.

(4) If a Commodity Futures Business Operator issues a public notice under the preceding paragraph, it must immediately notify the competent minister of this.

(5) If a Commodity Futures Business Operator issues a public notice under paragraph (3), it must promptly complete the Transactions on the Commodity Market that it has effected on the entrustors' accounts and return the property deposited by the entrustors in connection with its Commodity Futures Business and the property on the entrustors' accounts that the Commodity Futures Business Operator holds, without delay.

(Restrictions on the use of trade names)

Article 197-2 A person that is not a Commodity Futures Business Operator must not use a term in its trade name or name which could give rise to the misconception that it is a Commodity Futures Business Operator.

Section 2 Specified Entrustors

(Obligation to notify Specified Entrustors)

Article 197-3 If a Commodity Futures Business Operator receives an offer for a Commodity Contract from a Specified Entrustor (limited to one listed in Article 2, paragraph (25), item (vii) or item (viii)), and has never in the past concluded a Commodity Contract with that Specified Entrustor, it must notify the Specified Entrustor, by the time the Commodity Contract to which that application pertains is concluded, that the Specified Entrustor may make a request under the provisions of paragraph (1) of the following Article.

(Cases in which a Specified Entrustor is deemed to be a General Customer)

Article 197-4 (1) A Specified Entrustor (limited one as set forth in Article 2, paragraph (25), item (vii) or item (viii)) may request a Commodity Futures Business Operator to treat it as a customer other than a Specified Entrustor or Specified Professional (hereinafter referred to as "General Customer") in connection with a Commodity Contract.

(2) If a Commodity Futures Business Operator receives a request under the preceding paragraph, it must approve that request by the time it solicits the Requester to conclude the first Commodity Contract thereafter, or by the time it concludes such a contract.

(3) Before a Commodity Futures Business Operator approves a request pursuant

to the provisions of the preceding paragraph, it must deliver a document stating the following particulars to the Specified Entrustor that submitted the request under paragraph (1) (hereinafter referred to the "Requester" in this Article):

- (i) the day on which the request is approved pursuant to the provisions of the preceding paragraph (hereinafter referred to as the "Approval Date" in this Article);
 - (ii) an indication that it will treat the Requester as a General Customer if it solicits the Requester to conclude a Commodity Contract or concludes a Commodity Contract with the Requester on or after the Approval Date;
 - (iii) other particulars provided by ordinance of the competent ministry.
- (4) With the consent of the Requester and pursuant to the provisions of Cabinet Order, in lieu of delivering the document under the provisions of the preceding paragraph, a Commodity Futures Business Operator may provide the Requester with the particulars that are required to be stated in that document by means of an electronic data processing system or by any other means of information and communications technology specified by ordinance of the competent ministry. In such a case, the Commodity Futures Business Operator is deemed to have delivered the document.
- (5) With regard to the application of the provisions of this Act (other than this Section), if a Commodity Futures Business Operator gives the approval under paragraph (2) or delivers the document under the provisions of paragraph (3), and the Requester is a person set forth in one of the following items, the Requester is deemed to be a General Customer:
- (i) the other party to the Commodity Futures Business Operator's solicitation to conclude a Commodity Contract on or after the Approval Date;
 - (ii) the other party with which the Commodity Futures Business Operator concludes a Commodity Contract on or after the Approval Date.
- (6) If the preceding paragraph applies to a Requester with regard to the conclusion of a Commodity Contract (limited to one that entails the Commodity Futures Business Operator acting as an agent as provided for in one of the items of Article 2, paragraph (22); hereinafter referred to as a "Specified Commodity Contract" in this paragraph and paragraph (8)), before the Commodity Futures Business Operator concludes a Commodity Contract on behalf of the Requester based on the Specified Commodity Contract, it must notify the other Commodity Futures Business Operator with which the Commodity Contract is to be concluded (hereinafter referred to as the "Counterparty Commodity Futures Business Operator" in the following paragraph and paragraph (8)) that the Requester is deemed to be a General Customer in connection with that Commodity Contract.
- (7) If a Commodity Futures Business Operator gives the notice under the

preceding paragraph, the provisions of the preceding Article do not apply to the Counterparty Commodity Futures Business Operator.

- (8) If a Commodity Futures Business Operator that has concluded a Specified Commodity Contract gives the notice under the provisions of paragraph (6) the Requester is deemed to be a General Customer with regard to the Commodity Contracts that the Commodity Futures Business Operator concludes with the Counterparty Commodity Futures Business Operator on behalf of the Requester based on the Specified Commodity Contract, and the provisions of this Act (excluding this Section) apply.
- (9) If a Requester newly becomes a person that falls under one of Article 2, paragraph (25), item (i) to item (iii) inclusive or item (vi) on or after the Approval Date, the provisions of paragraph (5) to paragraph (8) inclusive do not apply to the Requester after the day on which the Requester becomes such a person.
- (10) A Requester that has obtained the approval under paragraph (2) may request the Commodity Futures Business Operator to treat the Requester as a Specified Entrustor with regard to a Commodity Contract.
- (11) Before a Commodity Futures Business Operator approves the request referred to in the preceding paragraph (hereinafter referred to as a "Request for Reinstatement"), it must obtain the written consent of the person making the Request for Reinstatement (hereinafter referred to as a "Person Requesting Reinstatement" in this Article) on a document the date on which it will approve the Request for Reinstatement and the particulars specified by ordinance of the competent ministry to the person submitting the Request for Reinstatement.
- (12) With the agreement of the Person Requesting Reinstatement and pursuant to the provisions of Cabinet Order, in lieu of obtaining the written consent under the preceding paragraph, a Commodity Futures Business Operator may obtain consent to treat the Person Requesting Reinstatement as an Specified Entrustor by means of an electronic data processing system or any other means of information and communications technology specified by ordinance of the competent ministry. In such a case, the Commodity Futures Business Operator is deemed to have obtained written consent.
- (13) Once a Commodity Futures Business Operator approves a Request for Reinstatement with the consent of the Person Requesting Reinstatement pursuant to the provisions of paragraph (11), the provisions of paragraphs (5), (6), and (8) do not apply during the period from the day on which the request is approved to the day immediately preceding the day on which it gives the new approval under paragraph (2).

(When a customer other than Specified Entrustor is a corporation and that corporation is deemed to be a Specified Entrustor)

- Article 197-5 (1) A corporation (other than a Specified Entrustor, Specified Professional, or corporation specified in Article 197-9, paragraph (1)) may request a Commodity Futures Business Operator to treat it as a Specified Entrustor with regard to a Commodity Contract.
- (2) Before approving a request under the preceding paragraph, a Commodity Futures Business Operator must obtain the written consent of the corporation making the request (hereinafter referred to as the "Requester" in this Article) on a document that states the following particulars. In this, it must make the End Date provided for in item (ii) the day on which one year elapses counting from the Approval Date provided for in item (i) (or, in a case specified by ordinance of the competent ministry, a day before that one year elapses, which is specified by ordinance of the competent ministry):
- (i) the day on which it gives the approval under this paragraph (hereinafter referred to as the "Approval Date" in this Article);
 - (ii) the last day of the period during which it will treat the Requester as a Specified Entrustor in soliciting it to conclude a Commodity Contract and in concluding a Commodity Contract with it (hereinafter referred to as the "End Date" in this Article);
 - (iii) an indication that the Requester understands the following particulars:
 - (a) particulars specified by ordinance of the competent ministry as special provisions for the application of this Act if a Specified Entrustor is solicited to conclude a Commodity Contract by a Commodity Futures Business Operator, if a Specified Entrustor offers a Commodity Contract to the Commodity Futures Business Operator or concludes a Commodity Contract with the Commodity Futures Business Operator;
 - (b) an indication of the risk of insufficient protection involved, if a person that it is inappropriate to treat as a Specified Entrustor in connection with the Commodity Contracts, in light of its knowledge, experience, and the state of its assets, will be treated as a Specified Entrustor.
 - (iv) an indication that it will treat the Requester as a Specified Entrustor in soliciting the Requester to conclude a Commodity Contract before the End Date, or in concluding a Commodity Contract with the Requester before the End Date;
 - (v) an indication that it will treat the Requester as a General Customer in soliciting the Requester to conclude a Commodity Contract on or after the End Date, or in concluding a Commodity Contract with the Requester after the End Date;
 - (vi) an indication that the Requester may request the Commodity Futures Business Operator to treat it as a General Customer;
 - (vii) other particulars provided by ordinance of the competent ministry.
- (3) The provisions of paragraph (12) of the preceding Article apply mutatis

- mutandis to the written consent under the preceding paragraph.
- (4) With regard to the application of the provisions of this Act (other than this Section), if a Commodity Futures Business Operator gives the approval under paragraph (2), the Requester gives the written consent under that paragraph, and the Requester is a person set forth in one of the following items, the Requester is deemed to be a Specified Entrustor:
- (i) a person that the Commodity Futures Business Operator solicits to conclude a Commodity Contract during the period from the Approval Date to the End Date;
 - (ii) a person with which the Commodity Futures Business Operator concludes a Commodity Contract during the period from the Approval Date to the End Date.
- (5) If the preceding paragraph applies to an Requester in connection with the conclusion of a Commodity Contract (limited to one that entails the Commodity Futures Business Operator acting as an agent as provided for in one of the items of Article 2, paragraph (22); hereinafter referred to as the "Specified Commodity Contract" in this paragraph and the following paragraph), before the Commodity Futures Business Operator concludes a Commodity Contract on behalf of the Requester based on the Specified Commodity Contract, it must notify the other Commodity Futures Business Operator with which the Commodity Contract is to be concluded (hereinafter referred to as a "Counterparty Commodity Futures Business Operator" in the following paragraph) that the Requester is deemed to be a Specified Entrustor in connection with that Commodity Contract.
- (6) If a Commodity Futures Business Operator that has concluded a Specified Commodity Contract gives the notice under the provisions of the preceding paragraph, the Requester is deemed to be a Specified Entrustor in connection with the Commodity Contracts that the Commodity Futures Business Operator concludes with the Counterparty Commodity Futures Business Operator on behalf of the Requester based on the Specified Commodity Contract, and the provisions of this Act (other than this Section) apply.
- (7) From the day that the period prescribed by ordinance of the competent ministry has passed counting from the Approval Date, and until the End Date, the Requester may request the Commodity Futures Business Operator to continue to treat it as a Specified Entrustor even after the End Date.
- (8) If a Commodity Futures Business Operator approves the request referred to in the preceding paragraph (hereinafter referred to as "Request for Renewal") on or before the End Date, the approval is deemed to have been given on the day immediately following the End Date.
- (9) If a Commodity Futures Business Operator approves a Request for Renewal, the provisions of paragraph (2) to paragraph (8) inclusive apply mutatis

mutandis to the approval. In this case, the phrase "the day on which it gives the approval under this paragraph" in paragraph (2), item (i) is deemed to be replaced with "the day that is deemed to be the day on which on which it gives the approval pursuant to paragraph (8)" and the phrase "approval under paragraph (2)" in paragraph (4) is deemed to be replaced with "approval under paragraph (8)".

- (10) A Requester that has obtained the approval under paragraph (2) may request a Commodity Futures Business Operator to treat it as a General Customer on or after the Approval Date.
- (11) If a Commodity Futures Business Operator receives a request under the preceding paragraph (hereinafter referred to as "Request for Reinstatement" in this Article), it must approve that Request for Reinstatement by the time it solicits the Requester to conclude the first Commodity Contract thereafter, or by the time it concludes such a contract.
- (12) Before a Commodity Futures Business Operator approves a Request for Reinstatement, it must deliver a document that states the date on which it will approve the Request for Reinstatement and other particulars specified by ordinance of the competent ministry to the corporation making the Request for Reinstatement.
- (13) The provisions of paragraph (4) of the preceding Article apply mutatis mutandis to the delivery of a document under the preceding paragraph.
- (14) If a Commodity Futures Business Operator approves a Request for Reinstatement pursuant to the provisions of paragraph (11), the provisions of paragraph (4) to paragraph (9) inclusive do not apply during the period from the day on which it approves the Request for Reinstatement until the day immediately preceding the day on which it newly gives the approval under paragraph (2).

(When a customer other than Specified Entrustor is an individual and that individual is deemed to be a Specified Entrustor)

- Article 197-6 (1) An individual who satisfies the requirements provided by ordinance of the competent ministry as a person who is equivalent to a Specified Entrustor, in light of the person's knowledge and experience and the state of the person's assets (other than a person falling under Article 2, paragraph (25), item (iii) or the member, etc. of a Commodity Exchange) may request a Commodity Futures Business Operator to treat that individual as a Specified Entrustor in connection with Commodity Contracts.
- (2) If a Commodity Futures Business Operator receives a request under the preceding paragraph, it must deliver a document that states particulars set forth in paragraph (2), item (iii) (a) and (b) of the preceding Article to the individual submitting the request (hereinafter referred to as the "Requester" in

this Article) and must confirm that the Requester falls under the preceding paragraph.

- (3) The provisions of Article 197-4, paragraph (4) apply mutatis mutandis to the delivery of a document under the preceding paragraph.
- (4) From the day that the period prescribed by ordinance of the competent ministry has elapsed counting from the date of the approval under paragraph (2) of the preceding Article as applied mutatis mutandis pursuant to paragraph (6) (hereinafter referred to as the "Approval Date" in the following paragraph), up until the End Date as under paragraph (2), item (ii) of the preceding Article as applied mutatis mutandis pursuant to paragraph (6), the Requester may request the Commodity Futures Business Operator to continue to treat that individual as a Specified Entrustor even after the End Date.
- (5) A Requester who has obtained the approval referred to in paragraph (2) of the preceding Article as applied mutatis mutandis pursuant to the following paragraph may request the Commodity Futures Business Operator to treat that individual as a General Customer on or after the Approval Date.
- (6) The provisions of paragraph (2) to paragraph (6) inclusive of the preceding Article, the provisions of paragraphs (8) and (9) of that Article, and the provisions of paragraph (11) to paragraph (14) inclusive of that Article, respectively, apply mutatis mutandis when a Commodity Futures Business Operator approves the request referred to in paragraph (1), paragraph (4), or the preceding paragraph. In this case, the phrase "the corporation making the request" in paragraph (2) of that Article is deemed to be replaced with "the Requester provided for in Article 197-6, paragraph (2)" and the phrase "the corporation making the Request for Reinstatement" in paragraph (12) of that Article is deemed to be replaced with "the person making request referred to in Article 197-6, paragraph (5)", and any other necessary technical replacement of terms is specified by Cabinet Order.

(Obligation to notify Specified Professionals)

Article 197-7 If a Commodity Futures Business Operator receives an offer for a Commodity Contract from a Specified Professional, and has never in the past concluded a Commodity Contract (limited to a contract for Commodity Derivative Transactions whose Underlying Commodities are goods subject to Purchase and Sales, etc. effected by the Specified Professional in the course of trade or other goods specified by ordinance of the competent ministry as being related to them; hereinafter the same applies in this Article to Article 197-9 and Article 220-4, paragraph (2), item (ii)) with that Specified Professional, the Commodity Futures Business Operator must notify the Specified Professional, by the time the Commodity Contract to which that application pertains is concluded, that the Specified Professional may make a request under the

provisions of paragraph (1) of the following Article.

(When a Specified Professional is deemed to be a General Customer)

Article 197-8 (1) A Specified Professional may request a Commodity Futures Business Operator to treat it as a General Customer in connection with a Commodity Contract.

(2) The provisions of Article 197-4, paragraph (2) to paragraph (13) inclusive shall apply mutatis mutandis to Specified Professionals. In this case, the term "Specified Entrustor" in paragraphs (3), (10), and (12) of that Article is deemed to be replaced with "Specified Professional", and any other necessary technical replacement of terms is specified by Cabinet Order.

(When a corporation other than a Specified Entrustor or Specified Professional is deemed to be a Specified Professional)

Article 197-9 (1) A corporation (other than a Specified Entrustor or Specified Professional) that seeks to offer a Commodity Contract, and that, in the course of trade, engages in the Purchase and Sale, etc. of goods that constitute Underlying Commodities in respect of all of the Underlying Commodities in the Commodity Derivative Transactions that are based on that Commodity Contract, or in the Purchase and Sale, etc. of goods specified by ordinance of the competent ministry as being related to these, may request a Commodity Futures Business Operator to treat it as a Specified Professional in connection with the Commodity Contract.

(2) The provisions of Article 197-5, paragraph (2) to paragraph (14) inclusive applies mutatis mutandis to the corporation provided for in the preceding paragraph. In this case, the term "Specified Entrustor" in paragraph (2), item (ii) to item (iv) inclusive of that Article and in paragraph (4) to paragraph (7) of that Article is deemed to be replaced with "Specified Professional"; and any other necessary technical replacement of terms is specified by Cabinet Order.

(Delegation to Cabinet Order)

Article 197-10 Beyond what is prescribed in this Section, procedures for when a Specified Entrustor (limited to one falling under Article 2, paragraph (25), item (vii) or item (viii)) is deemed to be a General Customer, for when a customer other than a Specified Entrustor, Specified Professional, or a corporation prescribed in paragraph (1) of the preceding Article is deemed to be a Specified Entrustor, for when a Specified Professional is deemed to be a General Customer, and for when a corporation prescribed in that paragraph is deemed to be a Specified Professional, and any other necessary particulars relevant to the application of the provisions of this Section is specified by Cabinet Order.

Section 3 Services

(Posting of signs)

Article 198 (1) A Commodity Futures Business Operator must post a sign specified by ordinance of the competent ministry in a conspicuous location at each of its business offices and offices.

(2) A person other than a Commodity Futures Business Operator must not post the sign referred to in the preceding paragraph or a sign similar thereto.

(Prohibition on name lending)

Article 199 A Commodity Futures Business Operator must not allow another person to engage in Commodity Futures Business using the name of that Commodity Futures Business Operator.

(Registration of Sales Representatives)

Article 200 (1) A Commodity Futures Business Operator must have all of its officers and employees that engage in the following acts on behalf of the Commodity Futures Business Operator (such a person is hereinafter referred to as a "Sales Representative") registered by the competent minister:

(i) the acts set forth in the items of Article 2, paragraph (22);

(ii) soliciting its entrustment with Transactions on a Commodity Market (other than a Commodity Clearing Transaction; hereinafter the same applies in this Chapter) or soliciting requests for it to intermediate, broker, or act as agent in entrusting a person with such a transaction;

(iii) soliciting requests for it to broker a person's entrustment with Commodity Clearing Transactions or soliciting requests for it to intermediate, broker, or act as agent in requesting a person to broker such entrustment;

(iv) soliciting its entrustment with Foreign Commodity Market Transactions (other than those similar to Commodity Clearing Transactions; hereinafter in this Chapter the same applies) or soliciting requests for it to intermediate, broker, or act as agent in entrusting a person with such a transaction;

(v) soliciting requests for it to broker a person's entrustment with Foreign Commodity Market Transactions that are similar to Commodity Clearing Transactions or soliciting requests for it to intermediate, broker, or act as agent in requesting a person to broker such entrustment;

(vi) soliciting offers in connection with Over-the-Counter Commodity Derivative Transactions or soliciting requests for it to intermediate, broker, or act as agent in connection with such an offer.

(2) A Commodity Futures Business Operator must not have a person other than a Sales Representative to which a registration under the preceding paragraph pertains (hereinafter referred to as a "Registered Sales Representative")

perform the duties of a Sales Representative.

- (3) A Commodity Futures Business Operator seeking to have a registration made pursuant to the provisions of paragraph (1) must submit a written application stating the following particulars to the competent minister:
- (i) the name or trade name of the applicant for registration and the name of its representative;
 - (ii) the following particulars with regard to the Sales Representative to which the application for registration pertains:
 - (a) name, date of birth, and address;
 - (b) whether the person is an officer or an employee;
 - (c) whether the person has performed the duties of a Sales Representative (including one to which a registration under paragraph (1) pertains as applied mutatis mutandis pursuant to Article 240-11; hereinafter the same applies in this item and paragraph (1), item (ii) and item (iii) of the following Article), and if the person has performed the duties of a Sales Representative, the trade name or name of the Commodity Futures Business Operator or Commodity Futures Intermediary to which the person belonged and the period during which the person performed those duties;
 - (d) whether the person has performed Commodity Futures Intermediation Services, and if the person has performed Commodity Futures Intermediation Services, the period during which the person performed them.
- (4) A curriculum vitae of the Sales Representative that the applicant seeks to have registered and the documents specified by ordinance of the competent ministry must accompany the written application referred to in the preceding paragraph.
- (5) Whenever an application for registration under paragraph (3) is filed, the competent minister must immediately register the name, date of birth, and particulars specified by ordinance of the competent ministry in the register except in a case that falls under paragraph (1) of the following Article.
- (6) Upon effecting a registration under the preceding paragraph, the competent minister must notify the applicant for registration of this in writing without delay.
- (7) The registration referred to in paragraph (1) ceases to be valid at 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 to which an application for registration pertains falls under one of the following items or if the written application or a document that is required to accompany it contains a false

statement about a material particular or omits a statement of material fact, the competent minister must refuse to effect the registration:

- (i) a person that falls under one of the categories 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) (including as applied mutatis mutandis in Article 240-11), if five years have not yet elapsed since the day of the rescission;
 - (iii) a person who is registered as a Sales Representative belonging to a Commodity Futures Business Operator or Commodity Futures Intermediary other than the applicant for registration;
 - (iv) a person who has obtained the registration referred to in Article 240-2, paragraph (1).
- (2) The provisions of Article 15, paragraphs (5) to (9) inclusive apply mutatis mutandis to a refusal to effect a registration under the preceding paragraph.

(Authority of Sales Representatives)

Article 202 A Sales Representative is deemed to have the authority to perform all acts out of court in connection with the acts set forth in the items of Article 200, paragraph (1) on behalf of the Commodity Futures Business Operator to which the Sales Representative belongs; provided, however, that this does not apply if the counterparty acts in bad faith.

(Notification with regard to a Sales Representative)

Article 203 If one of the following circumstances occurs with regard to a Registered Sales Representative, the Commodity Futures Business Operator must notify the competent minister of this without delay:

- (i) there is a change in a particular set forth in Article 200, paragraph (3), item (ii) (a) or (b);
- (ii) the Registered Sales Representative comes to fall under one of the categories in Article 15, paragraph (2), item (i) (a) to (k) inclusive (with regard to (d) to (i) inclusive of that item, this is limited to the part that involves the provisions of a foreign law or regulation that is equivalent to this Act or to the facility of a foreign state equivalent to a Commodity Exchange);
- (iii) the Registered Sales Representative comes to no longer perform the duties of a Sales Representative due to leaving the workplace or other reasons.

(Rescission of the registration of a Sales Representative)

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 one of the following items, the minister may rescind the registration or order the Registered Sales Representative's suspension from duties for a fixed period not exceeding two years:

- (i) the Registered Sales Representative comes to fall under one of the categories in Article 15, paragraph (2), item (i) (a) to (k) inclusive (with regard to (d) of that item, this is limited to the part that involves the rescission of the license referred to in Article 332, paragraph (1) or Article 342, paragraph (1) and the part that involves the provisions of a foreign law or regulation that is equivalent to this Act);
 - (ii) the Registered Sales Representative violates a law or regulation or is found to have committed an extremely inappropriate act in connection with duties as a Sales Representative.
- (2) If the competent minister decides to issue a disposition based on the preceding paragraph, the minister must notify the Commodity Futures Business Operator that has had that Sales Representative registered of this in writing.
- (3) The provisions of Article 158, paragraph (2) apply mutatis mutandis to a disposition under paragraph (1), and the provisions of Article 159, paragraph (4) apply mutatis mutandis to a hearing on the rescission of a registration under paragraph (1).

(Deletion of the registration of a Sales Representative)

Article 205 The competent minister deletes the registration of a Sales Representative from the register in the following cases:

- (i) the minister rescinds the registration of the Sales Representative pursuant to the provisions of paragraph (1) of the preceding Article;
- (ii) the Commodity Futures Business Operator to which the Sales Representative belongs is dissolved or discontinues Commodity Futures Business;
- (iii) the minister confirms that the Sales Representative will no longer perform duties as a Sales Representative due to leaving the workplace or other reasons.

(Registration Work by a commodity futures association for the registration of Sales Representatives)

Article 206 (1) The competent minister may have a commodity futures association provided for in Article 241, paragraph (1) (hereinafter referred to as an "Association" in this Article to Article 208 inclusive, Article 239 and Article 240-5, item (v)) do the work involved in the registration prescribed in Article 200, Article 201, and the preceding three Articles in connection with the Sales Representative of a Commodity Futures Business Operator that belongs

to that Association (hereinafter referred to as "Registration Work" in this Article and Article 208) pursuant to the provisions of ordinance of the competent ministry.

- (2) If the competent minister decides to have an Association process Registration Work pursuant to the provisions of the preceding paragraph, the minister is not to do that Registration Work.
- (3) If an Association is to process Registration Work pursuant to the provisions of paragraph (1), it must stipulate the particulars involved in the registration of Sales Representatives in its articles of incorporation and obtain the approval of the competent minister.
- (4) If an Association that processes Registration Affairs pursuant to the provisions of paragraph (1) makes a registration under Article 200, paragraph (5), makes a change to a registration in connection with a notification under Article 203, reaches a disposition under Article 204, paragraph (1) (excluding the rescission of a registration), or deletes a registration under the preceding Article, it must notify the competent minister of this pursuant to the provisions of ordinance of the competent ministry.
- (5) If an Association that processes Registration Work pursuant to the provisions of paragraph (1) fails to take a measure provided for in Article 204, paragraph (1) even though the Registered Sales Representative of a Commodity Futures Business Operator that belongs to the Association falls under item (i) or item (ii) of that paragraph, and the competent minister finds it to be necessary and appropriate for maintaining order on the Commodity Market or for the protection of entrustors, the minister may order the Association to take a measure provided for in that paragraph.
- (6) The provisions of Article 158, paragraph (2) apply mutatis mutandis to an order under the preceding paragraph.

(Payment of a registration fee)

Article 207 (1) A Commodity Futures Business Operator that seeks to have a Sales Representative registered must pay a registration fee to the national government (or, the Association if the Sales Representative is registered with an Association pursuant to the provisions of paragraph (1) of the preceding Article) pursuant to the provisions of Cabinet Order.

- (2) A registration fee under the preceding paragraph which has been paid to an Association is treated as the income of that Association.

(Request for review)

Article 208 A Commodity Futures Business Operator that objects to the inaction of an Association that does Registration Work pursuant to the provisions of Article 206, paragraph (1), as pertains 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), may file a request for review with the competent minister, pursuant to the Administrative Appeals Act.

(Restriction on the disposal of Commodities held by a Commodity Futures Business Operator)

Article 209 (1) A Commodity Futures Business Operator must not use an article in its possession on deposit by an Entrustor, etc. or in the Entrustor's, etc. account as collateral, nor must it lend or otherwise dispose of such an article contrary to the spirit of the Commodity Contract, without gaining the written consent of the Entrustor, etc.

(2) With the agreement of the Entrustor, etc. and pursuant to the provisions of Cabinet Order, in lieu of the written consent stipulated in the preceding paragraph, a Commodity Futures Business Operator may obtain consent to the use of an article in its possession on deposit by the Entrustor, etc. as collateral, or to the lending or disposal of such an article, by means of an electronic data processing system or other means of information and communications technology specified by ordinance of the competent ministry. In such a case, the Commodity Futures Business Operator is deemed to have obtained written consent.

(Separate management of customer properties)

Article 210 In order to ensure the payment of obligations arising from the Commodity Futures Business, a Commodity Futures Business Operator must take the measures specified in the relevant of the following items for the properties specified in those items, in order to preserve those properties:

- (i) property equivalent to the value of the money, Securities, and other articles deposited by an entrustor in connection with Transactions on a Commodity Market and to the value of the Securities and other articles in the entrustor's account (excluding those specified by ordinance of the competent ministry; such money, Securities, and other articles are referred to as "Entrustor Assets" in Article 304, Article 306, paragraph (1), and Article 311, paragraph (1)) (such property is referred to as "Property for Preservation" in Article 300, item (iii) and Article 309): deposit the property with an Entrustor Protection Fund (meaning an Entrustor Protection Fund as prescribed in Article 270), deposit the property with a trust company, etc. separately from the other property of the Commodity Futures Business Operator, or take any other measure specified by ordinance of the competent ministry;
- (ii) property equivalent to the value of the money, Securities, and other articles deposited by an Entrustor, etc. in connection with Foreign Commodity

Market Transactions and Over-the-Counter Commodity Derivative Transactions, and Securities and other articles in the Entrustor's, etc. account (excluding what is specified by ordinance of the competent ministry): deposit the property with a trust company, etc. separately from the other property of the Commodity Futures Business Operator, or take any other measure specified by ordinance of the competent ministry.

(Net Assets Regulation Ratio)

Article 211 (1) A Commodity Futures Business Operator (other than a bank or any other person specified by Cabinet Order; hereinafter the same applies in this Article and Article 235) must compute the ratio of the amount of net assets to an amount calculated pursuant to the provisions of ordinance of the competent ministry as the amount for covering any potential risks arising from Commodity Derivative Transactions in connection with the fluctuation of quotations and other factors (hereinafter referred to as the "Net Assets Regulation Ratio"), and notify the competent minister of that ratio at the end of every month and at any other time specified by ordinance of the competent ministry.

(2) A Commodity Futures Business Operator must ensure that its Net Assets Regulation Ratio does not fall below 120 percent.

(3) A Commodity Futures Business Operator must draw up a document stating its Net Assets Regulation Ratio as of the final days of March, June, September, and December of every year, keep copies of that document at all of its business offices and offices, and make them available for public inspection for a three-month period beginning from the day one month after such final days.

(4) The provisions of Article 99, paragraph (7) apply mutatis mutandis to the amount of net assets under paragraph (1).

(Prohibition of dual trading)

Article 212 If a Commodity Futures Business Operator is entrusted with a Transaction on a Commodity Market, etc. or is entrusted with a Foreign Commodity Market Transaction, etc. (meaning a Foreign Commodity Market Transaction, the intermediation, brokerage, or agency for entrusting a person with such a transaction, brokerage for the entrustment of Foreign Commodity Market Transactions that are similar to Commodity Clearing Transactions, or intermediation, brokerage, or agency for entrusting a person with such brokerage; hereinafter the same applies in this Chapter), it must not close the transaction by becoming the counterparty itself instead of effecting the Transaction on the Commodity Market, etc. with which it has been entrusted.

(Principle of honesty and fairness)

Article 213 A Commodity Futures Business Operator and its officers and employees must execute business with honesty and fairness to customers.

(Regulation of advertising)

Article 213-2 (1) When advertising the contents of its Commodity Futures Business or engaging in any similar act designated by ordinance of the competent ministry, a Commodity Futures Business Operator must give the following particulars pursuant to the provisions of ordinance of the competent ministry:

- (i) the trade name or name of the Commodity Futures Business Operator;
 - (ii) an indication that the Commodity Futures Business Operator is a Commodity Futures Business Operator;
 - (iii) the particulars of the details of its Commodity Futures Business which are designated by Cabinet Order as material particulars that may have an impact on customers' judgment.
- (2) When advertising the contents of its Commodity Futures Business or engaging in any similar act designated by ordinance of the competent ministry, a Commodity Futures Business Operator must not make a representation that significantly conflicts with the fact of the matter or that could cause a person to have a serious misconception about the prospect of profiting from engaging in an act set forth in one of the items of Article 2, paragraph (22), or about the particulars specified by ordinance of the competent ministry.

(Prohibition against improper solicitation)

Article 214 A Commodity Futures Business Operator must not engage in one of the following acts:

- (i) providing a customer with a conclusive assessment of a matter that is uncertain or with information that could mislead the customer into believing that a matter that is uncertain is actually certain, thereby engaging in the solicitation set forth in one of Article 200, paragraph (1), items (ii) to (vi) inclusive;
- (ii) providing a customer with false information in connection with the conclusion of a Commodity Contract or solicitation of the same;
- (iii) becoming entrusted with a Transaction on a Commodity Market, etc. or a Foreign Commodity Market Transaction, etc. without receiving instructions from the customer with regard to the volume, amount of consideration, Agreed Price, etc., or other particular specified by ordinance of the competent ministry (excluding the conclusion of a Commodity Investment Advisory Contract (meaning a Commodity Investment Advisory Contract as prescribed in Article 2, paragraph (2) of the Act for the Regulation of Business in Commodity Investment; hereinafter the same applies in the following Article

- and Article 240-16, paragraph (1), item (i) (d)) with a customer and other acts specified by ordinance of the competent ministry as being unlikely to lack in entrustor protection or harm the fairness of transactions);
- (iv) becoming entrusted with a Transaction on a Commodity Market (limited to one listed in Article 2, paragraph (3), item (i); hereinafter the same applies in this item) by a customer and, before issuing the offer on the trade with which it is entrusted, effecting a Transaction on a Commodity Market at a more advantageous price than the price for the trade with which it is entrusted (meaning a price that is lower than the price involved in the entrusted transaction, if buying; and a price that is higher than the price involved in the entrusted transaction, if selling) with the objective of closing the same trade as the one with which it has been entrusted, on the Commodity Market on which it is entrusted with the trade, on its own account; or becoming entrusted with a Foreign Commodity Market Transaction (limited to one that is equivalent to the transaction set forth in item (i) of that paragraph; hereinafter the same applies in this item) by a customer and, before issuing the offer on the trade with which it is entrusted, effecting a Foreign Commodity Market Transaction at a more advantageous price than the price for the trade with which it is entrusted (meaning a price that is lower than the price involved in the entrusted transaction, if buying; and a price that is higher the price involved in the entrusted transaction, if selling) with the objective of closing the same trade as the one with which it is entrusted, on the Foreign Commodity Market on which it is entrusted with the trade, on its own account;
 - (v) issuing a solicitation as set forth in one of Article 200, paragraph (1), items (ii) to (vi) inclusive to a customer that has manifested the intention not to entrust or make the offer referred to in items (ii) to (vi) inclusive of that paragraph (including an intention that indicates a wish not to be solicited to entrust or make that offer);
 - (vi) issuing a solicitation as set forth in one of Article 200, paragraph (1), items (ii) to (vi) inclusive to a customer, in a manner that is likely to annoy the customer;
 - (vii) issuing a solicitation to conclude a Commodity Contract without confirming in advance whether or not the customer wishes to be solicited after telling the customer its trade name or name and the fact that it is soliciting the conclusion of a Commodity Contract;
 - (viii) recommending a that customer, in respect of Transactions on a Commodity Market, etc. or Foreign Commodity Market Transactions, etc., match the volume and maturity in a sale, purchase, or other equivalent trade in specific Goods Comprising a Listed Commodity, etc. (including Goods Comprising a Listed Commodity, etc. on a Foreign Commodity Market) with

- a corresponding transaction (meaning a transaction that would reduce the losses arising from such a transaction);
- (ix) visiting or telephoning a customer that has not requested to be solicited to conclude a Commodity Contract (limited to one specified by Cabinet Order in consideration of the contents of the Commodity Contract and other circumstances, as a contract in connection with which it is particularly necessary to ensure the protection of the Entrustor, etc.; hereinafter the same applies in this item), and soliciting the customer to conclude a Commodity Contract (excluding acts specified by ordinance of the competent ministry as not lacking in protection for Entrustors, etc. or as unlikely to harm the fairness of transactions);
 - (x) acts other than what is provided for in the preceding items, which are specified by ordinance of the competent ministry as acts that lack protection for the Entrustor, etc. or that harm the fairness of transactions.

(Prohibited acts when engaging in business under a Commodity Investment Advisory Contract)

Article 214-2 When engaging in business under a Commodity Investment Advisory Contract, a Commodity Futures Business Operator must not perform the following acts:

- (i) carrying out a Commodity Derivative Transaction on its own account or soliciting a person to conclude a Commodity Contract using information from business under a Commodity Investment Advisory Contract;
- (ii) acts other than what is set forth in the preceding item, which are specified by ordinance of the competent ministry as lacking in protection for the Entrustor, etc. or as likely to harm the fairness of transactions.

(Prohibition on compensations of loss)

Article 214-3 (1) A Commodity Futures Business Operator may not perform one of the following acts:

- (i) making an offer or promise, or having a third party make an offer or promise, in connection with a Commodity Derivative Transaction (excluding one specified by Cabinet Order as unlikely to harm the fairness of transactions; hereinafter the same applies in this Article), to a customer or to a person designated by the customer, that, in the event that the customer (if a trust company, etc. effects Commodity Derivative Transactions on the account of a person that has established a trust based on a trust agreement, this includes the person that has established the trust; hereinafter the same applies in this Article) incurs a loss from the Commodity Derivative Transaction, or in the event that a predetermined amount of profit does not accrue from the Commodity Derivative Transaction, the operator or a third

- party will provide the customer or a third party with an economic benefit to cover the whole or part of the loss or to supplement its profits:
- (ii) making an offer or promise, or having a third party make an offer or promise, in connection with a Commodity Derivative Transaction, to a customer or to a person designated by the customer, that the operator or a third party will provide the customer or a third party with an economic benefit to cover the whole or part of a loss that the customer has incurred in connection with the Commodity Derivative Transaction, or to add to the profits that the customer has accrued in connection with that transaction;
 - (iii) providing an economic benefit to a customer or third party, or having a third party provide an economic benefit to a customer or third party, in connection with a Commodity Derivative Transaction, in order to cover the whole or part of a loss that the customer has incurred in connection with that Commodity Derivative Transaction, or in order to add to the profit that the customer has accrued in connection with that transaction.
- (2) The customer of a Commodity Futures Business Operator must not engage in the following acts:
- (i) being party to, or having a third party be party to, the promise referred to in item (i) of the preceding paragraph (but only if that promise is based on a request that the customer makes personally or has a third party make), with a Commodity Futures Business Operator or a third party, in connection with a Commodity Derivative Transaction;
 - (ii) being party to, or having a third party be party to, the promise referred to in item (ii) of the preceding paragraph (but only if that promise is based on a request that the customer makes personally or has a third party make), with a Commodity Futures Business Operator or a third party, in connection with a Commodity Derivative Transaction;
 - (iii) receiving an economic benefit that is provided as referred to in item (iii) of the preceding paragraph or having a third party receive such an economic benefit (but only if this is based on a promise referred to in one of the preceding two items, if that promise is based on a request that the customer makes personally or has a third party make, and if the economic benefit is provided based on a request that the customer makes personally or has a third party make) from a Commodity Futures Business Operator or a third party, in connection with a Commodity Derivative Transaction.
- (3) The provisions of paragraph (1) do not apply if the offer, promise, or provision of an economic benefit as referred to in the items of that paragraph is done in order to cover the whole or a part of a loss incurred due to problematic conduct (meaning problematic conduct as specified by ordinance of the competent ministry pursuant to Article 221, paragraph (2); hereinafter the same applies in this paragraph and the following paragraph); provided, however, that with

regard to the offer or promise referred to item (ii) of paragraph (1) or the provision of an economic benefit as referred to in item (iii) of that paragraph, this only applies if the Commodity Futures Business Operator receives confirmation from the competent minister in advance that the loss to be covered was incurred due to problematic conduct, or in a case that is otherwise specified by ordinance of the competent ministry.

- (4) The provisions of paragraph (2) do not apply if the promise referred to in item (i) or (ii) of the paragraph is a promise to cover the whole or part of a loss incurred due to problematic conduct, or if the provision of an economic benefit as referred to in item (iii) of that paragraph is provided in order to cover the whole or part of a loss incurred due to problematic conduct.
- (5) A person seeking the confirmation referred to in the proviso to paragraph (3) must submit to the competent minister a written application stating the fact regarding which confirmation is sought and other particulars specified by ordinance of the competent ministry, pursuant to the provisions of ordinance of the competent ministry, accompanied by a document specified by ordinance of the competent ministry as being necessary for evidencing that fact.

(The principle of suitability)

Article 215 A Commodity Futures Business Operator must engage in Commodity Futures Business in such a manner that it does not fail to protect an Entrustor, etc. in issuing a solicitation which is found to be inappropriate in light of the knowledge, experience, and financial status of the Entrustor, etc. or risk failing to protect the Entrustor, etc.

(Conformance to brokerage contract rules)

Article 216 A Commodity Futures Business Operator must comply with the brokerage contract rules stipulated by the Commodity Exchange in becoming entrusted with Transactions on a Commodity Market, etc.

(Delivery of documents prior to conclusion of a Commodity Contract)

Article 217 (1) If a Commodity Futures Business Operator seeks to conclude a Commodity Contract, it must deliver a document stating the following particulars to the customer in advance, pursuant to the provisions of ordinance of the competent ministry:

- (i) the following particulars, if there is a possibility that the amount of trading under the Commodity Contract (for transactions set forth in Article 2, paragraph (3), item (iv), this means any transaction set forth in (a) to (e) inclusive of that item which is closed when the right referred to in that is exercised; for transactions set forth in paragraph (14), item (iv) of that Article, this means any transaction set forth in (a) to (d) inclusive of the that

item which is closed when the right referred to in that item is exercised; and for transactions set forth in item (v) of that paragraph, this means a transaction resulting in the parties delivering and receiving of money as prescribed in that item which is closed when the right referred to in that item is exercised) (the amount of trading means the amount arrived at by multiplying the price of the trades, Agreed Price, or Agreed Figure by the quantity or volume of the trade) will exceed the amount of the clearing margin, brokerage margin, clearing brokerage margin, or other security deposit, or any other amounts specified by ordinance of the competent ministry (hereinafter referred to as the "Clearing Margin, etc." in this paragraph and Article 220-2, paragraph (1)) to be deposited by the customer for the transaction:

- (a) an indication that there is a possibility that the amount of trading will exceed the amount of the Clearing Margin, etc.;
 - (b) the ratio of the amount of trading to the amount of Clearing Margin, etc. (if this ratio cannot be calculated, an indication of this and the reason therefor).
 - (ii) an indication that there is a risk of the customer incurring a loss in connection with transactions under the Commodity Contract due to fluctuation in the price quotations of Commodities or Commodity Indices on the Commodity Market, and if there is a risk that the amount of such loss could exceed the amount of Clearing Margin, etc., an indication of this;
 - (iii) particulars of the Commodity Contract other than what is provided for in the preceding two items, which are specified by Cabinet Order as material particulars that affect the judgment of the customer;
 - (iv) an outline of the Commodity Contract beyond what is provided for in the preceding three items, and other particulars specified by ordinance of the competent ministry.
- (2) With the consent of the customer and pursuant to the provisions of Cabinet Order, in lieu of delivering a document under the preceding paragraph, a Commodity Futures Business Operator may provide the customer with the particulars that are required to be included in that document by means of an electronic data processing system or by any other means of information communications technology which is specified by ordinance of the competent ministry. In this case, the Commodity Futures Business Operator that provides the customer with the particulars that are required to be included in that document by those means is deemed to have delivered that document.

(Commodity Futures Business Operators' obligation to explain and liability for damages)

Article 218 (1) When a Commodity Futures Business Operator seeks to conclude

a Commodity Contract, it must explain the particulars set forth in the items of paragraph (1) of the preceding Article to the customer in advance, pursuant to the provisions of ordinance of the competent ministry.

- (2) The explanation referred to in the preceding paragraph must be provided in a manner and to the extent necessary for the explanation to be understood by the customer in light of the customer's knowledge, experience, financial status, or the purpose of concluding the Commodity Contract.
- (3) Notwithstanding the provisions of the provisions of paragraph (1) or the main clause of Article 240-18, paragraph (1), if two or more Commodity Futures Business Operators or Commodity Futures Intermediaries (hereinafter individually referred to as a "Commodity Futures Business Operator, etc." in this paragraph) have been entrusted with one Commodity Contract by a Commodity Futures Business Operator, and they are required to provide an explanation about the particulars listed in each item of paragraph (1) of the preceding Article to the customer pursuant to the provisions of paragraph (1) or the main clause of Article 240-18, paragraph (1), if any one of the Commodity Futures Business Operators, etc. provides an explanation about those particulars, the other Commodity Futures Business Operators, etc. are not required to explain those particulars, unless those other Commodity Futures Business Operators, etc. are persons specified by Cabinet Order.
- (4) When a Commodity Futures Business Operator must 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 that involves item (i)) or fails to explain the particulars set forth in paragraph (1), items (i) to (iii) inclusive of the preceding Article, the Commodity Futures Business Operator is liable to compensate for any damage that arises in connection with that customer's Commodity Contract due to such failure.

(Obligation to clarify the form of trading in advance)

Article 219 (1) Before a Commodity Futures Business Operator seeks to conclude a Commodity Contract, it must clarify which of the categories referred to in the items of Article 2, paragraph (22) the acts it will perform for the customer fall under.

- (2) When taking an order from a customer for an Over-the-Counter Commodity Derivative Transaction, a Commodity Futures Business Operator must give the customer a clear notice in advance regarding whether the Commodity Futures Business Operator will make the trade as the counterparty to the customer, or whether it will intermediate, broker, or act as an agent to get the trade made.

(Notice of a trade being made)

Article 220 (1) When a trade under a Commodity Contract is made, the

Commodity Futures Business Operator must notify the Entrustor, etc. as to the volume and the price or the Agreed Price, etc. for each type of trade that is made, and of any other particulars specified by ordinance of the competent ministry in writing without delay; provided, however, that this does not apply in the cases that are specified by ordinance of the competent ministry as those in which, in consideration the Commodity Contract and other circumstances, it is found that even if the document is not delivered to the Entrustor, etc., this does not compromise the public interest or the protection of Entrustors, etc.

(2) The provisions of Article 217, paragraph (2) apply mutatis mutandis to a notice in writing under the preceding paragraph. In this case, the term "customer" in paragraph (2) of that Article is deemed to be replaced with "Entrustor, etc.", the phrase "provide the customer with" is deemed to be replaced with "notify the Entrustor, etc. of", the phrase "provides the customer with" is deemed to be replaced with "notifies the Entrustor, etc. of" and the phrase "deemed to have delivered that document" is deemed to be replaced with "deemed to have given a notice through that document".

(Delivery of documents pertaining to the receipt of Clearing Margin, etc.)

Article 220-2 (1) When a Commodity Futures Business Operator receives a deposit of Clearing Margin, etc. in connection with Commodity Futures Business which an Entrustor, etc. is required to deposit, it must immediately deliver a document in which it indicates this to the Entrustor, etc., pursuant to the provisions of ordinance of the competent ministry.

(2) The provisions of Article 217, paragraph (2) apply mutatis mutandis to the delivery of a document under the preceding paragraph. In this case, the term "customer" in paragraph (2) of that Article is deemed to be replaced with "Entrustor, etc.".

(Application mutatis mutandis of the Act on Sales, etc. of Financial Instruments)

Article 220-3 The provisions of Article 6 to Article 9 inclusive of the Act on Sales, etc. of Financial Instruments (Act No. 101 of 2000) apply mutatis mutandis to conclusion of a Commodity Contract by a Commodity Futures Business Operator. In this case, the phrase "the preceding Article" in Article 6, paragraph (1) of that Act is deemed to be replaced with "Article 218, paragraph (4) of the Commodity Futures Act"; the phrase "failure to explain important matters or provision of conclusive evaluation, etc." in the same paragraph and Article 7 of that Act is deemed to be replaced with "violation of the provisions of Article 214 of the Commodity Futures Act (limited to the part that involves item (i)) or failure to explain the particulars set forth in Article 217, paragraph (1), item (i) to item (iii) inclusive thereof"; and the phrase "contract pertaining

to the sale of the financial product" in Article 9, paragraph (2), item (i) of that Act is deemed to be replaced with "Commodity Contract"; and any other necessary technical replacement of terms is specified by Cabinet Order.

(Exemption from application of provisions to prohibited acts)

Article 220-4 (1) The provisions set forth in the relevant of the following items do not apply if the person specified in that item is a Specified Entrustor, except in cases specified by ordinance of the competent ministry as those in which the public interest or the protection of Specified Entrustors could be compromised:

(i) Article 213-2; Article 214, items (v), (vii), and (ix); and Article 215: the person to which the Commodity Futures Business Operator issues the solicitation referred to in one of Article 200, paragraph (1), item (ii) to item (vi) inclusive;

(ii) Article 209; Article 214, item (viii); and Article 217 to Article 220-3 inclusive: the person from which the Commodity Futures Business Operator receives the offer for a Commodity Contract or with which the Commodity Futures Business Operator concludes the Commodity Contract.

(2) The provisions set forth in the relevant of the following items do not apply if the person specified in that item is a Specified Professional, except in cases specified by ordinance of the competent ministry as those in which the public interest or the protection of Specified Professionals could be compromised.

(i) Article 213-2; Article 214, items (v), (vii), and (ix); and Article 215: the person to which the Commodity Futures Business Operator issues a solicitation referred to in one of Article 200, paragraph (1), item (ii) to item (vi) inclusive;

(ii) Article 209; Article 214, item (viii); and Article 217 to Article 220-3 inclusive: the person from which the Commodity Futures Business Operator receives an offer for a Commodity Contract or with which the Commodity Futures Business Operator concludes a Commodity Contract.

(Liability reserve for commodity trading)

Article 221 (1) A Commodity Futures Business Operator must set aside a liability reserve for commodity trading based on the transaction volume of Commodity Derivative Transactions, pursuant to the provisions of ordinance of the competent ministry.

(2) The liability reserve for commodity trading referred to in the preceding paragraph must not be used other than when allocated to cover a loss that arises due to problematic conduct in connection with an act stated in one of the items of Article 2, paragraph (22), and in the cases specified by ordinance of the competent ministry; provided, however, that this does not apply if the approval of the competent minister has been obtained.

(Preparation of books)

Article 222 A Commodity Futures Business Operator must prepare and archive books in respect of Commodity Derivative Transactions pursuant to the provisions of ordinance of the competent ministry.

(Separate accounting in the books)

Article 223 A Commodity Futures Business Operator must account separately in its books for transactions on its own account and for transactions on entrustors' accounts, pursuant to the provisions of ordinance of the competent ministry, in respect of Transactions on a Commodity Market and Foreign Commodity Market Transactions.

(Submission of written reports)

Article 224 (1) Every business year, pursuant to the provisions of ordinance of the competent ministry, a Commodity Futures Business Operator must create a business report and submit it to the competent minister within three months from the end of the business year.

(2) In addition to the business report prescribed in the preceding paragraph, a Commodity Futures Business Operator, pursuant to the provisions of ordinance of the competent ministry, must submit a written report on the Commodity Futures Business and the status of the property of the Commodity Futures Business Operator to the competent minister .

Section 4 Mergers, Company Splits, and Business Transfers

(Mergers and company splits)

Article 225 (1) In the case of a merger in which Commodity Futures Business Operators are all or part of the parties (excluding if the surviving entity in a merger between a corporation that is a Commodity Futures Business Operator and a corporation that is not a Commodity Futures Business Operator is the former) or a company split (limited those in which the whole or part of Commodity Futures Business is succeeded to), the corporation surviving or incorporated in the merger or the corporation succeeding to the Commodity Futures Business as a result of such a company split succeeds to the status of Commodity Futures Business Operator, if the authorization of the competent minister has been obtained with respect to the merger or company split.

(2) A Commodity Futures Business Operator seeking the authorization referred to in the preceding paragraph must submit a written application to the competent minister stating the particulars listed in the items of Article 192, paragraph (1) with regard to the corporation surviving or incorporated in the

merger (hereinafter referred to as "Corporation Resulting from the Merger" in this Article) or the corporation that succeeds to the whole or part of the Commodity Futures Business (hereinafter referred to as "Corporation Succeeding in the Company Split" in this Article).

- (3) The merger agreement or company split agreement and the documents specified by ordinance of the competent ministry must accompany the written application referred to in the preceding paragraph.
- (4) The competent minister must not grant the authorization referred to in paragraph (1) unless the minister finds that the application for the authorization referred to in that paragraph conforms to all of the following items:
 - (i) the Corporation Resulting from the Merger or Corporation Succeeding in the Company Split satisfies the requirements set forth in the items of Article 193, paragraph (1);
 - (ii) it is fully expected that the Commodity Futures Business will be transferred smoothly and appropriately.

Articles 226 and 227 Deleted.

(Business transfer)

Article 228 (1) If a Commodity Futures Business Operator transfers the whole or part of its Commodity Futures Business, the transferee succeeds to the status of Commodity Futures Business Operator, provided that the transferor and the transferee have obtained the authorization of the competent minister with respect to the transfer.

- (2) A Commodity Futures Business Operator seeking to obtain the authorization referred to in the preceding paragraph must submit a written application to the competent minister stating the particulars set forth in the items of Article 192, paragraph (1) with regard to the person acquiring the whole or part of its Commodity Futures Business in the business transfer.
- (3) The transfer agreement and the documents specified by ordinance of the competent ministry must accompany the written application referred to in the preceding paragraph.
- (4) The competent minister must not grant the authorization referred to in paragraph (1) unless the minister finds that the application for the authorization referred to in that 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 Futures Business will be transferred smoothly and appropriately.

(Disposition proceedings)

Article 229 The provisions of Article 15, paragraphs (5) to (9) inclusive applies mutatis mutandis to the authorization referred to in Article 225, paragraph (1) and paragraph (1) of the preceding Article.

(Delegation to Cabinet Order)

Article 230 Beyond what is provided for in this Act, necessary particulars related to the merger, consolidation-type merger, absorption-type merger, or business transfer of a Commodity Futures Business Operator, are specified by Cabinet Order.

Section 5 Supervision

(Collection of reports and on-site inspections)

Article 231 (1) Whenever the competent minister finds it to be necessary for the enforcement of this Act, the minister may order a Commodity Futures Business Operator to submit reports or materials that should serve as a reference with respect to its business or assets, and may have ministry officials enter the business office or office of a Commodity Futures Business Operator to inspect its books and documents or any other article related to its business.

(2) When the competent minister finds it specifically necessary for the enforcement of this Act, the minister may order a person carrying out transactions with a Commodity Futures Business Operator to submit reports or materials that should serve as a reference with respect to business or assets of the Commodity Futures Business Operator.

(3) If an on-site inspection is conducted pursuant to the provisions of paragraph (1), and an official find it to be necessary, in order to achieve the purpose of the inspection, to inspect a Listed Commodity that the Commodity Futures Business Operator owns or that has been deposited with the operator, and which is stored at a place other than its business office or office, the official may have the Commodity Futures Business Operator present a document certifying the storage of the Listed Commodity to the manager of that place, and may enter that place and inspect the Listed Commodity in the presence of the Commodity Futures Business Operator.

(4) The provisions of Article 157, paragraph (3) and paragraph (4) apply mutatis mutandis to an on-site inspection under paragraph (1) and the preceding paragraph.

(Business improvement orders)

Article 232 (1) If the competent minister finds it to be necessary and appropriate

for maintaining order on a Commodity Market or for the protection of Entrustors, etc., the minister, within the scope of this necessity, may order a Commodity Futures Business Operator to take the necessary measures to improve the state of its assets or the operation of its Commodity Futures Business.

- (2) In the case referred to in the preceding paragraph, if the competent minister finds that the status of the assets of the Commodity Futures Business Operator or the operation of its Commodity Futures Business falls under one of the following items, the minister, within the scope of the necessity, may order the Commodity Futures Business Operator to suspend its Commodity Futures Business for a fixed period not exceeding three months:
- (i) the ratio of the total amount of liabilities to the amount of net assets exceeds the ratio specified by ordinance of the competent ministry;
 - (ii) the ratio of the total amount of current assets to the total amount of current liabilities falls below the ratio specified by ordinance of the competent ministry;
 - (iii) in a case other than what is set forth in the preceding two items, which is specified by ordinance of the competent ministry as a case in which it is necessary to order the suspension of Commodity Futures Business in order to rectify the status of assets or the operation of Commodity Futures Business.
- (3) The total amount of liabilities referred to in item (i) of the preceding paragraph and the total amount of current assets and the total amount of current liabilities referred to in item (ii) of that paragraphs must be calculated pursuant to the provisions of ordinance of the competent ministry.
- (4) The provisions of Article 99, paragraph (7) applies mutatis mutandis to the amount of net assets referred to in paragraph (2), item (i).

(Recommendations)

Article 233 If the competent minister finds it to be necessary for ensuring the sound implementation of the Commodity Futures Business of a Commodity Futures Business Operator, the minister may recommend that the Commodity Futures Business Operator take the necessary measures for its Concurrent Business or for the business of a corporation over which the Commodity Futures Business Operator has a controlling interest under Article 196, paragraph (2).

(Keeping assets within Japan)

Article 234 If the competent minister finds it to be necessary and appropriate for maintaining order on a Commodity Market or for the protection of Entrustors, etc., the minister may order a Commodity Futures Business Operator to keep the portion of its assets which is specified by Cabinet Order within Japan.

(Order concerning the Net Assets Regulation Ratio)

- Article 235 (1) If a Commodity Futures Business Operator is in violation of Article 211, paragraph (2), and the competent minister finds it to be necessary and appropriate for protecting Entrustors, etc., the minister, within the scope of this necessity, may order a change of business methods in respect of Commodity Futures Business, order assets to be deposited, or issue orders with respect to matters that are otherwise necessary from a supervisory perspective.
- (2) If a Commodity Futures Business Operator is in violation of Article 211, paragraph (2) (limited to if the Net Assets Regulation Ratio is below 100 percent), and the competent minister finds it to be necessary and appropriate for protecting Entrustors, etc., the minister, within the scope of this necessity, may order the Commodity Futures Business Operator to suspend its Commodity Futures Business for a fixed term not exceeding three months.
- (3) If the competent minister orders the suspension of Commodity Futures Business pursuant to the provisions of the preceding paragraph, and the minister finds that the Net Assets Regulation Ratio of the Commodity Futures Business Operator as of the day on which three months have elapsed since the day of that order continues to be below 100 percent, and that the status of the Net Assets Regulation Ratio of the Commodity Futures Business Operator is not likely to recover, the minister may rescind the Article 190, paragraph (1) license of the Commodity Futures Business Operator.

(Supervisory measures)

- Article 236 (1) If a Commodity Futures Business Operator falls under one of the following items, the competent minister may rescind the Article 190, paragraph (1) license of the Commodity Futures Business Operator and order the suspension of its Transactions on a Commodity Market or its Commodity Futures Business for a fixed period not exceeding six months:
- (i) it comes to fall under one of Article 15, paragraph (2), item (i) (c), (d) (limited to the part that involves the rescission of the license referred to in Article 332, paragraph (1) and Article 342, paragraph (1) and the part that involves the provisions of a foreign law or regulation that is equivalent to this Act), (e), (i) or (l);
 - (ii) it no longer conforms to Article 193, paragraph (1), item (i);
 - (iii) its amount of net assets falls under the amount specified by ordinance of the competent ministry which is referred to in Article 193, paragraph (2);
 - (iv) it obtains the license referred to in Article 190, paragraph (1) by wrongful means;
 - (v) it violates this Act (other than 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 the license referred to in Article 190, paragraph (1);

- (vi) it fails to commence Commodity Futures Business within three months from the day on which it is permitted to commence the business, or it suspends business continuously for three months or more without justifiable grounds;
- (vii) there is a risk that it will become insolvent, in light of the state of its business or assets.

(2) If the officer of a Commodity Futures Business Operator engages in an act that falls under item (v) of the preceding paragraph, the competent minister may order the Commodity Futures Business Operator to dismiss the officer.

(Application mutatis mutandis of special provisions on the means of conducting hearings)

Article 237 The provisions of Article 158, paragraph (2) 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) apply mutatis mutandis to the rescission of a license or a hearing on an order to dismiss an officer pursuant to Article 235, paragraph (3) or the preceding Article.

(Completion of settlement of transactions)

Article 238 (1) If the Commodity Futures Business Operator comes to fall under one of the following items, the provisions of Article 197, paragraph (5) apply mutatis mutandis to the person that was the Commodity Futures Business Operator:

- (i) its Article 190, paragraph (1) license is rescinded pursuant to the provisions of Article 235, paragraph (3) or Article 236, paragraph (1);
- (ii) its Article 190, paragraph (1) license ceases to be valid pursuant to the provisions of Article 190, paragraph (2) or Article 197, paragraph (2) (limited to the part that involves paragraph (1), items (i) to (iv) inclusive of this Article (with regard to item (ii) of that paragraph, limited to the part that involves a merger if the corporation surviving a merger or the corporation incorporated in the merger does not engage in Commodity Futures Business)).

(2) The person that was the Commodity Futures Business Operator in the cases set forth in the items of the preceding paragraph is deemed to be a Commodity Futures Business Operator, inasmuch as the task of completing Commodity Derivative Transactions on the accounts of Entrustors, etc. is concerned.

(3) Notwithstanding the provisions of paragraph (1), if a Commodity Exchange finds it to be inappropriate to have the Commodity Futures Business Operator complete the settlement of Transactions on a Commodity Market for ensuring

the fairness of Transactions on a Commodity Market or protecting entrustors, it must have another member, etc. (limited to another member, etc. that is permitted to effect Transactions on the Commodity Market; hereinafter the same applies in this Article) complete the settlement of those transactions, pursuant to the provisions of its articles of incorporation (operational rules in the case of a Stock Company-Operated Commodity Exchange).

- (4) If a Commodity Exchange has another member, etc. complete the settlement of transactions pursuant to the provisions of the preceding paragraph, an entrustment agreement is deemed to be established between the member, etc. and the person entrusting the original member, etc. with the transactions.

(Supervision of a Commodity Futures Business Operator that is not a member, etc.)

Article 239 The competent minister must appropriately supervise the business of a Commodity Futures Business Operator that has not joined an Association or that is not a member, etc. of a Commodity Exchange, in consideration of the articles of incorporation and any other rules of the Association or the Commodity Exchange, so that its business does not disturb order on the Commodity Market or give rise to a lack of protection for Entrustors, etc.

(Respecting the voluntary efforts of a Commodity Futures Business Operator)

Article 240 In supervising a Commodity Futures Business Operator, the competent minister must give consideration to respecting the voluntary efforts of the Commodity Futures Business Operator in connection with the operation of its business.

Chapter IV-2 Commodity Futures Intermediaries

Section 1 General Provisions

(Registration)

Article 240-2 (1) Notwithstanding the provisions of Article 190, paragraph (1), a person that is registered by the competent minister may engage in the Commodity Futures Intermediation Services.

- (2) The registration under the preceding paragraph ceases to be valid at the end of the sixth year after registration, unless renewed every six years.

(Application for registration)

Article 240-3 (1) A person seeking the registration referred to in paragraph (1) of the preceding Article must submit a written application for registration stating the following particulars to the competent minister:

- (i) the name or trade name of the applicant;

- (ii) if it is a corporation, the names of its officers;
 - (iii) the name and locality of the business office or office at which the Commodity Futures Intermediation Services are conducted;
 - (iv) the trade name or name of the Commodity Futures Business Operator to which transactions are entrusted (hereinafter referred to as "Entrusting Commodity Futures Business Operator" in this Chapter and the following Chapter);
 - (v) if the applicant's conducts other business, the business category;
 - (vi) other particulars provided by ordinance of the competent ministry.
- (2) The following documents must accompany the written application for registration referred to in the preceding paragraph:
- (i) a document pledging that the applicant does not fall under item (i) or (ii) of Article 240-5, paragraph (1);
 - (ii) if the applicant is a corporation, the articles of incorporation and certificate of registered information (including documents equivalent thereto);
 - (iii) other documents provided by ordinance of the competent ministry.

(Registration in a registry)

Article 240-4 (1) Whenever an application is filed for the registration referred to in Article 240-2, paragraph (1), the competent minister must register the following particulars in the Commodity Futures Intermediary register, unless refusing the registration under the provisions the following Article:

- (i) the particulars listed in each item of paragraph (1) of the preceding Article;
 - (ii) the date of registration and registration number.
- (2) The competent minister must make the Commodity Futures Intermediaries register available for public inspection.

(Refusal of registration)

Article 240-5 The competent minister must refuse to effect a registration if the applicant for registration falls under one of the following items or if the written application or a document is required to accompany it contains a false statement about a material particular or omit a statement of material fact:

- (i) an individual falling under one of the categories in Article 15, paragraph (2), item (i) (a) to (k) inclusive;
- (ii) a corporation falling under one of the categories in Article 15, paragraph (2), item (i) (c) to (e) inclusive, (i), or (l);
- (iii) a person whose other business is found to be against the public interest;
- (iv) a person that is not to have sufficient knowledge and experience to properly conduct the Commodity Futures Intermediation Services;
- (v) the applicant for registration has an Entrusting Commodity Futures Business Operator that is not a member of a commodity futures association;

(vi) a Commodity Futures Business Operator.

(Notification of a change)

Article 240-6 (1) If a particular set forth in one of the items of Article 240-3, paragraph (1) or any other particular specified by ordinance of the competent ministry changes, the Commodity Futures Intermediary must submit a written notice to the competent minister indicating this within two weeks from the day of the change.

(2) When the competent minister accepts a notification under the preceding paragraph, the minister must register the particulars to which the notice pertains in the Commodity Futures Intermediary register.

(3) The documents specified by ordinance of the competent ministry must accompany the written notice referred to in paragraph (1).

(Notification of discontinuance of business)

Article 240-7 (1) If a Commodity Futures Intermediary comes to fall under one of the following items, the person specified in that item must notify the competent minister of this within thirty days from the day:

(i) it discontinues Commodity Futures Intermediation Services: the Commodity Futures Intermediary;

(ii) the Commodity Futures Intermediary is an individual, and that individual dies: the heir;

(iii) the Commodity Futures Intermediary is a corporation, and that corporation disappears in a merger: the officer that represented the corporation;

(iv) the Commodity Futures Intermediary is a corporation, and that corporation is dissolved due to an order to commence bankruptcy proceedings: the bankruptcy trustee;

(v) the Commodity Futures Intermediary is a corporation, and that corporation is dissolved due to reasons other than a merger or an order to commence bankruptcy proceedings: the liquidator;

(vi) the Commodity Futures Intermediary has the whole of its Commodity Futures Intermediation Services succeeded to in a company split: the Commodity Futures Intermediary;

(vii) the Commodity Futures Intermediary transfers the whole of its Commodity Futures Intermediation Services: the Commodity Futures Intermediary.

(2) If a Commodity Futures Intermediary comes to fall under one of the items of the preceding paragraph, or comes to have no Entrusting Commodity Futures Business Operator, or if it obtains an Article 190, paragraph (1) license, the registration of the Commodity Futures Intermediary under Article 240-2,

paragraph (1) loses its validity.

(Restriction on the use of trade names)

Article 240-8 A person that is not a Commodity Futures Intermediary must not use a term in its trade name or name which could give rise to the misconception that it is a Commodity Futures Intermediary.

Section 2 Services

(Posting of signs)

Article 240-9 (1) A Commodity Futures Intermediary must post the sign designated by ordinance of the competent ministry in a conspicuous location at each of its business offices and offices.

(2) A person other than a Commodity Futures Intermediary must not post the sign referred to in the preceding paragraph or a sign similar thereto.

(Prohibition on name lending)

Article 240-10 A Commodity Futures Intermediary must not allow another person to engage in Commodity Futures Intermediation Services using its name.

(Application mutatis mutandis)

Article 240-11 The provisions of Article 200 to Article 208 inclusive apply mutatis mutandis to Commodity Futures Intermediaries. The necessary technical replacement of terms for such a case is specified by Cabinet Order.

(Principle of good faith and fairness)

Article 240-12 A Commodity Futures Intermediary and its officers and employees must provide its services to customers in good faith and with fairness.

(Regulation of advertising)

Article 240-13 (1) When advertising the details of its Commodity Futures Intermediation Services or engaging in any similar acts designated by ordinance of the competent ministry, a Commodity Futures Intermediary must give the following particulars pursuant to the provisions of ordinance of the competent ministry:

- (i) the name or trade name of the Commodity Futures Intermediary;
- (ii) an indication that it is a Commodity Futures Intermediary, and its registration number;
- (iii) the particulars of the details of the Commodity Futures Intermediation

Services conducted by the Commodity Futures Intermediary, which are designated by Cabinet Order as material particulars that may affect the customers' judgment.

- (2) When advertising the details of its Commodity Futures Intermediation Services or engaging in any similar act designated by ordinance of the competent ministry, a Commodity Futures Intermediary must not make a representation that significantly conflicts with the fact of the matter or that could cause a person to have a serious misconception about the prospect of profiting from effecting a Commodity Derivative Transaction, or about the particulars designated by ordinance of the competent ministry.

(Clear indication of trade name)

Article 240-14 If a Commodity Futures Intermediary seeks to do the intermediation listed in one of the items of Article 2, paragraph (22) (hereinafter referred to as the "Act as a Commodity Derivative Intermediary" in this Chapter), it must clearly give the following particulars to customers in advance:

- (i) the trade name or the name of the Entrusting Commodity Futures Business Operator;
- (ii) an indication that the Commodity Futures Intermediary does not have authority of representation in respect of the Entrusting Commodity Futures Business Operator;
- (iii) the import of the provisions of the following Article;
- (iv) other particulars provided by ordinance of the competent ministry.

(Prohibition on the depositing of money)

Article 240-15 A Commodity Futures Intermediary must not, for any reason, receive a deposit of money or Securities from a customer, or have a person designated by Cabinet Order as being closely related to the Commodity Futures Intermediary deposit a customer's money or Securities, in connection with the Commodity Futures Intermediation Services it conducts.

(Prohibited acts)

Article 240-16 A Commodity Futures Intermediary must not engage any of the following acts:

- (i) engaging in one of the following acts in connection with Commodity Futures Intermediation Services:
 - (a) an act that falls under the category specified in Article 214, paragraph (1), item (i);
 - (b) an act that falls under the category specified in Article 214, paragraph (1), item (ii);

- (c) an act that falls under the categories specified in Article 214, paragraph (1), item (v) to item (ix) inclusive; and
- (d) soliciting a customer by utilizing information about a commodity investment (meaning commodity investment as prescribed in Article 2, paragraph (1) of the Act on Regulation of Business Pertaining to Commodity Investment) that it is making for another customer, if doing business under Commodity Investment Advisory Contract;
- (ii) effecting a Transaction on a Commodity Market (excluding Commodity Clearing Transactions), a Foreign Commodity Market Transaction, or an Over-the-Counter Commodity Derivative Transaction on its own account, utilizing the ordering trends in Commodity Derivative Transactions effected by a customer of its Commodity Futures Intermediation Services or other special information learned during the course of Commodity Futures Intermediation Services;
- (iii) acts other than what is listed in the two preceding items, in connection with its Acts as Commodity Futures Intermediary, which are specified by ordinance of the competent ministry as lacking in protection for Entrustors, etc. or as likely to harm the fairness of transactions.

(Application mutatis mutandis of provisions on Commodity Futures Business Operators in relation to the prohibition on loss compensation)

Article 240-17 The provisions of Article 214-3, paragraph (1), paragraph (3) and paragraph (5) as well as Article 215 apply mutatis mutandis to Commodity Futures Intermediaries; and the provisions of Article 214-3, paragraph (2) and paragraph (4) apply mutatis mutandis to the customers of a Commodity Futures Intermediary. In this case, the term "the Commodity Futures Business Operator" in paragraph (3) of that Article is deemed to be replaced with "an Entrusting Commodity Futures Business Operator of the Commodity Futures Intermediary", and any other necessary technical replacement of terms is specified by Cabinet Order.

(Commodity Futures Intermediaries' Obligation to explain and liability for damages)

Article 240-18 (1) If a Commodity Futures Intermediary seeks to engage in Acts as a Commodity Futures Intermediary, it must explain the particulars set forth in the items of Article 217, paragraph (1) to the customer in advance, pursuant to the provisions of ordinance of the competent ministry; provided, however, that this does not apply if such an explanation is not required pursuant to the provisions of Article 218, paragraph (3).

(2) The explanation referred to in the preceding paragraph must be provided in a manner and to the extent necessary for it to be understood by the customer in

light of the customer's knowledge, experience, the financial condition, or the purpose of concluding the Commodity Contract.

- (3) If a Commodity Futures Intermediary is required to provide an explanation to a customer pursuant to the provisions of paragraph (1), and it violates the provisions of Article 240-16 (limited to the part that involves item (i) (a)) or fails to explain the particulars set forth in Article 217, paragraph (1), item (i) to item (iii) inclusive of the preceding Article, the Commodity Futures Intermediary is liable to compensate for any damage that arises in connection with the Commodity Contract of the customer due to such violation or failure.

(Application mutatis mutandis of the Act on Sales, etc. of Financial Products)

Article 240-19 The provisions of Article 6 to Article 9 inclusive of the Act on Sales, etc. of Financial Products apply mutatis mutandis to the Acts as a Commodity Futures Intermediary performed by a Commodity Futures Intermediary. In this case, the term "the preceding Article" in Article 6, paragraph (1) of that Act is deemed to be replaced with "Article 240-18, paragraph (3) of the Commodity Futures Act"; the phrase "failure to explain important matters or provision of conclusive evaluation, etc." in the same paragraph and Article 7 of that Act is deemed to be replaced with "violation of the provisions of Article 240-16 of the Commodity Futures Act (limited to the part that involves item (i) (a)) or failure to explain the particulars set forth in Article 217, paragraph (1), item (i) to item (iii) inclusive thereof"; and the term "contract pertaining to the sale of the financial product" in Article 9, paragraph (2), item (i) of that Act is deemed to be replaced with "Commodity Contract"; and any other necessary technical replacement of terms is specified by Cabinet Order.

(Preparation of books)

Article 240-20 A Commodity Futures Intermediary must prepare and archive books in respect of Commodity Futures Intermediation Services pursuant to the provisions of ordinance of the competent ministry.

(Submission of written reports)

Article 240-21 Every business year, pursuant to the provisions of ordinance of the competent ministry, a Commodity Futures Intermediary must prepare a business report and submit it to the competent minister within three months from the end of the business year.

Section 3 Supervision

(Collection of reports and on-site inspections)

Article 240-22 (1) Whenever the competent minister finds it to be necessary for the enforcement of this Act, the minister may order a Commodity Futures Intermediary to submit reports or materials that should serve as a reference with respect to its business, and may have ministry officials enter the office or a business office of a Commodity Futures Intermediary to inspect its books and documents or any other article related to its business.

(2) If the competent minister finds it to be necessary for the enforcement of this Act, the minister may order a person that carries out a transaction with a Commodity Futures Intermediary to submit reports or materials that should serve as a reference with respect to the business of the Commodity Futures Intermediary.

(3) The provisions of Article 157, paragraph (3) and paragraph (4) apply *mutatis mutandis* to the on-site inspection under paragraph (1).

(Supervisory measures)

Article 240-23 (1) If a Commodity Futures Intermediary falls under one of the cases specified in the following items, the competent minister may rescind the Commodity Futures Intermediary's Article 240-2, paragraph (1) registration, order the suspension of the whole or part of its Commodity Futures Intermediation Services for a fixed period of no more than six months, or issue orders with regard to particulars that are otherwise necessary from a supervisory perspective:

(i) it comes to fall under Article 15, paragraph (2), item (i) (c), (d) (limited to the part that involves the provisions of a foreign law or regulation that is equivalent to this Act), (e), (i), or (l);

(ii) it obtains the registration referred to in Article 240-2, paragraph (1) by wrongful means;

(iii) it violates this Act, an order based on this Act, or a disposition by the competent minister based on this Act.

(2) If the officer of a Commodity Futures Intermediary performs an act that falls under item (iii) of the preceding paragraph, the competent minister may order the Commodity Futures Intermediary to dismiss the officer.

(Deletion of registration)

Article 240-24 If a registration as referred to in Article 240-2, paragraph (1) loses its validity pursuant to the provisions of Article 240-7, paragraph (2), or the competent minister rescinds a registration as referred to in Article 240-2, paragraph (1) pursuant to the provisions of paragraph (1) of the preceding Article, the competent minister must delete that registration.

(Application *mutatis mutandis*)

Article 240-25 The provisions of Article 15, paragraph (5) to paragraph (9) apply mutatis mutandis to the registration referred to in Article 240-2, paragraph (1); the provisions of Article 158, paragraph (2) apply mutatis mutandis to the disposition under Article 240-23; the provisions of Article 159, paragraph (4) apply mutatis mutandis to hearing on the rescission of registration or an order to dismiss an officer under Article 240-23; and the provisions of Article 240 apply mutatis mutandis to Commodity Futures Intermediaries. In this case, the phrase "not to conform to one of the items of paragraph (1) or to fall under one of the items of paragraph (2)" in Article 15, paragraph (5) is deemed to be replaced with "to fall under one of the items of Article 240-5".

Section 4 Miscellaneous Provisions

(Entrusting Commodity Futures Business Operators' liability for damages)
Article 240-26 The Entrusting Commodity Futures Business Operator of a Commodity Futures Intermediary is liable to compensate for damages caused to a customer in connection with the Commodity Futures Intermediation Services performed by the Commodity Futures Intermediary to which it entrusts the services; provided, however, that this does not apply if the Entrusting Commodity Futures Business Operator exercises due care in entrusting the Commodity Futures Intermediary with those services, and endeavors to prevent the damage that the intermediary causes to the customer in connection with Acts as a Commodity Futures Intermediary that the intermediary performs.

Chapter V Commodity Futures Associations

Section 1 General Provisions

(Purpose and legal personality)

Article 241 (1) The purpose of a commodity futures association (hereinafter referred to as an "Association" in this Chapter and in Chapter VIII) is to achieve a fair and smooth execution of Commodity Derivative Transactions, etc. (meaning acts listed in the items of Article 2, paragraph (22); hereinafter in this Chapter the same applies) and to protect Entrustors, etc.

(2) An Association has legal personality.

(Restriction on business)

Article 242 (1) An Association must not engage in business for profit.

(2) An Association must not engage in business other than the business directly necessary for it to achieve its purpose and business incidental thereto.

(Address)

Article 243 The address of an Association is its address in the locality of its principal office.

(Name)

Article 244 (1) A person that is not an Association must not use a term in its name which could give rise to the misconception that it is a commodity futures association.

(2) A person that has not joined an Association must not use in a term in its name which could give rise to the misconception that it is a member of a commodity futures association (hereinafter referred to as an "Association Member" in this Chapter).

Section 2 Establishment

(Approval for incorporation)

Article 245 Before seeking to incorporate an Association Commodity Futures Business Operators must obtain the authorization of the competent minister.

(Particulars required to be included in the articles of incorporation)

Article 246 The following particulars must be included in the articles of incorporation of an Association:

- (i) its purpose;
- (ii) its name;
- (iii) the locality of its office;
- (iv) the particulars of qualifying as an Association Member;
- (v) the particulars of joining and withdrawing as an Association Member;
- (vi) the particulars of the sharing of costs among Association Members;
- (vii) the particulars of audits of and sanctions against Association Members;
- (viii) the particulars of the fixed number, term of office, appointment, and composition of officers;
- (ix) particulars related to improving the skills of the officers and employees of Association Members as well as the officers and employees of Commodity Futures Intermediaries (limited to Commodity Futures Intermediaries whose Entrusting Commodity Futures Business Operators are Association Members; hereinafter in this Chapter the same applies);
- (x) the particulars of its meetings of Association Members;
- (xi) the particulars of its board meetings and other meetings
- (xii) the particulars involved in arbitration and conciliation of disputes arising between Association Members or between an Association Member or a Commodity Futures Intermediary and a customer in connection with

- Commodity Derivative Transactions, etc. and in any other dispute resolution;
- (xiii) the particulars of accounting and assets;
- (xiv) the means of public notice.

(Application for approval)

Article 247 (1) A person seeking the authorization referred to in Article 245 must submit a written application stating the following particulars to the competent minister:

- (i) its name;
 - (ii) the locality of its office;
 - (iii) the names and addresses of its officers and the trade names of the Association Members.
- (2) The articles of incorporation, sanction rules, dispute resolution rules, and documents specified by ordinance of the competent ministry must accompany the written application referred to in the preceding paragraph.

(Criteria for authorization)

Article 248 (1) If the competent minister finds that an application for the authorization referred to in Article 245 conforms to the following criteria, the minister must grant the authorization:

- (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 business methods, eligibility as an Association Member, and any other particulars prescribed in the articles of incorporation, sanction rules, or dispute resolution rules are appropriate and sufficient for ensuring fair and smooth Commodity Derivative Transactions, etc. and for protecting Entrustors, etc.;
 - (ii) the Association to which the application pertains will be organized in a manner that conforms to the provisions of this Act;
 - (iii) the written application and the documents that are required to accompany it contain no false statement about a material particular;
 - (iv) the applicant for authorization is not a person that falls under one of the categories in Article 15, paragraph (2), item (i) (c) to (e) inclusive or (i) or (l);
 - (v) none of the officers is a person that falls under one of the categories in Article 15, paragraph (2), item (i) (a) to (k);
- (2) The provisions of Article 15, paragraphs (5) to (9) inclusive apply mutatis mutandis to the authorization referred to in Article 245.

(Registration)

Article 249 (1) An Association must register pursuant to Cabinet Order.

(2) An Association is established by registration of its incorporation in the

locality of its principal office.

- (3) The particulars that must be registered pursuant to the provisions of paragraph (1) may not be asserted against a third party until after their registration.

(Changing the articles of incorporation)

Article 250 (1) A change in the articles of incorporation, sanction rules, or dispute resolution rules of an Association does not become valid without the authorization of the competent minister.

- (2) If an Association seeks the authorization referred to in the preceding paragraph, it must submit a written application accompanied by the documents specified by ordinance of the competent ministry to the competent minister.
- (3) If a particular set forth in Article 247, paragraph (1), item (ii) or item (iii) changes, the Association must notify the competent minister of this without delay. The same applies if an Association creates changes, or abolishes rules (other than the articles of incorporation, sanction rules, and dispute resolution rules).
- (4) The provisions of Article 248, paragraph (1), item (i) apply mutatis mutandis to the authorization referred to in paragraph (1).

Section 3 Association Members

(Eligibility as an Association Member)

Article 251 (1) Commodity Futures Business Operators are the only persons that are eligible to become Association Members.

- (2) Except in the case set forth in paragraph (5), an Association must stipulate in its articles of incorporation that any Commodity Futures Business Operator may join as an Association Member.
- (3) An Association must stipulate in its articles of incorporation that it will endeavor to prevent any fraudulent act, market manipulation, the collection of unreasonable fees and costs, or profiteering by Association Members and Commodity Futures Intermediaries, and to promote the principle of good faith in transactions.
- (4) An Association must stipulate in its articles of incorporation that it will endeavor to prevent acts in violation of laws and regulations or the articles of incorporation or other rules of the Association, and to ensure Entrustors', etc. confidence by having Association Members establish internal rules and administrative systems, so that Association Members and the Commodity Futures Intermediaries that have those Association Members as Entrusting Commodity Futures Business Operators comply with laws and regulations and with 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 been subject to an order to suspend Transactions on a Commodity Market or Commodity Futures Business or has been expelled from an Association or a Commodity Exchange or become subject to a disposition to rescind trading eligibility 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 of violating the articles of incorporation or other rules of an Association or a Commodity Exchange or committing an act in contrary to the principle of good faith in transactions, the Association may refuse admission as an Association Member.

(Public inspection of the register)

Article 252 An Association must make its register of Association Members available for public inspection.

(Sanction rules)

Article 253 An Association must stipulate in its articles of incorporation that if an Association Member or a Commodity Futures Intermediary whose Entrusting Commodity Futures Business Operator is an Association Member violates this Act, an order based on this Act, or a disposition by the competent minister based on this Act, violates the articles of incorporation or other rules of an Association or a Commodity Exchange, or commits an act in contrary to the principle of good faith in transactions, it will impose a monetary penalty on the Association Member, order the suspension or restriction of the rights of the Association Member which are prescribed in the articles of incorporation, or expel the Association Member pursuant to the provisions of the sanction rules.

Section 4 Organization

(Officers)

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

(Authority of the president and directors)

Article 255 (1) The president represents the Association and presides over its administrative affairs.

(2) The directors, pursuant to the provisions of the articles of incorporation, represent the Association, assist the president in administering the affairs of the Association, acts as a proxy in handling the duties of the president in if the president is unable to attend to them, and performs the duties of the president if the position is vacant.

(Authority of the auditors)

Article 256 (1) The auditors audit the affairs of the Association.

- (2) At any time, an auditor may request the president or a director to give a report about administrative affairs or examine the state of the administrative affairs or assets of the Association.
- (3) An auditor must inspect the documents that the president seeks to submit to a meeting of Association Members, and report an opinions to the Association Members.

(Conditions for ineligibility as an officer)

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

(Provisional director and provisional auditor)

Article 258 If there is no person to perform the duties of a director or auditor and the competent minister finds it to be necessary, the minister may appoint a provisional director or provisional auditor.

Section 5 Dispute Resolution

(Complaint resolution)

- Article 259 (1) If the customer, etc. of an Association Member or a Commodity Futures Intermediary files for the resolution of a complaint related to the business carried out by that Association Member or Commodity Futures Intermediary, in addition to providing the customer, etc. with the necessary advice and investigating the circumstances of the complaint based on its consultation with the customer, etc., the Association must notify the Association Member or Commodity Futures Intermediary of the details of the complaint and request that it process the complaint expeditiously.
- (2) If an Association finds it to be necessary for resolving the complaint to which a filing as referred to in the preceding paragraph pertains, it may request the Association Member or Commodity Futures Intermediary to provide a written or oral explanation or submit materials.
 - (3) If an Association Member or Commodity Futures Intermediary has had a request under the preceding paragraph from the Association, it must not refuse the demand without just cause for doing so.
 - (4) An Association must fully inform its Association Members or Commodity Futures Intermediary about any filing as referred to in paragraph (1), the circumstances to which the complaint pertains, and the outcome of any resolution.

(Arbitration/conciliation committee)

Article 260 An Association must set provisions in its dispute resolution rules establishing an arbitration/conciliation committee (referred to as a "Committee" in the following Article) made up of committee members with the relevant knowledge and experience in Futures Transactions and satisfying other requirements specified by ordinance of the competent ministry, for the purpose of implementing arbitration and conciliation in any dispute that arises between Association Members or between a Commodity Futures Intermediary and its customer in connection with a Commodity Derivative Transaction, etc. (referred to as a "Dispute about a Commodity Derivative Transaction, etc." in the following Article).

(Implementation of arbitration and conciliation)

- Article 261 (1) If an Association Member, Commodity Futures Intermediary, or customer who is a party to a Dispute about a Commodity Derivative Transaction, etc. files for arbitration or conciliation, the Association is to implement arbitration or conciliation through the Committee without delay, pursuant to the provisions of its dispute resolution rules.
- (2) An Association must establish detailed regulations in respect of the following particulars in its dispute resolution rules:
- (i) the procedures for filing for arbitration and conciliation;
 - (ii) method of arbitration and conciliation;
 - (iii) necessary particulars relevant to arbitration and conciliation other than those listed in the preceding two items.
- (3) If necessary to the smooth implementation of arbitration 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 is dissolved for the following reasons:
- (i) occurrence of grounds for dissolution specified by the articles of incorporation;
 - (ii) an Association Members' resolution;
 - (iii) an order to commence bankruptcy proceedings;
 - (iv) rescission of the authorization for incorporation.
- (2) If an Association is dissolved pursuant to the provisions of items (i) to (iii) inclusive of the preceding paragraph, the Association must notify the competent minister of this without delay.
- (3) Beyond what is provided for in the preceding two paragraphs, the necessary

particulars relevant to the dissolution of an Association are specified by Cabinet Order.

Section 7 Supervision

(Collection of reports and on-site inspections)

Article 263 (1) Whenever the competent minister finds it to be necessary for the enforcement of this Act, the minister may order an Association or an Association Member to submit reports or materials that should serve as a reference with respect to its business, and may have ministry officials enter the office or business office of an Association or Association Member to inspect its books and documents or any other article related to its business.

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

(Business improvement orders)

Article 264 If the competent minister finds it to be necessary and appropriate for achieving fair and smooth Commodity Derivative Transactions, etc. or for the protection of Entrustors, etc., the minister, within the scope of that necessity, may order an Association to amend its articles of incorporation, sanction rules, dispute resolution rules, or other rules, or to otherwise take the necessary measures to improve its business operations.

(Supervisory measures for Associations)

Article 265 (1) If an Association violates this Act, an order based on this Act, a disposition by the competent minister based on this Act, its articles of incorporation, or other rules (hereinafter referred to as "This Act, etc." in this Article) or, if, even though an Association Member or Commodity Futures Intermediary has violated This Act, etc., the Association fails to exercise the powers accorded to it under this Act, an order based on this Act, or its articles of incorporation, or fails to take any other necessary measures to cause the Association Member or Commodity Futures Intermediary observe This Act, etc., and the competent minister finds it to be necessary and appropriate for achieving fair and smooth Commodity Derivative Transactions, etc. or for the protection of Entrustors, etc., the minister may rescind the Association's authorization for the incorporation, order the suspension of the whole or a part of its business activities for a fixed period of no longer than one year, issue an order prohibiting of a part of its business activities, or order the dismissal of its officer.

(2) If the competent minister discovers that a written application for the authorization referred to in Article 245 or Article 250, paragraph (1) or a

document accompanying it contains a false statement about a material particular or omits a statement of material fact, the minister may rescind the authorization.

- (3) If the competent minister discovers that a person has become the officer of an Association by wrongful means or if the officer of an Association violates this Act, an order based on this Act, or a disposition by the competent minister based on this Act, the minister may order the Association to dismiss the officer.

(Application mutatis mutandis of special provisions on the means of conducting hearings)

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

Section 8 Miscellaneous Provisions

(Duty of confidentiality of the officers and employees of an Association)

Article 267 It is prohibited for the officer or employee of an Association, or a person that has held one of these positions, to divulge or misappropriate any secret learned in the course of duty.

(Submission of a business summary reports)

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

- (i) a 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 Entrustor Protection Funds

Section 1 General Provisions

(General Entrustors)

Article 269 (1) The term "General Entrustor" as used in this Chapter means the customer of the domestic business office or office of a Commodity Futures Business Operator (limited to Commodity Futures Business Operators engaged in the acts listed in Article 2, paragraph (22), item (i) or item (ii) in the course

of trade, in a business office or office in Japan; hereinafter the same applies in the Chapter) that entrusts the Commodity Futures Business Operator with a Transaction on a Commodity Market, etc. (excluding a Commodity Clearing Transaction; hereinafter the same applies in the following paragraph) (such a customer excludes a Commodity Futures Business Operator, a qualified institutional investor under Article 2, paragraph (3), item (i) of the Financial Instruments and Exchange Act, a commodities investment advisor, and any other person specified by Cabinet Order).

- (2) Notwithstanding the provisions of the preceding paragraph, if a first Commodity Futures Business Operator entrusts a second Commodity Futures Business Operator with a Transaction on a Commodity Market, etc. (limited to one set forth in Article 2, paragraph (21), item (i) or item (iii)) on its General Entrustor's account, the first Commodity Futures Business Operator is deemed to be the General Entrustor of the second Commodity Futures Business Operator, and the provisions of this Chapter apply *mutatis mutandis*.

(Purpose)

Article 270 The purpose of an Entrustor Protection Fund is to protect entrustors by making payments to General Entrustors pursuant to the provisions of Article 306, paragraph (1) and through other services, thereby maintaining the credibility of Commodity Markets.

(Legal personality and address)

Article 271 (1) An Entrustor Protection Fund has legal personality.

- (2) The address of an Entrustor Protection Fund is its address in the locality of its principal office.

(Name)

Article 272 (1) An Entrustor Protection Fund must use the characters "委託者保護基金" (with a pronunciation of "itakusha hogo kikin", and with a literal meaning of "entrustor protection fund") in its name.

- (2) A person that is not an Entrustor Protection Fund must not use the characters "委託者保護基金" in its name.

(Registration)

Article 273 (1) An Entrustor Protection Fund must register pursuant to the provisions of Cabinet Order.

- (2) Particulars that are required to be registered pursuant to the provisions of the preceding paragraph may not be asserted against a third party until after their registration.

(Capacity in respect of tortious acts)

Article 274 An Entrustor Protection Fund is liable for damages that its president or directors cause another person in the performance of their duties.

Section 2 Members

(Eligibility as a member)

Article 275 (1) Commodity Futures Business Operators are the only persons that are eligible to become members of an Entrustor Protection Fund.

(2) If a Commodity Futures Business Operator seeks to join an Entrustor Protection Fund, the Entrustor Protection Fund must not refuse it, unless joining the fund is restricted based on legitimate grounds, and must not attach unreasonable conditions to its joining.

(Obligation to join)

Article 276 (1) A Commodity Futures Business Operator must join any single Entrustor Protection Fund as a member.

(2) A person seeking to engage in Commodity Futures Business after obtaining the Article 190, paragraph (1) license (limited one seeking to engage in an act set forth in Article 2, paragraph (22), item (i) or item (ii) in the course of trade, in a domestic business office or office) or a person seeking to engage in an act set forth in Article 2, paragraph (22), item (i) or item (ii) in the course of trade, in the domestic business office or office in Japan stated in the notification referred to in Article 195, paragraph (1), item (i) (limited to one involving Article 192, paragraph (1), item (v)) (limited to a person that is not a member of an Entrustor Protection Fund) must go through the process for joining any single Entrustor Protection Funds before filing that application for licensing or that notification.

(3) A person that goes through the process for joining an Entrustor Protection Fund pursuant to the provisions of the preceding paragraph becomes a member of that Entrustor Protection Fund at the time the license referred to in that paragraph is granted or the notification referred to in that paragraph is accepted.

(4) When a Commodity Futures Business Operator joins an Entrustor Protection Fund or if it changes Entrustor Protection Funds, it must notify the competent minister of this without delay.

(Withdrawal)

Article 277 (1) A Commodity Futures Business Operator that is a member of an Entrustor Protection Fund is withdrawn from the Entrustor Protection Fund to which it belongs by operation of law for the following reasons:

- (i) rescission of its Article 190, paragraph (1) license pursuant to the provisions of Article 235, paragraph (3) or Article 236, paragraph (1);
 - (ii) expiration of its Article 190, paragraph (1) license pursuant to the provisions of Article 190, paragraph (2) or Article 197, paragraph (2).
- (2) A Commodity Futures Business Operator may not withdraw from the Entrustor Protection Fund to which it belongs except in the following cases:
- (i) the withdrawal is for a reason set forth in one of the items in the preceding paragraph;
 - (ii) it submits the notification referred to in Article 195, paragraph (1), item (ii);
 - (iii) it becomes the member of another Entrustor Protection Fund with the approval of the competent minister.
- (3) A person that withdraws from an Entrustor Protection Fund for the reason set forth in either item (i) or item (ii) of the preceding paragraph is deemed to continue to be a Commodity Futures Business Operator that is a member of that Entrustor Protection Fund for the purpose of the application of the provisions of Article 302 to Article 311 inclusive.
- (4) Even if a Commodity Futures Business Operator withdraws from an Entrustor Protection Fund to which it belongs (excluding a case of withdrawal pursuant to the provisions of paragraph (1)), it incurs the obligation to pay the amount calculated by the Entrustor Protection Fund pursuant to the provisions of the operational rules in dues, for the amount of costs that the withdrawn Commodity Futures Business Operator is required to bear out of the amount of the costs required for the services (limited to services under Article 306, paragraph (1) and Article 308, paragraph (1)) that the Entrustor Protection Fund provides for a Commodity Futures Business Operator that came to fall under one of the items of Article 303, paragraph (1) or the items of paragraph (3) of that Article before the Commodity Futures Business Operator withdrew from the Entrustor Protection Fund.
- (5) Whenever an application is filed for the approval referred to in paragraph (2), item (iii), the competent minister must not grant the approval unless the following requirements are satisfied:
- (i) the Commodity Futures Business Operator has repaid in full the obligation it bears as a member, to the Entrustor Protection Fund from which it seeks to withdraw, by the time of filing the application for approval, and its performance of the obligation prescribed in the preceding paragraph is expected to be reliable;
 - (ii) the Commodity Futures Business Operator has gone through the process for joining another Entrustor Protection Fund as a member.

Section 3 Incorporation

(Requirements for incorporation)

- Article 278 (1) In order to establish an Entrustor Protection Fund, 20 or more Commodity Futures Business Operator that seek to become its members must become the founders.
- (2) After preparing the articles of incorporation and operational rules, the founders must invite persons to become members and hold an organizational meeting, issuing public notice of the 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 operational rules and decisions about matters that are otherwise necessary for the incorporation of the Entrustor Protection Fund must be effected by organizational meeting resolution .
- (4) The articles of incorporation and operational rules may be revised at an organizational meeting.
- (5) The items of organizational meeting business that are referred to in paragraph (3) are decided with at least a two-thirds majority of the votes of attendees, at a meeting where at least half of the Commodity Futures Business Operators that have proposed themselves as members to the founders before the opening of the meeting (each such a Commodity Futures Business Operator is referred to as an "Expected Member" hereinafter in this Article) and the founders, are present.
- (6) Notwithstanding the provisions of Article 292, paragraph (2), matters that are necessary for the business operations in the business year that includes the day of the establishment of an Entrustor Protection Fund (including the budget and financial plan) may be decided by organizational meeting resolution.
- (7) The provisions of the main clause of Article 295 apply mutatis mutandis to the items of business at an organizational meeting which are referred to in the preceding paragraph. In this case, the term "all members" in the main clause of that Article is deemed to be replaced with "the Commodity Futures Business Operator that have proposed themselves as members to the founders before the opening of the meeting and the founders".
- (8) Each of the Expected Members holds an equal voting right for organizational meetings.
- (9) An Expected Member not attending an organizational meeting may vote in writing or by proxy.
- (10) The provisions of the preceding two paragraphs do not apply if otherwise provided for in the articles of incorporation.
- (11) If an organizational meeting resolution concerns the relationship between an Entrustor Protection Fund and a specific Expected Member, that Expected Member has no voting right.

(Application for authorization)

Article 279 (1) Founders must obtain approval for incorporation by submitting a written application for authorization to the competent minister stating the following particulars, without delay after the completion of the organizational meetings:

(i) the name;

(ii) the amount of net assets;

(iii) the locality of the office;

(iv) the names and addresses of the officers and the trade names of the members.

(2) The articles of incorporation, operational rules, and documents specified by ordinance of the competent ministry must accompany the application referred to in the preceding paragraph.

(3) The provisions of Article 99, paragraph (7) apply *mutatis mutandis* to the amount of net assets referred to in paragraph (1), item (ii).

(Criteria for authorization)

Article 280 (1) If competent minister finds that the application for authorization referred to in paragraph (1) of the preceding Article conforms to all the criteria set forth in the following items, the minister must grant authorization to incorporate:

(i) the incorporation process and the content of the articles of incorporation and operational rules conform to laws and regulations;

(ii) the written application for authorization, the articles of incorporation, and operational rules contain no false statements;

(iii) no person falling under one of the categories in Article 15, paragraph (2), item (i) (a) to (k) inclusive is among the officers;

(iv) the net assets amount to three billion yen or more;

(v) it is found to be possible to rely upon the operation of the business being conducted in an appropriate manner;

(vi) the organization of the Entrustor Protection Fund to which the application pertains conforms to the provisions of this Act.

(2) The provisions of Article 15, paragraph (5) to paragraph (9) inclusive apply *mutatis mutandis* to the authorization referred to in paragraph (1) of the preceding Article.

(The handing over of administrative affairs to the president)

Article 281 Upon having authorization for incorporation, the founders must hand over administrative affairs to the president without delay.

(Registration)

Article 282 (1) An Entrustor Protection Fund is established by registration of its incorporation in the locality of its principal office.

(2) Once the registration of incorporation referred to in the preceding paragraph has been made, the Entrustor Protection Fund must notify the competent minister of this without delay.

Section 4 Management

(Particulars required to be included in the articles of incorporation)

Article 283 (1) The following particulars must be included in the articles of incorporation of an Entrustor Protection Fund:

(i) its purpose;

(ii) its name;

(iii) the locality of its office;

(iv) the following particulars related to its members:

(a) eligibility as a member;

(b) joining and withdrawing as a member;

(c) audits of and sanctions against members.

(v) the particulars of its general meetings;

(vi) the particulars of its officers;

(vii) the particulars of its governing council;

(viii) the particulars of its finance and accounting;

(ix) the particulars involved in changing the articles of incorporation;

(x) the particulars of dissolution;

(xi) the means of public notice.

(2) A change to the articles of incorporation does not come into effect without the authorization of the competent minister.

(3) If a particular set forth in Article 279, paragraph (1), item (iv) changes, the Entrustor Protection Fund must notify the competent minister of this without delay.

(Officers)

Article 284 An Entrustor Protection Fund has one president, two or more directors, and one or more auditors as officers.

(Authority of the officers)

Article 285 (1) The president represents the Entrustor Protection Fund and presides over its administrative affairs.

(2) A director, pursuant to the provisions of the articles of incorporation, represents the Entrustor Protection Fund, assists the president in

administering the affairs of the Entrustor Protection Fund, acts as a proxy in handling the duties of the president if the president is unable to attend to them, and performs the duties of the president if the position is vacant.

- (3) The execution of the business of an Entrustor Protection Fund is decided by a majority vote of the president and directors, unless otherwise specified by the articles of incorporation.
- (4) An auditor audits the affairs of an Entrustor Protection Fund.
- (5) An auditor may submit an opinion to the president or to the competent minister based on the result of an audit, if the auditor finds this to be necessary.
- (6) An officer loses the position of officer upon coming to fall under one of Article 15, paragraph (2), item (i) (a) to (k) inclusive.

(Appointment, term of office, and dismissal of officers)

Article 286 (1) Officers are appointed and dismissed at a general meeting pursuant to the provisions of the articles of incorporation; provided, however, that the officers at the time of incorporation are appointed at an organizational meeting.

- (2) The appointment (excluding the appointment of the officers at the time of incorporation) and dismissal of the officers of an Entrustor Protection Fund as under the provisions of the preceding paragraph does not come into effect without the authorization of the competent minister.
- (3) The term of office of an officer is a period of not more than two years as specified by the articles of incorporation.
- (4) An officer may be reappointed.
- (5) If an officer is found to have become an officer through wrongful means, or if an officer violates a law or regulation, a disposition by a government agency based on a law or regulation or the articles of incorporation, the competent minister may order the Entrustor Protection Fund to dismiss the officer.

(Prohibition on the concurrent holding of positions by the auditors)

Article 287 An auditor must not concurrently hold the position of president, director, member of the governing council, or employee of the Entrustor Protection Fund.

(Restriction on the authority for representation)

Article 288 The president and directors have no authority for representation with respect to a matter that constitutes a conflict of interests between the president or a director and the Entrustor Protection Fund. In such a case, an auditor represents the Entrustor Protection Fund.

(Provisional directors and provisional auditors)

Article 289 If there is no person to perform the duties of a director or auditor and the competent minister finds it to be necessary, the minister may appoint a provisional director or provisional auditor.

(General meetings)

Article 290 (1) The president must call an ordinary general meeting once every business year, pursuant to the provisions of the articles of incorporation.

(2) The president may call an extraordinary general meeting whenever the president finds this to be necessary.

(3) If at least one-fifth of the members specify the purpose of a general meeting and demand that one be called, the president must convene an extraordinary general meeting; provided, however, that a proportion other one-fifth of the members may be specified in the articles of incorporation.

(The calling of a general meeting)

Article 291 A convocation notice for a general meeting (meaning an ordinary general meeting as referred to in paragraph (1) of the preceding Article or an extraordinary general meeting as referred to in paragraph (2) of that Article; hereinafter the same applies in this Chapter) must specify the purpose of the meeting, and must be issued as specified in the articles of incorporation the articles of incorporation by at least five days prior to the day of the meeting.

(Matters for a general meeting resolution)

Article 292 (1) At a general meeting, only matters of which advance notice is given pursuant to the provisions of the preceding Article may be put to a resolution; provided, however, that this does not apply if otherwise provided for in the articles of incorporation.

(2) In addition to matters otherwise provided for in this Act, the following matters require a general meeting resolution to be passed:

(i) a change to the articles of incorporation;

(ii) a decision on or change to the budget or funding plan;

(iii) a change to the operational rules;

(iv) settlement;

(v) dissolution;

(vi) any matter other than what is provided for in the preceding items, which is specified in the articles of incorporation.

(3) The members, at a general meeting, may request an auditor to audit the business of the Entrustor Protection Fund and report the results.

(Voting rights of members)

- Article 293 (1) Each of the members holds an equal voting right.
- (2) A member not attending a general meeting may vote by written ballot or proxy.
- (3) The provisions of the preceding two paragraphs do not apply if otherwise provided in the articles of incorporation.

(When a member has no voting right)

Article 294 If a resolution concerns the relationship between the Entrustor Protection Fund and a specific member, that member has no voting right.

(General meeting decisions)

Article 295 A general meeting decision is effected with over half of the votes of the attendees, at a meeting where at least half of all members are present, and by the chairperson in the event of a tie; provided, however, that decisions on a matter set forth in Article 292, paragraph (2), item (i), (iii) and (v) is effected with at least a two-thirds majority vote of the attending members.

(Governing council)

- Article 296 (1) An Entrustor Protection Fund sets in place a governing council in order to further the proper operation of its affairs.
- (2) In the following cases, the president must hear the opinion of the governing council in advance:
- (i) before making a finding pursuant to the provisions of Article 304;
 - (ii) before specifying the matters that are required to be specified pursuant to the provisions of Article 305, paragraph (1);
 - (iii) before deciding whether or not to provide a loan under Article 308, paragraph (4);
 - (iv) before deciding other material particulars connected with the operation of the Entrustor Protection Fund Business.
- (3) A governing council comprises no more than eight members.
- (4) Council members are appointed by the president from among persons with the necessary knowledge and experience to properly operate the business of the Entrustor Protection Fund.

(Appointment of employees)

Article 297 The employees of an Entrustor Protection Fund are appointed by the president.

(Duty of confidentiality of the officers and employees)

Article 298 (1) It is prohibited for the officer or employee of an Entrustor Protection Fund, a member of the governing council, or a person that has held

one of these positions, to divulge or misappropriate any secret learned in the course of duty.

- (2) It is prohibited for the officer or employee of an Entrustor Protection Fund, a member of the governing council, or a person that has held one of these positions, to utilize information learned in the course of duty for a purpose other than the business use of the Entrustor Protection Fund for which the information is provided.

(Position of officers and employees)

Article 299 With regard to the application of the Penal Code (Act No. 45 of 1907) and other penal provisions, the officers and employees of an Entrustor Protection Fund and the members of the governing council are deemed to be officials engaged in public service pursuant to laws and regulations.

Section 5 Services

(Scope of services)

Article 300 An Entrustor Protection Fund performs the following services in order to achieve the purpose prescribed in Article 270:

- (i) the payment of General Entrustors under the provisions of Article 306, paragraph (1);
- (ii) the lending of funds under the provisions of Article 308, paragraph (1);
- (iii) the acceptance and management of deposits of Property for Preservation under the provisions of Article 309;
- (iv) services that contribute to the expeditious performance of an Obligation to General Entrustors under the provisions of Article 310;
- (v) acts in and out of court as prescribed in Article 311, paragraph (1);
- (vi) the collection and management of dues (meaning dues as prescribed in Article 277, paragraph (4) and Article 314, paragraph (1); hereinafter the same applies in paragraph (1), item (ii) of the following Article);
- (vii) services incidental to the services set forth in the preceding items.

(Operational rules)

Article 301 (1) The operational rules of an Entrustor Protection Fund must state the following particulars:

- (i) the particulars of its services and their execution;
- (ii) the particulars of the dues (including particulars concerning the method of calculating them and the payment method);
- (iii) other particulars provided by ordinance of the competent ministry.

- (2) If an Entrustor Protection Fund seeks to change its operational rules, it must obtain the authorization of the competent minister to do so.

(Submission of reports or materials)

Article 302 (1) If it is necessary to the performance of its services, an Entrustor Protection Fund may request a Commodity Futures Business Operator that is its member to submit reports or materials that should serve as a reference with respect to the state of the business or assets of the Commodity Futures Business Operator.

(2) A Commodity Futures Business Operator that has been requested to submit reports or materials that should serve as a reference with respect to the state of its business or assets pursuant to the provisions of the preceding paragraph must submit those reports or materials without delay.

(3) At the request of an Entrustor Protection Fund, the competent minister may issue materials to the Entrustor Protection Fund or allow the Entrustor Protection Fund inspect them, if the minister finds that this is particularly necessary in order for the Entrustor Protection Fund to perform its services.

(Notifying an Entrustor Protection Fund)

Article 303 (1) If a Commodity Futures Business Operator that is the member of an Entrustor Protection Fund falls under one of the following items, it must immediately notify the Entrustor Protection Fund to which it belongs of this:

(i) its Article 190, paragraph (1) license is rescinded pursuant to the provisions of Article 235, paragraph (3) or Article 236, paragraph (1);

(ii) its Article 190, paragraph (1) license ceases to be valid pursuant to the provisions of paragraph (2) of that Article;

(iii) it files a motion to commence bankruptcy proceedings, to commence rehabilitation proceedings, to commence reorganization proceedings, or to commence special liquidation proceedings;

(iv) it discontinues Commodity Futures Business (this includes discontinuance of its engagement in an act set forth in Article 2, paragraph (22), item (i) or item (ii) in the course of trade, at all business offices and offices established in Japan) or dissolved, or issues public notice of the discontinuance of Commodity Futures Business or its dissolution as under Article 197, paragraph (3);

(v) it becomes subject to an order for the suspension of Commodity Futures Business under Article 236, paragraph (1) (limited to a case falling under item (vii) of that paragraph);

(vi) a case other than what is set forth in the preceding items, which is specified by Cabinet Order as being likely to result in insufficient protection for entrustors.

(2) If an Entrustor Protection Fund receives a notice under the preceding paragraph, it must immediately report this to the competent minister.

- (3) If one of the following situations occurs with regard to a Commodity Futures Business Operator that is the member of an Entrustor Protection Fund, the competent minister must immediately notify the Entrustor Protection Fund to which the Commodity Futures Business Operator belongs of this:
- (i) the competent minister rescinds its Article 190, paragraph (1) license pursuant to the provisions of Article 235, paragraph (3) or Article 236, paragraph (1);
 - (ii) the competent minister orders the suspension of Commodity Futures Business pursuant to the provisions of Article 236, paragraph (1) (limited to a case falling under item (vii) of that paragraph);
 - (iii) its Article 190, paragraph (1) license ceases to be valid pursuant to the provisions of paragraph (2) of that Article;
 - (iv) in any case equivalent to the preceding three items in which the competent minister finds this to be necessary.

(Finding of a difficulty in the payment of an Obligation to General Entrustors)
Article 304 If an Entrustor Protection Fund receives a notice under paragraph (1) or paragraph (3) of the preceding Article (including if no notice under paragraph (1) of that Article is given, but the Entrustor Protection Fund learns that its member falls under one of the items of that paragraph), it must, without delay, reach a finding as to whether it is difficult for the Commodity Futures Business Operator to which the notice pertains (including, if no notice under the same paragraph is given, a Commodity Futures Business Operator that the Entrustor Protection Fund has learned falls under one of the items of paragraph (1); hereinafter referred to as the "Commodity Futures Business Operator That Is the Subject of a Notice") to smoothly perform its obligations as pertains to the return of Entrustor Assets to its General Entrustors (hereinafter referred to as its "Obligation to General Entrustors" in this Chapter), unless it is found to be clear that there is no likelihood that insufficient protection for the entrustor will result.

(Public notice of a finding)

- Article 305 (1) If an Entrustor Protection Fund, pursuant to the preceding Article, reaches the finding that it is difficult for the Commodity Futures Business Operator That Is the Subject of a Notice to smoothly perform its Obligation to General Entrustors, the Entrustor Protection Fund must promptly set the period for notification and the place of notification for the request referred to in paragraph (1) of the following Article and any other particulars specified by Cabinet Order and issue public notice of the same.
- (2) If a public notice under Article 197, paragraph (1) of the Bankruptcy Act (Act No. 75 of 2004) (including as applied mutatis mutandis in Article 209,

paragraph (3) of that Act) or a notice under paragraph (5) is issued or if any other situation specified by Cabinet Order occurs with regard to the Commodity Futures Business Operator that is subject to the finding referred to in the preceding paragraph (hereinafter referred to as the "Commodity Futures Business Operator That Is Subject to a Finding") after the Entrustor Protection Fund issues public notice pursuant to the provisions of the preceding paragraph, the Entrustor Protection Fund may change the period of notification for which public notice is issued pursuant to the preceding paragraph.

- (3) If an Entrustor Protection Fund changes the period of notification pursuant to the provisions of the preceding paragraph, it must issue public notice of the particulars of the change without delay.
- (4) If an Entrustor Protection Fund specifies the particulars prescribed in paragraph (1) or changes the period of notification pursuant to the provisions of paragraph (2), it must immediately report this to the competent minister.
- (5) The bankruptcy trustee must notify the Entrustor Protection Fund upon providing the notice under Article 197, paragraph (1) of the Bankruptcy Act (including as applied mutatis mutandis pursuant to Article 209, paragraph (3) of that Act) or Article 204, paragraph (2) of that Act or upon receipt of permission under Article 208, paragraph (1) of that Act in connection with the bankruptcy proceedings of a Commodity Futures Business Operator That Is Subject to a Finding.

(Payment of Claims to Be Compensated)

Article 306 (1) At the request of the General Entrustor of a Commodity Futures Business Operator That Is Subject to a Finding, the Entrustor Protection Fund is to pay the amount calculated pursuant to the provisions of ordinance of the competent ministry on any claim that the General Entrustor has against the Commodity Futures Business Operator That Is Subject to the Finding as of the day that the Entrustor Protection Fund issues public notice pursuant to the provisions of paragraph (1) of the preceding Article (limited to a claim for the Entrustor Assets of that General Entrustor), and which the Entrustor Protection Fund, pursuant to the provisions of Cabinet Order, finds would be difficult for the Commodity Futures Business Operator That Is Subject to the Finding to smoothly pay (hereinafter referred to as the "Claims to Be Compensated").

- (2) Notwithstanding the provisions of the preceding paragraph, an Entrustor Protection Fund is not to make the payment referred to in that paragraph to the officers of the Commodity Futures Business Operator That Is Subject to the Finding or to any other person as specified by Cabinet Order.
- (3) The request referred to in paragraph (1) may only be made within the period

of notification for which public notice is issued pursuant to the provisions of paragraph (1) or paragraph (3) of the preceding Article; provided, however, that this does not apply if there has been a natural disaster or if the Entrustor Protection Fund finds there to be a compelling reason for the failure to make the request within such period of notification.

(Amount of payment)

Article 307 (1) Notwithstanding the provisions of the paragraph (1) of the preceding Article, if the General Entrustor of a Commodity Futures Business Operator That Is Subject to the Finding which makes the request referred to in that paragraph has incurred an obligation to the Commodity Futures Business Operator That Is Subject to the Finding, the amount that the Entrustor Protection Fund is required to pay pursuant to the provisions of that paragraph is equivalent to the amount arrived at when the amount of that obligation is deducted from the amount provided for in paragraph (1) of the preceding Article.

(2) With regard to the application of the provisions of paragraph (1) of the preceding Article and the preceding paragraph if a Commodity Futures Business Operator is deemed to be a General Entrustor pursuant to the provisions of Article 269, paragraph (2), each General Entrustor which causes the Commodity Futures Business Operator to be deemed a General Entrustor has the position of a General Entrustor.

(3) If the amount that must be paid pursuant to the provisions of paragraph (1) and paragraph (1) of the preceding Article exceeds the amount specified by Cabinet Order, the amount specified by the Cabinet Order is the amount that must be paid.

(4) If an Entrustor Protection Fund makes the payment referred to in paragraph (1) of the preceding Article, it acquires a Claim to Be Compensated in connection with that payment and in line with the amount it pays, pursuant to the provisions of Cabinet Order.

(Loans of Funds for Repayment)

Article 308 (1) At the application of a Commodity Futures Business Operator That Is the Subject of a Notice, an Entrustor Protection Fund may lend that Commodity Futures Business Operator That Is the Subject of the Notice (other than a Commodity Futures Business Operator That Is Subject to a Finding) the necessary funds to expeditiously perform its Obligation to General Entrustors (hereinafter referred to as a "Loan of Funds for Repayment") within the scope of the amount found to be necessary .

(2) A Commodity Futures Business Operator filing an application for a Loan of Funds for Repayment must be recognized by the competent minister to satisfy

all of the following requirements with regard to the Loan of Funds for Repayment (hereinafter referred to as "Recognition of Eligibility" in this Article), by the time it files the application:

- (i) providing a Loan of Funds for Repayment is found to be necessary for the expeditious performance of an Obligation to General Entrustors;
 - (ii) it is found to be possible to rely upon the money from a Loan of Funds for Repayment being used for the expeditious performance of an Obligation to General Entrustors.
- (3) Upon granting a Recognition of Eligibility, the competent minister must to the Entrustor Protection Fund to which the Commodity Futures Business Operator that has obtained the Recognition of Eligibility belongs of this.
- (4) Upon receiving an application for a Loan of Funds for Repayment from a Commodity Futures Business Operator, an Entrustor Protection Fund must decide whether to provide the Loan of Funds for Repayment to which the application pertains.
- (5) When an Entrustor Protection Fund has made the decision referred to in the preceding paragraph, it must immediately report the particulars of the decision to the competent minister.

(Acceptance and management of deposits of Property for Preservation)

Article 309 An Entrustor Protection Fund may accept and manage a deposit of the whole or a part of Property for Preservation from a Commodity Futures Business Operator that is its member, pursuant to the provisions of ordinance of the competent ministry.

(Services for contributing to expeditious performance)

Article 310 An Entrustor Protection Fund may be entrusted by a Commodity Futures Business Operator that is its member to perform services as the trust administrator of the Commodity Futures Business Operator and any other services specified by ordinance of the competent ministry, in order to contribute to the expeditious performance of an Obligation to General Entrustors.

(Preservation of the claims of General Entrustors)

Article 311 (1) An Entrustor Protection Fund may be entrusted by the General Entrustor of a Commodity Futures Business Operator That Is the Subject of a Notice, an Entrustor Protection Fund to conduct any and all acts in and out of court which are necessary for preserving fulfillment of the claims that the General Entrustor has against the Commodity Futures Business Operator That Is the Subject of the Notice (limited to a claim to the Entrustor Assets of that General Entrustor) on behalf of the General Entrustor.

- (2) An Entrustor Protection Fund must conduct the acts referred to in the preceding paragraph fairly and honestly on behalf of the General Entrustor.
- (3) An Entrustor Protection Fund must conduct the acts under paragraph (1) to a General Entrustor with the due care of a prudent manager.

Article 312 Deleted

Section 6 Dues

(Funds for Entrustor Protection)

- Article 313 (1) An Entrustor Protection Fund is to set aside funds that it allocates to cover the costs required for the services set forth in Article 300, paragraph (1), item (i) and (ii) (hereinafter referred to as "Funds for Entrustor Protection").
- (2) Funds for Entrustor Protection must not be used except when allocated to cover the costs required for the services set forth in Article 300, paragraph (1), item (i) and (ii).

(Dues)

- Article 314 (1) A Commodity Futures Business Operator must pay dues to the Entrustor Protection Fund to which it belongs pursuant to the provisions of the operational rules, so that these can be allocated to Funds for Entrustor Protection.
- (2) Notwithstanding the preceding paragraph, an Entrustor Protection Fund may exempt a Commodity Futures Business Operator That Is the Subject of a Notice from paying a dues, pursuant to the provisions of its operational rules.

(Method of calculating the amount of dues)

- Article 315 (1) The amount of the dues referred to in paragraph (1) of the preceding Article is an amount calculated by the calculation method specified in the operational rules.
- (2) The method of calculating the dues which is referred to in the preceding paragraph must be specified so as to conform to the following criteria:
 - (i) the finances of the Entrustor Protection Fund will be balanced in the long term in light of the estimated amount of payments referred to in Article 306, paragraph (1) and the costs required in connection with Loans of Funds for Repayment as referred to in Article 308, paragraph (1);
 - (ii) no particular Commodity Futures Business Operator is subject to differential treatment.
 - (3) If a Commodity Futures Business Operator fails to pay dues by the due date for payment specified in the operational rules, it must pay a delinquency

charge to the Entrustor Protection Fund to which it belongs.

- (4) The amount of a delinquency charge is calculated by multiplying the amount of unpaid dues by an annual rate of 14.5 percent, based on the number of days from the day following the due date for payment until the day of their payment.

Section 7 Finance and Accounting

(The business year and separate accounting)

Article 316 (1) The business year of an Entrustor Protection Fund is from April 1 to March 31 of the following year; provided, however, that the business year that includes the day of the establishment of the Entrustor Protection Fund is from the day of its establishment until the following March 31.

- (2) An Entrustor Protection Fund must carry out separate accounting for each account specified by ordinance of the competent ministry.

(Submission of the budget and financial plan)

Article 317 Every business year, an Entrustor Protection Fund must prepare a budget and financial plan and submit them to the competent minister before the commencement of the relevant business year (with regard to the business year that includes the day of the establishment of the Entrustor Protection Fund, this means without delay after its establishment) pursuant to the provisions of ordinance of the competent ministry. The same applies if it changes the budget or financial plan.

(Submission of Financial Statements, etc.)

Article 318 (1) Within three months from the first day of the business year (excluding the business year that includes the day of establishment of the Entrustor Protection Fund), an Entrustor Protection Fund, pursuant to the provisions of ordinance of the competent ministry, must prepare an inventory of property, balance sheet, profit and loss statement, business report, and settlement of accounts (hereinafter referred to as "Financial Statements, etc." in this Article) for the previous business year, submit them to the competent minister, and have them approved.

- (2) When an Entrustor Protection Fund submits Financial Statements, etc. to the competent minister pursuant to the provisions of the preceding paragraph, an auditor's written opinion about the Financial Statements, etc. must accompany them.
- (3) An Entrustor Protection Fund must keep a copy of the Financial Statements, etc. that have been approved by the competent minister as under the provisions of paragraph (1) at the office of the Entrustor Protection Fund and provide them for public inspection.

(Reserve funds)

Article 319 (1) An Entrustor Protection Fund must set aside all of the surplus in every business year as reserve funds.

(2) The reserve funds referred to in the preceding paragraph may be allocated to cover a deficit carried over from the previous business year, and may be transferred to Funds for Entrustor Protection.

(3) The reserve funds referred to in paragraph (1) must not be broken into other than as referred to in the preceding paragraph.

(Restrictions on the investment of funds)

Article 320 An Entrustor Protection Fund must not invest any surplus funds that arise in the course of business or Funds for Entrustor Protection, except in the following manner:

(i) by holding national government bonds and other Securities designated by the competent minister;

(ii) by deposit them with a financial institution designated by the competent minister;

(iii) in other ways specified by ordinance of the competent ministry.

(Delegation to ordinance of the competent ministry)

Article 321 Beyond what is provided for in this Act, the necessary particulars relevant to the finance and accounting of an Entrustor Protection Fund are specified by ordinance of the competent ministry.

Section 8 Supervision

(Collection of reports and on-site inspections)

Article 322 (1) Whenever the competent minister finds it to be necessary for the enforcement of this Act, the minister may order an Entrustor Protection Fund or its member to submit reports or materials that should serve as a reference with respect to its business or assets, and may have ministry officials enter the office or business office of an Entrustor Protection Fund or its member to inspect its books and documents or any other article related to its business.

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

(Business improvement order)

Article 323 If the competent minister finds it to be necessary and appropriate in the public interest or for the protection of entrustors, the minister may order an Entrustor Protection Fund to change its articles of incorporation or

operational rules, or may issue any other order in connection with its business that is necessary from a supervisory perspective.

(Rescission of approval)

Article 324 (1) If an Entrustor Protection Fund violates a law or regulation, a disposition by a government agency based on a law or regulation, or its articles of incorporation or operational rules, or if the competent minister finds that it will be difficult for an Entrustor Protection Fund's services to continue due to the state of its services or assets, and the competent minister finds it to be necessary and appropriate for in public interest or for the protection of entrustors, the minister may rescind the authorization for the incorporation of the Entrustor Protection Fund.

(2) The provisions of Article 158, paragraph (2) apply mutatis mutandis to a disposition under the preceding Article and paragraph, and the provisions of Article 159, paragraph (4) apply mutatis mutandis to a hearing on the rescission of authorization referred to in the preceding paragraph.

Section 9 Dissolution

(Grounds for dissolution)

Article 325 (1) An Entrustor Protection Fund is dissolved for the following reasons:

- (i) a general meeting resolution;
- (ii) the rescission of authorization for incorporation.

(2) Dissolution on the grounds specified in item (i) of the preceding paragraph does not come into effect without the authorization of the competent minister.

(Appointment of liquidators)

Article 326 In the case of a dissolution under the provisions of paragraph (1), item (i) of the preceding Article, a liquidator is appointed at a general meeting, and in the case of a dissolution under the provisions of item (ii) of that paragraph, a liquidator is appointed by the competent minister.

(Disposal of residual assets)

Article 327 (1) If there are residual assets after the payment of the obligations of an Entrustor Protection Fund, the liquidator, pursuant to the provisions of ordinance of the competent ministry, must cause the residual assets to vest in the other Entrustor Protection Funds that the members join.

(2) Beyond what is provided in the preceding paragraph, necessary measures relevant to the dissolution of an Entrustor Protection Fund may be specified by Cabinet Order, within the scope that is determined to be reasonably necessary.

Chapter VII Miscellaneous Provisions

(Issuance of prohibition orders by the court)

Article 328 (1) If the court finds it to be urgently necessary and finds it to be necessary and appropriate in the public interest, the court may issue an order against a person that has acted or is attempting to act in violation of this Act, at the petition of the competent minister.

(2) The prohibition order referred to in the preceding paragraph is to be issued only if a situation that is difficult to recover from has occurred, and such an order is to be revoked immediately if the need for it disappears.

(3) The court may rescind or change an order issued pursuant to the provisions of the preceding paragraph.

(4) Cases provided for in paragraph (1) and the preceding paragraph fall under the jurisdiction of the district court for the respondent's domicile.

(5) The judicial decision provided for in paragraph (1) and paragraph (3) is reached pursuant to the Non-Contentious Cases Procedure Act (Act No. 14 of 1898).

(Prohibition of gambling on quotations)

Article 329 Unless a Commodity Futures Business Operator or a person that has filed the notification referred to in Article 349, paragraph (1) is the counterparty, it is prohibited for any person to engage in an act with the purpose of delivering or receiving the difference between the sale price and the purchase price using quotations on a Commodity Market instead of through Transactions on a Commodity Market.

Article 330 Deleted

(Exemption from the prohibition on the operation of facilities similar to a Commodity Market)

Article 331 The provisions of Article 6 do not apply to the following facilities:

- (i) a facility that meets the requirements specified by Cabinet Order as a facility on which only the following transactions in a Commodity (limited to one that does not fall under the category of a Listed Commodity to which a public notice under Article 352 pertains; hereinafter the same applies in this Article) or Commodity Index (limited to an index other than one that falls under the category of a Listed Commodity Index to which a public notice under that Article pertains or one that is similar to such a Listed Commodity Index; hereinafter the same applies in this Article) are effected:
 - (a) transactions in a Commodity which are similar to Futures Transactions,

and which a person that engages in the Purchase and Sale, etc. of that Commodity in the course of trade effects for its own operations and on its own account;

- (b) transactions in a Commodity Index which are similar to Futures Transactions, and which a person that engages in the Purchase and Sale, etc. of a Commodity underlying that Commodity Index in the course of trade effects for its own operations and on its own account.
- (ii) a facility as prescribed in paragraph (1) of the following Article, which is operated by a person that has been licensed as referred to in that paragraph (referred to as the "Operator of a Type 1 Specified Facility" in Articles 334 to 341 inclusive);
- (iii) a facility as prescribed in Article 342, paragraph (1), which is operated by a person that has been licensed as referred to in that paragraph (referred to as the "Operator of a Type 2 Specified Facility" in Article 344 and Article 345).

(Permission to operate a Facility Similar to a Type 1 Specified Commodity Market)

Article 332 (1) A person seeking to operate a facility that meets the requirements specified by Cabinet Order as a facility on which only the following transactions (excluding a facility on which only the transactions set forth in item (i) and item (ii) are effected) in a Commodity (limited to one that does not fall under the category of a Listed Commodity to which a public notice under Article 352 pertains; hereinafter the same applies in this paragraph) or Commodity Index (limited to an index other than one that falls under the category of a Listed Commodity Index to which a public notice under that Article pertains or is similar to such a Listed Commodity Index; hereinafter the same applies in this paragraph) are effected (hereinafter such a facility is referred to as a "Facility Similar to a Type 1 Specified Commodity Market") must be licensed by the competent minister to do so:

- (i) transactions in a Commodity which are similar to Futures Transactions, and which a person that engages in the Purchase and Sale, etc. of that Commodity in the course of trade effects for its own operations and on its own account, with facility-mediated negotiation between the parties as the basis for determining the prices and other terms of the trade, or by the means specified by ordinance of the competent ministry;
- (ii) transactions in a Commodity Index which are similar to Futures Transactions, and which a person that engages in the Purchase and Sale, etc. of a Commodity underlying that Commodity Index in the course of trade effects for its own operations and on its own account, by the means provided for in the preceding item;

- (iii) transactions in a Commodity or a Commodity Index which are similar to Futures Transactions, and which a bank or other person specified by Cabinet Order effects for its own operations and on its own account by the means provided for in item (i).
- (2) A person seeking to be licensed pursuant to the provisions of the preceding paragraph must submit a written application to the competent minister stating the following particulars:
- (i) its name or trade name and address;
 - (ii) if it is a corporation, the names or trade names and addresses of its officers;
 - (iii) the Commodity or Commodity Index underlying the transactions;
 - (iv) the transaction method;
 - (v) the names or trade names of the persons that participate in trading on the Facility Similar to a Type 1 Specified Commodity Market, for each Commodity or Commodity Index underlying the transactions (hereinafter such a person is referred to as a "Type 1 Specified Facility Trading Participant" in this paragraph and the following Article);
 - (vi) if a Type 1 Specified Facility Trading Participant engages in the Purchase and Sale, etc. of a Commodity (limited to the Commodity to which the application pertains or a Commodity underlying the Commodity Index to which the application pertains) in the course of trade, the Commodity;
 - (vii) the date on which the Facility Similar to a Type 1 Specified Commodity Market is scheduled to begin operation;
 - (viii) other particulars specified by ordinance of the competent ministry.
- (3) The business plan and the documents specified by ordinance of the competent ministry must accompany the written application referred to in the preceding paragraph.

(Licensing criteria)

Article 333 (1) If the competent minister finds that an application for the license referred to in paragraph (1) of the preceding Article conforms to the following criteria, the minister must grant the license:

- (i) the facility's purpose is for only the transactions set forth in paragraph (1), items (i) to (iii) inclusive of the preceding Article to be effected;
- (ii) the Commodity to which the application pertains does not fall under the category of a Listed Commodity subject to a public notice under Article 352, or the Commodity Index to which the application pertains is other than an index that falls under the category of a Listed Commodity Index under the same Article or an index similar to such a Listed Commodity Index;
- (iii) the transaction method to which the application pertains conforms to the transaction method prescribed in paragraph (1), item (i) of the preceding Article;

- (iv) for each Commodity underlying transactions and for each Commodity Index underlying transactions, persons that engage in the Purchase and Sale, etc. of that Commodity in the course of trade or persons that engage in the Purchase and Sale, etc. of the Commodity underlying the Commodity Index in the course of trade, account for the majority of all Type 1 Specified Facility Trading Participants;
 - (v) other particulars and business methods are as necessary and appropriate for ensuring the public interest and the fairness of transactions.
- (2) Notwithstanding the provisions of the preceding paragraph, if an application for the license referred to in paragraph (1) of the preceding Article falls under one of the following items, the competent minister must not grant the license referred to in that paragraph:
- (i) the license applicant falls under one of the categories in Article 15, paragraph (2), item (i) (a) to (l) inclusive;
 - (ii) the written application or a document that is required to accompany it contains a false statement about a material particular.
- (3) The provisions of Article 15, paragraphs (5) to (9) inclusive apply mutatis mutandis to the license referred to in paragraph (1) of the preceding Article.

(Succession)

- Article 334 (1) If the Operator of a Type 1 Specified Facility transfers all of its business or if the Operator of a Type 1 Specified Facility is the subject of an inheritance, merger, or company split (limited to those involving the transfer of all of its business), the person that acquires the whole of that business or an heir (if there are two or more heirs, and the heir that will succeed to the business is selected by their unanimous consent, that person; hereinafter the same applies in this Article), the corporation surviving the merger, the corporation incorporated in the merger, or the corporation succeeding to the whole of the business in the company split, succeeds to the status of Operator of a Type 1 Specified Facility; provided, however, that this does not apply if the corporation surviving the merger, corporation incorporated in the merger, or corporation succeeding to the whole of business in the company split falls under one of the categories in Article 15, paragraph (2), item (i) (a) to (l) inclusive.
- (2) A person that succeeds to the status of Operator of a Type 1 Specified Facility pursuant to the provisions of the preceding paragraph must report this to the competent minister without delay.

(Permission for a change)

- Article 335 (1) If the Operator of a Type 1 Specified Facility seeks to change a particular set forth in Article 332, paragraph (2), item (iii) or item (iv), it must

obtain the permission of the competent minister to do so.

- (2) If the Operator of a Type 1 Specified Facility seeks the permission referred to in the preceding paragraph, it must submit a written application accompanied by the documents specified by ordinance of the competent ministry to the competent minister.
- (3) If there is a change in a particular set forth in Article 332, paragraph (2), item (i), item (ii), item (v), item (vi), or item (viii), the Operator of a Type 1 Specified Facility must report this to the competent minister without delay, and if it seeks to change a particular set forth in item (vii) of that paragraph, it must report this to the competent minister in advance.
- (4) The provisions of Article 333 apply mutatis mutandis to the permission under paragraph (1).

(Preparation of books)

- Article 336 (1) The Operator of a Type 1 Specified Facility must prepare and archive books in respect of transactions on the Facility Similar to a Type 1 Specified Commodity Market, pursuant to the provisions of ordinance of the competent ministry.
- (2) The Operator of a Type 1 Specified Facility must report the particulars specified by ordinance of the competent ministry regarding its business to the competent minister every month, pursuant to the provisions of ordinance of the competent ministry.

(Notification of the discontinuation of a facility)

- Article 337 (1) If the Operator of a Type 1 Specified Facility discontinues a Facility Similar to a Type 1 Specified Commodity Market, it must notify the competent minister of this without delay.
- (2) If the Operator of a Type 1 Specified Facility discontinues a Facility Similar to a Type 1 Specified Commodity Market, its license ceases to be valid.

(Reports and on-site inspections)

- Article 338 (1) Whenever the competent minister finds it to be necessary for the enforcement of this Act, the minister may order the Operator of a Type 1 Specified Facility to submit reports or materials that should serve as a reference with respect to its business, and may have ministry officials enter the office or business office of the Operator of a Type 1 Specified Facility to inspect its books and documents or any other article related to its business.
- (2) The provisions of Article 157, paragraph (3) and paragraph (4) apply mutatis mutandis to inspection under the preceding paragraph.

(Business improvement orders)

Article 339 (1) If the competent minister finds that there is a risk of harm to the interests of a person that engages in the Purchase and Sale, etc. of a Commodity underlying transactions in the course of trade, or a person that engages in the Purchase and Sale, etc. of a Commodity underlying a Commodity Index in the course of trade, or if the minister finds it to be necessary and appropriate in order to ensure the public interest or the fairness of transactions as concerns the business operations of the Operator of a Type 1 Specified Facility, the minister may order the Operator of that Type 1 Specified Facility to take the necessary measures to improve its business operations.

(2) The provisions of Article 158, paragraph (2) apply mutatis mutandis to a disposition under the preceding paragraph.

(Rescission of a license)

Article 340 (1) If the Operator of a Type 1 Specified Facility falls under one of the following items, the competent minister may rescind its license, or order the suspension of the whole or a part of its business for a fixed period of no longer than six months:

- (i) it violates this Act, an order based on this Act, or a disposition based on this Act or on such an order;
- (ii) it comes to fall under one of the categories in Article 15, paragraph (2), item (i) (a) to (l) inclusive (with regard to (d) of that item, limited to the part that involves the rescission of an Article 190, paragraph (1) license or an Article 342, paragraph (1) license, and the part that involves the provisions of a foreign law or regulation that is equivalent to this Act);
- (iii) it fails to begin to operate a Facility Similar to Type 1 Specified Commodity Market within three months after receiving permission, or suspends transactions at the facility for three months or more continuously, without legitimate grounds for doing so;
- (iv) it has obtained the Article 332, paragraph (1) license or Article 335, paragraph (1) permission by wrongful means;
- (v) a Facility Similar to Type 1 Specified Commodity Market that it operates ceases to conform to the criteria set forth in the items of Article 333, paragraph (1).

(2) The provisions of Article 158, paragraph (2) apply mutatis mutandis to a disposition under the preceding paragraph and the provisions of Article 159, paragraph (4) apply mutatis mutandis to a hearing on the rescission of a license as under the preceding paragraph.

(Register)

Article 341 (1) The competent minister must keep a register of Operators of Type 1 Specified Facilities which states the particulars set forth in Article 332,

paragraph (2), item (i), item (iii), and item (iv), and other particulars specified by ordinance of the competent ministry concerning the Operators of Type 1 Specified Facilities.

- (2) The competent minister must provide for public inspection a member register of Operators of a Type 1 Specified Facility.

(License to operate a Facility Similar to a Type 2 Specified Commodity Market)
Article 342 (1) A person seeking to operate a facility that meets the requirements specified by Cabinet Order as a facility on which only the following transactions in a Commodity (limited to one that falls under the category of a Listed Commodity to which a public notice under Article 352 pertains and which is specified by ordinance of the competent ministry; hereinafter the same applies in this paragraph) or Commodity Index (limited to one an index falling under the category of a Listed Commodity Index to which a public notice under that Article pertains, or an index similar to such a Listed Commodity Index, which is specified by ordinance of the competent ministry; hereinafter the same applies in this paragraph) are effected (hereinafter such a facility is referred to as a "Facility Similar to a Type 2 Specified Commodity Market") must be licensed by the competent minister to do so.

- (i) transactions in a Commodity which are similar to Futures Transactions, and which a person that engages in the Purchase and Sale, etc. of a Commodity in the course of trade effects for its own operations and on its own account, with facility-mediated negotiation between the parties as the basis for determining the prices and other terms of the trade, or by the means specified by ordinance of the competent ministry;
- (ii) transactions in a Commodity Index which are similar to Futures Transactions, and which a person that engages in the Purchase and Sale, etc. of a Commodity underlying that Commodity Index in the course of trade effects for its own operations and on its own account, by the means provided for in the preceding item;
- (iii) transactions in a Commodity or a Commodity Index which are similar to Futures Transactions, and which a bank or other person specified by Cabinet Order effects for its own operations and on its own account by the means provided for in item (i).
- (2) A person seeking to be licensed pursuant to the provisions of the preceding paragraph must submit a written application to the competent minister stating the following particulars:
- (i) its name or trade name and address;
- (ii) if it is a corporation, the names or trade names and addresses of its officers;
- (iii) the Commodity or Commodity Index underlying the transactions;
- (iv) the transaction method;

- (v) the names or trade names of the persons that participate in trading on the Facility Similar to a Type 2 Specified Commodity Market, for each Commodity or Commodity Index underlying the transactions (hereinafter such a person is referred to as a "Type 2 Specified Facility Trading Participant" in this paragraph and the following Article);
 - (vi) if Type 2 Specified Facility Trading Participants engage in the Purchase and Sale, etc. of a Commodity (limited to the Commodity to which the application pertains or the Commodity underlying the Commodity Index to which the application pertains) in the course of trade, the Commodity;
 - (vii) the date on the Facility Similar to a Type 2 Specified Commodity Market is scheduled to begin operation;
 - (viii) other particulars specified by ordinance of the competent ministry.
- (3) The business plan and the documents specified by ordinance of the competent ministry must accompany the written application referred to in the preceding paragraph.

(Licensing criteria)

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, the minister must grant the permission:

- (i) the facility's purpose is for only the transactions set forth in paragraph (1), items (i) to (iii) inclusive of the preceding Article to be effected
 - (ii) the transaction method to which the application pertains conforms to the transaction method prescribed in paragraph (1), item (i) of the preceding Article;
 - (iii) there is no risk of hindering the sound operation of a Commodity Exchange that lists the Commodity underlying the transactions, the Commodity Index underlying the transactions, or a Commodity Index similar to such a Commodity Index.
 - (iv) for each Commodity underlying transactions and for each Commodity Index underlying transactions, persons that engage in the Purchase and Sale, etc. of that Commodity in the course of trade or persons that engage in the Purchase and Sale, etc. of the Commodity underlying that Commodity Index in the course of trade, account for the majority of all Type 2 Specified Facility Trading Participants;
 - (v) other particulars and business methods are as necessary and appropriate for ensuring the public interest and the fairness of transactions.
- (2) Notwithstanding the provisions of the preceding paragraph, if an application for the license referred to in paragraph (1) of the preceding Article falls under one of the following items, the competent minister must not grant the license referred to in that paragraph:

- (i) the license applicant falls under one of the categories in Article 15, paragraph (2), item (i) (a) to (l) inclusive;
 - (ii) the written application or a document that is required to accompany it contains a false statement about a material particular.
- (3) The provisions of Article 15, paragraphs (5) to (9) inclusive apply mutatis mutandis to the license referred to in paragraph (1) of the preceding Article.

(Business improvement orders)

Article 344 (1) If the competent minister finds there to be a risk of hindering the sound operation of a Commodity Exchange that lists the Commodity underlying transactions, the Commodity Index underlying transactions, or a Commodity Index similar to such a Commodity Index, or a risk of harming the interests of a person that engages in the Purchase and Sale, etc. of the Commodity underlying transactions in the course of trade or a person that engages in the Purchase and Sale, etc. of the Commodity underlying the Commodity Index that underlies transactions in the course of trade, or if the minister finds it to be necessary and appropriate in order to ensure the public interest or the fairness of transactions as concerns the business operations of the Operator of a Type 2 Specified Facility, the minister may order the Operator of that Type 2 Specified Facility to take the necessary measures to improve its business operations.

- (2) The provisions of Article 158, paragraph (2) 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 apply mutatis mutandis to the Operator 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) is 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 that Article is 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 that Article is deemed to be replaced with "Article 343"; the term "Facility Similar to a Type 1 Specified Commodity Market" in Article 336, paragraph (1) and Article 337 is deemed to be replaced with "Facility Similar to a Type 2 Specified Commodity Market"; the phrase "Article 342, paragraph (1)" in Article 340, paragraph (1), item (ii) is deemed to be replaced with "Article 332, paragraph (1)"; the term "Facility Similar to a Type 1 Specified Commodity Market" in item (iii) of that paragraph is deemed to be replaced with "Facility Similar to a Type 1 Specified Commodity Market"; the phrase "Article 332,

paragraph (1) or Article 335, paragraph (1)" in item (iv) of that paragraph is deemed to be replaced with "Article 342, paragraph (1) or Article 335, paragraph (1) as applied mutatis mutandis pursuant to Article 345"; the terms "Facility Similar to a Type 1 Specified Commodity Market" and "the items of Article 333, paragraph (1)" in item (v) of that paragraph are deemed to be replaced with "Facility Similar to a Type 2 Specified Commodity Market" and "the items of Article 343, paragraph (1)", respectively; the phrases "Article 332, paragraph (2), item (i), item (iii) and item (iv)" and "register of Operators of Type 1 Specified Facilities" in Article 341, paragraph (1) are deemed to be replaced with "Article 342, paragraph (2), item (i), item (iii) and item (iv)" and "register of Operators of Type 2 Specified Facilities", respectively; and the term "register of Operators of Type 1 Specified Facilities" in paragraph (2) of that Article is deemed to be replaced with "register of Operators of Type 2 Specified Facilities".

(Transitional measures pertaining to the operation of a Commodity Market)
Article 346 (1) If a Commodity or Commodity Index becomes a Listed Commodity or Listed Commodity Index and, as of the time that public notice of this is issued pursuant to the provisions of Article 352, a facility set forth in Article 331, item (i) or item (ii) for that Commodity or Commodity Index is operating and there are transactions similar to Futures Transactions that have not completed settlement through that facility, the provisions of Article 6 do not apply to the transactions similar to Futures Transactions which are effected in order to settle those transactions nor to the operation of the facility on which those transactions are effected.

(2) If a Commodity or Commodity Index becomes a Listed Commodity (limited to a Commodity prescribed in Article 342, paragraph (1)) or Listed Commodity Index (limited to a Commodity Index prescribed in the same paragraph) and, as of the time that public notice of this is issued pursuant to the provisions of Article 352, a facility set forth in Article 331, item (ii) for that Commodity or Commodity Index is operating, the Operator of the facility is deemed to have been licensed as referred to in Article 342, paragraph (1), but only up until the day on which one month has passed since the day of the public notice.

(3) If a person that is deemed to have been licensed as referred to in Article 342, paragraph (1) pursuant to the provisions of the preceding paragraph is not licensed as referred to in that paragraph as of the day on which one month has passed since the day of the public notice, and there are transactions similar to Futures Transactions that have not completed settlement through the facility operated by the person that is deemed to have been so licensed, the provisions of paragraph (1) apply mutatis mutandis to transactions similar to Futures Transactions which are effect for settling those transactions and to the

operation of the facility on which those transactions are effected.

- (4) If a Commodity becomes one that does not fall under the category of a Listed Commodity to which a public notice under Article 352 pertains or a Commodity Index becomes an index other than one that falls under the category of a Listed Commodity Index to which a public notice under that Article pertains or an index similar to such a Listed Commodity Index, and, as of the time that public notice of this is issued pursuant to the provisions of that Article, a facility set forth in Article 331, item (iii) pertaining to the Commodity or the Commodity Index is operating, the Operator of the facility is deemed to have been licensed as referred to in Article 332, paragraph (1); provided, however, this does not apply if the facility falls under the category of facility set forth in Article 331, item (i).

(Delegation to a Cabinet Order)

Article 347 Beyond what is provided for from Article 331 to the preceding Article, the necessary particulars relevant to the operation of a Facility Similar to a Type 1 Specified Commodity Market or a Facility Similar to a Type 2 Specified Commodity Market are specified by Cabinet Order.

(Relationship with other laws and regulations)

Article 348 The provisions of the Financial Instruments and Exchange Act apply to a facility similar to financial futures market, instead of the provisions of Article 6.

(Notification by a Specified OTC Commodity Derivatives Business Operator)

Article 349 (1) A person seeking to engage in certain Out-of-Scope Over-the-Counter Commodity Derivative Transactions that constitute either Over-the-Counter Commodity Derivative Transactions whose Underlying Commodity is a Commodity that falls under the category of a Listed Commodity to which a public notice prescribed in Article 352 pertains, or Over-the-Counter Commodity Derivative Transactions with an underlying Commodity Index that falls under the category of a Listed Commodity Index to which a public notice prescribed in the same Article pertains or an underlying Commodity Index similar to such a Listed Commodity Index (hereinafter referred to as a "Specified Over-the-Counter Commodity Derivative Transaction") in the course of trade, must notify the competent minister of the following particulars, pursuant to the provisions of ordinance of the competent ministry. The same applies if a person that engages in Specified Over-the-Counter Commodity Derivative Transactions in the course of trade (hereinafter referred to as "Specified OTC Commodity Derivatives Business Operator") seeks to change a particular of which it has notified the minister.

- (i) its name or trade name;
 - (ii) the name and locality of its business office or office;
 - (iii) the Commodity or Commodity Index underlying the Specified Over-the-Counter Commodity Derivative Transactions;
 - (iv) other particulars provided by ordinance of the competent ministry.
- (2) The competent minister must prepare a register of Specified OTC Commodity Derivatives Business Operators, and make it available for public inspection.
- (3) The provisions of Article 214-3, paragraph (1), paragraph (3), and paragraph (5) apply mutatis mutandis to a Specified OTC Commodity Derivatives Business Operator and the provisions of paragraph (2) and paragraph (4) of that Article apply mutatis mutandis to the customers of a Specified OTC Commodity Derivatives Business Operator. In this case, the term "Commodity Derivative Transactions" in the items of paragraph (1) and paragraph (2) of that Article is deemed to be replaced with "Specified Over-the-Counter Commodity Derivative Transactions".
- (4) A Specified OTC Commodity Derivatives Business Operator must prepare and archive books in respect of Specified Over-the-Counter Commodity Derivative Transactions pursuant to the provisions of ordinance of the competent ministry.
- (5) Whenever the competent minister finds it to be necessary for the enforcement of this Act, the minister may order a Specified OTC Commodity Derivatives Business Operator to submit reports or materials about its business as relates to Specified Over-the-Counter Commodity Derivative Transactions (hereinafter referred to as "Specified Over-the-Counter Commodity Derivative Transactions Business"), and may have ministry officials enter the office or business office of a Specified OTC Commodity Derivatives Business Operator to inspect the status of Specified Over-the-Counter Commodity Derivative Transactions Business or its books and documents or any other article related to Specified Over-the-Counter Commodity Derivative Transactions Business.
- (6) The provisions of Article 157, paragraph (3) and paragraph (4) apply mutatis mutandis to the on-site inspection prescribed in the preceding paragraph.
- (7) If the competent minister finds it to be necessary and appropriate for maintaining order on a Commodity Market, the minister, within the scope of this necessity, may order a Specified OTC Commodity Derivatives Business Operator to take the necessary measures for improving the operation of its Specified Over-the-Counter Commodity Derivative Transactions Business.
- (8) If a Specified OTC Commodity Derivatives Business Operator violates this Act, an order based on this Act, or a disposition by the competent minister based on this Act, the competent minister may order the Specified OTC Commodity Derivatives Business Operator to suspend the whole or a part of its Specified Over-the-Counter Commodity Derivative Transactions Business for a fixed period of no longer than three months.

(9) If a Commodity or a Commodity Index becomes a Listed Commodity or a Listed Commodity Index and public notice of this is issued pursuant to the provisions of Article 352, a person already effecting Specified Over-the-Counter Commodity Derivative Transactions in the course of trade, with that Commodity or Listed Commodity Index or a Commodity Index similar thereto underlying them as of the day of the public notice, must file the notification referred to in paragraph (1) before one month passes counting from the day of the public notice.

(Cooperation in investigations with Foreign Regulatory Authorities for Commodity Futures)

Article 349-2 (1) If the competent minister finds it reasonable to comply with a request from a regulatory authority that is responsible for enforcing a foreign law or regulation that is equivalent to this Act (hereinafter referred to as a "Foreign Regulatory Authority for Commodity Futures" in this Article) for cooperation in an administrative investigation it conducts in order to enforce a foreign law or regulation under its jurisdiction that is equivalent to this Act, the minister may order a person that effects a Commodity Derivative Transaction with a counterparty in that foreign state, or any other concerned party or person of reference, to submit reports or materials that should serve as a reference, to the extent that this is found to be necessary and appropriate in order to respond to the request.

- (2) The competent minister may not reach the disposition under the preceding paragraph in a case that falls under one of the following items:
- (i) the Foreign Regulatory Authority for Commodity Futures has not given its assurance that it will comply with a similar request from Japan;
 - (ii) it is found that if such a disposition is reached based on the request by the Foreign Regulatory Authority for Commodity Futures, it is likely to have a material adverse impact on the fairness of price formation or production and distribution of the Commodity in Japan, or to otherwise be detrimental to Japan's national interests;
 - (iii) there is found to be a risk of the content of the report or materials submitted pursuant to the disposition under the preceding paragraph being used at the Foreign Regulatory Authority for Commodity Futures other than for a purpose that contributes to the discharge of its function.
- (3) If the request for cooperation under paragraph (1) is made for the purpose of an administrative disposition by the Foreign Regulatory Authority for Commodity Futures pursuant to a foreign law or regulation that is equivalent to this Act (limited one that would restrict the rights of the person subject to the disposition or impose a duty on that person), the competent minister is to consult with the foreign minister before accommodating the request.

- (4) Appropriate measures must be taken with respect to reports and materials submitted pursuant to a disposition under the provisions of paragraph (1), to ensure that they will not be used for criminal proceedings undertaken in a court or judge in a foreign state.
- (5) Necessary particulars relevant to the application of the provisions of the preceding paragraphs are specified by Cabinet Order.

(Claims for expenses by persons of reference)

Article 350 A person of reference or expert who is ordered to appear or provide an expert opinion pursuant to the provisions of Article 15, paragraph (9) (including as applied mutatis mutandis pursuant to Article 80, paragraph (4); Article 133, paragraph (3); Article 146, paragraph (4); Article 155, paragraph (6); Article 156, paragraph (7); Article 169, paragraph (3) (including as applied mutatis mutandis pursuant to Article 173, paragraph (4)); Article 194; Article 201, paragraph (2); Article 229; Article 240-25; Article 248, paragraph (2); Article 280, paragraph (2); Article 333, paragraph (3) (including as applied mutatis mutandis pursuant to Article 335, paragraph (4)); Article 343, paragraph (3) (including as applied mutatis mutandis pursuant to Article 335, paragraph (4) as it is applied mutatis mutandis through a replacement of terms pursuant to Article 345)); Article 96-22, paragraph (3) (including as applied mutatis mutandis pursuant to Article 96-22, paragraph (5); Article 96-34, paragraph (3) and (4); Article 96-40, paragraph (5); and Article 96-43); or Article 158, paragraph (2) (including as applied mutatis mutandis pursuant to Article 159, paragraph (5); Article 160, paragraph (2); Article 187; Article 204, paragraph (3) (including as applied mutatis mutandis pursuant to Article 240-11); Article 206, paragraph (6) (including as applied mutatis mutandis pursuant to Article 240-11); Article 237; Article 240-25; Article 266; Article 324, paragraph (2); Article 339, paragraph (2); Article 340, paragraph (2) (including as applied mutatis mutandis pursuant to Article 345); and Article 344, paragraph (2)) may claim travel expenses, a daily allowance, and other costs, pursuant to the provisions of Cabinet Order.

(Calculation of the number of founders)

Article 351 In the calculation of the number of founders, members, or persons who seek to become members or Trading Participants as 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 engages in the Purchase and Sale, etc. of Goods Comprising the Listed Commodity, etc. on two or more Commodity Markets in the course of trade is deemed to be one person for each of the Commodity Markets.

(Public notice)

Article 352 In the following cases, the competent minister must issue public notice in the official gazette with regard to the particulars of the Listed Commodity or Listed Commodity Index and any other particulars specified by ordinance of the competent ministry, without delay:

- (i) the competent minister has reached a disposition of permission or non-permission under Article 9 or license under Article 78 (including a case under Article 15, paragraph (11) (including as applied *mutatis mutandis* pursuant to Article 80, paragraph (4), and Article 146, paragraph (4)));
- (ii) the operative term or the term for a change of scope as set forth in Article 11, paragraph (4) or Article 102, paragraph (3) passes or ends for a Commodity Market;
- (iii) a written application for permission is submitted pursuant to the provisions of Article 14, paragraph (1) or Article 79, paragraph (1);
- (iv) a dissolution under Article 69 (excluding a dissolution for the reason set forth in item (v) of that Article) or the expiration of a license under the provisions of Article 94, paragraph (1) occurs;
- (v) the competent minister reaches a disposition of authorization or non-authorization under Article 132, paragraph (1) or Article 145, paragraph (1);
- (vi) a written application for authorization under the provisions of Article 132, paragraph (2) or Article 145, paragraph (2) is submitted;
- (vii) the competent minister reaches a disposition of authorization or non-authorization under Article 155, paragraph (1) or Article 156, paragraph (1) (limited to a disposition involving a change in the scope of a Listed Commodity or Listed Commodity Index) (including a case under Article 15, paragraph (11) as applied *mutatis mutandis* pursuant to Article 155, paragraph (6), item (ii) or Article 156, paragraph (7), item (ii));
- (viii) a written application for authorization under the provisions of Article 155, paragraph (2) or Article 156, paragraph (2) is submitted (limited to one involving a change in the scope (other than a discontinuance or the narrowing of the scope) of a Listed Commodity or Listed Commodity Index);
- (ix) the competent minister rescinds the permission under Article 9 or the license under Article 78 pursuant to the provisions of Article 159, paragraph (1), item (i) or item (ii), or paragraph (2);
- (x) the competent minister rescinds the authorization to change the articles of incorporation pursuant to the provisions of Article 159, paragraph (1), item (ii) or paragraph (2) (limited to one involving 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 corporation)

Article 353 If a Commodity Futures Business Operator is a corporation established pursuant to the law or regulation of a foreign state or a person domiciled in a foreign state, the technical replacement of terms in applying the provisions of this Act to the Commodity Futures Business Operator and any other necessary particulars relevant to the application of the provisions of this Act are specified by Cabinet Order.

(Competent minister, ordinance of the competent ministry, and delegation of authority)

Article 354 (1) The competent ministers under this Act are as follows:

(i) the Minister of Agriculture, Forestry and Fisheries, for Commodity Exchanges that only operate Commodity Markets whose sole Listed Commodities are Commodities that concern the Ministry of Agriculture, Forestry and Fisheries (meaning the Commodities specified by Cabinet Order; the same applies hereinafter) or Commodity Markets whose sole Listed Commodities are Commodity Indices whose sole underlying goods are Commodities that concern the Ministry of Agriculture, Forestry and Fisheries (hereinafter referred to as "Commodity Markets That Concern the Ministry of Agriculture, Forestry and Fisheries"); for Major Shareholders of Stock Company-Operated Commodity Exchanges that only operate Commodity Markets That Concern the Ministry of Agriculture, Forestry and Fisheries (meaning those that have obtained the authorization referred to in Article 96-19, paragraph (1); hereinafter the same applies in this Article); for Commodity Exchange Holding Companies with a Subsidiary Company that is a Stock Company-Operated Commodity Exchange that only operates Commodity Markets That Concern the Ministry of Agriculture, Forestry and Fisheries, and the Major Shareholders of such Commodity Exchange Holding Companies (meaning those that have obtained the authorization referred to in Article 96-31, paragraph (1); hereinafter in this Article the same applies); for Commodity Transaction Clearing Organizations that only perform Commodity Transaction Debt Assumption Services for Commodity Markets that concern the Ministry of Agriculture, Forestry and Fisheries; for Operators of Facilities Similar to Type 1 Specified Commodity Markets or Facilities Similar to Type 2 Specified Commodity Markets on which transactions are effected only in Commodities That Concern the Ministry of Agriculture, Forestry and Fisheries or on which transactions are effected only in Commodity Indices whose only underlying goods are Commodities That Concern the Ministry of Agriculture, Forestry and Fisheries; and for Specified OTC Commodity Derivatives Business Operators as regards Specified Over-the-Counter Commodity Derivative Transactions whose sole underliers are Commodities That Concern the Ministry of Agriculture,

Forestry and Fisheries;

- (ii) the Minister of Economy, Trade and Industry, for Commodity Exchanges that only operate Commodity Markets whose sole Listed Commodities are Commodities that concern the Ministry of Economy, Trade and Industry (meaning Commodities other than Commodities that concern the Ministry of Agriculture, Forestry and Fisheries; the same applies hereinafter); for Commodity Markets whose sole Listed Commodities are Commodity Indices whose sole underlying goods are Commodities that concern the Ministry of Economy, Trade and Industry (hereinafter referred to as "Commodity Markets That Concern the Ministry of Economy, Trade and Industry"); for Major Shareholders of Stock Company-Operated Commodity Exchanges that only operate Commodity Markets That Concern the Ministry of Economy, Trade and Industry; for Commodity Exchange Holding Companies whose Subsidiary Company is a Stock Company-Operated Commodity Exchange that only operates Commodity Markets That Concern the Ministry of Economy, Trade and Industry, and the Major Shareholders of such Commodity Exchange Holding Companies; for Commodity Transaction Clearing Organizations that perform Commodity Transaction Debt Assumption Services only for Commodity Markets That Concern the Ministry of Economy, Trade and Industry; for Operators of Facilities Similar to Type 1 Specified Commodity Markets or Facilities Similar to Type 2 Specified Commodity Markets on which transactions are only effected in Commodities That Concern the Ministry of Economy, Trade and Industry or on which transactions are effected only in Commodity Indices whose only underlying goods are Commodities That Concern the Ministry of Economy, Trade and Industry; and for Specified OTC Commodity Derivatives Business Operators as regards Specified Over-the-Counter Commodity Derivative Transactions whose sole underliers are Commodities That Concern the Ministry of Economy, Trade and Industry;
- (iii) the Minister of Agriculture, Forestry and Fisheries, and the Minister of Economy, Trade and Industry, for Commodity Exchanges, Major Shareholders of Stock Company-Operated Commodity Exchanges, Commodity Exchange Holding Companies, Major Shareholders of Commodity Exchange Holding Companies, Commodity Transaction Clearing Organizations, Operators of Facilities Similar to Type 1 Specified Commodity Markets, Operators of Facilities Similar to Type 2 Specified Commodity Markets, and Specified OTC Commodity Derivatives Business Operators other than those set forth in the preceding two items, and for Commodity Futures Business Operators, Commodity Futures Intermediaries, commodity futures associations, and Entrustor Protection Funds.
- (2) In this Act, ordinance of the competent ministry is ordinance of the Ministry

of Agriculture, Forestry and Fisheries or ordinance of the Ministry of Economy, Trade and Industry.

- (3) The competent minister may delegate a part of the authority accorded pursuant to this Act to the head of a local branch office, pursuant to Cabinet Order provisions.

(Notifying the Prime Minister in advance)

Article 354-2 Before reaching one of the following dispositions against a Commodity Exchange or Commodity Exchange Holding Company, the competent minister is to notify the Prime Minister of this:

- (i) rescission of the authorization referred to in Article 96-25, paragraph (1) or the proviso to paragraph (3) of that Article, pursuant to the provisions of Article 96-38 or Article 96-40, paragraph (1) (limited to a rescission involving a Commodity Exchange Holding Company whose Subsidiary Company is a company engaging in the business of operating a Financial Instruments Exchange Market);
- (ii) rescission of the authorization referred to in the proviso to paragraph (1) of Article 96-37, pursuant to the provisions of Article 96-40, paragraph (1) (limited to a rescission that involves a company having a company engaging in the business of operating a Financial Instruments Exchange Market as a Subsidiary Company);
- (iii) rescission of the license under Article 9 or Article 78, pursuant to the provisions of Article 159, paragraph (1) or paragraph (2) (limited to a rescission that involves a Stock Company-Operated Commodity Exchange that engages in the business of operating a Financial Instruments Market under the authorization referred to in the proviso to paragraph (1) of Article 3 or the license referred to in Article 80, paragraph (1) of the Financial Instruments and Exchange Act, or a Commodity Exchange whose Subsidiary Company is a company engaging in the business of operating a Financial Instruments Exchange Market with the authorization referred to in the proviso to paragraph (1) of Article 3-2);
- (iv) rescission of the authorization referred to in the proviso of paragraph (1) of Article 3, pursuant to the provisions of Article 159, paragraph (1), item (iv) (limited to a rescission that involves the business of operating a Financial Instruments Market);
- (v) rescission of the authorization referred to in the proviso to paragraph (1) of Article 3-2, pursuant to the provisions of Article 159, paragraph (1), item (v) (limited to a rescission that involves a company having a company engaging in the business of operating a Financial Instruments Exchange Market as a Subsidiary Company).

(Transitional measures)

Article 355 If an order is established or revised or abolished based on this Act, the order may provide for the necessary transitional measures (including transitional measures for penal provisions) within the scope reasonably necessary in accordance with the establishment or revision or abolition.

Chapter VIII Penal Provisions

Article 356 A person that falls under one of the following items is subject to punishment by imprisonment with required labor for not more than five years, a fine of not more than five million yen, or both:

- (i) a person that spreads rumors, uses fraudulent means, or resorts to physical violence or intimidation for a Transaction on a Commodity Market or in order to become entrusted with the same, or for the purpose of causing a fluctuation in quotations on a Commodity Market;
- (ii) a person that violates the provisions of Article 116;
- (iii) the officer (including the provisional director or provisional auditor; the same applies in the following item) of a Mutually Owned Commodity Exchange or an employee that has been given the authority to handle to a certain kind of business matter or specific business matter, that, in soliciting persons to subscribe for shares that will be issued pursuant to the provisions of Article 129, uses a prospectus, advertisement, or other document about subscribing which contains a false statement about a material particular, or, if electronic or magnetic records are created in lieu of such documents, provides a person with an electronic or magnetic record that contains a false statement about a material particular, in the course of that solicitation;
- (iv) the officer of a Mutually Owned Commodity Exchange or an employee that has been given the authority to handle to a certain kind of business matter or specific business matter, that borrows and deposits money in order to disguise payment for shares issued pursuant to the provisions of Article 129, or a person that complies with such borrowing and depositing of money.

Article 356-2 (1) The following property is subject to confiscation; provided, however, that if it is not appropriate to confiscate all or part of that property in light of the circumstances of its acquisition, the progress of a person's performance of the obligation to pay damages, and other circumstances, such property may be exempted from confiscation:

- (i) property obtained through the criminal act referred to in item (i) or (ii) of the preceding Article;
- (ii) property obtained as a consideration for the property referred to in the preceding item, or, if the property referred to in the preceding item is an

- option or other right, property obtained through the exercise of such a right.
- (2) If it is not possible to confiscate property that is subject to confiscation pursuant to the preceding paragraph, its value is collected from the offender.

Article 357 A person that falls under one of the following items is subject to punishment by imprisonment with required labor for up to three years, a fine of not more than three million yen, or both:

- (i) a person that violates the provisions of Article 6, paragraph (1)
- (ii) a person that is to become the officer (this includes a provisional director or provisional auditor) or inspector of a Mutually Owned Commodity Exchange, or a person that is to become the director or auditor of a Stock Company-Operated Commodity Exchange, and that makes a false statement to the competent minister, the court, or the members at a general meeting with regard to subscription, payment, or delivery of contribution in kind for the total number of shares issued pursuant to the provisions of Article 129, or with regard to a particular set forth in item (iii) of that Article, or that suppresses a fact in respect of the same;
- (iii) a person that violates the provisions of Article 167 in performing Commodity Transaction Debt Assumption Services;
- (iv) a person that violates the provisions of Article 190, paragraph (1) in conducting Commodity Futures Business;
- (v) a person that has obtained an Article 190, paragraph (1) license or Article 240-2, paragraph (1) registration through wrongful means;
- (vi) a person that, in violation of the provisions of Article 199, allows another person to conduct Commodity Futures Business;
- (vii) a person that, in violation of Article 240-10, allows another person to conduct Commodity Futures Transactions Intermediation Services;
- (viii) a person that violates an order under the provisions of Article 328, paragraph (1).

Article 358 In the case of a violation of the provisions of Article 5, paragraph (1) or paragraph (2), the violating representative, agent, employee, or other worker of the Commodity Exchange is subject to punishment by imprisonment with required labor for not more than three years, a fine of not more than three million yen, or both.

Article 358-2 In the case of a violation of the provisions of Article 214-3, paragraph (1) (including if these provisions are applied mutatis mutandis pursuant to Article 240-17 and Article 349, paragraph (3)), the violating representative, agent, employee, or other worker of the Commodity Futures Business Operator, Commodity Futures Intermediary, or Specified OTC

Commodity Derivatives Business Operator, is subject to punishment by imprisonment with required labor for not more than three years, a fine of not more than three million yen, or both.

Article 359 (1) If the officer (if the accounting advisor is a corporation, this means a staff member that performs the duties of accounting advisor; such an officer includes a provisional director, provisional auditor, provisional representative director, provisional executive officer, or provisional corporate auditor) or official of a Commodity Exchange or an Association accepts, requests, or promises to accept a bribe in connection with that person's duties, the officer or official is subject to punishment by imprisonment with required labor for not more than five years.

(2) In the case referred to in the preceding paragraph, the accepted bribe is confiscated. If the whole or a part of the bribe cannot be confiscated, the equivalent value equivalent is collected.

(3) A person that provides, offers, or promises to provide the bribe referred to in paragraph (1) is subject to punishment by imprisonment with required labor for not more than three years or by a fine of not more than three million yen.

Article 359-2 (1) The provisions regarding the crimes referred to in paragraph (1) of the preceding Article also apply to a person that commits those crimes outside Japan.

(2) The crimes referred to in paragraph (3) of the preceding Article is dealt with according to the provisions of Article 2 of the Penal Code.

Article 360 In the case of a violation of a disposition under the provisions of Article 96-40, paragraph (2); Article 118, items (ii) or (iii); 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 violating representative, agent, employee, or other worker of the Commodity Exchange, Commodity Exchange Holding Company, Commodity Transaction Clearing Organization, or Association, is subject to punishment by imprisonment with required labor for not more than two years, a fine of not more than three million yen, or both.

Article 361 A person that falls under one of the following items is subject to punishment by imprisonment with required labor for not more than two years, a fine of not more than three million yen, or both:

(i) a person that violates the provisions of Article 96-25, paragraph (1) or (3), Article 96-40, paragraph (3), or Article 210;

(ii) a person that violates a business-suspension disposition under the

provisions of Article 232, paragraph (2); Article 235, paragraph (2); Article 236, paragraph (1); Article 240-23, paragraph (1); Article 340, paragraph (1) (including as applied mutatis mutandis pursuant to Article 345); or Article 349, paragraph (8);

(iii) a person that violates an order under the provisions of Article 236, paragraph (2) or Article 240-23, paragraph (2).

Article 362 A person that falls under one of the following items is subject to punishment by imprisonment with required labor for not more than one year, a fine of not more than three million yen, or both:

(i) a person that includes or records a false statement in a written application, accompanying document, or electronic or magnetic record referred to in Article 14; Article 79; Article 96-26; Article 168; Article 192, paragraph (1) or paragraph (2); Article 225, paragraph (2) or paragraph (3); Article 228, paragraph (2) or paragraph (3); Article 240-3; Article 247; Article 332, paragraph (2) or paragraph (3); or Article 342, paragraph (2) or paragraph (3), and submits it;

(ii) a person that fails to make a report or submit material under Article 86-3, paragraph (1); Article 96-21, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2) of that Article); Article 96-30, paragraph (1); Article 96-33, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2) of that Article); Article 96-39, paragraph (1) (including as applied mutatis mutandis pursuant to the Article 96-43); Article 157, paragraph (1); Article 184, paragraph (1); Article 231, paragraph (1); Article 240-22, paragraph (1); Article 263, paragraph (1); Article 338, paragraph (1) (including as applied mutatis mutandis pursuant to Article 345); or Article 349, paragraph (5) or that makes a false report or submits false material;

(iii) a person that refuses, prevents, or evades an inspection under Article 86-3, paragraph (1); Article 96-21, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2) of that Article); Article 96-30, paragraph (1); Article 96-33, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2) of that Article); Article 96-39, paragraph (1) (including as applied mutatis mutandis pursuant to the Article 96-43); Article 157, paragraph (1) or paragraph (2); Article 184, paragraph (1); Article 231, paragraph (1) or paragraph (3); Article 240-22, paragraph (1); Article 263, paragraph (1); Article 338, paragraph (1) (including as applied mutatis mutandis pursuant to Article 345); or Article 349, paragraph (5);

(iv) a person that fails to file a notification under Article 197, paragraph (1) or paragraph (4) or that files a false notification;

(v) a person that fails to issue a public notice under Article 197, paragraph (3)

- or that issues a false public notice;
- (vi) a person that fails to file a notification under Article 211, paragraph (1) or that files a false notification;
- (vii) a person that fails to make a document under Article 211, paragraph (3) available for public inspection or that makes a document that includes a false statement available for public inspection;
- (viii) a person that violates the provisions of Article 214, item (ii) or Article 240-16, item (i) (b);
- (ix) a person that fails to prepare or archive books under Article 222; Article 240-20; Article 336, paragraph (1) (including as applied mutatis mutandis pursuant to Article 345); or Article 349, paragraph (4), or that creates false books;
- (x) a person who violates the provisions of Article 223
- (xi) a person that fails to submit a report under Article 224 or Article 240-21, or a document under Article 268, or a person that submits a report or document that includes a false statement;
- (xii) a person the violates an order under Article 232, paragraph (1); Article 234; Article 235, paragraph (1); or Article 240-23, paragraph (1) (in the order referred to in that paragraph, this excludes a business-suspension disposition);
- (xiii) a person that, in violation of the provisions of Article 303, paragraph (1), has not given notice or that has given false notice;
- (xiv) a person that fails to file a report under Article 336, paragraph (2) (including as applied mutatis mutandis pursuant to Article 345) or that files a false report.

Article 363 A person that falls under one of the following items is subject to punishment by imprisonment with required labor for not more than one year, by a fine of not more than one million yen, or both:

- (i) a person that violates the provisions of Article 6, paragraph (2), Article 97, paragraph (1) or paragraph (2) in effecting transactions;
- (ii) a person that violates the provisions of Article 86, paragraph (1) or paragraph (4);
- (iii) a person that violates the provisions of Article 96-19, paragraph (1) or (4); Article 96-22, paragraph (2); Article 96-31, paragraph (1) or (3); or Article 96-34, paragraph (2);
- (iv) a person that violates an order under the provisions of Article 96-22, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (5) of that Article); Article 96-34, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (4) of that Article); or Article 96-40, paragraph (1) (including as applied mutatis mutandis pursuant to the Article

- 96-43);
- (v) a person that violates the provisions of Article 96-28, paragraph (1) or (4);
 - (vi) a person that violates the restriction under the provisions of Article 118, item (i);
 - (vii) a person that violates the provisions of Article 200, paragraph (2) (including as applied mutatis mutandis pursuant to Article 240-11);
 - (viii) a person that violates the provisions of Article 209, paragraph (1) or Article 212;
 - (ix) a person that violates the provisions of Article 214-3, paragraph (2) (including as applied mutatis mutandis pursuant to Article 240-17 or Article 349, paragraph (3));
 - (x) a person that enters a false statement into a written application or a document under the provisions of Article 214-3, paragraph (5) (including as applied mutatis mutandis pursuant to Article 240-17 or Article 349, paragraph (3)) and submits that application or document;
 - (xi) a person that violates the provisions of Article 240-15;
 - (xii) a person that, in violation of the provisions of Article 244, paragraph (2), uses a term in its name which could give rise to the misconception that it is a member of a commodity futures association;
 - (xiii) a person that issues a false public notice of the quotations on a Commodity Market;
 - (xiv) a person that prepares a document in which the person includes a false statement of the quotations on a Commodity Market for public notice or distribution purposes, or that distributes such a document;
 - (xv) a person that changes a particular set forth in Article 332, paragraph (2), item (iii) or item (iv) without obtaining the permission referred to in Article 335, paragraph (1);
 - (xvi) a person that violates an order under Article 339, paragraph (1); Article 344, paragraph (1); or Article 349, paragraph (7);
 - (xvii) a person that changes a particular set forth in Article 342, paragraph (2), item (iii) or item (iv) without obtaining the permission referred to in Article 335, paragraph (1) as applied mutatis mutandis pursuant to Article 345.

Article 364 In the case of a violation set forth in one of the following items, the violating representative, agent, employee, or other worker of the Commodity Exchange, Commodity Transaction Clearing Organization, or Association is subject to punishment by imprisonment with required labor for not more than one year, a fine of not more than one million yen, or both:

- (i) a violation of the provisions of Article 7, paragraph (2) or Article 242, paragraph (1);
- (ii) a violation of the provisions of Article 65; Article 103, paragraph (4)

(including as applied mutatis mutandis pursuant to Article 179, paragraph (5)); or Article 110 (including as applied mutatis mutandis pursuant to Article 180, paragraph (5));
(iii) the violation of an order under Article 185 or Article 264.

Article 365 A person that violates the provisions of Article 329 in engaging in an act for the purpose of delivering or receiving the difference is subject to punishment by imprisonment with required labor for not more than one year, a fine of not more than one million yen, or both; provided, however, that this does not preclude the application of the provisions of Article 186 of the Penal Code.

Article 366 A person that violates the provisions of Article 161, Article 176, Article 267, or Article 298 is subject to punishment by imprisonment with required labor for not more than one year or by a fine of not more than 500 thousand yen.

Article 367 A person that falls under one of the following items is subject to punishment by imprisonment with required labor for up to six months, a fine of not more than 500 thousand yen, or both:

- (i) a person that violates the provisions of Article 4, paragraph (2); Article 55 (including as applied mutatis mutandis pursuant to Article 77, paragraph (2)); Article 91, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2) of that Article); Article 105; Article 106; or Article 272, paragraph (2);
- (ii) a person that fails to file a notification under Article 86, paragraph (3); Article 96-19, paragraph (3) (including as applied mutatis mutandis pursuant to Article 96-25, paragraph (4) or Article 96-31, paragraph (4)); or Article 96-28, paragraph (3), or that files a false notification;
- (iii) a person that fails to submit a statement of holdings in Subject Voting Rights under Article 86-2, paragraph (1) or Article 96-29, or that submits a statement of holdings in Subject Voting Rights that contains a false statement;
- (iv) a person that enters a false statement in a written application or accompanying document referred to in Article 200, paragraph (3) or paragraph (4) (including if these provisions are applied mutatis mutandis pursuant to Article 240-11) or Article 335, paragraph (2) (including as applied mutatis mutandis pursuant to Article 345) and submits it;
- (v) a person that fails to give the particulars provided for in Article 213-2, paragraph (1) or Article 240-13, paragraph (1), or that gives false particulars;

- (vi) a person that violates the provisions of Article 213-2, paragraph (2) or Article 240-13, paragraph (2);
- (vii) a person that, in violation of the provisions of Article 217, paragraph (1), fails to deliver a written document; that delivers a written document that does not include the particulars provided for in that paragraph or a written document that includes a false statement; or that provides a person with something that omits to state those particulars or that includes false particulars, by the means prescribed in paragraph (2) of that Article;
- (viii) a person that, in violation of the provisions of Article 220, paragraph (1), fails to give notice or gives notice with a written document that does not include the particulars prescribed in that paragraph or with a written document that includes a false statement, or gives a notice that omits a statement of those particulars or includes false particulars, by the means prescribed in Article 217, paragraph (2) as applied mutatis mutandis by replacing certain terms pursuant to Article 220, paragraph (2);
- (ix) a person that, in violation of the provisions of Article 220-2, paragraph (1), fails to deliver a document, delivers a document that does not include the particulars prescribed in the same paragraph, or delivers a document that includes a false statement; or that provides a person with something that omits a statement of those particulars or that includes false statement, by the means prescribed in Article 217, paragraph (2) as applied mutatis mutandis by replacing certain terms pursuant to Article 220-2, paragraph (2);
- (x) a person that, in violation of the provisions of Article 244, paragraph (1), uses a term in its name which could give rise to the misconception that it is a commodity futures association.

Article 368 In the case of a violation set forth in the following items, the violating representative, agent, employee, or other worker of the Commodity Exchange, Commodity Exchange Holdings Company, Commodity Transaction Clearing Organization, or Association is subject to punishment by imprisonment with required labor for not more than six months, a fine of not more than 500 thousand yen, or both:

- (i) a violation of the provisions of Article 3, paragraph (1), Article 3-2, paragraph (1), Article 64, Article 96-37, paragraph (1), Article 170, paragraph (2) or Article 242, paragraph (2)
- (ii) inclusion of a false statement in a written application or accompanying document referred to in Article 155, paragraph (2) or Article 156, paragraph (2) and submission of the same.

Article 369 A person that falls under one of the following items is subject to

punishment by a fine of not more than 300 thousand yen:

- (i) a person that fails to file a notification under Article 96-19, paragraph (5) (including as applied mutatis mutandis pursuant to Article 96-25, paragraph (4) and Article 96-31, paragraph (4)), or that files a false notification;
- (ii) a person that violates the provisions of Article 101, paragraph (2); Article 115; Article 197-2; Article 198, paragraph (1); Article 240-8; or Article 240-9, paragraph (1);
- (iii) a person that fails to submit a written notice under Article 195, paragraph (1); Article 196; or Article 240-6, paragraph (1); or that submits a written notice in which a false statement has been included; or a person that fails to submit an accompanying document referred to in Article 195, paragraph (2) or Article 240-6, paragraph (3) or that includes a false statement in an accompanying document and submits it;
- (iv) a person that, in violation of the provisions of Article 198, paragraph (2) or Article 240-9, paragraph (2), posts a sign under the provisions of paragraph (1) of Article 198 or Article 240-9 or a sign similar thereto;
- (v) a person that fails to file a notification under Article 203 (including if these provisions are applied mutatis mutandis pursuant to Article 240-11); Article 240-7, paragraph (1); or Article 276, paragraph (4), or that files a false notification;
- (vi) a person that, in violation of the provisions of Article 216, concludes a contract to become entrusted with a Transaction on a Commodity Market, etc. without complying with the brokerage contract rules provided by a Commodity Exchange;
- (vii) a person that fails to make a report or fails to submit a material under Article 231, paragraph (2) or Article 240-22, paragraph (2), or that makes a false report or submits a false material;
- (viii) a person that includes a false statement in a written application or accompanying document under Article 279, paragraph (1) or paragraph (2) and submits it;
- (ix) a person that fails to make a report or submit materials under Article 302, paragraph (2), or that makes a false report or submits false materials;
- (x) a person that fails to make a report or submit materials under Article 322, paragraph (1), or that makes a false report or submits false materials;
- (xi) a person the refuses, hinders, or evades an inspection under Article 322, paragraph (1);
- (xii) a person that fails to file a notification under Article 334, paragraph (2) (including as applied mutatis mutandis pursuant to Article 345); Article 335, paragraph (3) (including as applied mutatis mutandis pursuant to Article 345); Article 337, paragraph (1) (including as applied mutatis mutandis pursuant to Article 345); or Article 349, paragraph (1) or (9), or that files a

false notification.

Article 370 In the case of a violation set forth in one of the following items, the violating representative, agent, employee, or other worker of the Commodity Exchange, Commodity Transaction Clearing Organization, Association, or Entrustor Protection Fund is subject to punishment by a fine of not more than 300 thousand yen:

- (i) the person fails to submit a written report under Article 19, paragraph (1) or Article 85, paragraph (1) or submits a written report that contains a false statement; or the person fails to submit an accompanying document under Article 19, paragraph (2) or Article 85, paragraph (2) or includes a false statement in an accompanying document and submits it;
- (ii) the person violates the provisions of Article 70 or Article 95;
- (iii) the person violates the provisions of Article 88, paragraph (1) or Article 206, paragraph (3) (including if these provisions are applied *mutatis mutandis* pursuant to Article 240-11);
- (iv) the person fails to file a notification under Article 170, paragraph (3) or the first sentence of Article 250, paragraph (3), or files a false notification;
- (v) the person fails to file a notification under Article 171 or files a false notification, or the person fails to file an accompanying document under the same Article or files an accompanying document that contains a false statement;
- (vi) the person includes a false statement in a written application or accompanying document under Article 250, paragraph (2) and submits it;
- (vii) the person fails to make a report, in violation of the provisions of Article 305, paragraph (4) or Article 308, paragraph (5), or makes a false report.

Article 370-2 A person that, in violation of the provisions of Article 955, paragraph (1) of the Companies Act as applied *mutatis mutandis* pursuant to Article 11, paragraph (9), fails to include or record the particulars specified by ordinance of the Ministry of Justice concerning an electronic public notice investigation prescribed in the same paragraph in the investigation record, etc. prescribed in the same paragraph, or that includes or records a false statement fails to archive the investigation record, etc. is subject to punishment by a fine of not more than 300 thousand yen.

Article 371 (1) If the representative of a corporation (including an organization without legal personality for which a representative or administrator has been designated; hereinafter the same applies in this Article) or the agent, employee, or other worker of a corporation or an individual commits the violation referred to in the provisions set forth in the following items, in addition to the offender

being subject to punishment, the corporation is subject to punishment by the fine set forth in the relevant item and the individual is subject to punishment by the fine prescribed in the provisions referred to in the relevant item:

- (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 (ii), (iv), (v), (x), (xi), (xiii) and (xiv): a fine of not more than 100 million yen;
 - (v) Article 357, item (i) and items (iii) to (vii) inclusive; Article 358; Article 362, item (iv) and item (v); Article 363 (excluding item (ii), (iv), (v), (x), (xi), (xiii), and item (xiv)); Article 364; Article 367; Article 368; Article 369 (excluding item (viii), (x), and (xi)); Article 370 (excluding item (vii)); and the preceding Article inclusive: the fine prescribed in the relevant Article.
- (2) The period of prescription for a corporation or an individual being subject to punishment by a fine due to a violation referred to in Article 356 (excluding item (iii) and item (iv)) pursuant to the provisions of the preceding paragraph is in accordance with the periods of prescription for the offenses set forth in that Article.
- (3) When an organization that is not a corporation is subject to punishment pursuant to the provisions of paragraph (1), its representative or administrator represents the organization with regard to procedural acts, and the provisions of Acts concerning criminal proceedings if a corporation is the accused or a suspect apply *mutatis mutandis*.

Article 372 In the case of a violation set forth in one of the following items, the violating officer (this includes a provisional director, provisional representative director, and provisional executive officer) or liquidator of the Commodity Exchange is subject to punishment by a non-criminal fine of not more than one million yen:

- (i) the person fails to file a motion to commence 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) the person sets an unreasonable period as referred to in Article 499, paragraph (1) of the Companies Act as applied *mutatis mutandis* pursuant to Article 77, paragraph (1) for the purpose of delaying the completion of liquidation;
- (iii) the person violates the provisions of Article 500, paragraph (1) of the Companies Act as applied *mutatis mutandis* pursuant to Article 77,

- paragraph (1) in settling obligations;
- (iv) the person fails to appoint the majority of members of the self-regulatory committee from among outside directors, in violation of Article 96-3, paragraph (1);
 - (v) the person fails to keep minutes, in violation of Article 96-14, paragraph (1);
 - (vi) the person fails to make a list of names under Article 96-16 available for public inspection;
 - (vii) the person fails to give notice under Article 130, paragraph (1) or paragraph (4), or gives false notice;
 - (viii) the person fails to make a registration under Article 134, paragraph (1).

Article 372-2 A person that falls under one of the following items is subject to punishment by a non-criminal fine of not more than one million yen:

- (i) a person that, in violation of the provisions of Article 946, paragraph (3) of the Companies Act as applied mutatis mutandis pursuant to Article 11, paragraph (9), fails to make a report or makes a false report;
- (ii) a person that denies a request set forth in one of the items of Article 951, paragraph (2) or one of the items of Article 955, paragraph (2) of the Companies Act as applied mutatis mutandis pursuant to Article 11, paragraph (9), without legitimate grounds;
- (iii) a person that refuses to allow the inspection or copying under Article 96-14, paragraph (2) or paragraph (3) (including as applied mutatis mutandis pursuant to paragraph (4) of that Article), without legitimate grounds.

Article 373 A person that falls under one of the following items is subject to punishment by a non-criminal fine of not more than 500 thousand yen:

- (i) a person that fails to establish a solicitation policy, 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 or Article 240-19, or that fails to issue public notice of the same, in violation of the provisions of Article 9, paragraph (3) of that Act;
- (ii) a person that, in violation of the provisions of Article 221, paragraph (1) or paragraph (2), fails to set aside a liability reserve for commodity trading, or that uses that reserve.

Article 374 In the case of a violation set forth in one of the following items, the violating founder, officer (this includes a provisional director, provisional representative director, or provisional executive officer), or liquidator of the Commodity Exchange; the violating officer (this includes a provisional director) of the Association; or the violating officer (this includes a provisional director or provisional corporate auditor) or liquidator of the Entrustor Protection Fund

is subject to punishment by a non-penal fine of not more than 300 thousand yen:

- (i) the person fails to request the investigation referred to in Article 941 of the Companies Act, in violation of the provisions of that Article as applied *mutatis mutandis* pursuant to Article 11, paragraph (9);
- (ii) the person fails to file a notification under Article 16, paragraph (2);
- (iii) the person violates the provisions of Article 57, paragraphs (1) to (3) inclusive; Article 67; Article 68-2, paragraph (1) or paragraph (2) (including if 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) the person refuses to allow the inspection of a document or something that shows, through a means specified by ordinance of the competent ministry, the particulars that have been recorded in an electronic or magnetic record; refuses to issue a certified copy or extract of a document; refuses to provide a person with the particulars recorded in an electronic or magnetic record by an electromagnetic means specified by ordinance of the competent ministry; or refuses to issue a document that states those particulars; without legitimate grounds, and in violation of the provisions of Article 57, paragraph (5) (including as 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) the person distributes the property of a Mutually Owned 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) the person fails to make the particulars prescribed in Article 87 available for public inspection, in violation of the provisions of that Article;
- (vii) the person fails to file a notification, in violation of the provisions of Article 88, paragraph (2); Article 206, paragraph (4) (including if these provisions are applied *mutatis mutandis* pursuant to Article 240-11); the second sentence of Article 250, paragraph (3); or Article 262, paragraph (2);
- (viii) the person fails to make a report under Article 99, paragraph (3) or

- paragraph (4);
- (ix) the person has implemented a Entity Conversion in violation of the provisions of Article 122, paragraph (1);
 - (x) the person implements an Entity Conversion or a merger at a Commodity Exchange in violation of the provisions of Article 124, paragraph (2) or paragraph (5) (including if 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 if these provisions are applied mutatis mutandis pursuant to Article 144-17);
 - (xi) the person fails to issue public notice under the provisions of this Act or public notice under the provisions of the Companies Act as applied mutatis mutandis pursuant to this Act, or gives false public notice;
 - (xii) the person fails to make a registration (other than one under Article 134, paragraph (1)) under the provisions of this Act;
 - (xiii) the person hinders an investigation provided for in the Companies Act as applied mutatis mutandis pursuant to this Act;
 - (xiv) the person makes a false statement at a Commodity Exchange's organizational meeting or general meeting or suppresses a fact;
 - (xv) the person fails to include or record particulars that are required to be included or recorded in the articles of incorporation, member register, Trading Participant register, minutes, inventory of property, balance sheet, profit and loss statement, business report, proposed allocation of surplus, proposed allocation of loss, or settlement of accounts, or includes or records a false statement;
 - (xvi) the person fails to make the Association Member register set forth in Article 252 available for public inspections, in violation of the provisions of that Article;
 - (xvii) the person violates the provisions of Article 275, paragraph (2) or Article 320;
 - (xviii) the person does not obtain authorization in a case in which the person is required to obtain the authorization of the competent minister pursuant to the provisions of Chapter VI;
 - (xix) the person fails to file a notification under Article 283, paragraph (3) or files a false notification;
 - (xx) the person violates an order under the provisions of Article 286, paragraph (5) or Article 323;
 - (xxi) the person conducts business other than that prescribed in Article 300;
 - (xxii) the person fails to make a report under Article 303, paragraph (2) or makes a false report;
 - (xxiii) the person fails to submit a document under Article 318, paragraph (1)

- or paragraph (2), or submits a false document;
- (xxiv) the person violates the provisions of Article 319 in its accounting;
- (xxv) the person violates the provisions of Article 327 in disposing of the residual assets of the Entrustor Protection Fund.

Article 375 A person that falls under one of the following items is subject to punishment by a non-criminal fine of not more than 100 thousand yen:

- (i) a person that fails to offer a statement or that offers a false statement, or that fails to make a report or makes a false report, in violation of a disposition issued to a person of reference; or a person that fails to offer an expert opinion, or that offers a false expert opinion, in violation of a disposition issued to an expert under the provisions of Article 15, paragraph (9) (including as applied mutatis mutandis pursuant to Article 80, paragraph (4); Article 133, paragraph (3); Article 146, paragraph (4); Article 155, paragraph (6); Article 156, paragraph (7); Article 169, paragraph (3) (including as applied mutatis mutandis pursuant to Article 173, paragraph (4)); Article 194; Article 201, paragraph (2) (including if these provisions are applied mutatis mutandis pursuant to Article 240-11); Article 229; Article 240-25; Article 248, paragraph (2); Article 280, paragraph (2); Article 333, paragraph (3) (including as applied mutatis mutandis pursuant to Article 335, paragraph (4)); Article 343, paragraph (3) (including as applied mutatis mutandis pursuant to Article 335, paragraph (4) as are applied mutatis mutandis through a replacement of terms pursuant to Article 345)); Article 96-22, paragraph (3) (including if these provisions are applied mutatis mutandis pursuant to paragraph (5) in the same Article; Article 96-34, paragraph (3) and (4); Article 96-40, paragraph (5); and Article 96-43); or Article 158, paragraph (2) (including as applied mutatis mutandis pursuant to Article 159, paragraph (5); Article 160, paragraph (2); Article 187; Article 204, paragraph (3) (including if these provisions are applied mutatis mutandis pursuant to Article 240-11); Article 206, paragraph (6) (including if these provisions are applied mutatis mutandis pursuant to Article 240-11); Article 237; Article 240-25; Article 266; Article 324, paragraph (2); Article 339, paragraph (2); Article 340, paragraph (2) (including as applied mutatis mutandis pursuant to Article 345); and Article 344, paragraph (2));
- (ii) a person that fails to submit a report or materials, or that submits a false report or materials, in violation of a disposition issued to a person that effects Commodity Derivative Transactions, or a disposition issued to any other concerned party or person of reference under the provisions of Article 349-2, paragraph (1).