

Outline of 2004 Commodity Exchange Law

August 2005

Ministry of Economy, Trade and Industry of Japan

1. Commodity Exchange [Chapter II of the Commodity Exchange Law, hereinafter the Law]

(1) Introduction of Incorporated Commodity Exchange

In addition to membership-based organization (Member Commodity Exchange), stock companies (Incorporated Commodity Exchange) may also be adopted with regard to the structure of commodity exchanges. [Incorporated Commodity Exchange is stipulated in Section 3, Chapter II]

An Incorporated Commodity Exchange shall meet minimum capital amount [Article 80. 1 (i) of the Law] of 1 billion yen. [Article 5 of Cabinet Order]

As to Incorporated Commodity Exchange, maximum share holding ratio by one person shall be less or equal to 5% of all shareholders' voting rights. [Article 86 of the Law]

Person who trades on Incorporated Commodity Exchanges shall be called Trading Participant, instead of Member. Member and Trading Participant are jointly called Members etc. in this paper. [Article 82 of the Law]

Pursuant to those changes, the law is revised as follows;

- Change of organization (Member Commodity Exchange to Incorporated Commodity Exchange) and merger of Member Commodity Exchange and Incorporated Commodity Exchange. [Section 5 and 6, Chapter II of the Law]

(2) Qualifications of Members etc.

A person who "uses" the listed commodities (person who engages in the business of using such commodities) is newly added to the Commercials. [Article 30.1(i) and Article 10.2 of the Law]

Financial institutions are also added [Article 30.1(3) of Law], which include banks, security companies, *Shinkin* banks, credit unions, labor banks, the *Norinchukin* bank, *Shoko Chukin* Bank, Japan agricultural cooperative association, insurance companies, commodity investment advisors, etc. [Article 3.3 of Cabinet Order]

(3) Net Worth Requirements of Members etc.

Net worth requirements of futures commission merchants (FCM) were sum total of fixed amount with regard to each commodity market. Owing to the law amendment, two new methodologies are applied;

- 1) Fixed amount for FCMs at the time of application [Article 193 of the Law], which is 100 million yen. [Article 81 of Ministerial Ordinance]
- 2) Required net worth ratio [Article 211 of the Law].

Pursuant to these changes, and introduction of clearing organization (Japan Commodity Clearing House Co. Ltd. / JCCH), net worth requirements of Clearing Participants are defined depending on the ability of clearing participants to perform commodity clearing transactions. [Business rules of JCCH]

(4) Revision of Margin Deposit System

Under the former law, customer margin deposit had two stages; firstly member FCMs received customer margin from their customers, and secondly they deposited Guarantee Funds for Brokerage Operations and Exchange Margin with commodity exchanges. Owing to the law amendment, whether they are at the level of clearing maintenance margins or above, all the trading margins shall be deposited in commodity exchanges. FCMs deposit in commodity exchanges all the trading margins that are deposited by their customers. Furthermore, customers' assets, which are deposited with commodity exchanges, are, in principle, unaffected by FCMs' insolvency because customers, not their FCMs, are entitled to directly request commodity exchanges to return their assets to them even in the case of FCMs' insolvency. [Article 103.1 of the Law]

Pursuant to those changes, rules were revised as follows;

- When customers directly deposit trading margin in commodity exchanges, Members etc. shall become an agent of customers. [Article 40.1 of Ministerial Ordinance]
- When Members etc. substitute margins that received in depositing trading margin with commodity exchanges (Substituted Deposit) [Article 103.2 of Ministerial Ordinance], the customers shall have a right to claim a refund to such trading margins. [Article 40.2 of Ministerial Ordinance]
- In case of Substituted Deposit, Members etc. shall, in advance, have the consent from customers for substitution. [Article 41.1 of Ministerial Ordinance]
- Commodity exchanges shall segregate customers' asset from their own asset and maintain ordinaryDeposit and Substituted Deposit separately. [Article 43.1 of Ministerial Ordinance]
- Deposited margin shall be kept in bank deposits, kept as trust bank funds or government bonds of Japan [Article 43.2 of Ministerial Ordinance]
- Regarding trading margin (limited to Substituted Deposit), by concluding "Contract related to consignment of trading margin deposit" permitted by the Competent Ministers with banks and other financial institutions, FCMs may be allowed not to deposit the margin to JCCH. [Article 103.7 of the Law, and Article 44 of Ministerial Ordinance]

(5) Introduction of Out-house Clearing Organization

Settlement and clearing shall be proceeded at (a) exchanges as well as (b) in-house clearinghouse of commodity exchange, also (c) out-house commodity transaction clearing organization. [Article 105.3]

JCCH is the out-house clearing organization for the all seven commodity exchanges, which currently exist.

(6) Application of Brokerage Rules to Intermediary Brokers

Brokerage rules shall apply to Intermediary Brokers (non member FCMs) [Article 119 and 216 of the Law] in addition to member FCMs. [Article 96 and 99 of the former law]

(7) Duty to Complete Unsettled Contracts

If a Member withdraws from a commodity exchange or a Trading Participant is deprived of its trading qualification to trade at Incorporated Commodity Exchange, and if Members etc. (Cf. (1)) are ordered to suspend transactions, Commodity Exchanges complete the unsettled contracts as in the past. [Article 113 and 114 of the Law]

When an FCM is ordered to suspend business of accepting consignments of commodity trading, duty of Commodity Exchanges to complete the unsettled contracts stipulated under the former law is abolished [Article 87.2 of the former law].

When an FCM is deprived of its permission or the permission loses effect, the FCM shall complete the unsettled contracts. [Article 197.5 and Article 238.1 of the Law]. However, if the FCM is not eligible to fulfill the obligation, Commodity Exchanges shall impose such obligation on other Members etc. [Article 238.3 of the Law].

(8) Publication of total trading volume and contract prices

Commodity Exchanges shall announce as well as notify Members etc. total trading volume and contract prices [Article 111 of the Law].

* Contract prices are four prices (highest, lowest, open and close) in continuous trading, and executed price for each session for *Itayose* trading. [Article 47.2 of Ministry Ordinance].

Under the former law, Commodity Exchanges shall post a notice of total trading amount and contract price as well as announce high, low and last contract price [Article 85 of the former law]

2. Commodity Transaction Clearing Organization [Chapter 3]

(1) Clearing Participant Requirements

Separately from Members etc. who can trade on Commodity Exchanges, Clearing Participant is introduced as a counterpart of commodity trading liabilities in Commodity Transaction Clearing Organization (Clearing Organization) [Article 174 of the Law].

Net worth requirements of Clearing Participant are set by Clearing Organization in its Business Rules. [Article 174.1 and Article 175.2 (2) of the Law]

Under the former Law, Commodity Exchanges set member's net worth in Articles of Association [Article 25 of the former law].

If a Clearing Participant does not fulfill net worth requirements, Clearing Organization shall suspend Clearing Participant from undertaking liabilities or cancel the qualification of the Clearing Participant [Article 174.2 of the Law].

(2) Margin Deposit System

If a Commodity Exchange chooses to proceed settlement and clearing by the Clearing Organization, margins occurred in the trading shall be deposited in the Clearing Organization. [Article 179 of the Law, Article 45 and 72~74 of Ministerial Ordinance]

Cf. 1.(4) above

3. Futures Commission Merchant [Chapter 4]

(1) Permission of FCMs

Under the former Law, there were three types of classification regarding the business of accepting consignments of commodity trading for FCMs. [Article of 126 of the former Law] The permission was granted, depending on ;

- Commodity markets for accepting consignment or brokering [Article 126.2 and Article 128.1 (iv) of the former law] ;
- The number of registered sales representatives) [Article 16.2 of the former law], and
- Acceptance of consignment or brokerage [Article 126.2 and Article 128.1 (v) of the former law].

*Change of consignment and brokerage are not required for registration.

By the amendment, such classification is abolished. The permission for FCMs is generally granted to the business of accepting consignments and brokering of commodity trading [Article 190 of the Law].

(2) Net worth requirements

➤ Streamlined net worth requirements

The amended law stipulates two types of net worth requirements.

1. Fixed amount requirement for the permission of an FCM. [Article 193 of the Law] This is set as 1 hundred million yen. [Article 81 of Ministerial Ordinance]
2. Net worth ratio requirement [Article 211 of the Law]

Under the former law, net worth requirement for FCMs was the sum of fixed amount determined by each commodity market [Article 135.1 of the former law and Article 33 of former Ministerial Ordinance].

➤ Required net worth ratio

FCMs shall calculate risks of trading for their proprietary accounts as well as for their customers' accounts. FCMs shall maintain the net worth ratio against the calculated risk value to be over 120%. [Article 211. and 2 of the Law]

Required Net Worth Ratio = Net worth amount / Risk amount

Net worth value which is used to calculate the net worth ratio shall be precisely assessed considering convertibility of assets, [Article 38.1 and 38.4 of Ministerial Ordinance]. Subordinated debt that meets a certain requirement shall also be included as net worth. [Article 38.2, 3, 5 to 11 of Ministerial Ordinance]

Risk amount is the sum of each item calculated as follows.

- A) Positions of physical delivery futures, cash settled futures and index futures contracts

- Risk amount of FCMs' own trading (proprietary position risk)
 $a * b * c * 0.03 + d * b * c * 0.15$
 a: Total number of short and long positions (gross positions)
 b: Settlement price and settlement index price of long and short positions
 c: Multiplier = trading unit / the contract price unit
 d: Absolute value of the difference between short and long positions (net positions)
- Risk amount of trading for consignors (customers positions risk)
 $[e + (0.4 * a * b * c * 0.1 + 0.6 * a * b * c * 0.1 * e / f) - g] * h$
 e: If the losses of short and/or long positions exceed the gains, the exceeding amount.
 If the losses don't exceed, then 0.
 f: The total of losses and gains of all long and short positions
 g: The amount of trading margin
 h: The ratio of each consignor category set in the table below

Consignor category		Ratio
Financial institutions	Person with rating granted by rating agencies appointed by Financial Services Agency	1.2 %
	Person without above rating	5 %
Other corporations	Person with the above rating	6 %
	Person without the above rating	25 %
Individuals		25 %

B) Positions of option contracts

- Risk amount of trading by FCMs for themselves (proprietary position risk)
 The risk amount shall be calculated by either of below formulas
- i) Risk amount by each contract month, listed commodity or listed commodity index of options trading, the risk amount = $i * j * c$
 i = Total number of long and short positions of underlying assets
 j = The amount equivalent to 18% of market value of the underlying assets
- ii) Regardless of i), the amount by categories shown in the table below.

Category	Risk amount
If trading margin is deposited in a Commodity Exchange or a Commodity Transaction Clearing Organization,	The amount of trading margin
Long positions	The premium amount of positions
Short positions in case of out-of-the-money	Amount of i) - $k * l * c$ k: The number of short positions l: The value of out-of-the-money

- Risk amount of trading for consignors (customers positions risk)
 $[e + (0.4 * a * m * c * 0.1 + 0.6 * a * m * c * 0.1 * e / f) - g] / h$
 m: Exercise price of short and/or long positions

➤ Reporting obligations

FCMs shall check their net worth ratio every business day [Article 100.6 of Ministerial Ordinance] and submit the net worth ratio report to the Competent Ministers at the end of every month. [Article 100.2 of Ministerial Ordinance]

If the net worth ratio of an FCM goes under 140%, the FCM shall immediately report to the Competent Ministers, from then on the FCM shall report its Required Net Worth Ratio every business day. [Article 100.3 of Ministerial Ordinance]

FCMs shall quarterly make their net worth ratio open to public. [Article 211.3 of the Law]

The Competent Ministers may order FCMs to change the business method of accepting consignments of commodity trading if the net worth ratio goes under 120% [Article 235.1 of the Law], the Competent Ministers may order to suspend the business of accepting consignments of commodity trading for maximum three months if the net worth goes under 100% [Article 235.2 of the Law], and the Competent Ministers may cancel the FCM's permission if the net worth ratio doesn't increase and doesn't seem to increase [Article 235.3 of the Law].

(3) Enhanced Customer Asset Segregation

➤ Definition of consignor's assets

In accordance with the amendment of margin system, the definition of consignor's asset, which shall be segregated from FCM's assets is reviewed. [Article 210 of the Law]

Funds except for the money which customers have a right of refund shall be segregated from FCM's own assets. The money which are not required for segregation are Trading Margin which is deposited with a Commodity Exchange or a Clearing Organization, Trading Margin or Customer Margin which is deposited with an FCM (in case that the FCM is an intermediary broker) Trading Margin which is granted not to deposit with a Commodity Exchange or a Clearing Organization (Cf. 1. (4)), Customer liabilities to an FCM, difference of loss or profit, etc. [Article 97.1 of Ministerial Ordinance].

➤ Protection of consignors' assets

In order to enhance customer asset segregation, method of segregation for consignor's assets is changed as follows.

- Cash in trust * [Article 98.1 (i) of Ministerial Ordinance] and bank guarantee [Article 98.1 (iii) of Ministerial Ordinance] <the same as before>
- Deposit with Consignor Protection Fund [Article 98.1 (ii) of Ministerial Ordinance] and Consignor Protection Fund Guarantee [Article 98. 1 (iv) of Ministerial Ordinance] <new>
- Bank deposit is not permitted as a method of consignors' asset segregation
* Limited to capital-safe trusts.

➤ Report of segregated account

FCMs shall submit a report of segregated account for consignor's assets to the Competent Ministers every month.* [Article 224.2 of the Law and Article 117.1 (ii) of Ministerial Ordinance]

* FCMs shall submit the report of segregated account each business day to National Futures Protection Fund. [Business rules of National Futures Protection Fund]

➤ Penalty against the violation of customer asset segregation

In case of violation of obligation of customer asset segregation, a person shall be imposed maximum 2 years imprisonment, a penal fine of up to 3 million yen, or combination of both punishments [Article 361 (1) of the Law], or the FCM shall be imposed a penal fine of up to 3 hundred million yen [Article 371(2) of the Law]. With regard to violation of obligation to report customer asset segregation status, a person shall be imposed maximum 1 year of imprisonment, a penal fine of up to three million yen, or combination of both punishments [Article 362(1) of the Law], or the FCM shall be imposed a penal fine of up to 2 hundred million yen [Article 371(3) of the Law].

(4) Code of Conduct

➤ Suitability rule

It is clearly stipulated that FCMs shall engage in his/her business of accepting consignment of commodity transactions, without conducting a solicitation that results in or might result in the lack of protecting consignors through inappropriate solicitation in light of the knowledge, experience or status of assets of a customer [Article 215 of the Law].

Customer solicitation rule is defined in a detailed manner in “Customer protection guideline of commodity futures trading” established by the Competent Ministries.

➤ Obligation of disclosure to customers

FCMs had been required to explain certain items [Article 47 of former Ministerial Ordinance]. The new law precisely regulates FCM's duty to explain risks to customers. FCMs shall explain 1. to 4. below to customers except for professional investors* [Article 217.1 of the Law]. If FCMs fail to explain 1., 2. or 3., they shall be liable for the losses of the customers [Article 217.2 of the Law].

1. Commodity futures trading system - Leverage Effect [Article 217.1(i) of the Law]
2. The risk of loss (possibility of the loss exceeding the amount of margin deposit) [Article 217.1 (ii) of the Law]
3. Matters which may influence the judgment of customers decisions [Article 217.1 (iii) of the Law]
4. Matters related to major points of consignment contract [Article 217.1 (iv) of the Law and Article 104 of Ministerial Ordinance]

* Professional investors mean Futures Commission Merchants, Qualified Institutional Investors under Securities and Exchange Law, Commodity Investment Sales Managers(Commodity Pool Operators), Commodity Investment Advisors(Commodity Trading Advisors), relevant parties provided in foreign laws and commercials. [Article 107 of Ministerial Ordinance]

➤ Prohibition of unfair solicitation [Article 214 (v)~(viii) of the Law]

In amendment, the Law prohibits unfair solicitation, which had been regulated by Ministerial Ordinance. Followings are the cases to be prohibited.

1. Soliciting a customer who has declared his/her intention of not making consignment

- of a transaction, including his/her intention of not accepting such solicitation
- 2. Soliciting in a manner which may cause trouble to a customer
- 3. Informing a customer of the trader's trade name and that the solicitation is intended for a transaction of commodity futures without confirming the customer's intention as to whether he/she will accept such solicitation
- 4. Recommending a customer to have both short and long positions of the same commodity in the same contract month in the same amount

Further, in Article 103 of Ministerial Ordinance, cross trade is clearly explained [Item 2] and false indications or indications which may cause misunderstanding are prohibited [Item 8]. To accept orders of both short and long positions of the same commodity in the same contract month in the same amount is not allowed unless the customer understands the effect of such positions [Item 9].

➤ Discretionary account trade [Article 214 (iii)]

If there are no possibilities of lack of customer protection or unfair trading, discretionary account trade is permitted. Two types of discretionary account trade are stipulated by Ministerial Ordinance.

- 1. To accept consignment of orders with discretionary power where foreign affiliated companies such as parent companies or subsidiaries entrust with the price and amount setting
- 2. To accept consignment of orders with discretionary power where non-residents entrust with the price of limited range considering the time difference

➤ Delivery duty of documents in electronic data [Article 217.2 of the Law]

Documents issued to customers prior to conclusion of a contract ("Guide of consignment") and documents issued to customers at execution of trade "Trading Reports", may be provided in electronic form if customers agree.

(5) Matters to be notified [Article 195 and 197]

When an FCM petitions for bankruptcy, commencement of reorganization proceedings, commencement of rehabilitation proceedings or commencement of cooperate reconstruction or comes to fall under Article 82 of Ministerial Ordinance, those matters shall be reported to the Competent Ministers.

If an FCM falls under any case of 1. to 5. below, he/she shall report accordingly to the Competent Ministers. If he/she falls under 1., 2. and 4. below, he/she shall notify of the occurrence of such matter within 30 days prior to the date of such occurrence, and shall immediately complete the consigned transactions and refund assets deposited by customers.

- 1. If an FCM discontinues his/her business of accepting consignment of commodity transactions,
- 2. If an FCM ceases to exist as a result of merger,
- 3. If an FCM is dissolved due to a bankruptcy,
- 4. If an FCM is dissolved due to any reason other than merger or bankruptcy,
- 5. If an FCM assigns the whole or part of his/her business of accepting consignment of commodity transactions,

- (6) Concurrent business [Article 196 of the Law] and Specified business [Article 197 of the Law]

FCMs shall report 1) Business of proprietary trading on commodity on commodity markets, 2) business of accepting consignments of commodity trading and 3) business except for concurrent business of 1) and 2), to the Competent Ministers. Therefore, the business of commercials that had not been required to notify, also shall be reported.

In accordance with amendment of Financial Futures Trading Law, foreign exchange margin trading also becomes subject to reporting. [Article 87 (ii) of Ministerial Ordinance]

- (7) Merger, Company Division and Business Assignment [Article 225 to 230 of the Law]

Any merger, company division and business assignment of FCMs may not take effect unless they are authorized by the Competent Ministers. Receiving authorization by the Competent Ministers, a firm shall be granted as an FCM, if the firm intends to continue and is assigned the business of consignment of commodity transactions.

- (8) Submission of Reports [Article 224 of the Law]

Submission of “Regular business report” (“Business report”, “Incident report”, “Month-end trial balance of balances” etc.) is stipulated in the Law, while it had been provided in Ministerial Ordinance under the former system. [Article 59 and 60 of the former Ordinance]. If an FCM violates such obligation, following punishment may be imposed; penal servitude of a period of not more than one year, or a penal fine of not more than three million yen or both [Article 362 of the Law], a penal fine of not more than 200 million yen [Article 371 (iii) of the Law].

- (9) Registration of Sales Representatives [Article 200 of the Law]

Previously registration was made subject to individual commodity markets where the Sales Representative may intermediate orders. Under the Law, the registration is unified into one for all commodity markets.

- (10) Orders to improve business operation and Supervisory Actions [Article 232 and Article 236 of the Law]

Orders to improve business operation shall be given “if the Competent Ministers determine the improvement to be necessary and appropriate for the discipline on commodity markets or for the protection of consignors”. It enables Competent Ministers to issue orders to improve business operations in varieties of inappropriate occasions in addition to orders to cease consignment business and to cancel of FCM’s permission.

Regarding conditions for supervisory actions, “if an FCM might become insolvent” is added [Article 236.1 (vii) of the Law].

Actions against violation of the order to improve business operation and the order to suspend business of accepting consignment are reinforced.

<Violation of the order to improve business operation>

Former rule: a person shall be imposed a penal fine of not more than 500 thousand yen [Article 164 of the former law]

New rule: a person shall be imposed penal servitude of a period of not more than one year, or a penal fine of not more than three million yen or both [Article 362 (xi) of the Law], or a FCM shall be imposed a penal fine of not more than two million yen [Article 371 (iii) of the Law].

<Violation of the order to suspend business of accepting consignment>

Former rule: a penal fine of not more than 500 thousand yen [Article 164 of the former law]

New rule: a person shall be imposed penal servitude of a period of not more than two years, or a penal fine of not more than three million yen or both [Article 361 (ii) of the Law], or a FCM shall be imposed a penal fine of not more than three million yen [Article 371 (ii) of the Law]

4. Consignor Protection Fund [Chapter VI]

(1) Nature of Consignor protection fund

Consignor Protection Membership Corporation is a membership type of incorporated association whose members are limited to 20 or more FCMs, founded pursuant to the requirements and procedures stipulated in Commodity Exchange Law [Article 269.4 and Article 273 ~ 276 of the Law]

Consignor Protection Fund is a Consignor Protection Membership Corporation which received the permission of Consignor Protection Business from the Competent Ministers [Article 293 ~ 297 of the Law].

All FCMs shall become a member of a Consignor Protection Fund [Article 299 of the Law].

(2) Consignor protection business [Article 269.3 of the Law]

➤ Payment of consigner assets to general (public) consigners [Article 303~307 of the Law]

Consignor protection fund shall pay a consignor up to 10 million yen for the loss (Claims to be indemnified) caused by the inability of an FCM to refund the consigner assets, if the Consignor Protection Fund receives a notice that its member applies to the following cases and recognizes that its member cannot refund consignor*¹ assets smoothly.

- Being cancelled its permission.
- Applying for bankruptcy procedure.
- Discontinuing business of accepting consignments of commodity trading
- Failing to fulfill an obligation at a commodity transaction clearing organization.
- Being ordered a suspension of business by a bill and check clearinghouse of banks [Article 15 of Government Ordinance].

*¹ General consignors who are subject to the refund exclude FCMs, qualified institutional investors prescribed in Securities and Exchange Law *², Commodity Investment Sales Managers (Commodity Pool Operator)[the Law], relevant parties

provided in foreign laws and relevant parties approved by the Competent Ministers [Ministerial Ordinance] [Article 269.1 of the Law]. However, if an FCM consigns a transaction of a general consignor to another FCM, the FCM is considered as a Consignor. [Article 269. 2]

*² Banks, insurance companies, security companies, asset management companies, government-sponsored financial institutions, etc. (Cf. Article 4 of Cabinet Order related to the definition made in Article 2 of Securities and Exchange Law.).

Payment for the claims to be indemnified is proceeded in considering the status of the FCM assets and customer asset segregation, after the Consigner Protection Fund recognizes that the smooth payment by the insolvent FCM will be difficult [Article 306.1 of the Law and Article 18 of Government Ordinance].

The payment for the claims, however, shall not be made to following persons [Article 306.2 of the Law, Article 19 of Ministerial Ordinance];

- Executives of the insolvent FCM
- Corporations affiliated with the insolvent FCM; subsidiaries and parent companies
- Customers who consign trading under another person's name or fictitious name (account of another person's name or borrowing name)
- Person designated by the Competent Ministers (executives of other FCMs who are designated if necessary)

➤ Financing of funds necessary for prompt refund to consignors (Finance for Repayments) [Article 308 of the Law]

If segregated assets include securities and it takes time for conversion into money, necessary funds may be temporally lent to ensure rapid refund.

➤ Custody and Management of consignor's assets [Article 309 of the Law and Article 138 of Ministerial Ordinance]

In order to protect consignor assets, a Consigner Protection Fund receive and manage deposit by consignors. The Consigner protection fund shall segregate and maintain the deposited consignor assets in a bank account (on condition that such deposits shall be specified as assets to be protected) or in a trust bank account.

➤ Business to contribute to smooth repayment of consignor claims [Article 310 of the Law and Article 139 of Ministerial Ordinance]

In order to assure prompt repayment of consignor claims, activities listed below (corresponding to refund of customer segregated assets under the former system) shall be conducted in addition to acceptance and management of consignor assets.

- Business as a trust administrator as to trust bank accounts
- Subrogating repayment from the Fund Deposits
- Subrogating repayment by receiving the money from banks pursuant to guaranty consignment arrangement
- Subrogating repayment based on consignment arrangement of subrogated repayment

Reports about the status of these activities shall be submitted to the Competent Ministers every month.

- Business for Protection of consignor claims at a member's default [Article 311 of the Law]

In order to protect a general consignor claims, the consignor protection fund shall conduct any judicial or extra-judicial activities as an agent of consignors, if consigned.

- Collection and management of dues [Article 314 and 315 of the Law]

In order to reserve funds for the first and second activities mentioned above, dues are imposed on the members of the Consignor Protection Membership Corporation, which is maintained and managed as Consignor Protection Fund.

(3) Finance and accounting

FCMs are required to pay dues to set up Consignor Protection Funds, which is used only for the first and second business listed in above (2) [Article 313 and 314 of the Law].

Accounting of a Consignor Protection Fund shall be made by four types of accounts; (i) "consignor protection fund" account, (ii) "assets to be protected" account, (iii) "subrogation payment for consignors" account and (iv) other general accounts which include general management fee of the Fund. [Article 140 of Ministerial Ordinance]

Consignor Protection Fund shall submit Financial documents (including budget, financial plan, business report and financial statements) to the Competent Ministers [Article 143 to 154 of Ministerial Ordinance].

5. OTC (Over the counter) Markets

(1) Deregulation regarding establishment of facilities similar to commodity markets

Under the former law, only commercial markets of unlisted commodity where commercials trade only for themselves are allowed as an exception of Article 8 of the former law prescribing no establishment of a facility similar to a commodity market. Under the Law, in addition to the commercial markets, facilities for commercials and financial institutions to trade listed and unlisted commodities for themselves are allowed. (Permission required*)

- A facility similar to a class 1 specified commodity market
Transaction of unlisted commodity [Article 332 to 341 of the Law]
- A facility similar to a class 2 specified commodity market
Transaction of listed commodities [Article 342 to 345]

* Facilities subject to permission are not allowed to employ trading method used at exchanges and are limited to employ negotiation between parties of bilateral transactions.

(2) Deregulation regarding over-the-counter commodity futures trading

Under the former law, over-the-counter commodity futures trading by commercials, aiming at net settlement using market prices of a commodity market operated by commodity exchanges is exceptionally permitted out of gambling charge. Under the amended law, however OTC commodity futures trading between OTC commodity futures dealers to the extent necessary to hedge price fluctuation risks caused by undertaking positions with commercials. [Article 349

of the Law]