

日本商品委託者保護基金

定款英訳 (2025.3)

National Futures Protection Fund

Articles of Incorporation

Disclaimer:

This English translation of the Article of Incorporation of the National Futures Protection Fund is provided for the information purpose only. National Futures Protection Fund assumes no responsibility for any errors or omissions in its English language text. Accordingly, all questions that may arise in regard to the meaning of the words, provisions and stipulations thereof shall be decided in accordance with the official Japanese language text.

(translator's note)

In 2019, English translation of Japanese main Laws, including the Commodity Futures Trading Act ("the Act") and the Financial Instruments and Exchange Act ("the FIE Act"), started to be publicized by the Government, and terms in this translation of the Article of Incorporation and the Operating Rules of the Fund basically conform to the terms of the governmental translation as possible, but some of the terms are not.

1. Some basic terms such as "FCMs" (futures commission merchants), "customers" and "commodity trade" were the terms used in the original translation of the Article of Incorporation and the Operating Rules, which were made just after the establishment of the Fund in 2005. The English terms used there were adopted from the terms used in the Chicago Board of Trade, U. S. A., because the English translations of Japanese Laws were not available then. And now these terms are regarded preferable to be retained unchanged, in light of consistency with traditional business practice of the Fund.
2. Originally the Articles of Incorporation and the Operating Rules of the Fund were solely based on "the Act" and related legislation, but after the financial policy reform in 2013, legal terms from two different sources, "the Act" of commodity field and "the FIE Act" of financial field, with related legislation of each, became co-existing in the Fund's Articles of Incorporation and the Operating Rules. The detail is as follows.

In the year 2013, the amendment of the FIE Act came into effect, which enabled Financial Instruments Exchanges under the FIE Act to deal with transactions of commodity futures (formerly traded only on the Commodity Exchanges under the Act) together with other financial instruments such as stocks and securities. And this reform caused such a situation that commodity futures are traded on both the

Commodity Exchanges and the Financial Instruments Exchanges (which are commonly called the General Exchanges). As the principle of the reform was to apply equivalent rules of customer protection as possible for commodity trades on both exchange systems, then virtually same rules of customer protection were stipulated in the Act and the FIE Act with each peculiar terms. And National Futures Protection Fund became tasked with customer protection for commodity futures traded on both Exchanges.

This complicated situation entailed a wide range of mixture of legal terms derived from the two different fields when the Fund revised its Article of Incorporation and Operating Rules to adjust to the new systems.

For example, the Act uses the terms “segregation” and the FIE Act uses the term “separate management” for the objects of almost same meaning. In many parts of the Articles of Incorporation and the Operating Rules of the Fund, terms from both legal sources appear in parallel contexts, if such complicated texts are literally translated into English, the result may be rules too difficult to be understood.

Under such circumstance, in order to avoid complication, this English translation is made under the following principle.

When a Japanese text brings two different words of almost the same meaning (from commodity field and financial field), and if the word from commodity field is translated into English word such as “segregation”, the other word from financial field shall be translated into the same English word with a prefix “S-” on the head, creating a word such as “S-segregation”. Thus, for example, if such words “segregation” and “S-segregation” appear in the English text, the former means “segregation made under the Act or related legislation, while the latter means “the equivalent of segregation made under the FIE Act or FIE-related legislation”.

## Table of Contents

Chapter 1:	General Rules (Article 1~5).
Chapter 2:	Membership (Article 6~23)
Section 1.	Enrollment and Withdrawal etc.
Section 2:	Members' Obligation
Section 3:	Audit and Sanctions
Chapter 3:	General Meeting (Article 24~30)
Chapter 4:	Officers and Board of Directors (Article 31~42)
Section 1.	Officers
Section 2.	Board of Directors
Chapter 5:	Steering Council and Committees (Article 43~53)
Section 1.	Steering Council
Section 2.	Committees
Chapter 6:	Operations and its Execution (Article 54~56)
Chapter 6-2:	S-Operations and its Execution (Article 56-2~56-4)
Chapter 7:	Finance and Accounting (Article 57~65)
Chapter 8:	Secretariat Division (Article 66)
Chapter 9:	Dissolution (Article 67~69)
Chapter 10:	Miscellaneous Provisions (Article 70~74)
Supplementary Provisions	

## Chapter 1: General Rules

### Article 1. (Name of the Corporate Body)

1. The name of this corporate body (hereinafter referred to as “the Fund”) shall be “Nihon Shohin Itakusha Hogo Kikin”.
2. The name of the Fund in English shall be “the National Futures Protection Fund”.

### Article 2. (Purpose)

1. The purpose of the Fund shall be to protect customers by implementing general customer payment and other business according to the stipulation of Article 306, Paragraph 1 of the Commodity Futures Trading Act\* (Act No.239 of 1950; hereinafter referred to as “the Act”), thereby securing the trustworthiness toward commodity market.

(translator’s note)

\*Commodity Derivatives Transaction Act (Japanese Law Translation: JLT)

2. The Fund shall also fulfill the purpose in addition to that prescribed in the preceding paragraph, for the time being, to protect investors by implementing S-general customer payment and other specific operations (meaning specific operations stipulated in Article 4, Paragraph 1 of supplementary provisions of the Amending Act of the Financial Instruments and Exchange Act (Act No. 86 of 2012; hereinafter referred to as “the FIE Amending Act”); hereinafter referred to as “S-operations”) in accordance with Article 79-56, Paragraph 1 of the Financial Instruments and Exchange Act (Act No. 25 of 1948, hereinafter referred to as “the FIE Act”) applied under Article 4, Paragraph 1 of supplementary provisions of the FIE Amending Act, thereby securing the trustworthiness toward commodity-related market derivatives transactions.

### Article 3. (Governing Law)

The Fund shall be a corporate body authorized for its establishment pursuant to Article 279, Paragraph 1 of the Act.

### Article 4. (Offices)

The office of the Fund shall be set up at Chuo-Ward, Tokyo, and branch offices may be set up in the required places subject to decision of the Board of Directors.

### Article 5. (Terminology)

The terminology used in this Articles of Incorporation, besides those specifically defined in this Articles of Incorporation, conforms with the terms used in the Act, the Enforcement

Order of the Commodity Futures Trading Act (Cabinet Order No. 280 of 1950; hereinafter referred to as “the Cabinet Order”), and the Enforcement Ordinance of the Commodity Futures Trading Act (Ministerial Ordinance No. 3 of 2005 of Ministry of Agriculture, Forestry and Fisheries and Ministry of Economy, Trade and Industry; hereinafter referred to as “the Ordinance”), as well as in the FIE Act, the Enforcement Order of the Financial Instruments and Exchange Act (Cabinet Order No.321 of 1965; hereinafter referred to as “the FIE Enforcement Cabinet Order”), the Cabinet Office Ordinance on Financial Instruments Business (Cabinet Office Ordinance No. 52 of 2007; hereinafter referred to as “ the FIB Ordinance”) and the Ordinance on Investors Protection Funds (Ordinance of the Ministry of Finance No. 125 of 1998; hereinafter referred to as “the IPF Ordinance”).

Chapter 2:            Membership

Section 1.           Enrollment and Withdrawal etc.

Article 6.        (Membership Qualifications)

1. Futures commission merchants\* (limited to those who do business prescribed in Article 2, Paragraph 22, Item 1 or Item 2 of the Act, in the offices or branches of domestic location; hereinafter referred to as “FCMs”) may be enrolled and obtain membership in the Fund.  
(translator’s note) \* Act § 2②③ commodity derivatives business operator
2. Nobody other than FCMs may be enrolled in the Fund.

Article 7.            (Enrollment of Members)

1. The enrollment shall require submission of the application for enrollment to the Fund and the Fund’s approval.
2. The application under the preceding paragraph shall be submitted with the following documents.
  - (1) following documents for the applicants mentioned below
    - a. applicants who intend to do business of commodity trading brokerage by obtaining permission under Article 190, Paragraph 1 of the Act (limited to those who intend to do business prescribed in Article 2, Paragraph 22, Item 1 or Item 2 of the Act in the offices or branches of domestic location); A copy of the application for permission and attached documents pertaining to it
    - b. applicants (other than members of other customer protection fund) who intend to do business prescribed in Article2, Paragraph 22, Item 1 or Item 2 of the Act by submitting notifications (limited to those pertaining to Article 192, Paragraph1, Item 5 of the Act, the same shall apply hereinafter) under Article 195, Paragraph 1, Item 1 of the Act; A

- copy of the written notification and attached documents pertaining to it
- c. applicants who intend to withdraw from other customer protection fund upon approval of the competent minister, under Article 277, Paragraph 2, Item 3 of the Act; A copy of the application for approval and attached documents pertaining to it
- (2) articles of incorporation
  - (3) a certificate of the registered items
  - (4) copies of directors' residence certificates or substitutive documents, and their personal history statements
  - (5) the financial statements and business reports and annexed detailed statements accompanying them stipulated in Article 435, Paragraph 2 of the Corporate Law (Law No. 86 of 2005) of the immediately preceding business year
  - (6) the record of examination on the net assets, prepared within 30 days of the application date, according to the calculation method stipulated in Article 99, Paragraph 7 of the Act
  - (7) other documents the Board of Directors deems necessary
3. The application for the Fund membership stipulated in Paragraph 1 above shall be submitted prior to the application for a license in accordance with Article 190, Paragraph 1 of the Act, or notification in accordance with Article 195, Paragraph 1, Item 1 of the Act, or application for approval in accordance with Article 277, Paragraph 2, Item 3 of the Act.
  4. The Fund shall confirm that the applicant who intends to withdraw from other customer protection fund prior to the enrolment, has paid all liabilities and is certain to fulfill its obligations against the other customer protection fund, and has properly preserved the customer property.
  5. The approval stated in Paragraph 1 above shall be given by the decision of the Board of Directors.
  6. When the Fund examines an application for enrollment pursuant to Paragraph 1 above, it shall not disapprove the application or approve it with unreasonable conditions, unless it has any just cause.
  7. The applicants who obtained approval according to the stipulation of Paragraph 1 above shall become members of the Fund when;
    - (1) the applicant obtains license stipulated in Article 190, Paragraph 1 of the Act, or
    - (2) the notification by the applicant according to Article 195, Paragraph 1, Item 1 of the Act is accepted, or
    - (3) the applicant obtains approval in accordance with Article 277, Paragraph 2, Item 3 of the Act.
  8. In the event that a new member enrolled in the Fund, the Fund shall notify the other members thereof.

Article 7-2 ( Becoming an S-Member)

1. An FCM falling under all of the following items shall be eligible for the status of an S-member (meaning such a member of the Fund that Article 4, Paragraph 1 of supplementary provisions of the FIE Amending Act is applied on its customer property stipulated in Article 79-49, Paragraph 4 of the FIE Act; the same applies hereinafter), and if it seeks to become an S-member of the Fund, it shall submit an application form for S-member to the Fund and be approved thereof by the Fund.

(1) the FCM was an actual member of the Fund at the date of enforcement of the FIE Amending Act (11 March, 2014), and

(2) after the said enforcement date, the FCM was registered to do commodity derivatives transaction-related business under Article 29 of the FIE Act, or was registered to change the said business under Article 31, Paragraph 4 of the FIE Act

(translator's note)

In order to avoid complication in explanation of the eligibility for an S-member, two items were created under Paragraph 1 to prescribe the conditions of an FCM eligible for an S-member.

2. The application for S-member prescribed in the preceding paragraph shall be submitted with the following documents.

(1) following documents corresponding to the category of the applicants.

a. applicants intending to do S-commodity trade\* upon obtaining registration under Article 29 of the FIE Act;

A copy of the application for registration and attached documents pertaining to it

b. applicants intending to do S-commodity trade upon obtaining registration of a change under Article 31, Paragraph 4 of the FIE Act;

A copy of the application for registration of a change and attached documents pertaining to it

(translator's note)

\*S-commodity trade: FIE Act § 79-21 ① commodity derivatives transaction-related business

(2) Other documents the Board of Directors deems necessary

3. An applicant for S-member shall submit the application form prescribed in Paragraph 1 above at the same time it submits application for registration to do S-commodity trade under Article 29 of the FIE Act or registration of a change under Article 31, Paragraph 4 of the FIE Act.

4. The approval stated in Paragraph 1 above shall be given by decision of the Board of Directors.

5. The Fund shall not disapprove the application or approve it with unreasonable conditions,

pursuant to Paragraph 1 above, unless it has any just cause.

6. The applicant who obtained approval according to Paragraph 1 above shall become an S-member of the Fund when
  - a. the applicant obtains registration under Article 29 of the FIE Act, or
  - b. the applicant obtains registration of change under Article 31, Paragraph 4 of the FIE Act
7. In the event that an FCM became an S-member, the Fund shall notify the other members thereof.

#### Article 8. (Withdrawal of Member)

1. A member shall withdraw from the Fund according to the following reasons.
  - (1) the cancellation of permission prescribed in Article 190, Paragraph 1 of the Act, according to Article 235, Paragraph 3 or Article 236, Paragraph 1 of the Act. (In the case of an S-member, in addition to the cancellation of permission stated above, loss of S-member status (meaning loss of status of S-member pursuant to Article 79-28, Paragraph 3 of the FIE Act applied mutatis mutandis under Article 4, Paragraph 5 of the FIE Amending Act, hereinafter the same applies in this article.))
  - (2) the invalidation of permission prescribed in Article 190, Paragraph 1 of the Act, according to Article 190, Paragraph 2 or Article 197, Paragraph 2 of the Act. (In the case of an S-member, in addition to the invalidation of permission stated above, loss of S-member status)
2. A member shall not withdraw from the Fund, except when it
  - (1) has the reasons mentioned in each item of the preceding paragraph, or
  - (2) submits a notification prescribed in Article 195, Paragraph 1, Item 2 of the Act (In the case of an S-member, submits the notification and lose its S-member status), or
  - (3) enrolls in another customer protection fund under permission by the competent minister.
3. The member who withdrew from the Fund in accordance with Item 1 or Item 2 of the preceding paragraph shall still be regarded as a Fund member in relation to application of Articles from 302 through 311 of the Act.
4. Even when a member withdrew from the Fund (except when it withdrew in accordance with Paragraph 1 above), it shall still pay the amount estimated by the Fund in accordance with the Operating Rules, as obligation fee the withdrawn member should pay for the operational cost the Fund incurred before the date the member withdrew from the Fund, due to the operation (limited to the operations stipulated in Article 306, Paragraph 1 and Article 308, Paragraph 1 of the Act, and Article 79-56, Paragraph 1 and Article 79-59, Paragraph 1 of the FIE Act) done for the S-member on whom the Fund received a notification under Article



- 79-53, Paragraph 1 or 3 through 5 of the FIE Act, and for the member who fell under either category of items in Article 303, Paragraph 1 or items in Article 303, Paragraph 3 of the Act.
5. The member who intends to withdraw from the Fund pursuant to Article 277, Paragraph 2, Item 3 of the Act, shall notify in advance the Fund of its intention and shall obtain the Fund's confirmation that it has paid all liabilities to the Fund, that it is considered certain to fulfill the obligations stipulated in the preceding paragraph, and that it has properly preserved the customer property.
  6. The confirmation prescribed in the preceding paragraph shall be subject to decision of the Board of Directors. The Fund shall notify the member concerned of the consequences.
  7. In the event that a member withdrew from the Fund, the Fund shall notify the other members thereof.

#### Article 8-2 (Loss of S-Member Status)

1. An S-member shall naturally lose its status of S-member for the following reasons.
  - (1) discontinuation of financial instruments business (this includes registration of a change under Article 31, Paragraph 4 of the FIE Act indicating to stop conducting S-commodity trade, and if the S-member is a foreign corporation, also includes the corporation's discontinuation of financial instruments business at all the business offices and offices it has established in Japan), or the dissolution of the S-member (if the S-member is a foreign corporation, this includes the commencement of liquidation at a business office or offices it has established in Japan)
  - (2) cancellation of the registration under Article 29 of the FIE Act, pursuant to Act 52, Paragraph 1 or 4, Article 53, Paragraph 3, Article 54, or Article 57-6, Paragraph 3 of the FIE Act.
2. An S-member shall not lose its status of S-member except when it;
  - (1) falls under either of the items of the preceding paragraph.
  - (2) withdraws from the Fund.
  - (3) enrolls in an investor protection fund (limited to a fund whose articles of incorporation do not include the provisions prescribed in Article 79-49, Paragraph 2 of the FIE Act) upon approval of the Commissioner of the Financial Services Agency and the Minister of Finance, or is deemed to do business dealing with the customer's assets stipulated in Article 79-49, Paragraph 4 of the FIE Act under the investor protection fund of which it is already a member (limited to a fund whose articles of incorporation do not include the provisions prescribed in Article 79-49, Paragraph 2 and 4 of the FIE Act).
3. In the case of Item 1 of the preceding paragraph, the S-member who lost the status of S-member is still regarded as an S-member, in application of Article 79-52 through 79-61 applied under Article 4, Paragraph 1 of supplementary provisions of the FIE Amending Act.

4. An S-member who intends to lose the S-member status pursuant to Article 79-28, Paragraph 3 of the FIE Act to be applied mutatis mutandis under Article 4, Paragraph 5 of the supplementary provisions of the FIE Amending Act shall notify in advance to the Fund of its intention, and obtain the Fund's confirmation that it has paid all liabilities to the Fund, that it is considered certainly to fulfill the obligations stipulated in Paragraph 4 of the preceding Article, and that it has properly preserved the S-customers' property.
5. The confirmation prescribed in the preceding paragraph, shall be subject to decision of the Board of Directors. The Fund shall notify the S-member concerned of the consequences.
6. In the event that an S-member lost S-member status, the Fund shall notify the other members thereof.

## Section 2:           Members' Obligation

### Article 9.           (Enrolment Fees and Membership Fees)

1. A Member shall pay an enrolment fee to the Fund on its enrolment according to the rules determined by the general meeting.
2. A Member shall pay an annual membership fee to the Fund according to the rules determined by the general meeting.
3. The paid enrolment fees and membership fees shall not be returned for any reason.

### Article 10.   (Obligation Fee)

1. A Member shall pay an obligation fee to the Fund for providing money to the fund for customer protection stipulated in Article 60, Paragraph 1, as stipulated in the Operating Rules.
2. The Fund may exempt obligation fee imposition from an FCM subject to notice (meaning an FCM subject to notice stipulated in Article 303, Paragraph 1 or 3 of the Act, the same shall apply hereinafter) and from an FIB operator subject to notice (meaning an FIB operator subject to notice stipulated in Article 79-53, Paragraph 1 or Paragraph 3 through 5 of the FIE Act applied under Article 4, Paragraph 1 of supplementary provisions of the FIE Amending Act, the same applies hereinafter) despite of the stipulation in the preceding paragraph, as prescribed in the Operating Rules.

(translators note) FIB operator: FIE Act § 31 ① financial instrument business operator

3. The paid obligation fees shall not be returned for any reason.

### Article 11.           (Exemption of Obligation)

Members are exempted from obligation to the Fund after withdrawal from the Fund under Article 8, Paragraph 1 or Paragraph 2.       However, unfulfilled obligation shall not be

exempted.

Article 12. (Notification to the Fund)

1. When a member fell under either category of items in Article 303, Paragraph 1 of the Act or Article 28 of the Operating Rules, it shall immediately notify to the Fund thereof.
2. When the Fund received notification in accordance with the preceding Paragraph, it shall immediately report to the competent minister thereof.
3. When a member fell under the cases the Fund separately specifies, it shall, in addition to the notification under Paragraph 1 above, without delay report to the Fund thereof.

Article 12-2 (S-member's Notification to the Fund)

1. When an S-member fell under either category of items in Article 79-53, Paragraph 1 of the FIE Act applied under Article 4, Paragraph 1 of supplementary provisions of the FIE Amending Act or Article 28-2 of the Operating Rules, it shall immediately notify to the Fund thereof.
2. When the Fund received notification in accordance with the preceding Paragraph, it shall immediately report to the Commissioner of Financial Services Agency and Minister of Finance thereof.
3. When an S-member fell under the cases the Fund separately specifies, it shall, in addition to the notification under Paragraph 1 above, without delay report to the Fund thereof.

Article 12-3 (S-member's Petition to Commence Bankruptcy Proceedings)

1. If an S-member is likely to be in the state of inability to pay debts or insolvency and there is an indication of risk of interference with the S-member's smooth return of S-customer assets, the Fund may request the S-member to file a petition to commence bankruptcy proceedings.
2. If an S-member receives the request under the preceding Paragraph and is in the state of inability to pay debts or insolvency, the S-member shall immediately file a petition to commence bankruptcy proceedings, provided, however, that this shall not apply if the S-member files a petition to commence rehabilitation proceedings, reorganization proceedings or special liquidation instead of filing a petition to commence bankruptcy proceedings or otherwise has legitimate reasons.
3. If a S-member files any petition as provided in the preceding Paragraph, the S-member must immediately notify the Fund thereof pursuant to the provisions of Paragraph 1 of the preceding Article.

Article 13. (Notification and Reporting)

1. If a Member changed its business name (including appellation, the same applies hereinafter), address, representative person or other items the Fund separately specifies, it shall without

delay report to the Fund thereof.

2. A member shall designate a representative person who is authorized to exercise its right as a member (hereinafter referred to as “member representative”) and in advance notify the Fund thereof. The same shall apply to alteration of the representative person.
3. If a members received a legal order or any other legal action or recommendation from an administrative authority under the Act (in the case of a S-member, the Act or the FIE Act) or other legislation separately specified by the Fund, it shall without delay notify the Fund thereof.
4. If a member fell under any of the following items, it shall without delay notify the Fund thereof.
  - (1) the member received seizure for tax delinquency by the tax authorities, or received seizure, provisional disposition or other provisional order by the court
  - (2) the member dishonored a bill or a check
5. If a member starts, ends or changes the operations of agency business or clearing agency business, it shall without delay notify the Fund thereof, as separately provided by the Fund. The Same applies to a member starting, ending or changing the operations of agency entrusted business or clearing agency entrusted business.
6. When a member intends to conclude an agency contract (meaning a contract of agency for commodity trading brokerage operation with another member (in the case of a S-member, for commodity trading brokerage operation or commodity-related market derivatives transaction brokerage operation with another S-member); the same applies hereinafter), it shall also conclude a contract between the contracting parties of the agency contracts and the Fund, stipulating that they may entrust the Fund with the refunding operation of customer assets (in the case of a S-member, customer assets or S-customer assets).
7. When a member intends to cancel the agency contract under preceding paragraph, it shall in advance report to the Fund thereof and consult with the Fund about how to manage the contract.

### Section 3:                      Audit and Sanctions

#### Article 14.    (Compliance)

Members shall observe the Act (in the case of S-members, the Act and the FIE Act), the Cabinet Order(in the case of S-members, the Cabinet Order and the FIE Enforcement Cabinet Order), the Ordinance (in the case of S-members, the Ordinance and the FIB Ordinance) , the Articles of Incorporation, the Operating Rules, other stipulations of the Fund and resolutions the general meeting and the Board of Directors determined (hereinafter referred to as “Acts and other rules”).

#### Article 15.    (Audit)

1. The Fund may conduct a paper audit or an on-site audit of a Fund member whenever necessary for achieving the purposes of the Fund including for preservation of customer property (in the case of an S-member, customer property or S-customer property).
2. When the Fund conducts a paper audit, it shall do it by requesting the member to submit relevant reports or documents concerning the members' business operations, assets or financial situation and requesting explanation of the reports or documents. The audited member shall comply with the Fund's requests.
3. The on-site audit shall be conducted for confirming the state of the member's compliance on Acts and other rules and the principle of faith and trust, as well as the status of member's business operations, assets or financial conditions. When the Fund conducts an on-site audit, it shall have its employees appointed by the President (hereinafter referred to as "auditor staff") enter the member's office and request the member to show, to provide for inspection, or to submit accounting books, documents and other objects, and require explanation of details of the materials. The audited member shall comply with the Fund's requests.
4. When the auditor staff conducts an on-sight audit, it shall carry a certificate of auditor staff in the style specified by the Fund, and show it to those concerned.
5. In the case that the auditor staff needs to keep valuables or other materials submitted by the member, the auditor staff shall hand to the member a custody certificate in the form specified by the Fund.
6. The Fund may request the financial institution mentioned below, without consent of the member, to submit a balance certificate concerning the member's segregation of the customer property (in the case of an S-member, including S-segregation of the S-customer property) or other relevant documents, or the state of conclusion of the trust agreement or the guarantee agreement.
  - (1) a trust company or a financial institution engaged in trust business with whom the member holds a trust agreement under Article 98, Paragraph 1, Item 1 of the Ordinance (in the case of an S-member, including a trust company or a financial institution engaged in trust business with whom the S-member holds a trust agreement under Article 2, paragraph 1, Item 1 of supplementary provisions of the Amending Ordinance of the FIB Ordinance (hereinafter referred to as "the FIB Amending Ordinance"))
  - (2) a financial institution engaged in guarantee business with whom the member holds a guarantee agreement prescribed in Article 98, Paragraph 1, Item 3 of the Ordinance (in the case of an S-member, including a financial institution engaged in guarantee business with whom the S-member holds a guarantee agreement prescribed in Article 2, Paragraph 1, Item 3 of supplementary provisions of the FIB Amending Ordinance)

(translator's note)

In order to avoid complication in explanation of the institutions to which the Fund may request submission of documents, two items were created under Paragraph 6 to prescribe the conditions of the institution.

7. The Fund may, if particularly needed, request a corporation dominated by the member stipulated in Article 196, Paragraph 2 of the Act (hereinafter referred to as “subsidiary”), to submit reports or documents that should serve as a reference with regard to the state of business, assets or financial condition of the member or the subsidiary. (In the case of an S-member, the Fund may request the S-member’s subsidiary, parent corporation, etc. prescribed in Article 31-4, Paragraph 3 of the FIE Act, subsidiary corporation, etc. prescribed in Paragraph 4 of the same article, holding company prescribed in Article 29-4, Paragraph 3 of the FIE Act, or associated company prescribed in Article 177, Paragraph 6 of the FIB Ordinance (hereinafter referred to as “S-related parties”) to submit reports or documents that should serve as a reference with regard to the state of business, assets or financial condition of the S-member, S-member’s subsidiary or S-related parties.) The member shall cooperate with the Fund on the request.
8. The Fund may request a member, if considers necessary, to submit an audit certification issued by a certified public accountant or an audit corporation to disclose the member’s state of assets and financial condition.
9. The necessary matters in conducting audit are stipulated separately.

Article 16. (Instructions for Improvement)

1. The Fund may instruct a member to take necessary measures to improve the business operations and the status of assets or financial conditions, setting the time limit, in the case that the member’s business operations and state of assets or financial conditions fall under either of the following items, when the Fund considers it necessary and proper for protecting customers.
  - (1) in the case that the ratio of property preserved by segregation etc. in total customer property has decreased or likely decreases to the level below 100 per cent
  - (2) in the case that the net assets regulation ratio has decreased or likely decreases to the level less than 140 %
  - (3) in the case that the total liabilities amount has exceeded 50 times as large as net assets
  - (4) in the case that the total amount of current assets has decreased to the level less than the amount of current liabilities
  - (5) in the case that the amount of net assets has decreased to the level less than JPY 100 million, or less than the amount of capital or total amount of contribution
  - (6) in the case that in the commodity market, the member’s assets have been impaired or

are likely impaired, due to the excessive volume of open trading on the member's own account (including the contracted trading commissioned to other FCMs, or trading on the own account of the member's subsidiary) compared with the open trading on customers' accounts

- (7) in the case that the member's customers frequently bring complaints or disputes against the member, and that is found to be caused by impairment of the member's status of its assets
  - (8) in the case that the member's concurrent business (prescribed in Article 196, Paragraph 1 of the Act), or subsidiary's operations do or might impair the member's status of its assets
  - (9) in the case that the amount of member's overseas assets is excessive, which does or might impair the status of its assets
  - (10) in the case that the status of the member's assets or the financial conditions is unsound, or the operations of its business is improper, beside the cases stipulated in the items above
2. A member shall, upon receiving instructions mentioned in the preceding paragraph, take necessary measures to improve and report the consequences to the Fund.

Article 16-2. (Instructions for Improvement of a S-member)

1. The Fund may instruct an S-member to take necessary measures to improve the business operations and the status of assets or financial conditions, setting the time limit, in the case that the S-member's business operations and status of assets or financial conditions fall under either of the following items, and the Fund considers it necessary and proper for protecting S-customers.
- (1) in the case that the ratio of property preserved by S-segregation and other measures in total S-customer property has decreased or likely decreases to the level below 100 per cent
  - (2) in the case that the capital adequacy ratio has decreased or likely decreases to the level less than 140 %
  - (3) in the case that the amount of the capital, the total amount of contribution or the amount of net assets has decreased to the level under JPY 50 million
  - (4) in the case that in the S-commodity trade, S-member's assets have been impaired or are likely impaired, due to excessive volume of open trading the S-member holds on its own account (including volume of trading commissioned to other FCMs, or trading on the own account of the S-member's S-related parties) compared with the open trading holding on S-customers' accounts
  - (5) in the case that the S-member's S-customers frequently bring complaints or disputes

- against the S-member, and that is deemed to have been caused by impairment of the S-member's status of its assets
- (6) in the case that the S-member's S- related parties' operations have caused or likely cause impairment of the S-member's status of its assets
- (7) in the case that the amount of S-member's overseas assets is excessive, which has caused or likely causes impairment of the S-member's status of its assets
- (8) beside the cases stipulated in the items above, in the case that the status of the S-member's assets or the financial conditions is unsound, or the operations of its business is improper
- 2. The S-member shall, upon receiving instructions stipulated in the preceding paragraph, take necessary measures to improve and report the consequences to the Fund.

#### Article 17. (Sanctions Against Members)

1. The Fund may impose sanctions against the members whose conduct is found to come under either of the following items.
  - (1) in the case that a member is found to have been enrolled in the Fund by unauthorized manners (including the case that an S-member is found to have acquired the status of an S-member by unauthorized manners)
  - (2) in the case of violation of the Act or other rules and regulations
  - (3) in the case that a member does not deliver, pay or deposit cash or other property as obliged by the Fund
  - (4) in the case that a member's conduct is against the trading principle of faith and trust and impairs credit of the Fund or the member
  - (5) in the case that a member fails to notify, explain, report or submit documents, or falsely notify, explain, report or submit documents, as stipulated in the Articles of Incorporation, the Operating Rules and other stipulation of the Fund
  - (6) in the case that a member rejects, interferes in, or evades the audit stipulated in Article 15
  - (7) in the case that a member disobeys the instructions stipulated in Article 16, Paragraph 1 (in the case of a S-member, the same paragraph or Paragraph 1 of the preceding article)
2. The sanctions stipulated in the preceding paragraph include a reprimand, imposition of penalty money or guarantee money, and suspension of or restriction on member's right including voting power.
3. The guarantee money stipulated in the preceding paragraph is defined as the money which is deposited with the Fund by a member for the period specified by the Fund, which the



Fund acquires in the case that a member's conduct comes under the following items during the period, and returns to the member in the case that its conduct does not during the period.

(1) in the case that sanctions are imposed again

(2) in the case that the member becomes an FCM subject to notice (limited to the case that the Fund implements the general customer payment stipulated in Article 3, Paragraph 1 of the Operating Rules, or the Fund subrogation payment stipulated in Article 35, Paragraph 1.)

(3) in the case of a S-member, the S-member becomes an FIB operator subject to notice (limited to the case that the Fund implements the S-general customer payment stipulated in Article 5-2, Paragraph 1 of the Operating Rules, or the Fund subrogation payment stipulated in Article 35, Paragraph 1.)

(translator's note)

The original Item 2 was divided into Item 2 and Item 3, the latter prescribing the case of S-member.

4. In the cases stipulated in Item 2 or item 3 of the preceding Paragraph, the guarantee money deposited by the FCM subject to notice or the FIB operator subject to notice shall be acquired by the Fund when the Fund implements general customer payment or S-general customer payment, or Fund subrogation payment, but shall be returned to the member or the S-member if the Fund decides to do neither general customer payment, S-general customer payment nor Fund subrogation payment.
5. The amount of penalty money or guarantee money stipulated in the preceding Paragraph 2 shall not exceed JPY 100 million.
6. The interest or other legal fruits accrued from the guarantee money stipulated in Paragraph 2 above shall belong to the Fund.
7. A member may not be exempt from the responsibility stated in either of the items in Paragraph 1 above because the member's conduct is attributed to its employees.
8. Penalty and guarantee money may be imposed concurrently with the suspension or restriction of membership right as the sanctions stated in Paragraph 1 above.
9. A member shall fulfill all the obligations it owes as a member even during the period of suspension or restriction of membership right under Paragraph 1 above.

#### Article 18. (Discipline Committee)

1. The Fund shall establish a Discipline Committee.
2. The sanctions against members are discussed and determined by the Discipline Committee.
3. The matters concerning organization and operation of the Discipline Committee shall be

stipulated in the Rules of Discipline Committee.

Article 19. (Deliberation and Determination)

1. The sanctions to be imposed against a member by the Fund according to Article 17, Paragraph 1 shall be deliberated in the Discipline Committee.
2. When the Discipline Committee, after deliberation under the previous paragraph, deems it appropriate to impose sanctions on a member, it shall take the following measures according to classification of sanctions it determined in the deliberation.
  - (1) if the Discipline Committee recognizes it appropriate to impose reprimand, penalty money or guarantee money, the Discipline Committee shall determine the sanctions and request the President of the Fund to execute them
  - (2) if the Discipline Committee recognizes it appropriate to impose suspension or restriction of a member's right, the Discipline Committee shall request to the President of the Fund to have the Board of Directors deliberate the sanctions
3. The meeting of Board of Directors held according to the Item 2 of the preceding paragraph shall deliberate the sanctions, and if it recognizes it appropriate to impose the sanctions against the member, it shall determine the sanctions and request the the President of the Fund to execute them.
4. The President of the Fund shall execute the sanctions without delay upon receiving the request according to the Paragraph 2, Item 1 or according to the preceding paragraph.

Article 20. (Opportunity for Explanation)

1. When the Fund deliberate imposition of sanction under Paragraph 1 or 3 of the preceding article, it shall in advance notify the member concerned thereof, and shall grant the member the opportunity for explanation, allowing the member or its agent attend the meeting of the Discipline Committee or the Board of Directors in which the sanctions are to be discussed.
2. Notwithstanding the previous paragraph, in the case that the member or its agent does not use the opportunity to attend the meeting of the Discipline Committee or the Board of Directors without due reasons, the Fund may decide the sanctions without attendance of them.

Article 21. (Notification and Publication of Sanctions)

1. In the case that sanctions against a member were decided or resolved according to Article 19, Paragraph 2, Item 1 or Article 19, Paragraph 3, the Fund shall without delay issue a written notification with reasons to the member concerned.
2. In the case that sanctions against a member were decided or resolved according to Article 19, Paragraph 2, Item 1 or Article 19, Paragraph 3, the Fund shall without delay publicize

the name or trade name of the member, classification and reasons of the sanctions by posting on the board at the posting site of the Fund or by other procedures.

3. In the case that the member concerned filed an opposition under Paragraph 1 or Paragraph 4 of the following article, the publication under preceding paragraph shall be suspended until re-examination is concluded on the propriety and the details of the sanction. However, if the member concerned submits a report to the Fund saying that it has no intention to file an opposition under Paragraph 1 or 4 of the following Article, the Fund shall treat the sanction as decided and make the publication according to the preceding paragraph.

#### Article 22. (Filing of an Opposition)

1. A member may file with the Fund an opposition in writing to the sanction imposed on the member, if it has an objection to the sanction within ten days from the day of receiving the notification stipulated in the Paragraph 1 of the preceding Article, only when the case falls under any of the following items.
  - (1) in the case that any facts or evidence that were not evident at the time of decision or resolution of the sanction were found afterward, and they may have significant influence on the decision or resolution
  - (2) in the case that defects are found on the procedure of the decision or resolution for the sanctions
2. In the case that the Fund received an objection filed under the preceding paragraph, it shall re-examine the matter in the Discipline Committee for the case of reprimand or imposition of penalty money or guarantee money, or in the Board of Directors for the case of suspension or restriction of member's right, and shall newly decide or resolve propriety and details of the sanction.
3. The stipulation of paragraph 1 of the preceding article shall be applied mutatis mutandis in the case that the Fund newly decides or resolves the sanctions against the member according to the preceding paragraph.
4. The stipulations of the Paragraph 1 and 2 above and Paragraph 1 of the preceding article shall be applied mutatis mutandis in the case that a member has objections to the sanctions decided or resolved according to Paragraph 2 of this article. In this case, "the date when the notification is received according to Article 20, Paragraph 1" shall be read as "the date when the notification is received according to Article 20, Paragraph 1 applied mutatis mutandis as stipulated in the preceding paragraph", "Discipline Committee" shall be read as "Board of Directors", "Board of Directors" shall be read as "General Meeting", and "decided or resolved" shall be read as "resolved".

#### Article 23. (Violations of Trading Principle of Faith and Trust)

Violations of trading principle of faith and trust as stipulated in Article 17, Paragraph 1, Item 4 shall mean the acts specified below.

- (1) failure to protect customers (in the case of a S-member, failure to protect customers or S-customers)
- (2) lack of trustworthiness
- (3) doing transactions or commission of fraudulence
- (4) doing transactions or commission of inattention or negligence

### Chapter 3: General Meeting

#### Article 24. (General Meeting)

1. General Meeting shall be classified as Ordinary General Meeting and Extraordinary General Meeting.
2. General Meeting shall consist of the members of the Fund.
3. The Chair of General Meeting shall be taken by the President, but if the post of President is vacant or otherwise the President is unable to take the chair, the Vice President shall take the chair.
4. Ordinary General Meeting shall be held within three months of the end of each business year.
5. Extraordinary General Meeting shall be held in the following occasions.
  - (1) board of Directors decides to hold it
  - (2) not less than one-fifth of the members or the Executive Auditors request to hold it showing the agenda items of the meeting
  - (3) in the case of necessity according to the Articles of Incorporation, beside the items mentioned above

#### Article 25. (Convocations of General Meeting)

1. A General Meeting shall be convened by the President.
2. In the case of Paragraph 5, Item 2 of the preceding article, the President shall convene the meeting within 30 days of the date when the request was made.
3. The meetings shall be convened by notifying the members thereof in writing or by electromagnetic means indicating the agenda, time and date, no later than seven days prior to the scheduled date.

#### Article 26. (Proceedings of General Meeting)

1. General Meeting shall not be held unless more than half of the members attend it.
2. A member shall have one vote at General Meeting. The voting right, however, may not be

exercised on the matters which the voter has a special interest.

3. The objects of resolutions in General Meeting shall be limited to the matters notified beforehand according to Paragraph 3 of the preceding article. However, in the case of urgent matters, if more than two-thirds of the attending members give consent, this limitation may not apply, except for the matters stated in Article 35, Paragraph 2 and Item 1 through 5 of the following article.
4. The decision at General Meeting shall be made by more than half of the attending members, or by the chairperson in the case of tie in votes, except for the cases stipulated in Article 28.

Article 27. (Matters to be Resolved by General Meeting)

The following items, in addition to the matters specified elsewhere in the Articles of Incorporation, shall be decided by General Meeting

- (1) amendment to the Articles of Incorporation
- (2) decision on or amendments to a business plan, a budget and a financial plan
- (3) amendment to the Operating Rules
- (4) approval of a settlement of accounts and a business report
- (5) decision on or alteration to the amounts and collection method of enrolment fees, membership fees and obligation fees
- (6) other important matters concerning the operations of the Fund

Article 28. (Special Resolution)

The following matters shall be resolved by more than two thirds of all members' voting rights at the General Meeting.

- (1) amendment of the Articles of Incorporation stipulated in Item 1 of the preceding article
- (2) amendment of the Operating Rules stipulated in Item 3 of the preceding article
- (3) dismissal of directors stipulated in Article 35, Paragraph 2
- (4) dissolution stipulated in Article 67

Article 29. (Exercise of Voting Rights in Writing or by Agent)

1. A member may exercise its voting right in writing, by electromagnetic means, or by its agent on the matters notified beforehand. In this occasion, the agent shall be appointed from among directors or employees of the member company, or another member.
2. The vote in writing or by electromagnetic means stated in the preceding paragraph shall be regarded invalid unless it is transmitted to the Fund by the preceding day of the meeting.
3. The agent stipulated in Paragraph 1 shall submit a written certification of agency powers to the Fund for each meeting.

4. The member exercising its voting right according to Paragraph 1 shall be regarded as an attending member of the meeting.

Article 30. (Minutes)

1. Minutes of the General Meeting shall be prepared to record the following items.
  - (1) date and venue of the meeting
  - (2) total number of the members and attending number of the members at the meeting (including the number of the members, if any, who exercised their voting rights in writing, by electromagnetic means, or by the agents.)
  - (3) bills
  - (4) summary of proceedings and the results
  - (5) matters concerning the election of subscribers to the minutes
2. Minutes shall be subscribed and sealed by more than two subscribers being elected from among the chairperson and attending members at the General Meeting.

Article 30-2 (Special Cases of General Meeting)

1. The President may convene a General Meeting where the members are requested to exercise their voting rights in writings or by electromagnetic means, only under circumstance of outbreak of an infectious disease or other unavoidable reasons.
2. The convocation of a General Meeting under the preceding paragraph shall be done by notifying the members thereof in writings or electromagnetic means indicating the reasons prescribed in the preceding paragraph, the items of purposes and the date of the meeting, at least 7 days before the scheduled date.
3. The minutes of the General Meeting convened under Paragraph 1 shall record the following items, notwithstanding the stipulation of Paragraph 1 of the preceding article.
  - (1) date and venue of the meeting
  - (2) total number of the members and the number of the members who exercised their voting rights in writing or by electromagnetic means
  - (3) bills
  - (4) summary of proceedings and the results
4. A document showing the detail of the exercising of the voting rights in writing or by electromagnetic means prescribed in Article 29, paragraph 1 shall be attached to the minutes stipulated in the preceding paragraph.
5. The minutes stipulated in the Paragraph 3, notwithstanding the stipulation of Paragraph 2 of the preceding article, shall be subscribed and sealed by the chairperson.

Chapter 4:                   Officers and Board of Directors  
Section 1. Officers

Article 31. (Regular Number and Election)

1. The Fund shall have the following number of officers
  - (1) president: one
  - (2) board Members: no less than 2 but no more than 10
  - (3) executive Auditors: one or two
2. Officers shall be elected by General Meeting from among the representative persons of the members and other knowledgeable persons.
3. In the election of President according to the preceding paragraph, notwithstanding the stipulation of the proviso of Article 33, Paragraph 1, a person who has assumed Presidentship for consecutive three terms shall not be elected again as the President after the end of the incumbent term.
4. The election according to Paragraph 2 above shall not take effect unless the competent minister approves.
5. Those who fall under any of Article 15, Paragraph 2, Item 1, sub-item (a) through (k) of the Act may not be elected as officers.
6. Vice Presidents of three or less and Executive Director of one shall be elected mutually from among Board Members.
7. Persons who belong to a single family (meaning the relatives within the third degree and those who are in a particular relationship with the person) shall not account for one third or more of the Board Members. Persons who are related to a specific company shall not as well.
8. Executive auditors may not serve concurrently as President, Board Members, members of Steering Council or staff of the Fund.

Article 32. (Duties)

1. President shall represent the Fund and preside over the operations (including the S-operations, the same applies hereinafter) of the Fund.
2. Vice Presidents shall assist President, act on behalf of President in the case of his/her failure of function according to the order designated in advance by Board of Directors, and assume his/her duties in the case of vacancy.
3. Executive Director shall deal with ordinary affairs assisting President and Vice Presidents, act on behalf of President and Vice Presidents in the case of failure of functions of all of them, and assume their duties in the case of their vacancies.

4. Board Members shall execute their duties on the Fund.
5. Executive Auditors shall audit the business of the Fund, and may submit their opinions based on the result of audit to the President or the competent minister if necessary, and also may request the President or Board Members submission of reports on the operations, and may inspect the status of operations and property at any time.

Article 33. (Terms of Duties)

1. The term of Officers shall be 2 years, which does not preclude reappointment.
2. In spite of the preceding paragraph, the term of Officer appointed in the middle of the term to fill vacancy or due to increase in number or quorum of Officers shall correspond with the remaining terms of the predecessor or the other incumbent Officers.
3. Board members who retired due to the expiration of terms or resignation shall keep their duties until their successors take office.

Article 34. (Restriction of Representing Right)

The President or a Board Member shall not have authority to represent the Fund concerning the matters on which a conflict of interests exists between those persons and the Fund. In such a case, Executive Auditors shall represent the Fund on the matter.

Article 35. (Dismissal)

1. An officer shall be dismissed in the case that he/she falls under any of Article 15, Paragraph 2, item 1, Sub-item a through k of the Act.
2. In the case that an officer is found to have gained the position with unfair measures, or that he/she violated law or regulation, governmental order or the Articles of Incorporation, he/she may be dismissed by General Meeting's decision, after he/she is given an opportunity for explanation at the General Meeting.
3. The dismissal of an officer under the preceding paragraph does not come into effect unless authorization is given by the competent minister.

Article 36. (Officers' Remuneration)

Officers shall not be remunerated. Full-time officers, however, may be remunerated in accordance with determination of General Meeting.

Article 37. (Provisional Board Member and Provisional Executive Auditor)

The competent minister may appoint Provisional Board Members or Provisional Executive Auditors, if necessary in the case that no candidates are found to fill the vacancies of Board Members or Executive Auditors.



Article 38. (Special Advisor, Advisor and Counselor)

1. The Fund may have Special Advisors, Advisors and Counselors of five or less respectively.
2. Special Advisors, Advisors and Counselors shall be delegated by President with the approval of Board of Directors.
3. Special Advisors shall respond to the requests by President for advice on important matters of the Fund, and Advisors shall respond to the requests by President for advice on operations of the Fund. Counselors shall examine and deliberate the matters that President seek advice for.
4. The terms of Special Advisor, Advisor and Counselor shall be 2 years, which do not preclude their reappointments.

Section 2. Board of Directors

Article 39. (Board of Directors)

1. Board of Directors consists of President and Board Members.
2. Board of Directors Meeting shall be convened by President as needed.
3. Board of Directors Meeting shall be presided over by President.
4. Executive Auditors may attend the Board of Directors Meeting and may give their opinions.
5. Special Advisor may attend the Board of Directors Meeting and give his/her opinion on President's request.

Article 40. (Matters to be Resolved at the Board of Directors Meeting)

The matters prescribed below shall be discussed and resolved at the Board of Directors Meeting besides the matters specified elsewhere in the Articles of Incorporation.

- (1) plans, an organization and management method of operation of the Fund
- (2) budget and other matters to be discussed at the general meeting, and matters concerning convocation of the general meeting
- (3) matters concerning execution of the resolutions by the general meeting
- (4) matters concerning establishing, altering and abolishing the rules of Discipline Committee stipulated in Article 18, Paragraph 3 or other rules
- (5) other Matters concerning execution of operations that do not need resolutions by General Meeting

Article 41. (Resolutions in Writing etc.)

1. Board Members may exercise their voting rights in writing or by electromagnetic means on the matters notified in advance.
2. The execution in writing or by electromagnetic means prescribed in the preceding paragraph shall be invalid unless it is transmitted to the Fund by the prior date of the Board of Directors Meeting.
3. The board member who exercises his/her voting right according to Paragraph 1, shall be regarded as an attending Board Member in applying Article 26 mutatis mutandis under the following article.

Article 42. (Application Mutatis Mutandis of the Rules)

The provisions of Article 24, Paragraph 5, Item 2, Article 25, Paragraph 2 and Paragraph 3, Article 26 and Article 30 shall apply mutatis mutandis to the Board of Directors. In such a case, the term “member” shall be read as “Board Member”, the term “members who exercised their voting rights in writing, by electromagnetic means or by the agents” in Item 2 of Article 30, Paragraph 1 shall be read as “those who exercised their voting rights in writing or by electromagnetic means”.

Chapter 5: Steering Council and Committees

Section 1. Steering Council

Article 43. (Steering Council)

Steering Council (hereinafter referred to as “the Council”) shall be established in the Fund to manage properly the operations of the Fund.

Article 44. (Matters Requested to the Council for Advice)

In the following cases, the President shall request the Council for advices in advance.

- (1) in the case of making recognition or alteration on an FCM subject to notice, whether it is difficult or not to make a smooth repayment of general customers’ liabilities (including the case of making recognition or alteration on an FIB subject to notice, whether it is difficult or not to make a smooth repayment of S-general customers’ liabilities)
- (2) in the case of determining the items of public announcement for accepting notification of claims from applicants under the recognition of the preceding item
- (3) in the case of making a decision whether or not to give a financing of repayment funds

- (4) in the case of determining important matters concerning operation of the Fund, under stipulations of the Operating Rules, or in accordance with decisions of the Board of Directors

Article 45. (Organization of the Council)

1. The Council shall be comprised of eight or less members.
2. The Council shall have one chairperson and one vice chairperson mutually elected from among the members of the Council.
3. Chairperson shall represent the Council and superintend the business of the Council.
4. Vice chairperson shall support chairperson in his/her duties as superintendent, act on behalf of him/her in the case of his/her failure of function, and assume his/her duties in the case of vacancy.

Article 46. (Election of Members of the Council)

The members of the Council shall be appointed by President with permission of the competent minister, from among the learned having sufficient knowledge required to manage properly the operations of the Fund.

Article 47. (Term of Members of the Council)

1. The term of a members of the Council shall be 2 years. The term of a substitute member to fill in the vacancy, however, shall correspond with the remaining term of his/her predecessor.
2. Members of the Council may be reappointed.

Article 48. (Disqualification of Members of the Council)

The stipulation of Article 31, Paragraph 5 shall be applied mutatis mutandis to the members of the Council.

Article 49. (Dismissal of Members of the Council)

If a member of the Council has fallen under the categories of either item prescribed below, the member may be dismissed by the President after giving an opportunity of explanation if necessary.

- (1) in the case that the member is found to be incapable of his/her duties due to physical or mental malfunctions
- (2) in the case that the member is found to have committed a conduct unbecoming of member of the Council such as violation of professional duties

Article 50. (Remuneration of the Members of the Council)

A member of the Council who is a Fund members' officer or employee shall not receive any remuneration except for the case that General Meeting specially approves it.

Article 51. (Holding of the Council Meeting)

The Council may not hold a meeting unless more than half of its members are attending in addition to the Chairperson or the Vice Chairperson assuming duties of chairperson in accordance with Article 45, Paragraph 4.

Article 52. (Management of the Council)

The matters necessary in managing the Council beside the stipulations in the Articles of Incorporation shall be determined by the Chairperson on consulting the Council.

Section 2. Committees

Article 53. (Committees)

1. Committees may be established in the Fund by approval of the Board of Directors.
2. Committees shall respond to the requests by the Board of Directors on important matters of operations of the Fund or may give its opinions to the Board of Directors.
3. The matters necessary in organizing and managing the Committees shall be stipulated by the Committee rules

Chapter 6: Operations and its Execution

Article 54. (Operations)

1. The Fund shall implement the following operations in order to achieve the purpose prescribed in Article 2, Paragraph 1.
  - (1) payment to general customers in accordance with Article 306, Paragraph 1 of the Act
  - (2) financing of funds for refunds in accordance with Article 308, Paragraph 1 of the Act
  - (3) accepting and depositing of the customer property subject to preservation in accordance with Article 309 of the Act
  - (4) operations to promote smooth repayment of general customers' liabilities in accordance with Article 310 of the Act, as prescribed below:
    - a. operations as the agent of a beneficiary according to the trust agreement stipulated in Article 98, Paragraph 1, Item 1 of the Ordinance

- b. operations of repayment of member's obligations to customers on behalf of the member, disposing the preserved property deposited to the member in accordance with Article 98, Paragraph 1, Item 2 and Article 137 of the Ordinance
- c. operations of repayment of member's obligations to customers on behalf of the member, disposing the cash paid by the financial institution according to the bank guarantee agreement as stipulated in Article 98, Paragraph 1, Item 3 of the Ordinance  
(translator's note) bank guarantee agreement (the Rule § 14)  
guarantee entrustment contract (the Ordinance § 98 ① 3)
- d. operations of repayment of member's obligation to customers on behalf of the member according to the subrogation settlement agreement as stipulated in Article 98, Paragraph 1, Item 4 of the Ordinance  
(translator's note) subrogation settlement agreement (the Rule § 14)  
subrogation consignment agreement (the Ordinance § 98 ① 4)
- (5) the operations of acts in or out of court prescribed in Article 311, Paragraph 1 of the Act
- (6) collection and management of obligation fee stipulated in Article 10
- (7) additional operations to each item mentioned above, as prescribed below
  - a. research and study of matters concerning customer protection operations
  - b. audit and guidance to members which are necessary in customer protection operations
  - c. investment in a corporation engaging in business closely related to customer protection operations
  - d. Other necessary operations required to achieve the purpose of the Fund
- 2. The Fund shall prepare a report concerning the status of operations prescribed in Item 4 of the preceding paragraph, and submit to the competent minister by the 10<sup>th</sup> day of the following month of the date the reported matters occurred, according to Article 139, Paragraph 2 of the Ordinance.

Article 55. (Operating Rules)

- 1. The Operating Rules shall stipulate the following matters.
  - (1) matters concerning general customer payment in accordance with Article 306, Paragraph 1 of the Act
  - (2) matters concerning acquisition of claims subject to compensation (meaning claims subject to compensation prescribed in Article 306, Paragraph 1 of the Act) in accordance with Article 307, Paragraph 4 of the Act
  - (3) matters concerning financing of repayment fund in accordance with Article 308,

Paragraph 1 of the Act

(translator's note) loans for funds for refund (the Act § 308)

- (4) matters concerning acceptance and management of deposited customers' assets subject to preservation in accordance with Article 309 of the Act
  - (5) matters concerning facilitation of speedy refunding of general customer liabilities prescribed in the Article 310 of the Act
  - (6) matters concerning in or out of court action prescribed in Article 311, Paragraph 1 of the Act
  - (7) matters concerning obligation fees prescribed in Article 277, Paragraph 4 of the Act and Article 314, Paragraph 1 of the Act, including method of calculation and payment issues
  - (8) other necessary matters
2. The alteration of the Operating Rules in accordance with Article 301, Paragraph 2 of the Act shall be approved by the competent minister.

#### Article 56. (Request of Submission of Documents)

1. The Fund may request members, if necessary to manage the operations, for submission of reports or documents as reference on the members' business or financial situation.
2. The members who were requested to submit report or documents as reference on its business or financial situation shall, without delay, submit the report or documents to the Fund.
3. The Fund may request the competent minister for handing over or allowing inspection of the documents that the minister holds, on which the Fund has particular necessity for accomplishing its operation.
4. The Fund may report to the competent minister the information it acquired through business operation, if it regards necessary.

#### Chapter 16-2: S-Operations and its Execution

##### Article 56-2 (S-Operations)

1. The Fund shall, for the time being, implement the following S-operations in order to achieve the purposes stipulated in Article 2, Paragraph 2.
  - (1) payment to S-general customers in accordance with Article 79-56, Paragraph 1 of the FIE Act
  - (2) financing of funds in accordance with Article 79-59, Paragraph 1 of the FIE Act
  - (3) the operations of judicial and non-judicial acts stipulated in Article 79-60, Paragraph 1 of the FIE Act
  - (4) the services for contributing to expeditious S-payment stipulated in Article 79-61 as

prescribed below

- a. the operations as an agent for a beneficiary based on a trust contract prescribed in Article 2, Paragraph 1, Item 1 of supplementary provisions of the FIB Amending Ordinance
  - b. the operations of repaying S-liabilities (meaning the liabilities to be repaid to S-customers, the same applies hereinafter) to S-customers in place of the S-member who made a deposit by using the property subject to preservation deposited pursuant to Article 2, Paragraph 1, Item 2 of supplementary provisions of the FIB Amending Ordinance
  - c. the operations of repaying S-dets to S-customers in lieu of the S-member that consigned the guarantee by using the money paid by an S-financial institution based on a bank guarantee agreement stipulated in Article 2, Paragraph 1, Item 3 of supplementary provisions of the FIB Amending Ordinance
  - d. the operations of refunding S-liabilities to S-customers in lieu of the S-member that accepted the subrogation, based on an S-Fund subrogation settlement agreement stipulated in Article 2, Paragraph 1, Item 3 of supplementary provisions of the FIB Amending Ordinance
  - e. the operations to accept and manage the S-property subject to preservation deposited under Article 2, Paragraph 1 of supplementary provisions of the Amending Ordinance of the IPF Ordinance (Ministerial Ordinance of Cabinet Office and Ministry of Finance No.1, 2014)
- (5) collection and management of obligation fee stipulated in Article 10
  - (6) submission of customer lists and other operations under the provisions of Chapter 4, Section 5, Chapter 5, Section 3, and Chapter 6, Section 3, of the Act on Special Treatment of Corporate Reorganization Proceedings and Other Insolvency Proceedings of Financial Institutions (Act No. 95 of 1996) (hereinafter referred to as “the Special Measures for Reorganization Act”)
  - (7) the operations incidental to the operations prescribed in any of the items above

#### Article 56-3 (Operating Rules for S-operations)

1. In addition to the items of Article 55, Paragraph 1, the Operating Rules shall stipulate the following matters.
  - (1) matters regarding payment to S-general customers pursuant to the provisions of Article 79-56, Paragraph 1 of the FIE Act
  - (2) matters regarding acquisition of S-claims subject to compensation (which means claim to be compensated as prescribed in Article 79-56, Paragraph 1 of the FIE Act applied under Article 4, Paragraph 1 of supplementary provisions of the FIE Amending Act) pursuant to the provisions of Article 79-57, Paragraph 4 of the FIE Act

- (3) matters regarding financing of S-funds for refunds pursuant to the provisions of Article 79-59, Paragraph 41 of the FIE Act
- (4) matters regarding judicial or non-judicial acts as prescribed in Article 79-60 of the FIE Act
- (5) matters regarding services contributing to expeditious refunding of S-customer property pursuant to the provisions of Article 79-61 of the FIE Act
- (6) matters regarding levies prescribed in Article 277, Paragraph 4 of the Act and Article 314, Paragraph 1 of the Act (including the matters on method of calculation and payment)
- (7) matters regarding submission of customer lists and other operations under the provisions of Chapter 4, Section 5, Chapter 5, Section 3, and Chapter 6, Section 3, of the Special Measures for Reorganization Act
- (8) other matter as deemed necessary

Article 56-4. (Request of Submission of Documents etc.)

1. The Fund may request S-members, if necessary to manage the operations, for submission of reports or documents on the S-members' business or financial situation.
2. The S-members who were requested to submit report or documents useful for understanding its business or financial situation shall, without delay, submit the report or documents to the Fund.
3. The Fund may request the Commissioner of Financial Services Agency for handing over or allowing inspection of the documents that the agency holds, on which the Fund has particular necessity for accomplishing its S-operation.
4. The Fund may report to the Commissioner of Financial Services Agency, Minister of Finance or the President of Financial Instruments Business Association the information it has acquired through business operation, if it regards necessary.
5. The Fund may, if necessary for implementing its S-operations, request an Investor Protection Fund (hereinafter referred to as "the IPF") for handing over or allowing inspections of the materials concerning the member of the IPF.
6. If the IPF requests the Fund to hand over or to allow inspections of the materials concerning the members of the IPF, and if it is deemed necessary for operation of the IPF, the Fund may hand over or allow inspection of the materials to the IPF.

## Chapter 7: Finance and Accounting

Article 57. (Business Year)

The business year of the Fund shall be from April 1 to March 31 of the following year.

Article 58. (Accounting Rules)

The accounting rules stipulating its accounting and finance operations shall be laid down by



the Fund and be approved by the competent minister according to Article 154, Paragraph 1 of the Ordinance. The same shall apply to alteration thereof.

Article 59. (Separate Accounting)

1. The Fund shall separate its accounts into accounting classes as stipulated below.
  - (1) account of customer etc. protection fund  
the account concerning the operations prescribed in Article 54, Paragraph 1, Item 1 and 2 and the S-operations prescribed in Article 56-2, Item 1 and 2
  - (2) account of the property to be preserved  
the account concerning the operations prescribed in Article 54, Paragraph 1, Item 3 and Item 4, Sub-item a, b and c, and the S-operations prescribed in Article 56-2, Item 4, Sub-item a, b, c and e
  - (3) account of customer liabilities etc. subrogation payment  
the account concerning operations prescribed in Article 54, Paragraph 1, Item 4, Sub-item d and the S-operations prescribed in Article 56-2, Item 4, Sub-item d
  - (4) general account

Article 60. (Fund for Customer Protection)

1. Fund for customer protection shall be established in the Fund according to the stipulation of Article 313, Paragraph 1 of the Act.

(translator's note)

As the term "customer protection fund" is used for the corporate body (Operating Rules § 3①6)), the term " fund for customer protection" is adopted here for the fund money.

2. Fund for customer protection consists of the following items
  - (1) the funds succeeded from the Association of Compensation Fund for Consigned Liabilities in Commodity Futures, Inc. (hereinafter referred to as "the Association") which was designated by the Fund to be appropriated for the fund for customer protection, and authorized by the competent ministers according to Article 19, Paragraph 3 or 4 of supplementary provisions of the Act for Partial Revision of the Commodity Exchange Act (Act No. 43 of 2004)
  - (2) obligation Fee collected from members according to the stipulation of Operating Rules
  - (3) the funds transferred from reserve fund to the fund for customer protection according to the resolution of Board of Directors
3. Fund for customers protection shall not be used unless it is appropriated for the expenses of operations prescribed in Article 54, Paragraph 1, Item 1 or Item 2 or S-operations prescribed

in Article 56-2, Item 1 or Item 2.

Article 61. (Reserve Fund)

1. The Fund shall set aside all of the surplus for each business year as reserve fund.
2. The reserve fund may be allocated to cover deficits carried over from the previous business year, or may be transferred to the fund for customer protection.
3. The reserve fund must not be broken down other than for the case referred to in the preceding paragraph.

Article 62. (Restriction on Management of Funds)

The Fund shall not operate the surplus funds that arise in the course of business or the fund for customer protection, other than managing by the following means.

- (1) holding national government bonds and other securities designated by the competent minister
- (2) depositing in a financial institution designated by the competent minister
- (3) holding a trust fund with a financial institution engaged in trust business

Article 63. (Act to Assume Debts)

The Fund may assume debts, besides that within the scope of amount of the expenditure budget, if necessary for conducting business, within the amount submitted to the competent minister as part of budget for each business year, as stipulated in Article 146 of the Ordinance.

Article 64. (Operation Schedule, Budget and Financial Plans)

1. President shall prepare a business plan, a budget and a financial plan for each business year before beginning of the business year, and submit them to General Meeting.
2. After acquiring approval from the General Meeting, President shall submit the business plan, the budget and the financial plan to the competent minister before beginning of the business year. The same shall apply to the alteration thereof.

Article 65 (Submission of Financial Statements etc.)

1. The President shall, after the end of each business year, make an inventory of assets, a balance sheet, a profit and loss statement, a business report, and a statement of account (hereinafter referred to as “financial statements and others” in this Article) for the preceding business year, and submit them to the Executive Auditors no later than 14 days before the date of the Ordinary General Meeting, and get audited thereof.
2. The Executive Auditors shall, upon receipt of the financial statements and others, conduct audit thereof, make a written opinion and submit it to the General Meeting.

3. The President shall, upon receiving approval of the General Meeting, within three months after the end of each business year, submit the financial statements and others with the written opinion of the Executive Auditors to the competent ministers and obtain their approval.

#### Chapter 8: Secretariat Division

##### Article 66. (Secretariat Division)

1. Secretariat division shall be established in the Fund to handle office routine works.
2. Secretary-general and staff shall be assigned to the division.
3. Secretary-general shall be appointed by President by approval of Board of Directors, and its staff be appointed by President.
4. Secretary-general may be appointed from among Board Members.
5. Secretary-general and its staff shall be remunerated.
6. The matters concerning Secretariat division beside those stated in the above paragraphs shall be determined separately by President with the resolution of Board of Directors.

#### Chapter 9: Dissolution

##### Article 67. (Dissolution)

1. The Fund shall be dissolved for the reasons of the following items.
  - (1) in the event that the dissolution of the Fund is determined by General Meeting
  - (2) in the event that the permission of establishment of the Fund is cancelled by the competent ministers
2. Dissolution of the Fund by the reason prescribed in Item 1 of previous paragraph shall come into effect after approval given by the competent ministers.

##### Article 68. (Appointment of Liquidator)

In the case of dissolution according to the preceding Article, Paragraph 1, Item 1, a liquidator for dissolution of the Fund shall be appointed by General Meeting. However, in the case of dissolution according to the previous Article, Paragraph 1, Item 2, the liquidator shall be appointed by the competent minister.

##### Article 69. (Treatment of Residual Property)

The liquidator shall transfer the residual property, if any, after repayment of obligations belonging to the Fund, to other customer protection fund or an investor protection fund stipulated in Article 79-21 (limited to a fund whose articles of incorporation do not include the provisions prescribed in Article 79-49, Paragraph 2) which the members supposed to be

registered in, according to the standard specified by the Fund as stipulated in Article 327 of the Act applied mutatis mutandis under Article 2, Paragraph 1 of supplementary provisions of the FIE Amending Act, and Article 155 of the Ordinance applied mutatis mutandis under Article 2 of the Ministerial Ordinance on Specified Consignor Protection Fund (Ministerial Ordinance No. 9 of 2016 of Ministry of Agriculture, Forestry and Fisheries and Ministry of Economy, Trade and Industry).

#### Chapter 10: Miscellaneous Provisions

##### Article 70. (Alteration of the Articles of Incorporation)

The Fund shall obtain permission of the competent minister when it intends to alter the Articles of Incorporation according to Article 283, Paragraph 2 of the Act.

##### Article 71. (Obligation of Confidentiality)

1. Those who are, or were, Officers, Special Advisor, Advisor, Counselors, staff, members of Steering Council or committees of the Fund may not reveal or plagiarize the confidences obtained on their duties.
2. Those who are, or were, Officers, Special Advisor, Advisor, Counselors, staff, members of Steering Committee or committees of the Fund may not use the confidences obtained in their duties for other purposes than utilizing for the Fund's business.

##### Article 72. (Consignment of Operations)

The Fund may entrust a part of operations including collection of obligation fees.

##### Article 73. (Public Inspection of Documents etc.)

1. The Fund shall furnish the documents prescribed in the following items at its principal office for public inspection.
  - (1) the Articles of Incorporation, the Operating Rules and the accounting rules
  - (2) documents containing the names of President, Board Members and Executive Auditors
  - (3) documents certifying the authorization stipulated in Article 279 of the Act and the authorization stipulated in Article 4, Paragraph 1 of supplementary provisions of the FIE Amending Act
  - (4) minutes of the General Meeting (in the case of minutes prescribed in Article 30-2, Paragraph 3, including attached document under Paragraph 4 of the same Article.)
  - (5) Financial Statements and Others and the Executive Auditor's written opinion stipulated in Article 65, Paragraph 2
2. Public announcements by the Fund shall be implemented by posting at the posting site of

the Fund, and if necessary, electronic announcements or public bulletin shall be used.

Article 74. (Regulations)

The regulations for operations of the Fund besides the Articles of Incorporation and the Operating Rules shall be provided by President after resolutions of Board of Directors.