

STATEMENT OF INTENT

**CONCERNING CONSULTATION, COOPERATION AND THE
EXCHANGE OF INFORMATION**

*The United States
Commodity Futures Trading Commission*

*The Ministry of Agriculture, Forestry and
Fisheries of Japan
The Ministry of Economy, Trade and
Industry of Japan*

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**STATEMENT OF INTENT
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OF INFORMATION**

The United States Commodity Futures Trading Commission (“CFTC”), on the one hand, and the Ministry of Agriculture, Forestry and Fisheries of Japan (“MAFF”) and the Ministry of Economy, Trade and Industry of Japan (“METI”), on the other hand, recognizing the increased international activity in futures transactions, the corresponding need for international regulatory cooperation and the shared goal of promoting market integrity and customer protection, have reached this Statement of Intent (“SOI”) on consultation, cooperation and the exchange of information so as to improve the cooperation and collaboration stated by the Terms of Reference signed on October 31,2008.

1. DEFINITIONS

1.1. “Authority” means:

- (a) the United States Commodity Futures Trading Commission;
- (b) the Ministry of Agriculture, Forestry and Fisheries of Japan; or
- (c) the Ministry of Economy, Trade and Industry of Japan.

1.2. “Requested Authority” means the Authority to whom a request for assistance is made under this SOI.

1.3. “Requesting Authority” means the Authority making a request for assistance under this SOI.

1.4. “Laws and Regulations” means the provisions of the laws of the United States and/or Japan, the regulations promulgated thereunder, and all other regulatory requirements that fall within the jurisdiction of the Authorities, concerning but not limited to Futures, Futures Businesses, Futures Markets, Futures Processing Businesses and related Cash Commodities.

1.5. “Futures” means a derivatives agreement, contract or transaction including a future or option that is within the jurisdiction of the Authority, whether transacted over-the-counter or on or subject to the rules of an exchange or market.

- 1.6. “Futures Business” includes, among others, any person involved in the offer, purchase or sale of Futures for the account of others; direct access participants; the purchase or sale of Futures for one’s own account; advising others for compensation, directly or through media, regarding the offer, purchase or sale of Futures; the management, promotion, offer or sale of collective investment schemes involving Futures; or equivalent activities. The definition of a futures business also includes persons, among others, acting in the capacity of commodity trading advisors, commodity pool operators, futures commission merchants, introducing brokers, floor brokers and floor traders and persons associated with a futures commission merchants, introducing brokers, commodity trading advisors or commodity pool operators.
- 1.7. “Futures Market” means an exchange or other market, including an over-the-counter market, for Futures.
- 1.8. “Futures Processing Business” means a clearing organization for Futures.
- 1.9. “Cash Commodity” means any commodity underlying a Futures subject to the jurisdiction of an Authority.
- 1.10. “Licensed Entity” means any person who is licensed, authorized or registered, or who is carrying out activities requiring licensing, authorisation and/or registration by an Authority.
- 1.11. “Person” means a natural person, corporation, partnership, trust, investment company, unincorporated association.

2. GENERAL PRINCIPLES

- 2.1. This SOI sets forth the Authorities’ intent with regard to mutual assistance and the exchange of information for the purpose of enforcing and securing compliance with the respective Laws and Regulations of the Authorities. This SOI does not create legally binding obligations under international or domestic law. This SOI does not create any rights enforceable by the participants or by third parties, nor does it affect any arrangements under other Memoranda or SOI.
- 2.2. This SOI does not prohibit an Authority from taking measures other than those described herein to obtain information necessary to ensure enforcement of or compliance with the Laws and Regulations applicable in its jurisdiction. In

particular, this SOI does not affect any right of an Authority to communicate with, or obtain information or documents from, any Person on a voluntary basis in the jurisdiction of the other Authority.

- 2.3. This SOI does not confer upon any Person the right or ability to obtain, suppress or exclude any information or to challenge the execution of a request for assistance under this SOI, whether directly or indirectly.
- 2.4. The Authorities recognize the importance and desirability of the assistance and exchange of information for the purpose of enforcing and securing compliance with the Laws and Regulations applicable in their respective jurisdictions; however, a request for assistance may be denied by the Requested Authority :
 - (a) where the request would require the Requested Authority to act in a manner that would violate the domestic law of its country;
 - (b) where the request is not made in accordance with this SOI; or
 - (c) on grounds of public interest or essential national interest.
- 2.5. Where the Requested Authority denies or opposes a request for assistance, or where assistance is not available under the domestic laws of the country of the Requested Authority, the Requested Authority should provide the reasons for not granting the assistance and consult with the Requesting Authority pursuant to 7.2.

3. SCOPE AND INTENTION

- 3.1. The Authorities should assist each other to the full extent permitted by their respective Laws and Regulations. Such assistance should be provided in order to facilitate:
 - (a) market oversight, including market and financial surveillance;
 - (b) the granting of licenses, authorizations, waivers or exemptions for the conduct of Futures Businesses, Futures Processing Businesses, Futures Markets;
 - (c) the supervision of Futures Businesses, Futures Processing Businesses, Futures Markets;

- (d) the inspection of Futures Businesses, Futures Processing Businesses, Futures Markets;
 - (e) the investigation, or civil or administrative enforcement action by the Authorities of activity that potentially violates the Laws and Regulations applicable in their respective jurisdictions; and
 - (f) any other matters the Authorities deem appropriate to achieve the purposes of this SOI.
- 3.2. Assistance under this SOI should not be denied based on the fact that the type of conduct described in the request for assistance would not be a violation of the Laws and Regulations of the Requested Authority.
- 3.3. The assistance available under this SOI is not limited to information concerning or held by Persons authorised, licensed or registered by the CFTC, MAFF or METI.
- 3.4. The assistance available under this SOI includes, without limitation, obtaining and providing to the Requesting Authority the following:
- (a) information held in the files of the Requested Authority;
 - (b) reports, interviews, and/or statements, including a transcript or recording of any such report, interview or statement; and
 - (c) information and documents from Persons involved, directly or indirectly, in the activities that are the subject of the request for assistance or who are in possession of information that may assist in the execution of the request or the investigation that is the subject of the request. This should include, but not limited to, the following information:
 - 1) contemporaneous records sufficient to reconstruct all futures transactions, including records of all funds and assets transferred into and out of bank and brokerage accounts relating to these transactions;
 - 2) records that identify the beneficial owner and controller, and for each transaction, the account holder, the amount purchased or sold, the time of the transaction, the price of the transaction, and the individual and the bank or broker and brokerage house that handled the transaction; and

3) records that identify persons who beneficially own or control non-natural persons organized in the jurisdiction of the Requested Authority;

- 3.5. Unless otherwise arranged by the Authorities, information and documents requested under this SOI should be gathered in accordance with the procedures applicable in the jurisdiction of the Requested Authority and by persons designated by the Requested Authority.
- 3.6. The Authorities should define the terms herein in accordance with the relevant laws of the jurisdiction of the Requesting Authority unless such definition would require the Requested Authority to exceed its legal authority or otherwise be prohibited by the Laws and Regulations applicable in the jurisdiction of the Requested Authority. In circumstances, in which the Requested Authority does not have the legal authority to provide assistance, the Authorities should use all reasonable efforts to obtain the aid of such other governmental agencies that can provide the assistance.
- 3.7. The Authorities represent that no domestic secrecy or blocking laws or regulations should prevent the collection or provision of information pursuant to this SOI.

4. REQUESTS FOR ASSISTANCE OR INFORMATION

- 4.1. To facilitate communication and ensure continuity, each Authority should designate contact officers to whom requests for assistance should be addressed. The initial contact officers are set out in Appendix A. The Authorities should advise one another in a timely fashion when the contact officers or their contact information changes.
- 4.2. A request for assistance should include the following:
- (a) a general description of the subject matter of the request and the purpose for which the assistance or information is sought;
 - (b) a general description of the assistance, documents or information sought;
 - (c) any information in the possession of the Requesting Authority that might assist in identifying the persons, bodies or entities which the Requesting Authority believes may possess the information sought, or the places where the Requested Authority may obtain such information;
 - (d) the legal provisions or a brief description thereof concerning the matter that is the subject matter of the request;

(e) whether any other regulator or agency, governmental or non-governmental, is cooperating with the Requesting Authority or seeking information from the confidential files of the Requesting Authority and to whom onward disclosure of information is likely to be necessary; and

(f) the urgency of the request and the desired period of time for the reply.

- 4.3. In urgent circumstances, the Requested Authority should accept a request for assistance by telephone; provided that such communication is thereafter confirmed in writing, through an original signed document, electronic mail or facsimile as promptly as possible.

5. EXECUTION OF REQUESTS FOR ASSISTANCE

- 5.1. Information and documents held in the files of the Requested Authority should be provided to the Requesting Authority upon request.
- 5.2. Upon request, the Requested Authority should take the statements of any Person (i) involved, directly or indirectly, in the activities that are the subject matter of the request for assistance or (ii) in possession of information that may assist in the execution of the request. The Requested Authority should make a transcript of any statement it takes on behalf of the Requesting Authority.
- 5.3. Upon request, the Requested Authority should require the production of documents or information from (i) any Person designated by the Requesting Authority, or (ii) any other Person who may possess the requested information or documents. Upon request, the Requested Authority should obtain other information relevant to the request.
- 5.4. Unless otherwise arranged by the Authorities, information and documents requested under this SOI should be gathered in accordance with the procedures applicable in the jurisdiction of the Requested Authority and by Persons designated by the Requested Authority.
- 5.5. Notwithstanding 5.4, any Person providing a statement pursuant to a request for assistance under this SOI should have the right to have counsel present.
- 5.6. A representative of the Requesting Authority may, with the consent of the Requested Authority and subject to the conditions confirmed by the Authorities, be present at the taking of statements and report and may provide, to a designated representative of the Requested Authority, specific questions to be asked of any Person providing a

statement, information or documents as a result of a request for assistance under this SOI .

- 5.7. Notwithstanding any other parts of this SOI, any Person providing a statement, information or documents as a result of a request for assistance under this SOI should be entitled to all rights and privileges applicable in the jurisdiction of the Requested Authority. Assertions regarding rights and privileges arising exclusively under the laws applicable in the jurisdiction of the Requesting Authority should be preserved for consideration by the courts in that jurisdiction.
- 5.8. Upon request, the Requested Authority should inspect the books and records identified in 3.4, and Futures Businesses, or Futures Processing Businesses, as specified in the request for assistance.

6. UNSOLICITED INFORMATION

- 6.1. To the extent permitted by Laws and Regulations of its respective jurisdiction, each Authority should use reasonable efforts to provide the other Authority with any information it discovers that gives rise to a suspicion of a breach or an anticipated breach of the Laws and Regulations applicable in the jurisdiction of the other Authority.

7. CONSULTATION

- 7.1. The Authorities should consult each other on an on-going basis regarding matters of common concern with a view to enhancing regulatory cooperation, improving the operation of this SOI and resolving any matters that arise. In particular, the Authorities should consult in the event of:
 - (a) a significant change in market conditions, business conditions or legislation where such change is relevant to the operation of this SOI;
 - (b) a demonstrated change in the willingness or ability of an Authority to meet the terms of this SOI; and
 - (c) any other circumstance that makes it necessary or appropriate to consult, modify or extend this SOI in order to achieve its purposes.
- 7.2. The Authorities intend to consult with each other in a dispute over the meaning of any term used in this SOI and in matters regarding concerns relating to specific requests made pursuant to this SOI (e.g., a denial of a request as contemplated under

2.5, responding to a request is anticipated to incur a substantial cost, defining SOI terms in accordance with the laws of the jurisdiction of the Requesting Authority may require the Requested Authority to exceed its legal authority or otherwise be prohibited by domestic law.)

- 7.3. The Authorities may take practical measures necessary to facilitate the implementation of this SOI. As such, the Authorities may by mutual consent, in writing, modify or waive any of the terms of this SOI.

8. PERMISSIBLE USES OF INFORMATION

- 8.1. The Requesting Authority may use without prior specific authorization non-public information and non-public documents furnished in response to a request for assistance under this SOI solely for:

(a) the purposes set forth in the request for assistance, including ensuring compliance with the Laws and Regulations related to the request; and

(b) a purpose within the general framework of the use stated in the request for assistance, including:

conducting a civil or administrative enforcement proceeding, and assisting in a criminal investigation in accordance with the Note Verbale issued on Signed Date by the Governments, or conducting any investigation for any general charge applicable to the violation of the provision specified in the request where such general charge pertains to a violation of the Laws and Regulations administered by the Requesting Authority.

This use may include enforcement proceedings which are public.

- 8.2. If a Requesting Authority intends to use information furnished under this SOI for any purpose other than those stated in 8.1, it should obtain the prior consent of the Requested Authority.

9. CONFIDENTIALITY

- 9.1. Each Authority should keep confidential requests made under this SOI, the contents of such requests, and any matters arising under this SOI, including consultations between or among the Authorities, and unsolicited assistance. After consultation with the Requesting Authority, the Requested Authority may disclose the fact that

the Requesting Authority has made the request if such disclosure is required to carry out the request.

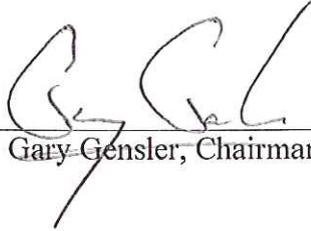
- 9.2. The Requesting Authority should not disclose non-public information and non-public documents received under this SOI, except as contemplated by 8.1 or in response to a legally enforceable demand. In the event of a legally enforceable demand, the Requesting Authority should notify the Requested Authority prior to complying with the demand, and should assert such appropriate legal exemptions or privileges with respect to such information as may be available. The Requesting Authority should use its best efforts to protect the confidentiality of non-public information and non-public documents received under this SOI.

10. COMMENCEMENT AND TERMINATION

- 10.1. Cooperation in accordance with this SOI should commence on the date of its signing by the Authorities.
- 10.2. Cooperation and assistance in accordance with this SOI should continue until the expiration of thirty (30) days after any Authority gives written notice to the other Authority of its intention to discontinue cooperation and assistance hereunder. If either MAFF or METI gives such notice, cooperation under this SOI should continue with respect to the other two Authorities. If any Authority gives a termination notice, cooperation and assistance in accordance with this SOI should continue with respect to all requests for assistance that were made or information provided before the date notification is received by the other Authority until the Requesting Authority terminates the matter for which assistance was requested.
- 10.3. In the event of the termination of this SOI, the Authorities intend to continue to act in accordance with paragraph 9. CONFIDENTIALITY and paragraph 8. PERMISSIBLE USES OF INFORMATION with respect to information in the possession of the Requesting Authority.

SIGNED

For the United States Commodity Futures
Trading Commission



Gary Gensler, Chairman

Date Aug. 4, 2010

For the Ministry of Agriculture, Forestry
and Fisheries of Japan



Hiroshi Takahashi, Director-General for
General Food Policy Bureau

Date July 29, 2010

For the Ministry of Economy, Trade and
Industry of Japan



Hiroshi Seto, Director-General for
Commerce and Distribution Policy

Date July 29, 2010

APPENDIX A

DESIGNATED CONTACT OFFICERS

The Commodity Futures Trading Commission

1155 21st Street, NW
Washington, DC 20581
USA
www.cftc.gov

For investigatory and enforcement activities:

Director, Division of Enforcement
Chief Counsel, Division of Enforcement
Telephone 202-418-5000
Facsimile 202-418-5519

For supervisory purposes:

Director, Division of Clearing and Intermediary Oversight
Telephone 202-418-5000

For market surveillance purposes:

Director, Division of Market Oversight
Telephone 202-418-5000

Ministry of Agriculture, Forestry and Fisheries of Japan

1-2-1 Kasumigaseki, Chiyoda-ku
Tokyo 100-8950
JAPAN

For all information:

Commodity Investment Affairs Official, General Food Policy Bureau
Telephone +81-3-6744-1860
Facsimile +81-3-3502-6847

Ministry of Economy, Trade and Industry of Japan

1-3-1 Kasumigaseki, Chiyoda-ku

Tokyo 100-8901

JAPAN

<http://www.meti.go.jp/english/policy/economy/derivatives/index.html>

For all information:

Director, Commodity Derivatives Division, Commerce and Distribution Policy Group

Telephone +81-3-3501-6683

Facsimile +81-3-3501-6646