

Q&A for "Points of Consideration When Deciding on Sanctions"

Q1

What led up to compiling the "Points of Consideration When Deciding on Sanctions" (hereinafter the "Considerations for Sanctions")?

A1

Traditionally, the sanctions system has been a means to maintain and increase confidence in the transparency and soundness of the Tokyo Commodity Exchange, Inc. (TOCOM) market, and this is achieved only by ensuring that the system is effective and properly implemented.

With these efforts and the partial transfer of commodities that were listed on the TOCOM market to Osaka Exchange, Inc. (OSE) on July 27, 2020 (hereinafter referred to as the "Comprehensive Exchange"), it is expected that the market liquidity of commodity futures and options trades in the financial instruments exchange market will be improved directly by improving the convenience of investors. In addition, with the resulting increase in the recognition of commodity futures trading as a whole (including options trading on OSE), it is also expected that commodity futures trading in the commodity exchange market will improve market liquidity, and in turn, increase international competitiveness.

However, to realize this, it is a prerequisite that the market be a reliable market that ensures transparency and soundness, while encouraging business competitiveness. It is important that trading participants (referred to as "members" in TOCOM's rules including its Market Rules. Hereinafter both OSE trading participants and TOCOM members shall be referred to as "trading participants"), who connect investors with the exchange market, further enhance their quality as trading participants, since they have an extremely important responsibility for ensuring confidence in the exchange market.

On OSE, which like TOCOM is part of Japan Exchange Group and lists commodity futures and options, disciplinary actions (equivalent to sanctions on TOCOM) are imposed on trading participants in a way that is appropriate to the nature of the violation in accordance with the Trading Participant Regulations in the event of violations of laws, regulations, and OSE rules. Japan Exchange Regulation (JPX-R), which is entrusted by OSE with self-regulatory operations, compiles and publishes summaries on the necessity of disciplinary actions and the points to be considered when deciding on the details of the actions, thereby increasing transparency and predictability of disciplinary actions for trading participants, which can help to maintain and

increase the transparency and soundness of OSE.¹

With the establishment of the Comprehensive Exchange, more efforts are needed to make TOCOM a reliable market that ensures transparency and soundness. As the efforts by OSE explained above can contribute to ensuring confidence in the TOCOM market, TOCOM decided to compile its Considerations for Sanctions.

Q2

Will the Considerations for Sanctions change the rules and operations related to sanctions?

A2

The rules on sanctions remain the same as before.

Since January 2011, when the Commodity Derivatives Transaction Act went into effect, the only sanctions imposed by TOCOM were for unfair trading, and the participants may have been given the impression that sanctions were limited to unfair trading. Therefore, TOCOM has decided to increase transparency and predictability of sanctions it imposes for trading participants by clarifying the actions that will result in sanctions and the matters that will be considered when deciding on the necessity and details of sanctions.

Q3

Are matters related to brokerage such as inappropriate solicitation also included in the subject of sanctions?

A3

Matters related to brokerage may also fall under Article 153, Paragraph 1, Item 8 or Item 9 of TOCOM's Market Rules, which are the basis for sanctions. In addition, for the further development of the commodity futures trading market, it is essential to have an environment in place that enables investors to access the exchange market with a sense of security. Therefore, the reliability of brokerage for trading participants, which plays an important role in linking investors to the exchange market, is closely linked to confidence in the exchange market, and therefore, it will not be excluded from sanctions.

Q4

I am aware that TOCOM's sanctions to date have only been the equivalent of administrative

¹ <https://www.jpx.co.jp/english/regulation/maintaining/points-of-note/index.html>

sanctions. Will the response to violations differ with the conversion to the Comprehensive Exchange's system?

A4

In the past, TOCOM has implemented follow-up measures to suspend or restrict transactions in TOCOM markets or to revoke trading qualifications in accordance with administrative sanctions. In addition, in cases where a trading participant is deemed to fall under any of the matters stipulated in TOCOM's Market Rules, including violations of laws, regulations, and TOCOM rules, TOCOM will issue a censure, impose fines, suspend or restrict trading, or revoke its qualifications in accordance with the nature and extent of the violation.

This response is intended to make the operations regarding the above-mentioned sanctions more precise considering the background described in A1 above.

Q5

Following the conversion to the Comprehensive Exchange, despite both OSE and TOCOM handling futures commodities, the trading participants that handle futures commodities are divided into OSE trading participants and TOCOM trading participants, and the applicable laws and regulations, and rules of the exchanges differ from each other.

With this being the case, if an OSE trading participant commits a violation related to commodity futures or options trading, will OSE impose disciplinary action on the participant? Also, does OSE have any points for consideration for disciplinary action against OSE trading participants, which are similar to TOCOM's points for consideration when considering sanctions against TOCOM trading participants?

A5

OSE will take disciplinary action against OSE trading participants in accordance with the provisions of OSE's Trading Participant Regulations in the event of violations related to the OSE market. Decisions on the details of such actions are made by Japan Exchange Regulation (JPX-R), a self-regulatory organization based on the Financial Instruments and Exchange Act, to which OSE has entrusted its self-regulatory operations. JPX-R has compiled and published the matters it considers in its decision as "Points of Consideration when Deciding Disciplinary Actions" (hereinafter referred to as "Considerations for Disciplinary Actions").

The Considerations for Sanctions and Consideration for Disciplinary Actions are essentially the same when it comes to managing trading participants across Japan Exchange Group as a whole. However, the items described in the Considerations for Sanctions and Considerations for Disciplinary Actions are general points to be considered when determining the details of sanctions

and disciplinary actions. The items to be implemented may vary depending on the details of the case, and other items may also be considered when deemed necessary.

Q6

Some TOCOM trading participants are also OSE trading participants. If a trading participant of both TOCOM and OSE commits a violation in commodity futures trading on the TOCOM market, will OSE take action in addition to sanctions by TOCOM? If so, how will the sanction by TOCOM and the action by OSE be determined?

A6

Decisions on the necessity of sanctions or disciplinary actions shall be made by the exchange affected by the violation. For example, in the event that a trade on the TOCOM market falls under the definition of market manipulation, and the effect of the market manipulation is limited to TOCOM market, generally, only sanctions by TOCOM will be considered. However, in the event that there is a deficiency in the trading supervision system that could also lead to an effect on the OSE market, and the deficiency itself violates the stipulations of OSE's Trading Participant Regulations, disciplinary action by OSE will also be considered. The same applies to cases in which a trading participant of both TOCOM and OSE commits a violation related to commodity futures trading on OSE (including options trading).

In addition, when deciding on the details of sanctions and disciplinary actions by TOCOM or OSE, decisions will be made on a case-by-case basis, taking into account the nature and extent of the impact on each exchange as well as the considerations of the other exchange.

(See "16. Disciplinary Action by Other Regulatory Bodies" in Considerations for Sanctions)