

FAILED TRADES – MARKET CLAIMS PROCESS

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1. VERSION CONTROL

Version	Author(s)	Date	Notes
0.1 Draft	Brett Kotze	2016-06-16	Document creation

2. REFERENCES

Note that references in this context could refer to documents, discussions, interviews, presentations, workshops, white-papers etc.

Reference	Version	Author(s)
Rolling of Settlement - Controlled Client (presentation)	Final	Brett Kotze
Rolling of Settlement - Non-Controlled Client (presentation)	Final	Brett Kotze
Rolling of Settlement - Prop Accounts	Final	Brett Kotze

3. GLOSSARY

Term	Description
CSDP	CSD Participant
Failing member	This refers to the member that introduced the failing transaction that Rolling of Settlement or the Failed Trade procedure is being instigated
Non-failing member	This refers to the member whose transaction is selected for Rolling of Settlement or the Failed Trade procedure
Failing party	This refers to the party, which could be a client or a broker (proprietary trade), who owns the transaction that is failing
Non-failing party	This refers to the party, which could be a client or a broker (proprietary trade), who owns the transaction is selected for Rolling of Settlement or the Failed Trade procedure
JSE	Johannesburg Stock Exchange
Failed Trade Procedures	Where the JSE Settlement Authority is unable to enter into a SLB transaction the Failed Trade Procedures will be instigated. This could result in: <ul style="list-style-type: none"> - Rolling Of Settlement - Failed Trade with a Re-transaction

	- Failed Trade with Compensation
Manufactured Dividend	Refers to where an investor has purchased securities before the Last day to Trade (LDT) cum-Dividend and their transaction has been chosen for the Failed Trade Procedures and the investor is entitled to the dividend and must be compensated for any tax obligations.
Rolling of Settlement	The action taken by the JSE Settlement Authority to roll the settlement date of a failing and a non-failing transaction to a future settlement date – typically a new T+3 settlement cycle
Failed Trade Retransaction	The action taken by the JSE Settlement Authority to instruct a member to retransact for the non-failing client which will be booked to the client for a future settlement date - typically a new T+3 settlement cycle
Failed Trade Compensation	The action taken by the JSE Settlement Authority to pay compensation between the failing and non-failing parties.
Terminating transaction	A transaction which is not on delivered into the market
Non-terminating transaction	A transaction which is on delivered into the market

4. INTRODUCTION

Failed Trade Procedures are not new to the South African market. The Rules and Directives provisioning the Failed Trade Procedures were introduced on 16 October 2010, replacing the old Rules and Directives relating to voluntary and compulsory give-ups. Since the introduction of the new Rules and Directives, the JSE Settlement Authority has instigated 5 Failed Trades.

In moving to a T+3 settlement cycle, it is envisaged that the daily failed trade rate will escalate substantially, which will require a change of processes as well as systems that are more automated and efficient in processing failed trades (and also the claim process).

The underlying principal of the JSE's Failed Trade Procedures is that the Non-failing Party should in no way be prejudiced and they should be treated as if their transaction settled successfully. To facilitate this principal, the Non-failing Party is allowed to claim for:

- Any expenses incurred
- Any income foregone
- Any Corporate Action entitlements including tax implications

The purpose of this document is to detail the Claims Process.

5. CORPORATE ACTION IMPACTS

Where the JSE Settlement Authority chooses a terminating or non-terminating transaction/s for the Failed Trade Procedures which affects a Corporate Action entitlement, the Non-failing Party will be able to claim the Corporate Action entitlement from the JSE Settlement Authority. The Non-failing Party would also have to include any tax implications with regards to the Dividends Withholding Tax, so that the JSE Settlement Authority may also compensate the Non-failing Party for tax.

6. MARGIN

The margin calculated and called for at EOD T+1 from the Failing Member will be held until:

- The Failed Trade has been resolved;
- The future settlement, in terms of Rolling of Settlement and Re-transaction, has settled or Compensation has been paid; and
- Any claim for Corporate Action entitlements, expenses incurred or income foregone has been received and paid.

7. CLAIMS PROCESS FOR NON-CONTROLLED CLIENTS

Where a non-controlled client is the Non-failing Party, and their transaction has been selected for the Failed Trade Procedures, they must claim as follows:

- The claims template, Annexure B, must be completed and submitted to their applicable CSDP.

The claim must include all details of:

- Corporate Actions entitlements (including their tax requirements where a Manufactured Dividend is being paid);
- Expenses incurred; and

- Income foregone.
- The CSDP must update any missing details such as:
 - Cash Account number
 - Custody Account number
 - Contact person at the CSDP
 - Original Strate Order number
- The CSDP must validate:
 - Details on the settlement order such as quantity and consideration etc.;
 - Corporate Actions entitlements being claimed – specifically where the claim relates to an elective Corporate Action. The CSDP must validate that the entitlement being claimed aligns to the original election of the non-controlled client for the event; and
 - Income foregone – specifically where the client is claiming interest. The CSDP must validate the interest rate that the client is claiming. If the CSDP is a non-bank (Computershare or Link Market Services) – a letter must be supplied by the clients bankers confirming the interest rate.
- Once satisfied, the CSDP must forward the claim to the Non-failing member of the client.
- The Non-failing member must update any missing details such as:
 - BDA Account number
 - BDA deal ID
- The Non-failing member must validate:
 - Details on the settlement order – Strate order number, quantity and consideration etc.
- The Non-failing member may also add their expenses incurred (i.e. settlement fees incurred)
- The Non-failing member must then submit the claim to the JSE email address **T3claims@jse.co.za**

The claim must be submitted to the JSE by the close of business of the next business day after the Rolling of Settlement or Retransaction has settled or where the Non-failing member has been notified that the transaction will be settled through Compensation.

Once the claim has been received by the JSE, subject to there not being a dispute, the JSE will notify the Non-failing member and the Non-failing Party's CSDP that the claim will be honoured, and:

- Cash Claims (including cash Corporate Action entitlements) will be paid within 1 business day
- Securities Entitlements will be honoured via the JSE instructing the Non-failing member to purchase the securities and deliver to the Non-failing Party's CSDP upon settlement.

The JSE Settlement Authority will use the margin held to cover the full claim. The balance of the margin will be returned the next business day once settlement of the claim has occurred.

8. CLAIMS PROCESS FOR CONTROLLED CLIENTS

Where a Controlled client is the Non-failing Party and their transaction has been selected for the Failed Trade Procedures, they must claim as follows:

- The claims template, Annexure B, must be completed and submitted to their applicable Non-failing member. The claim must include all details of:
 - Corporate Actions entitlements (including their tax requirements where a Manufactured Dividend is being paid);
 - Expenses incurred; and
 - Income foregone.
- The Non-failing member must update any missing details such as:
 - BDA Account number
 - Deal ID
- The Non-failing member must validate:
 - Details on the deal – such as quantity and consideration etc.;
 - Corporate Actions entitlements being claimed – specifically where the claim relates to an elective Corporate Action. The CSDP must validate that the entitlement being claimed aligns to the original election of the non-controlled client for the event; and
 - Income foregone – specifically where the client is claiming interest. The CSDP must validate the interest rate that the client is claiming.
- The Non-failing member may also add their expenses incurred (.i.e. settlement fees incurred)
- The Non-failing member must then submit the claim to the JSE email address **T3claims@jse.co.za**

The claim must be submitted to the JSE by the close of business of the next business day after the Rolling of Settlement or Retransaction has settled or where the Non-failing member has been notified that the transaction will be settled through Compensation.

Once the claim has been received by the JSE, subject to there not being a dispute, the JSE will notify the Non-failing member that the claim will be honoured, and:

- Cash claims (including cash Corporate Action entitlements) will be paid within 1 business day
- Securities entitlements will be honoured via the JSE instructing the Non-failing member to purchase the securities and deliver to the Non-failing Party upon settlement.

The JSE Settlement Authority will use the margin held to cover the full claim. The balance of the margin will be returned the next business day, once settlement of the claim has occurred.

9. CLAIMS PROCESS FOR PROPRIETARY DEALS

Where a Proprietary deal is the Non-failing Party, and their transaction has been selected for the Failed Trade Procedures they must claim as follows:

- The claims template, Annexure B, must be completed and submitted to the JSE email address **T3claims@jse.co.za**. The claim must include all details of:
 - Corporate Actions entitlements (including their tax requirements where a Manufactured Dividend is being paid);
 - Expenses incurred; and
 - Income foregone.

The claim must be submitted to the JSE by the close of business of the next business day after the Rolling of Settlement or Retransaction has settled or where the Non-failing member has been notified that the transaction will be settled through Compensation.

Once the claim has been received by the JSE, subject to there not being a dispute, the JSE will notify the Non-failing member and the Non-failing Party's CSDP that the claim will be honoured, and:

- Cash Claims (including cash Corporate Action entitlements) will be paid within 1 business day
- Securities Entitlements will be honoured via the JSE instructing the Non-failing member to purchase the securities and deliver to the Non-failing party's CSDP upon settlement.

The JSE Settlement Authority will use the margin held to cover the full claim. The balance of the margin will be returned the next business day once settlement of the claim has occurred.

10. ANNEXURE A – JSE RULES

10.105 Rolling of settlement

10.105.3 The non-failing member must, before the close of business on the business day following that on which the rolling of settlement has been completed, submit a statement, in writing, to the Settlement Authority detailing–

10.105.3.1 if applicable, any corporate action which the equity security is subject to from the day of the original transaction;

10.105.3.2 if applicable, any tax implications that may have arisen; and

10.105.3.3 any expenses incurred or income foregone by the member or the client as a consequence of the rolling of settlement, including interest.

10.105.4 If the equity security of the original transaction is subject to a corporate action and the rolling of settlement results in either of the parties not receiving an entitlement, the claim for the loss of entitlement will be managed by the Settlement Authority so as to, as closely as possible, place the parties in the position that they would have been in had the original transaction not been rolled.

10.105.5 The Settlement Authority will, on request, use reasonable endeavours to procure that the purchaser of the equity securities involved in a rolling of settlement will be able to exercise any voting rights attaching to those securities during the period between the original settlement date and the revised settlement date.

10.105.6 Any margin taken on the original transaction will be retained by the Settlement Authority until payment of any claims on the rolled settlement has been made.

10.110 Failed trades

10.110.3.2 The non-failing member must, before the close of business on the business day following that on which the re-transaction has been completed, submit a statement, in writing, to the Settlement Authority detailing–

- 10.110.3.2.1 the date, price and quantity of securities of the original transaction and re-transaction, and the consequential profit or loss;
- 10.110.3.2.2 if applicable, any corporate action which the equity security is subject to from the day of the original transaction;
- 10.110.3.2.3 if applicable, any tax implications that may have arisen; and
- 10.110.3.2.4 any expenses incurred or income foregone by the member or the client as a consequence of the re-transaction, including interest.
- 10.110.3.3 The Settlement Authority will consider the information supplied by the non-failing member and determine the extent of any financial prejudice suffered, if any. Payment will be made to the non-failing member utilizing the margin held in respect of the failing member. Should the margin be insufficient, the failing member must pay any shortfall to the Settlement Authority on the day of receipt of the instruction to do so. In the event that the re-transaction results in a surplus, such surplus is payable to the JSE.
- 10.110.3.4 In determining the extent of the financial prejudice suffered, the Settlement Authority may review the price of the re-transaction with reference to the principle of best execution.
- 10.110.3.5 Any margin taken on the original transaction will be retained by the Settlement Authority until payment of any claims on the re-transaction has been made.
- 10.110.4 Compensation in respect of a failed trade will be dealt with in the following manner:
 - 10.110.4.1 In determining the compensation referred to in rule 10.110.2.1.2, the following factors may be considered –
 - 10.110.4.1.1 the price at which the equity securities were originally transacted;
 - 10.110.4.1.2 the prevailing market conditions at the time the equity securities were originally transacted;
 - 10.110.4.1.3 the circumstances of the original transaction;
 - 10.110.4.1.4 the nature and pattern of trading in the equity security since the original transaction;
 - 10.110.4.1.5 the current market conditions;
 - 10.110.4.1.6 any publicly available information regarding the equity security or the issuer of the equity security;
 - 10.110.4.1.7 any corporate action which the equity security is subject to from the day of the original transaction;
 - 10.110.4.1.8 any expenses incurred or income foregone by the member or the client as a consequence of the failed trade, including interest; and
 - 10.110.4.1.9 any other factors deemed relevant.
- 10.110.5 The non-failing member must, before the close of business on the business day after notification in terms of rule 10.110.2.2, submit a statement, in writing, to the Settlement Authority detailing –

10.110.4 introduced with effect from 16 October 2008
 10.110.5 introduced with effect from 16 October 2008

- 10.110.5.1 if applicable, any corporate action which the equity security is subject to from the day of the original transaction; and
- 10.110.5.2 any expenses incurred or income foregone by the member or the client as a consequence of the failed trade, including interest.
- 10.110.6 Where it is determined that it is appropriate to compensate the non-failing party in respect of a failed trade, compensation will be paid to the non-failing member utilizing the margin held in respect of the failing member. Should the margin be insufficient, the failing member must pay any shortfall to the Settlement Authority on the day of receipt of the instruction to do so.
- 10.110.7 Any margin taken on the original transaction will be retained by the Settlement Authority until payment of any compensation has been made.

11. ANNEXURE B – CLAIMS TEMPLATE

Market Claim for on-market transactions affected by the Fails Management Process	
Date	Client provide information
Client Name	Client provide information
Contact person at the Client – name and email address	Client provide information
CSDP	Client provide information
Cash Account	Client provide information/CSDP validate
Custody Account	Client provide information/ CSDP validate
Contact person at the CSDP – name and email address	CSDP provide information up front
Broker name	Client provide information/ Broker validate
BDA account no	Client provide information
Contact person at the Broker – name and email address	Broker provide information upfront
Original Strate Order no	Broker
BDA deal id	Broker
Instrument Alpha	Client provide information
Instrument ISIN	Client provide information
Quantity of deal	Client provide information
Original Settlement Date	Client provide information
Details of Corporate Action	Give details of the Corporate Action.i.e.a dividend of 10cps Client provide information/CSDP validate
Tax status of the claiming client in the case of a Manufactured Dividend	Include tax percentile Client provide information/CSDP validate DWT only
Amount claimed for Corporate Action entitlement	Client provide information/CSDP validate
Details of expenses incurred	Client provide information
Details of loss of income foregone	Give details of loss of revenue.i.e.shares were being given out as a lending transactions where the client would have earned 0.5% for 3 days Client provide information
Details of interest claim	Give details of interest.i.e. account was overdrawn and interest of 9.5% was charged for 3 days

	Client provide information
Amount claimed for income foregone	Client provide information
Amount claimed for interest	Client provide information
Amount claimed for expenses incurred	Client provide information
Amount claimed for Manufactured Dividend	Client provide information
Total Claim	Client provide information
JSE Settlement Authority claim number	On receipt of the template the JSE Settlement will give the claim a number which will be sent back to the broker and CSDP. This number must be used with all future correspondence