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5 December 2019

VALUE ADDED TAX AND RISK FEE

The risk fee was implemented as part of ITaC go live on 29 April 2019 and set at 17 basis points for Equity and Currency Derivatives (previously 20 and 12.5 basis points respectively). Legal opinion received at the time indicated that this fee should attract Value Added Tax.

Subsequent to this decision and initial views of our attorneys we briefed senior counsel to confirm that this charge is indeed a "risk fee" on which VAT is payable. As discussed with Clearing Members the JSE has received a legal opinion from Adv. Peter Solomon SC confirming that the interest rate "haircut" / "risk fee" currently calculated and invoiced at month end is exempt from Value Added Tax.

In summary, senior counsel is of the view that:

- JSE Clear receives margin deposits from members and invests these in interest bearing investments with banking institutions. Interest on these investments is paid to members less an interest consideration.
- JSE Clear acts as a licensed clearing house, CCP and trustee in receiving these funds, investing them, receiving interest and paying the amount less the interest consideration back to members.
- The interest consideration retained is JSE Clear's profit from these activities and treated as operating income. The process of making investments with banking institutions constitutes "financial services" as defined in section 2 of the VAT act. In particular, this constitutes the issue of ownership of "debt securities" as defined in that section.
- Therefore, in terms of section 12 of the VAT act, these supplies are exempt from VAT and as such, JSE Clear is not obliged to render VAT on the consideration received by it in respect of the investment with the banking institutions, namely the interest or the interest consideration earned from such transactions.

Market/s:

JSE Derivative Markets

- Equity Derivatives
- Currency Derivatives

Environment(s):

Production

Additional Information:

If you have any queries about this communication, please contact the JSE Clearing and Settlement team on +27 11 520 7349 or e-mail clearops@jse.co.za

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Overview of invoicing, reporting and technical changes

As a result, the JSE will be issuing credit notes to all Clearing Members for the period 29 April 2019 to 31 December 2019 in the first week of January 2020 and re-invoicing for this period reflecting the 17bps invoiced without the VAT component.

The JSE will not be making any API field changes but will reflect this item as an Interest Consideration, which is exempt from VAT from 31 January 2020 – this will include updates to the descriptions in the relevant API fields for the as well. The **riskFeeAmount** field will reflect the Interest Consideration at 17bps and the **riskFeeVATAmount** field will be disseminated with a zero value.