

Bond market penalties and settlement authority fees guidance note

**Version 1.0
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**JSE Post Trade Services
Bond Settlement Authority**



CONTENTS

1	Background.....	3
2	Directive EI - Penalties.....	4
3	Directive EJ – Settlement Authority fees.....	6
4	New listings.....	6
5	Processing of penalties and fees	7

Document history

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0.1	Alicia Greenwood	Director JSE Post Trade Services	30 October 2018
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1 BACKGROUND

The Financial Sector Conduct Authority (“FSCA”), in terms of section 71(3)(c) of the Financial Markets Act, approved recent amendments to the Interest Rate and Currency Rules and these came into effect from 17 July 2018. The revised Interest Rate and Currency Derivatives Directives came into effect on 30 July 2018. The Rules and Directives can be found on the JSE website at <https://www.jse.co.za/trade/derivative-market/interest-rate-derivatives>. The Rules and Directives are binding upon all Interest Rate and Currency Derivatives market members and their clients.

One of the objectives of the JSE Rules and Directives, and processes, is to ensure that settlement risk is managed appropriately, and thereby to promote a sound and reliable South African bonds market. Settlement risk is the risk that a counterparty fails to deliver a security or its value in cash as per agreement when the security was traded after the other counterparty or counterparties have already delivered security or cash value as per the trade agreement. Section 8 and 9 of the Rules deal with Clearing and Settlement, and paragraph 9.170 specifically sets out the rules as they pertain to penalties and fees, and authorises the Settlement Authority – i.e. the persons appointed by the JSE to manage the settlement of transactions in bonds – to impose penalties and fees on trading members as set out.

Section EI and EJ of the Directives stipulate the schedule of penalties and fees that will be incurred by trading members and/or their clients in the event of their contravention of the Rules, and where exception management actions are required to be undertaken by the JSE Settlement Authority. The purpose of these penalties and fees is to improve market adherence to prescribed settlement timeframes and discourage market indiscipline, and thereby reduce settlement risk to the benefit of all market participants, and to the benefit of the market as a whole. Penalties levied by the JSE are utilised for the development of the South African bond market, and are kept in an appropriately governed fund. Administration fees levied are used by the JSE to cover the costs associated with executing the required processes to accommodate an errant trading member and/or client.

The JSE is empowered to waive penalties and fees and may exercise this ability after taking into consideration certain factors. These include the extent to which settlement risk is affected, the impact of the contravention of the overall functioning of the market and on other market participants, and the specific circumstances underlying a contravention. The waiving of any penalties and administration fees is at the sole discretion of the JSE.

This document aims to provide further clarification of the penalties and administration fees associated with the cash bond market and to describe the scenarios where penalties and administration fees might be waived by the JSE.

2 DIRECTIVE EI - PENALTIES

The penalties associated with contraventions in the clearing and settlement process are stipulated in Section EI.3 of the Directives, as below:

Transgression	Penalty
<p>3.1 Pre-trade: Trading in bonds where –</p> <p>3.1.1 a trading member has not opened a custody and funds settlement account with a CSDP and has not been set up on the trading system, Strate system and CSDPs system;</p> <p>3.1.2 where a transaction has been booked to a client's account that has not been registered in terms of directive EE.</p>	<p>R10 000</p> <p>R10 000</p>
<p>3.2 T</p> <p>Where a member has failed to allocate a trade in terms of rule 9.70.2.1 or assign a trade in terms of rule 9.70.2.2 on the date of the trade</p>	R1 000
<p>3.3 T</p> <p>Where a member has failed to correct an allocation in terms of rule 9.70.3.1 or failed to correct a principal assignment in terms of rule 9.70.3.2.</p>	R1 000
<p>3.4 Commitments to settle</p> <p>3.4.1 T+1, T+2 and T+3 trades:</p> <p>3.4.1.1 Where a member is unable to place the CSDP of the trading member or a non-member settled client, as the case may be, in a position to commit to settle the T+1, T+2 or T+3 transactions of the trading member or its clients by 19h00 on the business day preceding the settlement date in terms of rule 9.100.5;</p> <p>3.4.1.2 In addition to 3.4.1.1, where a member is still unable to place the CSDP of the trading member or a non-member settled client in a position to commit to settle the T+1, T+2 or T+3 transactions of the trading member or its clients by 13h00 on settlement date in terms of rules 9.100.7 and 9.100.8.</p> <p>3.4.2 Same day trades</p> <p>Where a member is unable to place the CSDP of the trading member or a non-member settled client in a position to commit to settle the same day transactions of the trading member or its clients by 13h00 on settlement date in terms of rule 9.100.5.</p>	<p>R 5 000 per occurrence which, notwithstanding the failure to commit to settlement by 19h00 on the business day preceding the settlement date in breach of rule 9.100.5, will be levied in respect of transactions for which the commitment to settle has still not been provided by 09h00 on the settlement date</p> <p>R 5000 per occurrence</p> <p>R 5000 per occurrence</p>
<p>3.5 Where a member introduces a trade for which settlement is rolled in terms of rule 9.125.</p>	R1 000 plus 20 basis points on the nominal value up to a maximum of R100 000
<p>3.6 Where a member introduces a proprietary or client trade which is declared a failed trade in terms of rule 9.70.5</p>	R1 000 plus 30 basis points on the nominal value up to a maximum of R100 000

Penalties 3.1, 3.2 and 3.3

- will be waived only if a JSE system issue prevented these actions from being completed timeously by the trading member.

Penalty 3.4.1.1

- will be waived in cases where the trade has a direct or indirect dependency on an off-market transaction to which Strate has granted an exception, in terms of clause 3.2.1. of Strate Directive SD.2 (Operational Market Windows – Off-Market – Bond Securities – JSE). These exceptions generally relate to trading members and/or their clients who are awaiting delivery of stock from a trade in a jurisdiction operating in another time zone, and where that trade only settles after 09h00 on S. The trading member's, or client's, CSDP is required to formally request this exception from Strate. Any queries relating to how to obtain this exception from Strate should be directed to Bonds@jse.co.za. It should be noted that clients with the abovementioned exception from Strate will incur Penalty 3.4.1.2 if the trade remains uncommitted by 13h00 on S.
- will be waived if a SLB transaction is being processed to enable the CSDP to commit to the trade. It is the Members' responsibility to inform the JSE Bond Settlement Authority before 09:00 on S that the SLB is underway.
- will not be waived in situations where SARB-linked trades need to be executed to cover the trade, or where stock must be 'un-reserved' with the SARB, as these processes can comfortably be completed before 09h00 on S.

Penalty 3.4.2

- will not be waived under any circumstances. For clarity, please note that same day trades must be committed to by 13:00, not 09:00.

Penalty 3.5

- may be waived in the scenarios where any market disruption is avoided because the trading member provides the stock cover from their own prop account, and/or the trading member has booked cover by 12:00 on S.
- may be waived if the buying trading member is not on-delivering the stock into the market, or where the rolling of the trade has no impact on other market participants and does not require the breaking of back-to-back linked groups.

Penalty 3.6.

- may be waived in the scenarios where any market disruption is avoided because the trading member provides the stock cover from their own prop account, and/or the trading member has booked cover by 12:00 on S.
- may be waived if the buying trading member is not on-delivering the stock into the market, or where the rolling of the trade has no impact on market participants and does not require the breaking of back-to-back linked groups.

3 DIRECTIVE EJ – SETTLEMENT AUTHORITY FEES

The fees associated with actions taken by the Settlement Authority to resolve exceptions during the clearing and settlement process are stipulated in Section EJ.1 of the Directives, and as replicated below:

Service	Fee
1.1 Assisting a trading member to source a counterparty to a carry or repurchase transaction in terms of rule 9.30.2.5 or source a lender of bonds in terms of rule 9.30.2.63	R 5000
1.2 Execution by the Settlement Authority of the rolling of settlement process in terms of rule 9.30.2.10	R5 000 administration fee payable by the member who introduced the trade which resulted in the execution of the process in terms of 9.30.2.10
1.3 Execution by the Settlement Authority of the failed trade process in terms of rule 9.135.	R10 000 administration fee payable by the member who introduced the failed trade
1.4 Resolution by the Settlement Authority of an interest entitlement resulting from a rolling of settlement or failed trade procedure.	R1 000 administration fee payable by the member who introduced the failed trade
1.5 Requests to extend the trading window for the booking of same day cover trades to facilitate settlement.	R 2500 per request

Fee 1.1 and 1.4

- will not be waived under any circumstances.

Fees 1.2 and 1.3

- may be waived in the scenario where the buying trading member in the proposed rolled trade is not on-delivering into the market, but is intending to hold the purchased stock. In this scenario, there is no further impact to the market of the trade being rolled and no other trades or settlement groups are impacted negatively (i.e. does not require the breaking of back-to-back linked groups associated with the proposed rolled trade).

Fee 1.5

- may be waived in the scenarios where:
 - a) Members are required to book IRC trades to cover trades placed in the Bond ETP market;
 - b) Members have become impacted by the breaking of a group of trades in which another trades had to be removed; or
 - c) JSE system issues prevented the booking of trades during the regular trading windows.

4 NEW LISTINGS

For new listings, there may be a delay in stock availability in the market due to certain actions by the JSE and/or Strate in establishing the new listing and related processes. In these cases, members are not able to commit to booked trades as the stock is simply not yet available in the market. In these cases, members will not be penalised for late or no stock cover where trades are booked on S.

5 PROCESSING OF PENALTIES AND FEES

The JSE will issue the trading member with notices informing of incurred penalties and fees within 2 business days of incurrance. Trading members have the opportunity to formally appeal the penalty or fee by lodging their objection to the JSE Bond Settlement Authority (bonds@jse.co.za) within 5 business days of receiving the notice from the JSE.

All penalties and fees incurred during a month will be invoiced to the trading member at the end of the month, and payment is expected within 5 business days of the invoice date.

It is the trading member's responsibility, at all times, to ensure that trades are cancelled timeously and to inform the JSE Bond Settlement Authority throughout all stages of the process in order to avoid unnecessary fees and penalties.

Should you any queries on the above, kindly contact the JSE Bond Settlement Authority on bonds@jse.co.za.