

# **FAILED TRADES – MARKET CLAIMS PROCESS BONDS**

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## 1. VERSION CONTROL

Version	Author(s)	Date	Notes
0.1 Draft	Brett Kotze	2017-03-23	Document creation
0.2 Draft	Brett Kotze	2017-04-18	Update with external comments

## 2. GLOSSARY

Term	Description
<b>CSDP</b>	CSD Participant
<b>Failing member</b>	This refers to the member that introduced the failing transaction that Rolling of Settlement or the Failed Trade procedure is being instigated for
<b>Non-failing member</b>	This refers to the member whose transaction is selected for Rolling of Settlement or the Failed Trade procedure
<b>Failing party</b>	This refers to the party, which could be a client or a broker (proprietary trade), who owns the transaction that is failing
<b>Non-failing party</b>	This refers to the party, which could be a client or a broker (proprietary trade), who owns the transaction selected for Rolling of Settlement or the Failed Trade procedure
<b>JSE</b>	Johannesburg Stock Exchange
<b>Failed Trade Procedures</b>	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"> <li>- Rolling Of Settlement</li> <li>- Failed Trade with Compensation</li> </ul>
<b>Rolling Of Settlement</b>	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
<b>Failed Trade with Compensation</b>	The action taken by the JSE Settlement Authority to pay compensation between the failing and non-failing parties.

### 3. INTRODUCTION

Failed Trade procedures are not new to the South African bond market. The JSE Rules and Directives provisioning the Failed Trade Procedures were introduced in 2011. However, for various reasons these Rules, as with enforced Securities Lending & Borrowing or Carry and Repurchase transactions, have not been applied or not applied consistently.

In moving to Strate's new Debt Instrument Solution (DIS) it has been agreed that the Rules relating to Securities Lending & Borrowing, Carry's and Repurchases and Failed Trade procedures will be applied in full, in an attempt to establish the bond market as a zero fails environment, similar to what has been achieved within the cash equities market.

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 Capital Event entitlements including tax implications

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

#### 4. CAPITAL EVENTS IMPACTS

Where a trade leg (settlement order) is chosen for Rolling of Settlement or as a Failed Trade which affects a Capital Event entitlement, the Non-failing Party will be able to claim the value of the Capital Event entitlement from the JSE Settlement Authority by following the Failed Trade Claims Process. The Non-failing Party would also have to include any tax implications, so that the JSE Settlement Authority may claim this from the Failing party on their behalf.

#### 5. CLAIMS PROCESS FOR NON-MEMBER SETTLED CLIENTS

Where a non-member settled 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:
  - Capital Event entitlements (including their tax requirements);
  - 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 of the settlement order such as quantity and consideration etc.;
  - Capital Event entitlements being claimed; and
  - Income foregone – specifically where the client is claiming interest. The CSDP must validate the interest rate that the client is claiming. A letter must be supplied by the client's 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:
  - Nutron Account number

- Trade deal ID
- The Non-failing member must validate:
  - Details on the trade leg – trade leg 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 **BondT3claims@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 Failed Trade.

Once the claim has been received and validated by the JSE, subject to there not being a dispute, the JSE will notify the Failing member to pay such claim to the Non-failing Member for payment to the client.

## 6. CLAIMS PROCESS FOR MEMBER SETTLED CLIENTS

Where a member settled 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:
  - Capital Event entitlements (including their tax requirements);
  - Expenses incurred; and
  - Income foregone.
- The Non-failing member must update any missing details such as:
  - Nutron Account number
  - Trade deal ID
- The Non-failing member must validate:
  - Details on the deal – such as quantity and consideration etc.;
  - Capital Event entitlements being claimed; and
  - Income foregone – specifically where the client is claiming interest. The Non-failing member 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 **BondsT3claims@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 Failed Trade.

Once the claim has been received and validated by the JSE, subject to there not being a dispute, the JSE will notify the Failing member to pay such claim to the Non-failing member for payment to the client.

## **7. CLAIMS PROCESS FOR PROPRIETARY DEALS**

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

- The claims template, Annexure B, must be completed and submitted to the JSE email address **BondsT3claims@jse.co.za**. The claim must include all details of:
  - Capital Events entitlements (including their tax requirements);
  - 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 Failed Trade.

Once the claim has been received and validated by the JSE, subject to there not being a dispute, the JSE will notify the Failing member to pay such claim to the Non-Failing member.



## 8. ANNEXURE A – JSE RULES

### 9.125 Rolling of settlement

- 9.125.1 The rolling of settlement will be carried out in the following manner:
  - 9.125.1.1 The Settlement Authority will obtain a list of the linked settlements, which will include the failed trade leg as well as the opposite trade leg and any linked settlements;
  - 9.125.1.2 The Settlement Authority will advise the failing and non-failing trading members that the transaction will be rolled to a revised settlement date determined by the Settlement Authority;
  - 9.125.1.3 The failing and non-failing trading members will be instructed to re-book the original transaction for settlement on the revised settlement date.
- 9.125.2 If settlement does not take place on the revised settlement date, the transaction may, at the discretion of the Settlement Authority, either be rolled to another revised settlement date, under exceptional circumstances, or be declared to be a failed trade, and the affected trading members must act in accordance with the instructions received from the Settlement Authority in terms of rule 9.130 or rule 9.135.
- 9.125.3 The failing trading member or non-failing trading 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 any expenses incurred or income foregone by the member or the client as a consequence of the rolling of settlement, including interest.
- 9.125.4 The non-failing trading member shall in respect of a reported transaction, claim any losses and compensation resulting from the rolling of settlement from the failing trading member. Failure by the failing trading member to pay such funds shall be in contravention of these rules and directives, and may, in the discretion of the JSE, be deemed to constitute an act of default in terms of rule 11.10.
- 9.125.5 In the case of transactions which are cleared by JSE Clear in terms of rule 8.20.1, 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.

### 9.130 Failed trade procedure applicable to trades cleared by JSE Clear

- 9.130.1 A failed trade arising out of a transaction which is cleared by JSE Clear in terms of rule 8.20.1, shall be dealt with in the following manner-
  - 9.130.1.1 the Settlement Authority will obtain a list of the linked settlements, which will include the failed trade leg as well as the opposite trade leg and any linked settlements;
  - 9.130.1.2 Reserved
  - 9.130.1.3 the transactions selected in terms of rule 9.130.1.1 shall be closed at a price to be determined by the Settlement Authority in accordance with principles set out in the

9.125 introduced with effect from 9 May 2011

9.125.1 to 9.125.5 introduced with effect from 12 July 2010

9.130 amended with effect from 9 May 2011

9.130.1 amended with effect from 9 May 2011

9.130.1.1 amended with effect from 9 May 2011

9.130.1.2 deleted with effect from 9 May 2011

directives. This price may differ from the original transaction price and will include compensation for the trading members or clients whose transactions are being closed;

- 9.130.1.4 the difference between the original value of the trade that failed and the value based on the close out price as established in rule 9.130.1.3 shall be paid by the Settlement Authority to the CSDP of the trading member or client who effected the failed trade, to enable the CSDP to commit to the failed trade settlement in terms of the procedures as set out in the directives;
  - 9.130.1.5 the settlement margin and top-up margin held by JSE Clear in respect of the relevant trading member or non-member settled client will be applied by the Settlement Authority to pay the amount referred to in rule 9.130.1.4 to the CSDP of the trading member or client whose transactions failed;
  - 9.130.1.6 the clearing member of the trading member who effected the failed trade will pay any resultant shortfall between the margin referred to in rule 9.130.1.5 and the amount referred to in rule 9.130.1.4 to the Settlement Authority and may claim such shortfall from the trading member. Any resultant surplus between the margin referred to in rule 9.130.1.5 and the amount referred to in rule 9.130.1.4 will be paid by the Settlement Authority to the clearing member of the trading member who effected the failed trade; and
  - 9.130.1.7 If the failed trade was effected by the trading member on behalf of a client, the shortfall owed by the trading member to the clearing member in terms of rule 9.130.1.6 may be claimed by the trading member from the client.
- 9.130.2 This rule 9.130 shall be binding on JSE Clear, clearing members, trading members, clients and CSDPs.

#### **9.135 Failed trade procedure applicable to reported transactions not cleared by JSE Clear**

- 9.135.1 A failed trade arising out of a reported transaction not cleared by JSE Clear shall be dealt with in the following manner:
  - 9.135.1.1 the Settlement Authority will obtain a list of the linked settlements, which will include the failed trade leg as well as the opposite trade leg and any linked settlements;
  - 9.135.1.2 the transactions selected in terms of rule 9.135.1.1 shall be closed at a price to be determined by the Settlement Authority in accordance with principles set out in the directives. This price may differ from the original transaction price and will include compensation for the trading members or clients whose transactions are being closed;
  - 9.135.1.3 the non-failing trading member shall claim any losses and compensation resulting from the close out of the transaction from the failing trading member. Failure by the failing trading member to pay such funds shall be in contravention of these rules and directives, and may, in the discretion of the JSE, be deemed to constitute an act of default in terms of rule 11.10.

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9.130.1.3 amended with effect from 9 May 2011

9.135 introduced with effect from 9 May 2011

9.135.1 introduced with effect from 9 May 2011

## 9. ANNEXURE B – CLAIMS TEMPLATE

Market Claim for on-market transactions affected by the Failed Trade Procedure	
Date	Client to provide information
Client Name	Client to provide information
Contact person at the Client – name and email address	Client to provide information
CSDP	Client to provide information
Cash Account	Client to provide information /CSDP to validate
Custody Account	Client to provide information /CSDP to validate
Contact person at the CSDP – name and email address	CSDP to provide information up front
Broker name	Client to provide information / Broker to validate
Nutron account no.	Client to provide information
Contact person at the Broker – name and email address	Broker to provide information upfront
Strate Order no.	Broker
Instrument Alpha	Client to provide information
Instrument ISIN	Client to provide information
Quantity of deal	Client to provide information
Details of Capital Event	Give details of the Capital Event Client to provide information / CSDP to validate
Tax status of the claiming client	Include tax percentile Client to provide information / CSDP to validate
Amount claimed for Capital Event entitlement	Client to provide information / CSDP to validate
Details of expenses incurred	Client to 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 to provide information
Amount claimed for income foregone	Client to provide information
Amount claimed for interest	Client to provide information
Amount claimed for expenses incurred	Client to provide information
Amount claimed for Manufactured Dividend	Client to provide information

<b>Total Claim</b>	Client to provide information
<b>JSE Settlement Authority claim number</b>	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