

# SETTLEMENT OBLIGATIONS

## T+3

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## INTRODUCTION

This document sets out the settlement obligations of clients who enter into transactions in JSE listed equity securities that settle electronically through Strate. The requirement for JSE equity members to make their clients aware of their settlement obligations is laid out in rule 10.20.5 of the JSE.

The JSE deems it necessary for members to make their clients aware of their settlement obligations in the interests of all participants especially with the current move to a T+3 settlement cycle.

This document has two broad sections, being the settlement obligations of *controlled clients*, and the settlement obligations of *non-controlled clients*. Either one of the two sections will be applicable to a client at any point of time. In order to assist in distinguishing the two types:

- a *controlled client* is a client, or an account holder on whose behalf a client is acting, who does not appoint a CSDP of their own, since their funds and equity securities are under the control of a custody services provider and are reflected on the BDA system and are settled via the CSDP of a member. As a result, the settlement of their transactions is conducted by the member of the client via accounts belonging to the member in the records of the CSDP of that member;
- a *non-controlled client* is a client, or an account holder on whose behalf a client is acting, who has appointed its own CSDP. As a result, the settlement of their transactions is conducted by the CSDP of the client via the accounts belonging to the client in the records of the CSDP.

For ease of reference, the relevant rules that create the settlement obligations and penalties for the transgression of these rules are reflected in boxes in the text. Relevant definitions are set out in the last section of the document.

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This document is also available on the JSE website, and can be downloaded from the addresses <http://www.jse.co.za> and <http://www.strate.co.za>.

## SETTLEMENT OBLIGATIONS FOR CONTROLLED CLIENTS

### Settlement Obligation 1

Settlement will take place in accordance with the following principles:

- 1.1 Each transaction represented by a single contract note between the ultimate buyer and ultimate seller;
- 1.2 Applying the market convention that parties to a transaction have a contractual obligation to cause such transaction to settle on a specific day, settlement day (which is three business days after the trade was done); and
- 1.3 On a net basis per member, per equity security per trade type.

#### **APPLICABLE RULES**

##### **Rule 10.30 Settlement principles for transactions in equity securities**

*10.30.1 All transactions in equity securities must be settled electronically through STRATE in accordance with the following principles –*

*10.30.1.1 contract note by contract note;*

*10.30.1.2 between the ultimate buyer and the ultimate seller;*

*10.30.1.3 on a rolling and contractual basis, whereby transactions become contractually due to be settled a prescribed number of days after the trade date; and*

*10.30.1.4 on a net basis per member and per equity security, whereby individual contract notes are consolidated and offset into net amounts of securities and funds for settlement.*

### Settlement Obligation 2

- 2.1 A controlled client must sign a mandate in favour of a member before any cash or securities are received by the member.
- 2.2 A controlled client must obtain a receipt from the member when securities in certificated form are placed under the control of the member.
- 2.3 A controlled client must receive a statement on at least a quarterly basis or more frequently if the client so requests and reconcile the equity securities and funds reflected on the statement with his records. Any discrepancies should immediately be raised with their member for investigations.
- 2.4 A controlled client must advise a member of its choice for an elective corporate action as set out in the client mandate or agreed with their member
- 2.5 A controlled client must advise a member if it wishes to receive information from any issuer regarding securities that the client owns and if their email address may be supplied to the Issuer to allow for electronic communication from the Issuer.

**APPLICABLE RULES****Rule 9.10 Safeguarding of assets in controlled client accounts**

- 9.10.2 *The arrangements made by a controlled client with a member in respect of custody of equity securities and funds must be recorded in a written mandate. The mandate must contain the minimum requirements as prescribed by the JSE. The controlled client must accept the terms of the mandate and communicate such acceptance to the member before any funds or equity securities are accepted from the controlled client. The mandate may be in electronic form and its acceptance may be expressed by electronic means, provided that if acceptance occurs otherwise than by electronic means, the expression of acceptance must be evidenced by the physical signature of the controlled client*
- 9.10.8 *Where certificated equity securities are received from a controlled client, a dated and signed receipt recording the name, quantity, certificate number and registered holder of the equity security must be issued forthwith*

**Rule 8.180 Client statements**

- 8.180.2 *Statements shall be provided to clients –*
- 8.180.2.1 *at regular intervals which may not exceed three months, unless the client consents in writing not to receive the statements because they are able to access the information made available by the member through electronic means, such as the internet, on a continuous basis; or*
- 8.180.2.2 *monthly if the client's portfolio as managed by the member includes any open positions in derivative instruments; or*
- 8.180.2.3 *at such intervals of less than three months as the client requests, although the member shall not be obliged to provide statements more frequently than monthly.*

**Rule 8.140 Management of Corporate Actions**

*The arrangement between a member and a controlled client regarding issues pertaining to corporate actions must be recorded in writing. The written arrangement must, as a minimum, incorporate the instructions from the controlled client and the terms and conditions which will apply to the following issues pertaining to corporate actions -*

- 8.140.1 *whether the client wishes to receive all company reports, proxy forms, notices, circulars, listing particulars and any other issuer communications, in respect of equity securities of which such client is a beneficial owner;*
- 8.140.2 *whether the member is entitled and obliged to utilise its discretion in electing particular options in respect of all or certain corporate action events which require such an election to be made;*
- 8.140.3 *whether the member may utilise its discretion in exercising voting rights on behalf of the client;*
- 8.140.4 *the means of communication between the member and the client if the member is not granted discretion to act in respect of the issues referred to in rules 8.140.2 and 8.140.3. This will apply to the communication of the relevant issues to the client by the member as well as the client's response thereto;*

- 8.140.5 *the date and time by which the client is required to make an election, if applicable; and*
- 8.140.6 *the option which the member may elect if the client fails to advise the member of their election before the deadline specified in rule 8.140.5, if applicable. This could either be the default for election or the member may be entitled to utilise its discretion in electing a particular option.*

### **Settlement Obligation 3**

A controlled client may not place an order to sell equity securities unless:

- 3.1 the securities to be sold are in the custody of the member in uncertificated form; or
- 3.2 the controlled client can evidence to their member that they own the equity securities to be sold and that such securities will be available for settlement on T+3; or
- 3.3 another transaction has been entered into by the client for the equivalent number of equity securities to be available for settlement on T+3 or before; or
- 3.4 the controlled client has made arrangements to borrow the equivalent number of equity securities and the equivalent securities will be available for settlement to take place on T+3; or
- 3.5 a corporate action provides for an equivalent amount of equity securities being available for settlement on settlement date; or
- 3.6 The equity securities are being moved between registers and the securities will be available on the South African register for settlement.

#### **APPLICABLE RULES**

##### **Rule 10.50 General pre-trade settlement requirements**

10.50.1 *A client may only place an order with a member to transact in equity securities if –*

10.50.1.2 *in respect of a sell order –*

10.50.1.2.1 *the equity securities to be sold are held in uncertificated form by the member's CSDP, in the case of a controlled client, or by the client's CSDP, in the case of a non-controlled client; or*

10.50.1.2.2 *a controlled client is able to evidence to a member that they own the equity securities to be sold in uncertificated form and that such securities will be available for settlement on settlement date; or*

10.50.1.2.3 *another transaction has been concluded which provides for an equivalent amount of equity securities being available for settlement on settlement date; or*

10.50.1.2.4 *a satisfactory borrowing arrangement is in place which provides for an equivalent amount of equity securities being available for settlement on settlement date; or*

10.50.1.2.5 *a corporate action provides for an equivalent amount of equity*

*securities being available for settlement on settlement date; or*

*10.50.1.2.6 the equity securities to be sold will be transferred from a foreign register to the local register and such securities will be available for settlement on settlement date.*

**APPLICABLE PENALTY**

- *EJ 1.2.2 - R1 000 per contract note (this penalty is applicable to rule 10.50.2.2 not 10.50.1.2)*

**Settlement Obligation 4**

By no later than 16h00 on T+1, a controlled client must ensure that their member is in a position to settle the transaction on T+3, either by providing the necessary funds or equity securities to the member or entering into an arrangement with the member to ensure that settlement takes place on settlement day.

Where the controlled client does not provide the necessary funds or equity securities to the member by end of day on T+1, the transaction will be margined and where margin is called the member may call for the margin from the controlled client. If the transaction is subject to Rolling of Settlement and the Failed Trade procedures, the margin will be held until the future settlement date of the Rolling of Settlement or when the Failed Trade is resolved.

Where a controlled client fails to meet their settlement obligations for a sale transaction, the transaction will be reversed to the members account at 16h00 on T+2 and the member will assume the obligation to settle.

**APPLICABLE RULES**

**Rule 10.80 Controlled client settlement obligations**

*10.80.1 A controlled client shall, by no later than 16h00 on the first business day after the trade date, ensure that the member which effected the transaction on behalf of such client will be in a position to settle the transaction on settlement date, either by providing the equity securities or funds required to settle the transaction to the member or by entering into an agreement with the member to facilitate settlement of the transaction.*

*10.80.2 If a controlled client fails to meet his obligations in terms of rule 10.70.5 for a sale transaction, which includes any indication by the controlled client, at any stage, that he is unable to settle a transaction, the member will, by no later than 16h00 on the second business day after the trade date, assume the obligation to settle the transaction through the member's CSDP.*

**Rule 10.140 Margin on Transactions on equity securities**

*10.140.2 Margin is payable by a member before 12h00 on the second business day after the trade –*

*10.140.2.2 in respect of a controlled client sale transaction where, by end of day on the first business day after the trade date, the controlled client –*

*10.140.2.2.1 does not have sufficient equity securities in the custody of the member or the member's CSP for the transaction to settle on settlement date;*

*10.140.2.2.2 has not entered into a securities borrowing*

*arrangement to facilitate settlement of the sale on settlement date, as reflected on the BDA system; or*

*10.140.2.2.3 has not concluded a purchase transaction which is due to settle on or before the settlement date of the sale and which will provide sufficient equity securities for the sale to settle on settlement date; or*

*10.140.2.2.4 does not have a corporate action equity share entitlement which provides for an equivalent amount of equity securities being available for settlement on settlement date.*

*10.140.2.3 in respect of a controlled client purchase transaction where, by end of day on the first business day after the trade date, the controlled client –*

*10.140.2.3.1 does not have sufficient funds in the custody of the member or the member's CSP for the transaction to settle on settlement date; or*

*10.140.2.3.2 has not concluded a sale transaction which is due to settle on or before the settlement date of the purchase and which will provide sufficient funds for the purchase to settle on settlement date;*

*10.140.2.3.3 does not have a corporate action cash entitlement which provides for cash being available for settlement on or before the settlement date.*

*10.140.4 To the extent that margin payable by a member relates to transactions on a client's account, the member may recover such margin from the client. The member must refund the client forthwith upon the repayment of margin to the member by the JSE.*

## **Settlement Obligation 5**

- 5.1 Where the controlled client fails to put the member in a position before 16h00 on T+1 to settle the transaction on settlement day, the member may close out the client's transaction and claim the difference between the original transaction value and the close out value from the client, including interest, subject to any agreement with the client or notification to the client to the contrary, and to any action taken by the Settlement Authority in terms of the failed trade procedures set out in the rules. The member may sell for the account of the client so many of any other equity securities held on the client's account as is necessary to cover any loss that may be incurred by the client as a result of the close out of the original transaction. The client shall also remain liable for any losses, costs and charges incurred, or charge imposed by the member, in respect of any of the aforementioned transactions.
- 5.2 Where the controlled client has not complied with its obligation to put the member in a position to effect settlement and neither the member nor the Settlement Authority is able to effect settlement, the Settlement Authority shall as at 10h00 on T+3 declare the transaction to be a failed trade.
- 5.3 Notwithstanding 5.1 and 5.2 above, the notification at any stage by a controlled client to a member of its inability to put the member in a position to settle a



transaction, may result in the declaration of a failed trade by 09h00 on the following business day, if neither the member nor the Settlement Authority is able to ensure that settlement will take place on settlement day by doing a securities lending & borrowing.

#### **APPLICABLE RULES**

##### **Rule 10.60 General settlement provisions**

10.60.3 *If a CSDP of a member has not committed to settle the transaction by 10h00 on the third business day after the trade date or the Settlement Authority has otherwise determined, by that time, that a member will not be able to settle a transaction, the transaction shall be a failed trade and shall be dealt with in terms of the failed trade procedures set out in rule 10.110 unless the Settlement Authority rolls the settlement of the transaction to a subsequent date on the basis set out in rule 10.105.*

10.60.4 *Notwithstanding the provisions of rule 10.60.3, if -*

10.60.4.1 *a member advises the Settlement Authority at any stage that the CSDP of the member or CSDP of a non-controlled client of the member will not be in a position to settle a transaction on settlement date; and*

10.60.4.2 *the Settlement Authority is not able to procure that the settlement of the transaction will take place on settlement date or the Settlement Authority does not roll the settlement to a subsequent date;*

*the transaction shall be declared a failed trade by no later than 09h00 on the next business day and shall be dealt with in terms of the failed trade procedures as set out in rule 10.110.*

##### **Rule 10.100 Breaches of client settlement obligations**

10.100.1 *If a client breaches his settlement obligations as set out in the rules, subject to any agreement with the client or notification to the client to the contrary, and to any action taken by the Settlement Authority in terms of the rolling of settlement procedures set out in rule 10.105 or the failed trade procedures set out in rule 10.110, the member may -*

10.100.1.1 *in respect of a sale transaction, buy such equity securities for the account of the client and claim the difference between the selling consideration of such securities and the purchase consideration for such securities, including interest;*

10.100.1.2 *in respect of a purchase transaction, sell such equity securities for the account of the client and claim the difference between the purchase consideration of such securities and the selling consideration for such securities, including interest; and*

10.100.1.3 *sell for the account of such client—*

10.100.1.3.1 *so many of any other equity securities belonging to such client and held by or in the custody of such member; or*

10.100.1.3.2 *so many of any other equity securities due to be received by the member on the relevant settlement date in respect of any purchase transaction previously entered into by such client with or through the member,*

*as is necessary to realise an amount equal to the amount still owing by the*

*client in respect of such securities, after the sale or purchase of the equity securities in terms of rules 10.100.1.1 and 10.100.1.2, as the case may be.*

**10.100.2** *If a member acts in accordance with rule 10.100.1, the timing of the relevant purchases or sales as referred to in rules 10.100.1.1 to 10.100.1.3 and the price at which such transactions are executed should take cognisance of –*

**10.100.2.1** *the time at which the breach by the client was or should have been identified by the member;*

**10.100.2.2** *any agreement with or notification to the client with regard to the timing of such transactions; and*

**10.100.2.3** *the market conditions in relation to the relevant equity security; bearing in mind the overriding principle that the client is responsible for meeting his settlement obligations and that if he does not meet those obligations, the member may take reasonable action to mitigate its risk arising out of such a breach of obligations.*

**10.100.3** *The client will be liable for any losses, costs and charges incurred, or charges imposed, as a consequence of a breach and the member may charge interest in relation thereto.*

**10.100.4** *The client or member, as the case may be, will be liable for the repayment of any corporate action entitlement received in respect of a failed purchase transaction, which entitlement has incorrectly accrued to the failing party.*

#### **APPLICABLE FEES AND PENALTIES**

- *EJ 1.4 - R500 per occurrence where the member of the client cannot procure settlement by 16h00 on T+2 and the transactions goes into Compulsory Reverse Substitution; and*
- *EJ 1.5 – R500 per occurrence where a member has assumed the obligations of a non-controlled or controlled client to settle a transaction and is unable at 18h00 to procure a commitment of its CSDP to settle the transaction in terms of rule 10.90.7.*
- *EK 1.4 - R5 000 administration fee in respect of each failed trade.*
- *EJ 1.8 - R1 000 per failed trade plus double the brokerage with a minimum fine of 0.3% of the value of the trade, not exceeding R100 000.*

*Any compensation, costs, losses (including loss of income) and corporate action entitlements payable to the non-failing party in respect of the trade being failed, shall be for the account of the failing client.*

#### **Settlement Obligation 6**

**6.1** If a controlled client is unable to meet his settlement obligations and the member is unable to enter into an arrangement to ensure that settlement takes place, the member must advise the Settlement Authority.

**6.2** If the Settlement Authority is able to lend the necessary funds or equity securities to the member to ensure that settlement takes place, the member must close out the original transaction before the close of business on the next business day.

#### **APPLICABLE RULES**

##### **Rule 10.90 Member settlement obligations**

**10.90.9** *If a client, at any stage, advises a member, or the member otherwise becomes aware, that the client is not able to settle a transaction, the member must endeavour to enter*

*into an arrangement to ensure that the transaction settles on settlement date. If the member is unable to enter into such arrangement, the member must immediately notify the Settlement Authority.<sup>1</sup>*

*10.90.10 If the Settlement Authority receives notification in terms of rule 10.90.9 and is able to procure the settlement of the transaction by means of the borrowing of equity securities or funds, as the case may be, then the member must by no later than the close of business on the next business day –*

*10.90.10.1 in respect of a sale transaction, buy such securities either for the account of the relevant client or for the member's own account; or*

*10.90.10.2 in respect of a purchase transaction, sell such securities either for the account of the relevant client or for the member's own account;*

*in order to ensure the return of the securities or funds to the Settlement Authority.*

### **Settlement Obligation 7**

Where a member borrows securities from the Settlement Authority to effect settlement on behalf of a controlled client, the controlled client is responsible for any costs that may be incurred by the member in this regard and any penalties imposed on the member by the Settlement Authority. These costs include the costs related to manufactured dividends.

#### **APPLICABLE RULES**

##### **Rule 10.120 Borrowing of equity securities to prevent a trade from failing**

*10.120.3 A member must make good any corporate action arising on the loaned equity securities during the loan period and the effects of taxation in the hands of the lender, where applicable, within 3 days of the payment date of the relevant corporate action.*

*10.120.4 A client will be responsible for the payment of any costs that may be incurred by the member as a result of the member having borrowed the equity securities to effect settlement (including costs related to manufactured dividends and other similar costs), and any penalty imposed on the member by the Settlement Authority, where the client failed to deliver the equity securities required to settle the transaction.*

#### **APPLICABLE FEE AND PENALTIES**

- *EJ 1.6 - R1 000 plus the brokerage on the trade for which securities are borrowed with a minimum fine of 0,075% of the value of the trade, not exceeding R25 000*
- *EK 1.1 - R1 000 administration fee plus the greater of R1 000 or 5% p.a. above the lending rate obtained by the Settlement Authority on the initial value of the loaned equity securities over the loan period*

### Settlement Obligation 8

Where a member borrows funds from the Settlement Authority to effect settlement on behalf of a controlled client who has not made payment of the required funds to the member timeously, the controlled client is responsible for any costs incurred by the member or penalties imposed on the member by the Settlement Authority in this regard.

#### **APPLICABLE RULES**

##### **Rule 10.130 Lending of funds to prevent a trade from failing**

*10.130.20 A client shall be responsible for the payment of any costs that may be incurred by the member as a result of the member having borrowed the funds to effect settlement, and any penalty imposed on the member by the Settlement Authority, where the client failed to pay the funds required to settle the transaction.*

#### **APPLICABLE FEES AND INTEREST**

- *R1 000 administration fee plus an interest charge of 5% per annum above the prime overdraft rate at FirstRand Bank Ltd.*

### Settlement Obligation 9

- 9.1 Where a controlled client does not meet his settlement obligations timeously and neither the member nor the Settlement Authority are able to borrow the necessary funds or equity securities to ensure that settlement of the transaction takes place, the transaction of the failing controlled client may be rolled or failed in accordance with instructions provided by the Settlement Authority to the member.
- 9.2 A failing controlled client, in the case of a rolled or failed trade, will in addition to any fees and penalties, be responsible for any corporate action entitlements or losses that is claimed and paid to the non-failing party.

#### **APPLICABLE RULES**

##### **Rule 10.90 Member settlement obligations**

*10.90.11 If the Settlement Authority receives notification in terms of rule 10.90.9, and the Settlement Authority either rolls the settlement in terms of rule 10.105 or declares the transaction to be a failed trade in terms of rule 10.60.3, the member must act in accordance with the instructions received from the Settlement Authority in terms of rule 10.105 or rule 10.110, respectively.*

##### **Rule 10.60 General settlement provisions**

*10.60.3 If a CSDP of a member has not committed to settle a transaction by 10h00 on the third business day after the trade date or the Settlement Authority has otherwise determined,*

*by that time, that a member will not be able to settle a transaction, the transaction will be a failed trade and will be dealt with in terms of the failed trade procedures as set out in rule 10.110, unless the Settlement Authority rolls the settlement of the transaction to a subsequent date on the basis set out in rule 10.105.*

**Rule 10.100 Breaches of client settlement obligations**

*10.100.3 The client will be liable for any losses, costs and charges incurred, or charges imposed, as a consequence of a breach and the member may charge interest in relation thereto.*

*10.100.4 The client or member, as the case may be, will be liable for the repayment of any corporate action entitlement received in respect of a failed purchase transaction, which entitlement has incorrectly accrued to the failing party.*

**APPLICABLE FEES AND PENALTIES**

**Rolling Of Settlement**

- *EJ 1.7 - R1 000 plus the brokerage on the trade for which settlement is rolled with a minimum fine of 0,15% of the value of the trade, not exceeding R50 000; and*
- *EK 1.3 - R5 000 administration fee payable by the member who introduced the trade for which the settlement was rolled in terms of rule 10.105*

**Failed Trade**

- *EJ 1.8 - R1 000 plus double the brokerage with a minimum fine of 0,3% of the value of the trade, not exceeding R100 000; and*
- *EK 1.4 - R5 000 administration fee payable by the member who introduced the failed trade*

**Settlement Obligation 10**

- 10.1 A controlled client may be instructed by the JSE, via their member, to roll settlement of their transaction, where the rolling of the settlement will allow the transactions to settle on a future settlement date.
- 10.2 The failed transaction may only be rolled twice which should not be more than 6 business days from the original settlement date.
- 10.3 If the transaction is rolled in accordance with 10.1, then the controlled client will be entitled to claim for any corporate action entitlement or losses incurred.

**APPLICABLE RULES**

**Rule 10.40 Settlement Authority**

- 10.40.2 In order to perform its functions in terms of rule 10.40.1, the Settlement Authority may –*
- 10.40.2.9 instruct a member or a client (via the member) to roll the settlement of a purchase or sale transaction on the basis set out in rule 10.105;*

**Rule 10.105 Rolling of settlement**

- 10.105.1 The rolling of settlement will be carried out in the following manner:*

- 10.105.1.1 *The Settlement Authority will match the transaction for which settlement is being rolled against an opposite transaction or transactions represented by one or more contract notes, being mindful of any apparent implications for the parties concerned.*
- 10.105.1.2 *The Settlement Authority will advise the failing and non-failing member that the transaction will be rolled to a revised settlement date determined by the Settlement Authority, which should not be more than 3 business days after the settlement date of the original transaction.*
- 10.105.1.3 *If the non-failing party is a client the Settlement Authority will transfer the original transaction of the non-failing party to a proprietary account of the non-failing member so that the settlement of the transaction may be rolled.*
- 10.105.1.4 *The Settlement Authority will book an opposite settlement transaction through Strate between the failing member and the non-failing member for the same quantity and at the same price as the non-failing party's original transaction.*
- 10.105.1.5 *The Settlement Authority will re-book the settlement transaction through Strate between the failing member and the non-failing member for the same quantity and at the same price as the non-failing party's original transaction for settlement on the revised settlement date.*
- 10.105.1.6 *If the non-failing is a client, the Settlement Authority will re-book the original transaction to the client for settlement on the revised settlement date.*
- 10.105.1.7 *If the failing is a client, the member that transacted on behalf of the client must re-book the original transaction to the client for settlement on the revised settlement date.*
- 10.105.2 *If settlement does not take place on the revised settlement date, the transaction may be rolled for a further revised settlement date, as determined by the Settlement Authority, which may not be more than 6 business days after the settlement date of the original transaction. If settlement does not take place on the final revised settlement date, the transaction will be declared to be a failed trade and the affected members must act in accordance with the instructions received from the Settlement Authority in terms of rule 10.110.*
- 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.*

#### **APPLICABLE COMPENSATION**

##### **Rule 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, and tax implications that may have arisen; and*

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

### **Settlement Obligation 11**

- 11.1 If there is a failed trade which will result in a transaction not settling, a controlled client must, if instructed by the JSE via their member, fail the transaction.
- 11.2 Subsequent to the failing of the transaction, the JSE will decide if the controlled client, via their member should re-transact or if the transaction should be settled by compensation.
- 11.3 If the transaction is failed, and re-transacted or settled via compensation, in accordance with 11.2, then the controlled client will be entitled to claim for any corporate action entitlement or losses incurred

#### **APPLICABLE RULES**

##### **Rule 10.110 Failed trades**

*10.110.1 A failed trade shall be dealt with in the following manner –*

*10.110.1.1 The Settlement Authority will match a failed trade against an opposite transaction or transactions represented by one or more contract notes, being mindful of any apparent implications for the parties concerned.*

*10.110.1.2 The Settlement Authority will advise the non-failing member that its transaction has been selected in terms of rule 10.110.1.1.*

*10.110.1.3 If the non-failing party is a client, the Settlement Authority will transfer the original transaction of the non-failing party to a proprietary account of the non-failing member.*

*10.110.1.4 The Settlement Authority will book an opposite settlement transaction through Strate between the failing member and the non-failing member for the same quantity and at the same price as the non-failing party's original transaction.*

*10.110.2 Redress in respect of a failed trade will be dealt with in the following manner:*

*10.110.2.1 The Settlement Authority, in consultation with the Director: Surveillance and the Market Controller, will consider the circumstances of the original transaction, the factors which gave rise to its failure to settle and the current prevailing market conditions, and consequently determine the manner in which the matter be most suitably resolved by:*

*10.110.2.1.1 the non-failing member re-establishing the non-failing party's*

*original transaction by way of re-transacting and recovering any costs from the failing party, on the basis set out in rule 10.110.3; or*

*10.110.2.1.2 determining appropriate compensation payable by the failing party to the non-failing party on the basis set out in rule 10.110.4.*

**Re-transact**

*10.110.3 Re-transacting in respect of a failed trade must be dealt with in the following manner:*

*10.110.3.1 The non-failing member must re-transact the trade in the market for its own account within a period specified by the Settlement Authority and, where the non-failing party is a client, the Settlement Authority will re-book the original transaction to the client's account.*

**APPLICABLE COMPENSATION**

*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, and 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.*

**Compensation**

*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.*

**APPLICABLE COMPENSATION**

*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 –*

*10.110.5.1 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.*

## SETTLEMENT OBLIGATIONS OF NON-CONTROLLED CLIENTS

### Settlement Obligation 1

Settlement will take place in accordance with the following principles:

- 1.1. each transaction represented by a single contract note between the ultimate buyer and ultimate seller;
- 1.2. applying the market convention that parties to a transaction have a contractual obligation to cause such transaction to settle on a specific day, settlement day (which is three business days after the trade was done); and
- 1.3. intermediate parties who are neither the scrip root nor the cash root play no part in the settlement of uncertificated securities.

#### **APPLICABLE RULES**

##### **Rule 10.30 Settlement principles for transactions in equity securities**

*10.30.1 All transactions in equity securities must be settled electronically through STRATE in accordance with the following principles –*

*10.30.1.1 contract note by contract note;*

*10.30.1.2 between the ultimate buyer and the ultimate seller;*

*10.30.1.3 on a rolling and contractual basis, whereby transactions become contractually due to be settled a prescribed number of days after the trade date; and*

*10.30.1.4 on a net basis per member and per listed security, whereby individual contract notes are consolidated and offset into net amounts of securities and funds for settlement.*

### Settlement Obligation 2

A non-controlled client must, before transacting, appoint a CSDP and notify the member of the following details or any changes to such details:

- 2.1 the CSDP of the client;
- 2.2 the branch code of the CSDP of the client;
- 2.3 the uncertificated securities account name of the client;
- 2.4 the uncertificated securities account number of the client;
- 2.5 the name of the bank where the clients' funds bank account is held and the branch code;
- 2.6 the funds bank account name of the client;
- 2.7 the funds bank account number of the client; and
- 2.8 the funds bank account type of the client.

**APPLICABLE RULES****Rule 10.50 General pre-trade settlement requirements**

- 10.50.1 A client may only place an order with a member to transact equity securities if -  
 10.50.1.1 in the case of a non-controlled client, the client has appointed a CSDP;

**SETTLEMENT OBLIGATION 3**

A non-controlled client may not place an order to sell equity securities unless:

- 3.1 the securities to be sold are in the custody of the non-controlled client's CSDP in uncertificated form; or
- 3.2 another transaction has been entered into by the client for the equivalent number of equity securities to be available for settlement on T+3 or before; or
- 3.3 the client has made arrangements to borrow the equivalent number of equity securities and the equivalent securities will be available for settlement to take place on T+3; or
- 3.4 a corporate action provides for an equivalent amount of equity securities being available for settlement on settlement date; or
- 3.5 The equity securities are being moved between registers and the securities will be available on the South African register for settlement.

**APPLICABLE RULES****Rule 10.50 General pre-trade settlement requirements**

- 10.50.1 A client may only place an order with a member to transact in equity securities if –

10.50.1.2 in respect of a sell order –

10.50.1.2.1 the equity securities to be sold are held in uncertificated form by the member's CSDP, in the case of a controlled client, or by the client's CSDP, in the case of a non-controlled client; or

10.50.1.2.2 a controlled client is able to evidence to a member that they own the equity securities to be sold in uncertificated form and that such securities will be available for settlement on settlement date; or

10.50.1.2.3 another transaction has been concluded which provides for an equivalent amount of equity securities being available for settlement on settlement date; or

10.50.1.2.4 a satisfactory borrowing arrangement is in place which provides for an equivalent amount of equity securities being available for settlement on settlement date; or

10.50.1.2.5 a corporate action provides for an equivalent amount of equity securities being available for settlement on settlement date.

10.50.1.2.6 *the equity securities to be sold will be transferred from a foreign register to the local register and that such securities will be available for settlement on settlement date.*

**APPLICABLE PENALTY**

- *EJ 1.2.2 - R1 000 per contract note (this penalty is applicable to rule 10.50.2.2 not 10.50.1.2)*

**Settlement Obligation 4**

- 4.1 A non-controlled client must notify the member of the account to which a transaction is to be allocated in sufficient time to allow the member to process such allocation on the trade date.
- 4.2 A non-controlled client must by no later than 12h00 on T+1 instruct its CSDP to settle the transaction.
- 4.3 A non-controlled client must immediately notify the member where the details of the transaction as advised to the client by the member are not correct but in any event the notification must take place by no later than 18h00 on T+1. If the client does not notify the member of any corrections to be made to the transaction, the member may assume that the details of the transaction as advised to the client are correct.
- 4.4 If the details of the transaction are not correct, the appropriate correction will then be made by the member by no later than 18h00 on T+1. The details of the correction will be advised by the member to the non-controlled client immediately.
- 4.5 The non-controlled client must affirm to its CSDP that the new details of the transaction are correct within sufficient time to allow the CSDP of the client to commit timeously to settling the transaction.
- 4.6 Where the CSDP of the non-controlled client does not commit to the transaction by end of day on T+1, the transaction will be margined by the JSE and where margin is called the member may call for the margin from the non-controlled client. If the transaction is subject to Rolling of Settlement and the Failed Trade procedures, the margin will be held until the future settlement date of the Rolling of Settlement or when the Failed Trade is resolved.

**APPLICABLE RULES**

**Rule 10.60 General settlement provisions**

10.60.1 *A transaction conducted in equity securities by a member must –*

10.60.1.1 *be allocated to a client or a member's proprietary account on the trade*

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New 10.50.1.2.5 introduced with effect from 16 October 2008

date;

- 10.60.1.2 *be communicated to a client by no later than 12h00 on the business day after the original trade;*
- 10.60.1.3 *in the absence of notification from the client to the contrary by no later than 18h00 on the first business day after the trade date, be deemed to have been accepted by the client;*
- 10.60.1.4 *be committed to by the CSDP of the member or client by no later than 12h00 on the second business day after the trade date;*

10.60.2 *Notwithstanding rules 10.60.1.1 to 10.60.1.3, allocation corrections may not be made after 18h00 on the first business day after the trade date. Any corrections must be communicated to, and accepted by the client within sufficient time to allow for the CSDP of the client to comply with rule 10.60.1.4*

**Rule 10.70 Non-controlled client settlement obligations**

- 10.70.1 *The allocation of a transaction to a non-controlled client will result in the member's obligation to settle the transaction being substituted with the client's obligation to settle the transaction through the client's CSDP.*
- 10.70.2 *A non-controlled client must, by no later than 12h00 on the first business day after the trade date, give instructions to his CSDP to settle the transaction. In the event of the correction of an allocation of a trade which results in a new confirmation of the trade by the member, the instruction to the CSDP to settle the transaction must be given within sufficient time to allow for the CSDP of such client to commit to settle in accordance with rule 10.70.3.*

**10.140 Margin on transactions in equity securities**

- 10.140.1 *A member will be required to provide margin to the JSE as contemplated in rule 10.140.2 in respect of unsettled transactions in equity securities.*
- 10.140.2 *Margin is payable by a member before 12h00 on the second business day after the trade –*
  - 10.140.2.1 *in respect of a non-controlled client transaction where, by end of day on the first business day after the trade date, the CSDP of the non-controlled client has not committed to settle the transaction on behalf of that client;*
- 10.140.4 *To the extent that margin payable by a member relates to transactions on a client's account, the member may recover such margin from the client. The member must refund the client forthwith upon the repayment of margin to the member by the JSE.*

### Settlement Obligation 5

By no later than 12h00 on T+2, a non-controlled client must ensure that its CSDP has committed to settle the transaction on behalf of the client.

#### **APPLICABLE RULE**

##### **Rule 10.60 General settlement provisions**

- 10.60.1 *A transaction conducted in equity securities by a member must –*
- 10.60.1.4 *be committed to by the CSDP of the member or client by no later than 12h00 on the second business day after the trade date;*

##### **Rule 10.70 Non-controlled client settlement obligations**

- 10.70.3 *A non-controlled client must endeavour to ensure and procure that his CSDP has committed to settle the transaction on his behalf by no later than 12h00 on the second business day after the trade date.*

### Settlement Obligation 6

- 6.1 Where the CSDP of a non-controlled client fails by 12h00 on T+2 to commit to settle the transaction on settlement day, the member may close out the client's transaction and claim the difference between the original transaction value and the close out value from the client, including interest, subject to any agreement with the client or notification to the client to the contrary, and to any action taken by the Settlement Authority in terms of the failed trade procedures set out in the rules. The client shall also remain liable for any losses, costs and charges incurred, or charges imposed by the member in respect of any of the aforementioned transactions.
- 6.2 A member shall have the right but not the obligation to allow a non-controlled client to honour his obligations until 15h00 on T+2 after which the obligation to settle reverts to the member.
- 6.3 Where the non-controlled client has not complied with its obligation to ensure settlement and neither the member nor the Settlement Authority is able to effect settlement, the Settlement Authority shall as at 10h00 on T+3 declare the transaction to be a failed trade.
- 6.4 Notwithstanding 6.2 and 6.3 above, the notification at any stage by a non-controlled client to a member of its inability to procure settlement may result in the declaration of a failed trade by 09h00 on the following business day.

#### **APPLICABLE RULES**

##### **Rule 10.60 General settlement provisions**

- 10.60.3 *If a CSDP of a member has not committed to settle the transaction by 10h00 on the third business day after the trade date or the Settlement Authority has otherwise determined, by that time, that a member will not be able to settle a transaction, the transaction shall be a failed trade and shall be dealt with in terms of the failed trade procedures set out in rule 10.110 unless the Settlement Authority rolls the settlement of the transaction to a*

*subsequent date on the basis set out in rule 10.105.*

*10.60.4 Notwithstanding the provisions of rule 10.60.3, if -*

*10.60.4.1 a member advises the Settlement Authority at any stage that the CSDP of the member or CSDP of a non-controlled client of the member will not be in a position to settle a transaction on settlement date; and*

*10.60.4.2 the Settlement Authority is not able to procure that the settlement of the transaction will take place on settlement date or the Settlement Authority does not roll the settlement to a subsequent date;;*

*the transaction shall be declared a failed trade by no later than 09h00 on the next business day and shall be dealt with in terms of the failed trade procedures as set out in rule 10.110.*

**Rule 10.70 Non-controlled client settlement obligations**

*10.70.4 If a non-controlled client fails to comply with rule 10.70.3, or the member is advised or otherwise becomes aware, at any stage, that a non-controlled client is unable to settle a transaction, the member may proceed in the manner set out in rule 10.100.*

*10.70.5 In the absence of a commitment from the CSDP of a non-controlled client before 12h00 on the second business day after the trade date, the non-controlled client must nevertheless ensure that his CSDP commits to settle the transaction by 15h00 on the second business day after the trade date.*

*10.70.6 If a non-controlled client fails to meet his obligations in terms of rule 10.70.5, which includes any indication by the non-controlled client, at any stage, that he is unable to settle a transaction, the member will, by no later than 16h00 on the second business day after the trade date, assume the obligation to settle the transaction through the member's CSDP.*

**Settlement Obligation 7**

7.1 Where the non-controlled client fails to meet their obligations and the member assumes the obligations to settle the transaction the member may close out the client's transaction and claim the difference between the original transaction value and the close out value from the client, including interest, subject to any agreement with the client or notification to the client to the contrary, and to any action taken by the Settlement Authority in terms of the failed trade procedures set out in the rules. The member may sell for the account of the client so many of any other equity securities held on the client's account as is necessary to cover any loss that may be incurred by the client as a result of the close out of the original transaction. The client shall also remain liable for any losses, costs and charges incurred, or charge imposed by the member, in respect of any of the aforementioned transactions.

7.2 Where the non-controlled client has not complied with its obligation to put the member in a position to effect settlement and neither the member nor the Settlement Authority is able to effect settlement, the Settlement Authority shall as at 10h00 on T+3 declare the transaction to be a failed trade.

7.3 Notwithstanding 7.1 and 7.2 above, the notification at any stage by a non-controlled client to a member of its inability to put the member in a position to settle a transaction, may result in the declaration of a failed trade by 09h00 on the following

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10.70.5 amended with effect from 16 October 2008 and 12 July 2010

business day, if neither the member nor the Settlement Authority is able to ensure that settlement will take place on settlement day by doing a securities lending & borrowing.

#### **APPLICABLE RULES**

##### **Rule 10.100 Breaches of client settlement obligations**

**10.100.1** *If a client breaches his settlement obligations as set out in the rules, subject to any agreement with the client or notification to the client to the contrary, and to any action taken by the Settlement Authority in terms of the rolling of settlement procedures set out in rule 10.105 or the failed trade procedures set out in rule 10.110, the member may -*

**10.100.1.1** *in respect of a sale transaction, buy such equity securities for the account of the client and claim the difference between the selling consideration of such securities and the purchase consideration for such securities, including interest;*

**10.100.1.2** *in respect of a purchase transaction, sell such equity securities for the account of the client and claim the difference between the purchase consideration of such securities and the selling consideration for such securities, including interest; and*

**10.100.1.3** *sell for the account of such client—*

**10.100.1.3.1** *so many of any other equity securities belonging to such client and held by or in the custody of such member; or*

**10.100.1.3.2** *so many of any other equity securities due to be received by the member on the relevant settlement date in respect of any purchase transaction previously entered into by such client with or through the member,*

*as is necessary to realise an amount equal to the amount still owing by the client in respect of such securities, after the sale or purchase of the equity securities in terms of rules 10.100.1.1 and 10.100.1.2, as the case may be.*

**10.100.2** *If a member acts in accordance with rule 10.100.1, the timing of the relevant purchases or sales as referred to in rules 10.100.1.1 to 10.100.1.3 and the price at which such transactions are executed should take cognisance of –*

**10.100.2.1** *the time at which the breach by the client was or should have been identified by the member;*

**10.100.2.2** *any agreement with or notification to the client with regard to the timing of such transactions; and*

**10.100.2.3** *the market conditions in relation to the relevant equity security; bearing in mind the overriding principle that the client is responsible for meeting his settlement obligations and that if he does not meet those obligations, the member may take reasonable action to mitigate its risk arising out of such a breach of obligations.*

**10.100.3** *The client will be liable for any corporate action entitlements, losses, costs and charges incurred, or charges imposed, as a consequence of a breach and the member may charge interest in relation thereto.*

**10.100.4** *The client or member, as the case may be, will be liable for the repayment of any corporate action entitlement received in respect of a failed purchase transaction, which entitlement has incorrectly accrued to the failing party.*



**APPLICABLE FEES AND PENALTIES**

- *EJ 1.4 - R500 per occurrence where the member of the client cannot procure settlement by 16h00 on T+2 and the transactions goes into Compulsory Reverse Substitution; and*
- *EJ 1.5 – R500 per occurrence where a member has assumed the obligations of a non-controlled or controlled client to settle a transaction and is unable at 18h00 to procure a commitment of its CSDP to settle the transaction in terms of rule 10.90.7..*
- *EK 1.4 - R5 000 administration fee in respect of each failed trade.*
- *EJ 1.8 - R1 000 per failed trade plus double the brokerage with a minimum fine of 0.3% of the value of the trade, not exceeding R100 000.*
- *Any compensation, costs, losses (including loss of income) and corporate action entitlements payable to the non-failing party in respect of the trade being failed, shall be for the account of the failing client.*

**Settlement Obligation 8**

If a non-controlled client is unable to meet his settlement obligations and the member is unable to enter into an arrangement to ensure that settlement takes place, the member must advise the Settlement Authority.

If the Settlement Authority is able to lend the necessary funds or equity securities to the member to ensure that settlement takes place, the member must close out the original transaction before the close of business on the next business day.

**APPLICABLE RULES****RULE 10.90 MEMBER SETTLEMENT OBLIGATIONS**

*10.90.9 If a client, at any stage, advises a member, or the member otherwise becomes aware, that the client is not able to settle a transaction, the member must endeavour to enter into an arrangement to ensure that the transaction settles on settlement date. If the member is unable to enter into such arrangement, the member must immediately notify the Settlement Authority.<sup>2</sup>*

*10.90.10 If the Settlement Authority receives notification in terms of rule 10.90.9 and is able to procure the settlement of the transaction by means of the borrowing of equity securities or funds, as the case may be, then the member must by no later than the close of business on the next business day –*

*10.90.10.1 in respect of a sale transaction, buy such securities either for the account of the relevant client or for the member's own account; or*

*10.90.10.2 in respect of a purchase transaction, sell such securities either for the account of the relevant client or for the member's own account;*

*in order to ensure the return of the securities or funds to the Settlement Authority.*

### Settlement Obligation 9

Where the CSDP of a non-controlled client has not committed timeously to settle a sale of securities, and the member borrows securities from the Settlement Authority to effect settlement, the non-controlled client is responsible for any costs that may be incurred by the member in this regard and any penalties imposed on the member by the Settlement Authority. These costs include the costs related to manufactured dividends.

#### **APPLICABLE RULES**

##### **Rule 10.120 Borrowing of equity securities to prevent a trade from failing**

*10.120.3 A member must make good any corporate action arising on the loaned equity securities during the loan period and the effects of taxation in the hands of the lender, where applicable, within 3 days of the payment date of the relevant corporate action.*

*10.120.4 A client will be responsible for the payment of any costs that may be incurred by the member as a result of the member having borrowed the equity securities to effect settlement (including costs related to manufactured dividends and other similar costs), and any penalty imposed on the member by the Settlement Authority, where the client failed to deliver the equity securities required to settle the transaction.*

#### **APPLICABLE FEE AND PENALTY**

- *EJ 1.6 - R1 000 plus the brokerage on the trade for which securities are borrowed with a minimum fine of 0,075% of the value of the trade, not exceeding R25 000*
- *EK 1.1 - R1 000 administration fee plus the greater of R1 000 or 5% p.a. above the lending rate obtained by the Settlement Authority on the initial value of the loaned equity securities over the loan period*

### Settlement Obligation 10

Where a member borrows funds from the Settlement Authority to effect settlement on behalf of a non-controlled client who has not made payment of the required funds timeously, the non-controlled client is responsible for any costs incurred by the member and any penalties imposed on the member by the Settlement Authority in this regard.

#### **APPLICABLE RULES**

##### **Rule 10.130 Lending of funds to prevent a trade from failing**

*10.130.20 A client shall be responsible for the payment of any costs that may be incurred by the member as a result of the member having borrowed the funds to effect settlement, and any penalty imposed on the member by the Settlement Authority, where the client failed to pay the funds required to settle the transaction.*

#### **APPLICABLE FEES AND INTEREST**

- *EK 1.2 - R1 000 administration fee plus an interest charge of 5% per annum above the prime overdraft rate at FirstRand Bank Ltd.*

### Settlement Obligation 11

- 11.1 Where a non-controlled client does not meet his settlement obligations timeously and neither the member nor the Settlement Authority are able to borrow the necessary funds or equity securities to ensure that settlement of the transaction takes place, the transaction of the failing non-controlled client may be rolled or failed in accordance with instructions provided by the Settlement Authority to the member.
- 11.2. A failing non-controlled client, in the case of a rolled or failed trade, will in addition to any fees and penalties, be responsible for any compensation that is paid to the non-failing party.

#### **APPLICABLE RULES**

##### **Rule 10.90 Member settlement obligations**

*10.90.11 If the Settlement Authority receives notification in terms of rule 10.90.9, and the Settlement Authority either rolls the settlement in terms of rule 10.105 or declares the transaction to be a failed trade in terms of rule 10.60.3, the member must act in accordance with the instructions received from the Settlement Authority in terms of rule 10.105 or rule 10.110, respectively.*

##### **Rule 10.60 General settlement provisions**

*10.60.3 If a CSDP of a member has not committed to settle a transaction by 10h00 on the third business day after the trade date or the Settlement Authority has otherwise determined, by that time, that a member will not be able to settle a transaction, the transaction will be a failed trade and will be dealt with in terms of the failed trade procedures as set out in rule 10.110, unless the Settlement Authority rolls the settlement of the transaction to a subsequent date on the basis set out in rule 10.105.*

##### **10.100 Breaches of client settlement obligations**

*10.100.3 The client will be liable for any corporate action entitlements, losses, costs and charges incurred, or charges imposed, as a consequence of a breach and the member may charge interest in relation thereto.*

*10.100.4 The client or member, as the case may be, will be liable for the repayment of any corporate action entitlement received in respect of a failed purchase transaction, which entitlement has incorrectly accrued to the failing party.*

#### **APPLICABLE FEES AND PENALTIES**

##### **Rolling Of Settlement**

- *EJ 1.7 - R1 000 plus the brokerage on the trade for which settlement is rolled with a minimum fine of 0,15% of the value of the trade, not exceeding R50 000; and*
- *EK 1.3 - R5 000 administration fee payable by the member who introduced the trade for which the settlement was rolled in terms of rule 10.105*

##### **Failed Trade**

- *EJ 1.8 - R1 000 plus double the brokerage with a minimum fine of 0,3% of the value of the trade,*

*not exceeding R100 000; and*

- *EK 1.4 - R5 000 administration fee payable by the member who introduced the failed trade*

## **Settlement Obligation 12**

- 12.1 A client may be instructed by the JSE, via their member, to roll settlement of their transaction, where the rolling of the settlement will allow the transactions to settle on a future settlement date.
- 12.2 The failed transaction may only be rolled twice which should not be more than 6 business days from the original settlement date.
- 12.3 Any margin that was calculated at EOD T+1 and collected on T+2 from the failing member will be held by the JSE until the future rolled settlement has settled.
- 12.4 If the transaction is rolled in accordance with 12.1, then the client will be entitled to claim for any corporate action entitlement or losses incurred.

### **APPLICABLE RULE**

#### **Rule 10.40 Settlement Authority**

*10.40.2 In order to perform its functions in terms of rule 10.40.1, the Settlement Authority may –*

*10.40.2.9 instruct a member or a client (via the member) to roll the settlement of a purchase or sale transaction on the basis set out in rule 10.105;*

#### **10.105 Rolling of settlement**

*10.105.1 The rolling of settlement will be carried out in the following manner:*

*10.105.1.1 The Settlement Authority will match the transaction for which settlement is being rolled against an opposite transaction or transactions represented by one or more contract notes, being mindful of any apparent implications for the parties concerned.*

*10.105.1.2 The Settlement Authority will advise the failing and non-failing member that the transaction will be rolled to a revised settlement date determined by the Settlement Authority, which should not be more than 3 business days after the settlement date of the original transaction.*

*10.105.1.3 If the non-failing party is a client, the Settlement Authority will transfer the original transaction of the non-failing party to a proprietary account of the non-failing member so that the settlement of the transaction may be rolled.*

*10.105.1.4 The Settlement Authority will book an opposite settlement transaction through Strate between the failing member and the non-failing member for the same quantity and at the same price as the non-failing party's original transaction.*

*10.105.1.5 The Settlement Authority will re-book the settlement transaction through Strate between the failing member and the non-failing member for the same quantity and at the same price as the non-failing party's original transaction for settlement on the revised settlement date.*

*10.105.1.6 If the non-failing is a client, the Settlement Authority will re-book the*

*original transaction to the client for settlement on the revised settlement date.*

- 10.105.1.7 If the failing is a client, the member that transacted on behalf of the client must re-book the original transaction to the client for settlement on the revised settlement date.*

**Claims for losses**

**Rule 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.*

**Settlement Obligation 13**

- 13.1 If there is a failed trade which will result in a transaction not settling, a non-controlled client must, if instructed by the JSE via their member, fail the transaction.
- 13.2 Subsequent to the failing of the transaction, the JSE will decide if the non-controlled client, via their member should re-transact or if the transaction should be settled by compensation.
- 13.3 If the transaction is failed, and re-transacted or settled via compensation, in accordance with 11.2, then the non-controlled client will be entitled to claim for any corporate action entitlement or losses incurred

**APPLICABLE RULE**

**Rule 10.110 Failed trades**

*10.110.1 A failed trade shall be dealt with in the following manner –*

*10.110.1.1 The Settlement Authority will match a failed trade against an opposite transaction or transactions represented by one or more contract notes, being mindful of any apparent implications for the parties concerned.*

*10.110.1.2 The Settlement Authority will advise the non-failing member that its transaction has been selected in terms of rule 10.110.1.1.*

*10.110.1.3 If the non-failing party is a client, the Settlement Authority will transfer the original transaction of the non-failing party to a proprietary account of the non-failing member.*

*10.110.1.4 The Settlement Authority will book an opposite settlement transaction through Strate between the failing member and the non-failing member for the same quantity and at the same price as the non-failing party's original transaction.*

*10.110.2 Redress in respect of a failed trade will be dealt with in the following manner:*

*10.110.2.1 The Settlement Authority, in consultation with the Director: Surveillance and the Market Controller, will consider the circumstances of the original transaction, the factors which gave rise to its failure to settle and the current prevailing market conditions, and consequently determine the manner in which the matter be most suitably resolved by:*

*10.110.2.1.1 the non-failing member re-establishing the non-failing party's original transaction by way of re-transacting and recovering any costs from the failing party, on the basis set out in rule 10.110.3; or*

*10.110.2.1.2 determining appropriate compensation payable by the failing party to the non-failing party on the basis set out in rule 10.110.4.*

**Re-transact**

*10.110.3 Re-transacting in respect of a failed trade must be dealt with in the following manner:*

*10.110.3.1 The non-failing member must re-transact the trade in the market for its own account within a period specified by the Settlement Authority and, where the non-failing party is a client, the Settlement Authority will re-book the original transaction to the client's account at the original price.*

**Applicable compensation**

*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 is 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.*

**Compensation**

*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.*

***Claims for losses***

*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 –*

*10.110.5.1 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.*

**APPLICABLE DEFINITIONS**

<b>“business day” or “day”</b>	any day except a Saturday, Sunday, public holiday or any other day on which the JSE is closed;
<b>“client”</b>	a controlled client or a non-controlled client
<b>“client assets”</b>	JSE authorised investments safeguarded by a member on behalf of clients;
<b>“contract note”</b>	in respect of trades executed on the JSE equities trading system by a member on any particular day – (a) on behalf of a client, a confirmation from the member to the client in respect of such trades; and (b) on behalf of a member’s proprietary account, the aggregate trades executed on such account;
<b>“contractual settlement”</b>	the market convention whereby the parties to a transaction in equity securities have a contractual obligation to cause such transaction to be settled on the settlement date;
<b>“controlled account”</b>	an account reflecting the equity securities and funds of a controlled client or the equity securities of a member;
<b>“controlled client”</b>	a client or an account holder on whose behalf a client is acting, whose funds and uncertificated equity securities are under the control of a CSP or whose settlements take place via the CSDP of a member;
<b>“corporate action”</b>	an action taken by an issuer or any other entity or third party, which affects the registered owner and the beneficial owner of equity securities in terms of an entitlement;
<b>“CSDP”</b>	a central securities depository participant that has been accepted by a central securities depository as a participant in that central securities depository;
<b>“custody account”</b>	an equity securities account with a CSDP which reflects the uncertificated equity securities balances of controlled accounts of a member and through which settlement of transactions in equity securities is effected;
<b>“custody services provider” or “CSP”</b>	a member which has been authorised by the JSE to perform custody services in terms of the rules;
<b>“dematerialisation”</b>	the process of converting a certificated equity security into an uncertificated equity security;
<b>“equity securities”</b>	those JSE listed securities traded on the JSE equities trading system;
<b>“exchange”</b>	a person who constitutes, maintains and provides an infrastructure – (a) for bringing together buyers and sellers of securities;



	(b) for matching the orders for securities of multiple buyers and sellers; and
	(c) whereby a matched order for securities constitutes a transaction;
<b>“failed trade”</b>	a transaction in equity securities which the Settlement Authority deems to be a failed trade on the basis that neither the client, the member nor the Settlement Authority is able to ensure that such transaction will settle on the settlement date or any revised settlement date;
<b>“JSE”</b>	JSE Limited, a company duly registered and incorporated with limited liability under the company laws of the Republic, licensed to operate an exchange under the Act;
<b>“margin”</b>	a payment made or guarantee provided by a member to the JSE to assure settlement of transactions in equity securities by that member or its clients;
<b>“Market Controller”</b>	the person appointed by the JSE to supervise, administer and control the daily operations of the JSE equities trading system;
<b>“member”</b>	an equities member, which is a category of authorised user admitted to membership of the JSE under these rules;
<b>“non-controlled client”</b>	a client or an account holder on whose behalf a client is acting, who has appointed his own CSDP to settle transactions in equity securities on his behalf;
<b>“Rolling of settlement”</b>	the process initiated by the Settlement Authority in terms of which the settlement date of a transaction in equity securities is rolled to a later date;
<b>“securities”</b>	has the same meaning as that contained in section 1 of the Act;
<b>“settle”</b>	to discharge the obligations arising from a transaction in listed securities;
<b>“Settlement Authority”</b>	the person or persons appointed by the JSE to manage the settlement of transactions in equity securities effected through the JSE equities trading system in terms of the rules and directives;
<b>“settlement commitment”</b>	an electronic undertaking by a CSDP to settle a transaction in equity securities;
<b>“settlement date”</b>	in respect of a transaction in equity securities, the date on which the transaction is due to be settled;
<b>“settling party”</b>	a buyer or seller of listed securities who settles a transaction or any person appointed in terms of exchange rules by such buyer or seller to settle a transaction on behalf of such buyer or seller;

<b>“Strate”</b>	Strate Limited, a public company licensed as a central securities depository in terms of the Act;
<b>“terminating transaction”</b>	a purchase of equity securities which have not subsequently been sold or a sale of equity securities which have not subsequently been purchased;
<b>“trade date”</b>	in respect of a transaction in equity securities, the date reflected as such on the contract note or an electronic confirmation thereof;
<b>“T+1”</b>	the first business day after the trade date;
<b>“T+2”</b>	the second business day after the trade date;
<b>“T+3”</b>	the third business day after the trade date;
<b>“transaction”</b>	contract of purchase and sale of securities.
<b>“uncertificated equity securities”</b>	equity securities that are not evidenced by a certificate or written instrument and are transferable by book entry without a written instrument;
<b>“uncommitted settlement”</b>	settlement obligation for which a CSDP has not provided a settlement undertaking;