

# DERIVATIVES RULES

6 December 2019

# Derivatives Rules January 2005

## As amended by

Date	Notice No.	Amendment
1 July 2005	F710 and A587	Amendments arising from demutualisation
1 August 2005	F732 and A603	Amendments to accommodate the introduction of the Securities Services Act.
24 April 2007	F1247 and A786	Amendments to the capital adequacy requirements.
30 July 2007	F1342 and A811	Amendments in respect of recognition under Financial Services Ombud Schemes Act, 2004
8 January 2009	F2013 and A1006	Amendments to accommodate the introduction of foreign commodity derivatives
7 December 2009	F4113 and A1150	Amendments to accommodate the name change from “commodities market” to “commodity derivatives market”
17 December 2009	F4140 and A1164	Amendments to the additional margin provisions and the requirements in respect of trading limits
27 October 2010	F4515 and A1313	Introduction of rule 3.276 <i>Reporting and assistance by the JSE Surveillance Department – Financial Intelligence Centre Act</i>
11 March 2013	F6000A and A1788A	Introduction of the JSE Clear Default Fund
13 December 2013	F6829A and A1937A	JSE liquidity facilities
28 March 2014	F6948 and A1989	Amendments to give effect to the requirements of the Financial Markets Act, 2012
20 February 2015	114/2015 and 115/2015	Amendment in respect of the extension of the transitional period pertaining to the prevention and detection of market abuse

The term “derivatives member” wherever the same appeared was substituted by “member” with effect from 1 August 2005.

The term “broking member (derivatives)” wherever the same appeared was substituted by “trading member” with effect from 1 August 2005.

The term “non-broking member (derivatives)” wherever the same appeared was substituted by “trading member” with effect from 1 August 2005.

The term “clearing member (derivatives)” wherever the same appeared was substituted by “clearing member” with effect from 1 August 2005.

The term “non-clearing member (derivatives)” wherever the same appeared was substituted by “trading member” with effect from 1 August 2005.

The term “SAFCOM” wherever the same appeared was substituted by “JSE Clear” with effect from 28 March 2014.

16 October 2015	455/2015 and 622/2015	Amendments to give effect to the manner in which genuine trade errors are to be handled – Trade cancellations and trade price adjustments
20 November 2015	73215/2015	Amendment to the definition of “agricultural derivatives”
24 October 2016	380/2016	Amendments in respect of the registration of traders and registered officers
3 February 2017	45/2017	Amendments in respect of off-ATS transactions in the commodity derivatives market
28 April 2017	167/2017	Amendments in respect of the Conflicts of Interests arrangements of the JSE All references to “JSE Surveillance Department” replaced with “JSE Market Regulation Division” and all references to “Director: Surveillance” replaced with “Director: Market Regulation”
29 April 2019	130/2019	Amendments in respect of ITaC 1(b) and (c)
6 December 2019	371/2019	Amendments in respect of physical deliveries in the commodity derivatives market

## Contents

<b>Section 1: Derivatives rules</b>	<b>6</b>
1.10 Reserved	7
1.20 Reserved	7
1.30 Reserved	7
1.40 Powers exercisable by the controlling body	7
1.41 Committees	7
1.50 Derivative rules and directives	8
1.60 Transactions subject to provisions of the Act, the derivatives rules and directives	8
1.70 Interpretation of the derivatives rules and directives	9
1.80 Proposals for amendments to derivatives rules and directives	9
1.90 JSE not responsible for any losses	9
1.100 Indemnification	10
1.110 Appointment of a clearing house	10
1.120 Fidelity Fund	10
1.130 Transitional provisions	10
<b>Section 2: Interpretation and definitions</b>	<b>11</b>
2.10 Definitions	12
2.20 Interpretation	27
<b>Section 3: General membership and disciplinary procedures</b>	<b>28</b>
3.10 General Membership of the JSE	29
3.20 General requirements	29
3.30 Reserved	31
3.40 Applications for membership	31
3.50 Voluntary changes to, or termination of, membership	32
3.60 Involuntary termination of membership	33
3.70 Duty to furnish information	33
3.80 Fees, levies and charges	35
3.90 Reserved	35
3.100 Reserved	35
3.110 Reserved	35
3.120 Consent required for employment of certain persons	35
3.130 Trading name	36
3.140 Notices	36
3.150–3.270 Reserved	36
3.275 Surveillance and investigation by the JSE's Market Regulation Division	36
3.276 Reporting and assistance by the JSE Market Regulation Division – Financial Intelligence Centre Act	37
3.280 Use Of Information Obtained By the JSE's Market Regulation Division	38
3.285 Improper Conduct	38
3.290 Disciplinary procedures	38
3.295 Procedure and Evidence – Disciplinary Matters	40
3.300 Disciplinary Matters – Penalties	41
3.305 Urgent Issues	42
3.310 Reserved	43
3.325 Default or termination of membership – Control of assets and accounting records	43
3.330 Lien over proceeds of sale of JSE shares	44
3.340 Reserved	44
3.350 JSE's powers of publication	44
<b>Section 4: Derivatives membership</b>	<b>45</b>
4.10 Categories of authorised users	46
4.20 Capital adequacy requirements	46
<b>Section 5: Registered officers</b>	<b>49</b>
5.10 Members' obligation to ensure registration of officers	50
5.20 Reserved	50

5.30 Traders to trade only with other registered traders .....	50
5.40 Reserved .....	50
5.50 Registration of officers by the JSE .....	50
5.60 Termination of the registration of an officer .....	51
5.70 Registration and termination effective .....	51
5.80 Member remains responsible .....	51
5.90 Reserved .....	51
<b>Section 6: Reserved .....</b>	<b>52</b>
<b>Section 7: Trading .....</b>	<b>53</b>
7.10 Buying and selling of derivative securities .....	54
7.20 Offers and acceptances .....	54
7.30 Order priority .....	56
7.40 Trading capacity .....	56
7.50 Employees and members trading as clients .....	57
7.60 Trading for or on behalf of clients .....	57
7.70 JSE trading system .....	59
7.80 Members obligations in relation to the JSE trading system .....	59
7.90 Trading times .....	59
7.100 Cross trades .....	60
7.110 Reserved .....	60
7.120 Solicitation of offers .....	63
7.130 Reserved .....	63
7.139 Designated suspense accounts .....	63
7.140 Deal management .....	63
7.150 Trade allocation .....	64
7.160 Trading restriction .....	64
7.170 Rules of trading that are particular to physical delivery .....	64
7.180 Declarations of transactions being void .....	65
7.190 Suspension or halting of trading in derivative securities .....	68
7.200 Prevention and detection of market abuse .....	68
7.210 Reserved .....	69
<b>Section 8: Positions .....</b>	<b>70</b>
8.10 Reporting .....	71
8.20 Matching .....	71
8.30 Clearing .....	71
8.40 Opening and closing-out a position .....	71
8.50 Mark-to-market .....	72
8.60 Margin payments .....	72
8.70 Interest payments .....	73
8.80 Trading fees .....	73
8.90 Settlement procedures .....	74
8.100 Exercise and assignment of option contracts .....	75
<b>Section 9: Non-resident and emigrant clients .....</b>	<b>76</b>
9.10 Bank accounts .....	77
9.20 Initial margin .....	77
9.30 Settlements .....	77
9.40 Fees .....	78
9.50 Trading restriction .....	78
<b>Section 10: Trading and positions – sundry provisions .....</b>	<b>79</b>
10.10 Trading and position limits .....	80
10.20 Trading and position records .....	80
10.30 Emergency provisions .....	80
10.40 Speculative position limits .....	81
<b>Section 11: Management of members' and clients' funds .....</b>	<b>84</b>
11.10 Management of funds by JSE Clear .....	85
11.20 Separation of funds .....	85
11.30 Clearing member bank accounts .....	85

11.40	Members' bank accounts .....	85
11.50	Relaxation or indulgence given by members .....	86
11.60	Acceptance of cash deposits.....	86
<b>Section 12: Defaults .....</b>		<b>87</b>
12.10	Default by a member .....	88
12.10A	Default by a client .....	88
12.20	Consequences of a client's default.....	88
12.30	Consequences of default by a trading member.....	88
12.40	Consequences of default by a clearing member .....	89
12.50	JSE liquidity facility .....	91
<b>Section 13: Derivative securities.....</b>		<b>93</b>
13.10	List of derivative securities .....	94
13.20	Contract specification of the derivative securities .....	94
13.30	Listing of derivative securities .....	94
13.40	Exchange contracts.....	94
<b>Section 14: Prescribed agreements.....</b>		<b>95</b>
<b>Section 15: Management of investments .....</b>		<b>96</b>
15.10	Authority to manage investments in derivative securities.....	97
15.20	Trading as an investment manager in derivative securities .....	97
15.30	Management and advice in respect of JSE authorised investments other than derivative securities .....	97
15.35	Management of foreign investments .....	99
15.40	Trading with a discretionary financial services provider .....	100
15.45	Conducting business with a nominee.....	100
A member may not operate a client account on behalf of a person whom the member believes or suspects requires approval to act as a nominee under section 76 of the Act without having taken reasonable measures to ascertain that such person has the necessary approval.....		100
15.50	Client statements.....	100
15.60	Exercising of discretion and provision of advice by employees .....	101
<b>Section 16: Ethics and conduct .....</b>		<b>102</b>
16.10	Code of conduct .....	103
16.15	Unsolicited calls.....	106
16.20	Advertising by members.....	106
16.30	Contraventions to be reported.....	107
<b>Section 17: Complaints and disputes .....</b>		<b>108</b>
17.10	Client complaints .....	109
17.20	Internal complaint handling procedures .....	109
17.30	Timeous response to complaints.....	110
17.40	Redress .....	110
17.50	Recording of complaints.....	110
17.60	Unresolved client complaints.....	110
17.70	Applicability of dispute resolution rules .....	111
17.80	Reporting of a dispute .....	111
17.90	Declaration of a dispute.....	111
17.100	Consideration by an ombud .....	111
17.110	Costs of the proceedings.....	113
17.120	Limitation of Liability .....	113
17.130	Member complaints against the JSE.....	113

**SECTION****1**

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**SECTION 1: DERIVATIVES RULES****Scope of section**

- 1.10 Reserved
- 1.20 Reserved
- 1.30 Reserved
- 1.40 Powers exercisable by the controlling body
- 1.41 Committees
- 1.50 Derivative rules and directives
- 1.60 Transactions subject to provisions of the Act, derivatives rules and directives
- 1.70 Interpretation of the Derivatives rules and directives
- 1.80 Proposals for amendments to derivatives rules and directives
- 1.90 JSE not responsible for any losses
- 1.100 Indemnification
- 1.110 Appointment of a clearing house
- 1.120 Fidelity Fund
- 1.130 Transitional provisions

**1.10 Reserved****1.20 Reserved****1.30 Reserved****1.40 Powers exercisable by the controlling body**

- 1.40.1 The management and control of the JSE shall be exercised by the controlling body which shall be the governing body managing the affairs of the JSE.
- 1.40.2 The controlling body may, in addition to the powers and authorities expressly conferred upon it by the Act, the JSE's Memorandum and Articles of Association and these derivatives rules, exercise all such powers and do all such things as may be exercised or done by the JSE.

**1.41 Committees****1.41.1 Advisory Committee**

- 1.41.1.1 The controlling body shall procure the appointment of advisory committees.
- 1.41.1.2 The function of the advisory committees will be to make recommendations to the JSE Executive on operational issues.
- 1.41.1.3 The advisory committees shall consist of –
  - 1.41.1.3.1 a chairperson, who shall be the JSE Executive member responsible for the area in question; and
  - 1.41.1.3.2 such persons as the chairperson, in consultation with the JSE Executive and the controlling body, shall appoint by reason of their knowledge of or experience in the securities or other relevant markets and which shall include representatives of authorised users of the JSE.
- 1.41.1.4 The advisory committees shall make recommendations by reasonable consensus.
- 1.41.1.5 In the event that an advisory committee is not able to reach reasonable consensus on any issue considered by it, the conflicting views on the issue in question shall be advised to the JSE Executive.

**1.41.2 Rules Committee**

- 1.41.2.1 The SRO Oversight Committee shall appoint a Rules Committee to consider and adopt all proposed amendments to the rules and directives in accordance with rule 1.80.
- 1.41.2.2 The Rules Committee shall consist of the Director: Market Regulation and the Legal Counsel of the JSE.

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1.10 amended with effect from 1 July 2005.

1.10 deleted with effect from 1 August 2005.

1.20 deleted with effect from 1 July 2005.

1.30 deleted with effect from 1 July 2005.

1.40 amended with effect from 1 July 2005.

1.40 amended with effect from 1 August 2005.

1.40.1 amended with effect from 1 August 2005.

1.40.2 amended with effect from 1 August 2005.

1.40.3 deleted with effect from 1 August 2005.

1.41.1 amended with effect from 28 April 2017.

1.41.1 amended with effect from 1 August 2005.

1.41.2 amended with effect from 1 August 2005.

1.41.3.1 amended with effect from 1 August 2005.

1.41.3.2 amended with effect from 1 August 2005.

1.41.5 amended with effect from 1 August 2005.



**1.41.3 Membership Committee**

- 1.41.3.1 The SRO Oversight Committee shall appoint a Membership Committee to consider applications for membership and the provision of regulated services, as well as the termination of membership and the withdrawal of authority to perform regulated services.
- 1.41.3.2 The functions of the Membership Committee shall be to -
- 1.41.3.2.1 authorise applications for membership and for the provision of regulated services in accordance with rule 3.40;
  - 1.41.3.2.2 terminate membership on a voluntary basis following notice from the member to do so, in accordance with rule 3.50;
  - 1.41.3.2.3 provisionally or finally terminate membership on an involuntary basis in accordance with rule 3.60; and
  - 1.41.3.2.4 withdraw the authority of a member to perform a regulated service.
- 1.41.3.3 The Membership Committee shall consist of -
- 1.41.3.3.1 the Legal Counsel of the JSE; and
  - 1.41.3.3.2 the Director: Market Regulation.

**1.50 Derivative rules and directives****1.50.1 Purpose of the derivatives rules and directives**

The purpose of the derivatives rules and directives is to achieve the objects of the JSE as set out in its Memorandum and Articles of Association by providing the procedures necessary to establish and regulate fair and efficient markets and to ensure that the business of the JSE is carried out in an orderly manner and with due regard to the objects of the Act.

**1.50.2 Derivatives rules and directives are binding**

- 1.50.2.1 The derivatives rules and directives are binding on members, officers and their employees.
- 1.50.2.2 Reserved.
- 1.50.2.3 The derivatives rules are binding on any person utilising the services of a member or who concludes a transaction with a member in the course of that member's business.
- 1.50.2.4 The controlling body shall notify members of any decision or determinations made under the derivatives rules and directives.

**1.60 Transactions subject to provisions of the Act, the derivatives rules and directives**

Every transaction in derivative securities entered into by a trading member must be concluded on the specific condition that the transaction is entered into subject to the provisions of the Act, these derivatives rules and the directives.

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1.50 amended with effect from 1 August 2005.

1.50.1 amended with effect from 1 August 2005.

1.41.2 and 1.41.3 introduced with effect from 28 April 2017.

1.50.1 amended with effect from 1 July 2005.

1.50.2.1 amended with effect from 1 August 2005.

1.50.2.2 deleted with effect from 1 August 2005.

1.50.2.3 amended with effect from 1 August 2005.

1.50.2.4 amended with effect from 1 August 2005.

1.60 amended with effect from 1 August 2005.

**1.70 Interpretation of the derivatives rules and directives**

The interpretation and enforcement of the derivatives rules and directives vests in the controlling body.

**1.80 Proposals for amendments to derivatives rules and directives**

- 1.80.1 Any member of the JSE Executive or the Director: Market Regulation may propose in writing any amendment to the derivatives rules or directives.
- 1.80.2 The Rules Committee shall consider the proposed amendment to the derivatives rules or directives and notify members by way of notice of its decision in regard thereto.
- 1.80.3 If, within ten days of the notification of the decision of the Rules Committee to adopt the proposal, 5 or more members object in writing to the decision, the objection together with the reasons for such objection will be referred to the controlling body for determination.
- 1.80.4 If, in respect of a proposal with regard to the derivatives rules, an objection as referred to in rule 1.80.3 has not been lodged, or the controlling body upholds the decision of the Rules Committee to adopt the proposal, the proposal will be submitted to the Registrar for his approval.
- 1.80.5 If an objection to a proposed amendment to the directives has not been lodged within the prescribed period, or the controlling body upholds the decision of the Rules Committee to adopt the proposal, the proposal will take effect immediately.

**1.90 JSE not responsible for any losses**

Subject to section 72 of the Act, the JSE and JSE Clear shall not be liable to any person for loss or damage resulting from –

- 1.90.1 negligence, on the part of the JSE, JSE Clear or on the part of any employee or agent of the JSE or JSE Clear;
- 1.90.2 any act of omission on the part of any third party;
- 1.90.3 incorrect, inaccurate, defective or misleading information furnished or supplied by the JSE, JSE Clear or any employee or agent of the JSE, JSE Clear or any third party;
- 1.90.4 equipment breakdown or the breakdown, interruption, suspension, termination or failure of or defect in any system, including but not limited to any trading system, or service owned or operated by or on behalf of the JSE;
- 1.90.5 computer system malfunction, the interruption or failure of communications links, power failure, the failure of or defect in any software or hardware, whether owned by, licensed or leased to the JSE, the loss or destruction of any data and any loss or damage caused by natural disaster, riot, insurrection, acts of vandalism, sabotage or similar cause; and
- 1.90.6 the termination, for any reason whatsoever, of any licence or other agreement to which the JSE is a party.

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1.70 amended with effect from 1 August 2005.

1.80 amended with effect from 1 August 2005.

1.80 amended with effect from 28 April 2017.

1.80.1 amended with effect from 1 August 2005.

1.80.2 amended with effect from 1 August 2005.

1.80.3 amended with effect from 1 August 2005.

1.80.4 amended with effect from 1 August 2005.

1.80.5 amended with effect from 1 August 2005.

1.90 amended with effect from 1 July 2005.

1.90 amended with effect from 1 August 2005.

1.90 amended with effect from 28 March 2014.

**1.100 Indemnification**

A member of an advisory committee, trustee of the Fidelity Fund and employee of the JSE shall be indemnified by the JSE out of the funds of the JSE against any liability, loss or, damage incurred or suffered as a result of any *bona fide* or negligent, but not grossly negligent or wilful, act or omission in the execution of their duties. For the purposes of this rule, such member, trustee or employee shall not be regarded as having been grossly negligent or having acted in wilful breach of duty or trust if the act or omission resulted from incorrect information supplied to such member, trustee or employee by a source from which the member, trustee or employee would normally accept the information as correct and which can be expected to provide the correct information.

**1.110 Appointment of a clearing house**

The JSE may acquire the services of a clearing house with the purpose of clearing contracts on the JSE in accordance with the derivatives rules and to provide any other services or facilities as may be required by the JSE. Any services required by the JSE and any duties and responsibilities of the JSE may be delegated by the JSE to such clearing house.

**1.120 Fidelity Fund**

- 1.120.1 The JSE shall have the power to –
  - 1.120.1.1 establish and maintain, to the satisfaction of the Registrar, a Fidelity Fund out of which shall be paid claims up to an amount specified in the rules of such fund in respect of liabilities arising prior to the default of a member. Such payment shall be limited to claims arising out of transactions in derivative securities with or on behalf of other persons by such member and such other liabilities as may be specified in the rules of the Fidelity Fund and shall be subject to any defences which the defaulting member may have against a claimant; and
  - 1.120.1.2 determine a levy to be payable by every member to the Fidelity Fund on all transactions in derivative securities.
- 1.120.2 Where a trading member has effected a transaction on behalf of a buyer or a seller of derivatives securities, such member may recover the levy imposed in terms of rule 1.120.1.2 from such buyer or seller.
- 1.120.3 The trustees of the Fidelity Fund, in their capacity as trustees, acquire, incur and administer the assets and liabilities of the Fidelity Fund.
- 1.120.4 The income of the Fidelity Fund, including but not limited to levy contributions by members, vests in the trustees and is administered by the trustees as part of the Fidelity Fund.

**1.130 Transitional provisions**

Members will have 12 months from the date of the approval by the registrar of the amended rules 7.200.2 to 7.200.4 within which to conduct the relevant training and formulate and implement the compliance monitoring procedures referred to in those rules.

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1.100 amended with effect from 1 August 2005.

1.100.1 and 1.100.2 deleted with effect from 1 August 2005.

1.120 deleted in entirety and replaced with new rule 1.120; including rules 1.120.1 to 1.120.4 with effect from 1 August 2005.

1.130 Transitional provisions introduced with effect from 28 March 2014.

1.130 amended with effect from 20 February 2015.

**SECTION**

**2**

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**SECTION 2: INTERPRETATION AND DEFINITIONS**

**Scope of section**

- 2.10 Definitions
- 2.20 Interpretation

## 2.10 Definitions

In these derivatives rules, unless otherwise clearly indicated by, or inconsistent with the context, the following terms shall have the meanings that are assigned to them hereunder, namely -

<b>"Act"</b>	means the Financial Markets Act (Act No. 19 of 2012) and any measure prescribed thereunder by the Minister of Finance or the Registrar;
<b>"additional margin"</b>	means the margin paid as collateral by clearing members to the Default Fund for the due performance of clearing members' obligations as set out in the rules or the margin paid to a clearing member over and above that required by the clearing house or to a trading member over and above that required by the clearing member concerned;
<b>"advertisement"</b>	means any written, printed, electronic or oral communication, including a communication by means of a public radio service, television broadcast or any other media by a member, which communication is directed to the general public, or any section thereof, or to any client, and is intended to call attention to, or to market or promote, the services offered by a member, and which does not purport to provide detailed information about such services; and "advertising" has a corresponding meaning;
<b>"advice"</b>	has the same meaning as that contained in Section 1 of the Act;
<b>"agent"</b>	means a trading member who has traded with a client other than for his own account in terms of the derivatives rules;
<b>"aggregate position"</b>	means collectively all the proprietary positions in related exchange contracts registered in the name of a member or, collectively, all the positions in related exchange contracts registered in the name of a client who has traded with a particular member to open such positions;
<b>"aggressive order"</b>	means an order that matches with an existing order in the central order book when it is entered;
<b>"agricultural derivatives"</b>	means those commodity derivatives, the financial terms of which are determined by an underlying agricultural product;

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"Act" amended with effect from 1 August 2005.

"Act" amended with effect from 28 March 2014.

"additional margin" amended with effect from 11 March 2013

"administrators" deleted with effect from 1 August 2005.

"advertisement" introduced with effect from 5 January 2005.

"advice" deleted with effect from 1 August 2005.

"advice" introduced with effect from 28 March 2014.

"affiliated officer" deleted with effect from 1 August 2005.

"aggressive order" inserted with effect from 29 April 2019

"agricultural derivatives" introduced with effect from 24 December 2008.

"agricultural derivatives" amended with effect from 29 April 2019

<b>"agricultural product"</b>	has the same meaning as contemplated in the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996);
<b>"appeal board"</b>	has the same meaning as that contained in Section 1 of the Act;
<b>"assign"</b>	means the exercise by the clearing house of its right in terms of an option contract to buy or sell the underlying instrument of the option contract from or to a person holding a short position in the option contract;
<b>"authorised bank"</b>	means a branch of an Authorised Dealer which, in terms of Exchange Control Regulation 14, has been appointed to administer securities control;
<b>"Authorised Dealer"</b>	means, in relation to any transaction in respect of gold, a person authorised by the Treasury to deal in gold and, in relation to any transactions in respect of foreign exchange, a person authorised by the Treasury to deal in foreign exchange;
<b>"authorised user"</b>	has the same meaning as that contained in section 1 of the Act;
<b>"bank"</b>	has the same meaning as that contained in section 1 of the Act;
<b>"bonds"</b>	means those JSE listed securities that create or acknowledge the indebtedness of an issuer, and "bond" has a corresponding meaning;
<b>"branch of a foreign bank"</b>	means a foreign institution which is authorised in terms of the Banks Act, 1990 (Act No. 94 of 1990) to conduct the business of a bank by means of a branch in the Republic;
<b>"business day" or "day"</b>	means any day except a Saturday, Sunday, public holiday or any other day on which the JSE is closed;
<b>"buy"</b>	means, in relation to derivative securities, to enter into either - <ul style="list-style-type: none"> <li>(a) a futures contract in terms of which the buyer is obliged to take delivery of the underlying instrument from the seller at the agreed price on the future date or to pay an amount of money to the seller if, on the future date, the price or value of the underlying instrument is less than the agreed price; or</li> <li>(b) an option contract in terms of which the buyer obtains the right from the seller to buy or sell the underlying</li> </ul>

"agricultural commodity" replaced with "agricultural product" with effect from 24 December 2008.

"agricultural commodity contract" deleted with effect from 24 December 2008.

"agricultural commodity futures contract" deleted with effect from 24 December 2008.

"agricultural commodity option contract" deleted with effect from 24 December 2008.

"agricultural derivatives" amended with effect from 20 November 2015.

"agricultural products market" deleted with effect from 24 December 2008.

"appeal board" introduced with effect from 28 March 2014.

"authorised bank" amended with effect from 24 December 2008.

"authorised dealer" amended with effect from 24 December 2008.

"authorised user" introduced with effect from 1 August 2005.

"automated trading system" or "ATS" deleted with effect from 29 April 2019

"bank" introduced with effect from 1 August 2005.

"board of appeal" deleted with effect from 28 March 2014.

"bonds" introduced with effect from 24 December 2008.

"branch of a foreign bank" introduced with effect from 26 April 2007.

"business day" amended with effect from 1 August 2005.

	instrument of the option contract at the agreed price from or to the seller on or before the future date;
<b>"call option contract"</b>	means a contract, in terms of which the holder of a long position in the call option contract has obtained the right to buy, and the holder of a short position shall, if the option is exercised, sell, the underlying instrument of the option contract from or to the clearing house on or before the future date at the strike price in accordance with these derivatives rules and the contract specification of the option contract;
<b>"capital adequacy requirement"</b>	means the sum of the greater of a member's initial capital or one quarter of its annual fixed operating costs plus the risk requirements as determined by the JSE by directive;
<b>"capital adequacy return"</b>	means the submission by a member of his capital adequacy requirement to the JSE in the manner and form specified by the JSE;
<b>"cash settled futures contract"</b>	means a futures contract contemplated in part (b) of the definition of futures contract in this rule 2.10;
<b>"central order book"</b>	means the order matching mechanism of the JSE trading system in which orders are matched on the basis of price-time priority;
<b>"Chief Executive Officer"</b>	means the person appointed by the controlling body as the Chief Executive Officer of the JSE;
<b>"clearing"</b>	means the process in terms of which the clearing house becomes the buyer from the seller and the seller to the buyer in every trade whereupon the clearing member guarantees to the clearing house all obligations arising out of any position resulting from such trade in terms of these derivatives rules;
<b>"clearing agreement"</b>	means a written agreement entered into between a clearing member and a trading member in terms of which the trading member guarantees to the clearing member the performance of the obligations arising out of the positions of the trading member and the clients of the trading member;
<b>"clearing house"</b>	has the same meaning as that contained in section 1 of the Act;
<b>"clearing house agreement"</b>	means a written agreement entered into between a clearing member and the clearing house in terms of which the clearing member guarantees to the clearing house all of the obligations arising out of his proprietary positions, the positions of his clients, the proprietary position of the trading members with which he has entered a clearing agreement and the positions of the clients of such trading members ;
<b>"clearing member"</b>	means a sub-category of authorised user of the JSE, authorised to perform clearing services in the equity derivatives market or

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"buy" amended with effect from 1 August 2005.

"capital adequacy requirement" amended with effect from 1 August 2005.

"capital adequacy return" amended with effect from 1 August 2005.

"Chief Executive Officer" amended with effect from 1 July 2005.

"Chief Executive Officer" amended with effect from 1 August 2005.

"clear" amended to "clearing" with effect from 1 August 2005.

"clearing house" amended with effect from 1 August 2005.

"clearing member" amended with effect from 28 March 2014.

	the commodity derivatives market or both and who has entered into a clearing house agreement with the clearing house;
<b>"clearing services"</b>	has the same meaning as that contained in Section 1 of the Act;
<b>"client"</b>	means any person to whom a member provides securities services in terms of the rules, and includes a person that acts as an agent for another person in relation to those services in which case it will include the agent or exclude the other person if the contractual arrangement between the parties indicates this to be the intention;
<b>"client agreement"</b>	means an agreement between a member and a client entered into before the member becomes entitled to trade with the client, the basic terms and formal requirements of which have been prescribed by the JSE;
<b>"client application"</b>	means an electronic system used by a client to submit orders to a trading member;
<b>"close out"</b>	means the cancellation of a position in one direction with an equal and opposite position (e.g. a long position in an exchange contract is cancelled by a short position in the same exchange contract);
<b>"commodity derivatives market"</b>	means the market operated by the JSE in terms of the Act to facilitate trading in commodity securities;
<b>"commodity derivatives"</b>	means those derivative securities, the financial terms of which are determined by an underlying commodity;
<b>"common monetary area"</b>	means the Republic of South Africa, Lesotho, Namibia and Swaziland;
<b>"Companies Act"</b>	means the Companies Act, 2008 (Act No. 71 of 2008);
<b>"compliance officer"</b>	means the person appointed in terms of Section 5;
<b>"contract specification"</b>	means the standard terms and formal requirements of a futures or option contract as determined by the JSE;
<b>"controlling body"</b>	means the board of directors of the JSE which is the governing body managing the affairs of the JSE;
<b>"corporate action"</b>	means an action taken by an issuer or any other entity or third party, which affects the registered owner and the beneficial owner of derivative securities in terms of an entitlement;

"clearing member" amended with effect from 1 August 2005, 24 December 2008 and 20 November 2009.

"clearing services" introduced with effect from 28 March 2014.

"client" amended with effect from 5 January 2005.

"client" amended with effect from 28 March 2014.

"client application" introduced with effect from 11 July 2014.

"Constitution" deleted with effect from 1 July 2005.

"client" amended with effect from 1 August 2005.

"commodities market" introduced with effect from 24 December 2008 and renamed "commodity derivatives market" with effect from 20 November 2009.

"commodity securities" introduced with effect from 24 December 2008.

"Companies Act" introduced with effect from 1 August 2005.

"Companies Act" amended with effect from 28 March 2014.

"contract specification" amended with effect from 1 August 2005.

"controlling body" introduced with effect from 1 August 2005.

"corporate action" introduced with effect from 1 August 2005.



<b>"counterparty risk requirement"</b>	means the own funds that a member shall have in relation to the risk to the member of unsettled transactions with other parties as calculated in a manner determined from time to time by the JSE;
<b>"currency derivatives"</b>	means those derivative securities, the financial terms of which are determined by a rate of exchange;
<b>"deal management"</b>	means the aggregation, division and allocation of on book and off book trades as contemplated in rules 7.140 and 7.150;
<b>"default"</b>	means a default by a client or member as contemplated in Section 12;
<b>"Default Fund"</b>	means the JSE Clear Default Fund established and used for the custody and administration of the collateral posted by the JSE and/or JSE Clear, as the case may be, and the additional margin paid by clearing members, to be applied in the manner set out in the rules in the event of a default of a clearing member;
<b>"derivative instruments"</b>	has the same meaning as that contained in section 1 of the Act;
<b>"derivatives rules"</b>	means these derivatives rules issued in pursuance of section 17 of the Act;
<b>"derivative securities"</b>	means those derivative instruments that are JSE listed securities and traded on the JSE trading system in terms of these derivatives rules;
<b>"Disciplinary Committee"</b>	means the committee appointed in terms of rule 3.290.3.6;
<b>"discretionary basis"</b>	in relation to the management of investments, means to trade, without it being necessary to obtain further authority or consent from the client involved, other than the discretionary client agreement;
<b>"discretionary client agreement"</b>	means the client agreement as prescribed by the JSE that entitles the member to trade for a client on a discretionary basis;
<b>"discretionary financial services provider"</b>	shall have the same meaning as that contained in section 2.1 of the Code of Conduct for Administrative Financial Services Providers issued by the Registrar of Financial Services Providers;
<b>"dispute"</b>	means any dispute arising between any of the persons bound by these derivatives rules and which the JSE declares to be a dispute in terms of rule 17.90;

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"counterparty risk requirement" amended with effect from 1 August 2005.

"corporate entity (limited liability)" deleted with effect from 1 August 2005.

"corporate entity (unlimited liability)" deleted with effect from 1 August 2005.

"currency derivatives" introduced with effect from 24 December 2008.

"dealer" amended with effect from 26 April 2007.

"dealer" deleted with effect from 24 October 2016.

"derivatives member" deleted with effect from 1 August 2005.

"derivative instruments" introduced with effect from 1 August 2005.

"derivatives rules" amended with effect from 1 August 2005.

"derivatives rules" amended with effect from 28 March 2014.

"derivative securities" introduced with effect from 1 August 2005.

"directive" deleted with effect from 1 August 2005.

"Disciplinary Committee" introduced with effect from 1 August 2005.

"discretionary financial services provider" introduced with effect from 5 January 2005.

"dispute" amended with effect from 1 August 2005.

<b>"eCFDs"</b>	means a derivative security, the financial terms of which require the buyer and seller to exchange the difference in the price of the underlying JSE listed security upon which the contract is based over the period of the contract;
<b>"effective date"</b>	means the date of the coming into operation of these derivatives rules;
<b>"emigrant"</b>	means a natural person who has emigrated from the common monetary area;
<b>"emigrant client"</b>	means an emigrant who is not a member who has concluded a client agreement with a trading member and who has been registered by the clearing house as an emigrant client of the member;
<b>"emigrant's blocked account"</b>	means the account of an emigrant from the common monetary area to which exchange control restrictions have been applied;
<b>"emigrant's blocked account clearance certificate"</b>	means the certificate, the terms of which are determined by the JSE in agreement with the South African Reserve Bank and which confirms to the authorised bank concerned the details of the amount of the margin to be paid into or out of an emigrant's blocked account as a result of a position registered in the name of that emigrant client;
<b>"employee"</b>	means a person engaged by a member within that area of its business that operates as a member;
<b>"equity derivatives market"</b>	means the market operated by the JSE in terms of the Act to facilitate trading in equity derivatives;
<b>"exchange"</b>	has the same meaning as that contained in section 1 of the Act;
<b>"exchange contract"</b>	means either a futures contract in terms of which the expiry month is specified or an option contract in terms of which the expiry month, the strike price, and whether it is a put option contract or a call option contract, is specified;
<b>"Exchange Control Regulations"</b>	means the Exchange Control Regulations, 1961, as promulgated by Government Notice R1111 of 1 December 1961, as amended, made in terms of Section 9 of the Currency and Exchanges Act, 1933 (Act No 9 of 1933);
<b>"Exchange for Physical" or "EFRP"</b>	means a type of EFRP where two trading members, a trading member and a client or two clients enter into an agreement whereby one of the parties purchases a physical commodity from the other and the two parties conclude a simultaneous but opposite off book transaction in commodity future, and report the futures transaction to the JSE trading system;
<b>"Exchange for Related Positions" or "EFRP"</b>	means a futures transaction in the JSE commodity derivatives market negotiated off book and reported to the exchange, and the simultaneous conclusion of a transaction in the underlying

"equities rules" deleted with effect from 1 August 2005.

"employee" introduced with effect from 1 August 2005.

"equity derivatives market" introduced with effect from 1 August 2005.

"exchange" introduced with effect from 1 August 2005.

"Exchange for Physical" or "EFRP" introduced with effect from 3 February 2017

"Exchange for Related Positions" or "EFRP" introduced with effect from 3 February 2017

	physical market or in an over the counter ("OTC") derivative instrument where the underlying asset corresponds to the commodity underlying the exchange contract;
<b>"Exchange for Risk" or "EFR"</b>	means a type of EFRP where two trading members, a trading member and a client or two clients enter into an agreement whereby the parties unwind an existing OTC derivative contract between them by concluding an off book transaction in commodity futures which replaces the OTC derivative contract, and report the futures transaction to the JSE trading system;
<b>"executive director"</b>	means a person appointed as a director of a member, under the Companies Act and who, in terms of a contract of employment with such member is in its full-time employ;
<b>"exercise"</b>	means, in relation to the registered holder of a long position in an option contract, to exercise its right to buy or sell the underlying instrument of the option contract at the strike price on or before the future date;
<b>"expire"</b>	means the closing out of an exchange contract by a trade between the registered holder of a position and the clearing house in terms of these derivatives rules;
<b>"expiry month"</b>	means in relation to a futures or option contract, the month in which the positions in such exchange contracts expire on the date and at the time as contained in the contract specification of the futures or option contract;
<b>"external company"</b>	means an external company as defined in Section 1 of the Companies Act and registered in terms of Section 23 of the Companies Act;
<b>"external exchange"</b>	has the same meaning as that contained in section 1 of the Act;
<b>"FAIS Act"</b>	means the Financial Advisory and Intermediary Services Act, 2002 (Act No.37 of 2002);
<b>"Fidelity Fund"</b>	means the JSE Fidelity Fund contemplated in terms of Section 8(1)(h) of the Act;
<b>"Financial Intelligence Centre Act"</b>	means the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);
<b>"financial products"</b>	shall have the same meaning as that contained in section 1 of the FAIS Act, and by definition includes JSE authorised investments;

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"Exchange for Risk" or "EFR" introduced with effect from 3 February 2017

"executive director" amended with effect from 1 August 2005.

"external company" amended with effect from 1 August 2005.

"external company" amended with effect from 28 March 2014.

"external exchange" introduced with effect from 1 August 2005.

"FAIS Act" introduced with effect from 5 January 2005.

"Fidelity Fund" amended with effect from 1 August 2005.

"Fidelity Fund" amended with effect from 28 March 2014.

"financial derivatives market" deleted with effect from 1 August 2005.

"financial instruments" deleted with effect from 1 August 2005.

"Financial Intelligence Centre Act" introduced with effect from 28 March 2014.

"financial products" introduced with effect from 5 January 2005.

"financial products" amended with effect from 1 August 2005.

<b>"financial services provider"</b>	shall have the same meaning as that contained in section 1 of the FAIS Act;
<b>"foreign commodity derivatives"</b>	means those commodity securities which are cash settled derivative instruments and the financial terms of which are determined by an underlying foreign referenced commodity;
<b>"foreign exchange risk requirement"</b>	means the amount of own funds required in relation to the member's risk exposure arising from dealings in foreign exchange, or exposure to changes in the value of foreign currencies relative to the Rand as calculated in a manner determined by the JSE by directive;
<b>"futures contract"</b>	means a contract, the effect of which is that - <ul style="list-style-type: none"> <li>(a) a person agrees to deliver the underlying instrument to or receive it from another person at an agreed price on a future date; or</li> <li>(b) a person will pay to or receive from another person an amount of money according to whether, on the future date, the price or value of the underlying instrument is higher or lower than the agreed price on that future date,</li> </ul> in accordance with these derivatives rules and the contract specification of the futures contract and which is included in the list of derivatives securities kept by the JSE in terms of the Act;
<b>"futures reference price"</b>	means, for the relevant futures contract, the price as determined by the Director: Market Regulation, taking into consideration the last auction price, the last on book trade price, or the last mark-to-market futures price, whichever is the most recent;
<b>"initial capital"</b>	means the minimum capital as specified from time to time by the JSE;
<b>"initial margin"</b>	means the amount of money determined by JSE Clear on the basis specified by the JSE and held in respect of the aggregate position of a member or a client;
<b>"insolvency administrator"</b>	has the same meaning as that contained in Section 1 of the Act;
<b>"insolvency proceeding"</b>	has the same meaning as that contained in Section 1 of the Act;
<b>"interest rate derivatives"</b>	means those Yield-X securities which are derivative instruments and the financial terms of which are determined by a rate of interest;
<b>"intermediary services"</b>	shall have the same meaning as that contained in section 1 of the FAIS Act;

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"financial services provider" introduced with effect from 5 January 2005.

"foreign exchange" deleted with effect from 1 August 2005.

"foreign commodity derivatives" introduced with effect from 24 December 2008.

"foreign exchange risk requirement" amended with effect from 1 August 2005.

"futures contract" amended with effect from 1 August 2005.

"futures reference price" introduced with effect from 16 October 2015.

"initial capital" amended with effect from 1 August 2005.

"insolvency administrator" introduced with effect from 28 March 2014.

"insolvency proceeding" introduced with effect from 28 March 2014.

"investment advice" deleted with effect from 28 March 2014.

"investment management agreement" deleted with effect from 1 August 2005.

"interest rate derivatives" introduced with effect from 24 December 2008.

"intermediary services" introduced with effect from 5 January 2005.

<b>"international derivatives"</b>	means those derivative securities the financial terms of which are determined by a security listed on an external exchange;
<b>"investment manager"</b>	means a trading member who is authorised in terms of Section 15 of the derivatives rules to undertake the management of investments on a discretionary basis;
<b>"in writing"</b>	has the same meaning as that contained in section 1 of the Act;
<b>"JSE"</b>	means 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>"JSE authorised investments"</b>	means – <ul style="list-style-type: none"> <li>(a) derivative securities;</li> <li>(b) JSE listed securities traded on the JSE interest rate and currency derivatives market or equities market;</li> <li>(c) securities listed on an exchange in the Republic other than the JSE;</li> <li>(d) securities listed on an external exchange;</li> <li>(e) participatory interests in a collective investment scheme as defined in the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), and units or any other form of participation in a foreign collective investment scheme approved by the Registrar of Collective Investment Schemes in terms of section 65 of that Act;</li> <li>(f) units or any other form of participation in a collective investment scheme licensed or registered in a foreign country; and</li> <li>(g) funds intended for the purchase of such securities, units or participation;</li> </ul>
<b>"JSE Executive"</b>	means the Chief Executive Officer and such other officials of the JSE as the Chief Executive Officer may from time to time decide shall serve on the JSE's top management ;
<b>"JSE Gazette"</b>	means the gazette published by the JSE under the authority of the JSE Executive;
<b>"JSE listed securities"</b>	means those securities included in the list of securities kept by the JSE;
<b>"JSE share"</b>	means a share in the JSE itself or in any company that owns or operates the JSE;

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"international derivatives" introduced with effect from 24 December 2008.

"investment advice" deleted with effect from 28 March 2014.

"investment manager" amended with effect from 1 August 2005.

"in writing" introduced with effect from 5 January 2005.

"in writing" amended with effect from 1 August 2005.

"JSE" amended with effect from 1 July 2005.

"JSE" amended with effect from 1 August 2005.

"JSE authorised investments" introduced with effect from 1 August 2005.

"JSE trading system" deleted with effect from 1 August 2005.

"JSE Gazette" introduced with effect from 1 August 2005.

"JSE listed securities" introduced with effect from 1 August 2005.

"JSE right" deleted with effect from 1 July 2005.

"JSE share" introduced with effect from 1 July 2005.

<b>"JSE systems"</b>	means any system, device or network which is operated by or on behalf of the JSE for the purpose of providing a market;
<b>"JSE trading system"</b>	means the computer system or systems and associated network or networks operated or used by the JSE for the purpose of providing a market or markets for the trading of JSE listed securities;
<b>"JSE year"</b>	means the financial year of the JSE which shall end on the last day in December in each year or such other date as the JSE may determine;
<b>"large exposure risk"</b>	means the amount of own funds required in relation to the member's risk arising from large exposures to a third party or a connected group of third parties as calculated in a manner determined by the JSE;
<b>"listed securities"</b>	has the same meaning as that contained in section 1 of the Act;
<b>"long position"</b>	means a number of exchange contracts registered by the clearing house in the name of a member or client in terms of which - <ul style="list-style-type: none"><li>(a) in relation to futures contracts, the member or the client is obliged to take delivery of the underlying instrument from the seller at the agreed price on the future date; or to pay an amount of money to the seller if, on the future date, the price or value of the underlying instrument is less than the agreed price; or</li><li>(b) in relation to option contracts, the member or client has the right to buy or sell the underlying instrument of the option contract at the agreed price on or before the future date;</li></ul>
<b>"manage"</b>	in relation to JSE authorised investments, means any arrangement entered into between a client and a member which authorises the member to buy or sell JSE authorised investments or exercise any rights attached to those investments on behalf of the client, either with full discretion or with prior reference to the client;
<b>"margin"</b>	means either initial margin or variation margin or additional margin or retained margin as the context may require;
<b>"margin category"</b>	means the margin category, expressed as a percentage of the initial margin, which is allocated to a non-resident or emigrant client by the member when the non-resident or emigrant client is registered;

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"JSE systems" introduced with effect from 11 July 2014.

"JSE commodities trading system" introduced with effect from 24 December 2008.

"JSE year" amended with effect from 1 August 2005.

"junior dealer" deleted with effect from 26 April 2007.

"large exposure risk" deleted with effect from 1 August 2005.

"listed products" deleted with effect from 1 August 2005.

"listed securities" introduced with effect from 1 August 2005.

"manage" introduced with effect from 24 December 2008.

"manage" amended with effect from 28 March 2014.

<b>"Market Controller"</b>	means the person appointed by the JSE, to supervise, administer and control the daily operations of the JSE trading system;
<b>"mark-to-market"</b>	means the revaluation of a position in the exchange contract at its current market value;
<b>"match"</b>	means to match one member's trade with that of another member in terms of certain criteria contained in their independent reports of the trades;
<b>"member"</b>	means a derivatives member, which is a category of authorised user admitted to membership of the JSE under these rules;
<b>"member application"</b>	means an electronic system used by a trading member to submit orders to the JSE trading system;
<b>"no cancellation range"</b>	means the range, as prescribed in the directives, above or below the futures or the options reference price, or the fair value price, whichever is applicable, within which an alleged error trade may not be cancelled or have its price adjusted;
<b>"non-executive director"</b>	means a person appointed as a director of a member, under the Companies Act but who is not employed by such member;
<b>"non-resident"</b>	means a person (i.e. a natural person or legal entity) whose normal place of residency or domicile or registration is outside the common monetary area;
<b>"non-resident account"</b>	means the account of a non-resident;
<b>"non-resident account clearance certificate"</b>	means the certificate, the terms of which are determined by the JSE in agreement with the South African Reserve Bank and which is to confirm to the authorised bank concerned the monthly amount of interest on the initial margin due to a non-resident or an emigrant client;
<b>"non-resident client"</b>	means a non-resident who is not a member and who has concluded a client agreement with a trading member and who has been registered by the clearing house as a non-resident client of the trading member ;
<b>"officer"</b>	means an executive director or a registered officer of a member;

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"Market Controller" introduced with effect from 16 April 2005.

"market corner" introduced with effect from 1 August 2005.

"market corner" deleted with effect from 28 March 2014.

"mediation" deleted with effect from 1 August 2005.

"mediator" deleted with effect from 1 August 2005.

"member" amended with effect from 1 August 2005.

"non-broking member (derivatives)" deleted with effect from 1 August 2005.

"non-clearing member (derivatives)" deleted with effect from 1 August 2005.

"member application" introduced with effect from 11 July 2014.

"no cancellation range" introduced with effect from 16 October 2015.

"non-executive director" amended with effect from 1 August 2005.

"officer" introduced with effect from 1 August 2005.

<b>"off book" or "off book trade"</b>	means a transaction in derivative securities negotiated off the central order book and reported by a member to the JSE trading system;
<b>"offer"</b>	means an offer to buy or to sell;
<b>"on book" or "on book trade"</b>	means a transaction in JSE listed securities executed by a member on the central order book of the JSE trading system;
<b>"option contract"</b>	means a put option contract or a call option contract, as the context may require;
<b>"options reference price"</b>	means, for the relevant options contract, the option volatility using the previous day's JSE mark to market volatility skew;
<b>"order"</b>	means an offer in terms of which there is a period of time within which to accept the offer;
<b>"own funds"</b>	means the net financial worth of a member calculated in the manner as decided by the JSE;
<b>"passive order"</b>	means an order that does not match with an existing order in the central order book when it is entered;
<b>"physically settled futures contract"</b>	means a futures contract contemplated in part (a) of the definition of a futures contract in this rule 2.10;
<b>"position"</b>	means either a long position or a short position;
<b>"position risk requirement"</b>	means the amount of own funds required in relation to the member's open positions in securities as determined by the JSE;
<b>"prescribed agreements"</b>	means the agreements, the basic terms and formal requirements of which have been specified by the JSE;
<b>"principal"</b>	means a member who has traded with a client or another member for his own account;
<b>"product supplier"</b>	shall have the same meaning as that contained in section 1 of the FAIS Act;
<b>"professional client"</b>	in relation to a trading member , means – <ul style="list-style-type: none"> <li>(a) another authorised user;</li> <li>(b) a bank;</li> <li>(c) a long-term or short-term insurer registered as such under the Long-term Insurance Act, 1998 (Act No. 52 of 1998) or the Short-term Insurance Act, 1998 (Act No. 53 of 1998), respectively;</li> <li>(d) a person outside the Republic who –               <ul style="list-style-type: none"> <li>(i) as a regular feature of the person's business, renders a service similar to a "securities service" as defined in section 1 of the Act or conducts the</li> </ul> </li> </ul>

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"old rules and directives" deleted with effect from 1 August 2005.

"option contract" amended with effect from 1 August 2005.

"options reference price" introduced with effect from 16 October 2015.

"other investments" deleted with effect from 1 August 2005.

"own funds" amended with effect from 1 August 2005.

"passive order" introduced with effect from 16 October 2015.

"position risk requirement" amended with effect from 1 August 2005.

"product supplier" introduced with effect from 5 January 2005.

"professional client" introduced with effect from 1 August 2005.



	business of a bank or a business referred to in paragraph (c); and
	(ii) is registered, licensed, recognised, approved or otherwise authorised to render the service or conduct the business referred to in paragraph (d)(i) by a foreign regulator with functions similar to those of the Registrar, the Registrar of Banks or the Registrar of Long-term or Short-term Insurance;
	(e) any person who is mandated to manage assets and who has confirmed to the satisfaction of the authorised user that the market value of the assets managed by the person will exceed R1 billion at all times during the rendering of securities services to the person;
	(f) any other client, who has confirmed to the satisfaction of the member that the person will have assets of which the net asset value will exceed R20 million at all times during the rendering of securities services to the person, but who is not –
	(iii) a natural person;
	(iv) a pension fund organisation as defined in section 1 (1) of the Pension Funds Act, 1956 (Act No. 24 of 1956);
	(v) a friendly society referred to in the Friendly Societies Act, 1956 (Act No. 25 of 1956);
	(vi) a medical scheme as defined in section 1(1) of the Medical Schemes Act, 1998 (Act No.131 of 1998);
<b>"proprietary position"</b>	means a position registered by the clearing house in the name of a member for the member's own account;
<b>"put option contract"</b>	means a contract, in terms of which the holder of a long position in the put option contract has obtained the right to sell, and the holder of a short position shall, if the option is exercised, buy, the underlying instrument of the option contract to or from the clearing house on or before the future date at the strike price in accordance with these derivatives rules and the contract specification of the option contract;
<b>"registered officer"</b>	means a compliance officer or a trader registered by the JSE as such in the name of the member;
<b>"Registrar"</b>	has the same meaning as that contained in section 1 of the Act;
<b>"Registrar of Banks"</b>	means the Registrar of Banks designated under section 4 of the Banks Act, 1990 (Act No 94 of 1990);
<b>"regulation"</b>	has the same meaning as that contained in section 1 of the Act;
<b>"related exchange contracts"</b>	means those exchange contracts which the JSE decides have such characteristics in common that the risk of loss in one of the exchange contracts may be reduced by an off-setting position in

"Registered Officer" amended with effect from 24 October 2016

"Registrar" introduced with effect from 1 August 2005.

"Registrar of Banks" introduced with effect from 1 August 2005.

"regulation" amended with effect from 1 August 2005.

"regulation" amended with effect from 28 March 2014.

	any of the other or a combination of the other exchange contracts in the group of related exchange contracts;
<b>"Republic"</b>	means the Republic of South Africa;
<b>"resident"</b>	means a natural person who is resident in the common monetary area or a legal entity registered in such area, and includes a partnership or an external company;
<b>"resident client"</b>	means a resident who is not a member and who has concluded a client agreement with a trading member , and who has been registered by the clearing house as a resident client of the trading member ;
<b>"retained margin"</b>	means the margin paid by a client to a member for an intended trade or margin due to a client which the member has retained in anticipation of a trade;
<b>"risk disclosure statement"</b>	means the risk disclosure statement annexed to the client agreement;
<b>"safeguarding"</b>	has the same meaning as that contained in section 1 of the Act;
<b>"securities"</b>	has the same meaning as that contained in section 1 of the Act;
<b>"securities services"</b>	has the same meaning as that contained in section 1 of the Act;
<b>"sell"</b>	means, in relation to derivative securities, to enter into either - <ul style="list-style-type: none"> <li>(a) a futures contract in terms of which the seller is obliged to make delivery of the underlying instrument to the buyer at the agreed price on the future date; or to pay an amount of money to the buyer if, on the future date the price or value of the underlying instrument is greater than the agreed price; or</li> <li>(b) an option contract in terms of which the seller grants the right to the buyer to buy or sell the underlying instrument of the option contract from, or sell it to, the seller at the agreed price on or before the future date;</li> </ul>
<b>"settle"</b>	has the same meaning as that contained in section 1 of the Act;
<b>"short position"</b>	means a number of derivatives exchange contracts registered by the clearing house in the name of a member or client in terms of which -

"Republic" introduced with effect from 1 August 2005.

"resolution" deleted with effect from 1 August 2005.

"safeguard" introduced with effect from 5 January 2005.

"safeguard" amended with effect from 1 August 2005.

"safeguard" deleted with effect from 28 March 2014.

"safeguarding" introduced with effect from 28 March 2014.

"SAFEX" deleted with effect from 1 August 2005.

"securities" introduced with effect from 5 January 2005.

"securities" amended with effect from 1 August 2005.

"Securities Services Act" deleted with effect from 1 August 2005.

"securities services" introduced with effect from 1 August 2005.

"sell" amended with effect from 1 August 2005.

"senior dealer" deleted with effect from 26 April 2007.

"settle" introduced with effect from 28 March 2014.

"SRO Oversight Committee" introduced with effect from 28 March 2014.

	(a) in relation to futures contracts, the member or client is obliged to make delivery of the underlying instrument at the agreed price on the future date or to pay an amount of money if, on the future date, the price or value of the underlying instrument is greater than the agreed price; or
	(b) in relation to option contracts, the member or client has granted the right to another person to buy or sell the underlying instrument of the option contract at the agreed price on or before the future date;
<b>"SRO Oversight Committee"</b>	means the JSE Board sub-committee responsible for overseeing the issuer regulation and market regulation functions of the JSE;
<b>"standard lot size"</b>	means the number of a particular exchange contract that is traded in a single trade as determined by the JSE;
<b>"strike price"</b>	means the price or yield at which the person in whose name a long position in an option contract is registered has the right to buy or sell the underlying instrument of the option contract;
<b>"SWIFT"</b>	means the Society for Worldwide Interbank Financial Telecommunications;
<b>"SWIFT emigrant's blocked account notification"</b>	means the notification, utilising the SWIFT network, from the clearing house's nominated SWIFT agent to the authorised bank, instructing the authorised bank to make or accept payment of margin to or from an emigrant's blocked account in the amount specified in the notification;
<b>"SWIFT non-resident account notification"</b>	means the notification, utilising the SWIFT network, from the clearing house's nominated SWIFT agent to the authorised bank, instructing the authorised bank to receive payment of interest into a non-resident account in the amount specified in the notification;
<b>"trade"</b>	means to buy or to sell JSE listed securities whether on book or negotiated off book and reported to the JSE trading system;
<b>"trader"</b>	means an employee of a trading member authorised by the JSE and who is registered by such trading member in terms of these derivatives rules to trade either for the member's own account or on behalf of clients, or for both;
<b>"trading member"</b>	means a sub-category of authorised user of the JSE, registered to trade in the equity derivatives market or the commodity derivatives market or in both under the derivatives rules;
<b>"transaction"</b>	has the same meaning as that contained in section 1 of the Act;
<b>"trustees"</b>	means the trustees of the Fidelity Fund;

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"the Registrar" deleted with effect from 1 August 2005.

"the Registrar of Banks" deleted with effect from 1 August 2005.

"trade" amended with effect from 1 August 2005.

"trader" introduced with effect from 24 October 2016

"trading member" introduced with effect from 1 August 2005 and amended with effect from 24 December 2008 and 20 November 2009.

"transaction" introduced with effect from 1 August 2005.

"trustees" introduced with effect from 1 August 2005.

<b>"underlying instrument"</b>	means the corporeal or incorporeal thing, asset, index as referred to in the definition of "securities" in section 1 of the Act, currency, rate of interest or any other factor which is the subject matter of a futures contract or an option contract, or the futures contract that is the subject matter of an option contract;
<b>"unsolicited call"</b>	means any first communication made to a person by a trading member or an employee of a trading member, without an express or tacit invitation from such person;
<b>"variation margin"</b>	means the amount of margin payable in terms of rule 8.60.2;

## 2.20 Interpretation

In these derivatives rules, unless otherwise clearly indicated by, or inconsistent with the context -

- 2.20.1 a reference to one gender includes a reference to all other genders;
- 2.20.2 the singular includes the plural, and vice versa;
- 2.20.3 all the terms defined in the Act bear the same meaning as are assigned to them in the Act.

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"underlying instrument" amended with effect from 1 August 2005.

"unsolicited call" introduced with effect from 1 August 2005.

**SECTION**

**3**

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**SECTION 3: GENERAL MEMBERSHIP AND DISCIPLINARY PROCEDURES**

**Scope of section**

- 3.10 General Membership of the JSE
- 3.20 General requirements
- 3.30 Membership transitional provisions
- 3.40 Applications for membership
- 3.50 Voluntary changes to, or termination of, membership
- 3.60 Involuntary termination of membership
- 3.70 Duty to furnish information
- 3.80 Fees, levies and charges
- 3.90 Reserved
- 3.100-3.110 Reserved
- 3.120 Consent required for employment of certain persons
- 3.130 Trading name
- 3.140 Notices
- 3.150-3.270 Reserved
- 3.275 Surveillance and investigation by the JSE's Market Regulation Division
- 3.276 Reporting and assistance by the JSE Market Regulation Division – Financial Intelligence Centre Act
- 3.280 Use of information obtained by the JSE's Market Regulation Division
- 3.285 Improper Conduct
- 3.290 Disciplinary procedures
- 3.295 Procedure and Evidence – Disciplinary matters
- 3.300 Disciplinary Matters – Penalties
- 3.305 Urgent Issues
- 3.310 Disciplinary matters – Transactions Open
- 3.325 Default, suspension or termination of membership – Control of assets and accounting records
- 3.330 Lien over proceeds of sale of JSE shares
- 3.340 Reserved
- 3.350 JSE's powers of publication

**3.10 General Membership of the JSE**

- 3.10.1 In order to qualify to be a member, an applicant must:
  - 3.10.1.1 Reserved;
  - 3.10.1.2 comply with the general requirements set out in this rule; and
  - 3.10.1.3 comply with any specific requirements applicable to members who participate in the commodity derivatives market and in the equity derivatives market.
- 3.10.2 The JSE shall keep a register of members and shall in such register indicate in which category or sub-category of authorised user the member has been authorised to operate.
- 3.10.3 Depending on the category of membership enjoyed by a member, a member may –
  - 3.10.3.1 trade in one or more of the product categories; and/or
  - 3.10.3.2 perform clearing and settlement in one or more product categories; and/or
  - 3.10.3.3 otherwise access or utilise the operational services of the JSE.

**3.20 General requirements**

- 3.20.1 Officers of members shall, subject to any waiver by the JSE–
  - 3.20.1.1 be of full legal capacity;
  - 3.20.1.2 comply with such criteria of good character and high business integrity as the JSE deems fit;
  - 3.20.1.3 not be an unrehabilitated insolvent; and
  - 3.20.1.4 not in the period preceding the application as the JSE in its discretion deems fit, have been –
    - 3.20.1.4.1 convicted of an activity constituting a criminal offence involving fraud, theft, dishonesty or market abuse, whether in the Republic or elsewhere;
    - 3.20.1.4.2 held civilly or administratively liable for, inter alia, fraud, theft, dishonesty or market abuse, whether in the Republic or elsewhere;
    - 3.20.1.4.3 declared to have contravened legislation in respect of market abuse, money laundering or terrorist or related activity, with or without the imposition of an administrative penalty, whether in the Republic or elsewhere;
    - 3.20.1.4.4 disqualified by a court from acting as a director of a company;
    - 3.20.1.4.5 the subject of a formal investigation by any regulatory or government agency;

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3.10.1.1 deleted with effect from 1 July 2005.

3.10.1.3 amended with effect from 1 August 2005, 24 December 2008 and 20 November 2009.

3.10.2 amended with effect from 1 July 2005.

3.10.2 amended with effect from 1 August 2005.

3.10.3 amended with effect from 1 August 2005.

3.10.3.2 amended with effect from 1 August 2005.

3.20.1 amended with effect from 1 August 2005.

3.20.1.2 amended with effect from 1 August 2005.

3.20.1.4.1 amended with effect from 28 March 2014.

3.20.1.4.2, 3.20.1.4.2 and 3.20.1.4.3 introduced with effect from 28 March 2014 and existing sections re-numbered accordingly

3.20.1.4.1 amended with effect from 1 August 2005.

- 3.20.1.4.6 expelled, whether as a member or otherwise, from any exchange or external exchange;
  - 3.20.1.4.7 employed by or associated with a member of any exchange or external exchange, which member was expelled from that exchange and where the person or officer has, in the opinion of the JSE, contributed to the circumstances leading to the expulsion;
  - 3.20.1.4.8 declared a defaulting member of the JSE or any other exchange or external exchange; or
  - 3.20.1.4.9 refused entry to or expelled from any profession or vocation or been dismissed or requested to resign from any office or employment, or from any fiduciary office or position of trust.
- 3.20.2 Members who are partnerships shall comprise of two or more partners each of whom shall be a natural person, and who shall comply with the requirements set out in rule 3.20.1.
- 3.20.3 Members who are corporate entities shall–
  - 3.20.3.1 not employ, register or permit association with an officer who does not fulfil the requirements of rule 3.20.1 without the prior approval of the JSE; and
  - 3.20.3.2 have, in the opinion of the JSE, a good reputation and high business standing.
- 3.20.4 In addition to the requirements set out in this rule 3.20, members seeking admission within a specific membership category shall comply with any additional requirements applicable to such membership category set out in the derivatives rules.
- 3.20.5 Members shall at all times have and maintain the necessary procedures, administrative and other systems, facilities, resources and expertise to ensure –
  - 3.20.5.1 the effective performance of the regulated services that they provide;
  - 3.20.5.2 compliance with the Act and the rules and directives that are relevant to the performance of such regulated services;
  - 3.20.5.3 compliance with the Financial Intelligence Centre Act;
  - 3.20.5.4 that the management of their own and clients' funds is adequate and in accordance with the derivatives rules relating to the management or separation of funds;
  - 3.20.5.5 that an accurate record of their own and clients' positions is kept at all times;
  - 3.20.5.6 that their clients' trades, cash balances and any other information relating to their positions are timeously reported to the clients; and
  - 3.20.5.7 that they comply with all the financial resources requirements pertaining to the relevant category of authorised user as prescribed in the derivatives rules.

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3.20.1.4.3 amended with effect from 1 August 2005.

3.20.1.4.4 amended with effect from 1 August 2005.

3.20.1.4.5 amended with effect from 1 August 2005.

3.20.4 amended with effect from 1 August 2005.

3.20.5 amended with effect from 28 March 2014.

3.20.5.1, 3.20.5.2 and 3.20.5.3 introduced with effect from 28 March 2014 and existing sections re-numbered accordingly

3.20.5.1 amended with effect from 1 August 2005.

3.20.5.4 amended with effect from 1 August 2005.

**3.30 Reserved****3.40 Applications for membership**

- 3.40.1 An application for membership shall be made to the JSE in the manner and in the form prescribed by the JSE and shall indicate in what category or categories of membership the applicant wishes to apply.
- 3.40.2 The following provisions shall apply to applicant members who are partnerships:
  - 3.40.2.1 applications shall include a signed copy of the deed of partnership and any other information as the JSE may require;
  - 3.40.2.2 the JSE shall not grant its consent for the admission of a partnership unless it is satisfied that all the partners are jointly and severally liable for the debts and obligations of the partnership in terms of the provisions of the deed of partnership, which shall comply with the Act, the derivatives rules and directives.
- 3.40.3 Applicants who are close corporations or corporate entities shall include a signed copy of the founding statement or the memorandum and articles of association, as the case may be, a copy of any agreement entered into or proposed to be entered into between the members of the entity relative to the members' interest or shares thereof and any other information as the JSE may require. The provisions of this rule shall apply *mutatis mutandis* to the amendment or substitution of the aforementioned document.
- 3.40.4 The applicant shall include with its application, the following information:
  - 3.40.4.1 the applications for registration as registered officers of the applicant;
  - 3.40.4.2 the most recent financial statements of the applicant as well as a completed capital adequacy return;
  - 3.40.4.3 the details of the applicant's auditor;
  - 3.40.4.4 a completed clearing agreement, in the case of a trading member; and
  - 3.40.4.5 a completed clearing house agreement, in the case of a clearing member.
- 3.40.5 Notwithstanding any provision in the derivatives rules and directives, the JSE may require the applicant to furnish further information, and may institute any investigation that it deems necessary, to verify information submitted by the applicant in support of an application. Such investigation may include without limitation, a request for the applicant or one or more representatives of the applicant, to be interviewed by the Membership Committee or any person appointed by the JSE for that purpose.
- 3.40.6 The Membership Committee shall have the sole discretion to accept or reject the application, or to accept an application subject to certain conditions to be fulfilled as determined by the JSE from time to time: Provided that the JSE shall reach a decision within 60 (sixty) days of the first meeting at which the application was considered.
- 3.40.7 The JSE shall notify the applicant in writing of the decision of the Membership Committee and of any conditions that are required to be fulfilled.
- 3.40.8 Any person aggrieved by the decision of the JSE to reject an application, shall have a right of appeal to the board of appeal in terms of the Act.
- 3.40.9 If an application for membership has been refused, and the applicant did not exercise his right of appeal or if the appeal is unsuccessful, such applicant shall not be entitled to re-apply for membership for a period of 1 (one) year from the date of refusal, or such shorter period as the JSE may determine.

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3.30 deleted with effect from 1 July 2005.

3.40.2.2 amended with effect from 1 August 2005.

3.40.5, 3.40.6 and 3.40.7 amended with effect from 28 April 2017.

3.40.8 amended with effect from 1 August 2005.



- 3.40.10 Reserved.
- 3.40.11 Reserved.
- 3.40.12 Reserved.
- 3.40.13 Reserved.
- 3.40.14 Upon approval of the application of the member, such member shall obtain membership and the status in such sub-category or categories of authorised user as determined by the JSE shall be activated.
- 3.40.15 The JSE shall notify members of the admission of a new member.

### **3.50 Voluntary changes to, or termination of, membership**

- 3.50.1 A member may apply to terminate its membership by giving the JSE 30 days' written notice.
- 3.50.2 The Membership Committee may accept the termination unconditionally or subject to such conditions as it may deem fit, or may refuse to accept the termination until it is satisfied that all outstanding contractual or other obligations of the member have been satisfied.
- 3.50.3 Should a member wish to change its authorised user status or wish to obtain authorisation to operate in another sub-category of authorised user, the provisions of rule 3.40 shall apply *mutatis mutandis*.
- 3.50.3A Changes in name or corporate structure:
  - 3.50.3A.1 A member undergoing any of the changes set out below shall forthwith inform the JSE in writing of the change.
  - 3.50.3A.2 The notification referred to in rule 3.50.3A.1 shall be accompanied by such information as the JSE may determine from time to time. Provided that -
    - 3.50.3A.2.1 in the case of a corporate entity changing its name, the notification shall be accompanied by the relevant certificate of name change;
    - 3.50.3A.2.2 in the event that a trading member's business or infrastructure relating to trading in derivative securities is transferred to another legal entity in any manner, including but not limited to a merger, take-over, transfer of business or corporate restructuring, the trading member shall inform the JSE of the change at least one month before it takes effect, and the notification shall be accompanied by such information as would be required in the case of a new application for membership: Provided that the JSE may, at its discretion, request full particulars regarding the change and the reasons therefor, and provided further that the JSE may determine that a new application for membership must be made.

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3.40.10 deleted with effect from 1 July 2005.  
3.40.11 deleted with effect from 1 July 2005.  
3.40.12 deleted with effect from 1 July 2005.  
3.40.13 deleted with effect from 1 July 2005.  
3.40.14 amended with effect from 1 July 2005.  
3.40.14 amended with effect from 1 August 2005.  
3.50.2 amended with effect from 28 April 2017.  
3.50.3 amended with effect from 1 August 2005.  
3.50.3A2.2 amended with effect from 1 August 2005.

- 3.50.4 The JSE shall notify members of the termination of or change in membership, and the termination shall become effective on the date and time of the notice, unless otherwise stated in the notice.

### **3.60 Involuntary termination of membership**

- 3.60.1 The Membership Committee may provisionally or finally terminate membership if –
- 3.60.1.1 a member which is a natural person, or a partner in the case of a member who is a partnership, dies, or is placed under curatorship, or his estate is sequestrated, whether provisionally or finally;
  - 3.60.1.2 the member is placed in liquidation, whether provisional or final, or under business rescue proceedings or any other judicial proceeding or court application for an insolvency proceeding is initiated, or the company files a resolution to such effect or has an insolvency administrator appointed to it;
  - 3.60.1.3 the member compromises or attempts to compromise with his creditors;
  - 3.60.1.4 the member fails to satisfy or to initiate steps to set aside a judgement, award or determination against it within the time periods provided for in the rules of the relevant body;
  - 3.60.1.5 the Disciplinary Committee has decided in terms of rule 3.300 that membership should be terminated;
  - 3.60.1.6 the member defaults;
  - 3.60.1.7 Reserved;
  - 3.60.1.8 a trading member fails to enter into a clearing agreement with a clearing member within thirty days or such other period which the JSE may determine after the termination for whatever reason of his clearing agreement with a clearing member ; or
  - 3.60.1.9 the controlling body has resolved to terminate the membership of the member after taking into account the member's representations in this regard.
- 3.60.2 The JSE must notify the member in writing of the decision of the Membership Committee to finally terminate the membership of a member.
- 3.60.3 A member aggrieved by a decision of the JSE to finally terminate its membership may appeal to the appeal board in terms of section 105(1) of the Act..

### **3.70 Duty to furnish information**

- 3.70.1 A member shall forthwith advise the JSE in writing of –
- 3.70.1.1 the granting of an application for, or the revocation of, recognition under any statutory enactment or any registration, authorisation or licence which may bear upon or be associated with its business as a member of the JSE;
  - 3.70.1.2 the commission by or the conviction of the member or any of its officers for any offence under legislation relating to banking, or other financial services, companies, insolvency, insurance and pension and provident societies or of any offence involving fraud or dishonesty;
  - 3.70.1.3 any person becoming or ceasing to be a director of a corporate member, or a partner of a partnership;

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3.50.4 amended with effect from 1 August 2005.

3.60.1 amended with effect from 28 April 2017.

3.60.2 amended with effect from 28 April 2017.

3.60.3 introduced with effect from 28 April 2017.

3.60.1.2 amended with effect from 28 March 2014.

3.60.1.7 deleted with effect from 1 July 2005.

3.60.1.9 amended with effect from 1 August 2005.

- 3.70.1.4 any change in the name or address of any office of the member, and of any change in the member's telex, telephone or facsimile numbers or electronic mailing addresses;
- 3.70.1.5 any change in the particulars relating to an officer, and of the event that any officer is found guilty of any improper conduct by any licensed exchange, a previous or current employer, a professional association or a court of law;
- 3.70.1.6 any of the circumstances referred to in rules 3.60.1.1 to 3.60.1.4 arising; or
- 3.70.1.7 the dismissal of an employee for committing or attempting to commit an act which is dishonest, fraudulent, dishonourable or disgraceful.
- 3.70.2 A member shall in addition inform the JSE in writing –
  - 3.70.2.1 of any person holding, or having a beneficial interest in 20% or more of any class of the share capital of a member that is a company or in the member's interest of a member that is a close corporation, as the case may be, and of any change in such holding;
  - 3.70.2.2 if it or any employee thereof holds, or has a beneficial interest in, any class of the share capital of a client that is a company or in the membership interest of a client that is a close corporation or in a client that is a partnership.
- 3.70.3 A member shall submit to the Director: Market Regulation within three months after the end of its financial year, a copy of its audited financial statements, and the audit report prescribed by the Act, in respect of such period.
- 3.70.4 Subject to rules 3.70.5 and 3.70.6, a member shall submit the prescribed monthly capital adequacy return monthly to the Director: Market Regulation within ten business days of the end of the month or within such other period that the JSE may require: Provided that the member shall at all times comply with the capital adequacy requirements referred to in these derivatives rules, and provided further that the JSE shall be entitled to suspend a member from trading, should the return not be submitted timeously.
- 3.70.5 A member that -
  - 3.70.5.1 is a bank;
  - 3.70.5.2 is a branch of a foreign bank; or
  - 3.70.5.3 trades in derivative securities solely for its own account,shall be exempt from the requirement to submit the monthly capital adequacy return referred to in rule 3.70.4, provided the member has advised the JSE, in writing, that it meets the requirements of rule 3.70.5.1, 3.70.5.2, or 3.70.5.3.
- 3.70.6 A member that is an authorised user of another exchange may apply in writing to the Director: Market Regulation for exemption from the requirement to submit the monthly capital adequacy return referred to in rule 3.70.4, provided the capital requirements of the other exchange are, in the opinion of the Director: Market Regulation, similar to those imposed by the JSE and the member is required to submit a return to the other exchange.
- 3.70.7 In considering an application for an exemption in terms of rule 3.70.6, the Director: Market Regulation will take into account the relative activity undertaken by the member on the JSE and the other exchange in order to determine whether it is preferable for the other exchange to act as the lead

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3.70.2.2 amended with effect from 1 August 2005.

3.70.3 amended with effect from 26 April 2007.

3.70.4 amended with effect from 26 April 2007.

3.70.5 amended with effect from 26 April 2007.

3.70.5.1 introduced with effect from 26 April 2007.

3.70.5.2 introduced with effect from 26 April 2007.

3.70.5.3 introduced with effect from 26 April 2007.

3.70.6 introduced with effect from 26 April 2007.

regulator in relation to the supervision of compliance with capital adequacy requirements by the member.

- 3.70.8 If a member is granted an exemption in terms of rule 3.70.6, the member may be required at any time to submit, to the Director: Market Regulation, a copy of any capital adequacy return submitted to the other exchange.
- 3.70.9 Despite the fact that a member may be exempt from submitting monthly capital adequacy returns to the Director: Market Regulation, in terms of rules 3.70.5 or 3.70.6, the member is required to advise the Director: Market Regulation, in writing, as soon as it becomes aware that it has failed to meet the relevant capital adequacy requirements set out in rules 4.20.2 to 4.20.4.

### **3.80 Fees, levies and charges**

- 3.80.1 A member which uses the services of the JSE shall pay to the JSE such fees and charges as may be prescribed by the JSE from time to time.
- 3.80.2 The JSE may prescribe by directive, subscriptions which shall be paid by members. Such subscriptions –
- 3.80.2.1 shall be paid annually in advance during January and shall be in respect of each JSE financial year;
- 3.80.2.2 in respect of a new member, shall be payable from and including the month in which the member is admitted;
- 3.80.2.3 in respect of a member which ceases to be a member, shall not be refunded.
- 3.80.3 In the event of any change in the amount of subscription payable by a member, such changed subscription shall apply with effect from the date on which the change took place.
- 3.80.4 The JSE may, in addition to the subscriptions, fees and charges prescribed by these derivatives rules, from time to time impose upon every member a levy which shall be paid to the JSE or any of its funds on such conditions as the JSE may decide. Such levy may be recovered from the clients of the member.
- 3.80.5 Any subscription, fee, charge, contribution or levy to be paid or which may be imposed in terms of these derivatives rules, shall be paid as determined by the JSE from time to time and any member failing to make such payment when due shall, unless the same be paid within one month after written demand has been made by the JSE, cease to be a member.

### **3.90 Reserved**

### **3.100 Reserved**

### **3.110 Reserved**

### **3.120 Consent required for employment of certain persons**

- 3.120.1 No member shall without the written consent of the JSE take into or continue in its employment in any capacity in any business carried on by it as a member –
- 3.120.1.1 any sole proprietor, partner, officer or employee of a member expelled from the JSE;
- 3.120.1.2 or any such sole proprietor, or partner whose membership has been terminated by the JSE,
- 3.120.1.3 any person refused approval to operate as a financial services provider in terms of the FAIS Act or any other act;

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3.70.7 introduced with effect from 26 April 2007.

3.70.8 introduced with effect from 26 April 2007.

3.70.9 introduced with effect from 26 April 2007.

3.120.1.3 amended with effect from 1 August 2005.

- 3.120.1.4 any person expelled, whether as an authorised user or otherwise, from any other exchange; or
- 3.120.1.5 any person who is an unrehabilitated insolvent or has been a defaulter or has been convicted of theft, fraud, forgery, or any other crime involving dishonesty.
- 3.120.2 The consent of the JSE may be given for a limited period and may be withdrawn at any time: Provided the JSE gives the member one calendar month's notice of its intention to withdraw such consent.

### **3.130 Trading name**

The JSE shall be entitled to refuse any member approval of membership, should the JSE in its sole discretion deem the name under which the member proposes to operate, to be inappropriate or unacceptable for any reason.

### **3.140 Notices**

- 3.140.1 Notice to the JSE by members

Every member shall notify the JSE of a business and postal address, and a secured electronic delivery mechanism address at which that member shall accept the delivery of all notices issued by the JSE in terms of the derivatives rules.
- 3.140.2 Notice to members
  - 3.140.2.1 Any notice given by the JSE in terms of the derivatives rules and directives shall be in writing.
  - 3.140.2.2 A notice may be delivered by means of an electronic delivery mechanism or by hand or by registered post.
  - 3.140.2.3 Any notice delivered by the JSE by hand before 16:00 on a business day at the physical address of the member, shall be deemed, unless the contrary is proved, to have been received on the date of delivery.
  - 3.140.2.4 Any notice transmitted by an electronic delivery mechanism before 16:00 on a business day, shall be deemed, unless the contrary is proved, to have been received on the date of the transmission.
  - 3.140.2.5 Any notice delivered by the JSE by registered post shall be deemed, unless the contrary is proved, to have been received within seven business days after being dispatched.

### **3.150–3.270 Reserved**

### **3.275 Surveillance and investigation by the JSE's Market Regulation Division**

- 3.275.1 Surveillance

The JSE's Market Regulation Division shall at all times have the power to set up and maintain systems for-

  - 3.275.1.1 monitoring compliance by members with the provisions of the Act, the derivatives rules and directives and any arrangements made with a clearing house for the provision of services and facilities;
  - 3.275.1.2 the surveillance of any matter relevant for the purposes of the Act and these derivatives rules; and
  - 3.275.1.3 supervising compliance by members with the Financial Intelligence Centre Act.

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3.120.1.4 amended with effect from 1 August 2005.  
3.275.1.1 amended with effect from 1 August 2005.  
3.275.1.2 amended with effect from 1 August 2005.  
3.275.1.3 introduced with effect from 1 August 2005.  
3.275.1.3 amended with effect from 28 March 2014.

**3.275.2 Investigation**

**3.275.2.1** The Director: Market Regulation, and any other person designated by him, shall at all times have the power to:

**3.275.2.1.1** investigate any JSE related activities of any person who at the relevant time was a member or a partner, employee or officer of a member;

**3.275.2.1.2** investigate whether that member or any of its employees complies with all the provisions of the Act, these derivatives rules, directives and the Financial Intelligence Centre Act;

**3.275.2.1.3** investigate whether the member is trading in such a manner that there is a danger that such member may not be able to meet its commitments to clients, other members or the clearing house;

**3.275.2.1.4** investigate whether such member is conducting its business in a manner which could be detrimental to the interest, good name or welfare of the JSE or its members; and

**3.275.2.1.5** require any person who is subject to the jurisdiction of the JSE and who is believed to be able to furnish any information on the subject of any investigation or to have in his or her possession or under his or her control any book, document, tape or electronic record or other object which has a bearing on the subject of the investigation, to produce such book, document, tape or electronic record or other object or to appear at a time and place specified, to be questioned by any of the abovementioned persons, to furnish such information or to produce such book, document, tape, electronic record or other object: Provided that the subject of the investigation has first been put to such person. Such person may, if he or she is not a sole proprietor or an executive director or senior partner of a member, request to be assisted by the sole proprietor or by an executive director or senior partner of the member by which the person is employed.

**3.275.3** The Director: Market Regulation may delegate the power granted to him in terms of rule 3.275.2.1 to any member of the Market Regulation Division.

**3.275.4 Referral to another authority**

Should the JSE's Market Regulation Division become aware of any possible contravention of law by a person over whom the JSE does not have jurisdiction, the JSE's Market Regulation Division shall be entitled to refer such matter to the appropriate authority or authorities, whether outside or within the Republic.

**3.276 Reporting and assistance by the JSE Market Regulation Division – Financial Intelligence Centre Act**

The Director: Market Regulation will report to the Registrar any non-compliance by a member or its employees with the duties imposed on the member and its employees in terms of the Financial Intelligence Centre Act if the Director: Market Regulation becomes aware of such non-compliance through the surveillance and investigation procedures undertaken in terms of rule 3.275.1. The JSE Market Regulation Division will also assist the Registrar in any enforcement action that may be taken by the Registrar against a member or its employees in relation to non-compliance with the Financial Intelligence Centre Act.

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3.275.2.1.2 amended with effect from 1 August 2005.

3.275.4 amended with effect from 1 August 2005.

3.276 introduced with effect from 1 December 2010.

**3.280 Use Of Information Obtained By the JSE's Market Regulation Division**

Any information, document, book, tape or electronic record or other object obtained by the JSE's Market Regulation Division, whether by investigation or otherwise, may be used in evidence in any disciplinary proceedings contemplated in rule 3.290 below and may be furnished by the JSE's Market Regulation Division to any other body which may have jurisdiction over the matter under consideration, whether outside or within the Republic.

**3.285 Improper Conduct**

The following acts and practices whether of commission or omission on the part of any person who at the time of the alleged act or practice was a member or a partner, employee or officer of a member shall constitute improper conduct: Provided that the acts and practices so specified are not intended to be a complete list of acts and practices which may constitute improper conduct:

- 3.285.1 committing or attempting to commit any act which is dishonest or fraudulent;
- 3.285.2 being a party to, or facilitating or conducting a transaction which is fictitious and/or has a dishonest or unlawful motive;
- 3.285.3 contravening, attempting to contravene, or failing to comply with any one or more of any provision of the Act, a derivatives rule or a directive;
- 3.285.4 negligently or recklessly conducting the business or affairs of the member in such a way that actual or potential prejudice is, or may be, caused to the JSE, any other member, a client of a member or the general public. The failure by a member to introduce appropriate and reasonable safeguards or controls to avoid such prejudice may be treated where appropriate as constituting either negligence or recklessness;
- 3.285.5 committing or attempting to commit any act which is detrimental to any one or more of the interest, good name or welfare of the JSE or its members;
- 3.285.6 knowingly obstructing the business of the JSE or its members;
- 3.285.7 failing, when requested, to assist the JSE Market Regulation Division in the exercise of its duties (which shall include, but shall not be limited to, failure without sufficient cause to provide information in accordance with the provisions of rule 3.275.2.1.5).

**3.290 Disciplinary procedures**

- 3.290.1 Conclusion of investigation

On conclusion of any investigation in terms of rule 3.275 and if, after having considered all the relevant information in his possession, the Director: Market Regulation is of the opinion that there are grounds for an allegation of improper conduct, the Director: Market Regulation may prefer a formal charge against such person ("the respondent") setting out a brief statement of facts constituting the alleged offence. Such charge shall be referred to a Disciplinary Committee, to be heard in terms of these derivatives rules. Such charge may further, in the discretion of the Director: Market Regulation, make provision for an admission of guilt.

- 3.290.2 Reserved

- 3.290.3 Preferring charges to be heard by a Disciplinary Committee

3.290.3.1 Where the Director: Market Regulation has preferred a formal charge against a respondent, the charge sheet shall, in addition to the matters listed in rule 3.290.1, be in a form prescribed by the Director: Market Regulation, be signed by

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3.280 amended with effect from 1 August 2005.

3.285.1 amended with effect from 1 August 2005.

3.285.3 amended with effect from 1 August 2005.

3.285.7 amended with effect from 1 August 2005.

3.290.1 amended with effect from 28 April 2017.

3.290.2 deleted with effect from 28 April 2017.

3.290.3 amended with effect from 28 April 2017.

- the Director: Market Regulation or his Deputy, and be served on the respondent in such manner as the Director: Market Regulation may determine.
- 3.290.3.2 Where the Director: Market Regulation has decided to make provision for an admission of guilt, he shall stipulate:
- 3.290.3.2.1 the amount of the fine payable pursuant to the admission of guilt and any required contribution towards the JSE's costs as well as the period within which such amounts must be paid. In determining the amount of such fine and where the person has benefited financially as a result of the alleged transgression, the Director: Market Regulation shall take such benefit into consideration. The admission of guilt may, in particular, provide for the fine to be suspended for a period;
- 3.290.3.2.2 the manner and time in which the admission of guilt may be made, which time shall not be a period in excess of 50 business days from the date on which the charge sheet is served on the respondent; and
- 3.290.3.2.3 whether the terms of the admission of guilt should be published in a JSE Gazette and/or in the media.
- 3.290.3.3 A respondent:
- 3.290.3.3.1 may, if the respondent is given an opportunity to sign an admission of guilt, admit guilt to such charges within the period set out in the charge sheet; or
- 3.290.3.3.2 may within 20 business days after receipt of the charge sheet request particulars to the charges, to which the Director: Market Regulation shall be obliged to respond within 20 business days after receipt of such request; and
- 3.290.3.3.3 shall, if no admission of guilt is tendered by the Director: Market Regulation or if the respondent decides not to admit guilt to the charges, file a defence to such charges on or before 50 business days after the date on which the charge sheet was served on the respondent or within 20 days after the date on which the JSE has responded to the request for further particulars, whichever is later.
- 3.290.3.4 Thereafter the chairman of the Disciplinary Committee shall determine the date on which the charges shall be heard, which date shall not without good reason be later than six months after the charge sheet was served on the respondent.
- 3.290.3.5 No extension of the time periods set out in rule 3.290.3, including the date for the hearing of the charges shall be allowed without good reason. Furthermore no such extension shall be allowed unless the consent of the chairman of the Disciplinary Committee is obtained.
- 3.290.3.6 Disciplinary Committee
- 3.290.3.6.1 The Director: Market Regulation may from time to time appoint one or more Disciplinary Committees each comprised of three members.
- 3.290.3.6.2 The members of a Disciplinary Committee shall be:
- 3.290.3.6.2.1 a retired judge, or a practising or retired senior counsel, or a practising or retired attorney with not less than fifteen years' experience. Such person shall act as chairman of the Disciplinary Committee;



3.290.3.6.2.2 a professional person appointed by reason of that person's knowledge of financial services as it relates to the matter under consideration; and

3.290.3.6.2.3 a person appointed by reason of that person's knowledge of or experience in the financial markets.

### **3.295 Procedure and Evidence – Disciplinary Matters**

- 3.295.1 Any charges preferred shall be decided on a balance of probabilities.
- 3.295.2 In a hearing before a Disciplinary Committee:
- 3.295.2.1 the chairman of the Disciplinary Committee shall decide all matters of law which may arise during the hearing, and whether any matter constitutes a question of law or a question of fact, but all three members of the Disciplinary Committee shall by a simple majority decide all other matters arising during the hearing;
  - 3.295.2.2 the chairman of the Disciplinary Committee shall determine the procedure which the Disciplinary Committee shall follow both in respect of preliminary issues and in respect of the hearing itself, subject to these derivatives rules, the directives and to the principles of natural justice;
  - 3.295.2.3 the JSE may instruct attorneys or counsel to prefer and prosecute the charges on behalf of the JSE, or the charges may be prosecuted by an employee of the JSE; and
  - 3.295.2.4 the respondent shall be entitled to be legally represented at the respondent's own cost and shall, where the respondent is not a sole proprietor or an executive director or senior partner of a member firm, be entitled to be assisted by an executive director or senior partner of the member by which the respondent is employed.
- 3.295.3 Should a respondent without good cause fail to attend a hearing before a Disciplinary Committee at the time and place stated in the charge sheet, the Disciplinary Committee shall be entitled to proceed with its consideration of the charge in the absence of the respondent.
- 3.295.4 If, at any stage during a hearing before the Disciplinary Committee, one or more of the members of the Disciplinary Committee hearing the matter dies or retires or becomes otherwise incapable of acting or is absent, the hearing shall, where the remaining members constitute a majority of the body before whom the hearing was commenced, proceed before such remaining members and, provided that the remaining members are in agreement, their finding shall be the finding of the body concerned. In any other case, the matter shall be heard de novo.
- 3.295.5 If a Disciplinary Committee finds a respondent guilty of an offence, the Disciplinary Committee shall have the powers set out in and shall apply rule 3.300.
- 3.295.6 If the proceedings before a Disciplinary Committee are recorded, any person charged shall be entitled to be supplied with a record of the hearing of such charges, and any person who has made oral representations shall be entitled to be supplied with a record of that portion of the proceedings which related to that person's oral representations.
- 3.295.7 A report on the findings of a Disciplinary Committee will be furnished to the Registrar within 30 days after the completion of the proceedings.

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3.290.3.6 amended with effect from 28 April 2017.

3.295.2.2 amended with effect from 1 August 2005.

3.295 amended with effect from 28 April 2017.

3.295.7 amended with effect from 1 August 2005.

**3.300 Disciplinary Matters – Penalties**

- 3.300.1 When any person has been found guilty of improper conduct by a Disciplinary Committee pursuant to these derivatives rules, the Disciplinary Committee:
- 3.300.1.1 may warn or impose a reprimand, censure or fine upon the respondent, which fine shall in respect of each contravention not exceed R7.5 million, or such other amount as may be stipulated in the Act or in any regulations promulgated in terms of the Act;
  - 3.300.1.2 shall in determining an appropriate penalty take into account:
    - 3.300.1.2.1 any previous conviction in terms of the rules of the JSE or in a court of law;
    - 3.300.1.2.2 the harm or prejudice which is caused by the offence;
    - 3.300.1.2.3 any other aggravating, mitigating or extenuating circumstances; and
    - 3.300.1.2.4 where it is possible that the membership of the respondent may be terminated, the representations of such person in this regard;
  - 3.300.1.3 may, on such conditions as the Disciplinary Committee may deem fit, suspend or terminate the membership of a member who has been found guilty of improper conduct or in the case of a partner or an officer or employee of a member, require such member to hold a disciplinary enquiry to consider terminating or suspending the employment of such person;
  - 3.300.1.4 may direct a member to prevent or relieve an officer or employee of that member from carrying out any specified activity, function or duty for such reasonable period as the Disciplinary Committee deems appropriate;
  - 3.300.1.5 may direct a member to ensure that any sanction imposed by the Disciplinary Committee on a partner, officer or employee of that member is complied with by such partner, officer or employee;
  - 3.300.1.6 may make a fair and reasonable order as to costs; and
  - 3.300.1.7 may order that particulars of the offence, the finding of the Disciplinary Committee and the penalty imposed be published: Provided that if publication is ordered, the respondent shall be given an opportunity to make representations to the Disciplinary Committee in this regard.
- 3.300.2 A Disciplinary Committee may impose any one or more of the penalties referred to in rule 3.300.1.
- 3.300.3 Any penalty or part thereof may be suspended on such conditions as the Disciplinary Committee may determine.
- 3.300.4 If a member or a partner, officer or employee of a member fails to pay any fine imposed by a Disciplinary Committee, within 7 days after being informed of the amount of the fine, the JSE shall have the right to:
- 3.300.4.1 recover such fine from such member, partner, officer or employee, as the case may be, in a court of competent jurisdiction;

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3.300 amended with effect from 28 April 2017.

3.300.1 amended with effect from 1 August 2005.

3.300.1.3 amended with effect from 1 August 2005.

3.300.1.4 introduced with effect from 1 August 2005.

3.300.1.4 to 3.300.1.6 renumbered 3.300.1.5 to 3.300.1.7 with effect from 1 August 2005.

3.300.1.7 amended with effect from 1 August 2005.

3.300.4 amended with effect from 1 August 2005.

- 3.300.4.2 terminate or suspend (on such conditions as the JSE may deem fit) the membership of such member, or in the case of a partner, officer or employee of a member, require such member to hold a disciplinary enquiry to consider terminating or suspending the employment of such person; and/or
- 3.300.4.3 direct a member to prevent or relieve a partner or officer or employee of that member from carrying out any specified activity, function or duty for such reasonable period as the JSE deems appropriate.
- 3.300.5 The amount of any fine paid to the JSE pursuant to these derivatives rules shall be paid into the Fidelity Fund. Any costs paid to the JSE pursuant to an award made by a Disciplinary Committee shall be paid into the general funds of the JSE.
- 3.300.6 A Disciplinary Committee may, upon good cause shown and subject to such conditions as the Disciplinary Committee may impose, vary or modify any penalty which it may have previously imposed on any person: Provided that in modifying or varying such penalty, the Disciplinary Committee shall under no circumstances increase such penalty.
- 3.300.7 [Reserved]
- 3.300.8 Should any termination of the membership of a member be suspended as a result of an appeal being lodged in terms of the Act, such suspension may be made subject to such conditions as the JSE may determine. Any member whose membership has been terminated and who lodges an appeal in terms of the Act shall simultaneously inform the Director: Market Regulation that an appeal has been lodged.

**3.305 Urgent Issues**

- 3.305.1 In order to ensure that the business of the JSE is carried on with due regard to the public interest, the Chairman may from time to time appoint one or more Urgent Issues Committees. The Chief Executive Officer or the acting Chief Executive Officer, the Chairman and/or a Deputy Chairman of the JSE and at least two other members of the controlling body shall constitute an Urgent Issues Committee.
- 3.305.2 An Urgent Issues Committee shall consider whether a member is operating in such a manner that there is imminent danger that such member may be unable to meet its commitments to clients, counterparties, other members or to a settlement system of the JSE or any other exchange, or that it is conducting business in a manner which could be detrimental to the interests of the JSE or to the interests of the members of the JSE and the public.
- 3.305.3 If an Urgent Issues Committee resolves by a two-thirds majority that an investigation into the affairs of a member in terms of these derivatives rules has revealed that the member is operating in such a manner that there is such imminent danger as is referred to in rule 3.305.2, the Urgent Issues Committee may call upon senior representatives of the member to attend a meeting of the Urgent Issues Committee, which meeting may be called on not less than one hour's notice, to hear the concerns of the Urgent Issues Committee and to discuss how such concerns may be resolved.
- 3.305.4 With the agreement of the member concerned or, if the outcome of such meeting fails to satisfy the Urgent Issues Committee with regard to the above, the Urgent Issues Committee may by a two-thirds majority and subject to this rule 3.305:
  - 3.305.4.1 prohibit such member from trading;
  - 3.305.4.2 restrict the trading activities of such member in such manner as it deems fit, including applying of rule 3.305.5; and/or
  - 3.305.4.3 give such member such instructions as it may deem necessary in the interests of the member's clients and counterparties or other members or any settlement system of the JSE or any other exchange.

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3.305.1 amended with effect from 1 August 2005.

3.305.2 amended with effect from 1 August 2005.

3.305.4 amended with effect from 1 August 2005.

- 3.305.5 The Urgent Issues Committee shall during the period of any order in terms of rule 3.305.4 have such power as it in its discretion may deem fit to appoint a registered public accountant and auditor or a member or employee of the JSE to supervise and control the activities of the member, at the member's cost. Such member may further be prohibited from entering into JSE related contracts without the prior consent of the person appointed as aforesaid to control and supervise the member which consent may be given upon such terms and conditions as the Urgent Issues Committee or the said appointee shall determine.
- 3.305.6 Reserved.
- 3.305.7 Any action taken by an Urgent Issues Committee in terms of this rule may continue until such time as that Committee is satisfied as to the financial position and business conduct of the member in question.

**3.310 Reserved****3.325 Default or termination of membership – Control of assets and accounting records**

- 3.325.1 In the event of any member being declared a defaulting member or ceasing to enjoy membership by termination –
- 3.325.1.1 the member shall hand over to the JSE all books and accounting records of the member including all scrip registers, safe custody ledgers and cheque books, and all cash, securities and other assets relating to the business of the member including cash and control of securities held on behalf of clients in safe custody in a banking institution;
- 3.325.1.2 the controlling body may grant authority to the Director: Market Regulation or his nominated deputy to assume control of such cash and securities referred to in rule 3.325.1.1 which are owned by clients, including securities held on behalf of clients in safe custody and cash held on behalf of clients in JSE Trustees (Pty) Limited.
- 3.325.2 The Director: Market Regulation shall take reasonable steps to ensure that any market scrip held by a member ("the scrip") or funds held either by a bank in terms of the Financial Institutions (Investment of Funds) Act, 1984, or by JSE Trustees (Pty) Limited on behalf of a client ("the funds"), are identified as the client's property. The Director: Market Regulation shall take reasonable steps to ensure that only the scrip or funds which are identified as the client's property and which are unencumbered are returned to a client or to his order if so authorised in terms of rule 3.325.2 by the client in writing.
- 3.325.2.1 A client of a member who has been suspended or declared a defaulter, or who has ceased to enjoy membership by termination under this rule, shall warrant in writing to the Director: Market Regulation that he is the lawful owner of any scrip or funds returned to him before such scrip or funds are returned to him, by the Director: Market Regulation under rule 3.325.2.
- 3.325.2.2 If any scrip or funds are returned to a client, under the provisions of rule 3.325.2, and it is thereafter established that ownership of such returned scrip or funds does not vest in the client, the client shall immediately return such scrip or funds to the Director: Market Regulation, upon written notification by the Director.
- 3.325.2.3 Where such returned scrip or funds under rule 3.325.2 have been alienated by the client, the client shall immediately, and insofar as he is able to, effect the

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3.305.5 amended with effect from 1 August 2005.

3.305.6 deleted with effect from 1 August 2005.

3.305.7 amended with effect from 1 August 2005.

3.310 deleted with effect from 1 August 2005.

3.325 amended with effect from 1 August 2005.

3.325.1 amended with effect from 1 August 2005.

3.325.1.1 amended with effect from 1 August 2005.

3.325.1.2 amended with effect from 1 August 2005.

return of such scrip (or the equivalent amount of such scrip) or funds to the Director: Market Regulation, upon written notification by the Director.

- 3.325.3 The client shall, before any scrip or funds are returned to him under rule 3.325.2, indemnify the Director: Market Regulation in writing for any loss sustained by or damage caused to any person, including, but not limited to, the client, as a result of anything done or omitted by the Director: Market Regulation in the bona fide exercise of any power, or performance of any duty or function under or by virtue of rule 3.325.2, as a result of the return of the scrip or funds to the client and the alienation by the client of such returned scrip or funds in respect of which he is not the lawful owner.
- 3.325.4 In the event of the default of a member, the authority referred to in rule 3.325.1.2 shall endure until such time as the member is placed under provisional sequestration or liquidation when control of the assets in the possession of the member shall vest in the appointed trustee or liquidator.

### **3.330 Lien over proceeds of sale of JSE shares**

The JSE shall have a first lien on the proceeds of the sale or other disposition of any JSE shares held by a member in the event that the member selling or disposing of such JSE shares is in any way indebted to the JSE. The Fidelity Fund or Funds of the JSE shall have a second lien on the proceeds of the sale or other disposition of such JSE shares in the event that the member selling or disposing of such shares has defaulted and the Fidelity Fund or Funds have discharged any of the member's obligations. After the satisfaction of the lien or liens, the balance of the proceeds of the sale or other disposition will revert to the selling or disposing member or the estate of the selling or disposing member as the case may be.

### **3.340 Reserved**

### **3.350 JSE's powers of publication**

- 3.350.1 The JSE may in such manner as it may deem fit, notify the public of any fact that the JSE considers to be in the public interest, including, but not limited to the name of a member or any employee or officer of a member and the fact that any such employee or officer has been found guilty of any charge and of the sentence so imposed on such member, employee or officer of a member.
- 3.350.2 No action or other proceeding shall in any circumstances be taken by any member or any employee or officer of a member referred to in any notification referred to above or in a JSE Gazette, against the JSE or any controlling body or JSE Executive member or employee thereof or any person publishing or circulating the same.

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3.330 introduced with effect from 1 July 2005.

3.330 amended with effect from 1 August 2005.

3.350.1 amended with effect from 1 August 2005.

3.350.2 amended with effect from 1 August 2005.

**SECTION**

**4**

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**SECTION 4: DERIVATIVES MEMBERSHIP**

**Scope of section**

- 4.10 Categories of authorised users
- 4.20 Capital adequacy requirements

**4.10 Categories of authorised users**

- 4.10.1 A derivatives member is a category of authorised user of the JSE and may be authorised by the JSE to operate in one of two sub-categories, either as a clearing member or a trading member, or both.
- 4.10.2 A trading member may be authorised to trade in the equity derivatives market or the commodity derivatives market, or both, and a clearing member may be authorised to perform clearing in the equity derivatives market or the commodity derivatives market, or both.
- 4.10.3 A trading member may only enter into a clearing agreement with one clearing member to perform clearing and settlement of the trades of that trading member.
- 4.10.4 A trading member -
  - 4.10.4.1 may be a clearing member ;
  - 4.10.4.2 shall not be a natural person; and
  - 4.10.4.3 shall have and continuously maintain the administrative systems and expertise to ensure -
    - 4.10.4.3.1 the adequate management of his own and his clients' funds in accordance with these derivatives rules;
    - 4.10.4.3.2 that an accurate record of his own and his clients' positions is kept at all times; and
    - 4.10.4.3.3 that his clients' trades, positions and cash balances under control of the trading member are timeously reported to such clients.
- 4.10.5 A trading member authorised to trade in the equity derivatives market and a clearing member authorised to perform clearing in the equity derivatives market is also authorised to trade or perform clearing, respectively, in those derivative securities that are traded in both the equity derivatives and commodity derivatives markets, as stipulated by the JSE.

**4.20 Capital adequacy requirements**

- 4.20.1 Subject to rules 4.20.2, 4.20.3, 4.20.4 and 4.20.7, a member shall at all times have own funds equal to the greater of -
  - 4.20.1.1 the initial capital referred to in rule 4.20.5 or 4.20.6 as the case may be; or
  - 4.20.1.2 thirteen weeks operating costs; plus
  - 4.20.1.3 the position risk requirement; and
  - 4.20.1.4 the settlement risk requirement; and
  - 4.20.1.5 the large exposure risk requirement; and
  - 4.20.1.6 the foreign exchange risk requirement;
 such that the following formula is satisfied -

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4.10 amended with effect from 1 August 2005.

4.10.1 amended with effect from 1 August 2005 and 24 December 2008.

4.10.2 deleted with effect from 1 July 2005.

4.10.2 introduced with effect from 1 August 2005 and amended with effect 24 December 2008 and 20 November 2009.

4.10.3 amended with effect from 1 August 2005.

4.10.4.1 amended with effect from 1 August 2005.

4.10.5 deleted with effect from 1 August 2005.

4.10.5 introduced with effect from 29 April 2019

4.20.1 amended with effect from 26 April 2007.

4.20.1.1 amended with effect from 26 April 2007.

- 4.20.1.7      ONF       $\geq$       CAR
- And
- CAR      =      (greater of ICR or AOC/4) + PRR + CRR + FXR + LPR
- where
- ONF      =      Own funds
- CAR      =      Capital adequacy requirement
- ICR      =      Initial capital requirement
- AOC      =      Annual operating costs
- PRR      =      Position risk requirement
- CRR      =      Counterparty risk requirement
- FXR      =      Foreign exchange risk requirement
- LPR      =      Large position risk requirement
- 4.20.1A      The following provisions shall apply to a member that is an external company, other than a branch of a foreign bank -
- 4.20.1A.1      the external company shall, when submitting its application for membership, submit proof of compliance with the requirements of Section 23 of the Companies Act by furnishing the JSE with the certificate of registration as provided for in Section 14(1)(b)(iii) of the Companies Act;
- 4.20.1A.2      the own funds of the local branch of the external company shall at all times be equal to or greater than the amount provided for in rule 4.20.1.2, 4.20.5, 4.20.6 or 4.20.7, as the case may be;
- 4.20.1A.3      the foreign parent of the local branch of the external company shall in writing confirm to the JSE that it is required to comply with capital adequacy requirements similar to those in the Republic, and that they are reporting such as required to an appropriate foreign regulator; and
- 4.20.1A.4      the thirteen weeks operating costs requirement in rule 4.20.1.2 shall relate to the operating costs of the local branch of the external company in the Republic.
- 4.20.2      A trading member that is a branch of a foreign bank, and is exempt from the requirement to submit monthly capital adequacy returns to the Director: Market Regulation, in terms of rule 3.70.5, is not required to comply with the requirements of rule 4.20.1 but is instead required to comply with the capital adequacy requirements as prescribed by the Banks Act, 1990 (Act No. 94 of 1990) and the regulations made under that Act.
- 4.20.3      A trading member that trades in derivative securities solely for its own account and is exempt from the requirement to submit monthly capital adequacy returns to the Director: Market Regulation, in terms of rule 3.70.5, is not required to comply with the requirements of rule 4.20.1 but shall ensure that its assets (excluding goodwill and other intangible assets) exceed its liabilities (excluding loans validly subordinated in favour of all other creditors).

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4.20.1A amended with effect from 26 April 2007.

4.20.1A.1 amended with effect from 1 August 2005.

4.20.1A.1 amended with effect from 28 March 2014.

4.20.1A.2 amended with effect from 26 April 2007.

4.20.1A.3 amended with effect from 1 August 2005 and with effect from 26 April 2007.

4.20.1A.4 amended with effect from 26 April 2007.

4.20.1A.5 deleted with effect from 26 April 2007.

4.20.2 amended with effect from 1 August 2005 and replaced with effect from 26 April 2007.

New 4.20.3 introduced with effect from 26 April 2007.



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- 4.20.4 A trading member that is an authorised user of another exchange and is exempt from the requirement to submit monthly capital adequacy returns to the Director: Market Regulation, in terms of rule 3.70.6, is not required to comply with the requirements of rule 4.20.1 but shall comply with the capital adequacy requirements as prescribed by such other exchange.
- 4.20.5 A trading member who trades on behalf of clients but does not receive a client's margins or hold the client's margins in terms of rule 8.60.4 or who does not receive any other assets of a client with respect to the client's buying and selling of JSE authorised investments, shall have an initial capital of at least R200 000 or such other minimum amount that the JSE may decide.
- 4.20.6 A trading member who receives client's margins or holds clients' margins in terms of rule 8.60.4, or that receives any other assets of his client with respect to the client's buying and selling of JSE authorised investments, shall have an initial capital of at least R400 000, or such other minimum amount that the JSE may decide.
- 4.20.7 A clearing member shall have own funds of R200 000 000, or such other sum as the JSE may determine: Provided that the JSE may, at its discretion, impose additional suretyship, guarantee or other requirement on a clearing member if -
- 4.20.7.1 the sum of the initial margin with respect to the positions of the clearing member, its clients, the trading members with which the clearing member has entered into clearing agreements and the clients of such trading members, reaches the limit as contemplated in rule 10.10.1; or
- 4.20.7.2 the own funds of the clearing member as specified in rule 4.20.7 have decreased to the limit referred to in rule 10.10.1.
- 4.20.8 A clearing member shall pay an amount of additional margin to the Default Fund as determined by the JSE from time to time as collateral for the due performance of all or any of its obligations as set out in the derivatives rules.
- 4.20.9 The JSE shall be entitled to suspend a member should there be a deficiency in the capital adequacy of the member.

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New 4.20.4 introduced with effect from 26 April 2007.

4.20.3 amended with effect from 1 August 2005 and amended and renumbered 4.20.5 with effect from 26 April 2007.

4.20.4 amended with effect from 1 August 2005 and renumbered 4.20.6 with effect from 26 April 2007..

4.20.5 amended with effect from 1 August 2005 and renumbered 4.20.7 with effect from 26 April 2007..

4.20.5.1 renumbered 4.20.7.1 with effect from 26 April 2007.

4.20.5.2 renumbered 4.20.7.2 and amended with effect from 26 April 2007..

4.20.6 amended with effect from 1 August 2005 and renumbered 4.20.8 with effect from 26 April 2007..

4.20.7 renumbered 4.20.9 with effect from 26 April 2007.

New 4.20.8 introduced with effect from 11 March 2013

<p><b>SECTION</b></p> <p><b>5</b></p>
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**SECTION 5: REGISTERED OFFICERS**

**Scope of section**

- 5.10 Members' obligation to ensure registration of officers
- 5.20 Registered dealers to trade for a member
- 5.30 Dealers to trade only with other registered dealers
- 5.40 Natural persons functioning as registered officers
- 5.50 Registration of officers by the JSE
- 5.60 Termination of the registration of an officer
- 5.70 Registration and termination effective
- 5.80 Member remains responsible
- 5.90 Reserved

**5.10 Members' obligation to ensure registration of officers**

Each member which is a body corporate or a partnership -

- 5.10.1 shall ensure the registration by the JSE of a compliance officer who shall -
  - 5.10.1.1 without relieving that member from his responsibility to comply with the provisions of the Act and these derivatives rules, be responsible for ensuring compliance by that member with the provisions of the Act and these derivatives rules;
  - 5.10.1.2 have obtained such qualification as may be required by the JSE;
  - 5.10.1.3 in the event of any breach of these derivatives rules or problem or query arising in respect of any trade or alleged trade or position of the member or any of his clients or any trading member with which the clearing member has entered into a clearing agreement in terms of these derivatives rules, immediately on the request of the JSE or the clearing house or his clearing member, take such steps as may be necessary to rectify the breach or to eliminate the problem or to satisfy the query;
  - 5.10.1.4 receive all notices to the member from the JSE or the clearing house or the clearing member and be responsible to ensure that all such notices are complied with; and
  - 5.10.1.5 ensure compliance with all prescribed agreements referred to in section 14 of these derivatives rules.
- 5.10.2 unless such member has registered a compliance officer in terms of rule 5.10.1: Provided that in the absence of a duly appointed compliance officer, or where the post has become vacant, the sole proprietor, or the senior partner, or the senior director, as the case may be, shall temporarily assume the responsibility of the compliance officer as referred to in rule 5.10.1, for no longer than 2 months.
- 5.10.3 shall ensure the registration by the JSE of traders who, subject to rule 5.20, shall be the only persons entitled to trade for a trading member's own account and for or on behalf of clients and who shall have obtained such qualification as may be required by the JSE.
- 5.10.4 Reserved.

**5.20 Reserved****5.30 Traders to trade only with other registered traders**

No trader shall trade with a person whom they know or ought reasonably to know is not registered as a trader of the other member concerned.

**5.40 Reserved****5.50 Registration of officers by the JSE**

- 5.50.1 An application for registration as a registered officer shall be made to the JSE in the manner and on the form prescribed by the JSE.
- 5.50.2 A person who seeks to be registered with the JSE as a registered officer must satisfy the general requirements of rule 3.20.1 and must have obtained a pass in the relevant qualification, as prescribed in the derivatives directives.

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5.10.3 amended with effect from 26 April 2007.

5.10.3 amended with effect from 24 October 2016.

5.10.3.1 and 5.10.3.2 deleted with effect from 26 April 2007.

5.10.4 deleted with effect from 1 August 2005.

5.20 deleted with effect from 26 April 2007.

5.30 amended with effect from 24 October 2016.

5.40 deleted with effect from 26 April 2007.

5.50.1 amended with effect from 24 October 2016.

5.50.2 amended with effect from 24 October 2016

- 5.50.3 a member shall notify the JSE in writing of its decision to terminate the registration of a registered officer in its name, in which event the JSE may request full details of the circumstances of the termination.

**5.60 Termination of the registration of an officer**

A member shall notify the JSE in writing of its decision to terminate the registration of a registered officer in its name, in which event the JSE shall be entitled to request full details of the circumstances of the termination.

**5.70 Registration and termination effective**

The registration or termination of the registration of a registered officer in the name of a member shall become effective on the date stipulated in the written notification to the member by the JSE, confirming the registration or termination of registration of the registered officer.

**5.80 Member remains responsible**

The appointment or registration of any officer referred to in this rule 5 shall not in any way relieve a member from any of his duties and responsibilities in terms of the Act and these derivatives rules, and the member's liability to fulfil those duties and responsibilities shall remain a principal liability and shall not be accessory or subordinate to the liabilities of such officer.

**5.90 Reserved**

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5.70 amended with effect from 24 October 2016.

5.90 deleted with effect from 1 August 2005.

**SECTION**

**6**

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**SECTION 6: RESERVED**

**SECTION**

**7**

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## SECTION 7: TRADING

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### Scope of section

- 7.10 Buying and selling of derivative securities
- 7.20 Offers and acceptances
- 7.30 Order priority
- 7.40 Trading capacity
- 7.50 Employees and members trading as clients
- 7.60 Trading for or on behalf of clients
- 7.70 JSE trading system
- 7.80 Members obligations in relation to the JSE trading system
- 7.90 Trading times
- 7.100 Cross trades
- 7.110 Reserved
- 7.114 Off book trading
- 7.115 Off book trading criteria
- 7.120 Solicitation of offers
- 7.130 Reserved
- 7.139 Designated suspense accounts
- 7.140 Deal management
- 7.150 Trade allocation
- 7.160 Trading restriction
- 7.170 Rules of trading that are particular to the physical delivery of agricultural products
- 7.180 Declarations of transactions being void
- 7.181 Trade cancellations and trade price adjustments
- 7.190 Suspension or halting of trading in derivative securities
- 7.200 Prevention and detection of market abuse
- 7.210 Reserved

**7.10 Buying and selling of derivative securities**

- 7.10.1 The business of the buying and selling of derivative securities as contemplated by sections 24(a) and (b) of the Act shall be conducted by means of the JSE trading system, except for transactions which meet the criteria set out in rule 7.115 which may be negotiated off book and then reported to the trading system.
- 7.10.2 A transaction negotiated off book in terms of rule 7.115 is only deemed to be a valid transaction once the transaction has been reported to the trading system by the member or members who are party to the transaction.

**7.15 Trading with or on behalf of clients – best execution**

- 7.15.1 When acting for a client in the buying or selling of derivative securities, a trading member must at all times adhere to the best execution principle taking reasonable care to obtain the result which is the best available in the market for the client: Provided that the trading member must at all times act in accordance with the terms and conditions of the client agreement or mandate.
- 7.15.2 In support of the best execution principle, all transactions in derivative securities by members must be conducted through the central order book, unless the negotiation of the terms of a transaction between the parties to the transaction and the reporting of the transaction to the JSE trading system as an off book trade is in the best interests of the client, provided the transaction qualifies to be reported in terms of rule 7.115.

**7.20 Offers and acceptances**

- 7.20.1 Two members, or a member and a client, trading off book shall have negotiated a trade in commodity derivatives when a valid offer made by one of them is accepted by the other.
- 7.20.2 An offer in terms of rule 7.20.1 may include the following specifications -
- 7.20.2.1 the particular exchange contract;
  - 7.20.2.2 the number of exchange contracts to be bought or sold;
  - 7.20.2.3 a clear indication of whether the offer is to buy or sell;
  - 7.20.2.4 the price at which the offeror is prepared to trade expressed as -
    - 7.20.2.4.1 the best price; or
    - 7.20.2.4.2 any price that is better than a specified worst price; or
    - 7.20.2.4.3 a specific price;
  - 7.20.2.5 a clear indication of whether the member to whom the offer is made is to exercise his discretion in terms of either rule 7.20.2.4.1 or rule 7.20.2.4.2;
  - 7.20.2.6 the period of time for which the offer will remain open: Provided that in the case of -
    - 7.20.2.6.1 a verbal offer, if no such period is specified and if the offer is not accepted immediately, it shall be deemed to have been withdrawn on termination of the verbal communication;

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7.10 amended with effect from 1 August 2005.

7.10 amended with effect from 3 February 2017.

7.10 amended with effect from 28 March 2014.

7.15 introduced with effect from 29 April 2019

7.20.1 amended with effect from 29 April 2019

- 7.20.2.6.2 a written offer, a period of time shall be specified;
- 7.20.2.7 subject to rule 7.20.2.10, a clear indication of whether the member is to trade with the client as an agent or as a principal: Provided that, if no such stipulation is made, the member shall trade with the client in the capacity specified in the client agreement or, if no such specification is made in the client agreement, then the member may trade with the client as a principal in terms of the derivatives rules;
- 7.20.2.8 the date and precise time when the offer is made or varied;
- 7.20.2.9 a clear indication of whether in the case of an order the member is allowed any discretion as to the number of exchange contracts more or less than those specified under rule 7.20.2.2 that the offeror shall be prepared to buy or sell;
- 7.20.2.10 a clear indication of whether in the case of an order the member shall be entitled to fill the order in more than one purchase or sale in the market and whether or not such purchases or sales are to be concluded by the member as the offeror's agent as specified in rule 7.40.3 or as the offeror's principal, as specified in rule 7.40.2;
- 7.20.2.11 a clear indication of whether in the case of an order the acceptance of the offer shall be conditional upon the acceptance of an offer to buy or sell another exchange contract;
- 7.20.2.12 the place where and/or telephone or facsimile number or electronic mail address at which the client is to be contacted to confirm the acceptance of the offer; and
- 7.20.2.13 any other particular which the JSE may require.
- 7.20.3 For an offer made in terms of rule 7.20.1 to be valid the terms contained in rules 7.20.2.1, 7.20.2.2, 7.20.2.3, 7.20.2.4 and 7.20.2.8 shall be specified.
- 7.20.4 An offer may be made by a client to a member either telephonically or in writing; and
- 7.20.4.1 the member shall ensure that the requirements set out in rule 7.20.3 are clearly and unambiguously confirmed to or by the client; and
- 7.20.4.2 the member shall keep a tape recording of a telephonic offer in terms of rule 10.20.4; and
- 7.20.4.3 the member shall keep a record of the offer for a period of not less than six months after the offer was made, in terms of rule 16.10.5.
- 7.20.5 Member may only address offers to clients with whom they have entered into client agreements or to other members.
- 7.20.6 When accepting an offer to effect an off book trade, a member shall clearly and unambiguously state to the offeror and not to an intermediary that he has accepted the offer, and in the case of an order he shall repeat the following details -
- 7.20.6.1 the particular exchange contract;
- 7.20.6.2 the number of the exchange contracts being bought or sold;
- 7.20.6.3 the price at which the exchange contracts are being bought or sold; and
- 7.20.6.4 the date and the precise time when the offer was accepted.
- 7.20.7 If a member trades for or on behalf of a client pursuant to an order from the client, he shall, provided the client can be reached at the address or telephone number stated in the client agreement or at any other place or at any other telephone number given by the client at the time the offer was made, use his best endeavours to confirm the acceptance of the offer -

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7.20.2.10 amended with effect from 1 August 2005.

7.20.2.12 amended with effect from 1 August 2005.

7.20.5 deleted with effect from 29 April 2019

7.20.6, 7.20.7 and 7.20.8 renumbered 7.20.5, 7.20.6 and 7.20.7 respectively



- 7.20.7.1 within the period agreed upon for confirmation of the trade; or
- 7.20.7.2 if no time was agreed upon, within the period as specified in the client agreement; or
- 7.20.7.3 if no such period is stipulated in the client agreement, within the period specified for the acceptance of the offer as contemplated in rule 7.20.2.6.

### 7.30 Order priority

- 7.30.1 A member shall not trade with another member if the trade could satisfy an order from a client.
- 7.30.2 Subject to rule 7.30.1, a member shall not trade with a client if the trade could satisfy a previously received order from another client.
- 7.30.3 Subject to rule 7.30.1, a member shall not trade with another member, if the trade could satisfy a previously received order from another member.
- 7.30.4 A member shall not trade for his own account or for the account of an employee of the member or any account in which the member or employee of the member has a beneficial interest if the trade could satisfy an order from a client or another member.

### 7.40 Trading capacity

- 7.40.1 Where a member trades for a client as agent or with a client or with another member -
  - 7.40.1.1 the member shall be liable to the client or other member for the due fulfilment of all obligations arising out of the trade; and
  - 7.40.1.2 any claims by the client or a member in respect of a trade shall be against the member with whom he traded and not against any other person with whom the member may have traded as contemplated by rule 7.40.2.
- 7.40.2. 7.40.2.1 A member will trade with his client as principal, as defined in these rules, by trading with his client for his own account and by -
  - 7.40.2.1.1 entering the client order directly on the client account; or
  - 7.40.2.1.2 executing a principal trade with a client off the central order book and reporting such trade; or
  - 7.40.2.1.3 employing another member to fill the client order on behalf of such a member.
- 7.40.2.2 A member will trade for his client as agent, as defined in these rules, by trading with another member or with another client and by -
  - 7.40.2.2.1 entering the client order directly on the client account; or
  - 7.40.2.2.2 filling the client's order by trading and aggregating the contracts in the members agency suspense account, before allocating to the client; or
  - 7.40.2.2.3 employing another member to fill the client order on behalf of such member.
- 7.40.3 Subject to rule 7.10, a member who has an offer from one client to buy and an offer from another client to sell the same exchange contract, may simultaneously trade off book with both clients as agent: Provided that -

7.30.4 amended with effect from 1 August 2005.

7.40.2. deleted and replaced with new rules 7.40.2.1 and 7.40.2.2 with effect from 31 October 2002.

7.40.1 amended with effect from 29 April 2019

7.40.2.1 amended with effect from 29 April 2019

7.40.2.2.2 amended with effect from 29 April 2019

7.40.3 deleted with effect from 29 April 2019 and previous 7.40.4 and 7.40.5 renumbered 7.40.3 and 7.40.4 respectively

7.40.4 now renumbered 7.40.3 amended with effect from 29 April 2019

- 7.40.3.1 if the price of the offer from both clients is as contemplated by rules 7.20.2.4.1 or 7.20.2.4.2, the price at which the member shall trade with both clients shall be the midpoint between the prevailing prices reflected of the exchange contract; or
- 7.40.3.2 if the price of one offer is specified as contemplated by rule 7.20.2.4.3, the member shall trade with both clients at that price: Provided that the price of such trades is better than or equal to the prevailing market price of the exchange contract.
- 7.40.4 A member off-setting an off book trade with another member with an equal and opposite off book trade with a third member, shall not, for a valuable consideration, remove himself from the trades with the two members concerned, but shall, in order to receive any valuable consideration, trade with both members as a principal at different prices.

#### **7.50 Employees and members trading as clients**

- 7.50.1 An employee of a trading member may be a client of the trading member: Provided that such client fulfils all his obligations in terms of these derivatives rules.
- 7.50.2 Except with the written approval of the JSE and subject to such conditions as it may impose-
  - 7.50.2.1 An employee of a member may not have a beneficial interest in another member;
  - 7.50.2.2 An employee of a trading member may not be a client of another member or have a beneficial interest in a client;
  - 7.50.2.3 A member may not be a client of another member or have a beneficial interest in a client;
  - 7.50.2.4 A member may not accept an employee of another member or another member as a client.
- 7.50.3 Reserved.

#### **7.60 Trading for or on behalf of clients**

- 7.60.1 Client agreement
 

A member shall not trade for or on behalf of a client, unless he has entered into a client agreement, the minimum terms and conditions of which are prescribed in terms of section 14 of these derivatives rules.
- 7.60.2 Client registration
  - 7.60.2.1 A member shall not trade for or on behalf of a client until registration of the client has been effected.
  - 7.60.2.2 To register a client, a member shall submit the following mandatory details:
    - 7.60.2.2.1 The full name and description of legal capacity and a clear indication whether the person is a resident, non-resident or emigrant client;
    - 7.60.2.2.2 the identity number, or registration number of a company or close corporation;

7.50 amended with effect from 1 August 2005.

7.50.1 amended with effect from 1 August 2005.

7.50.2.1 amended with effect from 1 August 2005.

7.50.2.2 amended with effect from 1 August 2005.

7.50.2.4 amended with effect from 1 August 2005.

7.50.3 deleted with effect from 1 August 2005.

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|----------|-------------|---|
|          | 7.60.2.2.3  | the address;  |
|          | 7.60.2.2.4  | the telephone number and email address;   |
|          | 7.60.2.2.5  | the duly authorised contact person;   |
|          | 7.60.2.2.6  | the name of the authorised bank at which the non-resident client has opened a non-resident account or, in the case of an emigrant client, the name of the authorised bank at which the emigrant client has opened an emigrant's blocked account and a non-resident account and the telephone, telex and facsimile numbers of the authorised bank concerned; |
|          | 7.60.2.2.7  | where applicable, the numbers of the emigrant's blocked and non-resident accounts referred to in rule 7.60.2.2.6;   |
|          | 7.60.2.2.8  | the name of the contact person at the authorised bank concerned where the emigrant's blocked and non-resident accounts referred to in rule 7.60.2.2.6 are kept;   |
|          | 7.60.2.2.9  | the margin category in respect of a non-resident client or emigrant client;   |
|          | 7.60.2.2.10 | whether the account is a personal trading account for an employee of the member ("staff account"), which includes any client account on which an employee of the member places the instructions or gives a mandate to the member;   |
|          | 7.60.2.2.11 | whether the client has entered into a discretionary mandate with the member; and  |
|          | 7.60.2.2.12 | whether an employee of the member has a beneficial interest in the client account.  |
| 7.60.2.3 |             | The JSE shall maintain a record of the clients which are registered as clients of trading members and it shall keep a record of the particulars associated with each client as required under rule 7.60.2.2.  |
|          | 7.60.2.3.1  | A member shall ensure that the particulars relating to his clients are correct and up to date at all times.   |
|          | 7.60.2.3.2  | The member shall ensure that clients, which have ceased trading with the member, are removed from the register as being the clients of the member.  |
| 7.60.2.4 |             | The client's registration shall be retained by the JSE for as long as it deems necessary, after the client has ceased trading.  |
| 7.60.3   |             | Notification of transactions  |
|          | 7.60.3.1    | A trading member must ensure that clients are notified of all transactions executed on or reported to the derivatives trading system, for or on behalf of such clients, in the manner and within the time period as set out in the directives.  |
|          | 7.60.3.2    | The transaction notification referred to in rule 7.60.3.1 must set out –  |
|          | 7.60.3.2.1  | the terms of the transaction;   |
|          | 7.60.3.2.2  | the capacity in which the trading member acted; and   |

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7.60.3 amended with effect from 1 August 2005.

7.60.3.1 and 7.60.3.2 introduced with effect from 1 August 2005.

7.60.2.2.10, 7.60.2.2.11 and 7.60.2.2.12 introduced with effect from 29 April 2019

- 7.60.3.2.3 if the transaction is executed by the trading member in an agency capacity, the details of any fees charged by the trading member to its client, which must be separately itemised and may not be included in the price of the transaction.

### 7.70 JSE trading system

In accordance with the procedures set out in the User Manual as amended from time to time and/or as determined by the JSE, other than in relation to the trades exempted in terms of rule 7.10.1, a member shall make an offer to buy or sell either for his own account or for the account of a client on the JSE trading system.

### 7.80 Members obligations in relation to the JSE trading system

- 7.80.1 A member shall be bound by all offers, acceptances or entries made in his name on the JSE trading system regardless of whether or not such offer or acceptance or trade was authorised by the member and the member shall -
- 7.80.1.1 by keeping all codes, passes, passwords or other security devices confidential and privy only to the compliance officer and the registered trader for whom they are intended, control access to the JSE trading system; and
- 7.80.1.2 ensure that only the registered trader to whom a valid password is allocated by the JSE, or the compliance officer, shall use such password to gain access to the JSE trading system.
- 7.80.2 A member must at all times have the necessary resources to ensure that any data sent to or received from JSE systems does not interfere with the efficiency and integrity of the equity derivatives market or commodity derivatives market, or the proper functioning of the JSE systems.
- 7.80.3 The Market Controller may instruct a member to immediately discontinue using a member or client application or may restrict the usage by a member of any or all components of a member or client application, pending resolution to the satisfaction of the Market Controller.

### 7.90 Trading times

- 7.90.1 The JSE trading system will operate on every business day according to standard periods and times as set out in the directives.
- 7.90.2 The Market Controller and any one of the JSE Executive may decide that the commodity derivatives market or equity derivatives market be closed in the event that a fair and realistic market does not exist. A fair and realistic market will be deemed not to exist after consideration of the percentage of members not able to access the JSE trading system, their contribution to price formation and the reasons for such lack of access.
- 7.90.3 Despite any other provision of the derivatives rules or any directive and subject to rule 1.40, the JSE Executive, in accordance with prevailing circumstances, may –
- 7.90.3.1 reduce or extend the hours of operation of the JSE trading system for any particular business day;

7.60.3.2.3 amended with effect from 29 April 2019

7.70 renamed "JSE trading system" from "Automated trading system" from 29 April 2019

7.80.1.1 amended with effect from 24 October 2016.

7.80.1.2 amended with effect from 24 October 2016.

7.80.2 and 7.80.3 introduced with effect from 11 July 2014

7.90.1 amended with effect from 26 April 2007.

7.90.2 replaced with effect from 26 April 2007.

7.90.2 amended with effect from 24 December 2008 and 20 November 2009.

7.90.3 replaced with effect from 26 April 2007.

- 7.90.3.2 without prior notice to any person, halt or close the JSE trading system for trading at any time and for any period;
- 7.90.3.3 without prior notice to any person suspend automated trading;
- 7.90.3.4 if there has been any failure of the JSE trading system, for any reason, or if the JSE trading system has been closed, suspended or halted, declare that a transaction executed through or by the JSE trading system is void. Such declaration is binding on the members who entered into such transaction and on the clients for or on whose behalf the transaction was executed;
- 7.90.3.5 exercise such further powers and take such further action as may be exercised or taken by the JSE in terms of the derivatives rules and directives, and as may be necessary to resolve any issue which may arise from the closure, suspension, halt or failure of the JSE trading system; and
- 7.90.3.6 take such other steps as may be necessary to ensure an orderly market.

#### **7.100 Cross trades**

A member who has an order from one client to buy and an order from another client to sell the same exchange contract shall, where such orders are to be executed by means of offers that shall be made on the JSE trading system, acting as the agent of the clients -

- 7.100.1 first offer to buy or sell the particular contract for the client that first placed the order; and
- 7.100.2 after a period of time determined by the JSE, enter an offer for the second client in the opposite direction at the same price in order to ensure that the first client's order shall be fulfilled.

#### **7.110 Reserved**

#### **7.114 Off book trading**

- 7.114.1.1 Subject to members complying with the best execution principle in rule 7.15 when trading with or on behalf of clients, the transactions listed in rule 7.115 do not have to be executed through the central order book and may instead be submitted to the JSE trading system as off book trades.
- 7.114.1.2 In the case of an off book trade between two members, the members must agree on which member will initiate the submission of the trade to the JSE trading system.
- 7.114.1.3 Off book trades negotiated after trading hours must be submitted to the JSE trading system in accordance with rule 8.10.
- 7.114.1.4 The table below lists the off book trade types and indicates –
  - 7.114.1.4.1 whether the transaction may be conducted by one member or two members; and
  - 7.114.1.4.2 whether the transaction is published by the JSE.

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7.90.4 deleted with effect from 26 April 2007.

7.110 deleted with effect from 29 April 2019 – was “Pre-arranged trades”

7.114 introduced with effect from 29 April 2019

Trade description	Trade type code	Single member	Two members	Published
Index options, index futures, equity options, equity futures, single stock futures and single stock options	NT	Yes	Yes	Yes
eCFDs	CD	Yes	Yes	Yes
Exchange for Physical	EFP	Yes	Yes	Yes
Exchange for Risk	EFR	Yes	Yes	Yes
Roll Trade	RT	Yes	Yes	Yes
Strategy Trade	SR	Yes	Yes	Yes

### 7.115 Off book trading criteria

7.115.1 Subject to members complying with the best execution principle in rule 7.15 when trading with or on behalf of clients, the following transactions do not have to be executed through the central order book and may be validly reported to the JSE trading system:

7.115.1.1 All transactions in index options and futures, equity options and futures, single stock futures and options and eCFDs.

7.115.1.2 Exchange for Physical Trade

A futures transaction associated with an EFP where the parties to the futures transaction have entered into a written contract in terms of which the buyer of the futures contract sells the underlying physical commodity to the seller of the futures contract (the “physical contract”), and where -

7.115.1.2.1 the delivery month referred to in the physical contract and the expiry month of the futures contract are within two months of each other;

7.115.1.2.2 in respect of the physical contract, delivery and cash settlement occurs at the time that the futures transaction is entered into or at a later date; and

7.115.1.2.3 the physical contract shall contain the terms and conditions as provided for in the Contract for the Purchase and Sale of Grain, Pulses, Oilseeds and Products Derived Therefrom (“SAGOS”) agreement for the purchase of grain products or be of an equivalent standard.

7.115.1.3 Exchange for Risk Trade

A futures transaction associated with an EFR where the parties to the futures transaction have previously entered into an OTC derivative contract based on the commodity underlying the futures contract (the “OTC contract”), and where -

7.115 introduced with effect from 3 February 2017

7.115 renamed “Off book trading criteria” with effect from 29 April 2019 – was “Off-ATS transactions”

7.115.1 amended with effect from 29 April 2019

7.115.4, 7.115.5 and 7.115.6 introduced with effect from 29 April 2019

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- 7.115.1.3.1 the OTC contract is in the form of an International Swaps and Derivatives Association ("ISDA") agreement or is an agreement of an equivalent standard; and
      - 7.115.1.3.2 the OTC contract is to be unwound at or about the same time that the futures transaction is reported to the JSE trading system.
    - 7.115.1.4 **Roll Trade**

A roll trade is a transaction that gives effect to the closing out of positions in futures contracts for one expiry date and the opening of positions in the same number of futures contracts on the same underlying for a later expiry date, and where the member is able to achieve a better average price for all of its clients whose positions are being rolled than the average price at which it could give effect to the rolling of the positions through the central order book.
    - 7.115.1.5 **Strategy Trade**

A strategy trade is a transaction that is comprised of two or more transactions in options or futures in respect of one or more underlying instruments, which are linked in the JSE trading system to give effect to the strategy of the member or client.
    - 7.115.1.6 Any other transaction in commodity derivatives of a type which may validly be reported to the JSE trading system and not executed through the central order book, as determined by the JSE.
  - 7.115.2 A futures transaction reported in terms of an EFRP shall comply with the following conditions:
    - 7.115.2.1 the quantity of the underlying commodity in the futures contract must be within 5% of the quantity specified in the physical contract or OTC contract, whichever is applicable;
    - 7.115.2.2 the futures transaction shall be reported to the exchange as soon as possible after the physical contract or the OTC contract has been concluded or unwound respectively; and
    - 7.115.2.3 the trading member shall retain all written and electronic records, trade confirmations, documents, agreements and recordings relevant to both the futures transaction and the corresponding physical or OTC contract.
  - 7.115.3 The price of futures transactions reported in terms of an EFRP shall be -
    - 7.115.3.1 within the range of the market prices for that futures contract on that day, prior to the reporting of the futures trade, or at the previous day's closing price; or
    - 7.115.3.2 if it is outside of the price parameters referred to in rule 7.115.3.1 -
      - 7.115.3.2.1 the price shall be specified in the relevant physical contract or OTC contract; and
      - 7.115.3.2.2 any trading member who is a party to the transaction must obtain the prior approval of its clearing member before reporting the transaction to the trading system.
  - 7.115.4 Upon request, a trading member shall -
    - 7.115.4.1 submit to the Director: Market Regulation all of the information, records and documents referred to in rule 7.115.2.3; and

7.115.4.2 demonstrate to the Director: Market Regulation how the futures transaction associated with an EFRP is correlated to the relevant physical or OTC contract, whichever is applicable.

7.115.5 Off book transactions which do not comply with one or more of the criteria specified in this rule may be cancelled by the JSE at the sole discretion of the Director: Market Regulation.

#### **7.120 Solicitation of offers**

7.120.1 In the manner determined by the JSE and/or as set out in the user manual, a member may solicit offers that will be made on the JSE trading system from the other members to both buy and sell an exchange contract according to the terms and conditions determined by the JSE in relation to such futures or option contract. Such solicitation of an offer shall be referred to as a "request for a double".

7.120.2 In the manner determined by the JSE and/or as set out in the user manual a member may solicit offers to buy or sell an exchange contract where such purchase or sale is contingent upon the purchase or sale of another exchange contract or contracts. Such a solicitation of an offer shall be referred to as a "request for a quote".

#### **7.130 Reserved**

#### **7.139 Designated suspense accounts**

7.139.1 When bulking or aggregating client orders, or orders received from other members, members are required to use dedicated agency suspense accounts, as specified by the JSE, for the order entry and deal management of such orders and trades;

7.139.2 Members are responsible for the time priority of allocations of the transactions in respect of which orders have been bulked;

7.139.3 Members are precluded from trading on the designated agency suspense accounts for their own account or for any accounts in which employees have a direct or indirect beneficial interest; and

7.139.4 All trades on the agency suspense accounts shall be allocated to the relevant clients or members on the day of the trading and no positions must remain on such designated client suspense account overnight.

#### **7.140 Deal management**

A member may -

7.140.1 aggregate a number of trades that were executed on the JSE trading system by means of offers made by the member for a designated agency suspense account and, in terms of rule 7.150, allocate such aggregated trade to a client or other member in terms of an order from the client or other member at a price, calculated by the JSE trading system equal to the average price of the original trades;

7.140.2 divide a trade that was executed on the JSE trading system by means of an offer made by the member for an agency suspense account and, in terms of rule 7.150, allocate such subdivided trades to two or more clients and/or other members in terms of orders from such clients or other members at the original price of the trade; or

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7.20.4.3 amended with effect from 5 January 2005.

7.130 deleted with effect from 29 April 2019 – was "Delta trades"

7.139 renamed "Designated suspense accounts" with effect from 29 April 2019 – was "ATS 4-digit Sub Account"

7.139 amended with effect from 29 April 2019

7.139.3 amended with effect from 1 August 2005.

7.140 renamed "Deal management" with effect from 29 April 2019 – was "Aggregation and division of trades"

7.140.1 amended with effect from 31 October 2002.

7.140.2 amended with effect from 31 October 2002.

7.140.1 and 7.140.2 amended with effect from 29 April 2019

7.140.3 introduced with effect from 29 April 2019



- 7.140.3 allocate trades that have been executed on the JSE trading system to a client or another member, as contemplated in rule 7.150.

### 7.150 Trade allocation

A member shall allocate on book trades that have been executed on the JSE trading system for an agency suspense account to a client or another member on the day that they were executed -

- 7.150.1 pursuant to a tripartite agreement that was executed by means of an offer made on the JSE trading system by the member for one of its designated client suspense accounts;
- 7.150.2 when the member has aggregated or divided trades executed in terms of an order from a client or another member as contemplated in rule 7.140; or
- 7.150.3 as a result of an order from the other member which has been executed on his behalf by means of the offer on the JSE trading system: Provided that:
  - 7.150.3.1 the allocation of a single trade or a subdivided trade shall take place within a period of time determined by the JSE; and
  - 7.150.3.2 the JSE may determine that the original price or average of the original prices or the price prevailing at the time of the allocation shall be made known to the client or the member giving the order referred to in rule 7.10.2.

### 7.160 Trading restriction

It shall be a contravention in terms of rule 3.285.3 for a member to

- 7.160.1 make or accept an offer on the JSE trading system when he has placed an order with another member in terms of rule 7.10.2 in the opposite direction in the same or a related exchange contract; or
- 7.160.2 to place an order with another member in terms of the said rule if he has made an offer on the JSE trading system in the opposite direction in the same or a related exchange contract.

### 7.170 Rules of trading that are particular to physical delivery

- 7.170.1 The contract specification of commodity derivatives futures contracts may provide for performance by means of physical delivery and may set out the conditions and terms under which physical delivery shall be effected.
- 7.170.2 The JSE may issue directives in respect of delivery procedures, settlement and delivery agents, delivery locations, inspections of commodities sold and delivered and other matters relating to trading in commodity derivatives and may appoint settlement agents on such terms as it may deem fit to facilitate performance of commodity derivatives.
- 7.170.3 Unless otherwise specified in the contract, the holder of every short position in a commodity derivatives futures contract shall on expiry have an obligation to make delivery of the underlying commodity at the expiry price, and the holder of every long position on expiry shall have an obligation to take delivery of the underlying commodity at the expiry price.

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7.150 amended with effect from 31 October 2002.

7.150 amended with effect from 29 April 2019

7.150.1 amended with effect from 31 October 2002.

7.150.3 amended with effect from 31 October 2002.

7.170 amended with effect from 6 December 2019.

7.170 amended with effect from 24 December 2008.

7.170.1 amended with effect from 6 December 2019.

7.170.1 amended with effect from 24 December 2008.

7.170.2 amended with effect from 6 December 2019.

7.170.2 amended with effect from 24 December 2008.

7.170.3 amended with effect from 6 December 2019.

7.170.3 amended with effect from 24 December 2008.

- 7.170.4 JSE Clear shall, unless otherwise specified in the contract specification, have the sole discretion in allocating delivery to long position holders.
- 7.170.5 In the event of a default by a party to a commodity derivatives futures contract, the contract may be closed out by the non-defaulting party by booking the quantity in default back to the defaulting party at a market price determined by the JSE.

#### **7.180 Declarations of transactions being void**

- 7.180.1 Despite any other provision of the derivatives rules or any directive, the JSE Executive may, if there has been any failure of the JSE systems for any reason, or if JSE systems have been closed, suspended or halted, declare that a transaction effected through or by the JSE trading system is void. Such declaration shall bind a trading member and a client of a trading member on behalf of or with whom the transaction was effected.
- 7.180.2 Where, from a lack of clarity in the published information available at the time of the transaction, a trading member deals in a quantity or at a price which in the opinion of the Director: Market Regulation is unreasonable, the Director: Market Regulation may declare such transaction void. Such declaration shall be binding on the trading members who entered into such transaction and on the clients for or on whose behalf the transaction was executed.

#### **7.181 Trade cancellations and trade price adjustments**

- 7.181.1 A key component of market integrity is the assurance that once executed; a trade will stand and will not be subject to cancellation. However, if a trade is executed as a result of an error by a member or its client, there may be significant adverse consequences for the affected member or client and therefore it is appropriate in certain circumstances to correct such errors.
- 7.181.2 Therefore, notwithstanding any other provision of the derivative rules or any directive, the Director: Market Regulation may, where in his opinion a trade has been matched as a result of a clear error, grant permission to or instruct the affected member or members to execute a trade cancellation.
- 7.181.3 A request for an alleged error trade to be cancelled in terms of these rules will be considered provided that the request meets at least the following requirements:
- 7.181.3.1 the nature of the error is that the order submitted to the trading system is different to that which the member or its client intended to submit at the time that the order was submitted; and
  - 7.181.3.2 the request is received by the Director: Market Regulation within 20 minutes from the time of the erroneous trade; and
  - 7.181.3.3 the price or contract value of the trade or trades executed in error is away from the reference price at the time that the error occurred by more than the Rand value or the percentage used to determine the no cancellation range as set out in the directives; and
  - 7.181.3.4 the difference between the aggregate consideration or contract value of the trades that qualify in terms of 7.181.3.3 and the consideration or contract value that would have resulted had such trades been executed at the futures or the options reference price is R50 000 (fifty thousand Rand) or more; and

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7.170.5 amended with effect from 6 December 2019.

7.170.5 amended with effect from 24 December 2008.

7.180 introduced with effect from 1 August 2005.

7.180.1 amended with effect from 29 April 2019

7.181 introduced with effect from 16 October 2015

- 7.181.3.5 a passive order which has been entered into the central order book and which gives rise to an alleged error trade will only be considered for cancellation where it has been matched within 30 minutes of having been entered.
- 7.181.4 In making the determination as to whether an alleged error trade qualifies for cancellation in terms of rule 7.181.3, the Director: Market Regulation will also consider whether the reference price at the time that the error occurred is a representative fair value price for the relevant contract at that time. In this regard, the Director: Market Regulation will take into account all relevant factors which shall include, but not be limited to -
- 7.181.4.1 the market price level in the relevant underlying JSE cash market immediately prior to the error trade, if applicable;
  - 7.181.4.2 the price movements in other expiry or delivery months of the same contract;
  - 7.181.4.3 in the case of options, where the volatility of trades which have occurred prior to the alleged error trade on that day either in the same option contract or in option contracts at different strike prices for the same expiry month and on the same underlying instrument indicate that market volatility levels have materially changed since the previous days mark to market;
  - 7.181.4.4 current market conditions, including volatility and liquidity; and
  - 7.181.4.5 the release of economic data and other relevant news affecting the relevant security.
- 7.181.5 In exceptional circumstances, and after taking all relevant factors into account as provided for in rule 7.181.4, the Director: Market Regulation may make a determination that the futures or the options reference price at the time that the error occurred is not representative of the fair value for the relevant contract at that time and will deem another price, being a fair value price, as being more appropriate for the determination as to whether the alleged error trade qualifies to be cancelled.
- 7.181.6 If the Director: Market Regulation determines that the reference price at the time that the error occurred is the appropriate price to use in determining whether the alleged error trade qualifies to be cancelled, the error trade must meet the criteria set out in rule 7.181.3 in order for it to be cancelled.
- 7.181.7 If the Director: Market Regulation determines that a fair value price is the appropriate price to use in determining whether the alleged error trade qualifies to be cancelled, the error trade must meet the criteria set out in rule 7.181.3 in order for it to be cancelled except that, as regards the criteria in rules 7.181.3.3 and 7.181.3.4, the fair value price will be used instead of the reference price.
- 7.181.8 Where the Director: Market Regulation determines that an erroneous trade needs to be cancelled, the trade will be cancelled in terms of the process set out in the directives:
- 7.181.9 In respect of an alleged error trade in commodity derivatives that meets the criteria in rules 7.181.2 and 7.181.3, the Director: Market Regulation will assess the circumstances of the trade and may, if he is of the opinion that a trade cancellation will have material adverse consequences for the counterparty to the error trade, decide to adjust the price of the error trade instead of instructing the affected member or members to cancel the trade. In determining whether to adjust the price of a commodity derivatives error trade the Director: Market Regulation will take into account all relevant factors which shall include, but not be limited to, whether the error trade was part of or triggered spread trades.
- 7.181.10 Where the Director: Market Regulation has in terms of rule 7.181.9 decided to adjust the price of a commodity derivative error trade, the trade price shall be adjusted to a price that equals the futures or the options reference price, or where the Director: Market Regulation has invoked rule 7.181.5, the fair value price as determined by the JSE, whichever is applicable.

- 7.181.11 Where an off book transaction has been reported to the JSE trading system in error in that the terms of the transaction differ to those that were agreed to by the counterparties to the trade before the reporting of the trade, the member or members shall be permitted to:
- 7.181.11.1 cancel an erroneous transaction in equity derivatives on the JSE trading system; or
  - 7.181.11.2 report an equal and opposite cancellation trade in commodity derivatives to the trading system on the same day that the erroneous transaction was reported.
- 7.181.12 If, in the opinion of the Director: Market Regulation, an on book trade, auction trade or off book trade materially impacts the integrity of the market, the maintenance of a fair and orderly market or the correctness of the market statistics, the Director: Market Regulation may cancel a trade or adjust the price of a transaction in commodity derivatives, even where there has been no request from a market participant to do so.
- 7.181.13 If the JSE's trading system is unable to match orders during continuous trading as a result of technical problems, an order may be matched when these technical issues are resolved but before the JSE is able to halt trading on the trading system. Where a request is received from a member to cancel a trade resulting from such a match because the member did not intend to retain the relevant order in the central order book at the time that it was matched but was unable to delete or amend the order as a result of these technical problems, the Director: Market Regulation may deal with the trade as an error trade in terms of this rule 7.181 and may authorize a trade cancellation or, if appropriate in relation to a transaction in commodity derivatives, a trade price adjustment.
- 7.181.14 In considering an error trade in terms of rule 7.181.13, the Director: Market Regulation will apply all of the relevant provisions of this rule 7.181 except that instead of applying the criteria in rule 7.181.3 in determining whether the trade qualifies for a trade cancellation or a trade price adjustment, the Director: Market Regulation will only consider whether :-
- 7.181.14.1 the price of the relevant trade was outside of the no cancellation range relative to the reference price at the time that a confirmation of the trade was sent to the member; and
  - 7.181.14.2 the request is received by the Director: Market Regulation within 20 minutes from the time that a confirmation of the trade was sent to the member.
- 7.181.15 Where consequential trades have occurred as a direct result of an error trade, such as spread trades, the Director: Market Regulation will consider these on a case by case basis and may, after taking into consideration all relevant factors and circumstances, instruct the member or members to execute a trade cancellation if appropriate in relation to a transaction in commodity derivatives, or a trade price adjustment or may make a determination that the consequential trades shall stand.
- 7.181.16 Notwithstanding any provision of rule 7.181, in considering a request from a member in terms of this rule, the Director: Market Regulation may decide that the alleged error trade and any consequential trades shall stand and shall not be cancelled or have their price adjusted. In arriving at his decision the Director: Market Regulation will take into account all relevant factors which shall include, but not be limited to:
- 7.181.16.1 the complexity and extent of any consequential trades in futures or options or trades in underlying JSE cash markets which have been triggered by the alleged error trade; or
  - 7.181.16.2 the amount of time remaining in the trading session or before the expiry of the relevant futures or option contracts within which the JSE would be required to investigate, evaluate and conclude on the merits of an alleged error trade and any consequential trades, as well as give effect to any consequential trade cancellations or price adjustments; and

7.181.16.3 the best interests of the affected market participants.

#### **7.190 Suspension or halting of trading in derivative securities**

- 7.190.1 The Director: Market Regulation or his deputy, in conjunction with the Chief Executive Officer or acting Chief Executive Officer or, failing the Chief Executive Officer or acting Chief Executive Officer, the Director: Issuer Services, may declare a trading halt in a derivative security in circumstances where the Director : Market Regulation determines that the trading activity in a derivative security –
- 7.190.1.1 is being or could be undertaken by persons possessing unpublished price-sensitive information that relates to the underlying instrument to which the derivative security relates; or
  - 7.190.1.2 is being influenced by a manipulative or deceptive trading practice; or
  - 7.190.1.3 may otherwise give rise to an artificial price in that derivative security.
- 7.190.2 No trading member may trade that derivative security for the duration of the trading halt but may delete orders from the JSE trading system.

#### **7.200 Prevention and detection of market abuse**

- 7.200.1 A member must give consideration to the circumstances of orders placed by clients before entering such orders in the JSE trading system and must take reasonable steps to satisfy itself that such orders and any resultant trades will not result in a breach of the provisions of section 80 of the Act (Prohibited trading practices).
- 7.200.2 A member must ensure that all of its employees involved in the receipt of orders from clients and the execution of transactions in derivative securities on the JSE trading system are familiar with the market abuse provisions in sections 77 to 80 of the Act and that those employees receive adequate training and guidance to enable them to recognise and avoid entering into any transaction on behalf of the member or its clients which will result in, or is likely to result in, a breach of those provisions.
- 7.200.3 A member's compliance monitoring procedures must specifically include procedures to monitor orders entered into, and transactions executed on, the JSE trading system by the member and its employees, with the objective of identifying and taking appropriate action in relation to orders or trades that, in the reasonable opinion of the member, may constitute a breach of the provisions of sections 78 and 80 of the Act.
- 7.200.4 In formulating and implementing the compliance monitoring procedures referred to in rule 7.200.3, a member is not expected to monitor every order entered into and every trade executed on the JSE trading system by the member, for the purpose of identifying potential market abuse. Nevertheless, whilst members are encouraged to implement monitoring procedures to detect any activity undertaken by the firm's employees or its clients which may constitute a breach of the provisions of sections 78 and 80 of the Act, the procedures should, as a minimum, aim to detect activity which, to a reasonable person observing or reviewing such activity, would constitute a blatant breach of the provisions of sections 78 and 80 of the Act taking into account all relevant factors such as:
- 7.200.4.1 the identity of the parties to the transaction;
  - 7.200.4.2 the perceived intention of the parties to the transaction;
  - 7.200.4.3 the frequency and pattern of transactions over a period of time;
  - 7.200.4.4 the effect of the transaction on market prices or volumes;

7.181 amended with effect from 29 April 2019

7.190 introduced with effect from 1 August 2005.

7.200 introduced with effect from 1 August 2005.

7.200 amended with effect from 28 March 2014.

- 7.200.4.5 the size and timing of the transaction; or
- 7.200.4.6 a combination of two or more of these factors.

**7.210 Reserved**

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7.210 introduced with effect from 1 August 2005.  
7.210 deleted with effect from 28 March 2014

**SECTION****8**

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**SECTION 8: POSITIONS****Scope of section**

- 8.10 Reporting
- 8.20 Matching
- 8.30 Clearing
- 8.40 Opening and closing-out a position
- 8.50 Mark-to-market
- 8.60 Margin payments
- 8.70 Interest payments
- 8.80 Trading fees
- 8.90 Settlement procedures
- 8.100 Exercise and assignment of option contracts

**8.10 Reporting**

Off book trades concluded after 17:30, or such later time on a business day as the JSE may determine, shall be reported to the JSE by no later than 09:00 on the following business day.

**8.20 Matching**

- 8.20.1 Within ten minutes of trading, or such other time as the JSE may decide, a member shall report his off book trade to the JSE through the JSE trading system in the manner and form prescribed by the JSE.
- 8.20.2 Off book trades concluded after 17:30, or such later time on a business day as the JSE may determine, shall be reported to the JSE in such manner no later than 09:00 on the following business day
- 8.20.3 In the event of any off book trade not being matched by 18:30 or such later time that the JSE determines on the day it is reported, it shall be reported anew by both members on the following business day.

**8.30 Clearing**

- 8.30.1 Trades will be cleared by JSE Clear -
  - 8.30.1.1 when an off book trade between the member and a client is reported to the JSE; or
  - 8.30.1.2 when an off book trade involving two members has been reported and matched as contemplated by rule 8.20; or
  - 8.30.1.3 when a trade is done as the result of an offer made on the JSE trading system or an allocation of a trade in accordance with rule 7.150.
- 8.30.2 Upon the trade being cleared, by novation, JSE Clear shall replace the buyer and become the counterparty to the seller and it shall replace the seller and become the counterparty to the buyer.
- 8.30.3 JSE Clear may refuse to accept for clearing a trade at a price that is, in the discretion of the Chief Executive Officer, substantially different from the current market price.

**8.40 Opening and closing-out a position**

- 8.40.1 When there was no position in an exchange contract prior to a trade in the exchange contract being cleared, a position in the exchange contract shall be opened and registered in the name of the member or his client when the trade is cleared.
- 8.40.2 The exchange contracts comprising a trade which has been cleared, shall be added to or off-set against an existing position registered in the name of the party concerned and the position shall be increased, decreased, closed out or a position in the opposite direction shall be opened, as the case may be.
- 8.40.3 On the expiry of a futures contract or an option contract of which the strike price is not better by a certain amount determined by the JSE than the expiry price of the underlying instrument of the option contract -
  - 8.40.3.1 the person in whose name a long position in the exchange contract is registered by JSE Clear shall be deemed to have sold the number of the exchange contracts equal to the number comprising the position, to JSE Clear; and
  - 8.40.3.2 the person in whose name a short position in the exchange contract is registered by JSE Clear shall be deemed to have bought a number of the exchange contracts equal to the number comprising the position, from JSE Clear.
- 8.40.4 The price of the futures contract which shall apply to the purchase contemplated in rule 8.40.3.1 and the sale contemplated in rule 8.40.3.2 shall be the expiry price determined in the manner prescribed in the contract specification of the futures contract in question and the price of an option contract which shall apply to such purchase or sale shall be zero.

8.10.1 and 8.10.3 deleted with effect from 29 April 2019

8.10.2 amended with effect from 10 May 2002.

8.10.3 amended with effect from 10 May 2002.

8.20 amended with effect from 29 April 2019



- 8.40.5 Rule 8.40.2 shall apply ipso facto to the exchange contracts comprising the purchases and sales referred to in rule 8.40.3.
- 8.40.6 Where the strike price of an option contract is, on expiry, better by a certain amount determined by the JSE, than the expiry price of the futures contract underlying the option contract, the person in whose name a position in the exchange contract is registered shall be deemed to have exercised the option contract in terms of rule 8.100.3.
- 8.40.7 On the expiry as contemplated in rule 8.40.3 of a physically settled futures contract the holder of a long position in the exchange contract shall buy the underlying instrument and the holder of a short position shall sell the underlying instrument at the price equal to that referred to in rule 8.40.4 and the purchase, sale, delivery and receipt of the underlying instrument shall take place pursuant to the contract specification applicable to such futures contract: Provided that a physically settled agricultural derivatives futures contract shall be regulated by rule 7.170.

#### **8.50 Mark-to-market**

- 8.50.1 At 17:00 on each business day, or such other time as the JSE may determine on a particular business day, the positions in each exchange contract of all members and their clients shall be marked-to-market on such basis as the JSE may determine.
- 8.50.2 The JSE or JSE Clear, as the case may be, may at any time on any business day mark-to-market the position in any exchange contract of any member or client if, in its sole discretion, the conditions in the market for the exchange contract or its underlying instrument warrant such additional mark-to-market.

#### **8.60 Margin payments**

- 8.60.1 Initial margin
- Initial margin shall be paid to or by a member or client whenever the risk of loss, as determined by the JSE, changes with respect to the aggregate position of such member or client.
- 8.60.2 Variation margin
- Variation margin shall be paid to or by a member or client in whose name a position in an exchange contract is registered as the result of the marking-to-market of a position in terms of rule 8.50 or the closing out of a position or part thereof as contemplated in rule 8.40.2 or the closing out of a position as contemplated in rule 8.40.3.

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8.40.7 amended with effect from 24 December 2008.

8.50.1 amended with effect from 10 May 2002.

- 8.60.3 Additional margin
- 8.60.3.1 A clearing member may require a trading member with whom he has entered into a clearing agreement to deposit with him, with respect to the proprietary position of the trading member or the position of any of the clients of the trading member, an amount of additional margin as agreed upon between the parties in terms of the clearing agreement.
- 8.60.3.2 A member may require a resident client to deposit with him, with respect to the resident client's position, an amount of additional margin as agreed upon between the parties in terms of the client agreement.
- 8.60.4 Retained margin
- A member, with respect to a resident client, may with the client's prior written agreement -
- 8.60.4.1 require the client to deposit an amount of money with him to be used to furnish initial and additional margin before the member shall trade with the client; and/or
- 8.60.4.2 retain initial and variation margin payable to the client or interest accruing in terms of rule 8.70.3, in anticipation of future trades:
- Provided that the money so deposited and/or retained shall be repaid to the client if the client has not traded with the member within thirty days.
- 8.60.5 Maintenance margin level
- A member may agree, where a client has an amount of money deposited with the member as contemplated in rule 8.60.3.2, that the client shall pay an amount of money to restore the additional margin to the amount contemplated by rule 8.60.3.2 when the additional margin has been used to meet payments of variation margin in terms of rule 8.60.2.

#### 8.70 Interest payments

- 8.70.1 JSE Clear shall manage and invest all margins held by it in terms of rule 11.10 and it shall on the second day of the month following the month in which interest was received or accrued, remit such interest, net of the interest consideration referred to in rule 11.10.2, to each clearing member in relation to the margin held in respect of the positions of the clearing member, its clients and trading members and the clients of such trading members.
- 8.70.2 Monthly in arrears a clearing member may remit the interest received in terms of rule 8.70.1, or any part thereof, to the trading members with whom he has entered into clearing agreements in relation to the positions of the trading member and their clients.
- 8.70.3 Subject to rule 8.60.4.2, monthly in arrears a member may remit the interest received in terms of rules 8.70.1 or 8.70.2, or any part thereof, to his clients in relation to the positions of such clients at any time during the preceding month.

#### 8.80 Trading fees

- 8.80.1 The JSE shall levy fees on a clearing member in respect of the trades of the clearing member, his clients and the members with whom the clearing member has entered into clearing agreements, in an amount and in a manner as decided by the JSE, and such fees may be recovered from the clearing member on behalf of the JSE by JSE Clear.
- 8.80.2 A clearing member may levy such fees and charges as he deems fit on trading member with whom he has entered into a clearing agreement: Provided that such fees and charges shall be in accordance with the schedule of fees which shall form part of the said clearing agreement.
- 8.80.3 A member may levy such fees and charges for different categories of transactions as he deems fit on clients with whom he trades: Provided that such fees and charges shall be in accordance with the schedule of fees and charges which shall form part of the client agreement.

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8.60.3.1 amended with effect from 12 December 2009.

8.60.3.2 amended with effect from 12 December 2009.

8.80.3 amended with effect from 1 August 2005.

- 8.80.4 A member shall not levy a fee or any other charges on a client in respect of a trade in terms of which he has traded as a principal with the client without the prior written agreement of the client having been recorded in the client agreement.
- 8.80.5 All fees must be separately charged and may not be included in the price of the transaction, with the exception of fees charged by a member for a transaction in commodity derivatives assigned by the member to another member or a client of another member.

#### 8.90 Settlement procedures

- 8.90.1 With respect to his proprietary positions, the positions of his clients, the positions of the trading members with whom he has entered into clearing agreements and the positions of the clients of such trading members, the clearing member shall pay to or receive from JSE Clear the net amount of -
- 8.90.1.1 subject to rule 9.20, the sum of the initial margin referred to in rule 8.60.1;
  - 8.90.1.2 the sum of the variation margin referred to in rule 8.60.2;
  - 8.90.1.3 any interest payable in terms of rule 8.70.1; and
  - 8.90.1.4 the fees referred to in rule 8.80.1.
- 8.90.2 An amount due from a clearing member in terms of rule 8.90.1 shall be paid to JSE Clear not later than 12:00 on the business day following the day on which such payment accrued or such other time as the JSE may in its sole discretion determine.
- 8.90.3 With respect to any proprietary position, the position of any of his clients, the position of a trading member with whom he has entered into a clearing agreement and the position of a client of such trading member whom the JSE has marked-to-market in terms of rule 8.50.2, the clearing member shall pay to JSE Clear the amount of variation margin as contemplated in rule 8.60.2 at the time stipulated by the JSE when the clearing member is notified by him of the mark-to-market.
- 8.90.4 With respect to his proprietary positions, and the positions of his clients, a trading member shall pay to or receive from the clearing member the net amount of -
- 8.90.4.1 subject to rule 9.20, the initial margin referred to in rule 8.60.1;
  - 8.90.4.2 the additional margin referred to in rule 8.60.3.1;
  - 8.90.4.3 the variation margin referred to in rule 8.60.2;
  - 8.90.4.4 any interest payable in terms of rule 8.70.2; and
  - 8.90.4.5 the fees referred to in rule 8.80.2.
- 8.90.5 An amount due to or from a clearing member in terms of rule 8.90.4 shall be paid not later than 12:00 on the business day following the day on which such payment accrued, or at such other time as the trading member and the clearing member have specifically agreed upon with respect to a particular payment.
- 8.90.6 With respect to any proprietary position or the position of any of his clients, which the JSE has marked-to-market in terms of rule 8.50.2, the trading member shall pay to the clearing member the amount of variation margin as contemplated in rule 8.60.2 by the time referred to in rule 8.90.3, as stipulated by the JSE and as notified to the trading member by the clearing member, and no relaxation shall be given to a trading member without the prior approval of the JSE.

8.80.4 amended with effect from 29 April 2019

8.80.5 introduced with effect from 29 April 2019

8.90.1.1 amended with effect from 1 August 2005.

8.90.4.1 amended with effect from 1 August 2005.

8.90.4.1 amended with effect from 12 December 2009.

New 8.90.4.2 introduced with effect from 12 December 2009.

8.90.4.2 to 8.90.4.4 renumbered 8.90.4.3 to 8.90.4.5 with effect from 12 December 2009.

- 8.90.7 Subject to rule 9.30.1, with respect to his positions a client shall pay to or receive from the trading member with whom he traded to open such positions the net amount of -
- 8.90.7.1 the total of the initial margin referred to in rule 8.60.1 for all its aggregate positions: Provided that any amount so due from the resident client shall be off-set against any retained margin referred to in rule 8.60.4;
  - 8.90.7.2 the additional margin referred to in rule 8.60.3.2;
  - 8.90.7.3 the variation margin referred to in rule 8.60.2;
  - 8.90.7.5 any interest payable in terms of rule 8.70.3; and
  - 8.90.7.5 the fees referred to in rule 8.80.3.
- 8.90.8 An amount due to or from a trading member in terms of rule 8.90.7 shall be paid not later than 12:00 on the business day following the day on which such payment accrued or such other time as the trading member and the client have specifically agreed upon with respect to a particular payment.
- 8.90.9 With respect to the position of any client, which the JSE has marked-to-market in terms of rule 8.50.2, the client shall pay to the trading member the amount of variation margin as contemplated in rule 8.60.2 by the time referred to in rule 8.90.3 stipulated by the JSE and notified to the client by the trading member and no relaxation shall be given without the prior approval of the JSE.

#### **8.100 Exercise and assignment of option contracts**

- 8.100.1 Exercise
- 8.100.1.1 A client in whose name a long position in an option contract is registered may exercise the option at any time until the expiry of the exchange contract by either verbal or written notice to the member with whom he dealt in order to open the long position.
  - 8.100.1.2 A member who has a proprietary long position in an option contract registered in his name may exercise the option at any time until the expiry of the exchange contract, and shall exercise the option on a client's behalf on the instruction of the client by executing the exercise on the JSE trading system in the manner prescribed by the JSE and/or as set out in the user manual.
- 8.100.2 Upon the exercise of the option in terms of rule 8.100.1.2 the person in whose name the long position in the exchange contract was registered shall be deemed to have bought or sold the underlying instrument of the option contract in question at the strike price from or to JSE Clear.
- 8.100.3 Assignment
- When an option is exercised in terms of rule 8.100.1.1 or when an option is deemed to have been exercised in terms of rule 8.40.6, JSE Clear shall in turn exercise its option to buy or sell the underlying instrument in question to or from the holder of a short position in the option contract in question: Provided that -
- 8.100.3.1 JSE Clear shall in its sole discretion assign the exercise of the exchange contract or contracts to the registered holders of short positions in the exchange contract; and
  - 8.100.3.2 the person to whom the exercise of the exchange contract is assigned in terms of rule 8.100 shall be deemed to have bought or sold the underlying instrument of the option contract.

8.90.7.1 amended with effect from 12 December 2009.

New 8.90.7.2 introduced with effect from 12 December 2009.

8.90.7.2 to 8.90.7.4 renumbered 8.90.7.3 to 8.90.7.5 with effect from 12 December 2009.

**SECTION**

**9**

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**SECTION 9: NON-RESIDENT AND EMIGRANT CLIENTS**

**Scope of section**

- 9.10 Bank accounts
- 9.20 Initial margin
- 9.30 Settlements
- 9.40 Fees
- 9.50 Trading restriction

### 9.10 Bank accounts

Before a member trades with a non-resident or emigrant client, the non-resident client shall open a non-resident account at an authorised bank or, in the case of an emigrant client, an emigrant's blocked account and a non-resident account, both with the same authorised bank, to be used for the purposes of trading in exchange contracts.

### 9.20 Initial margin

The initial margin payable with respect to the positions of a non-resident or emigrant client shall be the initial margin that would otherwise have been payable by or to a member or a resident client in relation to equivalent positions, adjusted by the margin category assigned by the member in question to the non-resident or emigrant client, and a member shall not be entitled to hold any retained or additional margins in relation to the positions of any non-resident or emigrant client.

### 9.30 Settlements

- 9.30.1 With respect to his positions a non-resident client shall pay from his non-resident account to, or receive into his non-resident account from, or an emigrant client shall pay from his emigrant's blocked account to, or receive into his emigrant's blocked account from, the client trust account of the member with whom he traded to open such positions, the net amount of the initial margin referred to in rule 8.60.1 and the variation margin referred to in rule 8.60.2: Provided that –
  - 9.30.1.1 the initial margin to be paid in terms of this rule 9.30.1 shall be the initial margin that would otherwise be required to be paid to JSE Clear in respect of equivalent positions of a member or a resident client adjusted by the margin category assigned by the member to the non-resident or emigrant client in question;
  - 9.30.1.2 interest shall not be included in the payment as contemplated in rule 8.90.7.3 but shall be treated separately as contemplated in rule 9.30.6;
  - 9.30.1.3 fees shall not be included in the payment but shall be treated separately as contemplated in rule 9.50; and
  - 9.30.1.4 a member shall not be entitled to hold any retained or additional margin with respect to the positions of a non-resident or an emigrant client.
- 9.30.2 With respect to his positions a non-resident client shall pay from his non-resident account to or receive into his non-resident account from, or an emigrant client shall pay from his emigrant's blocked account to or receive into his emigrant's blocked account from, the client trust account of the member with which he traded to open such positions the variation margin referred to in rule 8.90.9.
- 9.30.3 The confirmation contained in the SWIFT non-resident account notification or the SWIFT emigrant's blocked account notification to the authorised bank shall confirm the net settlement amounts to be paid or received in terms of rule 9.30.1 or 9.30.2, and shall require the authorised bank to release or accept this amount to or from the member concerned.
- 9.30.4 The clearing member or JSE Clear, as the case may be, may off-set amounts due to him against amounts due by him to or from a member: Provided that it can be ascertained from the statements passing between them that no margins or other moneys of a non-resident or an emigrant client are being held by either JSE Clear or the clearing member.
- 9.30.5 A member may not off-set the amounts due to a non-resident client or any emigrant client against any amount due from any other non-resident client or emigrant client, nor may a member off-set any amount due to an emigrant client for credit of that emigrant client's emigrant's blocked account against any amount due from that emigrant client from that emigrant's non-resident account, or vice versa.
- 9.30.6 A member shall not retain any interest paid to him by JSE Clear or his clearing member with respect to the positions of a non-resident or an emigrant client, and on the second business day following the end of each month during which a non-resident client or emigrant client had a position registered in his name, the member shall pay to the authorised bank concerned for the credit of that non-resident client's or emigrant client's non-resident account an amount equal to the amount received by him from his clearing member or JSE Clear, as the case may be, in respect of interest on margins: Provided that a

9.30.1 amended with effect from 31 October 2002.

9.30.2 amended with effect from 31 October 2002.

clearing member who has a clearing agreement with the trading member concerned shall pay to the trading member an amount equal to that which he received in respect of the non-resident client's or emigrant client's position from JSE Clear.

9.30.7 A member may not off-set amounts due to be paid from a non-resident client's non-resident account or, in the case of an emigrant client, amounts due to be paid from the emigrant client's blocked account against amounts to be paid into that non-resident or emigrant client's non-resident account.

9.30.8 The amount of interest referred to in rule 9.30.6 shall be paid by the member to the authorised bank concerned by midday on the next business day after the business day on which the SWIFT non-resident account notification was received by the authorised bank concerned.

#### **9.40 Fees**

In terms of rule 8.80 the member shall be entitled to claim fees in respect of trades with a non-resident or emigrant client for payment by the authorised bank concerned from that non-resident client's non-resident account or, in the case of an emigrant client, from the emigrant client's emigrant's blocked account to the member: Provided that -

9.40.1 a member shall not be entitled to off-set fees against margin due by him to a non-resident client or emigrant client contemplated in rule 9.30.1 or 9.30.2 or against any balance due to the non-resident client or emigrant client as contemplated in rule 12.20.3; and

9.40.2 the authorised bank concerned shall compare the trades referred to in the non-resident account clearance certificate or emigrant's blocked account clearance certificate against the trades referred to in the member's statement claiming fees in respect of such trades and may inform the JSE of any discrepancy.

#### **9.50 Trading restriction**

An emigrant client who is also a non-resident client, or who has a beneficial interest in a non-resident client, shall not open a position, the effect of which aggregate position is opposite to an aggregate position that is or that shall be registered in the name of such non-resident client, nor shall a non-resident client who is also an emigrant client or a non-resident client in which such an emigrant client has a beneficial interest open a position, the effect of which aggregate position is opposite to an aggregate position that is or shall be registered in the name of such emigrant client concerned, and no member shall knowingly trade with a client in contravention of this rule.

**SECTION**

**10**

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**SECTION 10: TRADING AND POSITIONS – SUNDRY PROVISIONS**

**Scope of section**

- 10.10 Trading and position limits
- 10.20 Trading and position records
- 10.30 Emergency provisions
- 10.40 Speculative positions



**10.10 Trading and position limits**

- 10.10.1 JSE Clear may limit the aggregate exposure arising from the proprietary positions of a clearing member, the positions of the clients of the clearing member, the positions of trading members with which the clearing member has entered into clearing agreements and the positions of the clients of such trading members in relation to the net financial worth of the clearing member plus his suretyship referred to in rule 4.20.6 in a manner determined by the JSE.
- 10.10.2 The clearing member may limit the aggregate exposure arising from the proprietary positions of a trading member and the positions of the clients of such trading member.
- 10.10.3 A clearing member may stipulate a limit to the number of exchange contracts that may constitute a trade by a particular trading member at any one time.

**10.20 Trading and position records**

- 10.20.1 A member shall at all times maintain records of -
  - 10.20.1.1 his trades with members and clients;
  - 10.20.1.2 margin and other payments to and from other members and their clients.
- 10.20.2 A member shall confirm to a client at least once a month -
  - 10.20.2.1 the trades done with the client during the period;
  - 10.20.2.2 the positions of the client at the time of reporting;
  - 10.20.2.3 the balances of additional and retained margin held for the client at the time of reporting; and
  - 10.20.2.4 all payments to and from the client made or accrued during the period, including payments of margin, fees and interest.
- 10.20.3 The records referred to in rule 10.20.1 shall be kept for a period of at least three years.
- 10.20.4 Telephone recordings
  - 10.20.4.1 the JSE, JSE Clear and members shall have the right to tape-record all telephone calls.
  - 10.20.4.2 A member shall tape-record all telephonic offers received from or made to clients.
  - 10.20.4.3 With respect to such telephone calls, the tape-recording shall be admissible as evidence in any disciplinary or dispute resolution proceedings contemplated in these derivatives rules: Provided that the person who intends to rely on such tape recordings in evidence shall bear the onus of proving the authenticity thereof.
  - 10.20.4.4 All parties to the prescribed agreements shall in such agreement acknowledge and confirm that they are aware that telephone calls may be recorded, and they shall be deemed to have irrevocably consented thereto.
  - 10.20.4.5 No member shall tamper with any tape-recording of any telephone call.
- 10.20.5 Tape-recordings contemplated in rule 10.20.4 shall be kept in safe custody for a period of at least 14 days.

**10.30 Emergency provisions**

- 10.30.1 In order that the business of the JSE be carried out with due regard to the interests of the public in a fair and orderly market the JSE may, in addition to the powers given in terms of the Act, in

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10.10.1 amended with effect from 12 December 2009

10.10.2 amended with effect from 12 December 2009

10.10.3 amended with effect from 12 December 2009

10.20.4.1 amended with effect from 1 August 2005

10.20.4.3 amended with effect from 1 August 2005

circumstances of emergency restrict or suspend trading in any or all of the derivative securities kept by it in its list of derivative securities.

- 10.30.2 Circumstances of emergency shall include but are not limited to the closing of any other exchange, a state of war or threatening hostilities, acts of state affecting the market or the due performance of trades or any position, any change in the law affecting the market or the due performance of trades or positions and any other situation or circumstances affecting, in the opinion of the JSE, a fair and orderly market for the trading in derivative securities.
- 10.30.3 If the trading in any security or commodity on any exchange or market ceases, the JSE Executive shall consider the cessation of trading in derivative securities for which such security or commodity comprises the underlying instrument of the derivative security concerned.
- 10.30.4 In the event of any of the circumstances contemplated in this rule 10.30 occurring, the Chief Executive Officer shall notify the Registrar of such circumstances and shall co-operate with the Registrar to restore and maintain a fair and orderly market.

#### 10.40 Speculative position limits

- 10.40.1 This rule applies only to trading members authorised to trade in agricultural derivatives. For the purposes of this rule, the following definitions are applicable -

“hedging positions”

means positions in futures or options on the JSE, where such positions normally represent a substitute for positions to be made or positions to be taken at a later time in an agricultural product, and where they are appropriate to the reduction of risks in the conduct and management of a commercial enterprise. The primary purpose for hedging positions must be to offset price risks incidental to the commercial cash or spot operations. These risks may arise from: -

- (a) potential changes in the value of assets which a person owns, produces, processes, manufactures or anticipates owning, producing, processing or manufacturing; or
- (b) potential changes in the value of liabilities which a person owns or anticipates incurring; or
- (c) potential changes in the value of services which a person provides, purchases or anticipates providing or purchasing.

For the purposes of this definition, hedging positions include, but are not limited to, the following specific positions:

- (a) Sales for future delivery, purchases of any put options on futures contracts and/or sales of any call options on futures contracts, which do not exceed in quantity –
  - (i) Ownership of the same agricultural product by the same person; and
  - (ii) Fixed-price purchases of the same agricultural product by the same person;
- (b) Purchases of any agricultural product for future delivery, sales of any put options on futures contracts and/or purchases of any call options on futures contracts, which do not exceed in quantity fixed-price sales of the same agricultural product by the same person;

10.30.1 amended with effect from 1 August 2005.

10.30.2 amended with effect from 1 August 2005.

10.30.3 amended with effect from 1 August 2005.

10.30.4 amended with effect from 1 August 2005.

10.40 introduced with effect from 1 August 2005.

10.40.1 amended with effect from 24 December 2008.

“hedging positions” amended with effect from 24 December 2008.

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- (c) Short-hedging positions of unsold anticipated positions or anticipated production of the same agricultural product by the same person;
- (d) Long-hedging positions of unfilled anticipated requirements of the same agricultural product by the same person for processing, manufacturing or feeding;
- “spot month limit” means the spot month futures equivalent position limit net long or short effective at the start of trading on the first delivery day of the spot month as determined by directive;
- “single month limit” means the futures equivalent position limit net long or short in any one month other than the spot month as determined by directive;
- “all month limit” means the futures equivalent position limit either long or short in all months as determined by directive;
- “futures equivalent positions” means the futures positions plus or minus option contracts that have been adjusted for the delta coefficient as calculated at the close of trading by the JSE -
- (a) Long futures contracts shall have positive delta factor of +1 and short futures shall have a negative delta factor of -1;
- (b) Long call option and short put option positions shall have positive delta factors; and
- (c) Short call option and long put option positions shall have negative delta factors.
- 10.40.2 Duty to furnish information
- The JSE may at its discretion request trading members or clients to provide it with written statements in relation to agricultural derivative positions owned, controlled or carried by the trading member or a client of the trading member. On receipt of a written request from the JSE, a trading member or client must within two business days, furnish the JSE with a written statement in the form, manner and content prescribed by the JSE. Statements submitted to the JSE must include information necessary to enable JSE Clear, or any person or committee authorised by the JSE to make a determination as to whether the relevant position of a trading member or client should be limited or reduced in terms of this rule.
- 10.40.3 Net limits
- 10.40.3.1 No trading member or client may hold or control positions separately or in combination, net long or net short for the purchase or sale of a commodity for future delivery, or on a futures equivalent basis, options thereon, in excess of the limits as set out in the directives.
- 10.40.3.2 JSE Clear or any person authorised by the JSE may direct any trading member owning, controlling or carrying a position for a client, whose total net speculative position as determined by the JSE exceeds the position limits as set out in the directives, to liquidate or otherwise reduce the position within a time period stipulated by the JSE.
- 10.40.3.3 For the purposes of determining whether a trading member or client has exceeded these position limits, the JSE will include all positions that such member or client by power of attorney or otherwise, directly or indirectly, owns or controls or where positions are held by two or more persons acting pursuant to an express or implied agreement or understanding the same as if the positions were held or trading positions were done by a single individual.
- 10.40.3.4 The term “net” shall mean the long or short position held after offsetting long futures equivalent positions against short futures equivalent positions.
- 10.40.4 Exceeding position limits
- The position limits set out in rule 10.40.3 may be exceeded to the extent that such positions are -

- 10.40.4.1 *bona fide* hedging positions in futures and options; or
- 10.40.4.2 spread or arbitrage positions between single months of a futures contract or, on a futures equivalent basis, options thereon, outside of the spot month, provided that such spread or arbitrage positions, when combined with other net positions in the single month, do not exceed the all months limit.

**SECTION**

**11**

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**SECTION 11: MANAGEMENT OF MEMBERS' AND CLIENTS' FUNDS**

**Scope of section**

- 11.10 Management of funds by JSE Clear
- 11.20 Separation of funds
- 11.30 Clearing member bank accounts
- 11.40 Members' bank accounts
- 11.50 Relaxation or indulgence given by members
- 11.60 Acceptance of cash deposits

**11.10 Management of funds by JSE Clear**

- 11.10.1 JSE Clear shall separate the margins and other moneys, securities and other corporeal and incorporeal things of any member or client from its own assets and shall manage and invest such margins and other moneys in a manner and subject to such terms and conditions as the JSE shall decide.
  - 11.10.1.1 A clearing member may deposit any additional margin kept by him in terms of rule 8.60.3.1 with JSE Clear.
  - 11.10.1.2 A member may deposit any additional or retained margin kept by him in terms of rule 8.60.3.2 in respect of his resident clients with JSE Clear.
- 11.10.2 JSE Clear, on behalf of the JSE, shall monthly in arrears, retain an interest consideration as determined by the JSE of not more than 2% per annum on any margins held by it in respect of any position registered in the name of any person during the month.

**11.20 Separation of funds**

A member shall -

- 11.20.1 at all times separate a client's or other member's funds, including money, securities and other corporeal and incorporeal things of the client or other member, from his own assets;
- 11.20.2 not co-mingle the funds of any client or another member with his own;
- 11.20.3 not allow the use of funds, securities or corporeal or incorporeal things belonging to any client or other member to finance his own trades or the trades of any other person;
- 11.20.4 not allow the use of funds, securities or corporeal or incorporeal things of any client or other member to operate his own business; and
- 11.20.5 in respect of the trades or positions of a member or client, not retain any money, securities or other corporeal or incorporeal things given by such member or client or received by the member on behalf of any person other than additional margin contemplated in rule 8.60.3 or retained margin contemplated in rule 8.60.4.

**11.30 Clearing member bank accounts**

- 11.30.1 The provisions of this section 11.30 shall apply in respect of additional margin not deposited by a clearing member with JSE Clear.
- 11.30.2 A clearing member shall at all times keep a separate bank account into which he shall deposit any additional margin kept by him in terms of rule 8.60.3.1 and he shall at all times ensure that the correct amount of additional margin as required by his clearing agreement with the trading member is held in respect of each trading member with which he has entered into a clearing agreement and his records shall at all times reflect the amount of additional margin held in respect of each such trading member.

**11.40 Members' bank accounts**

- 11.40.1 The provisions of this section 11.40 shall apply in respect of additional and/or retained margin not deposited by a member with JSE Clear.
- 11.40.2 A member shall keep a separate trust account with a bank into which he shall deposit all additional and retained margin held by him with respect to his resident clients and he shall at all times keep records

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11.10.1 amended with effect from 1 August 2005

11.10.1.1 introduced with effect from 12 December 2009

11.10.1.2 introduced with effect from 12 December 2009

11.20.1 amended with effect from 1 August 2005

11.20.2 amended with effect from 1 August 2005

11.20.4 amended with effect from 1 August 2005

11.20.5 amended with effect from 1 August 2005

11.30.1 introduced with effect from 12 December 2009

11.30 renumbered 11.30.2 with effect from 12 December 2009

11.40 renumbered 11.40.1 amended with effect from 31 October 2002

that shall show the amount held in respect of each client with respect to additional margin and with respect to retained margin and he shall at all times ensure that the correct amount of additional margin as required in terms of the relevant client agreement is held in respect of each client's positions.

11.40.2.1 A member shall keep a separate trust account with a bank into which he shall deposit directly or ensure the direct deposit of all client money either held or received by him with respect to his clients and he shall at all times ensure that the correct amount of additional margin as required in terms of the relevant client agreement is held in respect of each client's positions.

11.40.2.2 Other than in respect of the payment for fees and services rendered, a member shall at all times ensure that there is no deposit or receipt of client funds into his own proprietary account.

#### **11.50 Relaxation or indulgence given by members**

A member who gives any relaxation or indulgence to a client regarding the payment of margin, whether initial margin, variation margin or additional margin, shall be deemed to have granted the client a loan repayable on demand in the amount of the shortfall for the period of the relaxation or indulgence at a rate of interest specified in the client agreement between them or, if no rate is specified, at the member's customary rate or, if there is no customary rate, at the rate determined in terms of the Prescribed Rate of Interest Act 55 of 1975 and the member shall, if such loan is for a period exceeding two business days, immediately inform the client thereof in writing.

#### **11.60 Acceptance of cash deposits**

No member shall knowingly receive or accept a deposit of cash from any person exceeding an amount of R5 000. For the purpose of this rule "cash" shall mean coin and paper money of the Republic or any other country. A member shall not receive or accept two or more cash amounts exceeding R5 000 in total with the purpose of avoiding compliance with this rule.

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New 11.40.1 introduced with effect from 12 December 2009

11.40 (2<sup>nd</sup> paragraph) renumbered 11.40 and amended with effect from 31 October 2002

11.40 (1<sup>st</sup> paragraph) renumbered 11.40.2 with effect from 12 December 2009

11.40.1 renumbered 11.40.2 .1 with effect from 12 December 2009

11.40.2 introduced with effect from 31 October 2002.

11.40.2 renumbered 11.40.2 .2 with effect from 12 December 2009

11.60 introduced with effect from 1 August 2005.

**SECTION**

**12**

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**SECTION 12: DEFAULTS**

**Scope of section**

- 12.10 Default by a member
- 12.10A Default by a client
- 12.20 Consequences of a client's default
- 12.30 Consequences of default by a trading member
- 12.40 Consequences of default by a clearing member
- 12.50 JSE liquidity facility



**12.10 Default by a member**

A member shall default if -

- 12.10.1 he fails to fulfil any of his obligations in terms of a trade or a position; or
- 12.10.2 his membership is terminated; or
- 12.10.3 the JSE, in its sole discretion, considers that he has defaulted.

**12.10A Default by a client**

A client shall default if –

- 12.10A.1 he fails to fulfil any of his obligations in terms of a trade or a position; or
- 12.10A.2 the JSE, in its sole discretion, considers that he has defaulted; or
- 12.10A.3 he is in default with respect to one particular member and the JSE in its discretion decides that he is in default with respect to any other member.

**12.20 Consequences of a client's default**

Without limiting or detracting from any other remedies and rights which a member may have against a client, in the event of default by a client -

- 12.20.1 the client shall, save as provided in this rule, be suspended from trading through the member;
- 12.20.2 the member shall close out the positions of the client by trading to transfer those positions to himself and for his own account at a price approved by the JSE within two business days or such other period as may be determined by the JSE from the date of default;
- 12.20.3 any amount payable by the member to the client as a result of such close out or arising from any suretyship, cession, pledge or other security or from any other cause shall be set off against any amount payable by the client in terms of rule 8.90.7;
- 12.20.4 any shortfall remaining after the application of these derivatives rules shall be recovered from and any balance paid to the client.

**12.30 Consequences of default by a trading member**

Without limiting or detracting from any other remedies and rights which a member or client or JSE Clear may have against a trading member, in the event of default by a trading member -

- 12.30.1 the trading member shall, save as provided in this rule, be suspended from trading;
- 12.30.2 the clearing member shall close out the proprietary positions of the trading member by trading to transfer those positions to himself and for his own account at a price approved by the JSE within two business days or such other period as may be determined by the JSE from the date of default;
- 12.30.3 any amount payable to the trading member as a result of such close out or arising from any suretyship, cession, pledge or other security or from any other cause shall be set off against any amount payable by the trading member in terms of rule 8.90.4;
- 12.30.4 if after all the above rules have been exhausted a shortfall remains, any JSE shares held by the trading member may be sold by the JSE and the proceeds utilised towards settlement of any remaining shortfall, and any surplus paid to the trading member;
- 12.30.5 any shortfall remaining after the application of these derivatives rules shall be recovered from and any balance paid to the trading member;
- 12.30.6 the clients of the trading member shall, without notice to such clients, become the clients of the clearing member, and-
  - 12.30.6.1 the clearing member shall assume the obligations of the trading member in terms of rule 8.90.7 that accrued on the date of default or on the previous business day;

12.30.4 amended with effect from 1 July 2005.

- 12.30.6.2 all clients who did not previously have client agreements with the clearing member shall conclude client agreements with the clearing member to cover the positions and obligations assumed by the clearing member ; and
- 12.30.6.3 where the clearing member previously had a client agreement with the client of the trading member , such positions and obligations and subsequent trades shall be subject to that agreement;
- 12.30.6.4 the JSE shall on request provide the clearing member with the registration and contact details of the clients of a defaulting member as supplied to the JSE; and
- 12.30.6.5 on the default of a trading member, the clearing member shall contact the clients of such defaulting member immediately, to inform them of the default and to make arrangements for the transfer of existing client positions to the trading division of the clearing member or to another trading member.

#### **12.40 Consequences of default by a clearing member**

Without limiting or detracting from any other remedies and rights which a member or client or JSE Clear may have against a clearing member, in the event of default by a clearing member -

- 12.40.1 the clearing member shall, save as provided in this rule, be suspended from trading;
- 12.40.2 JSE Clear shall open a separate trust account with a bank (hereinafter referred to as the "trust account"), into which shall be paid all margin due and payable and any other moneys or securities held by JSE Clear in favour of or on behalf of or for the account of the clearing member;
- 12.40.3 JSE Clear shall manage the trust account and all the affairs of the clearing member arising from and relating to his membership of the JSE and -
  - 12.40.3.1 shall assume control of all assets held or administered by the clearing member on behalf of or for the account or benefit of any member or client, and, when requested by the JSE, render such reports to the JSE as the JSE may require;
  - 12.40.3.2 shall, without prior notice to the clearing member, close out all the proprietary positions of the clearing member at the best price it can obtain when, in its sole discretion, it so decides;
  - 12.40.3.3 any amount payable to the clearing member as a result of such close out or arising from any suretyship, cession, pledge or other security or from any other cause, shall be set off against any amount payable by the clearing member in terms of rule 8.90.1;
  - 12.40.3.4 transfer all positions of clients and trading members cleared through the clearing member to another clearing member until such time as the provisions of rule 12.40.5 have been complied with: Provided that JSE Clear shall be entitled to appoint a trustee to exercise all its powers in terms of this rule subject to the trustee being entitled to the same indemnity as JSE Clear.
- 12.40.4 within a period decided by the JSE each trading member with whom the clearing member had a clearing agreement shall conclude a clearing agreement with another clearing member, failing which the trading member shall be deemed to be in default and his membership shall terminate;
- 12.40.5 the clients of the clearing member shall within a period determined by the JSE -

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12.30.6.4 introduced with effect from 31 October 2002.

12.30.6.5 introduced with effect from 31 October 2002.

12.40.2 amended with effect from 1 July 2005.

12.40.2 amended with effect from 1 August 2005.

12.40.2 amended with effect from 11 March 2013

12.40.3.4 deleted with effect from 11 March 2013

12.40.3.5 deleted with effect from 11 March 2013

12.40.3.6 renumbered 12.40.3.4 with effect from 11 March 2013

- 12.40.5.1 enter into client agreements with other members and trade with JSE Clear and such other members to transfer their positions to them, or
- 12.40.5.2 trade with JSE Clear to close out their positions;
- 12.40.6 after all liabilities of the clearing member have been settled, the amounts paid by any surety in terms of the derivatives rules shall be refunded from any balance remaining in the trust account and any further balance remaining in the trust account, together with any funds of the clearing member obtained through the realisation of any of its assets, shall be paid to the clearing member;
- 12.40.7 if there are insufficient funds or other assets of the clearing member to meet all its obligations and liabilities as set out in these rules and the clearing agreement, the funds of the Default Fund shall be applied in the following sequence to make good any such shortfall –
  - 12.40.7.1 the contributions to the Default Fund by the defaulting clearing member;
  - 12.40.7.2 the contributions to the Default Fund by the JSE and/or JSE Clear, as the case may be, subject to the provisions of rule 12.40.8; and
  - 12.40.7.3 the contributions to the Default Fund by all the other clearing members, subject to the provisions of rules 12.40.9 and 12.40.10;
- 12.40.8 if the contributions to the Default Fund referred to in rule 12.40.7.2 have been wholly or partially utilised following one or more clearing member defaults, the JSE and/or JSE Clear shall be obliged to make a contribution to the Default Fund equal to the amount so utilised. The obligation to make such contributions in any twelve month period shall be limited to an amount equal to the value of the collateral held by the Default Fund on behalf of the JSE and/or JSE Clear, as determined in terms of the rules, immediately prior to the most recent clearing member default. This obligation is not an additional obligation to that contemplated and imposed in terms of rule 11.50.8 of the Interest Rate and Currency Rules;
- 12.40.9 to the extent that the defaulting clearing member's obligations as set out in these rules have been met by utilising some or all of the contributions to the Default Fund by the other clearing members, referred to in rule 12.40.7.3, in order to re-establish the size of the Default Fund at an appropriate level, as determined by the JSE, the JSE shall determine the amount of additional margin payable by the other clearing members in terms of rule 4.20.8;
- 12.40.10 in any twelve month period, where the total contributions to the Default Fund by clearing members have been fully utilised twice-over in terms of rule 12.40.7.3 as a result of one or more clearing member defaults, the remaining clearing members shall still be obliged to re-contribute additional margin to the Default Fund as calculated in terms of rule 4.20.8 but such re-contributed additional margin shall only be utilised to meet the obligations of a clearing member in terms of rule 12.40.7.1 and not rule 12.40.7.3. The obligation to contribute additional margin referred to in this rule is not an additional obligation to that contemplated and imposed in terms of rule 11.50.10 of the Interest Rate and Currency Rules;
- 12.40.11 any losses suffered by the JSE, JSE Clear, the Default Fund or any market participant as a result of the default of a clearing member shall be recovered from that clearing member.

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12.40.4 amended with effect from 11 March 2013

12.40.6 amended with effect from 11 March 2013

12.40.7 to 12.40.11 introduced with effect from 11 March 2013

12.40.7.2 amended with effect from 28 March 2014

12.40.8 amended with effect from 28 March 2014.

12.40.11 amended with effect from 28 March 2014.

**12.50 JSE liquidity facility**

- 12.50.1 Without limiting or detracting from the other remedies and rights which a member or client or JSE Clear or the JSE may have against a clearing member, the JSE may, in order to ensure the efficient functioning of the JSE's markets by effecting prompt payment to market counterparties, decide to apply the JSE liquidity facility provided for in this section and settle the obligations in terms of a trade or a position of:
- 12.50.1.1 clients and trading members whose payments are processed by a clearing member; and/or
  - 12.50.1.2 a clearing member who has acquired positions as a result of the default provisions provided for in these Derivative rules vis-à-vis another market participant on the relevant clearing member's behalf in circumstances where such clients, trading members or clearing members have been unable to satisfy their obligations in terms of a trade or a position as provided for in these Derivative rules.
- 12.50.2 The JSE will, for the avoidance of doubt, be able to apply the JSE liquidity facility referred to in 12.50.1 if:
- 12.50.2.1 a clearing member is unable to fulfil its obligations in terms of a trade or a position as a result of technical issues which preclude the clearing member from processing payments; and/or
  - 12.50.2.2 a clearing member is in default and the JSE has initiated the default procedures provided for in these Derivative Rules.
- 12.50.3 In order to place the JSE in a financial position to exercise the discretion to apply the JSE liquidity facility contemplated in 12.50.1 in circumstances where, following a default, a clearing member is unable to satisfy its obligations in terms of a trade or a position towards its market counterparty, the amount that the JSE will pay on behalf of the clearing member to a market counterparty will be limited to:
- 12.50.3.1 the amount that the clearing member has paid to the JSE as margin for its obligations as set out in these Derivatives Rules; and / or
  - 12.50.3.2 the amount of the initial margin paid by the market participants for which the clearing member clears.
- 12.50.4 The JSE will have the power and authority to set off any amount that it pays on behalf of a clearing member or on behalf of any other market participant to a counterparty in terms of the JSE liquidity facility against that clearing member's margin or another market participants' initial margin.

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12.50 introduced with effect from 13 December 2013

12.50.1 to 12.50.5 introduced with effect from 13 December 2013

- 12.50.5 For purposes of these Derivative Rules, the amount that the JSE may decide to pay on behalf of a clearing member in settlement of such clearing member's obligations in terms of a trade or position in terms of the JSE liquidity facility provided for in these Derivative Rules and JSE Clear and/or the JSE's obligation to return initial margin to the clearing member constitute debts that are capable of being set off against one another.

**SECTION**

**13**

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**SECTION 13: DERIVATIVE SECURITIES**

**Scope of section**

- 13.10 List of derivative securities
- 13.20 Contract specification of the derivative securities
- 13.30 Listing of derivative securities
- 13.40 Exchange contracts

**13.10 List of derivative securities**

The derivative securities which may be bought or sold as provided for in rule 7.10 shall be kept by the JSE in the list of derivative securities in terms of section 11(8)(a) of the Act.

**13.20 Contract specification of the derivative securities**

- 13.20.1 The contract specification of derivative securities contained in the list of derivative securities kept in terms of these derivatives rules shall be determined by the JSE.
- 13.20.2 The JSE may, in its discretion, conduct surveys and research, call for the views of members and any committee and take such other steps as it may deem appropriate in determining the contract specification of derivative securities.

**13.30 Listing of derivative securities**

- 13.30.1 The JSE shall have the power to -
  - 13.30.1.1 add derivative securities to, or remove derivative securities from, the list of derivative securities kept in terms of these derivatives rules, or suspend derivative securities from such list;
  - 13.30.1.2 impose new conditions on or amend the existing conditions of such derivative securities.
- 13.30.2 The JSE shall notify all members of the approval of an application in terms of this rule, and shall stipulate a date for the coming into operation of an addition, removal or suspension of derivative securities or new or amended conditions relating to derivative securities.

**13.40 Exchange contracts**

- 13.40.1 The JSE may, in its sole discretion, decide which expiry months shall be specified for the futures and options contracts contained in the list referred to in rule 13.10 and it shall publish such exchange contracts in a notice to members: Provided that where the expiry date of a futures or options contract is longer than one year hence the JSE shall specify the expiry date.
- 13.40.2 Options contracts having strike prices as contained in the contract specification of the particular option contract may be traded when the expiry month of the underlying futures contract is specified as contemplated in rule 13.40.1.

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13.10 amended with effect from 1 August 2005.

13.10 amended with effect from 28 March 2014.

13.20 amended with effect from 1 August 2005.

13.20.1 amended with effect from 1 August 2005.

13.20.1 amended with effect from 1 August 2005.

13.30 amended with effect from 1 August 2005.

13.30.1 amended with effect from 1 August 2005.

13.30.1.1 amended with effect from 1 August 2005.

13.30.1.2 amended with effect from 1 August 2005.

13.30.2 amended with effect from 1 August 2005.

<p><b>SECTION</b></p> <p><b>14</b></p>
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**SECTION 14: PRESCRIBED AGREEMENTS**

The JSE shall prescribe and specify the basic terms and formal requirements of the agreements for dealing in derivative securities, including, but not limited to the clearing house agreement, the clearing agreement and the client agreement.

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14 amended with effect from 1 August 2005.



**SECTION**

**15**

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**SECTION 15: MANAGEMENT OF INVESTMENTS**

**Scope of section**

- 15.10 Authority to manage investments in derivative securities
- 15.20 Trading as an investment manager in derivative securities
- 15.30 Management and advice in respect of JSE authorised investments other than derivative securities
- 15.35 Management of foreign investments
- 15.40 Trading with a discretionary financial services provider
- 15.45 Conducting business with a nominee
- 15.50 Client statements
- 15.60 Exercising of discretion and provision of advice by employees

**15.10 Authority to manage investments in derivative securities**

All trading members are authorised to manage investments comprising derivative securities: Provided that they comply with the provisions of this rule, and other applicable derivatives rules, and undertake such management in compliance with the prescribed client agreement. This rule shall, however, not apply to a member if the member is a bank or if the majority of such member's intermediary services do not relate to trading in JSE listed securities as an authorised user of any of the JSE markets. Such a member shall be required to obtain a licence to operate as a financial services provider in terms of the FAIS Act in respect of any advice or intermediary services which it provides to clients relating to derivative securities, and the relevant provisions of that Act shall apply to such advice or intermediary services.

**15.20 Trading as an investment manager in derivative securities**

- 15.20.1 A member may not trade as an investment manager in derivative securities for or on behalf of a client unless he or she has concluded a discretionary client agreement with the client and the client has been registered as a client of that member with JSE Clear in terms of rule 7.60.2.
- 15.20.2 An investment manager may not directly or indirectly buy or sell derivative securities for or from his own account or any account in which an employee has a direct or indirect beneficial interest, to or from a client.

**15.30 Management and advice in respect of JSE authorised investments other than derivative securities**

- 15.30.1 This rule is only applicable to trading members whose investment management activities in relation to derivative securities are regulated by the JSE in terms of rule 15.10.
- 15.30.2 The provisions of rules 15.30.4 to 15.30.13 shall not apply to a trading member if the trading member is a bank or if the majority of such member's intermediary services do not relate to trading in JSE listed securities as an authorised user of any of the JSE markets. Such a member shall be required to obtain a licence to operate as a financial services provider in terms of the FAIS Act in respect of any advice or intermediary services which it provides to clients relating to JSE authorised investments other than derivative securities and the relevant provisions of that Act shall apply to such advice or intermediary services.
- 15.30.3 The provisions of rules 15.30.4 to 15.30.13 shall not apply to a trading member in respect of transactions in JSE authorised investments other than derivative securities where such transactions relate to securities listed on an exchange other than the JSE, including the Bond Exchange of South Africa, and where such transactions are conducted as an authorised user of such exchange. Such transactions will instead be subject to the rules of the relevant exchange.
- 15.30.4 A trading member may not enter into transactions as an investment manager in JSE authorised investments other than derivative securities on behalf of clients or provide advice to any clients in respect of such investments unless it has notified the Director: Market Regulation, in writing, of its intention to effect such transactions or provide such advice.
- 15.30.5 In order for the JSE to identify the scope of an investment manager's activities in JSE authorised investments other than derivative securities, the written notification to the Director: Market Regulation referred to in rule 15.30.4 shall indicate which specific investments the investment manager is intending either to transact in on behalf of its clients or to provide advice on, or both.

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15.10 amended with effect from 1 August 2005.

15.20 deleted and replaced with rule 15.30 with effect from 5 January 2005.

15.30 renumbered 15.20 and amended with effect from 5 January 2005.

15.20 amended with effect from 1 August 2005.

15.30.1 renumbered 15.20.1 and amended with effect from 5 January 2005.

15.20.1 amended with effect from 1 August 2005.

15.30.2 amended with effect from 10 October 2002; renumbered 15.20.2 and amended with effect from 5 January 2005.

15.20.2 amended with effect from 1 August 2005.

15.30 new rule introduced with effect from 5 January 2005.

15.30 amended with effect from 1 August 2005.

15.30.1 to 15.30.3 introduced with effect from 1 August 2005.

15.30.1 to 15.30.10 renumbered 15.30.4 to 15.30.13 and amended with effect from 1 August 2005.

15.30.4 amended with effect from 28 March 2014

- 15.30.6 The details which are required to be submitted to the Director: Market Regulation in terms of rule 15.30.5 shall specify the particular types of JSE authorised investments other than derivative securities in which activity is to be conducted, but need not include the name of the particular investments.
- 15.30.7 The failure by an investment manager to provide the notification referred to in rules 15.30.4 and 15.30.5 prior to undertaking the relevant activity may result in the JSE imposing restrictions or a prohibition on the investment manager's activities in JSE authorised investments other than derivative securities.
- 15.30.8 If an investment manager has previously notified the Director: Market Regulation in terms of rules 15.30.4 and 15.30.5 of its intention to conduct activity in any JSE authorised investments other than derivative securities and the investment manager ceases to conduct activity in respect of one or more particular types of investments, with no intention of resuming activity in such investments in the foreseeable future, the investment manager shall notify the Director: Market Regulation forthwith, in writing, of such cessation of activity.
- 15.30.9 Any decision by an investment manager to invest in JSE authorised investments other than derivative securities on behalf of a client shall be made with due regard to the relevant provisions of rule 16.10 regarding the conduct of members, particularly the provisions relating to the General Conduct Towards Clients in rule 16.10.2 and the Exercise of Discretion in rule 16.10.3.
- 15.30.10 An investment manager shall not effect transactions in JSE authorised investments other than derivative securities on behalf of a client unless the client has given his general consent to such transactions being effected in a written mandate.
- 15.30.11 Every investment manager who purchases JSE authorised investments other than derivative securities on behalf of a client and who is accountable to the client for the client's investment in such JSE authorised investments shall comply with the following requirements:
- 15.30.11.1 the relevant investments shall be segregated from the investment manager's own assets at all times. If the JSE authorised investments other than derivative securities are held in an account maintained by another financial services provider, the account shall either be opened in the client's own name or, if the investment manager opens a single account in respect of transactions executed on behalf of more than one client, the investment manager shall procure that the account is clearly designated in the records of the relevant financial services provider as being an account utilised for investments made by the investment manager on behalf of its clients;
  - 15.30.11.2 the investment manager shall maintain proper accounting records in respect of all JSE authorised investments other than derivative securities purchased or sold on behalf of clients. These records shall be updated forthwith in respect of any transactions in JSE authorised investments other than derivative securities and shall clearly identify the beneficial owners of all such investments at all times;
  - 15.30.11.3 the investment manager must balance its clients' holdings in JSE authorised investments other than derivative securities, as reflected in the investment manager's records, with the accounts maintained by the other financial services providers who hold such investments, on a monthly basis. Any differences identified between the respective records must be rectified forthwith.
- 15.30.12 Every investment manager who holds JSE authorised investments other than derivative securities on behalf of a client or who is accountable to a client for such investments shall implement and maintain an effective system of internal controls to safeguard such investments and prevent unauthorised access thereto.
- 15.30.13 Transactions by an investment manager in JSE authorised investments other than derivative securities which constitute foreign investments shall also be subject to 15.35.

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15.30.5 amended with effect from 28 March 2014.

15.30.11 and 15.30.12 deleted with effect from 1 August 2005.

**15.35 Management of foreign investments**

- 15.35.1 For the purpose of this rule, foreign investments means the following JSE authorised investments –
- 15.35.1.1 securities listed on an external exchange;
  - 15.35.1.2 units or any other form of participation in a foreign collective investment scheme approved by the Registrar of Collective Investment Schemes in terms of section 65 of the Collective Investment Schemes Control Act, 2002;
  - 15.35.1.3 units or any other form of participation in a collective investment scheme licensed or registered in a foreign country; and
  - 15.35.1.4 foreign funds intended for the purchase of such securities, units or participation.
- 15.35.2 An investment manager shall not enter into transactions in foreign investments on behalf of a client unless:
- 15.35.2.1 the mandate entered into between the investment manager and the client in terms of rule 15.30.10 –
    - 15.35.2.1.1 stipulates that the investment manager is authorised to invest in foreign investments;
    - 15.35.2.1.2 contains a statement pertaining to the risks associated with foreign investments, with particular reference to any currency risk;
    - 15.35.2.1.3 states whether there are any jurisdiction restrictions in respect of the particular foreign investments; and
    - 15.35.2.1.4 contains full particulars of the manner in which such investments shall be made and in whose name such investments shall be held or registered;
  - 15.35.2.2 the client has obtained the prescribed tax clearance certificate from the South African Revenue Service.
- 15.35.3 An investment manager must, on request by a client, furnish the client with the following information regarding any foreign investments made by the investment manager on behalf of the client –
- 15.35.3.1 the name of the licensed external exchange on which the foreign investments are listed, if applicable;
  - 15.35.3.2 the country in which the foreign investments are licensed or registered and the name and address of the relevant licensing or registration authority, if applicable;
  - 15.35.3.3 the name and address of the foreign financial services provider used by the investment manager to purchase or hold the foreign investments, if applicable; and
  - 15.35.3.4 the name and address of the regulator of the foreign financial services provider referred to in rule 15.35.3.3 and whether such foreign financial services provider is approved or registered by such regulator.

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15.35.1 amended with effect from 1 August 2005.  
 15.35.1.1 amended with effect from 1 August 2005.  
 15.35.1.4 amended with effect from 1 August 2005.  
 15.35.2.1 amended with effect from 1 August 2005.  
 15.35.3.1 amended with effect from 1 August 2005.  
 15.35.3.4 amended with effect from 1 August 2005.

**15.40 Trading with a discretionary financial services provider**

A member shall not effect a transaction with a person whom the member reasonably believes requires authorisation as a discretionary financial services provider or the status of a representative in terms of the FAIS Act, without having taken reasonable measures to ascertain that such person has the required authorisation or status.

**15.45 Conducting business with a nominee**

A member may not operate a client account on behalf of a person whom the member believes or suspects requires approval to act as a nominee under section 76 of the Act without having taken reasonable measures to ascertain that such person has the necessary approval.

**15.50 Client statements**

- 15.50.1 An investment manager must provide a written statement to a client on a monthly basis which complies with 15.50.2 and 15.50.3.
- 15.50.2 A client statement must contain such information as is reasonably necessary to enable the client to –
  - 15.50.2.1 produce a set of financial statements;
  - 15.50.2.2 determine the composition of the investments comprising the portfolio held by the member or for which the member is accountable to the client and the changes thereto over the reporting period, if applicable; and
  - 15.50.2.3 determine the market value of the investments comprising the portfolio held by the member or for which the member is accountable to the client and the changes therein over the reporting period, if applicable.
- 15.50.3 Pursuant to rule 15.50.2, and to provide the client with the information necessary for them to review the operation of their account and make appropriate investment decisions, a client statement must contain at least the following information:
  - 15.50.3.1 the quantity, description and market value of each investment comprising the portfolio held by the member or for which the member is accountable to the client, at the reporting date;
  - 15.50.3.2 the amount of funds held by the member or which has been invested by the member on behalf of the client and for which the member is accountable to the client, at the reporting date;
  - 15.50.3.3 if any of the investments or funds are reflected in a foreign currency, the relevant currency exchange rate at the reporting date must also be reflected;
  - 15.50.3.4 investments purchased or sold during the reporting period;
  - 15.50.3.5 receipts and payments of funds during the reporting period;
  - 15.50.3.6 details of income earned and expenditure incurred during the reporting period;
  - 15.50.3.7 non-cash transactions during the reporting period, including non-cash components of corporate actions and option expiries;
  - 15.50.3.8 investments transferred into and out of the portfolio during the reporting period;
  - 15.50.3.9 identification of those investments which at the reporting date were loaned to any third party but for which the member is still accountable to the client;

15.40 deleted and replaced with new rule with effect from 5 January 2005.

15.45 introduced with effect from 28 March 2014.

15.50 deleted and replaced with new rule with effect from 5 January 2005.

15.50.3 amended with effect from 1 August 2005.

- 15.50.3.10 the quantity, description and market value of any financial products, or the amount of funds, held as collateral by the member on behalf of the client in respect of any loans made by the client;
- 15.50.3.11 identification of those investments or funds which at the reporting date were utilised to secure loans to the client or borrowings made on behalf of the client;
- 15.50.3.12 identification of those investments or funds which at the reporting date were utilised as margin in respect of open positions in any financial product;
- 15.50.3.13 in respect of investments in derivative instruments, a description of the underlying financial product, index, commodity or thing, the expiry month and in the case of options, the exercise or strike price; and
- 15.50.3.14 if the statement reflects any investments or funds which are not held by the member and for which the member is not accountable to the client, it should clearly indicate that fact in relation to such investments or funds.
- 15.50.4 The information referred to in rule 15.50.3 may be provided to the client in separate statements either during the reporting period or as at the reporting date.
- 15.50.5 A client statement shall be provided either to the client or to an agent or third party nominated by the client in writing.

#### **15.60 Exercising of discretion and provision of advice by employees**

A trading member shall, in the course of its business, exercise discretion in the management of JSE authorised investments and provide advice to its clients on the buying and selling of JSE authorised investments only through an employee who has obtained such qualification as may be prescribed in the directives.

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15.50.3.13 amended with effect from 1 August 2005.

15.50.4 amended with effect from 1 August 2005.

15.60 introduced with effect from 1 August 2005.

15.60 amended with effect from 28 March 2014.

**SECTION**

**16**

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**SECTION 16: ETHICS AND CONDUCT**

**Scope of section**

- 16.10 Code of conduct
- 16.15 Unsolicited calls
- 16.20 Advertising by members
- 16.30 Contraventions to be reported

**16.10 Code of conduct****16.10.1 Standards of Integrity**

A member shall, in the conduct of its business, observe high standards of integrity and fair dealing. It must –

- 16.10.1.1 not provide, or accept material inducements of a non-business nature to, or from any person to obtain business;
- 16.10.1.2 not knowingly circulate information or submit information to the JSE or JSE Clear which is false or misleading, or which affects or tends to affect unfairly the price of any derivative security;
- 16.10.1.3 not knowingly countenance any attempt to manipulate the market, nor to influence persons for such a purpose;
- 16.10.1.4 not be a party to or facilitate or enter into a trade which is fictitious or which has a dishonest or unlawful motive;
- 16.10.1.5 conduct its activities in a manner that is compatible with the objects of the Act and with full respect for the dignity of the JSE; and
- 16.10.1.6 not participate in any dealings with other members, clients, the media or other persons, which may be of such a nature as to discredit the JSE.

**16.10.2 General conduct towards clients**

In its dealings with clients, a member shall –

- 16.10.2.1 act honestly and fairly;
- 16.10.2.2 act with due skill, care and diligence, and in the interests of clients;
- 16.10.2.3 exercise independent professional judgement;
- 16.10.2.4 act promptly on and in accordance with the instructions of a client, and exercise any discretion in a responsible manner;
- 16.10.2.5 avoid conflicts of interest and when they cannot be avoided, ensure fair treatment to clients by disclosure, confidentiality or declining to act. A member shall not unfairly place its interests above those of its clients; and
- 16.10.2.6 not make any statement, promise or forecast which it knows to be misleading or is likely to be misleading and that has the effect or may have the effect of inducing a client to enter into a client agreement.

**16.10.3 Furnishing of advice and exercise of discretion**

In providing advice to a client, other than a professional client, or exercising discretion in relation to the management of JSE authorised investments, a member shall –

- 16.10.3.1 take reasonable steps to seek from the client information regarding the client's financial situation, investment experience, particular needs and objectives in connection with the services required, to enable the member to provide the client with sound advice or make an appropriate investment decision;

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16.10 deleted and replaced with new rule with effect from 5 January 2005.

16.10.1 amended with effect from 1 August 2005.

16.10.1.1 amended with effect from 1 August 2005.

16.10.1.2 amended with effect from 1 August 2005.

16.10.1.5 amended with effect from 1 August 2005.

16.10.3 amended with effect from 1 August 2005.

16.10.3 amended with effect from 28 March 2014.

16.10.3.1 amended with effect from 28 March 2014

16.10.3.1 amended with effect from 1 August 2005.



- 16.10.3.2 conduct an analysis, based on the information obtained, for the purpose of advising the client or making an investment decision;
- 16.10.3.3 identify the JSE authorised investments that will suit the client's risk profile and financial needs, subject to the terms of any client agreement entered into between the client and the member or any other mandate provided to the member by the client;
- 16.10.3.4 take reasonable steps to ensure that the client understands any advice that has been provided, as well as the nature and material terms and risks involved in the relevant transaction, so as to enable the client to make an informed decision; and
- 16.10.3.5 ensure that any advice provided or discretion exercised is not for the sole purpose of maximising the income of the member.
- 16.10.4 Disclosure to clients
  - 16.10.4.1 In rendering a service to a client, any representations made and information provided by a member -
    - 16.10.4.1.1 must be factually correct;
    - 16.10.4.1.2 must be provided in plain language, avoid uncertainty or confusion and not be misleading;
    - 16.10.4.1.3 must be adequate and appropriate in the circumstances of the particular service, taking into account the factually established or reasonably assumed level of knowledge of the client;
    - 16.10.4.1.4 must, as regards all amounts, sums, values, charges, fees, remuneration or monetary obligations mentioned or referred to therein, be reflected in specific monetary terms, provided that where any such amount, sum, value, charge, fee, remuneration or monetary obligation is not reasonably pre-determinable, its basis of calculation must be adequately described;
    - 16.10.4.1.5 need not be duplicated or repeated to the same client unless material or significant changes affecting that client occur, or the relevant service renders it necessary, in which case a disclosure of the changes must be made to the client without delay.
  - 16.10.4.2 A member –
    - 16.10.4.2.1 must disclose full and accurate information about the fees and any other charges that may be levied on clients;
    - 16.10.4.2.2 may not disclose any confidential information acquired or obtained from a client about such client, unless the written consent of the client has been obtained beforehand or disclosure of the information is required to further the objectives of the Act or is required under any law;
    - 16.10.4.2.3 must advise a client in advance of any restrictions or limitations that may affect the access of that client to their funds or JSE authorised investments.

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16.10.3.3 amended with effect from 1 August 2005.  
 16.10.3.4 amended with effect from 1 August 2005.  
 16.10.3.4 amended with effect from 28 March 2014.  
 16.10.3.5 amended with effect from 1 August 2005.  
 16.10.3.5 amended with effect from 28 March 2014.  
 16.10.4.2.3 amended with effect from 1 August 2005.

- 16.10.5 Maintenance of client records
- 16.10.5.1 A member must maintain proper, complete, accurate and secure records in relation to the services rendered to its clients.
- 16.10.5.2 A member must have appropriate procedures and systems in place to store and retrieve, in a manner safe from destruction, a record of all –
- 16.10.5.2.1 communications relating to a service rendered to a client, including instructions given by the client to the member;
- 16.10.5.2.2 transaction documentation relating to clients;
- 16.10.5.2.3 contractual arrangements between the member and its clients, including client agreements and mandates prescribed by the rules; and
- 16.10.5.2.4 client particulars required to be provided in terms of the rules or which are necessary for the effective operation of client accounts.
- 16.10.5.3 The client records in rule 16.10.5.2 may be kept in printed, electronic or voice-recorded format.
- 16.10.5.4 Members need not keep the records in 16.10.5.2 themselves but must be capable of making such records available for inspection within seven days.
- 16.10.5.5 All instructions given by clients to execute transactions must be kept for a period of at least six months after the relevant transactions and all other client records in 16.10.5.2 must be kept for at least five years after the rendering of the services concerned.
- 16.10.6 Contact with the member
- A member must provide for the necessary resources and functionality to ensure that clients are able to readily contact the member.
- 16.10.7 Waiver of rights
- A member may not request or induce in any manner a client to waive any right or benefit conferred on the client by or in terms of this code or the derivatives rules, or recognise, accept or act on any such waiver by the client, and any such waiver is void.
- 16.10.8 Adequacy of financial resources
- A member shall ensure that it maintains adequate financial resources to meet its business commitments and to withstand the risks to which its business is subject.
- 16.10.9 Internal resources and risk management
- A member shall employ effectively the resources and procedures that are necessary for the proper performance of its business activities and to eliminate, as far as is reasonably possible, the risk that clients will suffer financial loss through theft, fraud, other dishonest acts, poor administration, negligence, professional misconduct or culpable omissions. It shall organise and control its internal affairs in a reasonable manner and keep proper records. Its staff shall be suitable, adequately trained and properly supervised.
- 16.10.10 Co-operation with regulators

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16.10.5.3 amended with effect from 1 August 2005.

16.10.6 amended with effect from 1 August 2005.

16.10.7 amended with effect from 1 August 2005.

A member shall deal with the JSE as its regulator in an open co-operative manner and keep the JSE promptly informed of anything concerning the JSE which might reasonably be expected to be disclosed to it. A member shall also provide reasonable co-operation to any other regulatory body or any law enforcement agency in respect of any matters which are the subject of an investigation by such body or agency relating to an alleged contravention of the Act, or any equivalent foreign legislation or any other law governing the activities of the member.

#### 16.10.11 Enforcement of code on employees

A member shall enforce the provisions of this code on all its employees.

### 16.15 Unsolicited calls

A member may enter into a transaction with or on behalf of a person where the transaction is as a result of an unsolicited call, provided that the member has complied with the requirements set out in rules 16.10.3 and 16.10.4.

### 16.20 Advertising by members

#### 16.20.1 Advertising material of a member –

- 16.20.1.1 must provide accurate, complete and unambiguous information about any JSE authorised investment or any service rendered by the member;
- 16.20.1.2 must emphasise the risk of loss and uncertainty of future results;
- 16.20.1.3 must discern fact from opinion;
- 16.20.1.4 may not be comparative in relation to another member; and
- 16.20.1.5 may not make the statement or suggest that trading in derivatives securities on the JSE is appropriate for all persons.

#### 16.20.2 An advertisement by a member –

- 16.20.2.1 may not contain any statement, promise or forecast which is fraudulent, untrue or misleading;
- 16.20.2.2 must, if it contains –
  - 16.20.2.2.1 performance data (including awards and rankings), include references to their source and date;
  - 16.20.2.2.2 illustrations, forecasts or hypothetical data –
    - 16.20.2.2.2.1 contain support in the form of clearly stated basic assumptions (including, but not limited to, any relevant assumptions in respect of performance, returns, costs and charges) with a reasonable prospect of being met under current circumstances;
    - 16.20.2.2.2.2 make it clear that they are not guaranteed and are provided for illustrative purposes only; and

16.10.11 amended with effect from 1 August 2005.

16.15 introduced with effect from 1 August 2005.

16.20.1 deleted and replaced with new rule with effect from 5 January 2005.

16.20.1.1 amended with effect from 1 August 2005.

16.20.1.5 amended with effect from 1 August 2005.

16.20.2 re-numbered 16.20.3 new rule 16.20.2 introduced with effect from 5 January 2005.

- 16.20.2.2.3 also contain, where returns or benefits are dependent on the performance of underlying assets or other variable market factors, clear indications of such dependence;
- 16.20.2.2.3 a warning statement about risks involved in buying or selling a JSE authorised investment, prominently display such statement; and
- 16.20.2.2.4 information about past performances, also contain a warning that past performances are not necessarily indicative of future performances; and
- 16.20.2.3 must, if the investment value of a JSE authorised investment mentioned in the advertisement is not guaranteed, contain a warning that no guarantees are provided.
- 16.20.3 In the event that the JSE considers that a member has failed to conform to any of the advertising requirements published by the JSE under rule 16.20.1 or 16.20.2, it may at its discretion (without prejudice to its other powers under these derivatives rules) require that no further advertising material or other promotional or marketing material shall be published by or on behalf of such member unless it has been submitted to the JSE in advance and the JSE has notified the member that the material is suitable for publication.

### 16.30 Contraventions to be reported

Every member shall report to the JSE any contravention of the Act, the derivatives rules and directives that comes to its attention.

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16.20.2.2.3 amended with effect from 1 August 2005.

16.20.2.3 amended with effect from 1 August 2005.

16.20.2 re-numbered 16.20.3 and amended with effect from 5 January 2005.

16.30 amended with effect from 1 August 2005.

<b>SECTION</b> <b>17</b>
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## SECTION 17: COMPLAINTS AND DISPUTES

### Scope of section

#### ***Complaints***

- 17.10 Client complaints
- 17.20 Internal complaint handling procedures
- 17.30 Timely response to complaints
- 17.40 Redress
- 17.50 Recording of complaints
- 17.60 Unresolved client complaints

#### ***Disputes***

- 17.70 Applicability of dispute resolution rules
- 17.80 Reporting of a dispute
- 17.90 Declaration of a dispute
- 17.100 Consideration by an ombud
  - 17.110 Costs
  - 17.120 Limitation of liability
  - 17.130 Member complaints against the JSE

## **Complaints**

### **17.10 Client complaints**

- 17.10.1 For the purposes of Section 17 of the rules, a client complaint is defined as any complaint in relation to the provision of regulated services, in which the client alleges that he has suffered, or is likely to suffer, financial prejudice as a result of the member –
- 17.10.1.1 contravening or failing to comply with any instruction given by the client, or any agreement or mandate entered into with the client;
  - 17.10.1.2 contravening or failing to comply with the rules and the directives;
  - 17.10.1.3 acting dishonestly, negligently or recklessly; or
  - 17.10.1.4 treating the client unreasonably or unfairly.
- 17.10.2 Every member must establish and maintain appropriate procedures for the handling of client complaints.

### **17.20 Internal complaint handling procedures**

- 17.20.1 A member's internal complaint handling procedures must provide for –
- 17.20.1.1 the receipt of oral or written complaints;
  - 17.20.1.2 the appropriate investigation of complaints;
  - 17.20.1.3 an appropriate decision-making process in relation to the response to a client complaint;
  - 17.20.1.4 notification of the decision to the client; and
  - 17.20.1.5 the recording of complaints.
- 17.20.2 A member's internal complaint handling procedures must be designed to ensure that –
- 17.20.2.1 all complaints are handled fairly, effectively and promptly;
  - 17.20.2.2 recurring or systemic problems are identified, investigated and remedied;
  - 17.20.2.3 the number of unresolved complaints to be referred to the JSE in terms of the rule 17.60 are minimised;
  - 17.20.2.4 complaints are investigated by an employee of sufficient competence who, where appropriate, was not directly involved in the matter which is the subject of a complaint;
  - 17.20.2.5 the employee responsible for the resolution of complaints has the necessary authority to resolve complaints or has ready access to an employee who has the necessary authority; and
  - 17.20.2.6 relevant employees are aware of the member's internal complaint handling procedures and comply with them.

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Section 17 deleted in entirety and replaced with effect from 1 August 2005  
 New 17.10.1 introduced with effect from 25 June 2007  
 17.10.1 renumbered 17.10.1.1 with effect from 25 June 2007  
 17.10.2 renumbered 17.10.1.2 with effect from 25 June 2007  
 17.10.3 renumbered 17.10.1.3 with effect from 25 June 2007  
 17.10.4 amended and renumbered 17.10.1.4 with effect from 25 June 2007  
 New 17.10.2 introduced with effect from 25 June 2007

**17.30 Timeous response to complaints**

A member must respond to a client complaint within 4 weeks of receiving the complaint in terms of rule 5.20.1.1 or, within such period, provide the complainant with an appropriate explanation as to why the member is not, at that time, in a position to respond and must indicate by when the member will respond.

**17.40 Redress**

- 17.40.1 Where a member decides that redress in the form of compensation is appropriate in resolving a complaint, the member must provide the complainant with fair compensation and must comply with any offer of compensation made by it which the complainant accepts.
- 17.40.2 Where a member decides that redress in a form other than compensation is appropriate in resolving a complaint, the member must provide the redress as soon as practicable.

**17.50 Recording of complaints**

- 17.50.1 A member must maintain a record of all client complaints. The record of each complaint must include –
  - 17.50.1.1 the identity of the complainant;
  - 17.50.1.2 the substance of the complaint; and
  - 17.50.1.3 all correspondence in relation to the complaint.
- 17.50.2 The records referred to in rule 17.50.1 must be retained by the member for a period of 5 years from the date of the receipt of the complaint.

**17.60 Unresolved client complaints**

- 17.60.1 A client complaint will be deemed to be unresolved if the complainant is not satisfied with the resolution of the complaint proposed by the member.
- 17.60.2 A complainant may lodge an unresolved complaint, in writing, with the Director: Market Regulation giving full particulars of the matter concerned.
- 17.60.3 In order for an unresolved complaint to be considered by the JSE Market Regulation Division the complaint must be lodged with the Director: Market Regulation within 4 weeks of the receipt by the complainant of the member's response referred to in rule 17.30 and within 6 months of the conduct by the member giving rise to the complaint.
- 17.60.4 An unresolved complaint which is lodged subsequent to the period referred to in rule 17.60.3 will be considered, provided that failure to lodge the complaint within the relevant period was through no fault of the client.
- 17.60.5 The JSE Market Regulation Division may request the member and the complainant to provide copies of all relevant correspondence and documentation that is required to review the complaint.
- 17.60.6 The JSE Market Regulation Division will endeavour to facilitate a resolution of the complaint between the member and the complainant.
- 17.60.7 If the JSE Market Regulation Division is unable to facilitate a resolution of the complaint within 4 weeks of lodgement of the complaint with it, the Director: Market Regulation will refer the unresolved complaint to the Company Secretary of the JSE to be dealt with in terms of the dispute resolution rules.

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17.30 amended with effect from 25 June 2007  
 17.60.3 amended with effect from 25 June 2007

**Disputes****17.70 Applicability of dispute resolution rules**

- 17.70.1 Rules 17.70 to 17.120 ("the dispute resolution rules") are intended to facilitate the equitable and expeditious settlement of disputes that –
- 17.70.1.1 a client has with a member, in respect of an unresolved complaint;
  - 17.70.1.2 a member has with another member, in respect of transactions in derivative securities; or
  - 17.70.1.3 a member has with a client, in respect of transactions in derivative securities.
- 17.70.2 The dispute resolution rules only apply –
- 17.70.2.1 where the amount in dispute is in excess of R2 000;
  - 17.70.2.2 where the dispute is not the subject of existing litigation;
  - 17.70.2.3 in the case of a dispute that a client has with a member, where the amount in dispute either does not exceed R500 000 or, where the amount in dispute exceeds R500 000, if the consent of both parties to proceed has been obtained;
  - 17.70.2.4 in the case of a dispute that a member has with another member, if the members are able to evidence to the satisfaction of the Director: Market Regulation that reasonable endeavours have been made by the said members to resolve the dispute, and if the consent of both parties to proceed has been obtained;
  - 17.70.2.5 in the case of a dispute that a member has with a client, if the consent of the client to proceed has been obtained.

**17.80 Reporting of a dispute**

- 17.80.1 An unresolved client complaint that the JSE Market Regulation Division is not able to resolve in terms of rule 17.60 will be reported as a dispute by the Director: Market Regulation to the Company Secretary of the JSE if the client elects to pursue the dispute resolution process.
- 17.80.2 A dispute between two members in respect of transactions in derivative securities must be reported in writing, by either member, to the Company Secretary of the JSE, within 1 week of the circumstance giving rise to the dispute having arisen.
- 17.80.3 A dispute that a member has with a client in respect of transactions in derivative securities must be reported in writing, by the member, to the Company Secretary of the JSE, within 6 months of the circumstance giving rise to the dispute having arisen.
- 17.80.4 The Company Secretary of the JSE may, at any time, request any of the parties to a dispute to furnish him with such further information relating to the dispute as may be required.

**17.90 Declaration of a dispute**

A dispute reported in terms of rule 17.80 will, subject to the criteria set out in rule 17.70.2 having been met, be declared a dispute by the Company Secretary and will be referred by the Company Secretary to a duly appointed ombud for consideration.

**17.100 Consideration by an ombud**

- 17.100.1 The JSE will appoint an ombud to consider a dispute, who is a retired judge of the High Court of South Africa or a Senior Counsel.
- 17.100.2 Within 3 weeks of the dispute having been referred to the ombud for consideration, the claimant must set out the subject matter of the claim in a written statement, including all the material facts, and furnish this statement, along with all relevant documentation upon which the claim is based, to the ombud.



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- 17.100.3 The ombud may require the claimant to expand upon his statement of claim or provide further evidence or particulars as he deems necessary within such reasonable time as is specified by the ombud.
  - 17.100.4 The other party to the dispute, hereafter referred to as the defendant, must be provided with a copy of the written statement of claim by the ombud. The defendant must furnish the ombud with its written response to the statement of claim within 3 weeks of having received such. In addition to the defendant's written response, the defendant must attach thereto all other evidence relating to the dispute.
  - 17.100.5 The ombud may require the defendant to expand upon its response or provide further evidence or particulars as he deems necessary within such reasonable time as specified by the ombud and may require the claimant to provide a written reply to the defendant's response within such reasonable time as he may specify.
  - 17.100.6 The ombud may at his discretion decide that a number of disputes based on similar occurrences or similar facts be consolidated and treated as a single dispute.
  - 17.100.7 After ascertaining the parties availability, the ombud will, subject to rule 17.100.8, furnish the parties with written notification of the date on which the dispute will be heard.
  - 17.100.8 The ombud may make a decision regarding any issues relating to the dispute or consider the dispute on the basis of the documents submitted in terms of rules 17.100.2 to 17.100.5 without the necessity of a hearing.
  - 17.100.9 The dispute resolution proceedings will be conducted without legal representation of any of the parties, unless the ombud in his sole discretion decides otherwise.
  - 17.100.10 The ombud, in reaching a decision, may consult with any third party regarding any issue relating to the dispute. The ombud has the discretion to call upon any third party to participate in the dispute resolution proceedings.
  - 17.100.11 The ombud will, after having considered the information as presented to him by the parties and such other information as he may request, make his decision within 3 weeks of having considered the dispute. The ombud must, at the request of any party to the dispute, provide written reasons for his decision.
  - 17.100.12 The ombud's decision will be furnished to the parties in writing.
  - 17.100.13 The ombud is not obliged to provide a ruling on a dispute if he is of the view that the dispute is of such a complex nature that it cannot be resolved expeditiously by means of the dispute resolution process and can only be properly considered by a court of law.
  - 17.100.14 Any decision made in terms of rule 17.100.12 must be complied with by the party against whom the decision is made within seven days of the decision having been made by the ombud.
  - 17.100.15 Unless the JSE, the ombud and the parties to the dispute agree otherwise, the identity of the parties, the nature of the evidence and the details of the ombud's deliberations and finding, and all other information pertaining to the proceedings will be kept confidential by all parties thereto, unless disclosure by the JSE is required by law.

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17.100.4 amended with effect from 25 June 2007

17.100.7 amended with effect from 25 June 2007

New 17.100.8 introduced with effect from 25 June 2007

17.100.8 renumbered 17.100.9 with effect from 25 June 2007

17.100.9 renumbered 17.100.10 with effect from 25 June 2007

17.100.10 amended and renumbered 17.100.11 with effect from 25 June 2007

17.100.11 amended and renumbered 17.100.12 with effect from 25 June 2007

17.100.12 renumbered 17.100.13 with effect from 25 June 2007

17.100.13 amended and renumbered 17.100.14 with effect from 25 June 2007

17.100.14 renumbered 17.100.15 with effect from 25 June 2007

**17.110 Costs of the proceedings**

- 17.110.1 The parties to any dispute resolution proceeding in terms of rule 17.100 may be required to pay to the JSE, before the proceedings commence, such amount as the JSE may determine as a deposit to cover a portion of the costs of the proceedings.
- 17.110.2 The ombud may, as part of his award and as he deems appropriate in the circumstances, make an order on costs which may include an order against the unsuccessful party for payment of all the costs of the proceedings.

**17.120 Limitation of Liability**

No officer, employee or representative of the JSE or any member of the controlling body, or the ombud appointed in terms of these rules shall be liable for any loss sustained by, or damage caused to any person as a result of anything done or omitted by them in the *bona fide* or negligent performance of any function under or in terms of this rule 17.

**17.130 Member complaints against the JSE**

- 17.130.1 Subject to rule 17.130.2, if a member wishes to lodge a complaint against the JSE in respect of the exercise by the JSE of any exchange functions in terms of section 10 of the Act and the member requires a written response to their complaint, the member should lodge the complaint in writing with the JSE Company Secretary.
- 17.130.2 If a member wishes to lodge a complaint against the JSE in respect of conduct by the JSE which, in the opinion of the member, evidences a failure by the JSE to avoid or otherwise appropriately manage a potential conflict between the JSE's regulatory functions and its commercial functions, the member should lodge the complaint in writing with the JSE Company Secretary for the attention of the Chairman of the SRO Oversight Committee.
- 17.130.3 The JSE or the Chairman of the SRO Oversight Committee will respond to a complaint received in terms of rule 17.130.1 or 17.130.2 respectively within 4 weeks of receiving the complaint or, within such period, will provide the complainant with an appropriate explanation as to why they are not, at that time, in a position to respond and will indicate by when they will respond.

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Old 17.110.1 deleted with effect from 25 June 2007

17.110.2 amended and renumbered 17.110.1 with effect from 25 June 2007

17.110.3 deleted with effect from 25 June 2007

17.110.4 renumbered 17.110.2 with effect from 25 June 2007