

MARKET NOTICE

Number: 378/2023
Relates to: Equity Market
 Equity Derivatives Market
 Commodity Derivatives Market
 Currency Derivatives Market
 Interest Rate Derivatives Market
 Bond Market
 Bond ETP Market

Date: 27 October 2023

SUBJECT: **PROPOSED CHANGES TO THE REQUIREMENTS SURROUNDING VALID AND ACCEPTABLE DELIVERY**

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Designation: Head: Commodities

Dear Client

The provisions of the Detailed Agricultural Contract Specifications for listed commodities futures contracts define valid and acceptable delivery in fulfilment of a short position holder's obligations as follows:

I. Valid delivery against an open futures position
Valid and acceptable delivery against an open futures position will only be accomplished if the delivery of the JSE silo receipt enables the long position holder to take possession of the underlying commodity as detailed on the receipt. Valid and acceptable delivery will not be accomplished if a short position holder delivers a JSE silo receipt against an open futures position and the long position holder cannot take possession of the underlying commodity due to the default of the storage operator, unless the short position holder can prove that, at the time of the delivery of the receipt, the long position holder could have obtained possession of the underlying commodity from the storage operator.

The JSE has received submissions from various market participants expressing their concern about the time frames within which short position holders must be able to (and continue) to demonstrate that they made valid and acceptable delivery of the commodities covered by JSE silo receipts. In certain instances, the long position holders may not outload the commodities immediately but will continue to store it at the storage operator for weeks, months and sometimes years after the short position holder has delivered the commodities in fulfilment of its obligations as set out in the contract specifications. In addition, there is a view that it is extremely difficult if not impossible to prove that good delivery is made if, for example, the long position holder or another purchaser attempts to outload the commodity some seven months after it has sold the commodities in question.

Market participants have requested that the JSE consider a finite timeframe within which a long position holder or buyer may dispute whether valid and acceptable delivery was made. If no dispute is declared within this timeframe, it would then be presumed or assumed that the short position holder or the seller made good and acceptable delivery and that the risk of profit and loss of the commodities in question was transferred to the long position holder or buyer.

From a practical perspective and after the expiry of the agreed-upon timeframe, the long position holder or buyer will then have to exercise its rights against the Storage Operator should the Storage Operator fail to comply with any of its obligations.

The JSE is considering this proposal and requests all market participants to provide the JSE with their thoughts and views on the proposed amendment to the JSE's Contract Specifications. It is imperative to note that the proposed changes do not remove the Storage Operator's responsibility to ensure the quality and quantity of product on the face of the receipt.

If the JSE decides to include this principle in its Contract Specifications (for example, a three-month period) the proposed amended contract specifications will include an additional paragraph to section 3.1.1 and will read as follows:

Once the long position holder has received physical delivery via the JSE, the long position holder will have a period of three (3) months to be able to access the delivery from the storage operator or institute any other actions to satisfy them that valid and good delivery was made by the short position holder. Following this three-month period, the short position holder will no longer be liable to prove that valid and acceptable delivery was made, and the long position holder will then be responsible to institute any actions against a storage operator for their failure to honour a JSE silo receipt.

This three-month period does not exonerate a short position holder should fraudulent activities be involved in terms of making physical delivery onto the JSE.

The above wording will also be included on the face of the JSE silo receipt to ensure that all transactions in commodities covered by JSE silo receipts are subject to the same terms, conditions, and requirements.

Please give us your thoughts, submissions and representations on issues raised above by 17 November 2023.

Should you have any queries regarding this Market Notice, please e-mail: commodities@jse.co.za

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