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**MARKET NOTICE**Johannesburg  
Stock ExchangeTel: +27 11 520 7000  
[www.jse.co.za](http://www.jse.co.za)**Number:** 381A/2022

Relates to:

- Equity Market
- Equity Derivatives Market
- Commodity Derivatives Market
- Currency Derivatives Market
- Interest Rate Derivatives Market
- Bond Market
- Bond ETP Market

**Date:** 8 August 2022**SUBJECT:** **ADDITIONAL PROPOSED AMENDMENTS TO THE JSE DERIVATIVES RULES – PROVIDING FOR THE PLEDGING OF SECURITIES AS COLLATERAL AND A CHANGE TO THE DEADLINE FOR PAYMENTS TO JSE CLEAR****Name and Surname:** Shaun Davies**Designation:** Director – Market Regulation

Dear Member,

Members are advised that the proposed amendments to the JSE Derivatives Rules, attached as Annexure A, were adopted by the JSE Rules Committee on 8 August 2022.

JSE Clear is currently licensed and operates as an Associated Clearing House as defined in the Financial Markets Act (FMA), and is the JSE's appointed Clearing House and Central Counterparty (CCP) for all listed derivative transactions concluded on the JSE's markets.

In June 2021, JSE Clear submitted applications to the Financial Sector Conduct Authority (FSCA) for an Independent Clearing House (ICH) licence and a Central Counterparty (CCP) licence to provide clearing and risk management services for listed equity, commodity, currency and interest rate derivative products. These applications, which include a new JSE Clear rule book, are currently being reviewed and considered by FSCA (in conjunction with the Prudential Authority (PA)). It is anticipated that these applications will be approved by the authorities before the end of this year.

On 12 November 2021, the JSE published a Market Notice to members (attached as Annexure B) in respect of proposed amendments to the JSE Derivatives Rules which had been adopted by the JSE Rules Committee on 11 November 2021. The main objective of those proposed changes was to effectively remove the provisions in the rules that deal with the clearing and risk management responsibilities and activities that JSE Clear currently assumes and conducts as an associated clearing house. Subject to various amendments, these rules will be contained in the JSE Clear rules which are currently being considered for regulatory approval as mentioned above.

In terms of the formal market consultation process conducted in November 2021, the JSE received no objections to the proposed amendments to the JSE Derivative rules relating to the transition of JSE Clear to a licensed Independent Clearing House and Central Counterparty. The proposed amendments referred to in Annexure B have not yet been approved by the FSCA, as the FSCA intends to approve them at the same time that the authorities approve the JSE Clear licence applications and the JSE Clear rules.

The coming into operation of relevant sections of the Financial Sector Laws Amendment Act in April 2022, and consequential amendments to the Insolvency Act, have enabled the JSE to propose further important changes to the JSE Derivative rules in relation to the pledging of securities as collateral.

In addition, JSE Clear has agreed with clearing members that the deadline by which amounts due to JSE Clear by a clearing member should be revised from 12h00 to 10h00 on the business day following the day on which the payment accrued. This revision to the payment deadline seeks to better align the deadline in the rules with the current settlement practices following enhancements to the automation of settlements between JSE Clear and the clearing members in 2021. It also seeks to reduce the risk to JSE Clear of a delay between the mark-to-market process for cleared derivative positions at the end of the previous business day and the receipt of the resultant margin payments.

These further proposed changes to the JSE Derivative rules are the equivalent of similar changes that JSE Clear is proposing to make to the JSE Clear rules. We anticipate that the FSCA will consider these further proposed changes to both the JSE and JSE Clear rules shortly after they have approved the JSE Clear licence applications and the founding JSE Clear rules. Subject to approval by the FSCA, these further proposed changes to the JSE and JSE Clear rules will come into effect simultaneously.

It is important for members to note that the proposed rule changes contained in Annexure A to this Market Notice contain both some of the changes which were circulated to members in November 2021 (in respect of which no objections were received but which have not yet been approved by the FSCA) as well as the further proposed changes which are the focus of this Market Notice, and which comprise changes to -

- a) the definition of initial margin in Section 2 of the JSE Derivative rules;
- b) JSE Derivative rule 8.60.1 for the lodging of securities as initial margin;
- c) JSE Derivative rules 8.90.2, 8.90.6 and 8.90.9 for the change to the deadline for payments to JSE Clear; and
- d) new JSE Derivative rules 12.40.1, 12.40.2 and 12.40.3 which provide for the sale of pledged securities by JSE Clear, where such securities have been pledged by clearing members, trading members and clients to JSE Clear in terms of the JSE Clear rules.

**For the purpose of this Market Notice consultation process, members are therefore requested to focus only on the proposed changes to the definition and rules mentioned above and highlighted in yellow in Annexure A, as the JSE has already consulted with members on the other amendments in Annexure A.**

In terms of the proposed change to rule 8.60.1 on margin payments, the rule has been expanded to provide for the pledging of securities to JSE Clear as initial margin, in accordance with section 39 of the Act, subject to the rules, policies and procedures of JSE Clear.

In addition, the proposed new provisions state that pledged securities may be substituted by the pledge of other qualifying securities in accordance with the rules, policies and procedures of JSE Clear, and that JSE Clear may at any time and forthwith call for payment of cash from market participants that have pledged securities and/or have

withdrawn and/or substituted securities pledged in terms of the JSE Clear Rules, to ensure that they comply with their initial margin obligations.

The proposed amendments to rules 8.90.2, 8.90.6 and 8.90.9 require clients and trading members to pay amounts due to their trading members and clearing members respectively by such time as may be agreed between the relevant parties, provided the payment is made at a time that ultimately enables the clearing member to pay JSE Clear by 10h00.

The proposed new rules 12.40.1, 12.40.2 and 12.40.3 for the pledging of securities to JSE Clear state that securities which have been pledged by defaulting clearing members, trading members and clients, in terms of the JSE Clear rules, may be sold by JSE Clear within 3 business days of the date of default, without the intervention of the courts, and that such clearing members, trading members and clients provide JSE Clear with express consent to instruct their CSDPs to move the pledged securities to JSE Clear's account so that these can be sold as contemplated in the proposed rules 12.40.1 and 12.40.2.

Unless written objections are lodged within 10 days of this notice, in terms of rule 1.80.3, the proposed amendments will be submitted to the Registrar for his approval.

Should you have any queries please regarding this Market Notice please e-mail [ShuaybM@jse.co.za](mailto:ShuaybM@jse.co.za)

This Market Notice will be available on the website at <https://www.jse.co.za/redirects/market-notice-and-circulars>