
MARKET NOTICEJohannesburg
Stock ExchangeTel: +27 11 520 7000
www.jse.co.za**Number:** 473A/2022

Relates to:

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

Date: 22 September 2022**SUBJECT:** PROPOSED AMENDMENTS TO THE JSE DERIVATIVES RULES - DISCIPLINARY MATTERS - PENALTIES**Name and Surname:** Shaun Davies**Designation:** Director – Market Regulation

Dear Member,

Members are advised that the proposed amendment to the JSE derivatives rules, attached as Annexure A, were adopted by the JSE Rules Committee on 22 September 2022.

The purpose of this proposed amendment to the JSE derivatives rules is to correct a mismatch whereby the JSE incurs external costs beyond the costs associated with its internal regulatory functions in bringing enforcement action against a regulated party (such as external legal fees), but no portion of the penalty that results from the JSE's enforcement action can be used by the JSE to recover those external costs, because any fine that is imposed is currently paid to the Fidelity Fund to be used exclusively for broader investor protection purposes.

In its current form, JSE derivatives rule 3.300.5 states, "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."

The proposed amendment seeks to enable the JSE to appropriate fines paid pursuant to the JSE derivatives rules, to first be applied to cover any external costs incurred by the JSE in bringing an enforcement action against a regulated person, to the extent that those external costs have not been recovered through a cost order against the regulated person, and the balance of the fine will be paid to the Fidelity Fund, as is currently the case.

It should be noted that the JSE stands to obtain no commercial benefit from bringing an enforcement action against a regulated person and recovering any external costs associated with such action. Investigating potential misconduct and



participating in a disciplinary process is part of the JSE staff's normal regulatory functions, the cost of which is borne by the JSE. Fines will not be appropriated to cover the cost of the JSE's planned, internal regulatory functions because to do so could amount to a perceived conflict of interests. But external enforcement costs are not planned for and do not fall within the JSE's internal, budgeted regulatory activities. It seems appropriate that these unbudgeted external costs should be recovered by the JSE from the party against whom a successful enforcement action has been brought. In many cases there is no cost order against a person found guilty of misconduct, and it is in these instances that the JSE would seek to recover any external costs incurred by the JSE from the fine imposed on the person.

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

Should you have any queries regarding this Market Notice, please contact Shuayb Mohamed on (011) 520 7824 or at ShuaybM@jse.co.za

This Market Notice is available on the website at <https://clientportal.jse.co.za/communication/jse-market-notices>