

## PROPOSED AMENDMENTS TO THE JSE DERIVATIVES RULES

### General explanatory notes:

1. Words underlined with a solid line (\_\_\_\_) indicate the insertions in the existing rules
2. Words in bold and in square brackets ([ ]) indicate deletions from the existing rules

### Proposed amendments to the JSE Derivatives rules

#### 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.

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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.

- 3.300.3 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;
  - 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 whole or any part of any fine paid to the JSE pursuant to the rules shall first be applied to cover any external costs incurred by the JSE in enforcing the provisions of the rules that have not been recovered through a cost order that has been granted by the Disciplinary Committee. The balance [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.