

PROPOSED AMENDMENTS TO THE JSE DERIVATIVES RULES AND DIRECTIVES

General explanatory notes:

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

Proposed amendments to the JSE Derivatives Rules

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 -

["emigrant"	means a natural person who has emigrated from the common monetary area;]
["emigrant client"	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;]
["emigrant's blocked account"	means the account of an emigrant from the common monetary area to which exchange control restrictions have been applied;]
["emigrant's blocked account clearance certificate"	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;]
"margin category"	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;
"non-resident account clearance certificate"	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;

["SWIFT emigrant's blocked account notification"

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;]

7.60 Trading for or on behalf of clients

- 7.60.1 ...
- 7.60.2 Client registration
 - 7.60.2.1 ...
 - 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[,] or non-resident [or emigrant] client;
 - 7.60.2.2.2 ...
 - 7.60.2.2.3 ...
 - 7.60.2.2.4 ...
 - 7.60.2.2.5 ...
 - 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;]**
 - 7.60.2.2.7**[9]** the margin category in respect of a non-resident client **[or emigrant client]**;
 - 7.60.2.2.8**[10]** ...
 - 7.60.2.2.9**[11]** ...
 - 7.60.2.2.10**[12]** ...

SECTION 9: NON-RESIDENT [AND EMIGRANT] CLIENTS

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**

9.30.1 amended with effect from 31 October 2002.

9.30.2 amended with effect from 31 October 2002.

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 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.]

Proposed amendments to the JSE Derivatives Directives

TRANSACTIONS IN INTERNATIONAL DERIVATIVES AND FOREIGN COMMODITY DERIVATIVES – EXCHANGE CONTROL

1. This directive sets out the compliance obligations applicable to members in relation to trading, hedging and holding positions in international derivatives and foreign commodity derivatives, as specified in terms of Exchange Control Circular 7/2008 of 20 February 2008.
- 2. A trading member may not trade in international derivatives or foreign commodity derivatives for a non-resident blocked rand account (emigrant client). In the event that the JSE identifies a transaction for or on behalf of an emigrant client, the JSE will instruct the member to transfer the transaction from the client's account to the member's misdeals account and the member will assume responsibility for the transaction.]**
- 2**3**. Subject to 3**4** below, a trading member may not hedge -
 - 2**3**.1 international derivatives by transacting in the underlying security listed on an external exchange; or
 - 2**3**.2 foreign commodity derivatives by transacting in the underlying foreign referenced commodity.
- 3**4**. A trading member who is an Authorised Dealer and has been granted specific approval by the Exchange Control Department of the South African Reserve Bank to act as a liquidity provider in a market making capacity in the trading of international derivatives or foreign commodity derivatives may hedge international derivative or foreign commodity derivative positions with the underlying security listed on an external exchange or the underlying foreign referenced commodity, respectively.