
MARKET NOTICEJohannesburg
Stock ExchangeTel: +27 11 520 7000
www.jse.co.za**Number:** 530A/2021

Relates to:

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

Date: 12 November 2021**SUBJECT:** **PROPOSED AMENDMENTS TO THE JSE DERIVATIVES RULES AND DIRECTIVES – RECOGNITION OF JSE CLEAR’S APPLICATION TO BECOME A LICENSED INDEPENDENT CLEARING HOUSE AND A LICENSED CENTRAL COUNTERPARTY****Name and Surname:** Shaun Davies**Designation:** Director – Market Regulation

Dear Client,

Members are advised that the proposed amendments to the JSE Derivatives Rules and Directives, attached as Appendices A and B, respectively, were adopted by the JSE Rules Committee on 11 November 2021.

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 are currently being reviewed and considered by FSCA (in conjunction with the Prudential Authority (PA)).

As part of the above application, JSE Clear has submitted a new JSE Clear rule book to the FSCA for their consideration. Upon approval of its licence application, JSE Clear will operate under its own rule book and will regulate its own clearing members.

The main objective of the proposed changes referred to in this market notice is to effectively remove those provisions in the JSE Derivative 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.

It is important to note that the proposed new JSE Clear rules that are currently being considered by the FSCA and the PA are materially the same as those dealing with the clearing activities in the current JSE Derivatives rules which are being removed through the changes proposed in this market notice. There should therefore be minimal disruption to market participants with the transitioning of JSE Clear from an associated Clearing House (currently regulated through the JSE Derivative Rules) to an Independent Clearing House (regulated through the JSE Clear rules).

It is the JSE's intention to liaise with the FSCA to co-ordinate the approval and promulgation of these amendments to the Derivative rules to ensure that this process coincides with the anticipated approval by the FSCA and the PA of JSE Clear as an Independent Clearing House and Central Counterparty (with its own rule book).

The proposed changes to the JSE Derivatives rules to remove those sections dealing with the licensed clearing and risk management activities of JSE Clear as an Associated Clearing House include: -

1. changes to recognize JSE Clear as independent clearing house with its own rule book by removing those sections from the rules which impose obligations and responsibilities on JSE Clear, as these rules now become redundant in the JSE's rule book (refer to rule sections 1.90, 2.10, 3.275.1.1, 8.30 to 8.100 & 10.10);
2. the removal of a clearing member as a category of authorised user of the JSE, as well as from the rules which deal with authorised user capital adequacy (refer to rule sections 3.10.3.2, 3.40.4.5, 4.10, 4.20.7, 4.20.8 & 5.10.1.3);
3. the removal of rules pertaining to the default of clearing members, as well as the use and application of the JSE liquidity facility (refer to rule sections 12.40 & 12.50); and
4. changes to the JSE Fidelity Fund rules to give effect to an independent JSE Clear and to limit claims against the fund to clients who may recover from the Fidelity Fund the amount of initial margin, settlement margin, variation margin or top-up margin already paid by the client to a trading member in terms of the derivatives rules (refer to section 8 of the Fidelity Fund rules).

It should be noted that even though the clearing and/or settlement obligations of clients, trading members, clearing members and JSE Clear are covered in the JSE Clear rules, many of those obligations have been retained and repeated in the amended JSE rules (with reference to the JSE Clear rules where appropriate) and have therefore not been deleted from the JSE rules. This is for two reasons. Firstly, although the JSE Clear rules are binding on trading members and their clients (and not only on clearing members), JSE Clear will not regulate trading members and the relationship between trading members and their clients. Therefore, as the regulator of trading members, it is appropriate that the JSE retains regulatory authority in relation to the clearing and settlement obligations of its trading members and their clients, to assist in enforcing the relevant provisions. And, secondly, the JSE rules will serve as a single view for trading members and their clients of the full scope of the clearing and settlement processes that are relevant to them, given that trading members and their clients are likely to continue to use the JSE rules as their reference rather than the JSE Clear rules. It is, however, important to note that there are many rules in the JSE Clear rule book that are applicable to,

and binding on, trading members and their clients, and the clearing and settlement provisions in the JSE rules should therefore not be viewed as the only rules that are applicable to trading members and their clients.

In addition to the changes above pertaining to clearing members and the role of JSE Clear, we have also made cosmetic changes (a) to the naming convention when referring to JSE member firms, to better align these across all of the JSE's markets / rule books (i.e. JSE member firms now consistently referred to as trading members) and (b) to remove gender references such as "he" or "his" when referring to authorised users and juristic persons in the rules.

In drafting the JSE Clear rules, it was recognized that the wording of certain provisions in the JSE rules that needed to be incorporated in the JSE Clear rules could be improved to add clarity. Consequently, the wording of the equivalent provisions in the JSE Derivatives rules has also been amended in order to achieve the same clarity in the JSE rules, and to ensure that there is alignment, where appropriate, between the JSE and JSE Clear rulebooks. Examples of such clarifying amendments appear in Sections 11 and 12 of the Derivatives rules.

Please find attached as appendices A, B and C, the draft Derivative Rules, Directives and the draft JSE Fidelity Fund Rules respectively.

For completeness, and to assist members with their review of the proposed amendments to the Derivatives rules and directives covered by this market notice, we have also attached, as appendix D, the draft JSE Clear rules submitted as part of JSE Clear's licence application.

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

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