
BOARD NOTICE

BOARD NOTICE 124 OF 2001**FINANCIAL MARKETS CONTROL ACT, 1989****RULES OF THE JSE SECURITIES EXCHANGE SOUTH AFRICA**

In terms of section 17(3) of the Financial Markets Control Act, 1989 (Act No. 55 of 1989), the rules of the JSE Securities Exchanges South Africa are hereby published in the Schedule.

J VAN ROOYEN

Registrar of Financial Markets

SCHEDULE**Contents****SECTION 1: DERIVATIVES RULES**

1.10 Name.....	8
1.20 Corporate Body.....	8
1.30 Constitution of the JSE.....	8
1.40 Powers exercisable by the Board.....	8
1.41 Advisory Committees.....	9
1.50 Rules and Directives.....	9
1.60 Transactions subject to provisions of the Act, derivatives rules, etc.....	9
1.70 Interpretation of the Derivatives rules.....	9
1.80 Proposals for alterations and additions to derivatives rules.....	10
1.90 JSE and members not responsible for any losses.....	10
1.100 Board Members and others indemnified.....	10
1.110 Appointment of a clearing house.....	11

1.120 Transitional provisions.....	11
SECTION 2: INTERPRETATION AND DEFINITIONS	
2.10 Definitions.....	13
2.20 Interpretation	25
SECTION 3: GENERAL MEMBERSHIP AND DISCIPLINARY PROCEDURES	
3.10 General Membership of the JSE	27
3.20 General requirements.....	27
3.30 Membership transitional provisions	28
3.40 Applications for membership.....	28
3.50 Voluntary changes to, or termination of, membership.....	29
3.60 Involuntary termination of membership	30
3.70 Duty to furnish information.....	31
3.80 Fees, levies and charges.....	32
3.90 [Reserved]	32
3.100 - 3.110 [Reserved]	32
3.120 Consent required for employment of certain persons.....	32
3.130 Trading name	33
3.140 Notices.....	33
3.150 - 3.270 [Reserved].....	33
3.275 Surveillance and Investigation by the JSE Surveillance Department.....	33
3.280 Use of information obtained by the JSE's Surveillance Department.....	34
3.285 Improper Conduct.....	34
3.290 Disciplinary Procedures.....	35
3.295 Procedure and Evidence – disciplinary matters	37
3.300 Disciplinary matters – Penalties	38
3.305 Urgent Issues	39
3.310 Disciplinary matters – Transactions Open.....	40
3.325 Default, suspension or termination of membership - Control of assets and accounting records	40
3.330 - 340 [Reserved]	41
3.350 JSE's powers of publication.....	41
SECTION 4: DERIVATIVES MEMBERSHIP	
4.10 Classes and categories of derivatives membership.....	43
4.20 Capital adequacy requirements.....	43
SECTION 5: REGISTERED OFFICERS	
5.10 Derivatives members' obligation to ensure registration of officers.....	48
5.20 Registered dealers to trade for a derivatives member.....	49
5.30 Dealers to trade only with other registered dealers.....	49
5.40 Natural persons functioning as registered officers	49
5.50 Registration of officers by the JSE	49
5.60 Termination of the registration of an officer.....	50
5.70 Registration and termination effective	50
5.80 Derivatives member remains responsible	50
5.90 Giving of advice by employees.....	50
SECTION 6 [RESERVED]	
SECTION 7: TRADING	
7.10 Financial market.....	53
7.20 Offers and acceptances.....	53
7.30 Order priority	55
7.40 Trading capacity	56
7.50 Affiliated officers and derivatives members trading as clients.....	57

7.60 Trading for or on behalf of clients.....	57
7.70 Automated trading system.....	59
7.80 Derivatives members obligations in relation to the ATS.....	59
7.90 Trading times.....	59
7.100 Cross trades.....	59
7.110 Pre-arranged trades.....	60
7.120 Solicitation of offers.....	60
7.130 Delta trades.....	60
7.140 Aggregation and division of trades.....	60
7.150 Trade allocation.....	60
7.160 Trading restriction.....	61
7.170 Rules of trading that are particular to the physical delivery of agricultural commodity contracts.....	61
SECTION 8: POSITIONS.....	62
8.10 Reporting.....	63
8.20 Matching.....	63
8.30 Clearing.....	63
8.40 Opening and closing-out a position.....	64
8.50 Mark-to-market.....	65
8.60 Margin payments.....	65
8.70 Interest payments.....	66
8.80 Trading fees.....	66
8.90 Settlement procedures.....	67
8.100 Exercise and assignment of option contracts.....	69
SECTION 9: NON-RESIDENT AND EMIGRANT CLIENTS.....	70
9.10 Bank accounts.....	71
9.20 Initial margin.....	71
9.30 Settlements.....	71
9.40 Fees.....	72
9.50 Trading restriction.....	73
SECTION 10: TRADING AND POSITIONS - SUNDRY PROVISIONS.....	74
10.10 Trading and position limits.....	75
10.20 Trading and position records.....	75
10.30 Emergency provisions.....	76
SECTION 11: MANAGEMENT OF DERIVATIVES MEMBERS' AND CLIENTS' FUNDS.....	77
11.10 Management of funds by the clearing house.....	78
11.20 Separation of funds.....	78
11.30 Clearing member (derivatives) bank accounts.....	78
11.40 Derivatives Members' bank accounts.....	78
11.50 Relaxation or indulgence given by derivatives members.....	79
SECTION 12: DEFAULTS.....	80
12.10 Default by a derivatives member.....	81
12.10A Default by a client.....	81
12.20 Consequences of a client's default.....	81
12.30 Consequences of default by a non-clearing member (derivatives).....	81
12.40 Consequences of default by a clearing member (derivatives).....	82
SECTION 13: FINANCIAL INSTRUMENTS.....	85
13.10 List of financial instruments.....	86
13.20 Contract specification of the financial instruments.....	86
13.30 Listing of financial instruments.....	86
13.40 Exchange contracts.....	86

SECTION 14: PRESCRIBED AGREEMENTS.....	87
SECTION 15: MANAGEMENT OF INVESTMENTS.....	88
15.10 Authority to manage investments	89
15.20 Trading with an approved investment manager	89
15.30 Trading as an investment manager	89
15.30A Investment management by clients prohibited.....	89
15.40 Reporting to clients.....	89
15.50 Additional duties of the investment manager.....	89
SECTION 16: ETHICS AND CONDUCT	91
16.10 Conduct.....	92
16.20 Advertising by derivatives members.....	92
16.30 Contraventions to be reported.....	93
SECTION 17: RESOLUTION OF DISPUTES.....	94
17.10 Resolution of disputes	95
17.20 Reporting a dispute	95
17.30 Powers of the JSE.....	95
17.40 Declaration of a dispute.....	95
17.50 Mediation.....	95
17.60 Informal arbitration	96
17.70 Formal arbitration	96
17.80 Arbitrator.....	97
17.90 Costs	97
17.100 Arbitration proceedings.....	97
17.110 Waiver	98
SECTION 18: FIDELITY FUND.....	99
18.10 Name.....	100
18.20 Administration.....	100
18.30 Claims.....	100
18.40 Management of the fidelity fund	100
18.50 Contributions to the fidelity fund	102
18.60 Division of fund.....	102
18.70 Claims against the fidelity fund.....	102
18.80 Settlement of claims	102
18.90 Cession of claim against derivatives member.....	103
18.100 Arbitrator's finding.....	103
18.110 Consolidation of claims.....	103
18.120 General.....	103
18.130 Winding Up	103

SECTION**1****Section 1: Derivatives Rules****Scope of section**

- 1.10 Name
- 1.20 Corporate Body
- 1.30 Constitution of the JSE
- 1.40 Powers exercisable by the Board
- 1.41 Advisory Committees
- 1.50 Rules and Directives
- 1.60 Transactions subject to provisions of the Act, derivatives rules, etc
- 1.70 Interpretation of the Derivatives rules
- 1.80 Proposals for alterations and additions to derivatives rules
- 1.90 JSE and members not responsible for any losses
- 1.100 Board Members and others indemnified
- 1.110 Appointment of a clearing house
- 1.120 Transitional provisions

DERIVATIVES RULES

1.10 Name

The name of the Association is the "JSE Securities Exchange South Africa" hereinafter referred to as "the JSE".

1.20 Corporate Body

- 1.20.1 The JSE shall be and continue to be a body corporate constituted separately from its members and shall have perpetual succession and be capable of acquiring rights and duties in law apart from those of its members.
- 1.20.2 Legal process issued against the JSE shall be validly served if served at the office of the JSE on a senior manager of the JSE.

1.30 Constitution of the JSE

- 1.30.1 The JSE has a Constitution, which, amongst other things, sets out the powers and authority of the JSE.
- 1.30.2 To the extent that matters are not dealt with in the derivatives rules, they shall be dealt with in the Constitution.
- 1.30.3 To the extent that the Constitution does not conflict with the Act, it shall prevail over the derivatives rules and directives.

1.40 Powers exercisable by the Board

- 1.40.1 The management and control of the JSE shall be exercised by the Board which shall be the governing body managing the affairs of the JSE.
- 1.40.2 The Board may, in addition to the powers and authorities expressly conferred upon it by the Act, the Constitution and these derivatives rules, exercise all such powers and do all such things as may be exercised or done by the JSE.
- 1.40.3 Without limiting the generality of 1.40.2:
- 1.40.3.1 subject to a superior court's inherent right of judicial review, any decision of the Board on a matter before it shall be final unless and until (in cases where an appeal to that body lies) the Appeal Board established under the Act shall have varied or reversed such decision;
- 1.40.3.2 any action, procedure, directive, instruction or decision of the Board in relation to the administration, management, control, conduct or procedures for the orderly functioning of the JSE as an efficient market for listed products which is in accordance with the provisions and powers contained in the derivatives rules shall be binding upon members, their officers, employees, clients and other parties with whom members are permitted to deal.
- 1.40.3.3 The Board shall also have the power –
- 1.40.3.3.1 to decide on the hours of business of the JSE trading system and subject to the approval of the Registrar, to reduce or extend such hours as circumstances may dictate;
- 1.40.3.3.2 to close the JSE trading system for trading purposes at any time and for any period. The Board shall cause the Registrar to be advised forthwith of any such closure; and
- 1.40.3.3.3 to declare, in exceptional circumstances, that a transaction effected by or through the JSE trading system is void. Such a declaration

shall bind a member, a client of such member, or a counterparty with whom such transaction was effected.

1.41 Advisory Committees

- 1.41.1 The Board shall procure the appointment of advisory committees.
- 1.41.2 The function of the advisory committees will be to make recommendations to the executive of the JSE on operational issues of principle relevance to the JSE.
- 1.41.3 The advisory committees shall consist of –
 - 1.41.3.1 a chairperson, who shall be the JSE executive member responsible for the area in question; and
 - 1.41.3.2 such persons as the chairperson, in consultation with the JSE executive and the Board, shall appoint by reason of their knowledge of or experience in the securities or other relevant markets and which shall include representatives of members.
- 1.41.4 The advisory committees shall make recommendations by reasonable consensus.
- 1.41.5 In the event that an advisory committee is not able to reach reasonable consensus on any issue considered by it, the conflicting views on the issue in question shall be referred to the JSE executive or, where appropriate, to the Board for determination.

1.50 Rules and Directives

- 1.50.1 Purpose of rules and directives

The purpose of the derivatives rules and directives is to achieve the objects of the JSE as set out in the Constitution by providing the procedures necessary to establish and regulate fair and efficient markets and to ensure that the business of the JSE is carried out in an orderly manner and with due regard to the interests of the public in general.
- 1.50.2 Derivatives rules and directives are binding
 - 1.50.2.1 The derivatives rules, directives and any decisions or determinations made under the derivatives rules now or hereafter in force shall be binding upon all derivatives members, officers and their employees.
 - 1.50.2.2 Derivatives members shall ensure that their employees have entered into a written agreement with such member to comply with the provisions of the Act, the derivatives rules and directives and decisions made in terms of these derivatives rules.
 - 1.50.2.3 The derivatives rules shall be binding on any person utilising the services of a derivatives member or who concludes a transaction with a derivatives member in the course of that member's business.
 - 1.50.2.4 The Board shall notify a member or members of a decision of the Board with which such member or members must comply.

1.60 Transactions subject to provisions of the Act, derivatives rules, etc

Notwithstanding anything contained in these derivatives rules every transaction in listed products entered into by a member with or on behalf of another member or a member of the public shall be concluded on the specific condition that the transaction is entered into subject to the provisions of the Act, these derivatives rules, the JSE directives and decisions of the Board in force at the time the bargain was struck.

1.70 Interpretation of the Derivatives rules

The interpretation and enforcement of the derivatives rules, JSE directives, listing requirements and decisions of the Board shall vest in the Board.

1.80 Proposals for alterations and additions to derivatives rules

- 1.80.1 Any member of the Board may propose in writing any alteration or addition to the derivatives rules. The proposal shall be lodged with the JSE and shall be submitted to the Board for consideration at its next ordinary meeting.
- 1.80.2 The Board shall consider the proposed alteration or addition to the derivatives rules and notify members of its decision in regard thereto.
- 1.80.3 If, within ten days of the announcement of the Board's decision to adopt the proposal, 10 or more members object to the decision, a ballot of members shall be taken at a meeting of members convened for that purpose, called by not less than 14 days' notice.
- 1.80.4 If at such ballot a majority of votes be recorded against the adoption of the proposal, then the proposal will be deemed to have been rejected.
- 1.80.5 If a ballot is not demanded or if at such ballot a majority is recorded in favour of any proposal, the Board shall submit the accepted proposal to the Registrar for his approval.

1.90 JSE and members not responsible for any losses

The JSE, clearing house and members shall not be responsible or liable to any person for (or in respect of) direct, indirect or consequential liability, loss or damage of any kind or nature, howsoever arising, incurred as a result of—

- 1.90.1 negligence, on the part of the JSE, the clearing house or on the part of any employee or agent of the JSE or the clearing house;
- 1.90.2 any act of omission on the part of any third party;
- 1.90.3 incorrect, inaccurate, defective or misleading information furnished or supplied by the JSE, the clearing house or any employee or agent of the JSE, the clearing house or any third party;
- 1.90.4 equipment breakdown or the breakdown, interruption, suspension, termination or failure of or defect in any system, including but not limited to any trading system, or service owned or operated by or on behalf of the JSE;
- 1.90.5 computer system malfunction, the interruption or failure of communications links, power failure, the failure of or defect in any software or hardware, whether owned by, licensed or leased to the JSE, the loss or destruction of any data and any loss or damage caused by natural disaster, riot, insurrection, acts of vandalism, sabotage or similar cause; and
- 1.90.6 the termination, for any reason whatsoever, of any licence or other agreement to which the JSE is a party.

1.100 Board Members and others indemnified

- 1.100.1 Every member of the Board, every member of an advisory committee and every employee of the JSE shall be indemnified by the JSE against all actions, liabilities, costs, charges, losses, damages and expenses which they or any of them may incur or become liable for in respect of any act done, concurred in, or omitted, in or about the execution of their duties in their respective offices and trusts, as a member of the Board or an advisory committee or an employee of the JSE, whether in their capacity as a member of the Board, trustee of the Fidelity Fund, director of any company as a representative of the JSE or otherwise, including all such actions, liabilities, costs, charges, losses, damages and expenses which arise as a consequence of any mistake, oversight or omission on the part of such member or employee other than through his gross negligence or wilful breach of duty or trust and it shall be the duty of the Board to pay and discharge all such actions, liabilities, costs, charges, losses, damages and expenses out of the funds of the JSE. For the purposes of this rule such member or employee shall not be regarded as having been grossly negligent or having acted in wilful breach of duty or trust if such apparent negligence or breach was solely or mainly the result of incorrect information supplied to such member or employee by a source from which the member or employee would normally accept the information as correct and which can be expected to provide the correct information.

- 1.100.2 No person mentioned in 1.100.1 shall be answerable for the acts, rights, neglects or defaults of any other such person or of any bankers or other persons with whom monies or effects of the JSE may, subject to the provisions hereof, be or have been lodged or deposited for safe custody, or for joining in any action for the sake of conformity or for the insufficiency or deficiency of any security accepted by the Board or for any other loss, misfortune or damage which may happen in the execution of their respective offices or trusts or in relation thereto, except as may happen by or through their own wilful breach of duty or breach of trust.

1.110 Appointment of a clearing house

The JSE may acquire the services of a clearing house with the purpose of clearing contracts on the JSE in accordance with the derivatives rules and to provide any other services or facilities as may be required by the JSE. Any services required by the JSE and any duties and responsibilities of the JSE may be delegated by the JSE to such clearing house.

1.120 Transitional Provisions

- 1.120.1 Anything done under or for the purposes of a provision of the old rules and directives shall be effective from the effective date as if done under or pursuant to the derivatives rules and directives.
- 1.120.2 The disciplinary procedures set out in section 3 will, from the effective date, be applied in the investigation and prosecution of any offence in terms of the old rules and directives committed prior to the effective date.
- 1.120.3 The coming in to operation of the derivatives rules and directives shall not effect the validity of anything done under or pursuant to the old rules and directives.

SECTION

2

Section 2: Interpretation and Definitions

Scope of section

- 2.10 Definitions
- 2.20 Interpretation

INTERPRETATION AND DEFINITIONS

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 -

"Act"

means the Financial Markets Control Act, 1989 (Act No 55 of 1989) as amended, and includes any regulations promulgated thereunder;

"administrators"

means the administrators of the Fidelity Fund in terms of rule 18.20;

"additional margin"

means the margin paid to a clearing member (derivatives) over and above that required by the clearing house or to a non-clearing member (derivatives) over and above that required by the clearing member (derivatives) concerned;

"affiliated officer"

means, in relation to any derivatives member -

- a) a registered officer; or
- b) a director, employee, associate, shareholder, partner, or member of a close corporation materially concerned in the management or administration of trading; or
- c) a person who controls the derivatives member or who is privy to information regarding the derivatives member's or a client's trades or positions;

"agent"

means a broking member (derivatives) who has traded with a client other than for his own account in terms of the derivatives rules;

"aggregate position"

means collectively all the proprietary positions in related exchange contracts registered in the name of a derivatives member or, collectively, all the positions in related exchange contracts registered in the name of a client who has traded with a particular derivatives member to open such positions;

"agricultural commodity"

means an agricultural product as defined in the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996);

"agricultural commodity contract"

means an agricultural commodity futures contract or an agricultural commodity option contract;

"agricultural commodity futures contract"

means a futures contract, the underlying instrument of which is an agricultural commodity;

"agricultural commodity option contract"

means an option contract, the underlying instrument of which is an agricultural commodity futures contract;

"agricultural products market"

means the market operated by the JSE in terms of the Act to facilitate trading in agricultural commodity contracts;

"approved investment manager"

means a person who is not a derivatives member and who has been approved in terms of section 5(1) of the Act to manage investments;

"Arbitration Act"

means the Arbitration Act, 1965 (Act No 42 of 1965) as amended and includes any regulations promulgated thereunder;

"arbitrator"

means the Chief Executive Officer or the person or persons appointed by him to perform the functions of an arbitrator in terms of these derivatives rules;

"assign"

means the exercise by the clearing house of its right in terms of an option contract to buy or sell the underlying instrument of the option contract from or to a person holding a short position in the option contract;

"authorised bank"

means a branch of an authorised dealer which, in terms of Exchange Control Regulation 14, has been appointed to administer securities control;

"authorised dealer"

means, in relation to any transaction in respect of gold, a person authorised by the Treasury to deal in gold and, in relation to any transactions in respect of foreign exchange, a person authorised by the Treasury to deal in foreign exchange;

"automated trading system" or "ATS"

means the computerised facility of the clearing house by means of which a derivatives member shall make an offer in respect of a trade in financial instruments that shall, in terms of the derivatives rules, be done on the ATS or reports an off-ATS trade to the clearing house and on which the JSE and the clearing house may display notices to derivatives members;

"Board"

means the board of directors of the JSE which is the governing body managing the affairs of the JSE;

"broking member (derivatives)"

means a derivatives member who may trade in financial instruments for his own account and for or on behalf of clients, and has the same meaning as a financial instrument trader as defined in the Act;

"business day"

means any day except a Saturday, Sunday, public holiday or any other day on which the JSE is closed;

"buy"

means in relation to financial instruments listed by the JSE to enter into either -

- (a) a futures contract in terms of which the buyer is obliged to take delivery of the underlying instrument from the seller at the agreed price on the future date or to pay an amount of money to the seller if, on the future date, the price or value of the underlying instrument is less than the agreed price; or
- (b) an option contract in terms of which the buyer obtains the right from the seller to buy or sell the underlying instrument of the option contract at the agreed price from or to the seller on or before the future date;

"call option contract"

means a contract, in terms of which the holder of a long position in the call option contract has obtained the right to buy, and the holder of a short position shall, if the option is exercised, sell, the underlying instrument of the option contract from or to the clearing house on or before the future date at the strike price in accordance with these derivatives rules and the contract specification of the option contract;

"capital adequacy requirement"

means the sum of the greater of a derivatives member's initial capital or one quarter of his annual operating costs plus the funds that he shall have in relation to the financial risks of the business as determined by the JSE in agreement with the Registrar;

"capital adequacy return"

means the submission by a derivatives member of his capital adequacy requirement to the JSE in the manner and form specified by the JSE in agreement with the Registrar;

"cash settled futures contract"

means a futures contract contemplated in part (b) of the definition of futures contract in this rule 2.10;

"Chief Executive Officer"

means the person appointed by the Board as the Chief Executive Officer in terms of the Constitution of the JSE;

"clear"

means the process in terms of which the clearing house becomes the buyer from the seller and the seller to the buyer in every trade whereupon the clearing member (derivatives) guarantees to the clearing house all obligations arising out of any position resulting from such trade in terms of these derivatives rules;

"clearing agreement"

means a written agreement entered into between a clearing member (derivatives) and a non-clearing member (derivatives) in terms of which the non-clearing member (derivatives) guarantees to the clearing member (derivatives) the performance of the obligations arising out of the positions of the non-clearing member (derivatives) and the clients of the non-clearing member (derivatives);

"clearing house"

means Safex Clearing Company (Proprietary) Limited or any other body corporate or unincorporated association or department of the JSE designated by the JSE as such and recognised by the Registrar as a clearing house in terms of the Act;

"clearing house agreement"

means a written agreement entered into between a clearing member (derivatives) and the clearing house in terms of which the clearing member (derivatives) guarantees to the clearing house all of the obligations arising out of his proprietary positions, the positions of his clients, the proprietary position of the non-clearing members (derivatives) with which he has entered a clearing agreement and the positions of the clients of such non-clearing members (derivatives);

"clearing member (derivatives)"

means a person admitted by the JSE as a clearing member (derivatives) of the JSE and who has entered into a clearing house agreement with the clearing house;

"client"

means a resident client, a non-resident client or an emigrant client who has been registered as a client of the derivatives member and with whom the derivatives member has concluded a client agreement;

"client agreement"

means an agreement between a derivatives member and a client entered into before the derivatives member becomes entitled to trade with the client, the basic terms and formal requirements of which have been prescribed by the JSE;

"close out"

means the cancellation of a position in one direction with an equal and opposite position (e.g. a long position in an exchange contract is cancelled by a short position in the same exchange contract);

"common monetary area"

means the Republic of South Africa, Lesotho, Namibia and Swaziland;

"compliance officer"

means the person appointed in terms of Section 5;

"contract specification"

means the standard terms and formal requirements of a futures or option contract contemplated in the definition of standardised contract in section 1 of the Act, as determined from time to time by the JSE;

"Constitution"

means the Constitution of the JSE as referred to in rule 1.30;

"counterparty risk requirement"

means the own funds that a derivatives member shall have in relation to the risk to the derivatives member of unsettled transactions with other parties as calculated in a manner determined from time to time by the JSE in agreement with the Registrar;

"corporate entity (limited liability)"

means an incorporated company which is a derivatives member of the JSE and has the minimum number of directors as prescribed in the rules of the JSE;

"corporate entity (unlimited liability)"

means an incorporated company which is a derivatives member of the JSE.

"dealer "

means either a junior dealer or a senior dealer as the context may require;

"default"

means a default by a client or derivatives member as contemplated in Section 12;

"derivatives member"

means an entity admitted to membership of the JSE to trade financial instruments under the derivatives rules;

"derivatives rules"

means these derivatives rules issued in pursuance of section 17 of the Act, including any alteration, addition or amendment thereof;

"directive"

means a directive as referred to in rule 1.50.2;

"discretionary basis"

in relation to the management of investments, means to trade, without it being necessary to obtain further authority or consent from the client involved, other than the discretionary client agreement;

"discretionary client agreement"

means the client agreement as prescribed by the JSE that entitles the derivatives member to trade for a client on a discretionary basis;

"dispute"

means any dispute arising between any of the persons bound by these derivatives rules and which the JSE declares to be a dispute;

"effective date"

means the date of the coming into operation of these derivatives rules;

"emigrant"

means a natural person who has emigrated from the common monetary area;

"emigrant client"

means an emigrant who is not a derivatives member who has concluded a client agreement with a broking member (derivatives) and who has been registered by the clearing house as an emigrant client of the derivatives 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;

"equities rules"

means the rules of the JSE issued pursuant to section 12 of the Stock Exchanges Control Act 1985 (No. 1 of 1985), including any alteration, addition or amendment thereof;

"exchange contract"

means either a futures contract in terms of which the expiry month is specified or an option contract in terms of which the expiry month, the strike price, and whether it is a put option contract or a call option contract, is specified;

"Exchange Control Regulations"

means the Exchange Control Regulations, 1961, as promulgated by Government Notice R1111 of 1 December 1961, as amended, made in terms of Section 9 of the Currency and Exchanges Act, 1933 (Act No 9 of 1933);

"executive director"

of a corporate entity means a person appointed as a director of the corporate entity, whether with limited or unlimited liability, under the Companies Act 1973 and who, in terms of a contract of employment with such corporate entity is in its full-time employ;

"exercise"

means, in relation to the registered holder of a long position in an option contract, to exercise its right to buy or sell the underlying instrument of the option contract at the strike price on or before the future date;

"expire"

means the closing out of an exchange contract by a trade between the registered holder of a position and the clearing house in terms of these derivatives rules;

"expiry month"

means in relation to a futures or option contract, the month in which the positions in such exchange contracts expire on the date and at the time as contained in the contract specification of the futures or option contract;

"external company"

means an external company as defined in Section 1 of the Companies Act, 1973 (Act No. 61 of 1973), registered in terms of Section 322(2) of the said Companies Act;

"fidelity fund"

means the JSE Derivatives Fidelity Fund provided for in terms of Section 18;

"financial derivatives market"

means the market operated by the JSE in terms of the Act to facilitate trading in financial derivatives;

"financial instruments"

means financial instruments as defined in Section 1 of the Act;

"foreign exchange risk requirement"

means the amount of own funds required in relation to the derivatives member's risk exposure arising from dealings in foreign exchange, or exposure to changes in the value of foreign currencies relative to the Rand as calculated in a manner determined by the JSE in agreement with the Registrar;

"futures contract"

means a contract, the effect of which is that -

- (a) a person agrees to deliver the underlying instrument to or receive it from another person at an agreed price on a future date; or
- (b) a person will pay to or receive from another person an amount of money according to whether, on the future date, the price or value of the underlying instrument is higher or lower than the agreed price on that future date,

in accordance with these derivatives rules and the contract specification of the futures contract and which is included in the list of instruments kept by the JSE in terms of the Act;

"initial capital"

means the minimum capital as specified from time to time by the JSE in agreement with the Registrar;

"initial margin"

means the amount of money determined by the clearing house on the basis specified by the JSE and held in respect of the aggregate position of a derivatives member or a client;

"investment management agreement"

means the prescribed agreement to be entered into between a derivatives member who manages investments and an approved investment manager;

"investment manager"

means a broking member (derivatives) who is authorised in terms of Section 15 to undertake the management of investments on a discretionary basis;

"JSE"

means the JSE Securities Exchange South Africa;

"JSE Executive"

means the Chief Executive Officer and such other officials of the JSE as the Chief Executive Officer may from time to time decide shall serve on the JSE's top management ;

"JSE right"

means a right as defined in article 7 of the Constitution;

"JSE trading system"

means the computer system or systems and associated network or networks operated or used by the JSE for the purpose of providing a market for the trading of listed products, including the ATS;

"JSE year"

means the financial year of the JSE which shall end on the last Friday in December in each year or such other date as the Board may determine;

"junior dealer"

means a dealer who is entitled in terms of these derivatives rules to trade for the derivatives member's own account, but not for or on behalf of clients;

"large exposure risk"

means the amount of own funds required in relation to the derivatives member's risk arising from large exposures to a third party or a connected group of third parties as calculated in a manner determined by the JSE in agreement with the Registrar;

"listed products"

means products listed by or traded on the JSE;

"long position"

means a number of exchange contracts registered by the clearing house in the name of a derivatives member or client in terms of which -

- (a) in relation to futures contracts, the derivatives member or the client is obliged to take delivery of the underlying instrument from the seller at the agreed price on the future date; or to pay an amount of money to the seller if, on the future date, the price or value of the underlying instrument is less than the agreed price; or
- (b) in relation to option contracts, the derivatives member or client has the right to buy or sell the underlying instrument of the option contract at the agreed price on or before the future date;

"margin"

means either initial margin or variation margin or additional margin or retained margin as the context may require;

"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 derivatives member when the non-resident or emigrant client is registered;

"mark-to-market"

means the revaluation of a position in the exchange contract at its current market value;

"match"

means to match one derivatives member's trade with that of another derivatives member in terms of certain criteria contained in their independent reports of the trades;

"mediation"

means the process in terms of these derivatives rules through which two parties to a dispute, facilitated by a mediator, resolve the dispute themselves;

"mediator"

means the Chief Executive Officer or the person appointed by him in terms of rule 17.50 to assist the parties to a dispute to resolve the dispute between them;

"member"

means an entity admitted to membership of the JSE under the derivatives rules or the equities rules or both;

"non-broking member (derivatives)"

means a derivatives member who may trade financial instruments with derivatives members for his own account but not for or on behalf of clients, and has the same meaning as a financial instrument principal as defined in the Act;

"non-clearing member (derivatives)"

means any person admitted by the JSE to membership of the JSE and who is not a clearing member (derivatives) but who is either a broking member (derivatives) or a non-broking member (derivatives);

"non-executive director"

of a corporate entity means a person appointed as a director of the corporate entity, whether with limited or unlimited liability, under the Companies Act 1973 who is not employed by such corporate entity;

"non-resident"

means a person (i.e. a natural person or legal entity) whose normal place of residency or domicile or registration is outside the common monetary area;

"non-resident account"

means the account of a non-resident;

"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;

"non-resident client"

means a non-resident who is not a derivatives member and who has concluded a client agreement with a broking member (derivatives) and who has been registered by the clearing house as a non-resident client of the broking member (derivatives);

"off-ATS"

means, in relation to an offer, acceptance of an offer or a trade, that the offer is made by one derivatives member to another verbally or in writing and not on the ATS;

"offer"

means an offer to buy or to sell;

"old rules and directives"

means the rules and directives of SAFEX;

"option contract"

means a put option contract and/or a call option contract, as the context may require;

"order"

means an offer in terms of which there is a period of time within which to accept the offer;

"own funds"

means the net financial worth of a derivatives member calculated in the manner as decided by the JSE in agreement with the Registrar;

"physically settled futures contract"

means a futures contract contemplated in part (a) of the definition of a futures contract in this rule 2.10;

"position"

means either a long position or a short position;

"position risk requirement"

means the amount of own funds required in relation to the derivatives member's open positions in exchange contracts, unsettled positions in other financial instruments and securities and other assets included in the capital adequacy return as calculated in a manner determined by the JSE in agreement with the Registrar;

"prescribed agreements"

means the agreements, the basic terms and formal requirements of which have been specified by the JSE;

"principal"

means a derivatives member who has traded with a client or another derivatives member for his own account;

"proprietary position"

means a position registered by the clearing house in the name of a derivatives member for the derivatives member's own account;

"put option contract"

means a contract, in terms of which the holder of a long position in the put option contract has obtained the right to sell, and the holder of a short position shall, if the option is exercised, buy, the underlying instrument of the option contract to or from the clearing house on or before the future date at the strike price in accordance with these derivatives rules and the contract specification of the option contract;

"registered officer"

means a compliance officer or a dealer registered by the JSE as such in the name of the derivatives member;

"regulation"

means any regulation which may be made by the Minister in terms of section 37 of the Act;

"related exchange contracts"

means those exchange contracts which the JSE decides have such characteristics in common that the risk of loss in one of the exchange contracts may be reduced by an off-setting position in any of the other or a combination of the other exchange contracts in the group of related exchange contracts;

"resident"

means a natural person who is resident in the common monetary area or a legal entity registered in such area, and includes a partnership or an external company;

"resident client"

means a resident who is not a derivatives member and who has concluded a client agreement with a broking member (derivatives), and who has been registered by the clearing house as a resident client of the derivatives member;

"resolution"

means any resolution adopted in terms of these derivatives rules by the JSE to regulate the implementation of these derivatives rules and the affairs of the JSE;

"retained margin"

means the margin paid by a client to a derivatives member for an intended trade or margin due to a client which the derivatives member has retained in anticipation of a trade;

"risk disclosure statement"

means the risk disclosure statement annexed to the client agreement;

"SAFEX"

means the South African Futures Exchange;

"sell"

means in relation to financial instruments listed by the JSE, to enter into either -

- (a) a futures contract in terms of which the seller is obliged to make delivery of the underlying instrument to the buyer at the agreed price on the future date; or to pay an amount of money to the buyer if, on the future date the price or value of the underlying instrument is greater than the agreed price; or

- (b) an option contract in terms of which the seller grants the right to the buyer to buy or sell the underlying instrument of the option contract from, or sell it to, the seller at the agreed price on or before the future date;

"senior dealer"

means a senior dealer contemplated in rule 5.10.3.2;

"short position"

means a number of derivatives exchange contracts registered by the clearing house in the name of a derivatives member or client in terms of which -

- (a) in relation to futures contracts, the derivatives member or client is obliged to make delivery of the underlying instrument at the agreed price on the future date or to pay an amount of money if, on the future date, the price or value of the underlying instrument is greater than the agreed price; or
- (b) in relation to option contracts, the derivatives member or client has granted the right to another person to buy or sell the underlying instrument of the option contract at the agreed price on or before the future date;

"standard lot size"

means the number of a particular exchange contract that is traded in a single trade as determined by the JSE;

"strike price"

means the price or yield at which the person in whose name a long position in an option contract is registered has the right to buy or sell the underlying instrument of the option contract;

"SWIFT"

means the Society for Worldwide Interbank Financial Telecommunications;

"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;

"SWIFT non-resident 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 receive payment of interest into a non-resident account in the amount specified in the notification;

"the Registrar"

means the Registrar of Financial Markets appointed in terms of the Act;

"the Registrar of Banks"

means the Registrar of Banks designated under section 4 of the Banks Act, 1990 (Act No 94 of 1990);

"trade"

means, in relation to one of the parties, to buy or to sell financial instruments or, in relation to both parties, to buy and to sell financial instruments whether by means of the ATS or off-ATS;

"underlying instrument"

means the corporeal or incorporeal thing, asset, index as referred to in the definition of "securities" in Section 1 of the Stock Exchanges Control Act, 1985 (Act No 1 of 1985), currency, rate of interest or any other factor which is the subject matter of a futures contract or an option contract, or the futures contract that is the subject matter of an option contract;

"variation margin"

means the amount of margin payable in terms of rule 8.60.2.

2.20 Interpretation

In these derivatives rules, unless otherwise clearly indicated by, or inconsistent with the context -

- 2.20.1 a reference to one gender includes a reference to all other genders;
- 2.20.2 the singular includes the plural, and vice versa;
- 2.20.3 all the terms defined in the Act bear the same meaning as are assigned to them in the Act.

SECTION**3****Section 3: General Membership and Disciplinary Procedures****Scope of section**

- 3.10 General Membership of the JSE
- 3.20 General requirements
- 3.30 Membership transitional provisions
- 3.40 Applications for membership
- 3.50 Voluntary changes to, or termination of, membership
- 3.60 Involuntary termination of membership
- 3.70 Duty to furnish information
- 3.80 Fees, levies and charges
- 3.90 [Reserved]
- 3.100-3.110 [Reserved]
- 3.120 Consent required for employment of certain persons
- 3.130 Trading name
- 3.140 Notices
- 3.150-3.270 [Reserved]
- 3.275 Surveillance and investigation by the JSE's Surveillance Department
- 3.280 Use of information obtained by the JSE's Surveillance Department
- 3.285 Improper Conduct
- 3.290 Disciplinary procedures
- 3.295 Procedure and Evidence – Disciplinary matters
- 3.300 Disciplinary Matters – Penalties
- 3.305 Urgent Issues
- 3.310 Disciplinary matters – Transactions Open
- 3.325 Default, suspension or termination of membership – Control of assets and accounting records
- 3.330-3.340 [Reserved]
- 3.350 JSE's powers of publication

GENERAL MEMBERSHIP AND DISCIPLINARY PROCEDURES

3.10 General Membership of the JSE

- 3.10.1 In order to qualify to be a member, an applicant must:
- 3.10.1.1 register, hold and retain such number of JSE rights as are required by the derivatives rules;
 - 3.10.1.2 comply with the general requirements set out in this rule; and
 - 3.10.1.3 comply with any specific requirements applicable to members who participate in the agricultural products market and in the financial derivatives market as set out in the derivative rules or to members who participate in the equities market as set out in the equities rules, as the case may be.
- 3.10.2 The JSE shall keep a register of members and shall in such register indicate:
- 3.10.2.1 the number of JSE rights held by each such member; and
 - 3.10.2.2 in which category or class of membership the member has been authorised to operate.
- 3.10.3 Depending on the category or class of membership enjoyed by a member, a member may –
- 3.10.3.1 trade in one or more of the product categories; and/or
 - 3.10.3.2 clear and settle for the JSE in one or more product categories; and/or
 - 3.10.3.3 otherwise access or utilise the operational services of the JSE.

3.20 General requirements

- 3.20.1 Members, who are natural persons, and officers of members shall, subject to any waiver –
- 3.20.1.1 be of full legal capacity;
 - 3.20.1.2 comply with such criteria on good character and high business integrity as the JSE deems fit;
 - 3.20.1.3 not be an unrehabilitated insolvent; and
 - 3.20.1.4 not in the period preceding the application as the JSE in its discretion deems fit, have been –
 - 3.20.1.4.1 convicted of activities constituting a criminal offence, whether in South Africa or elsewhere;
 - 3.20.1.4.2 the subject of a formal investigation by any regulatory or government agency;
 - 3.20.1.4.3 expelled, whether as a member or otherwise, from any stock or financial exchange, whether in South Africa or elsewhere;
 - 3.20.1.4.4 employed by or associated with a member of any stock or financial exchange, whether in South Africa or elsewhere, which member was expelled from that exchange and where the person or officer has, in the opinion of the JSE, contributed to the circumstances leading to the expulsion;
 - 3.20.1.4.5 declared a defaulter on the JSE or any other stock or financial exchange, whether in South Africa or elsewhere; or

- 3.20.1.4.6 refused entry to or expelled from any profession or vocation or been dismissed or requested to resign from any office or employment, or from any fiduciary office or position of trust.
- 3.20.2 Members who are partnerships shall comprise of two or more partners each of whom shall be a natural person, and who shall comply with the requirements set out in rule 3.20.1.
- 3.20.3 Members who are corporate entities shall—
- 3.20.3.1 not employ, register or permit association with an officer who does not fulfil the requirements of rule 3.20.1 without the prior approval of the JSE; and
- 3.20.3.2 have, in the opinion of the JSE, a good reputation and high business standing.
- 3.20.4 In addition to the requirements set out in this rule 3.20, members seeking admission within a specific membership category shall comply with any additional requirements applicable to such membership category set out in the derivatives rules and the equities rules.
- 3.20.5 Members shall at all times have and maintain the necessary administrative and other systems, facilities, resources and expertise to ensure that —
- 3.20.5.1 the management of their own and clients' funds is adequate and in accordance with the rules relating to the management or separation of funds or otherwise;
- 3.20.5.2 an accurate record of their own and clients' positions is kept at all times;
- 3.20.5.3 their clients' trades, cash balances and any other information relating to their positions are timeously reported to the clients; and
- 3.20.5.4 they comply with all the financial resources requirements pertaining to the relevant category of membership as prescribed in the derivatives rules.

3.30 Membership transitional provisions

A member of SAFEX shall, without having to comply with any additional requirements except that such member shall hold one JSE right, become a derivatives member of the JSE on the affective date and be entitled to trade in the listed product or products that that member was entitled to trade as a member of SAFEX.

3.40 Applications for membership

- 3.40.1 An application for membership shall be made to the JSE in the manner and in the form prescribed by the JSE and shall indicate in what category or categories of membership the applicant wishes to apply.
- 3.40.2 The following provisions shall apply to applicant members who are partnerships:
- 3.40.2.1 applications shall include a signed copy of the deed of partnership and any other information as the JSE may require;
- 3.40.2.2 the JSE shall not grant its consent for the admission of a partnership unless it is satisfied that all the partners are jointly and severally liable for the debts and obligations of the partnership in terms of the provisions of the deed of partnership, which shall comply with the Act, the derivatives rules, directives and Board decisions.
- 3.40.3 Applicants who are close corporations or corporate entities shall include a signed copy of the founding statement or the memorandum and articles of association, as the case may be, a copy of any agreement entered into or proposed to be entered into between the members of the entity relative to the members' interest or shares thereof and any other information as the JSE may require. The provisions of this rule shall apply *mutatis mutandis* to the amendment or substitution of the aforementioned document.
- 3.40.4 The applicant shall include with its application, the following information:

- 3.40.4.1 the applications for registration as registered officers of the applicant;
 - 3.40.4.2 the most recent financial statements of the applicant as well as a completed capital adequacy return;
 - 3.40.4.3 the details of the applicant's auditor;
 - 3.40.4.4 a completed clearing agreement, in the case of a non-clearing member (derivatives); and
 - 3.40.4.5 a completed clearing house agreement, in the case of a clearing member (derivatives).
- 3.40.5 Notwithstanding any provision in the derivatives rules and directives, the JSE may require the applicant to furnish further information, and may institute any investigation that it deems necessary, to verify information submitted by the applicant in support of an application. Such investigation may include without limitation, a request for the applicant or one or more representatives of the applicant, to be interviewed by the Chief Executive Officer or any person appointed by the JSE for that purpose.
- 3.40.6 The JSE shall have the sole discretion to accept or reject the application, or to accept an application subject to certain conditions to be fulfilled as determined by the JSE from time to time: Provided that the JSE shall reach a decision within 60 (sixty) days of the first meeting at which the application was considered.
- 3.40.7 The JSE shall notify the applicant in writing of its decision and of any conditions that are required to be fulfilled.
- 3.40.8 Any person aggrieved by the decision of the JSE to reject an application, shall have a right of appeal to the Appeal Board in terms of the Act.
- 3.40.9 If an application for membership has been refused, and the applicant did not exercise his right of appeal or if the appeal is unsuccessful, such applicant shall not be entitled to re-apply for membership for a period of 1 (one) year from the date of refusal, or such shorter period as the JSE may determine.
- 3.40.10 Upon approval of the application, the member shall be provisionally approved subject to the acquisition of the necessary JSE rights.
- 3.40.11 The JSE shall not sell or create and issue JSE rights to a provisionally approved member unless, for 14 (fourteen) days immediately prior to requesting the JSE to sell or create and issue a JSE right, the provisionally approved member was unable to purchase such minimum number of JSE rights as prescribed by the derivatives rules.
- 3.40.12 The JSE shall sell or issue the required number of JSE rights to the provisionally approved member for immediate payment at a price which is equal to the average price of the last three transactions in JSE rights.
- 3.40.13 The JSE may only sell or create and issue to each provisionally approved member the minimum number of JSE rights required to be held by the member who requires the JSE to issue such JSE rights in terms of the derivatives rules.
- 3.40.14 Upon registration of the necessary JSE rights in the name of the member, such member shall –
- 3.40.14.1 obtain membership and the status in such category or categories of membership as determined by the JSE shall be activated; and
 - 3.40.14.2 be entitled to the rights enjoyed by JSE rights holders.
- 3.40.15 The JSE shall notify members of the admission of a new member.

3.50 Voluntary changes to, or termination of, membership

- 3.50.1 A member may apply to terminate its membership by giving the JSE 30 (thirty) days notice.

- 3.50.2 The JSE may accept the termination unconditionally or subject to such conditions as it may deem fit, or may refuse to accept the termination until it is satisfied that all outstanding contractual or other obligations of the member have been satisfied.
- 3.50.3 Should a member wish to change its membership status or wish to obtain authorisation to operate as a member in another category of membership, the provisions of rule 3.40 shall apply *mutatis mutandis*.
- 3.50.3A Changes in name or corporate structure:
- 3.50.3A.1 A member undergoing any of the changes set out below shall forthwith inform the JSE in writing of the change.
- 3.50.3A.2 The notification referred to in rule 3.50.3A.1 shall be accompanied by such information as the JSE may determine from time to time. Provided that -
- 3.50.3A.2.1 in the case of a corporate entity changing its name, the notification shall be accompanied by the relevant certificate of name change;
- 3.50.3A.2.2 in the event that a member's trading business or infrastructure relating to trading in instruments listed on the JSE, is transferred to another legal entity in any manner, including but not limited to a merger, take-over, transfer of business or corporate restructuring, the member shall inform the JSE of the change at least one month before it takes effect, and the notification shall be accompanied by such information as would be required in the case of a new application for membership: Provided that the JSE may, at its discretion, request full particulars regarding the change and the reasons therefor, and provided further that the JSE may determine that a new application for membership must be made.
- 3.50.4 The JSE shall notify members of the termination of or change in membership, and the termination shall become effective on the date and time of the notice, unless otherwise stated.

3.60 Involuntary termination of membership

- 3.60.1 Membership shall terminate when -
- 3.60.1.1 a member which is a natural person, or a partner in the case of a member who is a partnership, dies, or is placed under curatorship, or his estate is sequestrated, whether provisionally or finally;
- 3.60.1.2 a member who is a corporate entity is liquidated or placed under judicial management, whether provisionally or finally;
- 3.60.1.3 the member compromises or attempts to compromise with his creditors;
- 3.60.1.4 the member fails to satisfy or to initiate steps to set aside a judgement, award or determination against it within the time periods provided for in the rules of the relevant body;
- 3.60.1.5 the disciplinary tribunal has decided in terms of 3.300 that membership should be terminated;
- 3.60.1.6 the member defaults;

- 3.60.1.7 a member fails to hold at least one JSE right;
 - 3.60.1.8 a non-clearing member (derivatives) fails to enter into a clearing agreement with a clearing member (derivatives) within thirty days or such other period which the JSE may determine after the termination for whatever reason of his clearing agreement with a clearing member (derivatives); or
 - 3.60.1.9 the Board has resolved to terminate the membership of the member after taking into account the member's representations in this regard.
- 3.60.2 The JSE shall publish the termination in a notice to members, and the termination shall become effective on the date and time of the notice, unless stated otherwise in the notice.

3.70 Duty to furnish information

- 3.70.1 A member shall forthwith advise the JSE in writing of –
 - 3.70.1.1 the granting of an application for, or the revocation of, recognition under any statutory enactment or any registration, authorisation or licence which may bear upon or be associated with its business as a member of the JSE;
 - 3.70.1.2 the commission by or the conviction of the member or any of its officers for any offence under legislation relating to banking, or other financial services, companies, insolvency, insurance and pension and provident societies or of any offence involving fraud or dishonesty;
 - 3.70.1.3 any person becoming or ceasing to be a director of a corporate member, or a partner of a partnership;
 - 3.70.1.4 any change in the name or address of any office of the member, and of any change in the member's telex, telephone or facsimile numbers or electronic mailing addresses;
 - 3.70.1.5 any change in the particulars relating to an officer, and of the event that any officer is found guilty of any improper conduct by any licensed exchange, a previous or current employer, a professional association or a court of law;
 - 3.70.1.6 any of the circumstances referred to in rules 3.60.1.1 to 3.60.1.4 arising; or
 - 3.70.1.7 the dismissal of an employee for committing or attempting to commit an act which is dishonest, fraudulent, dishonourable or disgraceful.
- 3.70.2 A member shall in addition inform the JSE in writing –
 - 3.70.2.1 of any person holding, or having a beneficial interest in, 20% (twenty percent) or more of any class of the share capital of a member that is a company or in the member's interest of a member that is a close corporation, as the case may be, and of any change in such holding;
 - 3.70.2.2 if it or any affiliated officer thereof holds, or has a beneficial interest in, any class of the share capital of a client that is a company or in the membership interest of a client that is a close corporation or in a client that is a partnership.
- 3.70.3 A member shall submit to the JSE, within four months after the end of its financial year, two copies of its audited financial statements, and the audit report prescribed by the Regulations, in respect of such period, irrespective of whether or not the member is obliged in terms of any legislation to provide such audited financial statements.
- 3.70.4 Subject to rule 3.70.5, a member shall submit the capital adequacy return monthly within seven business days of the end of the month or within such other period that the JSE may require: Provided that the member shall at all times comply with the capital adequacy requirements referred to in these derivatives rules, and provided further that the JSE shall be entitled to suspend a member from trading, should the return not be submitted within a reasonable time after the member was requested to do so.

- 3.70.5 A member may apply in writing to the JSE for exemption from the requirement to submit the return referred to in rule 3.70.4, and the JSE may at its discretion grant such exemption: Provided that the member confirms in writing that it shall submit a similar return to another exchange or to the Registrar of Banks and such other exchange or the Registrar of Banks confirms that it shall accept such returns and ensure compliance by the member with its rules and any other requirements relating to the capital adequacy of the member.

3.80 Fees, levies and charges

- 3.80.1 A member which uses the services of the JSE shall pay to the JSE such fees and charges as may be prescribed by the JSE from time to time.
- 3.80.2 The JSE may prescribe by directive, subscriptions which shall be paid by members. Such subscriptions –
- 3.80.2.1 shall be paid annually in advance during January and shall be in respect of each JSE financial year;
- 3.80.2.2 in respect of a new member, shall be payable from and including the month in which the member is admitted;
- 3.80.2.3 in respect of a member which ceases to be a member, shall not be refunded.
- 3.80.3 In the event of any change in the amount of subscription payable by a member, such changed subscription shall apply with effect from the date on which the change took place.
- 3.80.4 The JSE may, in addition to the subscriptions, fees and charges prescribed by these derivatives rules, from time to time impose upon every member a levy which shall be paid to the JSE or any of its funds on such conditions as the JSE may decide. Such levy may be recovered from the clients of the member.
- 3.80.5 Any subscription, fee, charge, contribution or levy to be paid or which may be imposed in terms of these derivatives rules, shall be paid as determined by the JSE from time to time and any member failing to make such payment when due shall, unless the same be paid within one month after written demand has been made by the JSE, cease to be a member.

3.90 [Reserved]

3.100 [Reserved]

3.110 [Reserved]

3.120 Consent required for employment of certain persons

- 3.120.1 No member shall without the written consent of the JSE take into or continue in its employment in any capacity in any business carried on by it as a member –
- 3.120.1.1 any sole proprietor, partner, officer or employee of a member expelled from the JSE;
- 3.120.1.2 or any such sole proprietor, or partner whose membership has been terminated by the JSE,
- 3.120.1.3 any person refused approval to operate as an investment manager in terms of the Act or any other act;
- 3.120.1.4 any person expelled from membership of any other exchange; or
- 3.120.1.5 any person who is an unrehabilitated insolvent or has been a defaulter or has been convicted of theft, fraud, forgery, or any other crime involving dishonesty.

- 3.120.2 The consent of the JSE may be given for a limited period and may be withdrawn at any time: Provided the JSE gives the member one calendar month's notice of its intention to withdraw such consent.

3.130 Trading name

The JSE shall be entitled to refuse any member approval of membership, should the JSE in its sole discretion deem the name under which the member proposes to operate, to be inappropriate or unacceptable for any reason.

3.140 Notices

3.140.1 Notice to the JSE by members

Every member shall notify the JSE of a business and postal address, and a secured electronic delivery mechanism address at which that member shall accept the delivery of all notices issued by the JSE in terms of the derivatives rules.

3.140.2 Notice to members

3.140.2.1 Any notice given by the JSE in terms of the derivatives rules and directives shall be in writing.

3.140.2.2 A notice may be delivered by means of an electronic delivery mechanism or by hand or by registered post.

3.140.2.3 Any notice delivered by the JSE by hand before 16:00 on a business day at the physical address of the member, shall be deemed, unless the contrary is proved, to have been received on the date of delivery.

3.140.2.4 Any notice transmitted by an electronic delivery mechanism before 16:00 on a business day, shall be deemed, unless the contrary is proved, to have been received on the date of the transmission.

3.140.2.5 Any notice delivered by the JSE by registered post shall be deemed, unless the contrary is proved, to have been received within seven business days after being dispatched.

3.150–3.270 [Reserved]

3.275 Surveillance and investigation by the JSE's Surveillance Department

3.275.1 Surveillance

The JSE's Surveillance Department shall at all times have the power to set up and maintain systems for-

3.275.1.1 monitoring compliance by members with the provisions of the Act, the derivatives rules, directives and Board decisions and any arrangements made with a clearing house for the provision of services and facilities; and

3.275.1.2 the surveillance of any matter relevant for the purposes of the Act and these derivatives rules.

3.275.2 Investigation

3.275.2.1 The Director: Surveillance, and any other person designated by him, shall at all times have the power to:

3.275.2.1.1 investigate any JSE related activities of any person who at the relevant time was a member or a partner, employee or officer of a member;

- 3.275.2.1.2 investigate whether that member or any of its employees complies with all the provisions of the Act, these derivatives rules, JSE directives and Board decisions;
- 3.275.2.1.3 investigate whether the member is trading in such a manner that there is a danger that such member may not be able to meet its commitments to clients, other members or the clearing house;
- 3.275.2.1.4 investigate whether such member is conducting its business in a manner which could be detrimental to the interest, good name or welfare of the JSE or its members; and
- 3.275.2.1.5 require any person who is subject to the jurisdiction of the JSE and who is believed to be able to furnish any information on the subject of any investigation or to have in his or her possession or under his or her control any book, document, tape or electronic record or other object which has a bearing on the subject of the investigation, to produce such book, document, tape or electronic record or other object or to appear at a time and place specified, to be questioned by any of the abovementioned persons, to furnish such information or to produce such book, document, tape, electronic record or other object: Provided that the subject of the investigation has first been put to such person. Such person may, if he or she is not a sole proprietor or an executive director or senior partner of a member, request to be assisted by the sole proprietor or by an executive director or senior partner of the member by which the person is employed.
- 3.275.3 The Director: Surveillance may delegate the power granted to him in terms of rule 3.275.2.1 to any member of his staff.
- 3.275.4 Referral to another authority
- Should the JSE's Surveillance Department become aware of any possible contravention of law by a person over whom the JSE does not have jurisdiction, the JSE's Surveillance Department shall be entitled to refer such matter to the appropriate authority or authorities, whether outside or within the Republic of South Africa.

3.280 Use Of Information Obtained By the JSE's Surveillance Department

Any information, document, book, tape or electronic record or other object obtained by the JSE's Surveillance Department, whether by investigation or otherwise, may be used in evidence in any disciplinary proceedings contemplated in rule 3.290 below and may be furnished by the JSE's Surveillance Department to any other body which may have jurisdiction over the matter under consideration, whether outside or within the Republic of South Africa.

3.285 Improper Conduct

The following acts and practices whether of commission or omission on the part of any person who at the time of the alleged act or practice was a member or a partner, employee or officer of a member shall constitute improper conduct: Provided that the acts and practices so specified are not intended to be a complete list of acts and practices which may constitute improper conduct:

- 3.285.1 committing or attempting to commit any act which is any one or more of dishonest, fraudulent, dishonourable or disgraceful;
- 3.285.2 being a party to, or facilitating or conducting a transaction which is fictitious and/or has a dishonest or unlawful motive;

- 3.285.3 contravening, attempting to contravene, or failing to comply with any one or more of any provision of the Act, a JSE rule, a directive or a Board decision;
- 3.285.4 negligently or recklessly conducting the business or affairs of the member in such a way that actual or potential prejudice is, or may be, caused to the JSE, any other member, a client of a member or the general public. The failure by a member to introduce appropriate and reasonable safeguards or controls to avoid such prejudice may be treated where appropriate as constituting either negligence or recklessness;
- 3.285.5 committing or attempting to commit any act which is detrimental to any one or more of the interest, good name or welfare of the JSE or its members;
- 3.285.6 knowingly obstructing the business of the JSE or its members;
- 3.285.7 failing, when requested, to assist the JSE's Surveillance Department in the exercise of its duties (which shall include, but shall not be limited to, failure without sufficient cause to provide information in accordance with the provisions of rule 3.275.2.1.5).

3.290 Disciplinary procedures

3.290.1 Conclusion of investigation

On conclusion of any investigation in terms of rule 3.275 and if, after having considered all the relevant information in his possession, the Director: Surveillance is of the opinion that there are grounds for an allegation of improper conduct, the Director: Surveillance may:

- 3.290.1.1 refer the matter for determination to a Disciplinary Committee; or
- 3.290.1.2 if he considers that the alleged conduct is so serious that it might warrant the imposition of a fine in excess of the amount referred to in rule 3.290.2.4 or suspension or termination of membership or employment with a member, prefer a formal charge against such person ("the respondent") setting out a brief statement of facts constituting the alleged offence. Such charge shall be referred to a disciplinary tribunal ("a Tribunal"), to be heard in terms of these derivatives rules. Such charge may further, in the discretion of the Director: Surveillance, make provision for an admission of guilt.

3.290.2 Disciplinary Committee

- 3.290.2.1 The Chairman may from time to time appoint one or more Disciplinary Committees. Each Disciplinary Committee shall consist of three persons, as follows: any one of the Chairman or a Deputy Chairman or the Chief Executive Officer or acting Chief Executive Officer of the JSE, and at least two appropriate representatives of two members. The Chairman, Deputy Chairman, Chief Executive Officer or acting Chief Executive Officer who is a member of the Disciplinary Committee shall be the chairman. A Disciplinary Committee shall have the right at any time to co-opt additional members, whenever it deems such additional appointments to be necessary and appropriate.
- 3.290.2.2 A Disciplinary Committee may, subject to the provisions of rule 3.290.2.3:
 - 3.290.2.2.1 issue instructions to the person whose conduct or omission is under consideration concerning action which must be taken, or not be taken, to remedy the matter referred to the Disciplinary Committee;
 - 3.290.2.2.2 warn, reprimand, censure or, subject to the provisions of rule 3.290.2.4, impose a fine (with or without ordering that a contribution be made towards the JSE's costs) on any person who has, in the reasonable opinion of the Disciplinary Committee, been guilty of improper conduct;

- 3.290.2.2.3 in relation to a partner, officer or employee of a member, direct the member to conduct a disciplinary enquiry into the acts or omissions of such person;
- 3.290.2.2.4 direct a member to ensure that any sanction imposed on a partner, officer or employee of that member is complied with by such partner, officer or employee;
- 3.290.2.2.5 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 Disciplinary Committee deems appropriate; and/or
- 3.290.2.2.6 if at any stage it determines that the matter referred to it is sufficiently serious to be heard by a Tribunal, stop the proceedings, and refer the matter to a Tribunal.
- 3.290.2.3 A Disciplinary Committee may not impose any penalty contemplated in rule 3.290.2 unless:
- 3.290.2.3.1 the alleged improper conduct has first been put to the person who is alleged to have committed it. If such person is a sole proprietor, partnership or corporate member, the alleged improper conduct shall be put to the sole proprietor or to the executive director or senior partner as the case may be or otherwise to a duly authorised employee of the member; and
- 3.290.2.3.2 such person has been given an opportunity (orally or in writing) of explaining his or her conduct after being warned that any explanation furnished pursuant to these derivatives rules may be used in evidence against him or her.
- 3.290.2.4 No fine imposed by a Disciplinary Committee may exceed R25 000 per contravention, or such other amount as the JSE may determine by directive from time to time. A Disciplinary Committee may direct that any action taken in terms of rule 3.290.2 be published in a JSE Gazette or other member publication and/or in the media.
- 3.290.2.5 Any person in respect of whom a Disciplinary Committee has imposed a reprimand, censure, or fine (but not a warning) shall have the right to demand, within a period of three days after the imposition of such reprimand, censure, or fine, that the matter shall be heard de novo by a Tribunal. The Tribunal shall, if it finds the person guilty of the conduct which forms the subject of the charge, be entitled to impose a penalty more severe than that imposed by the Disciplinary Committee.
- 3.290.3 Preferring charges to be heard by a Tribunal
- 3.290.3.1 Where the Director: Surveillance has preferred a formal charge against a respondent, the charge sheet shall, in addition to the matters listed in rule 3.290.1.2, be in a form prescribed by the Director: Surveillance, be signed by the Director: Surveillance or his Deputy, and be served on the respondent in such manner as the Director: Surveillance may determine.
- 3.290.3.2 Where the Director: Surveillance has decided to make provision for an admission of guilt, he shall stipulate:
- 3.290.3.2.1 the amount of the fine payable pursuant to the admission of guilt and any required contribution towards the JSE's costs as well as the period within which such amounts must be paid. In determining the amount of such fine and where the person has benefited financially as a result of the alleged transgression, the Director: Surveillance shall take such

- benefit into consideration. The admission of guilt may, in particular, provide for the fine to be suspended for a period;
- 3.290.3.2.2 the manner and time in which the admission of guilt may be made, which time shall not be a period in excess of 50 business days from the date on which the charge sheet is served on the respondent; and
- 3.290.3.2.3 whether the terms of the admission of guilt should be published in a JSE Gazette and/or in the media.
- 3.290.3.3 A respondent:
- 3.290.3.3.1 may, if the respondent is given an opportunity to sign an admission of guilt, admit guilt to such charges within the period set out in the charge sheet; or
- 3.290.3.3.2 may within 20 business days after receipt of the charge sheet request particulars to the charges, to which the Director: Surveillance shall be obliged to respond within 20 business days after receipt of such request; and
- 3.290.3.3.3 shall, if no admission of guilt is tendered by the Director: Surveillance or if the respondent decides not to admit guilt to the charges, file a defence to such charges on or before 50 business days after the date on which the charge sheet was served on the respondent or within 20 days after the date on which the JSE has responded to the request for further particulars, whichever is later.
- 3.290.3.4 Thereafter the chairman of the Tribunal shall determine the date on which the charges shall be heard, which date shall not without good reason be later than six months after the charge sheet was served on the respondent.
- 3.290.3.5 No extension of the time periods set out in rule 3.290.3, including the date for the hearing of the charges shall be allowed without good reason. Furthermore no such extension shall be allowed unless the consent of the chairman of the Tribunal is obtained.
- 3.290.3.6 Tribunal
- 3.290.3.6.1 The Chairman may from time to time appoint one or more Tribunals each comprised of three members.
- 3.290.3.6.2 The members of a Tribunal shall be:
- 3.290.3.6.2.1 a retired judge, or a practising or retired senior counsel, or a practising or retired attorney with not less than fifteen years experience. Such person shall act as chairman of the Tribunal;
- 3.290.3.6.2.2 a professional person appointed by reason of that person's knowledge of financial services as it relates to the matter under consideration; and
- 3.290.3.6.2.3 a person appointed by reason of that person's knowledge of or experience in the financial markets.

3.295 Procedure and Evidence – Disciplinary Matters

- 3.295.1 Any charges preferred shall be decided on a balance of probabilities.

- 3.295.2 In a hearing before a Tribunal:
- 3.295.2.1 the chairman of the Tribunal shall decide all matters of law which may arise during the hearing, and whether any matter constitutes a question of law or a question of fact, but all three members of the Tribunal shall by a simple majority decide all other matters arising during the hearing;
- 3.295.2.2 the chairman of the Tribunal shall determine the procedure which the Tribunal shall follow both in respect of preliminary issues and in respect of the hearing itself, subject to these derivatives rules and to the principles of natural justice;
- 3.295.2.3 the JSE may instruct attorneys or counsel to prefer and prosecute the charges on behalf of the JSE, or the charges may be prosecuted by an employee of the JSE; and
- 3.295.2.4 the respondent shall be entitled to be legally represented at the respondent's own cost and shall, where the respondent is not a sole proprietor or an executive director or senior partner of a member firm, be entitled to be assisted by an executive director or senior partner of the member by which the respondent is employed.
- 3.295.3 Should a respondent without good cause fail to attend a hearing before a Tribunal at the time and place stated in the charge sheet, the Tribunal shall be entitled to proceed with its consideration of the charge in the absence of the respondent.
- 3.295.4 If, at any stage during a hearing before the Disciplinary Committee or a Tribunal, one or more of the members of the body hearing the matter dies or retires or becomes otherwise incapable of acting or is absent, the hearing shall, where the remaining members constitute a majority of the body before whom the hearing was commenced, proceed before such remaining members and, provided that the remaining members are in agreement, their finding shall be the finding of the body concerned. In any other case, the matter shall be heard de novo.
- 3.295.5 If a Tribunal finds a respondent guilty of an offence, the Tribunal shall have the powers set out in and shall apply rule 3.300.
- 3.295.6 If the proceedings before a Disciplinary Committee or a Tribunal are recorded, any person charged shall be entitled to be supplied with a record of the hearing of such charges, and any person who has made oral representations shall be entitled to be supplied with a record of that portion of the proceedings which related to that person's oral representations.

3.300 Disciplinary Matters – Penalties

- 3.300.1 When any person has been found guilty of improper conduct by a Tribunal pursuant to these derivatives rules, the Tribunal:
- 3.300.1.1 may by a simple majority warn or impose a reprimand, censure or fine upon the respondent, which fine shall in respect of each contravention not exceed R1 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 by a simple majority, on such conditions as the Tribunal 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 ensure that any sanction imposed by the Tribunal on a partner, officer or employee of that member is complied with by such partner, officer or employee;
- 3.300.1.5 may make a fair and reasonable order as to costs; and
- 3.300.1.6 may order that particulars of the offence and/or finding of the Tribunal and/or the penalty imposed be published in a JSE Gazette and/or in the media: Provided that if publication is ordered, the respondent shall be given an opportunity to make representations to the Tribunal in this regard.
- 3.300.2 A Tribunal may impose any one or more of the penalties referred to in rule 3.300.1.
- 3.300.3 Any penalty or part thereof may be suspended on such conditions as the Tribunal may determine.
- 3.300.4 Should a member or a partner, officer or employee of a member fail to pay any fine imposed by a Disciplinary Committee or a Tribunal, within 7 days after being informed of the amount of the fine, the JSE shall have the right, after serving notice of not less than 3 days on such person, 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 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 or a Tribunal shall be paid into the general funds of the JSE.
- 3.300.6 A Tribunal may, upon good cause shown and subject to such conditions as the Tribunal 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 Tribunal 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: Surveillance that an appeal has been lodged.

3.305 Urgent Issues

- 3.305.1 In order to ensure that the business of the JSE is carried on with due regard to the public interest, the Chairman may from time to time appoint one or more Urgent Issues Committees. The Chief Executive Officer or the acting Chief Executive Officer, the Chairman and/or a Deputy Chairman of the JSE and at least two other members of the Board shall constitute an Urgent Issues Committee.
- 3.305.2 An Urgent Issues Committee shall consider whether a member is operating in such a manner that there is imminent danger that such member may be unable to meet its commitments to clients, counterparties, other members or to a settlement system of the JSE or any other exchange, or that

- it is conducting business in a manner which could be directly detrimental to the interests of the JSE or to the interests of the members of the JSE and the public.
- 3.305.3 If an Urgent Issues Committee resolves by a two-thirds majority that an investigation into the affairs of a member in terms of these derivatives rules has revealed that the member is operating in such a manner that there is such imminent danger as is referred to in rule 3.305.2, the Urgent Issues Committee may call upon senior representatives of the member to attend a meeting of the Urgent Issues Committee, which meeting may be called on not less than one hour's notice, to hear the concerns of the Urgent Issues Committee and to discuss how such concerns may be resolved.
- 3.305.4 With the agreement of the member concerned or, should the outcome of such meeting fail to satisfy the Urgent Issues Committee with regard to the above, the Urgent Issues Committee may by a two-thirds majority and subject to this rule 3.305:
- 3.305.4.1 prohibit such member from trading;
- 3.305.4.2 restrict the trading activities of such member in such manner as it deems fit, including applying of rule 3.305.5; and/or
- 3.305.4.3 give such member such instructions as it may deem necessary in the interests of the member's clients and counterparties or other members or any settlement system of the JSE or any other exchange.
- 3.305.5 The Urgent Issues Committee shall during the period of any order in terms of rule 3.305.4 have such power as it in its discretion may deem fit to appoint a registered public accountant and auditor or a member or employee of the JSE to supervise and control the activities of the member, at the member's cost. Such member may further be prohibited from entering into JSE related contracts without the prior consent of the person appointed as aforesaid to control and supervise the member which consent may be given upon such terms and conditions as the Urgent Issues Committee and/or the said appointee shall determine.
- 3.305.6 Notice to the member concerned of such prohibition, restriction or instruction shall be accompanied by particulars of any alleged contraventions of the Act, derivatives rules, directives, Board decisions and special gazettes governing members. Any requirements of the Urgent Issues Committee for the rectification of the alleged contraventions shall be stated so as to enable the member in question to apply to the Urgent Issues Committee for the removal of the order once the conditions stated in the order have been satisfied.
- 3.305.7 Any action taken by an Urgent Issues Committee in terms of this rule may continue until such time as that Committee is satisfied as to the financial position and business conduct of the member in question: Provided that such action shall be reviewed by the Committee at least once every month and any order given above shall thereafter only continue to the extent that such continuation is resolved by a two-thirds majority of the Committee.

3.310 Disciplinary Matters – Transactions Open

- 3.310.1 In the event of any member being suspended or ceasing to enjoy membership other than by death, expulsion or resignation, and having open positions with another member under these derivatives rules, such transactions shall be dealt with in terms of the default rules.

3.325 Default, suspension or termination of membership – Control of assets and accounting records

- 3.325.1 In the event of any member being suspended or declared a defaulter or ceasing to enjoy membership by termination –
- 3.325.1.1 the member shall hand over to the JSE all books and accounting records of the member including all scrip registers, safe custody ledgers and cheque books, and all cash, securities, bonds and other assets relating to the stockbroking business including cash and control of securities and bonds held on behalf of clients in safe custody in a banking institution;

- 3.325.1.2 the Board may grant authority to the Director: Surveillance or his nominated deputy to assume control of such cash, securities and bonds referred to in rule 3.325.1.1 which are owned by clients, including money market instruments, securities and bonds held on behalf of clients in safe custody and cash held on behalf of clients in JSE Trustees (Pty) Limited.
- 3.325.2 The Director: Surveillance shall take reasonable steps to ensure that any market scrip held by a member ("the scrip") or funds held either by a bank in terms of the Financial Institutions (Investment of Funds) Act, 1984, or by JSE Trustees (Pty) Limited on behalf of a client ("the funds"), are identified as the client's property. The Director: Surveillance shall take reasonable steps to ensure that only the scrip or funds which are identified as the client's property and which are unencumbered are returned to a client or to his order if so authorised in terms of rule 3.325.2 by the client in writing.
- 3.325.2.1 A client of a member who has been suspended or declared a defaulter, or who has ceased to enjoy membership by termination under this rule, shall warrant in writing to the Director: Surveillance that he is the lawful owner of any scrip or funds returned to him before such scrip or funds are returned to him, by the Director: Surveillance under rule 3.325.2.
- 3.325.2.2 If any scrip or funds are returned to a client, under the provisions of rule 3.325.2, and it is thereafter established that ownership of such returned scrip or funds does not vest in the client, the client shall immediately return such scrip or funds to the Director: Surveillance, upon written notification by the Director.
- 3.325.2.3 Where such returned scrip or funds under rule 3.325.2 have been alienated by the client, the client shall immediately, and insofar as he is able to, effect the return of such scrip (or the equivalent amount of such scrip) or funds to the Director: Surveillance, upon written notification by the Director.
- 3.325.3 The client shall, before any scrip or funds are returned to him under rule 3.325.2, indemnify the Director: Surveillance in writing for any loss sustained by or damage caused to any person, including, but not limited to, the client, as a result of anything done or omitted by the Director: Surveillance in the bona fide exercise of any power, or performance of any duty or function under or by virtue of rule 3.325.2, as a result of the return of the scrip or funds to the client and the alienation by the client of such returned scrip or funds in respect of which he is not the lawful owner.
- 3.325.4 In the event of the default of a member, the authority referred to in rule 3.325.1.2 shall endure until such time as the member is placed under provisional sequestration or liquidation when control of the assets in the possession of the member shall vest in the appointed trustee or liquidator.

3.330–3.340 [Reserved]

3.350 JSE's powers of publication

- 3.350.1 The JSE may in its discretion and in such manner as it may deem fit, notify the public of or cause to be notified to the public any fact that the JSE considers to be in the public interest, including, but not limited to the name of a member or any employee or officer of a member and the fact that any such employee or officer has been found guilty of any charge and of the sentence so imposed on such member, employee or officer of a member. The JSE shall inform or cause the public to be informed that a particular member or employee or officer of a member has been expelled, suspended, declared a defaulter or has otherwise ceased to be a member.
- 3.350.2 No action or other proceeding shall in any circumstances be taken by any member or any employee or officer of a member referred to in any notification referred to above or in a JSE Gazette, against the JSE or any Board or Committee member or employee thereof or any person publishing or circulating the same, and this rule shall operate as leave to any person to publish and circulate such notification and be pleadable accordingly.

SECTION

4

Section 4: Derivatives Membership

Scope of section

- 4.10 Classes and categories of derivatives membership
- 4.20 Capital adequacy requirements

DERIVATIVES MEMBERSHIP

4.10 Classes and categories of derivatives membership

- 4.10.1 A derivatives member of the JSE shall be registered to trade in the financial derivatives market or the agricultural products market or in both, and shall in respect of each market be registered in one of two classes, namely, as a clearing or non-clearing member (derivatives) in such market and in one of two categories, namely as a broking or non-broking member (derivatives) in such market.
- 4.10.2 A derivatives member shall be required to hold and retain one JSE right.
- 4.10.3 A non-clearing member (derivatives) may only enter into a clearing agreement with one clearing member (derivatives) to clear and settle the trades of that non-clearing member (derivatives).
- 4.10.4 A broking member (derivatives) -
- 4.10.4.1 may be a clearing member (derivatives) or a non-clearing member (derivatives);
 - 4.10.4.2 shall not be a natural person; and
 - 4.10.4.3 shall have and continuously maintain the administrative systems and expertise to ensure -
 - 4.10.4.3.1 the adequate management of his own and his clients' funds in accordance with these derivatives rules;
 - 4.10.4.3.2 that an accurate record of his own and his clients' positions is kept at all times; and
 - 4.10.4.3.3 that his clients' trades, positions and cash balances under control of the broking member (derivatives) are timeously reported to such clients.
- 4.10.5 A non-broking member (derivatives) shall not be entitled to trade for or on behalf of clients or to enter into client agreements with any client.

4.20 Capital adequacy requirements

- 4.20.1 A derivatives member shall at all times have own funds equal to the greater of -
- 4.20.1.1 the initial capital referred to in rule 4.20.2, 4.20.3, 4.20.4 or 4.20.5 as the case may be; or
 - 4.20.1.2 thirteen weeks operating costs; plus
 - 4.20.1.3 the position risk requirement; and

4.20.1.4 the settlement risk requirement; and

4.20.1.5 the large exposure risk requirement; and

4.20.1.6 the foreign exchange risk requirement;

such that the following formula is satisfied -

4.20.1.7 $ONF \geq CAR$

And

$CAR = (\text{greater of } ICR \text{ or } AOC/4) + PRR + CRR + FXR + LPR$

where

ONF = Own funds

CAR = Capital adequacy requirement

ICR = Initial capital requirement

AOC = Annual operating costs

PRR = Position risk requirement

CRR = Counterparty risk requirement

FXR = Foreign exchange risk requirement

LPR = Large position risk requirement

4.20.1A The following provisions shall apply to a derivatives member that is an external company -

4.20.1A.1 the external company shall, when submitting its application for membership, submit proof of compliance with the requirements of Section 322 of the Companies Act, 1973 (Act No. 61 of 1973) by furnishing the JSE with the certificate of registration as provided for in Section 322(2) of the said Companies Act;

4.20.1A.2 the own funds of the local branch of the external company shall at all times exceed the liabilities of the said local branch of the external company in the Republic by an amount equal to or greater than that provided for in rule 4.20.2, 4.20.3, 4.20.4 or 4.20.5, as the case may be;

- 4.20.1A.3 the foreign parent of the local branch of the external company shall in writing confirm to the exchange that it is required to comply with capital adequacy requirements similar to those in the Republic, and that they are reporting such as required to an appropriate foreign regulator;
- 4.20.1A.4 the thirteen weeks operating costs requirement in rule 4.20.1.2 shall relate to the operating costs of the local branch of the external company in the Republic; and
- 4.20.1A.5 an external company which operates as a branch by means of which a foreign institution conducts the business of a bank, shall submit its capital adequacy returns in terms of rules 3.70.4 and 3.70.5 to the Registrar of Banks, and shall at all times comply with the Banks Act, 1990 (Act No. 94 of 1990) and any Conditions published in terms of the said Banks Act.
- 4.20.2 A non-clearing, non-broking member (derivatives) that does not have clients in any other market shall have the initial capital as required by his clearing member (derivatives).
- 4.20.3 A non-clearing, broking member (derivatives) who does not receive a client's margins or hold the client's margins in terms of rule 8.60.4 or who does not receive any other assets of his client with respect to the client's buying and selling of financial instruments whether listed by the JSE or not, or with respect to the client's buying and selling of securities, shall have an initial capital of at least R200 000 (two hundred thousand Rand) or such other minimum amount that the JSE may, subject to the approval of the Registrar, decide.
- 4.20.4 A non-clearing, broking member (derivatives) who receives client's margins or holds clients' margins in terms of rule 8.60.4, or that receives any other assets of his client with respect to the client's buying and selling of financial instruments whether listed by the JSE or not, or with respect to the client's buying and selling of securities, shall have an initial capital of at least R400 000 (four hundred thousand Rand, or such other minimum amount that the JSE may, subject to the approval of the Registrar, decide.
- 4.20.5 A clearing member (derivatives) shall have own funds of R200 000 000 (two hundred million Rand), or such other sum as the JSE may determine: Provided that the JSE may, at its discretion, impose additional suretyship, guarantee or other requirement on a clearing member (derivatives) if -
- 4.20.5.1 the sum of the initial margin with respect to the positions of the clearing member (derivatives), its clients, the non-clearing members (derivatives) with which the clearing member (derivatives) has entered into clearing agreements and the clients of such non-clearing members (derivatives), reaches the limit as contemplated in rule 10.10.1; or
- 4.20.5.2 the own funds of the clearing member (derivatives) as specified in rule 4.20.5 have decreased to the limit referred to in rule 10.10.1.
- 4.20.6 A clearing member (derivatives) shall provide, maintain and keep in force a suretyship in favour of the clearing house by a financial or other institution acceptable to the JSE, in such form and upon

such terms and conditions as the JSE may determine, for the due performance of all or any of its obligations to the clearing house in terms of these derivatives rules, jointly and severally, for an amount of not less than R10 000 000 (ten million Rand) or such other sum as the JSE may determine.

- 4.20.7 The JSE shall be entitled to suspend a derivatives member should there be a deficiency in the capital adequacy requirement of the derivatives member as prescribed in the derivatives rules and directives.

SECTION**5**

Section 5: Registered Officers**Scope of section**

- 5.10 Derivatives members' obligation to ensure registration of officers
- 5.20 Registered dealers to trade for a derivatives member
- 5.30 Dealers to trade only with other registered dealers
- 5.40 Natural persons functioning as registered officers
- 5.50 Registration of officers by the JSE
- 5.60 Termination of the registration of an officer
- 5.70 Registration and termination effective
- 5.80 Derivatives member remains responsible
- 5.90 Giving of advice by employees

REGISTERED OFFICERS**5.10 Derivatives members' obligation to ensure registration of officers**

Each derivatives member which is a body corporate or a partnership -

- 5.10.1 shall ensure the registration by the JSE of a compliance officer who shall -
 - 5.10.1.1 without relieving that derivatives member from his responsibility to comply with the provisions of the Act and these derivatives rules, be responsible for ensuring compliance by that derivatives member with the provisions of the Act and these derivatives rules;
 - 5.10.1.2 have obtained such qualification as may be required by the JSE;
 - 5.10.1.3 in the event of any breach of these derivatives rules or problem or query arising in respect of any trade or alleged trade or position of the derivatives member or any of his clients or any non-clearing member (derivatives) with which the clearing member (derivatives) has entered into a clearing agreement in terms of these derivatives rules, immediately on the request of the JSE or the clearing house or his clearing member (derivatives), take such steps as may be necessary to rectify the breach or to eliminate the problem or to satisfy the query;
 - 5.10.1.4 receive all notices to the derivatives member from the JSE or the clearing house or the clearing member (derivatives) and be responsible to ensure that all such notices are complied with; and
 - 5.10.1.5 ensure compliance with all prescribed agreements referred to in section 14 of these derivatives rules.
- 5.10.2 shall not carry on business for more than two months in any continuous period of twelve months unless such member has registered a compliance officer in terms of rule 5.10.1: Provided that in the absence of a duly appointed compliance officer, or where the post has become vacant, the sole proprietor, or the senior partner, or the senior director, as the case may be, shall temporarily assume the responsibility of the compliance officer as referred to in rule 5.10.1, for no longer than 2 months.
- 5.10.3 shall ensure the registration by the JSE of dealers who, subject to rule 5.20, shall be the only persons entitled to trade on behalf of the derivatives member and who shall be either -
 - 5.10.3.1 junior dealers who may trade for a derivatives member's own account but not for or on behalf of clients and who shall have obtained such qualification that may be required by the JSE; or
 - 5.10.3.2 senior dealers who may trade for a broking member (derivatives) own account and for or on behalf of clients and who shall have obtained such qualification that may be required by the JSE.

- 5.10.4 shall ensure that no person is registered as a registered officer unless he has entered into a written agreement with the derivatives member in terms of which he agrees to be bound by the provisions of the Act, the derivatives rules, the directives, customs and usages of the JSE.

5.20 Registered dealers to trade for a derivatives member

A derivatives member shall not trade for his own account without having at least one junior dealer or one senior dealer present at the derivatives member's place of business or, for or on behalf of clients, without at least one senior dealer present at the derivatives member's place of business, unless the JSE has in writing granted temporary registration to a person nominated in writing by the derivatives member to trade for a period not exceeding fifteen business days in the absence of such junior or senior dealer. The JSE shall publish the name of such nominee in a notice to derivatives members.

5.30 Dealers to trade only with other registered dealers

No dealer shall trade with a person whom they know or ought reasonably to know is not registered as a dealer of the other derivatives member concerned or person authorised to trade for the derivatives member in terms of rule 5.20.

5.40 Natural persons functioning as registered officers

A derivatives member who is a natural person shall fulfil all the functions of the compliance officer and junior dealer referred to in rule 5.10: Provided that he may appoint the compliance officer of his clearing member (derivatives) to act on his behalf as his compliance officer.

5.50 Registration of officers by the JSE

- 5.50.1 An application for the first registration as a registered officer shall be made to the JSE in the manner and on the form prescribed by the JSE.
- 5.50.2 The JSE shall in a notice to derivatives members publish the name of the applicant, and derivatives members shall within ten business days of such notice notify the JSE in writing of objections to or comments on the application.
- 5.50.3 The JSE shall convene a meeting of the JSE Executive to consider the application referred to in rule 5.50.1 and any objection to or comment on it in order to recommend to the JSE to accept or reject the application.
- 5.50.4 An application to change the registration of a registered officer from one derivatives member to another or from one office to another shall be made in writing to the Chief Executive Officer by the derivatives member intending to register the officer and the Chief Executive Officer shall, in his discretion, decide to grant such change in registration or to refer the application to the JSE Executive for consideration at its next meeting: Provided that, if aggrieved by the decision of the JSE Executive, the derivatives member concerned shall have the right of appeal to the appeal board.

- 5.50.5 The JSE may, in its discretion, for a period not exceeding ninety (90) days, grant the temporary registration of an officer pending the attainment by him of the qualifications required for the office in question.

5.60 Termination of the registration of an officer

A derivatives member shall notify the JSE in writing of its decision to terminate the registration of a registered officer in its name, in which event the JSE shall be entitled to request full details of the circumstances of the termination.

5.70 Registration and termination effective

The registration, whether permanent or temporary, or termination of the registration of a registered officer in the name of a particular derivatives member in a particular office shall become effective on the date and the time of the notice to derivatives members by the JSE, unless it is stated otherwise in the notice.

5.80 Derivatives member remains responsible

The appointment or registration of any officer referred to in this rule 5 shall not in any way relieve a derivatives member from any of his duties and responsibilities in terms of the Act and these derivatives rules, and the derivatives member's liability to fulfil those duties and responsibilities shall remain a principal liability and shall not be accessory or subordinate to the liabilities of such officer.

5.90 Giving of advice by employees

A derivatives member shall, in the course of its business, give advice to its clients on the buying and selling of financial instruments only through an affiliated officer.

SECTION

6

Section 6: Reserved

SECTION**7****Section 7: Trading****Scope of section**

- 7.10 Financial market
- 7.20 Offers and acceptances
- 7.30 Order priority
- 7.40 Trading capacity
- 7.50 Affiliated officers and derivatives members trading as clients
- 7.60 Trading for or on behalf of clients
- 7.70 Automated trading system
- 7.80 Derivatives members obligations in relation to the ATS
- 7.90 Trading times
- 7.100 Cross trades
- 7.110 Pre-arranged trades
- 7.120 Solicitation of offers
- 7.130 Delta trades
- 7.140 Aggregation and division of trades
- 7.150 Trade allocation
- 7.160 Trading restriction
- 7.170 Rules of trading that are particular to the physical delivery of agricultural commodity contracts

TRADING

7.10 Financial market

The business of the buying and selling of exchange contracts as contemplated by section 8(2) of the Act shall be conducted both on the ATS and off-ATS. Trading in all exchange contracts shall be conducted by means of the ATS: Provided that -

- 7.10.1 trading in option contracts or combinations of option and futures contracts and in futures in a number of contracts larger than the number determined by the JSE may be conducted off-ATS until such time as the JSE may determine;
- 7.10.2 trading by a derivatives member with another derivatives member as principals pursuant to an order executed for the other derivatives member on the ATS may be conducted off-ATS, subject to rule 7.160.

7.20 Offers and acceptances

- 7.20.1 Two derivatives members trading off-ATS or a derivatives member and a client shall have concluded a trade when a valid offer made by one of them is accepted by the other.
- 7.20.2 An offer in terms of rule 7.20.1 may include the following specifications -
 - 7.20.2.1 The particular exchange contract;
 - 7.20.2.2 the number of exchange contracts to be bought or sold;
 - 7.20.2.3 a clear indication of whether the offer is to buy or sell;
 - 7.20.2.4 the price at which the offeror is prepared to trade expressed as -
 - 7.20.2.4.1 the best price; or
 - 7.20.2.4.2 any price that is better than a specified worst price; or
 - 7.20.2.4.3 a specific price;
 - 7.20.2.5 a clear indication of whether the derivatives member to whom the offer is made is to exercise his discretion in terms of either rule 7.20.2.4.1 or rule 7.20.2.4.2;
 - 7.20.2.6 the period of time for which the offer will remain open: Provided that in the case of -
 - 7.20.2.6.1 a verbal offer, if no such period is specified and if the offer is not accepted immediately, it shall be deemed to have been withdrawn on termination of the verbal communication;
 - 7.20.2.6.2 a written offer, a period of time shall be specified;

- 7.20.2.7 subject to rule 7.20.2.10, a clear indication of whether the derivatives member is to trade with the client as an agent or as a principal: Provided that, if no such stipulation is made, the derivatives member shall trade with the client in the capacity specified in the client agreement or, if no such specification is made in the client agreement, then the derivatives member may trade with the client as a principal in terms of the derivatives rules;
- 7.20.2.8 the date and precise time when the offer is made or varied;
- 7.20.2.9 a clear indication of whether in the case of an order the derivatives member is allowed any discretion as to the number of exchange contracts more or less than those specified under rule 7.20.2.2 that the offeror shall be prepared to buy or sell;
- 7.20.2.10 a clear indication of whether in the case of an order the derivatives member shall be entitled to fill the order in more than one purchase or sale in the market and whether or not such purchases or sales are to be concluded by the derivatives member as the offeror's agent or whether the contracts are to be aggregated in the derivatives member's proprietary account and bought or sold to or from it at an average price once the order has been completely filled or filled to the offeror's satisfaction;
- 7.20.2.11 a clear indication of whether in the case of an order the acceptance of the offer shall be conditional upon the acceptance of an offer to buy or sell another exchange contract;
- 7.20.2.12 the place where and/or telephone or telex or facsimile number or electronic mail address at which the client is to be contacted to confirm the acceptance of the offer; and
- 7.20.2.13 any other particular which the JSE may require.
- 7.20.3 For an offer made in terms of rule 7.20.1 to be valid the terms contained in rules 7.20.2.1, 7.20.2.2, 7.20.2.3, 7.20.2.4 and 7.20.2.8 shall be specified.
- 7.20.4 An offer may be made by a client to a derivatives member either telephonically or in writing; and
- 7.20.4.1 the derivatives member shall ensure that the requirements set out in rule 7.20.3 are clearly and unambiguously confirmed to or by the client; and
- 7.20.4.2 the derivatives member shall keep a tape recording of a telephonic offer in terms of rule 10.20.4; and
- 7.20.4.3 the derivatives member shall keep a written record of the offer for a period of not less than thirty days after the offer was made.

- 7.20.5 A derivatives member may make an offer in respect of a trade exempted in terms of rule 7.10 of at least the standard lot size off-ATS by displaying, on the Reuters screen designated for that exchange contract, the price at which he is prepared to buy or sell, and any other derivatives member shall be entitled to accept the offer telephonically, unless -
- 7.20.5.1 the derivatives member has, within a period of not more than two minutes, or such other period as the JSE may decide, prior to the verbal acceptance, traded with another derivatives member at the same price or, with respect to the derivatives member making the offer, at a worse price; or
- 7.20.5.2 for a period of not less than two minutes the offering derivatives member has been unable to remove its offer due to a technical fault of the screen.
- 7.20.6 Derivatives members may only address offers to clients with whom they have entered into client agreements or to other derivatives members.
- 7.20.7 When accepting an offer to effect an off-ATS trade, a derivatives member shall clearly and unambiguously state to the offeror and not to an intermediary that he has accepted the offer, and in the case of an order he shall repeat the following details -
- 7.20.7.1 the particular exchange contract;
- 7.20.7.2 the number of the exchange contracts being bought or sold;
- 7.20.7.3 the price at which the exchange contracts are being bought or sold; and
- 7.20.7.4 the date and the precise time when the offer was accepted.
- 7.20.8 If a derivatives member trades for or on behalf of a client pursuant to an order from the client, he shall, provided the client can be reached at the address or telephone number stated in the client agreement or at any other place or at any other telephone number given by the client at the time the offer was made, use his best endeavours to confirm the acceptance of the offer -
- 7.20.8.1 within the period agreed upon for confirmation of the trade; or
- 7.20.8.2 if no time was agreed upon, within the period as specified in the client agreement; or
- 7.20.8.3 if no such period is stipulated in the client agreement, within the period specified for the acceptance of the offer as contemplated in rule 7.20.2.6.

7.30 Order priority

- 7.30.1 A derivatives member shall not trade with another derivatives member if the trade could satisfy an order from a client.

- 7.30.2 Subject to rule 7.30.1, a derivatives member shall not trade with a client if the trade could satisfy a previously received order from another client.
- 7.30.3 Subject to rule 7.30.1, a derivatives member shall not trade with another derivatives member, if the trade could satisfy a previously received order from another derivatives member.
- 7.30.4 A derivatives member shall not trade for his own account or for the account of an affiliated officer of the derivatives member or any account in which the derivatives member, or affiliated officer of the derivatives member has a beneficial interest if the trade could satisfy an order from a client or another derivatives member.

7.40 Trading capacity

- 7.40.1 Where a derivatives member trades with a client (as agent or principal) or with another derivatives member -
- 7.40.1.1 the derivatives member shall be liable to the client or other derivatives member for the due fulfilment of all obligations arising out of the trade; and
- 7.40.1.2 any claims by the client or a derivatives member in respect of a trade shall be against the derivatives member with whom he traded and not against any other person with whom the derivatives member may have traded as contemplated by rule 7.40.2.
- 7.40.2 The derivatives member may trade with his client as an agent or as a principal, as specified in rule 7.20.2.7: Provided that, when trading with a client as an agent, he shall immediately before or after the trade with the client trade with another derivatives member or, in terms of rule 7.40.4, with another client at the same price, but in the opposite direction.
- 7.40.3 Notwithstanding the provisions of rule 7.40.2, if for any reason, after the derivatives member has reported an off-ATS trade to the clearing house, a mistake has occurred, the derivatives member may trade with the client as principal in order to correct the mistake.
- 7.40.4 Subject to rule 7.10, a derivatives member who has an offer from one client to buy and an offer from another client to sell the same exchange contract, may simultaneously trade off-ATS with both clients as agent: Provided that -
- 7.40.4.1 offers to buy and sell the particular contract are reflected on the Reuters screen as contemplated by rule 7.20.5; and
- 7.40.4.2 if the price of the offer from both clients is as contemplated by rules 7.20.2.4.1 or 7.20.2.4.2, the price at which the derivatives member shall trade with both clients shall be the midpoint between the prices reflected on the Reuters screen as contemplated by rule 7.40.4.1; or

7.40.4.3 if the price of one offer is specified as contemplated by rule 7.20.2.4.3, the derivatives member shall trade with both clients at that price: Provided it is better than or equal to the prices on the Reuters screen.

7.40.5 A derivatives member off-setting an off-ATS trade with another derivatives member with an equal and opposite off-ATS trade with a third derivatives member, shall not, for a valuable consideration, remove himself from the trades with the two derivatives members concerned, but shall, in order to receive any valuable consideration, trade with both derivatives members as a principal at different prices.

7.50 Affiliated officers and derivatives members trading as clients

7.50.1 An affiliated officer of a broking member (derivatives) may be a client of the broking member (derivatives): Provided that such client fulfils all his obligations in terms of these derivatives rules.

7.50.2 Except with the written approval of the JSE and subject to such conditions as it may impose-

7.50.2.1 An affiliated officer of a derivatives member may not have a beneficial interest in another derivatives member;

7.50.2.2 An affiliated officer of a broking member (derivatives) may not be a client of another derivatives member or have a beneficial interest in a client;

7.50.2.3 A derivatives member may not be a client of another derivatives member or have a beneficial interest in a client;

7.50.2.4 A derivatives member may not accept an affiliated officer of another derivatives member or another derivatives member as a client.

7.50.3 An official or employee of the JSE or the clearing house may not be a client of any derivatives member or have a beneficial interest in a client of any derivatives member.

7.60 Trading for or on behalf of clients

7.60.1 Client agreement

A derivatives member shall not trade for or on behalf of a client, unless he has entered into a client agreement, the minimum terms and conditions of which are prescribed in terms of section 14 of these derivatives rules.

7.60.2 Client registration

7.60.2.1 A derivatives member shall not trade for or on behalf of a client until registration of the client has been effected.

7.60.2.2 To register a client, a derivatives member shall submit the following details:

- 7.60.2.2.1 The full name and description of legal capacity and a clear indication whether the person is a resident, non-resident or emigrant client;
 - 7.60.2.2.2 the identity number, or registration number of a company or close corporation;
 - 7.60.2.2.3 the address;
 - 7.60.2.2.4 the telephone, facsimile or telex number;
 - 7.60.2.2.5 the duly authorised contact person;
 - 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; and
 - 7.60.2.2.9 the margin category in respect of a non-resident client or emigrant client.
- 7.60.2.3 The JSE shall maintain a record of the clients which are registered as clients of broking members (derivatives) and it shall keep a record of the particulars associated with each client as required under rule 7.60.2.2.
- 7.60.2.3.1 A derivatives member shall ensure that the particulars relating to his clients are correct and up to date at all times.
 - 7.60.2.3.2 The derivatives member shall ensure that clients, which have ceased trading with the derivatives member, are removed from the register as being the clients of the derivatives member.
- 7.60.2.4 The client's registration shall be retained by the JSE for as long as it deems necessary, after the client has ceased trading.

7.60.3 Client advice notes

The JSE may send a client advice note to the client confirming a trade with a derivatives member and may include such information in the advice note as the JSE may require.

7.70 Automated trading system

In accordance with the procedures set out in the User Manual as amended from time to time and/or as determined by the JSE, other than in relation to the trades exempted in terms of rule 7.10.1, a derivatives member shall make an offer to buy or sell either for his own account or for the account of a client on the ATS.

7.80 Derivatives members obligations in relation to the ATS

A derivatives member shall be bound by all offers, acceptances or entries made in his name on the ATS regardless of whether or not such offer or acceptance or trade was authorised by the derivatives member and the derivatives member shall -

- 7.80.1 by keeping all codes, passes, passwords or other security devices confidential and privy only to the compliance officer and the registered dealer for whom they are intended, control access to the ATS; and
- 7.80.2 ensure that only the registered dealer to whom a valid password is allocated by the clearing house, or the compliance officer, shall use such password to gain access to the ATS.

7.90 Trading times

- 7.90.1 Trading on the ATS shall take place between 07:30 and 17:30 on every business day or, subject to the approval of the Registrar, at such other times as the JSE may determine.
- 7.90.2 The ATS shall be available for the allocation of trades, reporting of off-ATS trades or any other administrative purposes for fifteen (15) minutes after closing time.
- 7.90.3 The JSE may suspend the ATS at any time by giving 5 minutes notice on the screen specifying the expected duration of suspension and alternative methods of trading, if any.
- 7.90.4 The JSE may extend ATS trading times on any business day by giving 5 minutes notice on the ATS specifying the closing time for trading on that day.

7.100 Cross trades

A derivatives member who has an order from one client to buy and an order from another client to sell the same exchange contract shall, where such orders are to be executed by means of offers that shall be made on the ATS, acting as the agent of the clients -

- 7.100.1 first offer to buy or sell the particular contract for the client that first placed the order; and
- 7.100.2 after a period of time determined by the JSE, enter an offer for the second client in the opposite direction at the same price in order to ensure that the first client's order shall be fulfilled.

7.110 Pre-arranged trades

Two derivatives members shall not trade on the ATS pursuant to a prior agreement between them without a period of at least 30 seconds, or such other time as the JSE may determine, having elapsed between entering the offer on the ATS and the acceptance thereof.

7.120 Solicitation of offers

7.120.1 In the manner determined by the JSE and/or as set out in the user manual, a derivatives member may solicit offers that will be made on the ATS from the other derivatives members to both buy and sell an exchange contract according to the terms and conditions determined by the JSE in relation to such futures or option contract. Such solicitation of an offer shall be referred to as a "request for a double".

7.120.2 In the manner determined by the JSE and/or as set out in the user manual a derivatives member may solicit offers to buy or sell an exchange contract where such purchase or sale is contingent upon the purchase or sale of another exchange contract or contracts. Such a solicitation of an offer shall be referred to as a "request for a quote".

7.130 Delta trades

A derivatives member may offer to buy or sell an option in combination with the underlying futures contract in a specific ratio and/or at a specific price. Such a combined trade shall be referred to as a "delta trade".

7.140 Aggregation and division of trades

A derivatives member may -

7.140.1 aggregate a number of trades that were done on the ATS by means of offers made by the derivatives member for his own account and, in terms of rule 7.150, allocate such aggregated trade to a client or other derivatives member in terms of an order from the client or other derivatives member at a price, calculated by the ATS equal to the average price of the original trades; or

7.140.2 divide a trade that was done on the ATS by means of an offer made by the derivatives member for his own account and, in terms of rule 7.150, allocate such subdivided trades to two or more clients and/or other derivatives members in terms of orders from such clients or other derivatives members.

7.150 Trade allocation

A derivatives member shall allocate a trade that has been done on the ATS on the particular business day for the account of the derivatives member to a client or another derivatives member -

7.150.1 when the derivatives member acts as principal in terms of the order from a client or pursuant to a tripartite agreement that was executed by means of an offer made on the ATS by the derivatives member for his own account;

7.150.2 when the derivatives member has aggregated or divided trades done in terms of an order from a client or another derivatives member as contemplated in rule 7.140; or

7.150.3 when a derivatives member trades with another derivatives member as a result of an order from the other derivatives member which has been executed on his behalf by means of the offer on the ATS:
Provided that:

7.150.3.1 the allocation of a single trade or a subdivided trade shall take place within a period of time determined by the JSE; and

7.150.3.2 the JSE may determine that the original price or average of the original prices or the price prevailing at the time of the allocation shall be made known to the client or the derivatives member giving the order referred to in rule 7.10.2.

7.160 Trading restriction

It shall be a contravention in terms of rule 3.285.3 for a derivatives member to

7.160.1 make or accept an offer on the ATS when he has placed an order with another derivatives member in terms of rule 7.10.2 in the opposite direction in the same or a related exchange contract; or

7.160.2 to place an order with another derivatives member in terms of the said rule if he has made an offer on the ATS in the opposite direction in the same or a related exchange contract.

7.170 Rules of trading that are particular to the physical delivery of agricultural commodity contracts

7.170.1 The contract specification of an agricultural commodity futures contract may provide for performance by means of physical delivery and may set out the conditions and terms under which physical delivery shall be effected.

7.170.2 The JSE may issue directives in respect of delivery procedures, settlement and delivery agents, delivery locations, inspections of commodities sold and delivered and other matters relating to trading in agricultural commodity futures and may appoint settlement agents on such terms as it may deem fit to facilitate performance of agricultural commodity futures.

7.170.3 Unless otherwise specified in the contract, the holder of every short position in an agricultural commodity futures contract shall on expiry have an obligation to make delivery of the underlying agricultural commodity at the expiry price, and the holder of every long position on expiry shall have an obligation to take delivery of the underlying agricultural commodity at the expiry price.

7.170.4 The clearing house shall, unless otherwise specified in the contract specification, have the sole discretion in allocating delivery to long position holders.

7.170.5 In the event of a default by a party to an agricultural commodity futures contract, the contract may be closed out by the non-defaulting party by booking the quantity in default back to the defaulting party at a market price determined by the JSE.

SECTION**8**

Section 8: Positions**Scope of Section**

- 8.10 Reporting
- 8.20 Matching
- 8.30 Clearing
- 8.40 Opening and closing-out a position
- 8.50 Mark-to-market
- 8.60 Margin payments
- 8.70 Interest payments
- 8.80 Trading fees
- 8.90 Settlement procedures
- 8.100 Exercise and assignment of option contracts

POSITIONS

8.10 Reporting

- 8.10.1 Within ten minutes of trading, or such other time as the JSE may decide, a derivatives member shall report his off-ATS trade to the clearing house through the ATS in the manner and form prescribed by the clearing house.
- 8.10.2 Off-ATS trades concluded after 16:30, or such later time on a business day as the JSE may determine, shall be reported to the clearing house in such manner no later than 09:00 on the following business day.
- 8.10.3 In the event of a failure of the ATS or in circumstances beyond the control of the derivatives member preventing him from complying with the provisions of this rule 8.10, the derivatives member may, with the prior written approval of the JSE and for the duration of such failure or circumstances, report his off-ATS trades to the clearing house by fax or other means acceptable to the JSE.

8.20 Matching

- 8.20.1 Off-ATS trades involving two derivatives members shall be matched by the clearing house in terms of the date and time of the trade, the name of the counterparty, the particular exchange contract and the price at which the trade was done.
- 8.20.2 If an off-ATS trade with another derivatives member is reported and does not match all the particulars referred to in rule 8.20.1, or if no counterparty trade is reported, the clearing house shall report the mismatched or unmatched trade as soon as possible to both derivatives members nominated in the report and both derivatives members shall correct the details causing the mismatch or the party which failed to report the counterparty trade, shall do so.
- 8.20.3 In the event of any off-ATS trade not being matched by 16:30 or such later time that the clearing house determines on the day it is reported, it shall be reported anew by both derivatives members on the following business day.

8.30 Clearing

- 8.30.1 Trades will be cleared by the clearing house -
- 8.30.1.1 when an off-ATS trade between the derivatives member and a client is reported to the clearing house; or
- 8.30.1.2 when an off-ATS trade involving two derivatives members has been reported and matched as contemplated by rule 8.20; or
- 8.30.1.3 when a trade is done as the result of an offer made on the ATS or an allocation of a trade in accordance with rule 7.150.

- 8.30.2 Upon the trade being cleared, by novation, the clearing house shall replace the buyer and become the counterparty to the seller and it shall replace the seller and become the counterparty to the buyer.
- 8.30.3 The clearing house may refuse to accept for clearing a trade at a price that is, in the discretion of the Chief Executive Officer, substantially different from the current market price.

8.40 Opening and closing-out a position

- 8.40.1 When there was no position in an exchange contract prior to a trade in the exchange contract being cleared, a position in the exchange contract shall be opened and registered in the name of the derivatives member or his client when the trade is cleared.
- 8.40.2 The exchange contracts comprising a trade which has been cleared, shall be added to or off-set against an existing position registered in the name of the party concerned and the position shall be increased, decreased, closed out or a position in the opposite direction shall be opened, as the case may be.
- 8.40.3 On the expiry of a futures contract or an option contract of which the strike price is not better by a certain amount determined by the JSE than the expiry price of the underlying instrument of the option contract -
- 8.40.3.1 the person in whose name a long position in the exchange contract is registered by the clearing house shall be deemed to have sold the number of the exchange contracts equal to the number comprising the position, to the clearing house; and
- 8.40.3.2 the person in whose name a short position in the exchange contract is registered by the clearing house shall be deemed to have bought a number of the exchange contracts equal to the number comprising the position, from the clearing house.
- 8.40.4 The price of the futures contract which shall apply to the purchase contemplated in rule 8.40.3.1 and the sale contemplated in rule 8.40.3.2 shall be the expiry price determined in the manner prescribed in the contract specification of the futures contract in question and the price of an option contract which shall apply to such purchase or sale shall be zero.
- 8.40.5 Rule 8.40.2 shall apply ipso facto to the exchange contracts comprising the purchases and sales referred to in rule 8.40.3.
- 8.40.6 Where the strike price of an option contract is, on expiry, better by a certain amount determined by the JSE, than the expiry price of the futures contract underlying the option contract, the person in whose name a position in the exchange contract is registered shall be deemed to have exercised the option contract in terms of rule 8.100.3.
- 8.40.7 On the expiry as contemplated in rule 8.40.3 of a physically settled futures contract the holder of a long position in the exchange contract shall buy the underlying instrument and the holder of a short position shall sell the underlying instrument at the price equal to that referred to in rule 8.40.4 and the

purchase, sale, delivery and receipt of the underlying instrument shall take place pursuant to the contract specification applicable to such futures contract. Provided that a physically settled agricultural futures contract shall be regulated by rule 7.170.

8.50 Mark-to-market

- 8.50.1 At 16:00 on each business day, or such other time as the JSE may determine on a particular business day, the positions in each exchange contract of all derivatives members and their clients shall be marked-to-market on such basis as the JSE may determine.
- 8.50.2 The JSE or the clearing house, as the case may be, may at any time on any business day mark-to-market the position in any exchange contract of any derivatives member or client if, in its sole discretion, the conditions in the market for the exchange contract or its underlying instrument warrant such additional mark-to-market.

8.60 Margin payments

8.60.1 Initial margin

Initial margin shall be paid to or by a derivatives member or client whenever the risk of loss, as determined by the JSE, changes with respect to the aggregate position of such derivatives member or client.

8.60.2 Variation margin

Variation margin shall be paid to or by a derivatives member or client in whose name a position in an exchange contract is registered as the result of the marking-to-market of a position in terms of rule 8.50 or the closing out of a position or part thereof as contemplated in rule 8.40.2 or the closing out of a position as contemplated in rule 8.40.3.

8.60.3 Additional margin

8.60.3.1 A clearing member (derivatives) may require a non-clearing member (derivatives) with whom he has entered into a clearing agreement to deposit with him, with respect to the proprietary position of the non-clearing member (derivatives) or the position of any of the clients of the non-clearing member (derivatives), an amount of additional margin equal to a factor of the initial margin kept by the clearing house with respect to such position as agreed to in writing between the clearing member (derivatives) and the non-clearing member (derivatives).

8.60.3.2 A derivatives member may require a resident client to deposit with him, with respect to the resident client's position, an amount of additional margin equal to a factor of the initial margin kept by the clearing house, with respect to the said positions, as agreed to in writing between the derivatives member and the client.

8.60.4 Retained margin

A derivatives member, with respect to a resident client, may with the client's prior written agreement -

8.60.4.1 require the client to deposit an amount of money with him to be used to furnish initial and additional margin before the derivatives member shall trade with the client; and/or

8.60.4.2 retain initial and variation margin payable to the client or interest accruing in terms of rule 8.70.3, in anticipation of future trades:

Provided that the money so deposited and/or retained shall be repaid to the client if the client has not traded with the derivatives member within thirty days.

8.60.5 Maintenance margin level

A derivatives member may agree, where a client has an amount of money deposited with the derivatives member as contemplated in rule 8.60.3.2, that the client shall pay an amount of money to restore the additional margin to the amount contemplated by rule 8.60.3.2 when the additional margin has been used to meet payments of variation margin in terms of rule 8.60.2.

8.70 Interest payments

8.70.1 The clearing house shall manage and invest all margins held by it in terms of rule 11.10 and it shall on the second day of the month following the month in which interest was received or accrued, remit such interest, net of the interest consideration referred to in rule 11.10.2, to each clearing member (derivatives) in relation to the margin held in respect of the positions of the clearing member (derivatives), its clients and non-clearing members (derivatives) and the clients of such non-clearing members (derivatives).

8.70.2 Monthly in arrears a clearing member (derivatives) may remit the interest received in terms of rule 8.70.1, or any part thereof, to the non-clearing members (derivatives) with whom he has entered into clearing agreements in relation to the positions of the non-clearing member (derivatives) and their clients.

8.70.3 Subject to rule 8.60.4.2, monthly in arrears a derivatives member may remit the interest received in terms of rules 8.70.1 or 8.70.2, or any part thereof, to his clients in relation to the positions of such clients at any time during the preceding month.

8.80 Trading fees

8.80.1 The JSE shall levy fees on a clearing member (derivatives) in respect of the trades of the clearing member (derivatives), his clients and the derivatives members with whom the clearing member (derivatives) has entered into clearing agreements, in an amount and in a manner as decided by the JSE, and such fees may be recovered from the clearing member (derivatives) on behalf of the JSE by the clearing house.

- 8.80.2 A clearing member (derivatives) may levy such fees and charges as he deems fit on non-clearing member (derivatives) with whom he has entered into a clearing agreement: Provided that such fees and charges shall be in accordance with the schedule of fees which shall form part of the said clearing agreement.
- 8.80.3 A derivatives member may levy such fees and charges as he deems fit on clients with whom he trades: Provided that such fees and charges shall be in accordance with the schedule of fees and charges which shall form part of the client agreement.
- 8.80.4 A derivatives member shall not levy a fee or any commission or other charge on a client in respect of a trade in terms of which he has traded as a principal with the client without the prior written agreement of the client having been recorded in the client agreement.

8.90 Settlement procedures

- 8.90.1 With respect to his proprietary positions, the positions of his clients, the positions of the non-clearing members (derivatives) with whom he has entered into clearing agreements and the positions of the clients of such non-clearing members (derivatives), the clearing member (derivatives) shall pay to or receive from, the clearing house the net amount of -
- 8.90.1.1 subject to rule 9.20.1, the sum of the initial margin referred to in rule 8.60.1;
 - 8.90.1.2 the sum of the variation margin referred to in rule 8.60.2;
 - 8.90.1.3 any interest payable in terms of rule 8.70.1; and
 - 8.90.1.4 the fees referred to in rule 8.80.1.
- 8.90.2 An amount due from a clearing member (derivatives) in terms of rule 8.90.1 shall be paid to the clearing house not later than 12:00 on the business day following the day on which such payment accrued or such other time as the JSE may in its sole discretion determine.
- 8.90.3 With respect to any proprietary position, the position of any of his clients, the position of a non-clearing member (derivatives) with whom he has entered into a clearing agreement and the position of a client of such non-clearing member (derivatives) whom the JSE has marked-to-market in terms of rule 8.50.2, the clearing member (derivatives) shall pay to the clearing house the amount of variation margin as contemplated in rule 8.60.2 at the time stipulated by the JSE when the clearing member (derivatives) is notified by him of the mark-to-market.
- 8.90.4 With respect to his proprietary positions, and the positions of his clients, a non-clearing member (derivatives) shall pay to or receive from the clearing member (derivatives) the net amount of -
- 8.90.4.1 subject to rule 9.20.2, and read together with rule 8.60.3.1, the initial margin referred to in rule 8.60.1;

- 8.90.4.2 the variation margin referred to in rule 8.60.2;
- 8.90.4.3 any interest payable in terms of rule 8.70.2; and
- 8.90.4.4 the fees referred to in rule 8.80.2.
- 8.90.5 An amount due to or from a clearing member (derivatives) in terms of rule 8.90.4 shall be paid not later than 12:00 on the business day following the day on which such payment accrued, or at such other time as the non-clearing member (derivatives) and the clearing member (derivatives) have specifically agreed upon with respect to a particular payment.
- 8.90.6 With respect to any proprietary position or the position of any of his clients, which the JSE has marked-to-market in terms of rule 8.50.2, the non-clearing member (derivatives) shall pay to the clearing member (derivatives) the amount of variation margin as contemplated in rule 8.60.2 by the time referred to in rule 8.90.3, as stipulated by the JSE and as notified to the non-clearing member (derivatives) by the clearing member (derivatives), and no relaxation shall be given to a non-clearing member (derivatives) without the prior approval of the JSE.
- 8.90.7 Subject to rule 9.30.1, with respect to his positions a client shall pay to or receive from the broking member (derivatives) with whom he traded to open such positions the net amount of -
- 8.90.7.1 the total of the initial margin referred to in rule 8.60.1 for all its aggregate positions read together with rule 8.60.3.2: Provided that any amount so due from the resident client shall be off-set against any retained margin referred to in rule 8.60.4;
- 8.90.7.2 the variation margin referred to in rule 8.60.2;
- 8.90.7.3 any interest payable in terms of rule 8.70.3; and
- 8.90.7.4 the fees referred to in rule 8.80.3.
- 8.90.8 An amount due to or from a broking member (derivatives) in terms of rule 8.90.7 shall be paid not later than 12:00 on the business day following the day on which such payment accrued or such other time as the broking member (derivatives) and the client have specifically agreed upon with respect to a particular payment.
- 8.90.9 With respect to the position of any client, which the JSE has marked-to-market in terms of rule 8.50.2, the client shall pay to the broking member (derivatives) the amount of variation margin as contemplated in rule 8.60.2 by the time referred to in rule 8.90.3 stipulated by the JSE and notified to the client by the broking member (derivatives) and no relaxation shall be given without the prior approval of the JSE.

8.100 Exercise and assignment of option contracts**8.100.1 Exercise**

8.100.1.1 A client in whose name a long position in an option contract is registered may exercise the option at any time until the expiry of the exchange contract by either verbal or written notice to the derivatives member with whom he dealt in order to open the long position.

8.100.1.2 A derivatives member who has a proprietary long position in an option contract registered in his name may exercise the option at any time until the expiry of the exchange contract, and shall exercise the option on a client's behalf on the instruction of the client by executing the exercise on the ATS in the manner prescribed by the JSE and/or as set out in the user manual.

8.100.2 Upon the exercise of the option in terms of rule 8.100.1.2 the person in whose name the long position in the exchange contract was registered shall be deemed to have bought or sold the underlying instrument of the option contract in question at the strike price from or to the clearing house.

8.100.3 Assignment

When an option is exercised in terms of rule 8.100.1.1 or when an option is deemed to have been exercised in terms of rule 8.40.6, the clearing house shall in turn exercise its option to buy or sell the underlying instrument in question to or from the holder of a short position in the option contract in question: Provided that -

8.100.3.1 the clearing house shall in its sole discretion assign the exercise of the exchange contract or contracts to the registered holders of short positions in the exchange contract; and

8.100.3.2 the person to whom the exercise of the exchange contract is assigned in terms of rule 8.100 shall be deemed to have bought or sold the underlying instrument of the option contract.

SECTION

9

Section 9: Non-Resident and Emigrant Clients

Scope of Section

- 9.10 Bank accounts
- 9.20 Initial margin
- 9.30 Settlements
- 9.40 Fees
- 9.50 Trading restriction

NON-RESIDENT AND EMIGRANT CLIENTS

9.10 Bank accounts

Before a derivatives 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 derivatives member or a resident client in relation to equivalent positions, adjusted by the margin category assigned by the derivatives member in question to the non-resident or emigrant client, and a derivatives 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 derivatives 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 the clearing house in respect of equivalent positions of a derivatives member or a resident client adjusted by the margin category assigned by the derivatives 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 derivatives 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 derivatives 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 derivatives member concerned.
- 9.30.4 The clearing member (derivatives) or the clearing house, as the case may be, may off-set amounts due to him against amounts due by him to or from a derivatives 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 the clearing house or the clearing member (derivatives).
- 9.30.5 A derivatives 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 derivatives member off-set any amount 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 derivatives member shall not retain any interest paid to him by the clearing house or his clearing member (derivatives) 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 derivatives 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 (derivatives) or the clearing house, as the case may be, in respect of interest on margins: Provided that a clearing member (derivatives) who has a clearing agreement with the non-clearing member (derivatives) concerned shall pay to the non-clearing member (derivatives) an amount equal to that which he received in respect of the non-resident client's or emigrant client's position from the clearing house.
- 9.30.7 A derivatives 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 derivatives 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 derivatives 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 derivatives member: Provided that -

- 9.40.1 a derivatives 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 derivatives 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 derivatives member shall knowingly trade with a client in contravention of this rule.

SECTION

10

Section 10: Trading and Positions – Sundry Provisions

Scope of Section

- 10.10 Trading and position limits
- 10.20 Trading and position records
- 10.30 Emergency provisions

TRADING AND POSITIONS - SUNDRY PROVISIONS**10.10 Trading and position limits**

- 10.10.1 The clearing house shall limit the sum of the risk of loss of the proprietary positions of a clearing member (derivatives), the positions of the clients of the clearing member (derivatives), the positions of non-clearing members (derivatives) with which it has entered into clearing agreements and the positions of the clients of such non-clearing members (derivatives) in relation to the net financial worth of the clearing member (derivatives) plus his suretyship referred to in rule 4.20.6 in a manner determined by the JSE.
- 10.10.2 The clearing member (derivatives) shall limit the sum of the risk of loss of the proprietary positions of a non-clearing member (derivatives) and the clients of such non-clearing member (derivatives), and the clearing member (derivatives) shall inform the clearing house of all such limits and any changes thereto.
- 10.10.3 A clearing member (derivatives) may stipulate a limit to the number of exchange contracts that may constitute a trade by a particular non-clearing member (derivatives) at any one time, and he shall notify the clearing house of such limits and the clearing house shall publish such limits in a notice to all derivatives members.

10.20 Trading and position records

- 10.20.1 A derivatives member shall at all times maintain records of -
- 10.20.1.1 his trades with derivatives members and clients;
 - 10.20.1.2 margin and other payments to and from other derivatives members and their clients.
- 10.20.2 A derivatives member shall confirm to a client at least once a month -
- 10.20.2.1 the trades done with the client during the period;
 - 10.20.2.2 the positions of the client at the time of reporting;
 - 10.20.2.3 the balances of additional and retained margin held for the client at the time of reporting; and
 - 10.20.2.4 all payments to and from the client made or accrued during the period, including payments of margin, fees and interest.
- 10.20.3 The records referred to in rule 10.20.1 shall be kept for a period of at least three years.

- 10.20.4 Telephone recordings
- 10.20.4.1 the JSE, the clearing house and derivatives members shall have the right to tape-record all telephone calls using a device approved by Telkom.
- 10.20.4.2 A derivatives member shall tape-record all telephonic offers received from or made to clients.
- 10.20.4.3 With respect to such telephone calls, the tape-recording shall be admissible as evidence in any disciplinary or arbitration proceedings contemplated in these derivatives rules: Provided that the person who intends to rely on such tape recordings in evidence shall bear the onus of proving the authenticity thereof.
- 10.20.4.4 All parties to the prescribed agreements shall in such agreement acknowledge and confirm that they are aware that telephone calls may be recorded, and they shall be deemed to have irrevocably consented thereto.
- 10.20.4.5 No derivatives member shall tamper with any tape-recording of any telephone call.
- 10.20.5 Tape-recordings contemplated in rule 10.20.4 shall be kept in safe custody for a period of at least 14 days.

10.30 Emergency provisions

- 10.30.1 In order that the business of the JSE be carried out with due regard to the interests of the public in a fair and orderly market the JSE may, in addition to the powers given in terms of the Act, with the prior consent of the Registrar, in circumstances of emergency restrict or suspend trading in any or all of the instruments kept by it in its list of financial instruments.
- 10.30.2 Circumstances of emergency shall include but are not limited to the closing of any other exchange, a state of war or threatening hostilities, acts of state affecting the market or the due performance of trades or any position, any change in the law affecting the market or the due performance of trades or positions and any other situation or circumstances affecting, in the opinion of the JSE, a fair and orderly market for the trading in instruments listed by the JSE.
- 10.30.3 If the trading in any security, commodity or financial instrument on any exchange or market ceases, the JSE shall convene to consider the cessation of trading in all financial instruments listed by the JSE for which such security, commodity or financial instrument comprises the underlying instrument of the financial instrument concerned.
- 10.30.4 In the event of any of the circumstances contemplated in this rule 10.30 occurring, the Chief Executive Officer shall request the executive officers of all the other exchanges and the Registrar to attend a meeting to co-ordinate the course of action to be taken by the exchanges to restore and maintain a fair and orderly market.

SECTION**11**

Section 11: Management of Derivatives Members' and Client's Funds**Scope of Section**

- 11.10 Management of funds by the clearing house
- 11.20 Separation of funds
- 11.30 Clearing member (derivatives) bank accounts
- 11.40 Derivatives members' bank accounts
- 11.50 Relaxation or indulgence given by derivatives members

MANAGEMENT OF DERIVATIVES MEMBERS' AND CLIENTS' FUNDS

11.10 Management of funds by the clearing house

- 11.10.1 The clearing house shall separate the margins and other moneys, financial instruments and other corporeal and incorporeal things of any derivatives member or client from its own assets and shall manage and invest such margins and other moneys in a manner and subject to such terms and conditions as the JSE shall decide.
- 11.10.2 The clearing house, on behalf of the JSE, shall monthly in arrears, retain an interest consideration as determined by the JSE of not more than 2% per annum on any margins held by it in respect of any position registered in the name of any person during the month.

11.20 Separation of funds

A derivatives member shall -

- 11.20.1 at all times separate a client's or other derivatives member's funds, including money, financial instruments and other corporeal and incorporeal things of the client or other derivatives member, from his own assets;
- 11.20.2 not co-mingle the funds of any client or another derivatives member with his own;
- 11.20.3 not allow the use of funds or financial instruments or corporeal or incorporeal things belonging to any client or other derivatives member to finance his own trades or the trades of any other person;
- 11.20.4 not allow the use of funds or financial instruments or corporeal or incorporeal things of any client or other derivatives member to operate his own business; and
- 11.20.5 in respect of the trades or positions of a derivatives member or client, not retain any money, financial instruments or other corporeal or incorporeal things given by such derivatives member or client or received by the derivatives member on behalf of any person other than additional margin contemplated in rule 8.60.3 or retained margin contemplated in rule 8.60.4.

11.30 Clearing member (derivatives) bank accounts

A clearing member (derivatives) shall at all times keep a separate bank account into which he shall deposit any additional margin kept by him in terms of rule 8.60.3.1 and he shall at all times ensure that the correct amount of additional margin as required by his clearing agreement with the non-clearing member (derivatives) is held in respect of each non-clearing member (derivatives) with which he has entered into a clearing agreement and his records shall at all times reflect the amount of additional margin held in respect of each such non-clearing member (derivatives).

11.40 Derivatives members' bank accounts

A derivatives member shall keep a separate trust account with a bank into which he shall deposit all additional and retained margin held by him with respect to his resident clients and he shall at all times keep records that shall show the

amount held in respect of each client with respect to additional margin and with respect to retained margin and he shall at all times ensure that the correct amount of additional margin as required in terms of the relevant client agreement is held in respect of each client's positions.

11.50 Relaxation or indulgence given by derivatives members

A derivatives member who gives any relaxation or indulgence to a client regarding the payment of margin, whether initial margin, variation margin or additional margin, shall be deemed to have granted the client a loan repayable on demand in the amount of the shortfall for the period of the relaxation or indulgence at a rate of interest specified in the client agreement between them or, if no rate is specified, at the derivatives member's customary rate or, if there is no customary rate, at the rate determined in terms of the Prescribed Rate of Interest Act 55 of 1975 and the derivatives member shall, if such loan is for a period exceeding two business days, immediately inform the client thereof in writing.

SECTION

12

Section 12: Defaults

Scope of Section

- 12.10 Default by a derivatives member
- 12.10A Default by a client
- 12.20 Consequences of a client's default
- 12.30 Consequences of default by a non-clearing member (derivatives)
- 12.40 Consequences of default by a clearing member (derivatives)

DEFAULTS

12.10 Default by a derivatives member

A derivatives member shall default if -

- 12.10.1 he fails to fulfil any of his obligations in terms of a trade or a position; or
- 12.10.2 his derivatives membership is terminated; or
- 12.10.3 the JSE, in its sole discretion, considers that he has defaulted.

12.10A Default by a client

A client shall default if -

- 12.10A.1 he fails to fulfil any of his obligations in terms of a trade or a position; or
- 12.10A.2 the JSE, in its sole discretion, considers that he has defaulted; or
- 12.10A.3 he is in default with respect to one particular derivatives member and the JSE in its discretion decides that he is in default with respect to any other member.

12.20 Consequences of a client's default

Without limiting or detracting from any other remedies and rights which a derivatives member may have against a client, in the event of default by a client -

- 12.20.1 the client shall, save as provided in this rule, be suspended from trading through the derivatives member;
- 12.20.2 the derivatives member shall close out the positions of the client by trading to transfer those positions to himself and for his own account at a price approved by the JSE within two business days or such other period as may be determined by the JSE from the date of default;
- 12.20.3 any amount payable by the derivatives member to the client as a result of such close out or arising from any suretyship, cession, pledge or other security or from any other cause shall be set off against any amount payable by the client in terms of rule 8.90.7;
- 12.20.4 any shortfall remaining after the application of these derivatives rules shall be recovered from and any balance paid to the client.

12.30 Consequences of default by a non-clearing member (derivatives)

Without limiting or detracting from any other remedies and rights which a derivatives member or client or the clearing house may have against a non-clearing member (derivatives), in the event of default by a non-clearing member (derivatives) -

- 12.30.1 the non-clearing member (derivatives) shall, save as provided in this rule, be suspended from trading;
- 12.30.2 the clearing member (derivatives) shall close out the proprietary positions of the non-clearing member (derivatives) by trading to transfer those positions to himself and for his own account at a price approved by the JSE within two business days or such other period as may be determined by the JSE from the date of default;
- 12.30.3 any amount payable to the non-clearing member (derivatives) as a result of such close out or arising from any suretyship, cession, pledge or other security or from any other cause shall be set off against any amount payable by the non-clearing member (derivatives) in terms of rule 8.90.4;
- 12.30.4 if after all the above rules have been exhausted a shortfall remains, the right of the non-clearing member (derivatives) may be sold by the JSE and the proceeds utilised towards settlement of any remaining shortfall, and any surplus paid to the non-clearing member (derivatives);
- 12.30.5 any shortfall remaining after the application of these derivatives rules shall be recovered from and any balance paid to the non-clearing member (derivatives);
- 12.30.6 the clients of the non-clearing member (derivatives) shall, without notice to such clients, become the clients of the clearing member (derivatives), and-
- 12.30.6.1 the clearing member (derivatives) shall assume the obligations of the non-clearing member (derivatives) in terms of rule 8.90.7 that accrued on the date of default or on the previous business day;
- 12.30.6.2 all clients who did not previously have client agreements with the clearing member (derivatives) shall conclude client agreements with the clearing member (derivatives) to cover the positions and obligations assumed by the clearing member (derivatives); and
- 12.30.6.3 where the clearing member (derivatives) previously had a client agreement with the client of the non-clearing member (derivatives), such positions and obligations and subsequent trades shall be subject to that agreement.

12.40 Consequences of default by a clearing member (derivatives)

Without limiting or detracting from any other remedies and rights which a derivatives member or client or the clearing house may have against a clearing member (derivatives), in the event of default by a clearing member (derivatives) -

- 12.40.1 the clearing member (derivatives) shall, save as provided in this rule, be suspended from trading;
- 12.40.2 the clearing house shall open a separate trust account with a bank (hereinafter referred to as the "trust account"), into which shall be paid all margin due and payable, the proceeds from the sale of the right of the clearing member (derivatives), the proceeds from the suretyship referred to in rule

- 4.20.6 and any other moneys, securities or investments held by the clearing house in favour of or on behalf of or for the account of the clearing member (derivatives);
- 12.40.3 the clearing house shall manage the trust account and all the affairs of the clearing member (derivatives) arising from and relating to his membership of the JSE and -
- 12.40.3.1 shall assume control of all assets held or administered by the clearing member (derivatives) on behalf of or for the account or benefit of any derivatives member or client, and, when requested by the JSE, render such reports to the JSE as the JSE may require;
- 12.40.3.2 shall, without prior notice to the clearing member (derivatives), close out all the proprietary positions of the clearing member (derivatives) at the best price it can obtain when, in its sole discretion, it so decides;
- 12.40.3.3 any amount payable to the clearing member (derivatives) as a result of such close out or arising from any suretyship, cession, pledge or other security or from any other cause, shall be set off against any amount payable by the clearing member (derivatives) in terms of rule 8.90.1;
- 12.40.3.4 if after all the above rules have been exhausted a shortfall remains, the right of the clearing member (derivatives) may be sold by the JSE and the proceeds utilised towards settlement of any remaining shortfall, and any surplus paid to the clearing member;
- 12.40.3.5 any shortfall remaining after the application of these derivatives rules shall be recovered from and any balance paid to the clearing member (derivatives);
- 12.40.3.6 transfer all positions of clients and non-clearing members (derivatives) cleared through the clearing member (derivatives) to another clearing member (derivatives) until such time as the provisions of rule 12.40.5 have been complied with: Provided that the clearing house shall be entitled to appoint a trustee to exercise all its powers in terms of this rule subject to the trustee being entitled to the same indemnity as the clearing house.
- 12.40.4 within a period decided by the JSE each non-clearing member (derivatives) with whom the defaulting clearing member (derivatives) had a clearing agreement shall conclude a clearing agreement with another clearing member (derivatives), failing which the non-clearing member (derivatives) shall be deemed to be in default and his membership shall terminate;
- 12.40.5 the clients of the clearing member (derivatives) shall within a period determined by the JSE -
- 12.40.5.1 enter into client agreements with other derivatives members and trade with the clearing house and such other derivatives members to transfer their positions to them, or

- 12.40.5.2 trade with the clearing house to close out their positions;
- 12.40.6 after all liabilities of the defaulting clearing member (derivatives) have been settled, the amounts paid by any surety in terms of the derivatives rules shall be refunded from any balance remaining in the trust account and any further balance remaining shall be paid to the defaulting clearing member (derivatives): Provided that if there are insufficient funds to cover such liabilities, the clearing house shall call on all clearing members (derivatives) for an equitable contribution on a voluntary basis to make good any shortfall and, in the event of such contributions being insufficient, the funds of the fidelity fund and the general reserve of the JSE shall be applied in equal proportions.

SECTION

13

Section 13: Financial Instruments

Scope of Section

- 13.10 List of financial instruments
- 13.20 Contract specification of the financial instruments
- 13.30 Listing of financial instruments
- 13.40 Exchange contracts

FINANCIAL INSTRUMENTS**13.10 List of financial instruments**

The financial instruments which may be bought or sold on the financial market referred to in rule 7.10 shall be kept by the JSE in the list of financial instruments in terms of section 14 of the Act.

13.20 Contract specification of the financial instruments

- 13.20.1 The contract specification of financial instruments contained in the list of financial instruments kept in terms of these derivatives rules shall be determined by the JSE.
- 13.20.2 The JSE may, in its discretion, conduct surveys and research, call for the views of derivatives members and any committee and take such other steps as it may deem appropriate in determining the contract specification of financial instruments listed by the JSE.

13.30 Listing of financial instruments

- 13.30.1 The JSE shall have the power, subject to the approval of the Registrar, to -
- 13.30.1.1 add financial instruments to, or remove financial instruments from, the list of financial instruments kept in terms of these derivatives rules, or suspend financial instruments from such list;
- 13.30.1.2 impose new conditions on or amend the existing conditions of such financial instruments.
- 13.30.2 The JSE shall notify all derivatives members of the approval of an application in terms of this rule, and shall stipulate a date for the coming into operation of an addition, removal or suspension of financial instruments or new or amended conditions relating to financial instruments.

13.40 Exchange contracts

- 13.40.1 The JSE may, in its sole discretion, decide which expiry months shall be specified for the futures and options contracts contained in the list referred to in rule 13.10 and it shall publish such exchange contracts in a notice to derivatives members: Provided that where the expiry date of a futures or options contract is longer than one year hence the JSE shall specify the expiry date.
- 13.40.2 Options contracts having strike prices as contained in the contract specification of the particular option contract may be traded when the expiry month of the underlying futures contract is specified as contemplated in rule 13.40.1.

SECTION

14

Section 14: Prescribed Agreements

The JSE shall prescribe and specify the basic terms and formal requirements of the agreements for dealing in listed financial instruments, including, but not limited to the clearing house agreement, the clearing agreement and the client agreement.

<p>SECTION</p> <p>15</p>
--

Section 15: Management of Investments

Scope of Section

- 15.10 Authority to manage investments
- 15.20 Trading with an approved investment manager
- 15.30 Trading as an investment manager
- 15.30A Investment management by clients prohibited
- 15.40 Reporting to clients
- 15.50 Additional duties of the investment manager

MANAGEMENT OF INVESTMENTS

15.10 Authority to manage investments

All broking members (derivatives) of the JSE are, for the purposes of Section 5 (1A) of the Act, authorised to manage investments comprising only financial instruments listed on the JSE: Provided that they comply with the provisions of this rule, and other applicable derivatives rules, and undertake such management in compliance with the prescribed client agreement.

15.20 Trading with an approved investment manager

A derivatives member shall not accept instructions from a person acting as a manager of investments to trade for a client of that person, unless the derivatives member has entered into an investment management agreement with that person and has satisfied him- or herself that such person is an approved investment manager.

15.30 Trading as an investment manager

15.30.1 A derivatives member may not trade as an investment manager for or on behalf of a client unless he or she has concluded a discretionary client agreement with the client and the client has been registered as a client of that derivatives member with the clearing house in terms of rule 7.60.2.

15.30.2 An investment manager may not directly or indirectly buy or sell investments for or from his own account to or from a client.

15.30A Investment management by clients prohibited

A person, who has been registered as a client of a derivatives member, may not in his capacity as a client undertake the management of investments for or on behalf of other clients.

15.40 Reporting to clients

An investment manager shall report to clients in terms of rule 10.20.

15.50 Additional duties of the investment manager

An investment manager-

15.50.1 shall obtain the investment objectives of the client concerned so as to enable him or her to fulfil his or her duties to that client in terms of the discretionary client agreement;

15.50.2 shall observe high standards of integrity and not place the interests of him- or herself above those of any client;

15.50.3 shall act with due skill, care, diligence and good faith;

- 15.50.4 shall avoid any conflict between the interests of him- or herself and those of the client and, where a conflict of interest does arise, fair treatment to the client shall be ensured by the manager by disclosing details of such conflict in writing to the client, while maintaining the confidentiality of the other clients, or the manager shall decline to act for that client;
- 15.50.5 shall disclose all fees relating to the management of the client's investment to his or her client; and
- 15.50.6 may not make any statement, promise or forecast which he or she knows to be misleading or is likely to be misleading and that has the effect or may have the effect of inducing a client to enter into a client agreement.

SECTION

16

Section 16: Ethics and Conduct

Scope of Section

16.10 Conduct

16.20 Advertising by derivatives members

16.30 Contraventions to be reported

ETHICS AND CONDUCT**16.10 Conduct**

No derivatives member or affiliated officer of a derivatives member shall directly or indirectly commit any act or engage in any conduct likely to bring the JSE into disrepute, and in particular shall not -

- 16.10.1 cheat, defraud, deceive or attempt to cheat, defraud or deceive any client or any other derivatives member;
- 16.10.2 make or cause to be made to a client a report which they know (or ought reasonably to know) to be false or misleading in connection with any exchange contract;
- 16.10.3 disseminate or cause to be disseminated any information or report which they know (or ought reasonably to know) to be false or misleading, or which affects or tends to affect unfairly the price of any exchange contract;
- 16.10.4 engage in manipulative or misleading acts or practices regarding the price of an exchange contract or trading in that exchange contract;
- 16.10.5 submit information to the JSE or the clearing house or any of their employees or agents, which they know (or ought reasonably to know) to be false or misleading;
- 16.10.6 behave in a manner prejudicial to the interest of the public, derivatives members or clients;
- 16.10.7 act contrary to the usages or practices of the JSE;
- 16.10.8 commit or attempt to commit any act which the JSE considers to be dishonest, fraudulent or dishonourable; or
- 16.10.9 be a party to or facilitate or enter into a trade which is fictitious or which has a dishonest or unlawful motive.

16.20 Advertising by derivatives members

- 16.20.1 No derivatives member shall make any communication with the public or use any promotional, or advertising material which -
 - 16.20.1.1 is false or misleading in any material respect;
 - 16.20.1.2 makes the statement or suggests that trading on the JSE is appropriate for all persons;
 - 16.20.1.3 refers to the possibility of profit unless accompanied by an equally prominent statement of the risk of loss;

- 16.20.1.4 includes a reference to either hypothetical results or to actual profits without stating that these profits or results are not necessarily indicative of future profits or results;
- 16.20.1.5 compares one derivatives member or the performance of one derivatives member with another derivatives member or the performance of another derivatives member; and
- 16.20.1.6 refers to an opinion without identifying it as such and without setting out the facts on which it is based.
- 16.20.2 In the event that the JSE considers that a derivatives member has failed to conform to any of the advertising requirements published by the JSE under rule 16.20.1, it may at its discretion (without prejudice to its other powers under these derivatives rules) require that no further advertising material or other promotional or marketing material shall be published by or on behalf of such derivatives member unless it has been submitted to the JSE in advance and the JSE has notified the derivatives member that the material is not unsuitable for publication.

16.30 Contraventions to be reported

Every derivatives member shall report to the JSE any contravention of the derivatives rules, the Act and the directives and resolutions made in terms of these derivatives rules that comes to its attention.

SECTION

17

Section 17: Resolution of Disputes

Scope of Section

- 17.10 Resolution of disputes
- 17.20 Reporting a dispute
- 17.30 Powers of the JSE
- 17.40 Declaration of a dispute
- 17.50 Mediation
- 17.60 Informal arbitration
- 17.70 Formal arbitration
- 17.80 Arbitrator
- 17.90 Costs
- 17.100 Arbitration proceedings
- 17.110 Waiver

RESOLUTION OF DISPUTES

17.10 Resolution of disputes

- 17.10.1 Any dispute involving persons bound by these derivatives rules and relating to any matter provided for in or relating to these derivatives rules shall be resolved by arbitration or mediation in terms of this rule 17.
- 17.10.2 It is contrary to the policy and objectives of the JSE for persons bound by these derivatives rules to engage in litigation against one another.
- 17.10.3 Save in so far as they may be contrary to these derivatives rules, the provisions of the Arbitration Act, 1965 (Act No 42 of 1965) shall apply to the arbitration proceedings provided for by these derivatives rules.

17.20 Reporting a dispute

- 17.20.1 The compliance officer of a derivatives member and any other party to a dispute shall report the dispute to the JSE, unless it is immediately resolved by the parties themselves.
- 17.20.2 The report may be made verbally: Provided that the JSE may request confirmation of the report in writing.

17.30 Powers of the JSE

- 17.30.1 The JSE may request any derivatives member or client to furnish it with written particulars of a dispute to which such derivatives member or client is a party or matters relating thereto or to confirm or reply to any report made to the JSE.
- 17.30.2 The JSE may call for additional information and material relating to a dispute from any derivatives member or client as may be deemed necessary.
- 17.30.3 The JSE shall be entitled to require any party to a dispute to trade in the market or with the other party pending resolution of the dispute in order to prevent loss.

17.40 Declaration of a dispute

If, after considering the report and reply and any other information at its disposal, the JSE is of the opinion that there is a dispute, the dispute shall be referred to mediation or to informal arbitration or formal arbitration, subject to the said Arbitration Act, 1965.

17.50 Mediation

- 17.50.1 A dispute may be referred to mediation only with the consent of the parties.

- 17.50.2 The JSE shall nominate a mediator who shall be acceptable to both parties and who shall endeavour to cause the parties to agree to the resolution of the dispute. Any agreement concluded between the parties shall be binding on them whether or not it is reduced to writing.
- 17.50.3 If at any time during formal or informal arbitration proceedings the parties agree to submit their dispute to mediation, the arbitration proceedings shall be suspended and the provisions of this rule shall apply. Should the mediation not resolve the dispute, the arbitration proceedings shall be resumed.

17.60 Informal arbitration

- 17.60.1 With the consent of the parties the JSE may refer a dispute to an arbitrator or arbitrators nominated by the JSE or may, after having considered the report and reply and such other evidence and information as may be presented to the JSE, make an award.
- 17.60.2 The arbitrator nominated in terms of this rule shall, after having considered the report and reply and such other evidence as may be presented to him, make his award immediately, unless the parties have otherwise agreed.
- 17.60.3 The arbitrator nominated in terms of this rule shall not be obliged to give reasons for his award, which shall be in writing.

17.70 Formal arbitration

- 17.70.1 In the event of either party not consenting to either mediation or informal arbitration, the dispute shall be referred to formal arbitration by the JSE.
- 17.70.2 Within seven days of being so required in writing by the JSE, the claimant shall submit a written statement of his claim that clearly states the subject matter of the claim and contains all the material facts and documents upon which the claim is based.
- 17.70.3 The JSE may require the claimant to expand upon his statement of claim or provide other evidence or particulars as may be deemed necessary.
- 17.70.4 Within seven days of being so required by the JSE and receipt of the claimant's written statement of claim and evidence and particulars referred to in rules 17.70.2 and 17.70.3, the other party to the dispute, hereinafter called the defendant, shall respond in writing to the claim and shall attach to his response evidence and other particulars relating to the dispute and deliver such response with evidence and particulars to the JSE and the claimant.
- 17.70.5 The JSE may require the defendant to expand upon his response or provide other evidence or particulars and may require the claimant to reply to such response in writing.

17.80 Arbitrator

The JSE shall appoint an arbitrator or arbitrators: Provided that, if the arbitrator appointed by the JSE is not acceptable to both parties, the chairman of the JSE shall, within 7 (seven) days, appoint an arbitrator who shall be accepted by both parties to resolve the dispute.

17.90 Costs

- 17.90.1 The parties to any arbitration shall be liable jointly for the costs of the arbitration, including the fee of the arbitrator, and shall be obliged to pay to the JSE such amount as the JSE may determine before the arbitration proceedings commence.
- 17.90.2 The JSE may at any time during the arbitration require each party to pay an additional amount to cover any further costs incurred in the arbitration proceedings.
- 17.90.3 Should any party fail or refuse to pay on demand any costs due in terms of this rule, an award dismissing his claim or defence with costs shall be made by the arbitrator.
- 17.90.4 The arbitrator may make an award directing a party to pay the costs of an arbitration and in such an event, the successful party may recover his costs from the other party.

17.100 Arbitration proceedings

- 17.100.1 The arbitrator shall make his award within 30 days of the conclusion of the arbitration proceedings.
- 17.100.2 The arbitrator shall not be bound to follow the general principles of law, but may decide the dispute in accordance with the principles of equity, and therefore the strict rules of law and evidence need not be observed or taken into account by the arbitrator in arriving at an award.
- 17.100.3 The arbitrator shall give due weight to the customs and practices of the JSE and shall have the right to request the Director: Surveillance to carry out investigations on his behalf.
- 17.100.4 The arbitrator shall not be bound to give reasons for his award.
- 17.100.5 The arbitration proceedings shall be conducted without legal representation by any of the parties, unless the arbitrator in his sole discretion decides otherwise.
- 17.100.6 The arbitrator may at his discretion decide that a number of disputes involving a particular party based on similar occurrences or similar facts shall be consolidated and treated as a single dispute.
- 17.100.7 Subject to rule 17.100.8, unless the JSE, the arbitrator and the parties to the dispute agree otherwise, the identity of the parties, the nature of the evidence and the details of the arbitrator's deliberations and finding, and all other information pertaining to arbitration proceedings shall be kept confidential by all parties.

- 17.100.8 If at any time the arbitrator is of the opinion that a contravention of the derivatives rules may have occurred he may refer the matter to the JSE for its consideration in terms of rule 3.275.
- 17.100.9 If requested by either the JSE or the clearing house to do so, the arbitrator may, in his sole discretion, decide on the relevance to the dispute of any evidence requested from the JSE or the clearing house and he shall accordingly instruct the JSE or the clearing house to supply the required evidence or relieve them of the obligation of doing so.

17.110 Waiver

No party shall have any claim of any nature whatsoever against the mediator, arbitrator, the JSE, the JSE Executive, the Chief Executive Officer or the clearing house in respect of any decision made in good faith by such person or body pursuant to the performance of his functions in terms of these derivatives rules.

SECTION**18**

Section 18: Fidelity Fund**Scope of Section**

- 18.10 Name
- 18.20 Administration
- 18.30 Claims
- 18.40 Management of the fidelity fund
- 18.50 Contributions to the fidelity fund
- 18.60 Division of fund
- 18.70 Claims against the fidelity fund
- 18.80 Settlement of claims
- 18.90 Cession of claim against derivatives member
- 18.100 Arbitrator's finding
- 18.110 Consolidation of claims
- 18.120 General
- 18.130 Winding Up

FIDELITY FUND**18.10 Name**

The name of the fidelity fund shall be the JSE Derivatives Fidelity Fund.

18.20 Administration

The administrators of the fidelity fund shall be the Board who may exercise their powers of delegation in respect of the administration of the fidelity fund in terms of the Constitution.

18.30 Claims

The fidelity fund shall have no members and no member of the JSE shall have any claim on the assets of the fidelity fund save as set out in these derivatives rules.

18.40 Management of the fidelity fund

- 18.40.1 The administrators shall open a banking account with a bank (registered otherwise than provisionally in terms of the Banks Act, 1990) in Johannesburg in the name of the fidelity fund and shall have the power to draw and endorse cheques and other negotiable instruments connected with the business of the fidelity fund. All moneys constituting or accruing to the fidelity fund shall, pending the investment or application thereof, in accordance with these derivatives rules, be paid into the said banking account. The administrators shall have power to close the banking account and open an account with another bank so registered.
- 18.40.2 Subject to these derivatives rules the administrators shall have exclusive administration and control of all assets of the fidelity fund and of the income arising therefrom. Such assets or income shall be applied or invested by the administrators in the manner hereafter provided and in no other manner, that is to say –
- 18.40.2.1 if necessary all the assets of the fidelity fund shall be used to meet claims on the fidelity fund in terms of these derivatives rules;
 - 18.40.2.2 not less than 25 per cent of the total assets of the fidelity fund shall be invested –
 - 18.40.2.2.1 on deposit with a bank (registered otherwise than provisionally in terms of the Banks Act, 1990);
 - 18.40.2.2.2 in bills, bonds, debentures or stock issued or guaranteed by the government of the Republic;
 - 18.40.2.2.3 in stock of any local authority in the Republic authorised by law to levy rates upon immovable property;
 - 18.40.2.2.4 in debentures or stock of the Reserve Bank, the Rand Water Board, Eskom or such other similar body constituted or established by or under law;
 - 18.40.2.2.5 any moneys not invested in the manner set forth in 18.40.2.2 above shall be invested in accordance with sound financial principles in securities, in such manner as the administrators deem fit.

- 18.40.3 All contributions levied in terms of these derivatives rules together with the income arising from the fidelity fund shall from time to time be invested in the manner set forth in rule 18.40.2 until the net value of the assets of the fidelity fund has reached the amount determined by the Registrar in rule 18.40.9 after which such income may be applied for the purposes set forth in rule 18.40.10.
- 18.40.4 In selecting securities for the fidelity fund, the administrators shall follow an investment policy, which shall have as its primary objectives a reasonable level of current income and maximum stability for capital invested. To achieve this objective, the securities normally to be included in the fidelity fund shall consist of financially sound ordinary shares, to be acquired at fair market prices, and financially sound fixed income securities embracing stock, preference shares, debenture stock, debenture bonds or unsecured notes.
- 18.40.5 Notwithstanding anything contained in these derivatives rules, the administrators shall be empowered to sell, exchange, or redeem any investment. The administrators may, from time to time, determine what proportion of the moneys in the fidelity fund may be retained for the immediate requirements of the fidelity fund and what proportion may be invested.
- 18.40.6 Save as may otherwise be determined by the administrators from time to time, all contracts, deeds and instruments of a like nature and all drafts, cheques or orders drawn on banks against any account of the fidelity fund in any bank shall be signed by two of the administrators.
- 18.40.7 The administrators shall apply the assets of the fidelity fund solely for the purposes set forth in these derivatives rules. No withdrawal or appropriation of any part of the assets of the fidelity fund shall be made without special authorisation by the administrators.
- 18.40.8 For the purposes of this rule 18 the expression "the net assets of the fidelity fund" shall mean the assets of the fidelity fund, valued at market value from time to time, less provisions made from time to time by the administrators at their discretion for all actual and contingent liabilities of the fidelity fund.
- 18.40.9 The net assets of the fidelity fund shall at all times be at least R50 million. Should the net assets of the fidelity fund at any time fall below R50 million the administrators shall levy contributions from derivatives members sufficient to bring the net assets of the fidelity fund to R50 million.
- 18.40.10 When the net assets of the fidelity fund exceed R50 million or such other amount as the Registrar may determine from time to time, after consultation with the administrators, the administrators shall, until such time as the net assets of the fidelity fund are reduced to such figure be entitled at their discretion, to apply the income arising from the assets of the fidelity fund received from time to time -
- 18.40.10.1 for maintaining or for strengthening the financial resources of the JSE as an institution; and/or
 - 18.40.10.2 to fund the expenses of the JSE in operating the equities market, the agricultural products market and the financial derivatives market; and/or
 - 18.40.10.3 for reducing the listing fees payable by the issuers of financial instruments listed on the JSE.

18.50 Contributions to the fidelity fund

Each derivatives member shall contribute to the fidelity fund in relation to the number of contracts that it trades in an amount determined by the administrators. Such contributions shall be obtained from the clearing members (derivatives) together with the trading fees referred to in rule 8.80, and the clearing members (derivatives) shall be entitled to recover such contributions from the members with whom they have entered into clearing agreements, together with the fees referred to in rule 8.80.2.

18.60 Division of fund

The fidelity fund shall be divided into two portions, namely the portion relating to the financial derivatives market and the portion relating to the agricultural products market.

18.70 Claims against the fidelity fund

18.70.1 A derivatives member or client may recover from the fidelity fund the amount of the outstanding obligation of a derivatives member to pay initial or variation margin in terms of the derivatives rules to such derivatives member or client: Provided that the liability of the fidelity fund shall be limited to the amount of initial and variation margin which accrued or became due by the derivatives member on the day of default by such derivatives member, and provided further that -

18.70.1.1 the amount of the claim has been determined by way of arbitration as contemplated in rule 17 and has become final and the award of the arbitrator has not been satisfied by the derivatives member; or

18.70.1.2 the claim is otherwise admitted by the administrators and has not been satisfied by the derivatives member; and the provisions of rule 12.30 and 12.40, as the case may be, have been satisfied; and any remaining balance has been applied towards the claim.

18.70.2 A clearing member (derivatives) or the clearing house shall be entitled to apply any balance remaining in terms of rule 18.70.1.2 towards a claim by a person against a derivatives member and, if after the application of such balance, any part of the award remains unpaid, the administrators shall consider a payment from the fidelity fund, subject to rule 18.90.

18.70.3 The fidelity fund shall be liable to the clearing house for a shortfall in margin for whatever reason.

18.80 Settlement of claims

18.80.1 The administrators shall make an award for compensation to the claimant from the fidelity fund, which award shall:

18.80.1.1 In respect of derivatives members who participate in the financial market, not exceed 5% of the fidelity fund, or R1 million, whichever is the smaller amount;

18.80.1.2 In respect of derivatives members who participate in the agricultural products market, not exceed 1.25% (one and a quarter percent) of the fidelity fund, or R250 000, whichever is the smaller amount.

18.80.2 Any claim arising from the financial derivatives market, shall only be settled from that portion of the fund relating to the financial derivatives market, and any claim arising from the agricultural products market, shall only be settled from that portion of the fund relating to the agricultural products market.

18.90 Cession of claim against derivatives member

The administrators may satisfy a claim as set out in rule 18.80: Provided that the claimant shall cede his claim against the derivatives member to the fidelity fund.

18.100 Arbitrator's finding

In the event of a derivatives member failing to satisfy the award of the arbitrator fully, the arbitrator shall make his deliberations and findings available to the administrators.

18.110 Consolidation of claims

The administrators may decide to consolidate more than one claim against a particular derivatives member when making their award in terms of rule 18.80.

18.120 General

18.120.1 The whole of the expenses in connection with or incidental to the management or administration of the fidelity fund including the cost of audit and legal expenses shall be borne by the fidelity fund.

18.120.2 The administrators shall cause proper accounting records relating to the fidelity fund to be kept and shall cause such accounting records to be audited in respect of each year ended on the last day of December by a person registered as an accountant and auditor under the Public Accountants' and Auditors' Act 1991 (Act 80 of 1991) and who publicly carries on the profession of an accountant and auditor and shall not later than three months after the said date in each year, or within such further period as the Registrar may allow, transmit to the Registrar a copy of the accounts and balance sheet of the fidelity fund for the said year certified by the said auditor and accompanied by a copy of his report.

18.120.3 Any notice to be given to derivatives members shall be properly given if given in terms of rule 3.140 of the derivatives rules or any amendment thereof.

18.120.4 Subject to the Act and these derivatives rules, the decision of the administrators in regard to the administration of the fidelity fund and other matters arising therefrom shall be final.

18.120.5 In all disputes or queries other than those referred to in a court of law, the interpretation of these derivatives rules shall vest with the administrators whose interpretation shall be final.

18.130 Winding up

18.130.1 If the JSE should be wound up or otherwise dealt with as envisaged in clause 9 of the Constitution of the JSE, the assets of the fidelity fund shall be used, subject to the derivatives rules, in discharging –

18.130.1.1 first all claims against the fidelity fund which are accepted by the administrators in terms of the derivatives rules;

- 18.130.1.2 thereafter all obligations of the JSE to the public as envisaged in clause 9.6 of the Constitution of the JSE.
- 18.130.2 The balance (if any) of the assets of the fidelity fund shall be assets of the JSE.
- 18.130.3 In the event of a merger, amalgamation or transfer of business by or to the JSE as contemplated in the Constitution:
- 18.130.3.1 the assets of the fidelity fund will not be dealt with pursuant to rules 18.130.1 or 18.130.2, notwithstanding that the JSE may be wound up in terms of clause 9 of the Constitution of the JSE pursuant to such merger or transfer;
- 18.130.3.2 at the discretion of the administrators, the fidelity fund may merge or amalgamate with or be transferred to any other fidelity or guarantee fund of the merged, amalgamated or transferee exchange, as contemplated in the Constitution.