

**BOARD NOTICE 118 OF 2004****STOCK EXCHANGES CONTROL ACT, 1985****AMENDMENT OF THE RULES OF THE JSE SECURITIES EXCHANGE SOUTH AFRICA**

1. In terms of section 12 (6) of the Stock Exchanges Control Act, 1985 ( Act No. 1 of 1985), it is hereby notified that the JSE Securities Exchange South Africa has applied to the Registrar of Stock Exchanges for the approval to make amendments to its rules, as set forth in the Schedule hereto.
2. In terms of section 12 (7) of the said Act all interested persons (other than members of the Securities Exchange) who have any objections to the proposed amendments are hereby called upon to lodge their objections with the Registrar of Stock Exchanges, PO Box 35655, Menlo Park, 0102, within a period of 30 days from the date of publication of this notice.

**J VAN ROOYEN****Registrar of Stock Exchanges****SCHEDULE**

General explanatory notes

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

**AMENDMENTS TO THE RULES OF THE JSE SECURITIES EXCHANGE SOUTH AFRICA****1. PROPOSED AMENDMENTS TO SECTION 2 - INTERPRETATIONS AND DEFINITIONS**

"advertisement" means any written, printed, electronic or oral communication, including a communication by means of a public radio service, television broadcast or any other media by a member, which communication is directed to the general public, or any section thereof, or to any client, and is intended to call attention to, or to market or promote, the services offered by a member, and which does not purport to provide detailed information about such services; and "advertising" has a corresponding meaning;

"advice" means any recommendation, guidance or proposal of a financial nature furnished by a member, by any means or medium, to any client or group of clients;

- (a) in respect of the purchase or sale of any securities or other investments; or
- (b) on any corporate action or other event affecting any rights or benefits in respect of any securities or other investments; or
- (c) on the exercise or lapse of any rights in respect of any securities or other investments;

and irrespective of whether or not such advice results in any transaction being effected, except that advice does not include

- (d) factual advice given merely

- (i) on the procedure for entering into a transaction in respect of any securities or other investments;
  - (ii) in relation to the description of any securities or other investments;
  - (iii) in answer to routine administrative queries;
  - (iv) in the form of objective information about any securities or other investments; or
  - (v) by the display or distribution of promotional material;
- (e) an analysis or report on any securities or other investments without any express or implied recommendation, guidance or proposal that any particular transaction in respect of the relevant product is appropriate to the particular investment objectives, financial situation or particular needs of a client;

"client" means any person on whose instruction or authority [behalf] –

- (a) securities or other investments are bought, sold, or safeguarded [held] by a member; or
- (b) money-broking transactions are conducted by a member;

"discretionary financial services provider" shall have the same meaning as that contained in section 2.1 of the Code of Conduct for Administrative Financial Services Providers issued by the Registrar of Financial Services Providers;

"FAIS Act" means the Financial Advisory and Intermediary Services Act, 2002 (Act No.37 of 2002);

"financial instruments" shall have the same meaning as that contained in section 1 of the Financial Markets Control Act, 1989 (Act No.55 of 1989);

"financial products" shall have the same meaning as that contained in section 1 of the FAIS Act, and by definition includes securities and other investments;

"financial services provider" shall have the same meaning as that contained in section 1 of the FAIS Act;

"foreign exchange" means a person authorised to function as an exchange in terms of the laws of a country other than the Republic of South Africa;

"in writing" in relation to anything which, in terms of these Rules and Directives, must be done in writing, includes any such thing done in electronic form, unless the context indicates otherwise; and "written" has a corresponding meaning;

"intermediary services" shall have the same meaning as that contained in section 1 of the FAIS Act;

"managed account" means any arrangement entered into between a client or a counterparty and a member, which authorises such member –

- a) either to safeguard [hold] securities and other investments [financial instruments as defined in the Financial Markets Control Act, 1989], on behalf of such client or counterparty [in safe custody] or to receive funds [cash] arising from the operation of the account for deposit with JSE Trustees (Pty) Ltd, or both; or [and]

- b) to buy or sell securities and other investments on behalf of such client either with full discretion or with prior reference to the client [any discretionary account operated by a member in the manner set out in (a) above];

"other investments" means:

- (a) securities listed on a stock exchange other than the JSE;
- (b) securities listed on a foreign exchange;
- (c) participatory interests in a collective investment scheme as defined in the Collective Investment Schemes Control Act, 2002 (Act No.45 of 2002), and units or any other form of participation in a foreign collective investment scheme approved by the Registrar of Collective Investment Schemes in terms of section 65 of that Act;
- (d) units or any other form of participation in a collective investment scheme licensed or registered in a foreign country; and
- (e) funds intended for the purchase of such securities, units or participation;

"Product supplier" shall have the same meaning as that contained in section 1 of the FAIS Act;

"professional market participant" means a financial services Provider licensed in terms of section 8 of the FAIS Act [an investment manager approved in terms of the Act, the Financial Markets Control Act 1989 or any equivalent or replacement act or acts];

"safeguard" in relation to securities or other investments means:

- (a) the holding of such securities or other investments in safe custody by a member or a nominee company controlled by a member, on behalf of a client; or
- (b) being accountable as a member to a client for such securities or other investments held by another financial services Provider;

"stock exchange" shall have the same meaning as that contained in section 1 of the Act;

## **2. PROPOSED AMENDMENTS TO SECTION 4 – BROKING MEMBER (EQUITIES)**

### **4.100 Nominee Companies**

**4.100.1** A broking member (equities) may establish or maintain a company whose main object shall be to act as the registered holder of securities or other investment<sup>8</sup> **[bonds]** exclusively on behalf of such member or on behalf of its clients.

**4.100.2** ...

**4.100.3** The broking member (equities) shall ensure that such nominee company incurs no liabilities other than those normally incurred as a result of its acting as a nominee in respect of securities or other investments.

### **4.110 Subsidiary Companies**

**4.110.1** A broking member (equities) may not establish any other company except –

**4.110.1.1** ...

**4.110.1.2** ...

## 4.110.1.3 ...

4.110.1.4 a limited liability company in which the member holds a controlling interest and which shall have as its main object, the managing of investments in financial products [dealings with or on behalf of clients in financial instruments as defined in section 1 of Financial Markets Control Act], and which shall be licensed as a discretionary financial services Provider in terms of section 8 of the FAIS Act and

4.110.1.5 a limited liability company in which the member holds a controlling interest and which shall have as its main object, conducting the business of a stockbroker outside the Republic but within the Common Monetary Area and to be a member of the stock exchange in the centre in which that business is conducted. [; and

4.110.1.6 a limited liability company in which the member holds a controlling interest and which shall have as its main object, the managing of investments on behalf of other persons, investments in listed securities or bonds or any investments of which listed securities or bonds form part, in terms of section 4 of Act.]

## 4.150 Business of a broking member (equities) and Interest in another business

4.150.1 The core business of a broking member (equities) shall relate to stockbroking and the managing of investments or provision of advice in relation to securities and other investments. The business activities of a broking member (equities) may also include the managing of investments or provision of advice in relation to other financial products, subject to the broking member (equities) having been granted the appropriate licence to conduct such activity in terms of the FAIS Act, as referred to in 4.150.3.

4.150.2 [1] Without limiting the generality of 4.150.1, the business of a broking member (equities) shall specifically exclude activities related to –

4.150.2[1].1 banking services under the supervision of the Registrar of Banks and for which a banking licence is required; and

4.150.2[1].2 insurance underwriting activities.

[4.150.3 Notwithstanding the provisions of 4.150.1, the JSE may, in exceptional circumstances, the determination of which shall lie with the JSE, upon request by a broking member (equities) in writing, approve such other activities to be included in the business of such member provided such activities are related to the core business of stockbroking. The JSE may direct that such business be conducted in a separately capitalised legal entity which is wholly or jointly owned by the member.]

4.150.3 A broking member (equities) may operate as a financial services Provider licensed in terms of section 8 of the FAIS Act in respect of any advice or intermediary service which it provides in terms of that Act and where such advice or intermediary service is not regulated by the Act and these rules, subject to 4.150.4.

4.150.4 The intermediary services which a broking member (equities) is permitted to provide in relation to financial products other than securities or other investments shall be limited to intermediary services related to investing in such other financial products.

as this is considered to form part of the business of the management of investments as referred to in 4.150.1.

4.150.5 Without limiting the generality of 4.150.4, the intermediary services which a broking member (equities) may be permitted to provide shall exclude –

4.150.5.1 collecting or accounting for premiums or other monies payable by a client to a product supplier; or

4.150.5.2 receiving, submitting or processing the claims of a client against a product supplier;

in relation to the following financial products:

4.150.5.3 a long-term or a short-term insurance contract or policy, referred to in the Long-term Insurance Act, 1998 (Act No. 52 of 1998), and the Short-term Insurance Act, 1998 (Act No. 53 of 1998), respectively;

4.150.5.4 a benefit provided by –

4.150.5.4.1 a pension fund organisation as defined in section (1) of the Pension Funds Act, 1956 (Act No. 24 of 1956), to the members of the organisation by virtue of membership; or

4.150.5.4.2 a friendly society referred to in the Friendly Societies Act, 1956 (Act No. 25 of 1956) to the members of the society by virtue of membership;

4.150.5.5 a health service benefit provided by a medical scheme as defined in section 1 (1) of the Medical Schemes Act, 1998 (Act No. 131 of 1998).

4.150.6 For the purpose of this rule 4.150, any activities which are not related to stockbroking or the management of investments, and which are not a regular feature of the broking member (equities) business and are not held out by the broking member (equities), in any communication with any person, to be part of the business or business activities of that broking member (equities), shall not be deemed to be part of the business or business activities of that broking member (equities).

**[4.150.4]** No broking member (equities) shall be admitted as a broking member (equities) and no broking member (equities) may remain a broking member (equities) if at any time whether directly or indirectly it is associated with a member of, or has a proprietary interest in, any other stock exchange (licensed in terms of the Act or any replacement Act) or other financial market (licensed in terms of the Financial Markets Control Act, 1989) in the Republic which is not a member of the JSE, the Bond Exchange of South Africa or the South African Futures Exchange and in which dealings in securities or financial instruments (as defined in section 1 of the Financial Markets Control Act) are publicly carried on as a business, but this shall not prohibit a broking member (equities) from acquiring and holding listed securities or financial instruments for its own account]

4.150.7 **[2]** Subject to 4.110 [4.150.1], nothing contained in these rules shall in any way prohibit a broking member (equities) from [carrying on or being interested in any business other than that of a broking member (equities) or from] holding a financial interest in any company [which is not of the kind referred to in 4.150.4].

**4.170 Advice on transactions**

**[4.170.3]** For the purposes of this rule, the term 'advice on transactions in securities' shall mean the giving of an opinion in regard to securities which can influence an investment decision.]

**4.180 Dealings with a discretionary financial services Provider [an investment manager].**

A broking member (equities) may not effect a transaction with a person whom the member reasonably believes requires authorisation as a discretionary financial services provider or the status of a representative in terms of the FAIS Act, without having taken reasonable measures to ascertain that such person has the required authorisation or status [which transacts business on behalf of a person who manages investments on behalf of another person as a regular feature of his business in terms of Section 4 of Act, shall ensure that the person has the necessary approval to manage investments on behalf of other persons in terms of the Act as aforementioned].

**3. PROPOSED AMENDMENTS TO SECTION 5 - TRANSACTIONS, TRADING PROCEDURES AND DISPUTES****5.170 Managed Accounts****5.170.1 ...**

**5.170.2** Securities [(which for the purpose of this rule shall include bonds)] received pursuant to the operation of a managed account and which are retained by a CSM or CSA, shall constitute safe custody scrip and shall be dealt with in terms of 5.140.

**5.170.3 ...**

**5.170.4** The arrangement whereby a broking member (equities) manages a client's account shall be recorded in a written mandate. The mandate shall contain the minimum requirements as prescribed by the JSE from time to time and the terms of the mandate shall be accepted by the client and such acceptance communicated to the member by the client before cash, [or] securities or other investme— are requested from the client for the operation of the managed account. The mandate may be in electronic form and its acceptance may be expressed by electronic means, provided that if acceptance occurs otherwise than by electronic means, the expression of acceptance must be evidenced by the physical signature of the client.

**5.170.5 ...****5.170.6 ...**

**[5.170.7]** Every CSM and CSA shall keep a safe custody ledger of the securities that are being held from time to time in terms of the mandate. Full details of any change in the securities held on behalf of a client shall be recorded forthwith in the safe custody ledger.

**5.170.8** Where securities are not retained in terms of **5.170.3**, the provisions relating to the verification of securities by the auditor shall not apply. The statements to clients shall contain a note to the effect that on the date to which the

statements relate no securities were held by the member on behalf of the client in respect of the existing managed account arrangement.]

5.170.7 [9] ...

5.170.8 [10] ...

5.170.9 [11] ...

5.170.10 The operation of a managed account which includes transactions in other investments shall also be subject to the Provisions of 5.180.

5.170.11 The operation of a managed account which includes transactions in options listed on the JSE as securities shall also be subject to the Provisions of 5.190.

5.180 Management and Advice in respect of other investments [Resewed]

5.180.1 A broking member (equities) authorised in terms of 5.170 to operate managed accounts on behalf of clients shall not conduct transactions in other investments on behalf of such clients or provide advice to any clients in respect of such investments without prior notification to the Director: Surveillance, in writing, of its intention to conduct such transactions or provide such advice.

5.180.2 In order for the JSE to identify the scope of a broking member (equities) activities in other investments, the written notification to the Director: Surveillance referred to in 5.180.1 shall indicate which specific investments the member is intending either to transact in on behalf of its managed account clients or to provide advice on, or both.

5.180.3 The details which are required to be submitted to the Director: Surveillance in terms of 5.180.2 shall specify the particular types of other investments in which activity is to be conducted, but need not include the name of the particular investments.

5.180.4 The failure by a broking member (equities) to provide the notification referred to in 5.180.1 and 5.180.2 prior to undertaking the relevant activity may result in the JSE imposing restrictions or a Prohibition on the member's activities in other investments.

5.180.5 If a broking member (equities) has previously notified the Director: Surveillance in terms of 5.180.1 and 5.180.2 of its intention to conduct activity in any other investments and the member ceases to conduct activity in respect of one or more particular types of investments, with no intention of resuming activity in such investments in the foreseeable future, the member shall notify the Director: Surveillance forthwith, in writing, of such cessation of activity.

5.180.6 Any decision by a broking member (equities) to invest in other investments on behalf of a managed account client shall be made with due regard to the relevant Provisions of the Code of Conduct in Directive AF, particularly the Provisions relating to the General Conduct Towards Clients in Directive AF2 and the Exercise of Discretion in Directive AF3.

5.180.7 A broking member (equities) shall not effect transactions in other investments on behalf of a managed account client unless the client has given his general consent to such transactions being effected, in the mandate referred to in 5.170.4.

5.180.8 Every broking member (equities) who purchases other investments on behalf of a managed account client and who is responsible for safeguarding such investments shall comply with the following requirements:

- 5.180.8.1 the relevant investments shall be seareated from the member's own assets at all times. If the investments are held in an account maintained by another financial services Dprovider, the account shall either be opened in the client's own name or, if the member opens a sinale account in respect of transactions executed on behalf of more than one client, the member shall procure that the account is clearly desianated in the records of the relevant financial services Dprovider as beina an account utilisedfor investments made by the member on behalf of its clients;
- 5.180.8.2 the brokina member (eauties) shall maintain proper accountina records in respect of all other investments Purchased or sold on behalf of manaaed account clients. These records shall be updated forthwith in the beneficial owners of all such investments at all times;
- 5.180.8.3 the brokina member (equities) must balance their clients' holdinas in other investments, as reflected in the member's records, with the accounts maintained by the other financial services Dproviders who hold such investments, on a monthly basis. Any differences identified between the respective records must be rectified forthwith.
- 5.180.9 Every brokina member (equities) who is responsible for safeauardina other investments on behalf of a manaaed account client shall implement and maintain ag effective system of internal controls to protect such investments and prevent unauthorised access thereto.
- 5.180.10 The operation of a manaaed account which includes transactions in other investments which constitute foreian investments shall also be subject to 5.340.
- 5.180.1 1 The Dprovisions of 5.180.6 to 5.180.10 shall not apply to a brokina member (equities) if the Director: Surveillance determines in terms of 5.180.11.1 to 5.180.11.4 that the majority of such member's business activities, based on the factors in 5.180.11.2, do not relate to tradina in securities as a brokina member feauties) and, if applicable, trading in listed financial instruments as a broking member (derivatives). Such a member shall be required to obtain a licence to operate as a financial services provider in terms of the FAIS Act in respect of any advice or intermediary services which it Drowides to clients relatina to other investments, and the relevant provisions of that Act shall apply to such advice or intermediary services.
- 5.180.11.1 At the time that a brokina member feauties) advises the Director: Surveillance in terms of 5.180.1 of its intention to conduct activity in relation to other investments, if the member reasonably believes that 5.180.11 mav apply to that member, based on the factors in 5.180.11.2, the member shall advise the Director: Surveillance accordingly. The Director: Surveillance may then reauest such information from the member as is necessatv to determine whether 5.180.11 will in fact apply to that member.
- 5.180.11.2 In order for the Director: Surveillance to determine whether or not 5.180.11 will apply to a brokina member feauties), the followina factors will be considered in relation to the member's activity in securities as a brokina member (equities) and, if applicable, in listed financial instruments as a brokina member (derivatives), in comparison to its other areas of businessactivity in other financial Dproducts;



- 5.180.11.2.1 the value of client assets managed by the member in relation to the respective areas of business activity;
- 5.180.11.2.2 the value of transactions in the respective areas of business activity;
- 5.180.11.2.3 the revenue earned by the member in the respective areas of business activity; and
- 5.180.11.2.4 any other factors which are deemed by the Director: Surveillance to be relevant to such determination.
- 5.180.11.3 After reviewing the information submitted by the broking member (equities) in terms of 5.180.11.1, the Director: Surveillance will advise the member, in writing, whether 5.180.11 will apply to that member.
- 5.180.11.4 In the event that a broking member (equities) advises the Director: Surveillance in terms of 5.180.1 of its intention to conduct activity in relation to other investments but does not indicate that it believes that 5.180.11 may apply to such member and the Director: Surveillance has reason to believe, either at that time or subsequently, that 5.180.11 may in fact apply to that member, the Director: Surveillance may request such information from the member as is necessary to determine whether 5.180.11 will apply to that member. The provisions of 5.180.11.3 will then be applied.

#### 5.190 Management and Advice in respect of options listed as securities. [Reserved]

- 5.190.1 Notwithstanding the fact that a managed account client may have given their general consent to a broking member (equities) to effect transactions in securities on behalf of the client and may have given discretion to the broking member (equities) to conduct such transactions, a broking member (equities) may not conduct transactions in options listed as securities without the specific prior consent of the client. Such consent shall be obtained from the client in writing and shall specifically state that the broking member (equities) is authorised to invest in listed options on behalf of the client, as well as indicating whether there are any specific conditions or restrictions applicable to such investments which are not otherwise contained in the managed account mandate.
- 5.190.2 The specific consent to be obtained from the client in respect of transactions in options listed as securities, as referred to in 5.190.1, may only be elicited once the broking member (equities) has –
- 5.190.2.1 considered whether such investments are appropriate for the client in relation to the client's financial situation, investment experience and investment objectives; and
- 5.190.2.2 advised the client, in writing, of the risks associated with trading in options.
- 5.190.3 A broking member (equities) shall not provide any unsolicited advice to a client with the purpose of encouraging or inducing the client to transact in options listed as securities unless the broking member (equities) has –

5.190.3.1 considered whether such investments are appropriate for the client in relation to the client's financial situation, investment experience and investment objectives; and

5.190.3.2 advised the client, in writing, of the risks associated with trading in options.

#### **5.280 Reserved Transactions in Money Market Instruments**

**5.280.1** In purchasing or selling money market instruments a broking member (equities)

**5.280.1.1** may act only as an agent on behalf of clients;

**5.280.1.2** may, however, act as a principal, where the client is –

**5.280.1.2.1** an institution required to be registered by the Financial Services Board, the Registrar of Banks; or

**5.280.1.2.2** a government body, local authority or public corporation; or

**5.280.1.2.3** a company, having a share capital and reserves of more than R50 million; or

**5.280.1.2.4** a person who can demonstrate a personal net worth of more than R50 million;

**5.280.1.3** may not deal with a client either as an agent or as a principal in commercial paper (including promissory notes) unless such commercial paper complies with the general conditions for the issue of commercial paper as may from time to time be prescribed by the Registrar of Banks by Notice in the Government Gazette.

**5.280.2** Money market instruments shall include but shall not be limited to negotiable certificates of deposit, bankers acceptances, bridging bonds issued by municipal and public corporations, other bills of exchange, treasury bills and other similar money market instruments.

**5.280.3** The syndication of monies for the purpose of purchasing a money market instrument is not permissible.

**5.280.4** Money market instruments purchased on behalf of a client shall either be forwarded to the client or his order forthwith or be held in a safe custody account with a banking institution in terms of the provisions of rules 5.140.1 to 5.140.4, 5.140.7, 5.140.8, 5.140.10, 5.140.11, 5.140.12 and 5.140.13 on behalf of the client. The broking member's (equities) records and the BDA statement sent to clients shall reflect such a holding.

**5.280.5** A broking member (equities) acting for a client on a discretionary basis or retaining money market instruments in safe custody shall record the contract made with the client in one or more agreements of agency in a form approved by the JSE. Such agreements of agency shall contain not less than the minimum requirements prescribed by the JSE and shall be signed by the client and the broking member (equities) before any transactions in money market instruments are conducted on behalf of the client. Such agreements of agency shall –

**5.280.5.1** be signed jointly on behalf of the broking member (equities) by the persons referred to in 5.320. The names of the persons authorised, from time to time, to sign such ~~agreements~~ of agency shall be advised to the Director: Surveillance; and

**5.280.5.2** as to the original be retained by the broking member (equities), a signed copy being delivered to the client. (A faxed agreement of agency ~~is~~ acceptable subject to receipt of the original agreement of agency signed by the client being received and signed by the broking member (equities) within 21 days of receipt of the initial transaction).]

### 5.300 Client statements [Resewed]

**5.300.1** A broking member (equities) and a CSM must provide a written statement to a client which complies with 5.300.3 and 5.300.4.

**5.300.2** Statements shall be provided to clients –

**5.300.2.1** at regular intervals which may not exceed three months, unless the client consents in writing not to receive the statements because they are able to access the information made available by the member through electronic means, such as the internet, on a continuous basis; or

**5.300.2.2** monthly if the client's portfolio as managed by the member includes any open positions in options listed as securities; or

**5.300.2.3** at such intervals as the client requests, although the member shall not be obliged to provide statements more frequently than monthly.

**5.300.3** A client statement must contain such information as is reasonably necessary to enable the client to –

**5.300.3.1** produce a set of financial statements;

**5.300.3.2** determine the composition of the investments comprising the portfolio held by the member or for which the member is accountable to the client and the changes thereto over the reporting period, if applicable; and

**5.300.3.3** determine the market value of the investments comprising the portfolio held by the member or for which the member is accountable to the client and the changes therein over the reporting period, if applicable.

**5.300.4** Pursuant to 5.300.3, and to provide the client with the information necessary for them to review the operation of their account and make appropriate investment decisions, a client statement must contain at least the following information:

**5.300.4.1** the quantity, description and market value of each investment comprising the portfolio held by the member or for which the member is accountable to the client, at the reporting date;

**5.300.4.2** the amount of funds held by the member or which has been invested by the member on behalf of the client and for which the member is accountable to the client, at the reporting date;

- 5.300.4.3 if any of the investments or funds are reflected in a foreign currency, the relevant currency exchange rate at the reporting date must also be reflected:
- 5.300.4.4 investments purchased or sold during the reporting period:
- 5.300.4.5 receipts and payments of funds during the reporting period:
- 5.300.4.6 details of income earned and expenditure incurred during the reporting period:
- 5.300.4.7 non-cash transactions during the reporting period, including non-cash components of corporate actions and option exercises.
- 5.300.4.8 \_\_\_\_\_ f h i r n \_\_\_\_\_  
period:
- 5.300.4.9 identification of those investments which at the reporting date were loaned to any third party but for which the member is still accountable to the client:
- 5.300.4.10 the quantity, description and market value of any financial products, or the amount of funds, held as collateral by the member on behalf of the client in respect of any loans made by the client:
- 5.300.4.11 identification of those investments or funds which at the reporting date were utilised to secure loans to the client or borrowings made on behalf of the client:
- 5.300.4.12 identification of those investments or funds which at the reporting date were utilised as margin in respect of open positions in any financial product:
- 5.300.4.13 in re \_\_\_\_\_ s \_\_\_\_\_ f  
the underlying financial product, index, commodity or other, the expiry month and the exercise or strike price: and
- 5.300.4.14 if the statement reflects any investments or funds which are not held by the member and for which the member is not accountable to the client, it should clearly indicate that fact in relation to such investments or funds.
- 5.300.5 The information referred to in 5.300.4 may be provided to the client in separate statements either during the reporting period or as at the reporting date.
- 5.300.6 A client statement shall be provided either to the client or to an agent or third party nominated by the client in writing.

#### **5.340 Management of Foreign Investments**

5.340.1 For the purpose of this rule, foreign investments means =

- 5.340.1.1 securities listed on a foreign exchange;
- 5.340.1.2 units or any other form of participation in a foreign collective investment scheme approved by the Registrar of Collective Investment Schemes in

terms of section 65 of the Collective Investment Schemes Control Act 2002;

5.340.1.3 units or any other form of Participation in a collective investment scheme licensed or re-registered in a foreign country; and

5.340.1.4 foreign funds intended for the Purchase of such securities, units or participation.

5.340.2[1] A broking member (equities) authorised in terms of 5.170 to operate managed accounts on behalf of clients shall not enter into transactions in foreign investments on behalf of a managed account client [buy or sell securities listed on a foreign exchange] unless:

5.340.2.1 the mandate entered into between the broking member (equities) and

5.340.2.1.1 stipulates that the broking member (equities) is authorised to invest in foreign investments;

5.340.2.1.2 contains a statement pertaining to the risks associated with foreign investments, with particular reference to any currency risk;

5.340.2.1.3 states whether there are any jurisdiction restrictions in respect of the particular foreign investments; and

5.340.2.1.4 contains full Particulars of the manner in which such investments shall be made and in whose name such investments shall be held or registered;

[5.340.1.1 the broking member (equities) has entered into a written mandate with the client. The mandate shall stipulate If the broking member (equities) is authorised to invest in foreign investments and If so, the conditions in terms of which and the manner in which such investments will take place, including a full description of the risk profile pertaining to such investments; and]

5.340.2.[1].2 the client has obtained the prescribed tax clearance certificate from the South African Revenue Service, subject to the provisions of 5.340.3.

[5.340.2 A broking member (equities) shall not directly or indirectly –

5.340.2.1 buy or sell securities listed on a foreign exchange; or

5.340.2.2 buy or sell units in a collective investment scheme registered in a foreign country unless the relevant conditions as published by the Registrar of Stock Exchanges are complied with,

5.340.3 For the purposes of this rule the conditions referred to in 5.240.2 shall mean those conditions determined by the Registrar in respect of a person who manages investments on behalf of another person in terms of section 4 of the Act and published in the Government Gazette.]

5.340.3 A broking member (equities) authorised in terms of 5.170 to operate managed accounts on behalf of clients may apply to the Exchange Control Department of the South African Reserve Bank to acquire Foreign Portfolio Investments for such percentage as may be determined by the Department of the total assets under the broking member (equities) management. Such Foreign Portfolio Investments shall at all times comply with the regulations which the Department may from time to time determine. The provisions of 5.340.2.2 regarding the tax clearance certificate to be obtained by the client from the South African Revenue Service shall not apply to Foreign Portfolio Investments authorised by the Exchange Control Department of the South African Reserve Bank.

5.340.4 A broking member (equities) must, on request by a client, furnish the client with the following information regarding any foreign investments made by the broking member (equities) on behalf of the client –

5.340.4.1 the name of the licensed foreign exchange on which the foreign investments are listed, if applicable;

5.340.4.2 the country in which the foreign investments are licensed or registered and the name and address of the relevant licensing or registration authority, if applicable;

5.340.4.3 the name and address of the foreign financial services Provider used by the broking member (equities) to purchase or hold the foreign investments, if applicable; and

5.340.4.4 the name and address of the regulator of the foreign financial services provider referred to in 5.340.4.3 and whether such foreign financial Services Provider is approved or registered by such regulator.

#### **[5.350 Asset Swaps**

**5.350.1** A broking member (equities) authorised in terms 5.170 to operate managed accounts on behalf of clients may apply to the Exchange Control Department of the South African Reserve Bank to acquire foreign portfolio investments by way of asset swaps for such percentage as may be determined by the Department of the total assets under the broking member's (equities) management. Such investments shall at all times comply with the regulations which the Department may from time to time determine.

5.350.2 The provisions of 5.340.1 and 5.340.2 shall apply to asset swaps. In addition, the written mandate shall stipulate if the broking member (equities) is authorised to enter into asset swaps on behalf of the client.]

#### **4. PROPOSED AMENDMENTS TO SECTION 12 – JSE TRUSTEES (PTY) LTD**

**12.100** The company may appoint agents, who are licensed as discretionary financial services Providers in terms of section 8 of the FAS Act, [approved investment managers in terms of the Stock Exchanges Control Act or Financial Markets Control Act] to manage the investment and deposit of monies in terms of rule 12, on such terms as the directors may determine.