

BOARD NOTICE 119 OF 2004

**FINANCIAL MARKETS CONTROL ACT, 1989 (ACT NO 55 OF 1989)
AMENDMENT OF RULES OF THE JSE SECURITIES EXCHANGE SOUTH AFRICA**

1. In terms of section **17(3)** of the Financial Markets Control Act, **1989** (Act No **55** of **1989**), it is hereby notified that the JSE Securities Exchange South Africa has applied to the Registrar of Financial Markets for approval to make amendments to its rules, as set forth in the Schedule hereto.
2. In terms of section **17(3)** of the said Act all interested persons (other than members of the JSE Securities Exchange South Africa) who have any objections to the proposed amendments are hereby called upon to lodge their objections with the Registrar of Financial Markets, **P O Box 35655**, Menlo Park, **0102**, within a period of **30** days from the date of publication of this notice.

J VAN ROOYEN
Registrar of Financial Markets

SCHEDULE

General explanatory notes:

1. Words in bold in square brackets (**[]**) indicate deletions from existing rules.
2. Words underlined with a solid line (_____) indicate insertions in existing rules.

AMENDMENT TO THE RULES OF THE JSE SECURITIES EXCHANGE SOUTH AFRICA**1. PROPOSED AMENDMENTS TO SECTION 2 – INTERPRETATION AND DEFINITIONS**

"advertisement" means any Mitten, 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 aeneral 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 "advertisina" 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 listed financial instruments or other investments; or
- (b) on any corporate action or other event affecting any rihts or benefits in respect of any listed financial instruments or other investments; or
- (c) on the exercise or lapse of any rihts in respect of any listed financial instruments 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 listed financial instruments or other investments;
- (ii) in relation to the description of any listed financial instruments or other investments;
- (iii) in answer to routine administrative queries;
- (iv) in the form of objective information about any listed financial instruments or other investments; or
- (v) by the display or distribution of promotional material;

(e) an analysis or report on any listed financial instruments 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 a [resident client, a non-resident or an emigrant client] person –

- (a) who has been registered as a client of the derivatives member and with whom the derivatives member has concluded a client agreement; or
- (b) on whose instruction or authority other investments are bought, sold or safeguarded by a derivatives 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 exchange” shall have the same meaning as that contained in section 1 of the Financial Markets Control Act, 1989;

“financial products” shall have the same meaning as that contained in section 1 of the FAIS Act, and by definition includes listed financial instruments and other JSE regulated 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;

“other investments” means:

- (a) financial instruments listed on a financial exchange other than the JSE;
- (b) financial instruments 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 re-registered in a foreign country; and

(e) funds intended for the purchase of such financial instruments, units or participation;

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

"safeguard" in relation to listed financial instruments or other investments means –

(a) the holding of such investments in safe custody by a derivatives member on behalf of a client; or

(b) being accountable as a derivatives member to a client for such investments held by another financial services Provider.

"securities" shall have the same meaning as that contained in section 1 of the Stock Exchange Control Act, 1985 (Act No. 1 of 1985);

2 PROPOSED AMENDMENTS TO SECTION 7 - TRADING

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 ...

7.20.4.2 ...

7.20.4.3 the derivatives member shall keep a [written] record of the offer for a period of not less than six months [thirty days] after the offer was made, in terms of rule 16.10.5.

3. PROPOSED AMENDMENTS TO SECTION 15 - MANAGEMENT OF INVESTMENTS

15.10 Authority to manage investments in listed financial instruments

All broking members (derivatives) of the JSE are, for the purposes of Section 5 **(1) [(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. This rule shall, however, not apply to a derivatives member if the member is a bank or if the majority of such member's intermediary services do not relate to trading in listed financial instruments as a broking member (derivatives) and, if applicable, trading in listed securities as a broking member (equities). 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 provides to clients relating to listed financial instruments, and the relevant provisions of that Act shall apply to such advice or intermediary services.

15.20 [30] Trading as an investment manager in listed financial instruments

15.20 [30].1 A derivatives member may not trade as an investment manager in listed financial instruments 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.

15.20 [30].2 An investment manager may not directly or indirectly buy or sell listed financial instruments [investments] for or from his own account or any account in which an affiliated officer has a direct or indirect beneficial interest, to or from a client.

15.30 Management and advice in respect of other investments

- 15.30.1** A broking member (derivatives) may not enter into transactions as an investment manager in other investments on behalf of clients or provide advice to any clients in respect of such investments unless it has notified the Director: Surveillance, in writing, of its intention to effect such transactions or provide such advice.
- 15.30.2** In order for the JSE to identify the scope of an investment manager's activities in other investments, the written notification to the Director: Surveillance referred to in 15.30.1 shall indicate which specific investments the investment manager is intending either to transact in on behalf of its clients or to provide advice on, or both.
- 15.30.3** The details which are required to be submitted to the Director: Surveillance in terms of 15.30.2 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.
- 15.30.4** The failure by an investment manager to provide the notification referred to in 15.30.1 and 15.30.2 prior to undertaking the relevant activity may result in the JSE imposing restrictions or a prohibition on the investment manager's activities in other investments.
- 15.30.5** If an investment manager has previously notified the Director: Surveillance in terms of 15.30.1 and 15.30.2 of its intention to conduct activity in any other investments and the investment manager 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 investment manager shall notify the Director: Surveillance forthwith, in writing, of such cessation of activity.
- 15.30.6** Any decision by an investment manager to invest in other investments on behalf of a client shall be made with due regard to the relevant provisions of rule 16.10 regarding the conduct of derivatives members, particularly the provisions relating to the General Conduct Towards Clients in 16.10.2 and the Exercise of Discretion in 16.10.3.
- 15.30.7** An investment manager shall not effect transactions in other investments on behalf of a client unless the client has given his general consent to such transactions being effected in a written mandate.
- 15.30.8** Every investment manager who purchases other investments on behalf of a client and who is accountable to the client for the client's investment in such instruments shall comply with the following requirements:
- 15.30.8.1** the relevant investments shall be segregated from the investment manager's own assets at all times. If the investments are held in an account maintained by another financial services provider, the account shall either be opened in the client's own name or, if the investment manager opens a single account in respect of transactions executed on behalf of more than one client, the investment manager shall procure that the account is clearly designated in the records of the relevant financial services provider as being an account utilised for investments made by the investment manager on behalf of its clients;
- 15.30.8.2** the investment manager shall maintain proper accounting records in respect of all other investments purchased or sold on behalf of clients. These records shall be updated forthwith in respect of any transactions in other investments and shall clearly identify the beneficial owners of all such investments at all times;

- 15.30.8.3 the investment manager must balance its clients' holdings in other investments, as reflected in the investment manager's records, with the accounts maintained by the other financial services Providers who hold such investments, on a monthly basis. Any differences identified between the respective records must be rectified forthwith.
- 15.30.9 Every investment manager who holds other investments on behalf of a client or who is accountable to a client for such investments shall implement and maintain an effective system of internal controls to safeguard such investments and prevent unauthorised access thereto.
- 15.30.10 Transactions by an investment manager in other investments which constitute foreign investments shall also be subject to 15.35.
- 15.30.11 The Provisions of 15.30.1 to 15.30.10 shall not apply to a broking member (derivatives) if the member is a bank or if the majority of such member's intermediary services do not relate to trading in listed financial instruments as a broking member (derivatives) and, if applicable, trading in listed securities as a broking member (equities). 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 provides to clients relating to other investments, and the relevant Provisions of that Act shall apply to such advice or intermediary services.
- 15.30.12 The Provisions of 15.30.1 to 15.30.10 shall not apply to a broking member (derivatives) in respect of transactions in other investments where such transactions relate to financial instruments listed on a financial exchange other than the JSE, including the Bond Exchange of South Africa, and where such transactions are conducted as a member of such financial exchange. Such transactions will instead be subject to the rules of the relevant financial exchange.

[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.]

15.35 Management of Foreign Investments

15.35.1 For the purpose of this rule, foreign investments means –

- 15.35.1.1 financial instruments listed on a foreign exchange.
- 15.35.1.2 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;
- 15.35.1.3 units or any other form of participation in a collective investment scheme licensed or registered in a foreign country; and
- 15.35.1.4 foreign funds intended for the Purchase of such financial instruments, units or participation.

15.35.2 An investment manager shall not enter into transactions in foreign investments on behalf of a client unless:

- 15.35.2.1 the mandate entered into between the investment manager and the client in terms of 15.30.7 –
- 15.35.2.1.1 stipulates that the investment manager is authorised to invest in foreign investments;

- 15.35.2.1.2 contains a statement pertaining to the risks associated with foreign investments, with Particular reference to **any** currency risk;
- 15.35.2.1.3 states whether there are any jurisdiction restrictions in respect of the Particular foreign investments; and
- 15.35.2.1.4 contains full particulars of the manner in which such investments shall be made and in whose name such investments shall be held or registered;
- 15.35.2.2 the client has obtained the Described tax clearance certificate from the South African Revenue Service.
- 15.35.3 An investment manager must, on request by a client, furnish the client with the following information regarding any foreign investments made by the investment manager on behalf of the client –
 - 15.35.3.1 the name of the licensed foreign exchange on which the foreign investments are listed, if applicable;
 - 15.35.3.2 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;
 - 15.35.3.3 the name and address of the foreign financial services Provider used by the investment manager to purchase or hold the foreign investments, if applicable; and
 - 15.35.3.4 the name and address of the regulator of the foreign financial services provider referred to in 15.35.3.3 and whether such foreign financial services provider is approved or registered by such regulator.
- 15.40 **[20]** Trading with a discretionary financial services Provider [an approved investment manager]

A derivatives member shall 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 [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].

[15.40 Reporting to clients]

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

15.50 Client statements

- 15.50.1 An investment manager must provide a written statement to a client on a monthly basis which complies with 15.50.2 and 15.50.3.
- 15.50.2 A client statement must contain such information as is reasonably necessary to enable the client to –
 - 15.50.2.1 produce a set of financial statements;

- 15.50.2.2 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
- 15.50.2.3 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.
- 15.50.3 Pursuant to 15.50.2. 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:
- 15.50.3.1 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;
- 15.50.3.2 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;
- 15.50.3.3 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;
- 15.50.3.4 investments Purchased or sold during the reporting period;
- 15.50.3.5 receipts and Payments of funds during the reporting period;
- 15.50.3.6 details of income earned and expenditure incurred during the reporting period;
- 15.50.3.7 non-cash transactions during the reporting period, including non-cash components of corporate actions and option expiries;
- 15.50.3.8 investments transferred into and out of the Portfolio during the reporting period;
- 15.50.3.9 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;
- 15.50.3.10 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;
- 15.50.3.11 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;
- 15.50.3.12 identification of those investments or funds which at the reporting date were utilised as margin in respect of open positions in any financial product;
- 15.50.3.13 in respect of investments in listed financial instruments, a description of the underlying financial Product, index, commodity or other, the expiry month and in the case of options, the exercise or strike price; and
- 15.50.3.14 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.
- 15.50.4 The information referred to in 15.50.3 may be Provided to the client in separate statements either during the reporting period or as at the reporting date.

15.50.5 A client statement shall be provided either to the client or to an agent or third party nominated by the client in writing.

[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.]

4. PROPOSED AMENDMENTS TO SECTION 16 -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.]**

16.10 Code of Conduct

16.10.1 **Standards of Integrity**

A derivatives member shall, in the conduct of its business, observe high standards of integrity and fair dealing. It shall –

16.10.1.1 not provide material inducements of a non-business nature to any person to obtain business;

16.10.1.2 not knowingly circulate information or submit information to the JSE or the clearing house which is false or misleading, or which affects or tends to affect unfairly the price of any listed financial instrument;

16.10.1.3 not knowingly countenance any attempt to manipulate the market, nor to influence persons for such a purpose;

16.10.1.4 not be a party to or facilitate or enter into a trade which is fictitious or which has a dishonest or unlawful motive;

16.10.1.5 conduct its activities strictly in accordance with the public interest and with full respect for the dignity of the JSE; and

16.10.1.6 not participate in any dealings with other members, clients, the media or other persons, which may be of such a nature as to discredit the JSE.

16.10.2 General conduct towards clients

In its dealings with clients, a derivatives member shall –

16.10.2.1 act honestly and fairly;

16.10.2.2 act with due skill, care and diligence, and in the interests of clients;

16.10.2.3 exercise independent professional judgement;

16.10.2.4 act promptly on and in accordance with the instructions of a client, and exercise any discretion in a responsible manner,

16.10.2.5 avoid conflicts of interest and when they cannot be avoided, ensure fair treatment to clients by disclosure, confidentiality or declining to act. A member shall not unfairly place its interests above those of its clients; and

16.10.2.6 not make any statement, promise or forecast which it 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.

16.10.3 Furnishing of advice and exercise of discretion

In providing advice to a client or exercising discretion in relation to the management of investments, a derivatives member shall –

- 16.10.3.1 take reasonable steps to seek from the client information regarding the client's financial situation, investment experience, particular needs and objectives in connection with the services required, to enable the member to provide the client with sound advice or make an appropriate investment decision;
- 16.10.3.2 conduct an analysis, based on the information obtained, for the purpose of advising the client or making an investment decision;
- 16.10.3.3 identify the listed financial instruments or other investments that will suit the client's risk profile and financial needs, subject to the terms of any client agreement entered into between the client and the member or any other mandate provided to the member by the client;
- 16.10.3.4 take reasonable steps to ensure that the client understands any advice that has been provided, as well as the nature and material terms and risks involved in the relevant transaction, so as to enable the client to make an informed decision; and
- 16.10.3.5 ensure that any advice provided or discretion exercised is not for the sole purpose of maximising the income of the member.
- 16.10.4 Disclosure to clients
- 16.10.4.1 In rendering a service to a client, any representations made and information provided by a member –
- 16.10.4.1.1 must be factually correct;
- 16.10.4.1.2 must be provided in plain language, avoid uncertainty or confusion and not be misleading;
- 16.10.4.1.3 must be adequate and appropriate in the circumstances of the particular service, taking into account the factually established or reasonably assumed level of knowledge of the client;
- 16.10.4.1.4 must, as regards all amounts, sums, values, charges, fees, remuneration or monetary obligations mentioned or referred to therein, be reflected in specific monetary terms. Provided that where any such amount, sum, value, charge, fee, remuneration or monetary obligation is not reasonably pre-determinable, its basis of calculation must be adequately described;
- 16.10.4.1.5 need not be duplicated or repeated to the same client unless material or significant changes affecting that client occur, or the relevant service renders it necessary, in which case a disclosure of the changes must be made to the client without delay.
- 16.10.4.2 A member –
- 16.10.4.2.1 must disclose full and accurate information about the fees and any other charges that may be levied on clients;
- 16.10.4.2.2 may not disclose any confidential information acquired or obtained from a client about such client, unless the written

consent of the client has been obtained beforehand or disclosure of the information is required to further the objectives of the Act or is required under any law.

16.10.4.2.3 must advise a client in advance of any restrictions or limitations that may affect the access of that client to their funds, listed financial instruments or other investments.

16.10.5 Maintenance of client records

16.10.5.1 A member must maintain proper, complete, accurate and secure records in relation to the services rendered to its clients.

16.10.5.2 A member must have appropriate Procedures and systems in place to store and retrieve, in a manner safe from destruction, a record of all –

16.10.5.2.1 communications relating to a service rendered to a client, including instructions given by the client to the member;

16.10.5.2.2 transaction documentation relating to clients;

16.10.5.2.3 contractual arrangements between the member and its clients, including client agreements and mandates prescribed by the rules; and

16.10.5.2.4 client Particulars required to be provided in terms of the rules or which are necessary for the effective operation of client accounts.

16.10.5.3 The client records in 16.10.5.2 may be kept in Printed, electronic or voice-recorded format.

16.10.5.4 Members need not keep the records in 16.10.5.2 themselves but must be capable of making such records available for inspection within seven days.

16.10.5.5 All instructions given by clients to execute transactions must be kept for a period of at least six months after the relevant transactions and all other client records in 16.10.5.2 must be kept for at least five years after the rendering of the services concerned.

16.10.6 Contact with the member

A member must Provide for the necessary resources and functionality to ensure that clients are able to contact the member easily and timely.

16.10.7 Waiver of rights

A member may not request or induce in any manner a client to waive any right or benefit conferred on the client by or in terms of this code or the rules, or recognise, accept or act on any such waiver by the client, and any such waiver is void.

16.10.8 Adequacy of financial resources

A member shall ensure that it maintains adequate financial resources to meet its business commitments and to withstand the risks to which its business is subject.

16.10.9 Internal resources and risk management

A member shall employ effectively the resources and Procedures that are necessary for the proper Performance of its business activities and to eliminate, as far as is reasonably possible, the risk that clients will suffer financial loss through theft, fraud, other dishonest acts, poor administration, negligence, professional misconduct or culpable omissions. It shall organise and control its internal affairs in a reasonable manner and keep proper records. Its staff shall be suitable, adequately trained and properly supervised.

16.10.10 Co-operation with regulators

A member shall deal with the JSE as its regulator in an open co-operative manner and keep the JSE promptly informed of anything concerning the JSE which might reasonably be expected to be disclosed to it. A member shall also provide reasonable co-operation to any other regulatory body or any law enforcement agency in respect of any matters which are the subject of an investigation by such body or agency relating to an alleged contravention of the Act, or any equivalent foreign legislation or any other law governing the activities of the member.

16.10.11 Enforcement of code on employees

A member shall enforce the provisions of this code on all its employees and affiliated officers.

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.]

16.20.1 Advertising material of a member –

16.20.1.1 must provide accurate, complete and unambiguous information about any listed financial instrument or other investment or any service rendered by the member;

16.20.1.2 must emphasise the risk of loss and uncertainty of future results;

16.20.1.3 must discern fact from opinion;

16.20.1.4 may not be comparative in relation to another member; and

16.20.1.5 may not make the statement or suggest that trading in listed financial instruments on the JSE is appropriate for all persons.

16.20.2 An advertisement by a member –

16.20.2.1 may not contain any statement, promise or forecast which is fraudulent, untrue or misleading;

16.20.2.2 must, if it contains –

16.20.2.2.1 performance data (including awards and rankings), include references to their source and date.

16.20.2.2.2 illustrations, forecasts or hypothetical data –

16.20.2.2.2.1 contain support in the form of clearly stated basic assumptions (including, but not limited to, any relevant assumptions in respect of performance, returns, costs and charges) with a reasonable prospect of being met under current circumstances;

16.20.2.2.2.2 make it clear that they are not guaranteed and are provided for illustrative purposes only; and

16.20.2.2.2.3 also contain, where returns or benefits are dependent on the performance of underlying assets or other variable market factors, clear indications of such dependence;

16.20.2.2.3 a warning statement about risks involved in buying or selling a listed financial instrument or other investment, prominently display such statement; and

16.20.2.2.4 information about past performances, also contain a warning that past performances are not necessarily indicative of future performances; and

16.20.2.3 must, if the investment value of a listed financial instrument or other investment mentioned in the advertisement is not guaranteed, contain a warning that no guarantees are provided.

16.20.3 [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 or 16.20.2, 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.