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## BOARD NOTICE

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### BOARD NOTICE 112 OF 2007

#### SECURITIES SERVICES ACT, 2004

#### AMENDMENTS TO THE RULES OF THE BOND EXCHANGE OF SOUTH AFRICA

1. In terms of section 61(5) of the Securities Services Act, 2004 (Act No. 36 of 2004), it is hereby notified that the Bond Exchange of South Africa has applied to the Registrar of Securities Services for approval of proposed amendments of its rules, which amendments are set out in the Schedule.
2. In terms of section 61(5) of the said Act, all interested persons who have any objections to the proposed amendments are hereby called upon to lodge their objections with the Registrar of Securities Services, P O Box 35655, Menlo Park, 0102, within a period of 14 days from the date of publication of this notice.
3. In terms of section 61(6) of the said Act, I, Rob Barrow, hereby determine 17 December 2007 as the date on which the rules in the schedule come into operation. If any objections are received, another commencement date may be determined by notice in the Gazette.

**RJG BARROW**  
**REGISTRAR OF SECURITIES SERVICES**

#### SCHEDULE

#### Proposed amendments to the Rules of the Bond Exchange of South Africa

##### General explanatory notes

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

##### E14.1 Binary Options

The Rules in this section E14 will apply to Binary Options only. Except where the context dictates otherwise, the Rules in parts C and E of the Bond Exchange Rules will also apply to Binary Options authorised users to the extent applicable, however, wherever there is a conflict, the Rules in this Rule E14 will apply.

##### E14.1.1 Definitions:

For the purposes of this Rule, unless the context indicates otherwise –

"Binary option" or "option" means a European-style option contract which has a cash settlement amount that is established at the creation of the option. A binary option pays out if the final settlement price of the contract's underlying security/value equals, exceeds or is less than the strike price, depending on whether the option is a call or a put option.

"Binary options authorised user" means an authorised user who is registered to act only as an authorised user for the facilitation of the trading of binary options between clients of binary options authorised users.

"Call binary option" or "call option" means an option contract which returns a cash settlement amount if the underlying security/contract closes at or above the strike price on expiry.

"Cash settlement amount" means the amount of cash that a holder of a contract will receive or pay out on the exercise of the contract. For a long position this is determined by the exercise settlement value minus the premium, which result is multiplied by the contract multiplier. For a short position this is the premium minus exercise settlement value, which result is multiplied by the contract multiplier.

"Contract" means a binary option contract approved by the Bond Exchange and listed on the official list of approved binary option contracts. Each contract must contain sufficient terms, including in its definition at least the strike price and the expiry date, to identify it as unique.

"Contract multiplier" means the multiple applied to the exercise settlement value to determine the total cash settlement amount per contract. The contract multiplier shall be at least 1.

"Contract size" shall be R100 or some multiple thereof.

"European-style option contract" shall mean that the contract may only be exercised on the expiry date of the option and no sooner.

"exercise settlement value" means the value determined at the expiry date and time by the option's moneyness. This will be zero for an out-the-money option and 100 for an in-the-money option.

"Long position" means an options contract in which the client has bought the contract

"Margin" means the cash deposit provided by clients as collateral security to cover any losses that may result from any trading by the respective clients in binary options.

"Moneyness" means whether or not an option is in-, at- or out- of the money.

"Premium" means the amount paid for the option.

"Put binary option" or "put option" means an option contract which returns a cash settlement amount if the underlying security/contract closes below the strike price on expiry.

"Short position" means an options contract in which the client has sold the contract.

"Square" means a net position of zero on any contract where the client has no exposure to any subsequent market price changes in the contract, although the client may currently have a profit or loss on the contract.

"Strike price" – means the specified price/value of the underlying security/value on a contract at which the contract may be exercised.

"Trading portal" means the software and trading system made available by the Bond Exchange to a binary options authorised user from time to time through which trading in binary options will take place.

"Value of underlying instrument" means the current price of the underlying instrument on which the option is based at the time of expiry of the option.

"Website" means a website that is required to be established by each binary options authorised user which will host the trading portal and through which clients will have access to and trade in the binary options market.

#### **E14.2 Eligibility to be registered as a binary options authorised user**

- E14.2.1 To register as a binary options authorised user an applicant must be a corporate body and must comply with the following requirements:

- E14.2.1.1 the main feature of its business is to act as an intermediary to facilitate transactions in listed securities between clients;
- E14.2.1.2 it must be controlled and managed by persons with good reputation and high business standing;
- E14.2.1.3 its directors must all be at least 21 years of age and of full legal capacity;
- E14.2.1.4 its directors are all of good character and high business integrity;
- E14.2.1.5 it must comply at all times with the financial resources requirements stipulated by Directive;
- E14.2.1.6 it must have the necessary administrative functions, systems, resources and expertise stipulated by Directive;
- E14.2.1.7 its officers and traders comply with the requirements for registration under the Rules;
- E14.2.1.8 it must become a member of the Derivatives' Traders Market Association ("DTA"); and
- E14.2.1.9 where an applicant is not incorporated in South Africa, it must comply with Rule C2.1.3.

#### **E14.3 Application for status as a binary options authorised user**

- E14.3.1 An applicant must submit an application to the Bond Exchange in the manner stipulated by Directive from time to time.
- E14.3.2 When making an application, each applicant must agree to be bound by the Act, the Rules and the Directives.
- E14.3.3 An applicant must submit written proof of approval in terms of Rule E14.2.18 by the DTA.
- E14.3.4 The Bond Exchange must publish the name and address of each applicant in a notice to the DTA members.
- E14.3.5 A DTA member may object to such an application by writing to the Bond Exchange within 14 days of publication in terms of Rule E14.3.4 stating the reasons for the objection.
- E14.3.6 The Bond Exchange may require –
  - E14.3.6.1 an applicant to furnish further information and may, with the applicant's consent, institute an investigation to verify the information submitted by the applicant;
  - E14.3.6.2 an applicant or its representatives to be interviewed by the governing committee, the chief executive officer or another person identified by the Bond Exchange for that purpose.
- E14.3.7 The applicant must bear the reasonable costs incurred to verify the information in terms of Rule E14.3.6.
- E14.3.8 The Bond Exchange must make its decision on an application on the later of 21 days from the date on which all requirements for registration have been satisfied by the applicant or 7 days after the date on which any investigations contemplated in rule have been completed, taking into account any objections raised in terms of Rule E14.3.5.
- E14.3.9 The Bond Exchange must notify the applicant in writing of its decision to grant or refuse the applicant, and must publish its decision in a notice to members of the relevant market association.

E14.3.10 If an application is refused by the Bond Exchange-

E14.3.10.1 it must furnish an applicant and the DTA with written reasons for the refusal; and

E14.3.10.2 an applicant may appeal the decision in terms of the Act.

E14.3.11 A binary options authorised user must include on its website its binary options client rules and the terms and conditions of use satisfactory to and approved by the Bond Exchange. The website must be set up such to ensure that all clients must have signified their acceptance of these terms and conditions of use before they are able to access the binary options market through the website. A signed copy of this acceptance must be delivered to the binary options authorised user before it may enable a client to trade on the website.

**E14.4 Approval**

**E14.4.1 Granting of Approval**

E14.4.1.1 The Bond Exchange must maintain a register of binary options authorised users open for inspection by the public at its registered office.

E14.4.1.2 The approval by the Bond Exchange confers formal binary options authorised user registration on the successful applicant.

E14.4.1.3 A binary options authorised user registration cannot be granted to a nominee or agent of the applicant and must be reflected in the register in the name of the successful applicant.

E14.4.1.4 Subject to Rule E14.2.1.8, the Bond Exchange shall have the sole discretion whether or not to approve an application.

**E14.4.2 Transfer of Binary Options authorised user approval**

A binary options authorised user cannot transfer or assign the rights, title or interest in or to that binary options authorised user registration to another body without the prior written approval of the Bond Exchange.

**E14.5 Client Relationships**

E14.5.1 Before accepting any trading instructions from a client, the binary options authorised user must ensure the following:

E14.5.1.1 that it has sufficient information to identify the client properly and maintain an accurate record of the identification of all of its clients;

E14.5.1.2 that it will maintain an up to date register of all its clients;

E14.5.1.3 that every client has signified its acceptance of the website's terms and conditions of use; and

E14.5.1.4 that it will only accept instructions to effect trades in the binary options market from clients which have agreed to the terms referred to in E14.5.1.3 and whose name appears on its client register.

**E14.5.2 Client complaints**

Rule C11 will apply to any client complaints.

**E14.5.3 BESA Trust Accounts**

E14.5.3.1 In dealing with client funds the binary options authorised user must at all times comply with the rules on the segregation of client funds as contained in Rule C9.

E14.5.3.2 For the purposes of the binary options market the Bond Exchange will open an authorised user trust account. The binary options authorised user must ensure that all margins required to be paid by the client in terms of each binary options contract are directly and immediately set aside for exclusive use for that particular trade and will not be available for other trades until the margin in respect of that trade is no longer required.

E14.5.3.3 All clients will have individual sub accounts opened on their behalf in the Bond Exchange clients' trust account. The Bond Exchange may at any time request information in regard to the client sub account from the binary options authorised user.

**E14.6 Obligations/ Restrictions**

E14.6.1 The binary options authorised user must use the software as prescribed by the Bond Exchange from time to time, including the use of the trading portal made available by the Bond Exchange to the binary options authorised user.

E14.6.2 The binary options authorised user may not act as principal and may act only as agent for its clients.

E14.6.3 Each binary options authorised user must set up and maintain a website pre-approved by the Bond Exchange through which each client will have access to and trade in binary options. The website must include as a minimum the following:

E14.6.3.1 full details and specifications (including prices and expiry dates) of all the listed binary options available to be traded;

E14.6.3.2 a description of how trading is to be conducted;

E14.6.3.3 the fact that the binary options authorised user must offer the customer access to the binary options market through its website;

E14.6.3.4 the full terms and conditions of trading including an explanation of how binary options operate and a method by which the clients' acceptance of these terms and conditions can be signified;

E14.6.3.5 the methods of margining and a stipulation that all margin will be deposited into trust accounts held by the Bond Exchange;

E14.6.3.6 the methods by which options are paid out or margin may be withdrawn in the event that it is no longer required for any trading according to the Directives.

E14.6.4 A binary options authorised user undertakes to ensure that -

E14.6.4.1 It will execute a client's instruction without alteration whatsoever;

- E14.6.4.2 Clients are able to deposit the required margins directly into the binary options authorised user trust account held at the Bond Exchange;
- E14.6.4.3 Accurate and complete records of these transactions and accounts are maintained;
- E14.6.4.4 It will report all client transactions to the Bond Exchange in accordance with the Directives.
- E14.6.5 The only Binary options contracts that may be traded will be those approved by the Bond Exchange and included in the list of approved binary options contracts. The Bond Exchange may add new option contracts to the approved list or may remove existing option contracts from the list at its discretion from time to time.
- E14.6.6 If a binary options authorised user wishes to operate as an authorised user in addition to being a binary options authorised user, it must establish a separate legal entity for this purpose, which must –
  - E14.6.6.1 be a member of the appropriate market association;
  - E14.6.6.2 be registered with the Bond Exchange as an authorised user;
  - E14.6.6.3 be separately capitalised; and
  - E14.6.6.4 have separate traders registered with the Bond Exchange.
- E14.6.7 A Binary Options authorised user must –
  - E14.6.7.1 satisfy the binary options authorised user registration requirements stipulated by Directive;
  - E14.6.7.2 comply with all initial and other capital required to be held by a binary options authorised user as stipulated by the Rules and Directives;
  - E14.6.7.3 comply with the reporting requirements stipulated by the Rules and Directives for trades facilitated by that binary options authorised user;
  - E14.6.7.4 comply with the settlement requirements stipulated by the Rules and Directives for trades facilitated by that binary options authorised user;
  - E14.6.7.5 ensure that for all trades being facilitated by that binary options authorised user, the trade information is displayed in the manner stipulated by Directive;
  - E14.6.7.6 report any suspicion of market abuse to the Bond Exchange. Failure to do so will render the binary options authorised user liable to a penalty stipulated by Directive;
  - E14.6.7.7 hold fidelity cover for fraud and misappropriation by a director, officer, trader or other person involved in the management or administration of trading, that the binary options authorised user, deems appropriate for the level of business undertaken by it;
  - E14.6.7.8 submit to the Bond Exchange, within three months after the end of the binary options authorised user's financial year, and at any other time when requested to do so by the Bond Exchange –
    - E14.6.7.8.1 two copies of the binary options authorised user's audited annual financial statements;
    - E14.6.7.8.2 two copies of an audited certificate certifying –

- (a) that the binary options authorised user has complied with the financial requirements of the Act and the Rules; and
- (b) that the binary options authorised user's board of directors has instituted procedures that the board deems appropriate to review the binary options authorised user's level of fidelity insurance cover held in accordance with rule E14.6.5.6.

E14.6.7.9 notify the Bond Exchange immediately of any change in auditor;

E14.6.7.10 allow the Bond Exchange, on reasonable notice, to conduct an on-site review or investigation into the binary options authorised user's activities, which are subject to regulation in terms of the Act, the Rules and the Directives, at the request of the Bond Exchange; and

E14.6.7.11 comply with the Act, the Rules, the Directives and any decisions of the Bond Exchange.

E14.6.8 A binary options authorised user may not operate or offer its services unless it has appointed a compliance and representative officer which have both been registered with the Bond Exchange, provided that the Bond Exchange may grant a dispensation to a binary options authorised user in respect of this Rule for a period of a maximum of two months or for a longer period with the approval of the Registrar.

E14.6.9 A binary options authorised user must register a compliance officer and a representative officer with the Bond Exchange in the manner stipulated by Directive.

#### **E14.7 Registration and functions of officers of a binary options authorised user**

E14.7.1 A binary options authorised user must register a compliance officer and a representative officer with the Bond Exchange in the manner stipulated by directive.

E14.7.2 The compliance officer and representative officer must each –

E14.7.2.1 be an employee of the binary options authorised user;

E14.7.2.2 be at least 21 years of age and of full legal capacity;

E14.7.2.3 be of good character and high business integrity; and

E14.7.2.4 comply with the minimum requirements with regard to training and experience and the passing of any examinations as stipulated by directive.

E14.7.3 The compliance officer –

E14.7.3.1 may simultaneously hold office as the representative officer of the binary options authorised user;

E14.7.3.2 must monitor compliance by the binary options authorised user concerned with the Act, the Rules, the Directives and any decision or determination of the Bond Exchange;

E14.7.3.3 must monitor compliance by the binary options authorised user with the financial resources requirements stipulated by directive and ensure that the required return is submitted to the Bond Exchange as stipulated by directive;

- E14.7.3.4 will be the Bond Exchange's main contact at the binary options authorised user and must receive all notices from the Bond Exchange and must ensure that the binary options authorised user complies with the requirements of these notices;
- E14.7.3.5 must report to the Bond Exchange any apparent breaches by the binary options authorised user, its officers and employees of the Act, the Rules, the Directives and any decision or determination of the Bond Exchange;
- E14.7.3.6 must take steps to rectify a breach or to eliminate an error regarding any trades facilitated by the binary options authorised user, if requested to do so by the Bond Exchange; and
- E14.7.3.7 must submit to the Bond Exchange a compliance report as stipulated by directive.
- E14.7.4 The representative officer –
  - E14.7.4.1 may simultaneously hold office as the compliance officer of the binary options authorised user; and
  - E14.7.4.2 must represent the binary options authorised user in all other matters for which the compliance officer is not responsible.
- E14.7.5 A binary options authorised user must register with the Bond Exchange an alternate compliance officer and alternate representative officer in the manner stipulated by directive.
- E14.7.6 The Bond Exchange can accept or refuse an application to register an officer and, if requested by the applicant, must furnish the reasons for its decision.
- E14.7.7 If a binary options authorised user is not satisfied with the Bond Exchange's decision regarding an application for registration of its officers, it may appeal the decision as contemplated in the Act.
- E14.7.8 The Bond Exchange must maintain a register of registered officers open for inspection by the public at its registered office.
- E14.7.9 The binary options authorised user must notify the Bond Exchange in writing as soon as reasonably practicable of any change in the particulars of an officer in the manner stipulated by directive.
- E14.7.10 The appointment of any officer does not relieve the binary options authorised user from the duties and responsibilities it has under the Act, the Rules, the Directives and any decision or determination of the Bond Exchange.
- E14.7.11 A binary options authorised user must notify the Bond Exchange in writing if any of its officers have been found guilty of any improper conduct by any exchange, by any current or previous employer, by a professional association, including the relevant market association, or by a court or if it has been censured by a supervisory or regulatory authority.

#### **E14.8    Registration of Traders**

- E14.8.1 A binary options authorised user -
  - E14.8.1.1 must register all traders with the Bond Exchange in the manner stipulated by directive and must, at all times, have at least one trader so registered;



- E14.8.1.2 cannot offer binary options services without at least one trader being registered with the Bond Exchange.
- E14.8.2 The Bond Exchange may accept or refuse an application to register a trader and must furnish reasons for its decision if requested to do so by the applicant.
- E14.8.3 If a binary options authorised user is not satisfied with the Bond Exchange's decision regarding an application for registration of its traders, it may appeal as contemplated in the Act.
- E14.8.4 The Bond Exchange must maintain a register of registered traders open for inspection by the public at its registered office.
- E14.8.5 A binary options authorised user must notify the Bond Exchange in writing of any change in the particulars of a registered trader in the manner stipulated by directive.
- E14.8.6 A binary options authorised user must notify the Bond Exchange in writing as soon as reasonably practicable if any of its traders have been found guilty of any improper conduct by an exchange, by a current or previous employer, by a professional association, including the relevant market association, or by a court or if any of its traders have been censured by a supervisory or regulatory authority.

#### **E14.9 Termination**

- E14.9.1 A binary options authorised user's registration terminates when -
  - E14.9.1.1 terminated voluntarily by the binary options authorised user in terms of rule E14.9.2.1;
  - E14.9.1.2 the binary options authorised user is placed under curatorship;
  - E14.9.1.3 there is an order placing the binary options authorised user into provisional or final liquidation;
  - E14.9.1.4 the binary options authorised user is expelled from the Bond Exchange or the DTA; or
  - E14.9.1.5 judgement for the payment of debts has been granted against the binary options authorised user by a court and the binary options authorised user has failed to take reasonable steps within 30 days of judgement to satisfy the judgement or have it set aside.
- E14.9.2 A binary options authorised user may terminate its registration voluntarily in accordance with this Rule.
  - E14.9.2.1 A binary options authorised user must give one calendar month's written notice to the Bond Exchange of its intention to terminate its binary options authorised user registration.
  - E14.9.2.2 The Bond Exchange must immediately notify members of the DTA of the binary options authorised user's intention to terminate its registration voluntarily.
  - E14.9.2.3 After having notified the members of the DTA in Rule E14.9.2.2 and before the intended date of termination, the Bond Exchange must consider the notice of termination and may –
    - E14.9.2.3.1 accept the resignation unconditionally or on the conditions it deems fit; or
    - E14.9.2.3.2 refuse to accept the resignation until it is satisfied that the binary options authorised user has complied with its outstanding obligations under the Rules.

E14.9.2.4 A binary options authorised user cannot withdraw the notification in terms of rule E14.9.2.1 to terminate binary options authorised user registration without the Bond Exchange's written consent.

E14.9.3 The Bond Exchange must publish –

E14.9.3.1 the name of any binary options authorised user whose registration has terminated; and

E14.9.3.2 the date from which the termination has taken effect to members of the DTA.

#### **E14.10 Trading**

E14.10.1 The Bond Exchange will maintain a list of all approved binary options contracts. Binary options authorised users may only trade in these approved contracts which appear on this list.

E14.10.2 Trading in binary options may be transacted only through the trading portal at any time as stipulated by Directive from time to time. All trades must be reported to the Bond Exchange in accordance with the Directives.

E14.10.3 All the trading data of each client will be available to that client on the website.

E14.10.4 No proprietary trading or position taking by binary options authorised users is permitted. Only trading for and on behalf of clients is permitted.

E14.10.5 A binary options authorised user -

E14.10.5.1 May only execute binary options trades on the trading portal approved by the Bond Exchange and licensed by the Bond Exchange to the binary options authorised user;

E14.10.5.2 Must enter into such necessary agreements to use the system;

E14.10.5.3 Must ensure the integrity of all trade data;

E14.10.5.4 Must maintain data security procedures satisfactory to the Bond Exchange.

E14.10.6 Binary options will be automatically exercised/cash settled on expiry.

E14.10.7 Binary options can be traded up to the expiry date and time specified as the expiry date and time for each contract. Positions on any contract will be netted. For the purposes of margining if the position on any contract is square the net loss or gain will be margined and will be held in a trust account until the contract has expired. A client is not permitted to have access to funds in relation to any contract until such contract has expired.

E14.10.8 If the exercise settlement value cannot be determined at the time of expiry due to closure of the exchange on which the underlying instrument is traded or any other unforeseen event, then all positions, margins, contracts and fees will be rolled over, unwound and returned to each customer of the binary options authorised user in a manner determined by the Bond Exchange, or as otherwise directed by the Bond Exchange from time to time in its sole discretion. The Bond Exchange will not be liable for any loss whatsoever incurred by any binary options authorised user or client in the event that the exercise settlement value cannot be determined.

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**E14.11 Margin Requirements**

- E14.11.1 Margining takes place immediately upon a bid or offer being made in relation to a binary options contract.
- E14.11.2 The margin requirements are determined from time to time by Directive.

**E14.12 Data**

- E14.12.1 All data, as specified by Directive from time to time, relating to trades facilitated by a binary options authorised user, may only be distributed in accordance with the requirements as set out in the Directives from time to time.
- E14.12.2 A binary options authorised user may not show any prices or trade related information to parties who are not included in the register of clients.
- E14.12.3 Binary options authorised users must ensure that they report trades facilitated by them correctly and timeously to ensure the integrity of the data flow from the Bond Exchange.
- E14.12.4 The Bond Exchange may request details of any bid or offer that was submitted and the details of the related trade from the binary options authorised user.

**E14.13 Fees**

- E14.13.1 The binary options fees will be determined by the Bond Exchange from time to time in the Directives.
- E14.13.2 The Bond Exchange must notify binary options authorised users in writing of any proposed change in fees and levies they must pay to the Bond Exchange, at least 14 days before the revised fees or levies are imposed.
- E14.13.3 The Bond Exchange must notify a binary options authorised user that has failed to pay any fees or levies within 30 days of such fees or levies becoming payable.
- E14.13.4 If the binary options authorised user does not pay the arrears within seven days from receipt of the notice, or any extended period granted in writing by the Bond Exchange, the Bond Exchange may, despite the provisions of PART C – Section 12, suspend the binary options authorised user until the binary options authorised user has paid all monies owed to the Bond Exchange.
- E14.13.5 The arrears may include interest calculated from the due date to the date of actual payment at a rate determined by the Bond Exchange.
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