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BOARD NOTICE

**BOARD NOTICE 124 OF 2005
SECURITIES SERVICES ACT, 2004****AMENDMENT 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, PO 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 22 December 2005 as the date on which the rules in the Schedule come into operation. If any objections are received, another commencement date will be determined by notice in the Gazette.

RJG BARROW
Registrar of Securities Services

SCHEDULE

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 existing rules.

BOND EXCHANGE
OF
SOUTH AFRICA

RULES

PART A - SECTION 1
STATUS AND INTERPRETATION OF RULES

A1.3 Definitions

In the Rules, unless the context otherwise indicates –

"designated screen" means the electronic screen, telephone facility or systems designated by the governing committee which authorised users may utilise for the purposes of trading in listed securities;

"directive[s]" means a determination of the Bond Exchange [governing committee] as required in terms of a specific rule, which directive binds rightsholders, authorised users or members of a particular market association, as the case may be"

"Recognised Agreement" means an agreement entered into between counterparties to a trade to govern that trade and recognised by the Bond Exchange from time to time;

PART C - SECTION 5
TRADING

C5.4 Market prices

[Save with the prior written consent of the governing committee, no user shall advertise or publish or cause to be advertised or published in any form listed financial instrument prices or statistics through non-users.]

Save with the prior written consent of the governing committee, an authorised user may only advertise or publish or cause to be advertised or published in any form prices or quotes in listed securities or any statistics relating to trades in listed securities on a designated screen.

PART C - SECTION 6
CLEARING

C6.1 Financial resources requirements

C6.1.1 The rules of a market association must provide for the financial resources requirements applicable to members of that market association.

- C6.1.2 The funds required to be held by members of a market association and, where necessary, by a market association, must be stipulated by Directive.
- C6.1.3 The financial resources requirements specified in rule C6.1.1 and C6.1.2 must at no time be less than the minimum requirements prescribed by the Registrar.
- C6.1.4 The chief executive officer must establish and maintain appropriate procedures to ensure that adequate information is submitted by market association members and, where necessary, a market association, to permit the Bond Exchange to effectively monitor compliance with the financial resources requirements referred to in rule C6.1.3.
- C6.1.5 If a member of a market association, or a market association, fails to comply with a financial resources requirement referred to in rule C6.1.3 and fails to rectify forthwith such non-compliance after being so requested in writing by the chief executive officer, the chief executive officer must proceed in accordance with rule C12.1.1.
- C6.1.6 If the alleged non-compliance referred to in C6.1.5, is reported to the Disciplinary Tribunal in terms of rule C12.1.3, the Disciplinary Tribunal must, where a market association member, or a market association, is found guilty of such non-compliance, impose an appropriate penalty on the market association member or market association, as the case may be.
- C6.1.7 Where an authorised user is a member of more than one market association and the Bond Exchange has been appointed as the authorised user's lead regulator in terms of rule C2.3.1.2, the authorised user may submit a consolidated financial resource requirement return reflecting the funds held by the authorised user.

C6.2 Risk management of trades

The rules of a market association must provide for the manner in which and conditions subject to which risk management of trades must take place.

PART C - SECTION 8 SETTLEMENT DEFAULT

C8.1 Performance of trades

- C8.1.1 A market association must prescribe the manner for performance of trades by members of that market association.
- C8.1.2 A market association must prescribe the manner in which and the conditions subject to which a default by a market association member must be declared and managed.

C8.2 The Fund

C8.2.1 The Bond Exchange must establish a fund of at least R50 million in terms of the Act, to the satisfaction of the Registrar, to provide compensation in terms of the Rules of a particular market association for a settlement default.

C8.2.2 The Fund may be applied to provide compensation in terms of the rules of the particular market association in the event of a default by members of any market association arising out of trades in listed securities or for any other purpose approved by the governing committee.

C8.3 Control of the Fund

C8.3.1 The Fund must be managed and controlled by the governing committee in accordance with the Act and the Rules.

C8.3.2 The Audit and Risk committee, appointed annually in accordance with rule B3.5 must directly oversee the administration of the Fund and must meet at least once a year in pursuance of its responsibilities.

C8.3.3 The governing committee must ensure that -

C8.3.3.1 the monies of the Fund are kept in a separate account and applied for the purposes of the Fund;

C8.3.3.2 any correspondence or payments relating to the Fund are authorised by appointed officers of the Bond Exchange;

C8.3.3.3 proper accounts, books and records in respect of the affairs, funds, assets and liabilities of the Fund are established and maintained in accordance with generally accepted accounting practice;

C8.3.3.4 audited annual financial statements in respect of the Fund are laid before the governing committee within six months after the end of each financial year of the Bond Exchange.

C8.4 Administration of the Fund

The Bond Exchange must administer the Fund.

C8.5 Contributions to the Fund

C8.5.1 All authorised users must contribute to the Fund.

C8.5.2 The basis upon which authorised users must contribute to the Fund and the period within which contributions must be paid must be stipulated by directive.

C8.5.3 The liability of authorised users to the Fund is limited to the contributions due to the Fund in terms of the Rules.

C8.6 Winding-up of the Fund

If the Bond Exchange is voluntarily dissolved or wound up by a court, the governing committee must apply the assets of the Fund in the following order to:

C8.6.1 The discharge of any liabilities of the Fund to the insurers;

C8.6.2 the discharge of any claims against the Fund;

C8.6.3 the discharge of any claims against the Fund resulting from the administration by the Bond Exchange; and

C8.6.4 any surplus remaining is deemed to become an asset of the Bond Exchange.

C8.7 Events of Default

C8.7.1 The Bond Exchange must prescribe the manner in which and the conditions subject to which a default by a market association member must be managed.

C8.7.2 A default occurs in the following circumstances:

C8.7.2.1 if an authorised user or a client fails to fulfil any of their settlement obligations in respect of a trade;

C8.7.2.2 if an authorised user or a client commits an act of insolvency or an application is made for the liquidation or sequestration of an authorised user or a client;

C8.7.2.3 if an authorised user is suspended or its membership terminated in accordance with the Rules; or

C8.7.2.4 if an authorised user or a client fails to provide adequate assurance to the Bond Exchange that the authorised user or client will be able to fulfill their obligations in respect of any trade.

C8.8 Declaration of default

C8.8.1 An authorised user or client or where appointed, a settlement agent, who becomes aware of an event of default must immediately notify the chief executive officer of the default.

C8.8.2 The chief executive officer must, as soon as is reasonably possible, independently establish the facts of the matter and based on the factual findings, may declare the authorised user or client to be a defaulter.

C8.8.3 The chief executive officer must notify the authorised users of the default by the authorised user or client.

C8.8.4 When declared a defaulter in terms of rule C8.8.2 –

C8.8.4.1 a defaulting authorised user is suspended in accordance with rule C12.7; and

C8.8.4.2 a defaulting client is suspended from the trade reporting facilities provided by the licensed clearing house.

C8.8.5 The chief executive officer may declare that a member of a particular market association is in default if the member of that particular market association has committed an event of default as a member of another market association or exchange.

C8.9 Netting

C8.9.1 The Bond Exchange may net all an authorised user's trades in listed securities when that authorised user has been declared to be in default.

C8.9.2 The declaration of an authorised user as a defaulter does not affect the Bond Exchange's rights in rule C8.9.1.1.

C8.10 Defaulter's excluded assets

The following provisions apply with reference to the assets, whether in the form of money, securities, or other corporeal or incorporeal things (hereunder referred to as the "defaulter's excluded assets") of an authorised user with effect from the date upon which control of such defaulter's excluded assets is assumed by the chief executive officer.

C8.10.1 The chief executive officer may assume control of a defaulter's excluded assets upon declaring an authorised user to be a defaulter.

C8.10.2 A person for the time being having custody of such defaulter's excluded assets must give effect to all instructions in relation thereto as may be furnished to such person by the chief executive officer.

C8.10.3 The chief executive officer must, as soon as reasonably possible, realise (whether by sale or otherwise) all of such defaulter's excluded assets and must place the nett proceeds of such realisation (after deduction therefrom of any costs incurred by the chief executive officer in such realisation) and any cash forming part of the defaulter's excluded assets, in a separate trust account (herein referred to as "the liquidation trust account") with a bank in the Republic of South Africa, in which any funds accruing must also be placed.

C8.10.4 The chief executive officer must give written notice of the establishment of the liquidation trust account to persons considered by the chief executive officer to be potential claimants of the money in the liquidation trust account, and claims in respect thereof shall lie within such period as determined by the governing committee.

C8.10.5 The chief executive officer must publish, or cause to be published, in any newspaper or other periodical, or permit or authorise the proprietor or publisher of such newspaper or periodical to publish the notice referred to in rule C8.10.4.

C8.10.6 The chief executive officer may publish supplementary notices and announcements to invite claims from potential claimants.

- C8.10.7 A claim must be in the form as stipulated by directive, and must contain such particulars and be accompanied by such vouchers or other proof, as the governing committee shall require.
- C8.10.8 On the expiry of the period of a notice given in term of rules C8.10.4 and C8.10.5 and of any extension thereto in any notice or announcement in terms of rule C8.10.6, the chief executive officer must adjudicate upon all claims submitted in response to such notices, in accordance with this Rule.
- C8.10.9 A decision of the chief executive officer to admit a claim, or to refuse admission of a claim, or as to the amount of a claim admitted is final and binding on all parties affected thereby.
- C8.10.10 The amount standing to the credit of the liquidation trust account must be applied by the chief executive officer as follows and in the following order of precedence: Provided that if any balance distributable amongst claimants of equal precedence is less than the aggregate of their claims, the available amounts must be distributed amongst them in proportion to the amounts of their respective claims -
- C8.10.10.1 in the first instance, towards payments of all costs reasonably incurred by the chief executive officer in giving notice of the establishment of the liquidation trust account and calling for the submission of claims in respect thereof, including any costs incurred by the chief executive officer in the adjudication of such claims;
- C8.10.10.2 thereafter, in payment to any authorised user, or to the governing committee of any obligation incurred by the defaulting authorised user arising from the closing out of all or any of his proprietary positions as contemplated in this rule, or for taking over the defaulter's nett settlement position.
- C8.10.10.3 thereafter, in payment of liabilities of the defaulting authorised user arising from the closing out or expiry, prior to the assumption of such control by the governing committee, of proprietary positions of the defaulting authorised user undertaken on behalf of clients and not settled at the date of default;
- C8.10.10.4 thereafter, towards satisfaction of any fees due from the defaulting authorised user to any other authorised user or to the governing committee as a result of the closing-out of proprietary positions, or for taking over the defaulter's nett settlement position as contemplated in this rule; and
- C8.10.10.5 as to any surplus, by payment to the defaulting authorised user or the trustee, liquidator or judicial manager of the defaulting authorised user.

PART C - SECTION 10
RECORDS AND PRESCRIBED AGREEMENTS

C10.4 General

C10.4.1 A market association must prescribe the minimum conditions to be contained in an agreement concluded, between an authorised user and a –

C10.4.1.1 client;

C10.4.1.2 service provider;

C10.4.1.3 settlement agent; [or]

C10.4.1.4 employee of an authorised user.

PART D - SECTION 5
TRADING

D5.5 Authorised user trades

[All trades between BTA members shall be concluded on a principal to principal basis and no user may conclude a trade as a client.] RESERVED

PART D - SECTION 8
SETTLEMENT DEFAULT

D8.1 Fund

The Fund must provide compensation to clients in the event of a default by a BTA member arising out of trading in BTA listed securities.

D8.2 Default procedures

D8.2.1 Client default

D8.2.1.1 Upon declaration of a client default, a BTA member must assume the obligations in respect of all trades concluded by the BTA member with or on behalf of a defaulting client.

D8.2.1.2 No claim against the Fund shall be entertained in respect of trades concluded with or on behalf of a defaulting client.

D8.2.1.3 If a BTA member is unable to fulfil the obligations in respect of trades concluded by that BTA member with or on behalf of the defaulting client, the BTA member must be declared a defaulter in terms of rule D8.8.5.

D8.2.2 BTA member default

D8.2.2.1 Upon declaration of a BTA member default the chief executive officer must-

D8.2.2.1.1 determine the defaulting BTA member's nett settlement obligations and other open positions to the market in respect of each listed financial instrument; and

D8.2.2.1.2 endeavour to fulfil these obligations on behalf of the defaulting BTA member.

D8.2.2.2 In order to fulfil the obligations of a defaulting BTA member, the chief executive officer may -

D8.2.2.2.1 utilise all scrip, funds or margin held by any settlement agent or other Exchange on behalf of the defaulting BTA member;

D8.2.2.2.2 draw upon the resources of the Fund; and

D8.2.2.2.3 alienate the defaulter's excluded assets.

D8.2.2.3 If the chief executive officer is unable to fulfil the nett settlement obligations of the defaulting BTA member, the affected BTA members and clients may, upon notification in writing by the chief executive officer, close out their positions in listed securities by concluding equal and opposite trades in the manner stipulated by directive.

D8.2.2.4 No defaulting BTA member may compromise with or accept payment on account from any other BTA member or client in connection with any trade, as from the time of declaration as a defaulter.

D8.3 Claims against Fund

D8.3.1 If a BTA member fails to fulfil any obligations in terms of a trade, the chief executive officer must immediately inform the Bond Exchange and the Audit and Risk committee.

D8.3.2 The Bond Exchange must determine the current market value of all listed securities involved in the trade.

D8.3.3 The Bond Exchange must also determine a list of potential claimants.

D8.3.4 A claim against the Fund may be lodged -

D8.3.4.1 by the Bond Exchange in the event that the chief executive officer fulfils the obligations of a defaulting BTA member in terms of rule D8.2.2.2; or

D8.3.4.2 by a BTA member or client who retransacts in order to fulfil the terms of the original trade in terms of rule D8.2.2.3.

D8.3.5 A claimant must submit a claim to the Bond Exchange in writing and include -

D8.3.5.1 evidence of the terms of the original trade or evidence of the trades concluded to settle the defaulter's net settlement position;

D8.3.5.2 the loss or potential loss sustained by the claimant in terms of the original trade at current market value which shall be determined and announced by the Bond Exchange;

D8.3.5.3 the extent of the actual loss if any retransaction has taken place; and

D8.3.5.4 any further evidence that the Bond Exchange may require.

D8.3.6 Failure by a claimant to comply within a reasonable period with any requirements of the Bond Exchange is ground upon which the Bond Exchange may reject the claim.

D8.3.7 Payment of any amount may only be made against a valid out and out cession to the Bond Exchange by the claimant in respect of claims against the defaulting authorised user.

D8.3.8 If a BTA member or client concludes an equal and opposite trade in accordance with rule D8.2.2.4, the BTA member or client -

D8.3.8.1 may claim from the Fund any loss resulting from the replacement trade; and

D8.3.8.2 must deposit with the Fund any profit resulting from the replacement trade; Provided that should a BTA member or client elect not to conclude a replacement trade, then the computation of the claim on the Fund or of the profit due to the Fund, must be based on the daily closing price fixed by the Bond Exchange in respect of every listed security.

D8.4 Payment of claims against Fund

D8.4.1 Claims must be met from the total funds available to the Fund and may not be drawn in proportion to contribution.

D8.4.2 The Bond Exchange may make payments in respect of claims accepted by the Bond Exchange.

D8.4.3 The aggregate payment shall not exceed the amount of the assets standing to the credit of the Fund.

D8.4.4 The Bond Exchange may not entertain claims exceeding R10 million in aggregate in the case of default by a single BTA member unless otherwise determined by the Bond Exchange: Provided that claims of loss must be met on a *pro rata* basis to a maximum of

R10 million and in proportion to the total claims by all BTA members and clients of the defaulting BTA member lodging claims in respect of the default.

D8.4.5 All subsequent claims on the Fund are limited in the aggregate to one-third of the assets of the Fund at the time of default by a BTA member unless otherwise determined by the Bond Exchange.

D8.4.6 Payments of claims accepted by the Bond Exchange may be paid only to the claimant and the Bond Exchange must obtain written acknowledgement of receipt of payment.

D8.4.7 Payment must be effected by cheque or electronic transfer of funds to a nominated account held at a registered bank.

D8.4.8 All claims must be lodged against the Fund and no BTA member or client may have any claim against the Bond Exchange.

[D8.1 Establishment of Fund

The governing committee must establish and maintain to the satisfaction of the Registrar, on behalf of BTA members, a Fund of not less than R30 million for the discharge of a claim as prescribed in the Rules, of the outstanding liabilities of a BTA member arising out of trades.

D8.2 Control of Fund

D8.2.1 The Fund must be managed and controlled by the governing committee in accordance with the Act and the Rules.

D8.2.2 The governing committee must appoint annually a committee in accordance with rule B3.5 to directly oversee the administration of the Fund.

D8.2.3 The committee referred to in rule D8.2.2 must meet at least quarterly in any calendar year: Provided that a special meeting of such committee may be convened at any time by the requisition of at least two committee members or by the chairman of the committee.

D8.2.4 The governing committee shall ensure that -

D8.2.4.1 the monies of the Fund are kept in a separate account and applied for the purposes of the Fund;

D8.2.4.2 any correspondence or payments relating to the Fund are authorised by appointed officers of the Bond Exchange;

D8.2.4.3 proper accounts, books and records in respect of the affairs, funds, assets and liabilities of the Fund are established and maintained;

D8.2.4.4 quarterly financial statements in respect of the Fund are laid before the governing committee;

D8.2.4.5 audited annual financial statements in respect of the Fund are laid before the governing committee within six months after the end of each financial year of the Bond Exchange.

D8.3 Administration of Fund

The Bond Exchange administers the Fund.

D8.4 Contributions to Fund

D8.4.1 The basis upon which BTA members must contribute to the Fund and the period within which contributions must be paid, must be determined by the governing committee: Provided that in making such determination the governing committee must ensure that -

D8.4.1.1 all BTA members contribute to the Fund;

D8.4.1.2 the contribution due by a BTA member is related to the monthly turnover of the BTA member;

D8.4.1.3 the monetary value of the contribution per unit of turnover is notified in writing in advance to BTA members;

D8.4.1.4 the contribution due by a BTA member is determined monthly and communicated forthwith in writing to the BTA member concerned;

D8.4.1.5 the contribution due by a BTA member shall be payable within 30 days of the last day of the preceding month for which the contribution is due;

D8.4.1.6 a penalty, by way of interest calculated at a rate determined by the governing committee from time to time, will be imposed on any contribution unpaid after the expiry of the period referred to in rule D8.4.1.5;

D8.4.1.7 the name of a BTA member who has not paid a contribution due within the period referred to in rule D8.4.1.5, is reported in writing to the governing committee and the Registrar; and

D8.4.1.8 the manner in which a contribution due is paid to the Fund is determined by the governing committee.

D8.4.2 The liability of BTA members to the Fund is limited to the contributions due to the Fund in terms of the Rules.

D8.5 Claims against Fund

D8.5.1 If a BTA member fails to fulfil any obligations in terms of a trade, the chief executive officer must immediately inform the governing committee and the relevant committee appointed by the governing committee.

- D8.5.2** The governing committee must determine the current market value of all listed financial instruments involved in the trade.
- D8.5.3** The committee must also determine a list of potential claimants.
- D8.5.4** A claim against the Fund may be lodged -
- D8.5.4.1** by the Bond Exchange in the event that the chief executive officer fulfils the obligations of a defaulting BTA member in terms of rule D8.10.2.2; or
 - D8.5.4.2** by a BTA member or client who retransacts in order to fulfil the terms of the original trade in terms of rule D8.10.2.3.
- D8.5.5** A claimant must submit a claim to the committee in writing and include -
- D8.5.5.1** evidence of the terms of the original trade or evidence of the trades concluded to settle the defaulter's nett settlement position;
 - D8.5.5.2** the loss or potential loss sustained by the claimant in terms of the original trade at current market value which shall be determined and announced by the committee;
 - D8.5.5.3** the extent of the actual loss if any retransaction has taken place; and
 - D8.5.5.4** any further evidence that the committee may require.
- D8.5.6** Failure by a claimant to comply within a reasonable period with any requirements of the committee is ground upon which the committee may reject the claim.
- D8.5.7** Payment of any amount may only be made against a valid out and out cession to the committee by the claimant in respect of claims against the defaulting authorised user.
- D8.5.8** If a BTA member or client concludes an equal and opposite trade in accordance with rule D8.10.2.4, the BTA member or client -
- D8.5.8.1** may claim from the Fund any loss resulting from the replacement trade; and
 - D8.5.8.2** must deposit with the Fund any profit resulting from the replacement trade: Provided that should a BTA member or client elect not to conclude a replacement trade, then the computation of the claim on the Fund or of the profit due to the Fund, must be based on the daily closing price fixed by the Bond Exchange in respect of every listed financial instrument.

D8.6 Payment of claims against Fund

- D8.6.1** Claims must be met from the total funds available to the Fund and may not be drawn in proportion to contribution.
- D8.6.2** The committee may make payments in respect of claims accepted by the committee.
- D8.6.3** The aggregate payment shall not exceed the amount of the assets standing to the credit of the Fund.
- D8.6.4** The committee may not entertain claims exceeding R10 million in aggregate in the case of default by a single BTA member unless otherwise determined by the committee and the governing committee: Provided that claims of loss must be met on a *pro rata* basis to a maximum of R10 million and in proportion to the total claims by all BTA members and clients of the defaulting BTA member lodging claims in respect of the default.
- D8.6.5** All subsequent claims on the Fund are limited in the aggregate to one-third of the assets of the Fund at the time of default by a BTA member unless otherwise determined by the committee.
- D8.6.6** Payments of claims accepted by the committee may be paid only to the claimant and the committee must obtain written acknowledgement of receipt of payment.
- D8.6.7** Payment must be effected by cheque or electronic transfer of funds to a nominated account held at a registered bank.
- D8.6.8** All claims must be lodged against the Fund and no BTA member or client may have any claim against the Bond Exchange.

D8.7 Winding-up of Fund

If the Bond Exchange is voluntarily dissolved or wound up by a court, the governing committee must apply the assets of the Fund to in the following order:

- D8.7.1** The discharge of any liabilities of the Fund to the insurers;
- D8.7.2** the discharge of any claims against the Fund;
- D8.7.3** the discharge of any claims against the Fund resulting from the administration by the Bond Exchange; and
- D8.7.4** any surplus remaining is deemed to become an asset of the Bond Exchange.

D8.8 Events of default

A default shall be deemed to have occurred in the following circumstances:

- D8.8.1** If a BTA member or a client fails to fulfil any of their settlement obligations in respect of a trade;

- D8.8.2** if a BTA member or a client commits an act of insolvency or an application is made for the liquidation or sequestration of a BTA member or a client;
- D8.8.3** if a BTA member is suspended or its membership terminated in accordance with the Rules; or
- D8.8.4** if a BTA member or a client fails to provide adequate assurance to the governing committee that the BTA member or client will be able to fulfil their obligations in respect of any trade.
- D8.9 Declaration of default**
- D8.9.1** A BTA member, client or settlement agent who becomes aware of an event of default must immediately notify the chief executive officer thereof.
- D8.9.2** The chief executive officer must, having independently established the facts of the matter, declare the BTA member or client to be a defaulter as from the time at which the default occurred and shall as soon as possible thereafter publish the name of the BTA member or client by way of a notice to BTA members.
- D8.9.3** Upon declaration as a defaulter in terms of rule D8.9.2 –
- D8.9.3.1** a defaulting BTA member shall be deemed to be suspended in accordance with rule C12.7; and
- D8.9.3.2** a defaulting client is suspended from the trade reporting facilities provided by the recognised clearing house.
- D8.10 Default procedures**
- D8.10.1 Client default**
- D8.10.1.1** Upon declaration of a client default, a BTA member must assume the obligations in respect of all trades concluded by the BTA member with or on behalf of a defaulting client.
- D8.10.1.2** No claim against the Fund shall be entertained in respect of trades concluded with or on behalf of a defaulting client.
- D8.10.1.3** If a BTA member is unable to fulfil the obligations in respect of trades concluded by that BTA member with or on behalf of the defaulting client, the BTA member must be declared a defaulter in terms of rule D8.9.2.
- D8.10.2 BTA member default**
- D8.10.2.1** Upon declaration of a BTA member default the chief executive officer must -

- D8.10.2.1.1 determine the defaulting BTA member's nett settlement obligations and other open positions to the market in respect of each listed financial instrument; and
- D8.10.2.1.2 endeavour to fulfil these obligations on behalf of the defaulting BTA member.
- D8.10.2.2 In order to fulfil the obligations of a defaulting BTA member, the chief executive officer may -
- D8.10.2.2.1 utilise all scrip, funds or margin held by any settlement agent or other Exchange on behalf of the defaulting BTA member;
- D8.10.2.2.2 draw upon the resources of the Fund; and
- D8.10.2.2.3 alienate the defaulter's excluded assets.
- D8.10.2.3 If the chief executive officer is unable to fulfil the nett settlement obligations of the defaulting BTA member, the affected BTA members and clients may, upon notification in writing by the chief executive officer, close out their positions in listed financial instruments by concluding equal and opposite trades in the manner determined by the governing committee.
- D8.10.2.4 No defaulting BTA member may compromise with or accept payment on account from any other BTA member or client in connection with any trade, as from the time of declaration as a defaulter.
- D8.10.3 *Issuer default*
- D8.10.3.1 Where an application is made for the liquidation of an issuer or if an issuer fails to fulfil the listing requirements prescribed in rule C4.1, the chief executive officer must forthwith suspend the listing of such financial instruments in terms of rule C4.2: Provided that all trades in the issuer's listed financial instruments which have not been settled as at the date of suspension of the listing shall be reversed at a price determined by the chief executive officer.
- D8.10.3.2 No claim against the Fund may be entertained in respect of trades in financial instruments of which the listing has been suspended or terminated.
- D8.11 **Defaulter's excluded assets**

The following provisions apply with reference to the assets, whether in the form of money, financial instruments, or other corporeal or incorporeal things (hereunder referred to as the "defaulter's excluded assets") of a BTA member with effect from the date upon which control of such defaulter's excluded assets is assumed by the chief executive officer.

- D8.11.1** The chief executive officer must assume control of a defaulter's excluded assets upon declaring a BTA member to be a defaulter.
- D8.11.2** A person for the time being having custody of such defaulter's excluded assets must give effect to all instructions in relation thereto as may be furnished to such person by the chief executive officer.
- D8.11.3** The chief executive officer must, as soon as reasonably possible, realise (whether by sale or otherwise) all of such defaulter's excluded assets and must place the nett proceeds of such realisation (after deduction therefrom of any costs incurred by the chief executive officer in such realisation) and any cash forming part of the defaulter's excluded assets, in a separate trust account (herein referred to as "the liquidation trust account") with a bank in the Republic of South Africa, in which any funds accruing must also be placed.
- D8.11.4** The chief executive officer must give written notice to be given of the establishment of the liquidation trust account to persons considered by the chief executive officer to be potential claimants of the money in the liquidation trust account, and claims in respect thereof shall lie within such period as determined by the governing committee.
- D8.11.5** The chief executive officer must publish, or cause to be published, in any newspaper or other periodical, or permit or authorise the proprietor or publisher of such newspaper or periodical to publish the notice referred to in rule D8.11.4.
- D8.11.6** The chief executive officer may publish supplementary notices and announcements to invite claims from potential claimants.
- D8.11.7** A claim must be in the form as determined by the governing committee, and must contain such particulars and be accompanied by such vouchers or other proof, as the governing committee shall require.
- D8.11.8** On the expiry of the period of a notice given in term of rules D8.11.4 and D8.11.5 and of any extension thereto in any notice or announcement in terms of rule D8.11.6, the chief executive officer must adjudicate upon all claims submitted in response to such notices, in accordance with this Rule.
- D8.11.9** A decision of the chief executive officer to admit a claim, or to refuse admission of a claim, or as to the amount of a claim admitted is final and binding on all parties affected thereby.
- D8.11.10** The amount standing to the credit of the liquidation trust account must be applied by the chief executive officer as follows and in the following order of precedence: Provided that if any balance distributable amongst claimants of equal precedence is less than the aggregate of their claims, the available amounts must be distributed amongst them in proportion to the amounts of their respective claims -
- D8.11.10.1** In the first instance, towards payments of all costs reasonably incurred by the chief executive officer in giving notice of the

establishment of the liquidation trust account and calling for the submission of claims in respect thereof, including any costs incurred by the chief executive officer in the adjudication of such claims;

- D8.11.10.2** thereafter, in payment to any BTA member, or to the governing committee of any obligation incurred by the defaulting BTA member arising from the closing out of all or any of his proprietary positions as contemplated in this rule, or for taking over the defaulter's nett settlement position.
- D8.11.10.3** thereafter, in payment of liabilities of the defaulting BTA member arising from the closing out or expiry, prior to the assumption of such control by the governing committee, of proprietary positions of the defaulting BTA member undertaken on behalf of clients and not settled at the date of default;
- D8.11.10.4** thereafter, towards satisfaction of any fees due from the defaulting BTA member to any other BTA member or to the governing committee as a result of the closing-out of proprietary positions, or for taking over the defaulter's nett settlement position as contemplated in this rule; and
- D8.11.10.5** as to any surplus, by payment to the defaulting BTA member or the trustee, liquidator or judicial manager of the defaulting BTA member.]

PART E
MARKET ASSOCIATION RULES

- DERIVATIVES TRADERS' ASSOCIATION -
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PART E - SECTION 1
GENERAL

E1.1 General

The rules in Part E must be read with the rules in Part C.

E1.2 Name and constitution

E1.2.1 The market association's name is the Derivatives Traders' Association.

E1.2.2 The Derivatives Traders' Association is referred to as the DTA in these Rules.

E1.2.3 The DTA is constituted separately from DTA members in terms of a market association constitution.

PART E - SECTION 2
ASSOCIATION MEMBER STATUS

E2.1 Eligibility for association member status

E2.1.1 A natural or juristic person may become a member of the DTA.

E2.1.2 To be eligible for DTA membership, an applicant must meet the following requirements –

E2.1.2.1 a regular feature of its business is trading in DTA listed securities;

E2.1.2.2 the applicant is at least 21 years of age and of full legal capacity or if the applicant is a juristic person, its directors, members or trustees are all at least 21 years of age and of full legal capacity; and

E2.1.2.3 the applicant complies with the financial resources and administrative system requirements stipulated by directive.

E2.2 Application for DTA membership

E2.2.1 An applicant for DTA membership must submit the application to the DTA council.

E2.2.2 The application must be made on the prescribed form and must be accompanied by the prescribed fee.

E2.2.3 An applicant must agree in writing to be bound by the Act and the Rules when applying for DTA membership.

E2.2.4 An applicant may apply for authorised user status in terms of rule C2.2 when its DTA membership application is approved by the DTA council.

E2.3 Termination of DTA membership

E2.3.1 A DTA member must give one calendar month's written notice to terminate its DTA membership to the DTA council.

E2.3.2 The DTA council must advise the Bond Exchange and the DTA members of the DTA member's intention to resign within five days of receiving the notice in rule E2.3.1.

E2.3.3 The Bond Exchange and the DTA council must consider the notice of termination before the intended date of resignation and must –

E2.3.3.1 accept the resignation unconditionally or on conditions they deem fit; or

E2.3.3.2 refuse to accept the resignation until they are satisfied that the DTA member's outstanding obligations under the Rules have been complied with.

E2.3.4 A resignation is not effective until the Bond Exchange and the DTA council have accepted the resignation in writing.

E2.3.5 The DTA membership of a DTA member terminates when -

E2.3.5.1 the DTA member is placed under curatorship;

E2.3.5.2 the DTA member is liquidated or placed under judicial management, whether provisionally or finally;

E2.3.5.3 the DTA member is expelled from or has his authorised user status revoked by the Bond Exchange;

E2.3.5.4 the DTA member is expelled from the DTA;

E2.3.5.5 judgement has been granted against the DTA member by a court and the DTA member has failed to take reasonable steps within 30 days of the judgement to satisfy the judgement or have it set aside;

E2.3.5.6 the DTA member has been found guilty by a Disciplinary Tribunal, in terms of rule C12.5, of obtaining admission to authorised user status or DTA membership by submitting materially untrue or misleading information in connection with its application for admission; or

E2.3.5.7 the resignation has been accepted by the Bond Exchange and the DTA council in writing.

E2.3.6 The DTA council must publish -

E2.3.6.1 the name of the DTA member whose DTA membership has terminated; and

E2.3.6.2 the date from which the termination takes effect

to all DTA members.

PART E - SECTION 3
CODE OF CONDUCT

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PART E - SECTION 4
LISTINGS

E4.1 DTA listed securities

DTA members may trade the DTA listed securities stipulated by directive.

PART E - SECTION 5
TRADING

E5.1 Eligibility to trade

Before a DTA member trades in DTA listed securities, it must ensure that –

E5.1.1 it is registered with the Bond Exchange;

E5.1.2 every trader it employs to trade in DTA listed securities -

E5.1.2.1 has complied with the relevant qualification requirements of the Bond Exchange;

E5.1.2.2 has sufficient experience;

E5.1.2.3 is appropriately supervised by the DTA member;

E5.1.2.4 is resident in the Republic of South Africa; and

E5.1.2.5 is registered with the Bond Exchange.

E5.2 Facilities for concluding and reporting trades

E5.2.1 A trade reported to the Bond Exchange in terms of rule C4.2.3 is a binding matched trade when a matched trade reference number is generated by the Bond Exchange.

E5.2.2 A matched trade reference number –

E5.2.2.1 is conclusive evidence of a binding matched trade;

E5.2.2.2 serves as an acceptable confirmation of the details of the trade reported by the authorised user; and

E5.2.2.3 binds the parties in respect of their obligations in terms of the trade.

E5.3 Trading procedures

E5.3.1 Trading in DTA listed securities is allowed 24 hours a day on any business day or during any other period stipulated by directive.

E5.3.2 The standard contract size for transactions in DTA listed securities must be determined by the DTA council.

E5.3.3 When a trader has received an order from the client to trade on the client's behalf, the trader must execute the trade on behalf of the client before executing a trade in the same listed security for own account.

E5.3.4 If a trader cannot execute the trade on behalf of the client before a trade on own account, the trader must ensure that the trade on behalf of the client is concluded on the same or better terms and conditions as the trade concluded on own account.

E5.4 Market prices

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E5.5 Authorised user trades

DTA members must conclude trades between themselves on a principal to principal basis and a DTA member may not conclude a trade as a client.

E5.6 Client trades

E5.6.1 A DTA member may not enter into trades with or on behalf of a client unless -

E5.6.1.1 the client is registered for reporting purposes with the Bond Exchange, in the manner stipulated by directive; and

E5.6.1.2 the DTA member has entered into a Recognised Agreement with the client.

E5.6.2 A DTA member must notify a client in advance when the DTA member buys from or sells to the client DTA listed securities on that DTA member's own account.

E5.6.3 A DTA member who buys or sells DTA listed securities on behalf of a client must conclude an equal and opposite trade with a counterparty at the same price and on the same terms contained in the instructions given by the client. Provided that -

E5.6.3.1 the DTA member is liable to the client for the obligations of the counterparty, including a counterparty to a put-through, in terms of the trade; and

E5.6.3.2 a client's claim in respect of a trade must be against the DTA members who entered into the trade on the client's behalf, and not against any other authorised user or client of an authorised user who is the counterparty to the trade.

E5.6.4 A trader must issue a physical or electronic transaction note -

E5.6.4.1 within 24 hours of concluding a trade with or on behalf of a client;

E5.6.4.2 detailing the terms of the trade; and

E5.6.4.3 detailing the commission or fees charged.

PART E - SECTION 6
CLEARING

E6.1 Financial resources requirements

E6.1.1 A DTA member must -

E6.1.1.1 at all times, hold own funds, stipulated by directive, sufficient to meet the DTA member's initial capital and risk requirement; and

E6.1.1.2. submit a return, stipulated by directive, to the Bond Exchange setting out the funds held by the DTA member in terms of rules E6.1.1.1.

E6.1.2 The initial capital requirement must be the higher of -

E6.1.2.1 an amount determined by the Bond Exchange as adequate to meet the operating costs of the DTA member for a period of 13 weeks; or

E6.1.2.2 either -

E6.1.2.2.1 R 200 000 where a DTA member does not have access to the assets or securities of any client without referral to the client or the client's agent; or

E6.1.2.2.2 R 400 000 in all other cases.

E6.1.3 The risk requirement must be the sum of the DTA member's position risk requirement, counterparty risk requirement, large exposure risk requirement and foreign exchange risk requirement, as stipulated by directive.

E6.1.4 The Bond Exchange may impose a penalty on the DTA member and report the DTA member to the Disciplinary Tribunal in rule C12.1.3 if the DTA member fails to comply with rule E6.1.

E6.2 Risk management of trades

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PART E - SECTION 7
SETTLEMENT

E7.1 Settlement

E7.1.1 A DTA member must appoint a settlement agent or facilitate the settlement of its own trades in DTA listed securities.

E7.1.2 If a DTA member has appointed a settlement agent -

E7.1.2.1 the DTA member must enter into a settlement agent agreement with the settlement agent.

E7.1.2.2 the DTA member and clients must agree to settle trades in DTA listed securities in accordance with the agreement in rule E7.1.2.1.

E7.2 Rectifying settlement shortages

E7.2.1 An affected DTA member and, if applicable the settlement agent, must notify the chief executive officer in writing if a settlement agent fails or refuses to settle a DTA member or a client's settlement position.

E7.2.2 An affected DTA member and the settlement agent must notify the chief executive officer in writing if a DTA member or client is short of cash or fails to submit settlement instructions to the settlement agent.

E7.2.3 The chief executive officer may -

E7.2.3.1 request further information; and

E7.2.3.2 instruct any DTA member to take steps necessary to rectify the settlement shortage.

PART E - SECTION 8
SETTLEMENT DEFAULT

E8.1 The Fund

The Fund must provide compensation to clients in the event of a default by a DTA member arising out of trading in DTA listed securities.

E8.2 Default procedures under a Recognised Agreement

E8.2.1 Client default

E8.2.1.1 If a DTA member has concluded a trade with or on behalf of a client, in terms of a Recognised Agreement and the client defaults then the terms and conditions of that agreement determines the default procedure.

E8.2.1.2 If a non-defaulting client suffers a loss as a result of the default procedure in rule E8.2.1.1, that client may claim compensation from the Fund up to the amount stipulated by directive.

E8.2.2 DTA member default

E8.2.2.1 If a DTA member has concluded a trade with or on behalf of a client in terms of a Recognised Agreement and the DTA member defaults, then the terms and conditions of that agreement determines the default procedure.

E8.2.2.2 If a client suffers a loss as a result of the default procedure in E8.2.3.1, that client may claim compensation from the Fund up to the amount stipulated by directive.

E8.3 Claims against the Fund

E8.3.1 If a DTA member or client defaults in terms of a trade, the chief executive officer must inform the Bond Exchange as soon as is reasonably possible.

E8.3.2 The Bond Exchange must determine --

E8.3.2.1 the current market value of all DTA listed securities involved in the trade;

E8.3.2.2 a list of potential claimants; and

E8.3.2.3 the loss or potential loss sustained by potential claimants in terms of the original trade.

E8.3.3 A claim against the Fund may be lodged by the chief executive officer or an aggrieved party.

E8.3.4 A claimant must submit a claim to the Bond Exchange in writing within one month from when the DTA member or client was declared to be in default and include -

- E8.3.4.1 evidence of the terms of the original trade or evidence of the trades concluded to settle the defaulter's nett settlement position;
- E8.3.4.2 the loss or potential loss in E8.3.2.3 announced by the Bond Exchange;
- E8.3.4.3 the extent of the actual loss; and
- E8.3.4.4 any further evidence that the Bond Exchange may require.
- E8.3.5 Failure by a claimant to timeously submit the claim in terms of rule E8.3.4 or to comply within a reasonable period with any requirements of the Bond Exchange is ground for the Bond Exchange to reject the claim.
- E8.3.6 Payment of any amount may only be made against a valid out and out cession to the Bond Exchange by the claimant of claims against the defaulting authorised user.

E8.4 Payment of claims against the Fund

- E8.4.1 Claims must be met from the total funds available to the Fund and cannot be drawn in proportion to contributions made to the Fund.
- E8.4.2 The Bond Exchange may pay claims accepted by the Bond Exchange.
- E8.4.3 The aggregate payment may not exceed the amount of the assets standing to the credit of the Fund.
- E8.4.4 The Bond Exchange may not entertain claims exceeding R1million per trade and R10 million in aggregate per DTA member in the case of an event of default unless otherwise determined by the Bond Exchange.
- E8.4.5 Claims for loss must be met on a *pro rata* basis to a maximum of R1 million per trade and R10 million per authorised user, in proportion to the total claims by all DTA members and clients of the defaulting DTA member lodging claims for the default.
- E8.4.6 All subsequent claims on the Fund are limited in the aggregate to one-third of the assets of the Fund at the time of default by a DTA member unless otherwise determined by the Bond Exchange.
- E8.4.7 Payment of claims accepted by the Bond Exchange may only be paid to the claimant and the Bond Exchange must obtain written acknowledgement of receipt of payment.
- E8.4.8 Payment must be effected by cheque or electronic transfer of funds to a nominated account held at a registered bank.
- E8.4.9 All claims must be lodged against the Fund and no DTA member or client has any claim against the Bond Exchange.

PART E - SECTION 9
SEGREGATION OF ASSETS

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PART E - SECTION 10
RECORDS AND PRESCRIBED AGREEMENTS

E10.1 DTA member – client agreement

E10.1.1 An authorised user must conclude a written agreement for trading activities with the client before entering into a transaction with or on behalf of the client.

E10.1.2 An agreement in rule E10.1.1 must meet the requirements of rule C10.4 and provide that–

E10.1.2.1 the client appoints the DTA member to enter into trades as instructed by the client either –

E10.1.2.1.1 with the client, on a principal to principal basis; or

E10.1.2.1.2 on the client's behalf on an agency basis;

E10.1.2.2 the client must provide the Bond Exchange with client information required by the Bond Exchange for the reporting of trades;

E10.1.2.3 the DTA member must indicate to the client whether the DTA member is acting as a principal or agent before concluding a trade with or on behalf of its clients;

E10.1.2.4 the DTA member must trade with or on behalf of a client in accordance with the Rules and the reasonable instructions received from the client;

E10.1.2.5 the DTA member must perform the obligations of a client in respect of a trade where the client cannot meet its obligations arising from that trade;

E10.1.2.6 If the DTA member acts as a principal, the DTA member must bear the counterparty risk with the client if the client is unable to meet the obligations arising from a trade with the DTA member;

E10.1.2.7 if the DTA member cannot meet the obligations arising from a trade entered into on a principal basis with the client, the client must bear the counterparty risk with the DTA member; and

E10.1.2.8 the client undertakes to pay the fees, levies, charges or commissions agreed with the DTA member for services provided by the DTA member.

E10.2 DTA member – service provider agreement

A DTA member must enter into an agreement with a service provider prior to receiving services provided by that service provider.

E10.3 DTA member – settlement agent agreement

If a DTA member has appointed a settlement agent, it must conclude a written agreement with that settlement agent for the provision of electronic settlement facilities to the DTA member before carrying on the business of buying and selling DTA listed securities.

E10.4 DTA member – employee agreement

Prior to a director, officer, trader or person of the DTA member being involved in the management or administration of trading, that DTA member must conclude a written agreement with that person which requires that person to agree to comply with the Act and the Rules.

PART E - SECTION 11
DISPUTES

E11.1 General

E11.1.1 Any dispute between authorised users or between authorised users and clients in respect of –

E11.1.1.1 a trade or settlement;

E11.1.1.2 the implementation or interpretation of any agreement concluded in terms of rule E10.1; or

E11.1.1.3 advice given by an authorised user regarding a trade.

must be reduced to writing by the disputing parties and resolved by mediation, conciliation, recommendation, determination or arbitration.

E11.1.2 Parties to the dispute or any person involved in the dispute resolution process must report to the Registrar any matter that may be of interest to the Registrar.

E11.1.3 An authorised user must notify his client in writing of the procedures being followed and of any action taken to resolve the dispute between them.

E11.2 Mediation

E11.2.1 The parties to the dispute must agree on the appointment of a mediator, the procedures to be followed, and the settlement terms of the dispute.

E11.2.2 The parties to the mediation are jointly liable for the costs of the mediation, subject to an award by the mediator.

E11.2.3 The mediator appointed in terms of rule E11.2.1 may determine that if several disputes involving a DTA member are based on similar facts, they may be consolidated and treated as a single dispute.

E11.2.4 The parties must, as soon as possible after the settlement of the dispute, inform the chief executive officer in writing of the result of the mediation if the chief executive officer was not asked to mediate the dispute.

E11.2.5 The chief executive officer must provide facilities to the parties for mediation if requested by the parties and on the terms determined by the chief executive officer.

E11.3 Arbitration

E11.3.1 The parties may agree to settle a dispute by means of an arbitration agreement in accordance with the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965).

E11.3.2 The parties to the arbitration are jointly liable for the costs of the arbitration proceedings, subject to an award by the arbitrator.

E11.3.3 The arbitrator appointed in rule E11.3.1 may determine that if several disputes involving a DTA member are based on similar facts, they may be consolidated and treated as a single dispute.

E11.3.4 The parties must, as soon as possible after the settlement of the dispute, inform the chief executive officer in writing of the result of the arbitration agreement.

E11.4 Notice

E11.4.1 The chief executive officer may publish a notice to authorised users setting out details of any dispute and the mediator or arbitrator's decision.

E11.4.2 The chief executive officer may publish the notice in rule E11.4.1 in any newspaper or other periodical.

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