

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

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

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

General explanatory notes

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

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

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

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

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

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

- (d) factual advice given merely

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"other investments" means:

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

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

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

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

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

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

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

4.100 Nominee Companies

4.100.1 A broking member (equities) may establish or maintain a company whose main object shall be to act as the registered holder of securities or other investment⁸ **[bonds]** exclusively on behalf of such member or on behalf of its clients.

4.100.2 ...

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

4.110 Subsidiary Companies

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

4.110.1.1 ...

4.110.1.2 ...

4.110.1.3 ...

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

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

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

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

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

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

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

4.150.2[1].2 insurance underwriting activities.

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

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

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

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

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

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

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

in relation to the following financial products:

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

4.150.5.4 a benefit provided by –

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

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

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

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

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

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