



## **ESMA Withdraws JSE Clear's Clearing Services Recognition**

The SAIS would like to bring to your attention an update regarding JSE Clear's clearing recognition by the European Securities and Markets Authority (ESMA). The Securities Finance Times recently highlighted and confirmed the ESMA's decision to withdraw the recognition of JSE Clear as a clearing house. It is crucial to underscore that this is through no fault of the JSE and does not reflect any concerns regarding the integrity or operations of JSE Clear. This move by the ESMA, the European Union's (EU) foremost financial markets regulator and supervisor, was necessitated by South Africa's earlier inclusion on the FATF 'grey-list'. Regrettably, the ESMA does not maintain a corresponding intermediary 'grey-list' equivalence within the ESMA's categorisation framework. As a result South Africa's FATF classification is directly mapped to the ESMA's 'black list'.

The European Commission, on 16 July 2023, designated South Africa as a high-risk, third country central counterparty (CCP) with strategic deficiencies in their national anti-money laundering and counter financing of terrorism (AML/CFT) regime. Consequently, the ESMA was mandated by the European Market Infrastructure Regulation (EMIR) to rescind the recognition of JSE Clear, a CCP rooted in South Africa.

The JSE has been officially notified about the ESMA's resolution to revoke JSE Clear's recognition. As the JSE does not presently partner directly with EU-based banks as clearing members, this development will not result in a loss of clearing members by JSE Clear.

Certain EU banks however may now need to maintain higher regulatory capital against exposures to JSE Clear, though this will differ from one bank to another. Presently, the JSE lacks full insight and comprehension into the specific ramifications for these banks.

Despite the rescission, JSE Clear continues to be a fully licensed clearing house and CCP in South Africa. The JSE has assured its members of the continuation of its services and its ability to provide clearing services to clients, both in South Africa and globally.

To mitigate potential market upheavals, the ESMA has granted JSE Clear a three-month transition period. This means the withdrawal decision will be effective from 29 December 2023, post which the involved CCP will not be authorised to offer clearing services to clearing members or trading venues in the EU. The JSE has recognised the potential concerns this development may trigger and remains committed to keeping its members apprised of further developments. The JSE will vigilantly observe the unfolding situation, relaying fresh information as it surfaces.

Please see the article published by the Securities Finance Times with respect to the ESMA withdrawal of JSE Clear's recognition:

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