

## SEC'S DIRECTIVE TO ONLINE INVESTMENT AND TRADING PLATFORMS IN NIGERIA — THE WAY FORWARD.



### BACKGROUND

On the 8<sup>th</sup> of April 2021, the Securities and Exchange Commission (the “SEC”), issued a press release addressing the activities of online investment and trading platforms which facilitate direct access of the investing Nigerian public to securities of foreign companies listed on Securities Exchanges registered in other jurisdictions (the “Press Release”).

In the Press Release, the SEC, in line with its duty to protect the investing public pursuant to Sections 67 – 70 of the Investments and Securities Act 2007 (“ISA”) and Rules 414 and 415 of the SEC Rules and Regulations 2013 (as amended), re-iterated that ***only foreign securities listed on any Exchange registered in Nigeria may be issued, sold or offered for sale or subscription to the Nigerian public.*** In the same Press Release, the SEC also informed Nigerian Capital Market Operators (“CMOs”) that work with these online investment and trading platforms (the “Platforms”) to desist from doing so. The SEC also enjoined the Nigerian investing public to seek clarification (via its established channels of communication) on investment products advertised through conventional or online media. Please see the full SEC press release [here](#).

This Press Release will affect the ongoing operations of these Platforms which facilitate direct access to

securities of foreign companies listed on Securities Exchanges in other jurisdictions.

Earlier in December 2020, the SEC published a [Memo](#) on the restraint placed on Chaka Technologies Limited (“Chaka”) restricting Chaka from advertising or selling securities on the basis that Chaka’s activities were being carried out outside the SEC’s regulatory purview and without the requisite registration with the SEC. This position was further reinforced in another [press release](#) by SEC in February 2021.

### IMPLICATION AND RECOMMENDATION

The apparent implication of the Press Release is that to the extent that the Platforms facilitate direct access to securities of these foreign companies which are listed on Securities Exchanges in other jurisdictions but not listed on any Exchange registered in Nigeria, such activities by the Platforms are considered by the SEC to be in contravention of the ISA and SEC Rules and are, therefore, illegal.

The notice and warning from the SEC to CMOs under the Press Release is expected to result in CMOs putting an immediate halt to the strategic partnerships they have with the Platforms. The likely impact of this is that although the investing Nigerian public may continue to trade on such Platforms, these Platforms will be prevented from lawfully settling the investments via Nigerian brokers, which coincidentally are CMOs registered with the SEC. Reliance will have to be placed on the collaborations with their foreign strategic broker partners. It remains to be seen how this will work in the interim.

Upon careful reading of the Press Release, the SEC appears to infer that the activities of these Platforms are being carried out without the requisite registration. Consequently, the entities operating such Platforms are required to be duly registered with the SEC to operate lawfully. This view is buttressed by the ongoing attempts by Chaka, following the SEC restriction mentioned above, to

obtain a newly created innovation license from the SEC. Currently, there is no public information on what this license is, the scope of activities that the license permits or the process and requirements for getting this license. However, it is expected that the SEC will follow up the Press Release with Regulations to provide clarity and certainty for the Platforms in this regard, as these Platforms continue to innovate and provide access to investment products which would otherwise have been inaccessible to the Nigerian public.

In conclusion and in view of SEC's recent approach as evident in the Press Release, it is advisable that other Platforms, which are yet to do so, take the initiative and engage the SEC in order to be duly registered with the SEC or take such steps as is necessary to lawfully operate their Platforms as it relates to securities of foreign companies that are registered in securities exchanges in other jurisdictions.

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