

SEC'S REGULATIONS ON DIGITAL SUB-BROKERS – CLARITY FOR ONLINE INVESTMENT AND TRADING PLATFORMS IN NIGERIA?



BACKGROUND

In our [newsletter](#) on “SEC’S Directive To Online Investment And Trading Platforms in Nigeria – The Way Forward” (the “**Newsletter**”), we had analyzed the Securities and Exchange Commission’s (“**SEC**”) [Press Release](#) dated 8th April, 2021 on the Proliferation of Unregistered Online Investment and Trading Platforms Facilitating Access to Trading in Securities Listed in Foreign Markets. In the Press Release, the SEC reiterated 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.

As predicted in our Newsletter, the SEC has followed up the Press Release with its recently released [amendments](#) to its Consolidated Rules and

Regulations 2013 (the “**Amendments**”) on the 22nd of April, 2021.

The Amendments, amongst others, expanded the definition for **Sub-Brokers** to include “*any person or entity which is not a dealing member of an exchange and acts on behalf of a sponsoring broker/dealer as an agent or other for assisting the investor in buying, selling or dealing in securities through such sponsoring broker/dealer*”. Other than the Corporate Sub-Broker and the Individual Sub-Broker, the Amendments also include a new category referred to as **Sub-Broker Serving Multiple Brokers through a Digital Platform**. This is defined as “*a sub-broker who utilizes a digital platform to serve clients and interact with the sponsoring broker or brokers*”. In addition, the Amendments provide for the registration requirements of the Sub-Broker and Sub-Broker Serving Multiple Brokers through a Digital Platform.

IMPLICATIONS AND RECOMMENDATION

The Amendments are geared towards providing a way forward as it relates to regulating investment technology companies and their Platforms. By extension, the Amendments also regulate the partnerships between the Platforms and CMOs to offer foreign securities to Nigerians as it provides for the registration requirements for these Platforms.

The definitions of a Sub-Broker and a Sub-Broker Serving Multiple Brokers through a Digital Platform capture most of the activities of these Platforms as they partner with registered brokers and leverage technology using their Platforms to serve clients and interact with the sponsoring broker or brokers. In view of this, the Platforms will be required to register with the SEC as Sub-Brokers/ Sub-Brokers Serving Multiple Brokers through a Digital Platform, with the registration requirements listed in the Amendments. As part of the registration requirements, the Platforms are required to, amongst others, have:

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| i) a minimum paid-up capital of ₦10,000,000 (Ten Million Naira); | a) purchase of securities; |
| ii) a Fidelity Insurance Bond to the value of at least 20% of the minimum paid-up capital; | b) sale of securities; |
| iii) a copy of "multiple principal agreement" with every sponsoring broker; | c) receiving payments from clients in relation to (a) and (b) above; |
| iv) a description of the technology on which its infrastructure is built; | d) making payments to clients in relation to (a) and (b) above; and |
| | e) other service ancillary to (a) to (d) above. |
| v) a certification that the infrastructure is sufficient to perform the required function by an IT Service Provider registered with NITDA or other recognized agency, and endorsed by a representative of the Association of Securities Exchanges; and | To the extent that (i) the Platforms can only deal through their sponsoring broker/dealer; and (ii) brokers and dealers can only sell and purchase securities on a recognized exchange registered in Nigeria, it appears that is only local and foreign securities listed on any Exchange registered in Nigeria that may be issued, sold or offered for sale or subscription to the Nigerian public by these Platforms. |
| vi) evidence of documented policies and procedures for managing technology risk. | |

Upon registration and by the provisions of Rule 68 of the Consolidated SEC Rules, the Platforms, as Sub-Brokers/Sub-Brokers Serving Multiple Brokers through a Digital Platform, will be able to perform the following functions only through their sponsoring broker/dealer:

We recommend that the Platforms take steps to register as Sub-Brokers/ Sub-Brokers Serving Multiple Brokers through a Digital Platform and continue to engage the SEC on necessary steps to lawfully operate in Nigeria as it relates to offering securities of foreign companies that are registered in securities exchanges in other jurisdictions.

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