Regulatory Update: SEC Directive (Part 2)

May 2021



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



BACKGROUND

In our <u>newsletter</u> on "SEC'S Directive To Online Investment And Trading Platforms in Nigeria - The the Securities and Exchange Commission's ("SEC") requirements of the Sub-Broker and Sub-Broker Press Release dated 8th April, 2021 on the Serving Multiple Brokers through a Digital Platform. 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 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 established clarification (via its channels 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 Way Forward" (the "Newsletter"), we had analyzed addition, the Amendments provide for the registration

IMPLICATIONS AND RECOMMENDATION

The Amendments are geared towards providing a way forward as it relates to regulating investment securities listed on any Exchange registered in 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 communication) on investment products advertised 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:

- a minimum paid-up capital of ₩10,000,000 (Ten Million Naira);
- ii) a Fidelity Insurance Bond to the value of at least 20% of the minimum paid-up capital:
- iii) a copy of "multiple principal agreement" with every sponsoring broker;
- iv) a description of the technology on which its infrastructure is built;
- recognized agency, Exchanges; and
- for managing technology risk.

broker/dealer:

- purchase of securities;
- b) sale of securities;
- receiving payments form clients in relation to (a) c) and (b) above;
- 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 the extent that (i) the Platforms can only deal to perform the required function by an IT Service through their sponsoring broker/dealer; and (ii) Provider registered with NITDA or other brokers and dealers can only sell and purchase and endorsed by a securities on a recognized exchange registered in representative of the Association of Securities 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 vi) evidence of documented policies and procedures subscription to the Nigerian public by these Platforms.

We recommend that the Platforms take steps to Upon registration and by the provisions of Rule 68 of register as Sub-Brokers/ Sub-Brokers Serving Multiple the Consolidated SEC Rules, the Platforms, as Brokers through a Digital Platform and continue to Sub-Brokers/Sub-Brokers Serving Multiple Brokers engage the SEC on necessary steps to lawfully operate through a Digital Platform, will be able to perform the in Nigeria as it relates to offering securities of foreign following functions only through their sponsoring companies that are registered in securities exchanges in other jurisdictions.

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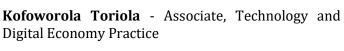
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