



RULES ON DEMUTUALIZATION OF SECURITIES EXCHANGES IN NIGERIA

Pursuant to Section 313 of the Investments and Securities Act, 2007, the following new regulations are made by the Commission.

1. DEFINITION OF TERMS

In these regulations –

“Company limited by guarantee” is as defined under the Companies and Allied Matters Act, (CAMA) 1990;

“Company limited by shares” is as defined under the Companies and Allied Matters Act, (CAMA) 1990;

“Date of demutualization” means the date on which the Registrar General of the Corporate Affairs Commission (CAC) issues to the Exchange a certificate of incorporation evidencing the registration of the Exchange as a company limited by shares;

“Demutualization” means the process through which a member owned organization becomes a shareholder owned company;

“Demutualized Securities Exchange” means the conversion of a company owned by its members into a company by its shareholders;

“Member” means a person or firm who is a member of the Securities Exchange in accordance with its Memorandum and Articles of Association (MEMART);

“Securities Exchange” has the same meaning assigned to it under the Investment and Securities Act, (ISA) 2007;

“Related entities/persons” means a person or entity that is related to the entity or person that owns the equity or the voting rights;

“Registration” means the registration of the Securities Exchange as a company limited by shares in accordance with the Companies and Allied Matters Act, (CAMA) 1990;

“Rights” means all rights, powers, privileges and immunities, whether present or future, actual or contingent or prospective, and whether enforceable in Nigeria or elsewhere;

“Committee on Demutualization” means a committee of a Securities Exchange responsible for coordinating a demutualization process;

2. PRE -CONDITIONS FOR DEMUTUALIZATION

A Securities Exchange shall prior to demutualization submit the following documents for the granting of a “No Objection” by the Commission:

1. the names and profiles of members of the Committee on demutualization of which $\frac{1}{3}$ shall be independent;
2. a valuation report of the Securities Exchange;
3. the draft Memorandum and Articles of Association of the Securities Exchange;

4. the proposed rules of the demutualized Securities Exchange;
5. the proposed allotment and the basis of the proposed allotment of shares to the initial shareholders of the Securities Exchange;
6. a list of the directors proposed as the Board of the Securities Exchange;
7. an implementation plan stating the process to be adopted for effecting the demutualization of the Exchange, including but not limited to the treatment of the rights and liabilities of the existing members of the Exchange;
8. the proposed plan for the independent management of the commercial and regulatory functions of the demutualized Securities Exchange and timelines for implementation of necessary structures to ensure the functional treatment of commercial and regulatory functions;

Any changes to the information provided in Rule 2 above shall be filed with the Commission for a "No Objection".

3. POST DEMUTUALIZATION REQUIREMENTS

(1) A Securities Exchange shall make an application to the Commission for approval to operate as a demutualized Securities Exchange.

(2) An application under paragraph (1) shall be accompanied by the following additional documents and information:

- (a) the authorized and paid-up share capital of the demutualized Securities Exchange;

(b) Form C02 (share allotment form) certified by the Corporate Affairs Commission;

(c) two copies of the Memorandum and Articles of Association (MEMART) of the demutualized Securities Exchange, certified by the Corporate Affairs Commission;

(d) CAC Certified copy of form C07, showing the Particulars of directors of the demutualized Securities Exchange;

(e) a detailed three (3) year business development plan for the demutualized Securities Exchange together with the capital expenditure estimates and the sources of finance for the three (3) year period;

(f) the most recent copy of audited accounts or statement of affairs of the Securities Exchange, signed by its auditors that are not more than nine months old as at the time of filing with the Commission;

(g) the Commission may, in writing, require the Securities Exchange to provide any additional information which the Commission may require.

4. PROCEDURE BY THE COMMISSION UPON RECEIVING APPLICATION

(1) Within 45 days of the receipt of an application by the Commission pursuant to these rules, the Commission may, either approve or reject the application or if it considers necessary and in the interest of the capital markets, direct the Securities Exchange to take specific actions or make appropriate amendments to the documents and information submitted.

(2) Where the Securities Exchange does not comply with the requirements of these rules or a directive under paragraph (1), and the Commission has not received a written communication from the Securities Exchange, withdrawing its application from consideration, the Commission shall –

(a) Within 14 days of receipt of its directives by the Securities Exchange, give the Securities Exchange an opportunity to be heard; and

(b) Within 7 days after hearing the Securities Exchange, make a decision and communicate the decision, as the case may be, recommending the appropriate measures that the Securities Exchange may take in order to comply.

(3) Upon receipt of all the information submitted under these rules, subject to any amendments under subparagraph (1), the Commission may approve the application with or without conditions.

5. OWNERSHIP OF THE DEMUTUALISED SECURITIES EXCHANGE

- Prior to the commencement of demutualization, the Securities Exchange shall initiate a process for determining the accurate list of members of the Exchange.
- No single entity/person or related entities/persons should be permitted to own, directly or indirectly more than 5% of the equity and/or voting rights in the demutualized Securities Exchange, unless as otherwise provided in these rules

- The aggregate equity interests of members of any specific stakeholder group in the demutualized Securities Exchange shall not exceed 20%;
- Strategic Investors may be given equity interest in the demutualized Securities Exchange subject to the following conditions:
 - The Strategic Investor should provide evidence of technical expertise through previous experience in managing other Exchanges or such other investments beneficial to the Securities Exchange, as the Commission may approve;
 - The aggregate number of shares to be offered to the Strategic Investors shall not be more than 30% of the issued and the fully paid up capital of the Securities Exchange. However, if the Exchange has a compelling reason to raise funds, it could issue a higher number of shares subject to the approval of the Commission.

6. GOVERNANCE

1. The Board shall be of a sufficient size relative to the scale and complexity of the Securities Exchange's operations and be composed in such a way as to ensure diversity of experience without compromising independence, compatibility, integrity and availability of members to attend meetings.

2. At least $\frac{1}{3}$ of the Board shall be independent directors as provided for under the SEC Corporate Governance Code or any other applicable Corporate Governance Code.

3. All appointments of Directors and Executive Management shall require the prior written approval of the SEC.

4. The demutualized Securities Exchange shall be required to comply, in all other respects with the SEC Code of Corporate Governance for public companies and any other applicable Corporate Governance Code

7. REDUCTION IN SHAREHOLDINGS

The stakeholder groups who are shareholders of the Securities Exchange shall with effect from the date of demutualization shall reduce their cumulative shareholding in the demutualized Securities Exchange to no more than twenty (20) percent within five (5) years.

8. COMMENCE IMPLEMENTATION OF SELF-REGULATORY FUNCTIONS

The demutualized Securities Exchange shall, within one (1) year of an approval being granted, implement the plan submitted under rule 2(8).