



NEW RULE

PROPOSED RULE ON GREEN BONDS

1.0 Name/Citation of the Rule: Green Bonds

1.1 Definition of Terms

“Green Bond” A Green Bond is any type of debt instrument, the proceeds of which would be exclusively applied to finance or re-finance in part or in full new and/or existing projects that have positive environmental impact.

2.0 Qualification

To qualify as a green project, the monies shall be invested in one or more of the following:

- a) Renewable and sustainable energy
- b) Clean transportation
- c) Sustainable water management
- d) Climate change adaptation
- e) Energy efficiency
- f) Sustainable waste management
- g) Sustainable land use
- h) Biodiversity conservation
- i) Any other categories as may be approved by the Commission from time to time.

3.0 Conditions for approval of a Green Bond

In addition to the general registration requirements for debt issuances as stated in the Rules and Regulations of the Commission for States, Local Governments, Government, Corporate and Supra-national agencies, an issuer of a Green Bond shall file:

- i. A feasibility Study and Report stating clearly, the measurable benefits of the proposed Green project or Assets such as Green House Gas reduction, reduction of water use and reduction of harmful emissions.



- ii. A prospectus which shall include project categories, project selection criteria, decision-making procedures, environmental benefits, use and management of the proceeds.
- iii. A letter from the issuer committing to invest proceeds of the bond in green project(s) or assets ;
- iv. An independent assessment or certification issued by a professional certification authority or person approved or recognized by the Commission.
- v. Any other documents that may be required by the Commission

4.0

Utilization and Management of Proceeds

- i. The net proceeds shall only be utilized for the purpose stated in the approved offer documents and shall be tracked as stated in the approved internal policy of the Issuer which shall be disclosed in the offer documents.
- ii. An escrow account shall be opened specifically for the net proceeds of the offer.
- iii. The proceeds shall be domiciled with the Custodian and the Trustees shall ensure that the proceeds are used for the purpose stated in the prospectus.
- iv. The issuer and the Trustees shall be the signatories to the escrow account.
- v. The issuer shall invest proceeds in green projects within the given timeframe prescribed in the prospectus. Unallocated proceeds shall be invested in money market instruments with investment grade rating and this shall be disclosed in the offer documents.

5.0

Reporting

- i. The issuer shall publish the utilization of proceeds in at least two(2) national dailies on an annual basis which shall contain the details of the key factors capturing the environmental impact of such investments and the same shall be disclosed in its annual report and website
- ii. The issuer shall publish an assessment report issued by an independent professional assessment or certification agency on its website or other media and conduct and report annual follow-up assessments of the green projects and associated environmental benefits throughout the tenor of the bond.



6.0 **Refinancing**

Where the issuer proposes to utilise a proportion of the issue proceeds of the issue of Green Bonds, towards refinancing of existing green assets, the Issuer shall clearly provide in the offer document the details of the portfolio/assets/projects which are identified for such refinancing.

SUNDRY AMENDMENTS

A. PROPOSED INCLUSION OF BVN AS A VALID MEANS OF IDENTIFICATION OF INDIVIDUAL CLIENTS IN THE CAPITAL MARKET

Full Text of Existing Section 46 (2) AML/CFT Rules:

A Capital Market Operator shall use a combination of electronic and documentary checks to confirm different sources of the same information provided by the clients.

Proposed Amendment (Creation of a new sub-rule as follows):

Section 46(2)(b):

The Capital Market Operator may use the Bank Verification Number (BVN) as a means of verifying information provided by the clients.

Justification

- *Bank Verification Number (BVN) gives a unique identity that can be verified across the Nigerian Banking Industry (not peculiar to one bank alone).*
- *It is a national acceptable means of identification (implemented by all Banks in Nigeria as directed by the CBN).*
- *It will address issues of identity theft which will also reduce exposure to fraud.*
- *Promote financial inclusion of unbanked clients.*

SUNDRY AMENDMENTS FOR RE-EXPOSURE

A. PROPOSED RULES ON INVESTMENT ADVISORY SERVICES

The following guidelines shall be applicable to Capital Market Operators registered as Investment Advisers ***and any Capital Market Operator that provides investment advice as defined in the Investments and Securities Act, (ISA) 2007.***



Justification

The inclusion of other CMOs in this rule is fundamental to the purpose of developing this rule. The rule intends to protect investors and ensure that market operators who provide investment advice in any capacity are guided in discharging their functions.

1. General

An investment adviser shall:

- i) abide by the Code of Ethics for Investment Advisers and the general code for all CMOs and their employees as stipulated in the Schedule IX of the SEC Rules and Regulations;
- ii) keep information about its client confidential and shall only divulge such information after obtaining the prior consent of that client except in cases where such disclosures are necessary in complying with a law or statutory order;
- iii) not enter into proprietary transactions that are contrary to advice given to clients for a period of fifteen days from the day of giving the advice provided that during the period, if the investment adviser is convinced that the circumstances have changed, it may then enter into such transactions after communicating a revised assessment to the client at least twenty four hours before entering into such transactions;
- iv) document and comply with internal policies and procedures that are consistent with these regulations;

2. Fiduciary Duties to Clients

An Investment Adviser shall:

- i) avoid conflicts of interest with clients and is prohibited from taking unfair advantage of a client's trust
- ii) be sensitive to the conscious and subconscious possibility of providing less than disinterested advice, and may be faulted even when it does not intend to injure a client and even if the client does not suffer a monetary loss
- iii) have procedures in place that ensure that all clients are treated fairly and equitably



3. Client's Risk Assessment

- i) The Investment Adviser shall assess the client in order to determine the client's risk profile. In assessing the risk profile of a client, the investment adviser must consider the client's;
 - a) age;
 - b) financial status;
 - c) investment objectives;
 - d) risk appetite;
 - e) unique circumstances (if any);
 - f) constraints (legal or otherwise)
 - g) time horizon and;
 - h) any other factor that needs to be assessed
- ii) The Investment Adviser shall develop a questionnaire and other tools as deemed necessary in risk profiling the client. The questionnaire shall;
 - a) be separate and distinct from the account opening form;
 - b) be written in clear and understandable language; and
 - c) not be structured in a way that it contains leading questions
- iii) An Investment Policy Statement (IPS) shall be documented for each client at the conclusion of the risk assessment exercise.
- iv) Information provided by the client and the IPS shall be updated at a minimum of once a year.

4. Suitability

An Investment Adviser shall ensure that:

- i) Investment advice given is consistent with the client's IPS.
- ii) It has an adequate and reasonable basis for making recommendations to clients. It therefore has an obligation to investigate and research on any investment it is recommending.



- iii) It understands the nature and risks of asset classes or investment products selected for clients.

5. Disclosure to Clients

In making written disclosures to clients, an Investment Adviser shall ensure that disclosures are not less legible than the remainder of the content of such documents.

An Investment Adviser shall disclose to clients;

- i) and prospective clients, all material information about itself including its business, related parties, regulatory history, terms and conditions on which it offers advisory services and other material facts necessary to guide them in making an informed decision as to entering into or continuing an advisory relationship with it;
- ii) any consideration or compensation (monetary or otherwise) received or receivable by it or any related party for trading services in respect of the products or securities for which investment advice is provided to clients;
- iii) all compensation earned in any form from referrals with respect to investment advice given
- iv) its holding or position in investment products or securities which are the underlying subject of investment advice;
- v) all facts regarding conflicts of interest or potential conflict relating to any connection with any issuer of securities or other material facts that may compromise its independence in providing investment advisory services; and
- vi) warnings and disclaimers contained in prospectuses, advertising material and any other relevant document relating to investments being recommended

6. Record Keeping

An Investment Adviser shall maintain the following records;



- i) Know-Your-Customer (KYC) records of the client;
- ii) Risk assessment and IPS report of the client
- iii) Suitability assessment of the advice being provided
- iv) Copies of agreements with clients, if any;
- v) Investment advice provided, whether written or oral;
- vi) Rationale for arriving at investment advice, duly signed and dated; and
- vii) Register containing list of clients, date of advice, nature of advice, investment class and any related fees charged. ***Provided that they shall be maintained and preserved in a readily accessible place for a period of not less than five (5) years from the end of the year during which the last entry was made on such record, provided that in the first two (2) years such documents maintained shall be in an appropriate office of the registered person.***

B. PROPOSED AMENDMENTS TO RULES 96 & 97– INVESTMENT ADVISERS

1. **Proposed Creation/addition of New Sub-Rule (3) and (4) to Rule 96 as follows:**

(3) Exemptions to Registration

The following categories of institutions or professionals shall be exempted from registration as Investment Advisers:

- (a) The institutions and entities listed in Section 315 of the Investments and Securities Act (ISA) 2007;
- ~~(b) an insurance company, agent or broker, who offers investment advice solely in insurance products and is registered under the Insurance Act for such activity;~~
- (c) a pension advisor who offers investment advice solely on pension products and is registered under the Pensions Act for such activity;
- (d) Persons who give general comments in good faith in regard to trends in the financial or securities market or the economic situation where such comments do not specify any particular securities or investment product;



- (e) Members of professional bodies recognized by law who provide investment advice to their clients, provided that such investment advice is solely incidental to the practice of their profession;
- (f) Broker/dealers, Fund/Portfolio Managers, Credit Rating Agencies, Issuing Houses and any other registered function as may be determined by the Commission from time to time, who provides investment advice to its clients solely incidental to the conduct of its registered capital market activity and does not receive any special compensation for providing investment advice;

Provided that such Capital Market Operator shall comply with the provisions specified in these guidelines

Justification

The exemptions are provided to clearly define the category of persons/institutions exempted from giving investment advice in line with the provisions of the ISA and the Commission's Rules and Regulations. The deletion of sub-rule (b) is to avoid replicating what is already contained in S. 315 (a) of the ISA which lists institutions and entities exempted from performing the function of an investment adviser.

(4) Investment Adviser's Representative

All investment advisory functions must be carried out by registered representatives (including undertaking of Investment research and financial planning and shall not be delegated. In addition to the requirements on registration, all investment adviser representatives must be qualified and certified to carry out this function as specified below:

(a) Qualification and Experience

An individual registered as an investment advisers' representative shall have the following minimum qualifications, at all times:

- i. A professional qualification or post-graduate degree in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a recognized degree awarding institution or association; or
- ii. A graduate in any discipline with an experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management.



(b) Certification

An individual registered as an investment advisers' representative shall have, at all times, a certification on financial planning or fund or asset or portfolio management or investment advisory services:

- i. from the Nigerian Capital Market Institute; or
 - ii. from any other organization or institution provided that such certification is accredited by the Nigerian Capital Market Institute.
- c. All existing investment advisers shall comply with these certification requirements within one year of commencement of these guidelines.

JUSTIFICATION

In Malaysia, to carry out financial planning activities, an investment adviser representative must be a Certified Financial Planner (CFP) or Chartered Financial Consultant (CFC) with 3 years relevant experience in addition to relevant tertiary qualifications. To undertake Investment Research and Corporate Finance an advisory service, an investment adviser is required to pass modules 12 and 15 of the Securities Industry Development Centre (SIDC) examinations or any examination as determined by the Securities Commission.

In India, an investment adviser's representative is required to undergo relevant certification by the National Institute of Securities Markets (NISM) or any other certification accredited/approved by NISM, in addition to relevant tertiary qualifications.

In the United States, Investment Adviser's representative is required to pass relevant Series (65) examination of the FINRA.

2. Proposed Creation/addition of New Sub-Rule (5) to Rule 97 as follows:

- (5) An investment adviser shall comply with the Rules issued by the Commission on investment advisory services.

Justification

The incorporation of this sub-rule gives legal effect to the Rule being proposed.

C. PROPOSED AMENDMENT TO RULE 61-NOMINEE ACCOUNTS

1. Proposed amendment to Rule 61 (2) (b)(v):



(b) **Eligibility Requirements for a Capital Market Operator seeking to Operate Nominee Account**

The capital market operator shall:

- v. file quarterly returns on the activities of its Nominee to the Commission in the prescribed format ***on a monthly basis.***

Justification

The amendment is necessary in order to give a specific period for filing of the quarterly returns.

2. **Proposed amendment to Rule 61 (2) (c)(iii):**

- iii. The CMO shall preserve information on nominee accounts, for ***five (5)*** years from the end of the business relationship.

Justification

Based on received stakeholder comments, the 5 year period has been retained.

General Justification for Re-exposure of the Rules

The re-exposure is made in view of the substantial additions/amendments which became necessary due to stakeholder comments received as shown in the bold underlined portions of the re-exposed portion of the Rules.