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INVESTMENTS AND SECURITIES ACT, 2007
INVESTMENTS AND SECURITIES (EXEMPTION OF
STATE GOVERNMENTS, ETC.) ORDER, 2023



ARRANGEMENT OF PARAGRAPHS

Paragraph :

1. Exemption of State Governments and the Federal Capital Territory from the operation of Section 223 of the Act.
2. Condition for exemption.
3. State Governments and the Federal Capital Territory seeking to issue revenue bond or sukuk.
4. Duration of exemption.
5. Revocation.
6. Savings and transitional provision.
7. Definition.
8. Citation.

S. I. No. 16 of 2023

INVESTMENTS AND SECURITIES ACT, 2007**INVESTMENTS AND SECURITIES (EXEMPTION OF
STATE GOVERNMENTS, ETC.) ORDER, 2023**

[27th Day of March, 2023.]

In exercise of the powers conferred on me by section 309 of the Investment and Securities Act, No. 29, 2007 and of all other powers enabling me in that behalf, I, ZAINAB SHAMSUNA AHMED, the Honourable Minister of Finance, Budget and National Planning, in consultation with the Securities and Exchange Commission ("the Commission"), make the following Order —

Commence-
ment.

1. As from the commencement of this Order all State Governments in Nigeria and the Federal Capital Territory are exempted from the operation of the provisions of Section 223 of the Investment and Securities Act (in this Order referred to as "the Act").

Exemption
of State
Governments
and the
Federal
Capital
Territory
from the
operation of
Section 223
of the Act.

2. The exemption referred to in paragraph 1 of this Order shall only be granted subject to the following conditions—

Condition
for
Exemption.

(a) the Internally Generated Revenue (IGR) of the State or Federal Capital Territory shall not be less than sixty percent of its consolidated revenues for three years ;

(b) the total annual debt service obligation arising from such proposed issuance shall not at any particular time exceed forty percent of the total revenue that accrued to its consolidated revenue fund in the twelve months period immediately preceding the proposed new issuance ;

(c) the proceeds of bonds to be issued pursuant to this exemption shall only be applied on verifiable capital projects ;

(d) the State or Federal Capital Territory shall provide a feasibility report prepared in consultation with or by the contractor to the relevant project ;

(e) the State or Federal Capital Territory shall provide an independent third party guarantee for the repayment of the debt in the event of default and the guarantor's rating shall not be below investment grade ;

(f) in the case of a revenue bond, the assets of, and revenues from the project to which the securities relate are "ring-fenced", where applicable ;

(g) where the State or the Federal Capital Territory intends to issue a bond without irrevocable Standing Payment Order it shall be required to provide an independent third party guarantee for the repayment of the debt in the event of default and the guarantor's rating shall not be below investment grade ;

(h) the guarantor shall comply with the Commission's rules and other requirements as may be specified by the Commission from time to time ;

(i) State Governments or Federal Capital Territory shall comply with the Revised External and Domestic Borrowing Guidelines for Federal and State Governments and their Agencies ; and

(j) For each borrowing request, the Debt Management Office (DMO) shall review compliance with the provisions of subparagraph (i) of this paragraph.

State Governments and the Federal Capital Territory seeking to issue revenue bond or sukuk.

3. Where a State or the Federal Capital Territory seeks to issue revenue bonds or sukuk for the purpose of executing verifiable projects, the State or Federal Capital Territory shall not be subject to the conditions prescribed in paragraph 2 of this Order.

Duration of Exemption.

4. The duration for the exemption granted under this Order shall be for three years from the date of commencement of this Order.

Revocation.

5. The Investments and Securities (Exemption of State Governments, etc.) Order, No. 118, 2019 is deemed revoked.

Savings and transitional provision.

6. Anything made or done under the Order revoked in paragraph 5 of this Order shall continue to have effect as if made or done under this Order.

Definition.

7. In this Order—

“Act” means the Investment and Securities Act, No. 29, of 2007.

Citation.

8. This Order may be cited as the Investments and Securities (Exemption of State Governments, Etc.) Order, 2023.

MADE at Abuja this 27th day of March, 2023.

ZAINAB SHAMSUNA AHMED
Honourable Minister of Finance,
Budget and National Planning

EXPLANNATORY NOTE

*(This note does not form part of this Order but
it is intended to explain its purports)*

This Order seeks to grant exemption to State Governments and the Federal Capital Territory from the operation of the provision of 223 of the Investment and Securities Act to enable them have access to Capital Market to raise funds that will augment budget funding gap in order to effectively carry out urgent infrastructural developments.