



## PROPOSED RULES ON CROSS-BORDER SECURITIES TRADING AND CUSTODY

### 1. Applicability

- a) This Rule shall apply to every Broker registered with the Commission who provides Nigerian investors access to securities listed or traded on a foreign securities exchange.
- b) This Rule shall regulate:
  - (i) trading in foreign securities on behalf of Nigerian investors;
  - (ii) execution of cross-border securities transactions through foreign intermediaries;
  - (iii) custody and safekeeping of foreign securities belonging to Nigerian investors;
  - (iv) maintenance of records of beneficial ownership of foreign securities;
  - (v) protection of investor rights and assets within indirect holding structures.
- c) A Broker shall not offer or provide cross-border securities trading services except in accordance with the provisions of this Rule.

### 2. Definitions

For the purpose of this Rule:

- a) “Beneficial Owner” means the natural or legal person who ultimately owns and enjoys the economic benefits and rights attached to a security, notwithstanding that legal title may be held through an intermediary.
- b) “Broker” means a capital market operator authorized to buy and sell securities on a recognized securities exchange on behalf of clients, acting as an agent.
- c) “Commission” means the Securities and Exchange Commission of Nigeria.
- d) “Cross-Border Securities Trading” means the purchase, sale, or transfer of securities listed or traded on a securities exchange outside Nigeria on behalf of Nigerian investors.
- e) “Foreign Custodian” means a financial institution licensed in a foreign jurisdiction to hold securities on behalf of investors.
- f) “Foreign Intermediary” means a broker-dealer, custodian, or clearing participant regulated in a foreign jurisdiction that executes or holds securities on behalf of a Nigerian Broker.
- g) “Foreign Securities” means equities, bonds, exchange-traded funds, or other financial instruments listed or traded on a securities exchange outside Nigeria.
- h) “Fractional Security or Interest” means a beneficial ownership interest representing less than one whole unit of a security and recorded through the books and records of an approved foreign Broker or custodian.
- i) “Fractional securities trading” refers to any arrangement under which a Broker allows an investor to purchase or hold less than one whole unit of a security.
- j) “Indirect Holding Structure” means an ownership arrangement whereby securities are held in the name of a nominee or intermediary while the investor retains beneficial ownership rights.
- k) “Omnibus Account” means a custody account in which securities belonging to multiple investors are aggregated under the name of an intermediary.

### 3. Registration Requirements

- a) A Broker shall not provide cross-border securities trading services without obtaining a prior “No Objection” from the Commission.
- b) An application for No Objection shall include:
  - (i) detailed description of the proposed cross-border trading services;



- (ii) identification of foreign exchanges to which access shall be provided;
  - (iii) details of foreign brokers and custodians to be engaged;
  - (iv) description of custody and settlement arrangements;
  - (v) policies governing safeguarding of client assets;
  - (vi) operational risk management procedures;
  - (vii) investor disclosure documentation.
- c) A Broker shall not facilitate foreign securities trading, whether directly or through the operation, support, or sponsorship of a digital platform for such purpose, unless it maintains a minimum net liquid capital of not less than ₦2,000,000,000.
- d) The Commission may grant approval subject to such conditions as it considers necessary to ensure investor protection and market integrity.

#### **4. Eligibility of Foreign Broker Intermediaries**

- a) A Broker shall only execute foreign securities transactions through ~~or~~ foreign counterpart~~s~~ that:
- i. are duly licensed and supervised by a securities regulator;
  - ii. operate within jurisdictions that are members of the International Organization of Securities Commissions (IOSCO) and whose regulators are signatories to the IOSCO Multilateral Memorandum of Understanding (MMoU) or any other cooperation arrangement with the Commission;
  - iii. maintain adequate financial resources, operational capacity, custody safeguards, and client asset protection mechanisms;
  - iv. are participants in recognized clearing and settlement systems, where applicable; and
  - v. are not subject to any material regulatory sanction, restriction, suspension, or enforcement action that may impair their operations or expose investors to undue risk.
- b) The Commission may prescribe additional eligibility requirements or restrictions for investor protection, market integrity, or effective supervision.

#### **5. Regulatory Assessment and Recognition of Foreign Brokers**

- a) A Broker shall not enter into any arrangement, alliance, partnership, execution agreement, referral arrangement, custody arrangement, or any other business relationship with a foreign Broker for the purpose of providing cross-border securities trading services without the prior approval or a “No Objection” of the Commission.
- b) An application for approval to engage a foreign Broker shall be accompanied by:
- i. The proposed agreement between the parties;
  - ii. details of the services to be provided by the foreign broker;
  - iii. details of custody, clearing, settlement, and operational arrangements;
  - iv. evidence of the foreign intermediary’s licensing and regulatory authorization status;
  - v. a status report, letter of good standing, or fit and proper confirmation issued by the foreign Broker’s home regulator or competent authority;
  - vi. details of the foreign Broker’s client asset protection, segregation, cybersecurity, and operational risk management arrangements;
  - vii. such other information as the Commission may require.
- c) In determining whether to grant an approval under this Rule, the Commission shall consider:
- i. the regulatory and supervisory framework applicable to the foreign Broker;
  - ii. the adequacy of investor protection, custody, insolvency, anti-money laundering, counter-terrorism financing, and enforcement mechanisms within the foreign jurisdiction;
  - iii. the financial and operational capacity of the foreign Broker;
  - iv. any regulatory sanction, enforcement action, restriction, suspension, or material compliance deficiency involving the foreign Broker;



- v. the existence of regulatory cooperation arrangements between the Commission and the relevant foreign regulator.
- d) The Commission may approve, reject, impose conditions for, or require modification of any arrangement between a Broker and a foreign counterpart, where it considers such action necessary for investor protection, market integrity, effective supervision, or mitigation of systemic risk.
- e) A Broker shall conduct ongoing monitoring of any approved foreign counterpart and shall promptly notify the Commission of:
  - i. any material change in the counterpart's regulatory or licensing status;
  - ii. any enforcement action, sanction, suspension, insolvency event, or operational failure affecting the intermediary;
  - iii. any material amendment, suspension, or termination of the agreement between the parties.
- f) A Broker shall ensure that its arrangements with foreign intermediaries and custodians provide for access to transaction records and such information as the Commission may require for supervisory, inspection, verification, enforcement, or fee collection purposes.
- g) The Commission may suspend, restrict, or revoke any approval granted under this Rule where it determines that the foreign Broker or the arrangement no longer satisfies the requirements of this Rule or otherwise poses risks to investors or market integrity.

## **6. Settlement**

- a. All settlements for foreign securities shall be conducted via Bank-to-Broker transfers.
- b. Use of unregulated FinTech wallets for cross-border settlement is prohibited.

## **7. Custody of Foreign Securities**

- a) Foreign securities purchased on behalf of Nigerian investors shall be held by a regulated foreign custodian or clearing participant.
- b) Client securities shall at all times be segregated from proprietary assets of the broker or custodian.
- c) Custody agreements shall clearly specify:
  - (i) beneficial ownership rights of investors;
  - (ii) segregation of client assets;
  - (iii) procedures for transfer or liquidation of assets in the event of intermediary insolvency.

## **8. Segregation of Client Assets**

A Broker shall ensure that:

- a) client securities/assets are held separately from the Broker's proprietary assets and from the assets of other clients;
- b) proper books and records are maintained to clearly identify and distinguish the assets of each client from the assets of the Broker and other clients at all times;
- c) client assets are not transferred, pledged, encumbered, lent, or otherwise utilized for proprietary purposes or for the benefit of any other client without the prior written authorization of the affected client and the approval of the Commission, where applicable; and
- d) adequate systems and controls are established to ensure the continuous protection, reconciliation, and traceability of client assets.

## **9. Client Identification and Records**

- a) A Broker shall maintain digital records of beneficial ownership of all foreign securities held on behalf of Nigerian investors. Such records shall include:
  - i. identity of the investor;
  - ii. quantity and type of securities held;



- iii. permanent transaction history;
  - iv. custody location of securities.
- b) A Broker shall maintain records of all foreign securities transactions executed on behalf of Nigerian investors, including transaction values, applicable exchange rates, fees and charges, and details of the foreign intermediary through which the transaction was executed.

## 10. Omnibus Accounts

Where foreign securities are held through omnibus accounts:

- a) the Broker shall maintain internal records clearly identifying each investor's holdings;
- b) investors' interests shall be fully traceable within the intermediary chain;
- c) the records shall be made available to the Commission upon request.

## 11. Fractional Securities Trading

- a) A Broker may facilitate investment by Nigerian investors in fractional interests in foreign securities only through a foreign Broker recognized by the Commission and duly authorized under the laws of its home jurisdiction, to provide fractional securities trading services.
- b) A Broker shall not:
  - i. create, issue, originate, or maintain fractional securities interests;
  - ii. internally match, warehouse, net, aggregate, or otherwise facilitate fractional securities transactions outside the systems, books, and records of the recognized foreign Broker;
  - iii. represent a fractional interest as constituting legal ownership of a whole security where such legal ownership does not exist.
- c) Fractional securities trading shall only be permitted in respect of securities:
  - i. listed on a recognized foreign securities exchange;
  - ii. held through an approved foreign Broker and regulated foreign custodian;
  - iii. whose attributes support fractional ownership under the applicable laws and market rules of the foreign jurisdiction.
- d) (1) A Broker facilitating fractional securities investments shall maintain records sufficient to identify:
  - i. each investor's fractional interest;
  - ii. the corresponding whole securities held through the approved foreign Broker;
  - iii. all purchases, sales, transfers, corporate actions, and distributions relating to such interests;
  - iv. the methodology used to allocate fractional interests among investors and
  - v. any other information, as may be required by the Commission.(2) Such records shall be reconciled with records maintained by the foreign Broker and custodian quarterly.
- e) An investor holding a fractional interest shall be recognized as the beneficial owner of that interest to the extent reflected in the records of the Broker and the approved foreign Broker.
- f) The Broker shall maintain records demonstrating the relationship between the investor's fractional entitlement; and the corresponding underlying securities held through the foreign Broker.
- g) A Broker shall disclose to investors the rights attached to fractional interests, including:
  - i. entitlement to economic benefits attributable to the fractional interest such as treatment of dividends, distributions, interest payments, and other entitlements;
  - ii. participation in corporate actions;
  - iii. any limitations on voting rights, shareholder rights, transferability, or direct registration;
  - iv. the methodology for rounding, allocation, liquidation, or disposition of fractional interests.
- h) Where a corporate action affects fractional security held by an investor:
  - i. the Broker shall ensure fair and equitable allocation of resulting entitlements among affected investors;



- ii. any cash proceeds, stock distributions, rights, or other benefits shall be allocated proportionately according to each investor's fractional interest;
  - iii. the Broker shall apply a fair allocation methodology disclosed to investors in advance, where proportional allocation is impracticable.
- i) Account statements, trade confirmations, and periodic reports shall clearly distinguish:
    - i. whole securities holdings;
    - ii. fractional securities holdings expressed to an appropriate decimal place;
    - iii. any limitations applicable to the fractional interest.
  - j) For purposes of insolvency, liquidation, administration, or operational failure of a Broker, a fractional interest recorded in accordance with this Rule shall constitute a client asset and shall be treated in the same manner as other beneficial interests in foreign securities.
  - k) The Commission may impose additional conditions, restrictions, disclosure requirements, operational safeguards, or reporting obligations relating to fractional securities where necessary.

## 12. Reconciliation

- (1) A Broker shall conduct quarterly reconciliation between:
  - a) client account records;
  - b) broker statements;
  - c) custodian statements.
- (2) Discrepancies shall be reported immediately to the Commission.

## 13. Disclosure to Investors

### (1) Initial Disclosures at On-boarding

- (a) A Broker facilitating transactions in foreign securities shall, prior to opening or activating a client account for foreign securities transactions, provide the client with clear, accurate, complete, and timely disclosures regarding:
  - i. the nature of the foreign securities service being offered and the manner in which the foreign securities will be acquired, held, transferred, and disposed of;
  - ii. the custody, nominee, omnibus, or other indirect holding structures applicable to the foreign securities, including the legal and beneficial ownership arrangements and the rights attaching thereto;
  - iii. the identity, jurisdiction, and regulatory status of foreign brokers, custodians, depositories, counterparties, and other intermediaries engaged in the execution, clearing, settlement, and custody of the foreign securities;
  - iv. the investor protection, dispute resolution, compensation, insolvency protection, and regulatory oversight frameworks applicable in the relevant foreign jurisdictions, including any limitations to such protections; and
  - v. any limitations on the supervisory, enforcement, investigative, or recovery powers of the Commission in relation to the foreign securities, foreign intermediaries, or foreign jurisdictions.
- (b) A Broker shall obtain and retain evidence that the client has received and acknowledged the disclosures required under this Rule prior to activating the account for foreign securities transactions.

### (2) Disclosures Prior to Trade Initiation and Execution

- a) Prior to granting a client access to trade in foreign securities and thereafter whenever there is a material change to the information previously disclosed, a Broker shall provide the client with clear and adequate disclosures regarding:
  - i. the nature and characteristics of the foreign securities that may be purchased or sold;



- ii. all fees, commissions, charges, taxes, levies, foreign exchange costs, and other transaction-related expenses payable by the client;
- iii. all material risks associated with the transaction or investment in the foreign securities, including jurisdictional, legal, political, currency, liquidity, settlement, operational, cybersecurity, insolvency, and asset recovery risks; and
- iv. any material restrictions, conditions, trading limitations, settlement arrangements, or market-specific requirements that may affect the execution, transferability, liquidity, valuation, or disposal of the foreign security.
- v. Any other information as may be required by the Commission.

- b) Where a proposed transaction involves trade-specific costs, risks, restrictions, conditions, trading limitations, settlement arrangements, or market-specific requirements that were not previously disclosed to the client, the Broker shall provide such information to the client before execution of the transaction.
- c) The disclosures under this Rule may be provided electronically through a digital trading platform, mobile application, website, client portal, or any other medium capable of retaining evidence of delivery and client acknowledgement.
- d) A Broker shall obtain and maintain evidence of the client's acknowledgement of the disclosures required under this Rule before permitting the client to trade in foreign securities.
- e) A Broker shall ensure that the disclosures required under this Rule remain readily accessible to the client and shall notify the client of any material changes thereto within 24 hours after such changes occur.

### (3) Post-Trade Disclosures

A Broker shall provide the client with a transaction confirmation no later than one (1) business day following execution of a transaction in a foreign security. The transaction confirmation shall contain, at a minimum, details of:

- i. the security traded,
- ii. transaction date,
- iii. quantity,
- iv. price,
- v. value of the transaction,
- vi. applicable fees and charges,
- vii. settlement arrangements, and
- viii. such other information as may be prescribed by the Commission.

### (4) Ongoing Disclosures and Account Management

A Broker managing or maintaining client accounts for foreign securities shall:

- i. provide clients with account statements at least monthly, showing holdings, transactions, cash balances, fees, charges, and valuations, where applicable;
- ii. promptly, and not later than two (2) business days after becoming aware of the occurrence, notify clients of any material change to custody arrangements, foreign intermediaries, regulatory status of the foreign intermediary, investor protection frameworks, settlement arrangements, or other matters previously disclosed;
- iii. promptly disclose any material event that may adversely affect the safekeeping, valuation, transferability, liquidity, or recovery of the client's foreign securities; and
- iv. maintain mechanisms that ensure clients have continuous electronic access to current information regarding their holdings, transactions, applicable charges, and material risks associated with the foreign securities held on their behalf.



#### (5) Data Protection and Privacy

A Broker facilitating transactions in foreign securities shall:

- a) disclose to clients the categories of information that may be collected, processed, stored, or shared in connection with the provision of foreign securities trading services;
- b) disclose any transfer of client information to foreign brokers, custodians, service providers, or other third parties involved in the provision of such services;
- c) implement appropriate measures to protect client information from unauthorized access, disclosure, loss, or misuse;
- d) promptly notify affected clients and the Commission within 24 hours of any material data breach or cybersecurity incident affecting client information; and
- e) ensure compliance with applicable data protection and privacy laws.

#### 14. Disclosure and Risk Acknowledgment

- a) A Broker shall boldly display on the platform offering foreign securities, a Jurisdictional Risk Warning before every trade that: **“THIS SECURITY IS NOT UNDER THE SUPERVISION OF THE SECURITIES & EXCHANGE COMMISSION, NIGERIA. LEGAL RECOURSE MAY BE LIMITED TO THE LAWS OF THE JURISDICTION WHERE THE SECURITY IS LISTED/TRADED. INVESTORS ARE ADVISED TO CONDUCT DUE DILIGENCE PRIOR TO INVESTING”**.

- b) Real-time data feeds for foreign securities shall be provided for price discovery.

#### 15. Investor Rights

A Broker facilitating investments in foreign securities through a foreign broker or platform arrangement shall ensure that investors retain and can effectively exercise all applicable ownership and beneficial rights attached to such securities, including the right to:

- a) receive dividends, interest, proceeds, and all other distributions or entitlements accruing from the foreign securities in a timely manner;
- b) participate in corporate actions, including rights issues, bonus issues, mergers, takeovers, tender offers, conversions, and redemption events, or any other corporate actions;
- c) exercise proxy voting and other participation rights attached to the securities, where applicable and practicable;
- d) receive timely notification and relevant information relating to corporate actions and material events affecting the foreign securities;
- e) exercise any other ownership, economic, or beneficial right ordinarily attached to the foreign securities under the applicable foreign jurisdiction; and
- f) where investments involve fractional interests in securities, receive clear disclosure regarding the nature of such interests, including any limitations relating to legal ownership, shareholder rights, voting rights, transferability, and the manner in which such interests are held through a foreign intermediary or custody arrangement.

#### 16. Recognition of Client Interests

- a) A Broker shall maintain records identifying each investor’s beneficial interest in foreign securities held on behalf of clients.
- b) Such records shall demonstrate the relationship between:
  - i. the investor’s beneficial entitlement to the foreign securities; and



- ii. the corresponding securities held in custody through a foreign intermediary or custodian.
- c) Records maintained pursuant to this Rule shall be sufficiently detailed to enable the identification and verification of client holdings in the event of insolvency, liquidation, or operational failure of the Broker.

### **17. Treatment of Client Assets During Insolvency**

- a) In the event of insolvency, liquidation, or administration of a Broker, foreign securities held on behalf of clients shall be treated as client assets and shall not form part of the proprietary asset of the Broker.
- b) The Broker shall maintain records sufficient to enable the prompt identification and segregation of client assets from proprietary assets.
- c) Any administrator, liquidator, or receiver appointed over the affairs of a Broker shall take reasonable steps to ensure that the interests of clients in foreign securities are preserved and protected.

### **18. Transfer or Liquidation of Client Positions**

- a) Where a Broker becomes unable to continue providing cross-border securities trading services, the Commission may direct that client holdings in foreign securities be transferred to another authorized Broker.
- b) Where transfer of client positions is not feasible, the Commission may direct that such securities be liquidated and the proceeds returned to the affected investors in proportion to their beneficial interests.
- c) Any transfer or liquidation carried out pursuant to this Rule shall be conducted in a manner that protects investor interests and ensures fair treatment of affected clients.

### **19. Operational Risk Management**

A Broker shall establish robust operational controls including:

- a) monitoring performance of foreign intermediaries;
- b) risk assessment of custody arrangements;
- c) contingency plans in case of intermediary failure.

### **20. Technology and Cybersecurity**

Where cross-border trading services are provided through electronic platforms, a Broker shall implement adequate safeguards to protect client data and trading systems.

### **21. Regulatory Reporting**

A Broker shall submit quarterly reports to the Commission including:

- a) aggregate value of foreign securities held by Nigerian investors;
- b) custody locations of such securities;
- c) reconciliation statements.

### **22. Oversight**

- a) The Commission may conduct inspections, review the custody, record-keeping, and operational arrangements of any Broker providing cross-border securities trading services to ensure adequate protection of client assets.
- b) Where the Commission determines that such arrangements present material risks to investors or market integrity, the Commission may impose additional safeguards or restrictions necessary to protect investors.



### **23. Regulatory fees payable on Foreign Securities Transactions**

- a) A fee of 0.35% shall be payable on every purchase of a foreign security executed on behalf of a Nigerian investor through a Broker registered by the Commission. The fee may be amended as the Commission deems fit.
- b) The Broker shall calculate, deduct, collect, and remit the fee to the Commission and shall act as the collection agent of the Commission for that purpose.
- c) The fee shall be separately disclosed on the client's trade confirmation, contract note, account statement, and such other transaction records as may be prescribed by the Commission.
- d) The Broker shall submit monthly transaction returns and fee remittance reports to the Commission in the form and manner prescribed by the Commission, including reconciliations of transactions executed through foreign intermediaries.

### **24. Sanction**

Any Broker that fails to comply with this Rule shall be subject to sanctions which may include:

- a) suspension of authorization to provide cross-border trading services;
- b) monetary penalties;
- c) revocation of registration.
- d) Any other sanction as the Commission may impose

#### ***Justification***

*Investor demand for foreign securities continue to increase driven by globalization, technological innovation, and the desire for portfolio diversification. This, coupled with the fact that registered CMOs had been seeking approval to facilitate foreign securities trading through arrangements with foreign brokers and custodians, necessitated the development of an appropriate regulatory framework.*

*The proposed rule highlights safeguards aimed at ensuring transparency, strengthening operational controls, mitigating custody and intermediary risks, and enhancing the Commission's supervisory role over cross-border investment activities.*