



**EXPOSURE OF PROPOSED NEW RULES AND SUNDRY AMENDMENTS TO THE RULES AND REGULATIONS OF THE COMMISSION**

**New Rules**

1. Proposed Rule on Collateral Management Company
2. Proposed Rule on Crowdfunding (Re-Exposure)

**Sundry Amendments**

3. Proposed Amendment to Rule 45 (1) and (2)- Registrable Functions
4. Proposed Amendment to Rule 67- Sub-broker (Re-Exposure)
5. Proposed Amendment to Rule 70- Records of Transactions with Clients (Re-Exposure)
6. Proposed Amendment to Rule 76- Risk Management (Re-Exposure)

**Legend:**

Additions are underlined

Deletions are ~~struck through~~

**1. PROPOSED RULE ON COLLATERAL MANAGEMENT COMPANY**

**1) DEFINITION OF TERMS**

In this Rule, unless the context otherwise requires,

**"Assayer"** is an authorized entity (person/institution) that certifies and grades the commodities that are delivered in registered warehouses.

**"Collateral Management Company"** or **"CMC"** means a Company registered by the Commission to provide collateral management services;

**"Collateral Management Services"** means the activity of managing commodities as collateral, including but not limited to the following-

- I. Providing enabling arrangements for collateral commodity financing;
- II. Issuance of credible Warehouse receipts and other necessary arrangements for agricultural commodity financing;
- III. provision of quality warehousing services involving storage and preservation of commodities; and



IV. Stock audit, evaluation and verification services.

**Collateral Manager** means a company registered by the Commission to act as a third party holder of commodities, deposited by a depositor who is financed by a lending institution or for commodities to be traded on a recognized Exchange, in a warehouse owned or effectively controlled by the Collateral Management Company;

**“Commission”** means the Securities and Exchange Commission established under the Investment and Securities Act, 2007.

**“Commodity”**

- I. Means raw material or primary agricultural product that can be bought and sold such as grains, livestock and its derivative products, extractive minerals and all other goods and articles, except all services, rights and interests in which contracts for future delivery are presently or in the future dealt in; or
- II. Any product resulting from any of the above activities, including by-products of such products; and
- III. Any product which is intended to increase the production of anything referred to in I above sub-clauses or improve the quality thereof;

**“Depositor”** means a person who delivers Commodities to the Warehouse Operator for storage or transfer of ownership;

**“Electronic Warehouse Receipt”** or **“EWR”** means an acknowledgment in electronic form that is negotiable and transferable issued in favour of the holder of the receipt issued by a Collateral Management Company against deposit of specified Commodities with the Warehouse as proof of title to the Commodities held at the Warehouse;

**“Exchange”** means a Commodity Exchange duly registered by the Commission;

**“Financial Institution”** means any entity licensed by the Central Bank of Nigeria to amongst other things provide financing against securities including Warehouse Receipts”

**“Physical Warehouse Receipt”** means a temporary non-negotiable and non-transferable receipt issued by a Collateral Management Company/Warehouse Operator for a maximum period of two days to a Depositor upon depositing commodity in the Warehouse, for the purpose of acknowledging the deposit until the issuance of the Electronic Warehouse Receipt to the Depositor;



**“Standard Operating Procedure (SOP)”** means a document describing processes, actions and responsibilities relevant to the operations of a registered and accredited warehouse;

**“Warehouse”** means any premises registered by the Commission to be used for the storage of commodities deposited by a depositor;

**“Warehousing Guidelines”** means the guidelines issued by an Exchange/ Collateral Management Company, with the approval of the Commission, for compliance by all registered and accredited Warehouses in relation to storage, warehousing management and supply chain/inventory maintenance and distribution standards;

**“Warehouse Operator”** means any person responsible for managing registered Warehouses;

**“Warehouse receipts”** means a document of title issued by a Warehouse Operator as evidence that a specified commodity of stated quantity and quality has been deposited at a particular warehouse location by a named depositor. It allows the depositor to confer a security interest in the stored commodity to another party without requiring physical delivery.

**“Weight or Quantity”** in relation to a specific Commodity means such weight or quantity which is duly adjusted for the specified commodity in accordance with the approved standards.

## **2) REGISTRATION OF COLLATERAL MANAGEMENT COMPANY**

### **Conditions applicable to a CMC:**

- a) No person shall provide collateral management services unless registered by the Commission.
- b) A CMC shall not undertake any other form of business except for collateral management services and any other incidental services as determined by the Commission from time to time.

## **3) REGISTRATION REQUIREMENTS**

An application for registration as Collateral Manager shall be filed on the appropriate S.E.C Form and shall be accompanied by: -



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- a) Two sets of completed appropriate S.E.C Forms to be filed by the sponsored individuals;
- b) A copy of the Certificate of Incorporation certified by the Corporate Affairs Commission where a copy not certified is filed, the applicant shall present the original for sighting by an authorized officer of the Commission;
- c) A copy of the Memorandum and Articles of Association certified by the Corporate Affairs Commission, which shall among others, include power to act as a Collateral Manager
- d) A copy of the appropriate CAC Form containing particulars of the directors certified by the Corporate Affairs Commission;
- e) Copy of latest audited accounts or audited statement of affairs for companies in operation for less than one (1) year;
- f) Fidelity Bond representing 20% of paid-up capital;
- g) Sworn undertaking to keep proper records and render returns;
- h) Evidence of minimum paid-up capital of N50 million.
- i) Application for registration of a minimum of two sponsored individuals one of whom shall be the chief executive officer. The two principal officers of the Collateral Management Company who shall be registered as sponsored officers must have a minimum of a university degree or its equivalent with not less than ten (10) years post-qualification experience;
- j) A list of key officers and technical experts engaged and details of their qualifications, which should capture evidence of financial, technical capabilities to carry out the functions of a Collateral Manager.
- k) A list of relevant technology systems in place as required by collateral management services;
- l) Information relating to the Market Facilities including: Assaying facilities, Warehousing, Aggregation, Computerization and Telephone systems and a well finalized Business Plan;
- m) Two copies of existing or proposed by-laws or rules, Code of Conduct, Warehousing Guidelines etc.,
- n) Instruction and inspection manuals of warehouse activities;
- o) Detailed information about the promoters and principal officers of the Collateral Management Company;
- p) Two copies of Warehouse Accreditation requirements of the Collateral Management Company;
- q) Detailed information about the Technology system to be adopted;
- r) An Undertaking by the CMC to always forward copies of amendments of its Guidelines for approval by the Commission;



#### **4) MINIMUM PAID-UP CAPITAL AND FIDELITY INSURANCE BOND**

1. Evidence of required Minimum Paid-up Capital – N50, 000,000 (Fifty Million Naira).
2. Maintain a Fidelity Insurance Bond covering 20% of the minimum paid-up capital as stipulated by the Commission’s Rules and Regulations;

#### **5) MAINTENANCE OF RECORD BY A COLLATERAL MANAGER**

- (1) Every CMC is required to properly maintain the following: -
  - (a) All the records relating to the depositors’ and investors’ complaints, if any;
  - (b) Such other record as may be required by the Commission.
- (2) Every CMC shall ensure that the record referred to in (1) above is maintained and preserved in good condition for a period of at least 7 (seven years).
- (3) Every CMC shall-
  - (a) Ensure that the record is kept at such a place and maintained in such a manner that it is easily accessible; and
  - (b) Establish a record-retention-policy, which shall ensure that all relevant legal and regulatory requirements are complied with.

#### **6) DUTIES AND RESPONSIBILITIES OF A COLLATERAL MANAGEMENT COMPANY**

The Collateral Management Company shall:

1. Ensure that its Board of directors and the chief executive are appointed with prior approval of the Commission;
2. Ensure that key officers fulfill the fit and proper criteria as provided in these regulations;
3. Maintain the eligibility criteria provided by the Commission and notify the Commission immediately if it ceases to fulfill any of the conditions provided in these rules;
4. Maintain high standard of integrity and fairness in discharging its functions and its dealing with other persons with whom it has agreed in writing to render services as CMC;
5. Fulfill its obligations in a fair, efficient, transparent and ethical manner;
6. Act with due skill, care and diligence in performing all its functions and discharging all its obligations and responsibilities;



7. Upon Registration, display such license, in a conspicuous place, in the principal place of its business;
8. Establish the procedure for pledging, in favor of a financial institution, the Depositor's commodities held with the CMC/Warehouse Operator against which Electronic Warehouse Receipt has been issued;
9. Have inspection arrangements or a list of third party examiners responsible for the inspection;
10. Have a list of approved third party Assayers, who shall verify and grade the commodity stored at their accredited Warehouses;
11. Certify a Warehouse.

## **7) WAREHOUSING**

### **A. Registration of Warehouses:**

1. Every warehouse that stores commodities to be traded on a registered Exchange shall apply to be registered by the Commission.
2. The Commission shall maintain a Register of all registered warehouses which shall be published on its website.
3. A warehouse applying for registration shall:
  - i. Present evidence of construction in compliance with the National Building Code,
  - ii. Present evidence of compliance with relevant Federal and State regulation relating to the operation of warehouses,
  - iii. Have facility(ies) appropriate for storage of commodities,
  - iv. Have appropriate security arrangements in place,
  - v. Have adequate trained staff with expertise and knowledge of scientific storage of commodities,
  - vi. Have requisite equipment for weighing and quality measures,
  - vii. Have comprehensive insurance cover for the building, equipment, stock and other items as may be necessary,
  - viii. Be located in a place with access to infrastructure to support its operations and have sufficient space for parking and movement of large vehicles,
  - ix. Submit a Standard Operating Procedure (SOP) which shall cover the following among others:
    - a. Procedures for acceptance of goods to be deposited and delivery of goods;
    - b. Procedures for weighing, sampling of goods to be deposited in compliance with industry standards,
    - c. Procedure for verification of commodities and communication to depositors,
    - d. Procedure for maintaining the quality of the goods stored in line with relevant specifications,
    - e. Procedure for Know your depositor,



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- f. Security policy for ensuring the safety of the goods,
- g. Procedure for the use of modern techniques for storage of goods,
- h. Procedure for determining and addressing losses due to theft, fire, burglary, fraud, negligence and force majeure events,
- i. Procedure for internal verification of stock,
- j. Procedure for maintenance of warehouse and preservations of Stock,
- k. Organizational structure,
- l. Job description for every staff

**B. Exchange Accreditation of Collateral Management Companies/Warehouses/Assayers**

- 1. A registered Collateral Management Company, registered warehouse and Assayer shall be accredited with an Exchange in order to handle commodities linked to the Exchange.
- 2. The Exchange shall make an initial assessment at the time of accrediting a Warehouse as well as annual assessment in relation to each Warehouse accredited, and maintain a copy of the report for a minimum period of 7 years.
- 3. Exchanges shall periodically submit details of Warehouses accredited and inspections carried out to the Commission as may be prescribed.
- 4. A Collateral Management Company may be accredited by more than one Exchange.
- 5. In addition to the provisions of these Rules, the Exchanges may prescribe additional guidelines for compliance by their accredited Collateral Management Companies, warehouses and Assayers.

**C. Certification of warehouses by Collateral Management Companies**

- 1. Every registered warehouse seeking to issue Electronic Warehouse Receipts to be traded on a registered Commodity Exchange/used for collateral management purposes shall be certified by the Collateral Management Company to which it is linked subject to the following conditions:
  - a. The Warehouse Operator has submitted proof of ownership or registered-lease deed or rent agreement, along with disclaimer from owner of the Warehouse/property providing waiver of ownership regarding Produce stored in such Warehouse, in case of leased or rented Warehouse;
  - b. The Warehouse is suitable with respect to the types of Commodities being stored;



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- c. The Warehouse is equipped with all the necessary equipment and apparatus including but not limited to drying, weighing, handling, firefighting, circulation of stock, alternative power source, and insect/pest management;
  - d. The Warehouse has adequate arrangements in place for carrying out sampling, grading and testing of Commodities stored therein;
  - e. The Warehouse Operator has financial capability, and adequate trained staff with expertise and knowledge for the storage of Commodity in the Warehouse;
  - f. The Warehouse has an efficient system for loading/unloading of Commodity including proper mechanism for segregation of different kinds/quality of Commodity;
  - g. The Warehouse has adequate security arrangements and is located in a place which is accessible and is not excessively prone to natural disasters;
  - h. The Warehouse is comprehensively insured for incidents including but not limited to natural disaster, fire, and theft;
  - i. The Warehouse Operator is of a good repute, has no criminal convictions, has not defaulted on his financial obligations, is competent and has control over the operations of the Warehouse;
  - j. The Warehouse Operator has submitted an affidavit that he is responsible for ensuring maintenance of quantity, weight and quality of Commodity that is stored for the Depositor;
  - k. The Warehouse is electronically connected with the CMC, which in turn has a link to the Commodity Exchange(s);
  - l. Maintain an efficient electronic inventory management system;
  - m. Establish effective complaints management procedures; and
2. Upon certifying a Warehouse, the CMC shall inform the Commission and shall forward the copy of certification, indicating the location, capacity, types of Commodities the Warehouse is suitable for storing, and other relevant information;
  3. Maintain records and documents in respect of certified Warehouses;
  4. Issue credible Warehouse receipts against Commodity stored in the Warehouse;
  5. Make an initial assessment report at the time of certifying a Warehouse as well as annual assessment report in relation to each Warehouse certified, and maintain a copy thereof for a minimum period of 5 years;
  6. Maintain a register of certified Warehouses and publish the list on its website;
  7. Submit a monthly report to the Commission about details of Warehouses accredited and inspections carried out.

### **D. Insurance:**

A Collateral Management Company and Warehouse Operator shall ensure at all times that the value of commodities stored at registered warehouses is under insurance





cover against all potential risks relevant to the commodities for which insurance cover is available and necessary. The value of the commodities to be insured should be marked to market on replacement value on ongoing basis.

**E. Know Your Depositor:**

A Collateral Management Company and Warehouse Operator shall at all times be able to identify the depositor of the commodities deposited in registered warehouses, the owner of the deposited goods (in case the depositor is an agent of the actual owner), and the actual beneficiary (in case the depositor and the beneficiary are different) of the stored commodities.

**F.** Every depositor shall be issued a physical receipt against commodity deposited in a warehouse. The physical warehouse receipt shall be replaced within two days with an Electronic Warehouse Receipt issued by the Collateral Management Company.

**G.** The Collateral Management Company/Warehouse Operator shall not issue a warehouse receipt without actually receiving the commodity.

**H.** The Collateral Management Company/Warehouse Operator shall not issue more than one receipt for the same commodities deposited by a depositor provided that in case of a loss or destruction, a duplicate receipt may be issued in compliance with the specified process.

**8) STANDARDIZATION AND ISSUANCE OF ELECTRONIC WAREHOUSE RECEIPTS**

1. Electronic Warehouse Receipts shall only be issued by Collateral Management Companies;
2. The Collateral Management Company shall control and maintain records of Electronic Warehouse Receipts issued by it.
3. The Collateral Management Company shall prescribe particulars to be contained in the Electronic Warehouse Receipt subject to the approval of the Commission which shall include the following:
  - i. Auto-generated unique receipt number by the Electronic Warehouse Receipt System/Collateral Management System;
  - ii. Warehouse Registration number, name of the Warehouse and its complete address;



- iii. Name and address of the person by whom or on whose behalf the commodity is deposited;
  - iv. Date of issuance of the Electronic Warehouse Receipt;
  - v. Storage charges and handling charges;
  - vi. Description of the Commodity and the packages containing them (if any) with particulars of quantity and quality or grade;
  - vii. Market value of the Commodity at the time of deposit;
  - viii. Declared shelf-life of the Commodity as determined by the Assayer;
  - ix. Validity of the Electronic Warehouse Receipt which shall be for a maximum period of the declared shelf-life of the Commodity as determined by the Assayer;
  - x. Name of the insurance company, policy and policy number of the insurance cover for indemnifying the Electronic Warehouse Receipt holder for any loss that may be caused to such person by the wrongful act, negligence, natural catastrophe based on the criteria predetermined by the Collateral Management Company;
  - xi. Statement that the Commodity received shall be delivered to the holder thereof, or that the Commodity shall be delivered to the order of a named person;
4. Each Electronic Warehouse Receipt shall be assigned a serial number, and shall maintain the same serial number.
5. The Collateral Management Company shall ensure that its Electronic Warehouse Receipt System/Collateral Management System is electronically linked to its certified warehouses and the Exchange where the Electronic receipt is to be traded.
6. Tradability of Electronic Warehouse Receipt
- a. The Electronic Warehouse Receipt issued by a Collateral Management Company shall be tradable on an Exchange,
  - b. For the purpose of settlement of Electronic Warehouse Receipt, the Electronic Warehouse Receipt System of the Collateral Management Company shall be linked to the Exchange and its Depository.
7. Maintenance of Records of Electronic Warehouse Receipt
- The Collateral Management Company shall maintain the following records:
- (a) All Electronic Warehouse Receipts issued;
  - (b) Date of issuance of the Electronic Warehouse Receipts;
  - (c) Date of expiry of the Electronic Warehouse Receipts;
  - (d) The commodity for which the Electronic Warehouse Receipt has been issued;
  - (e) Quality and quantity of the commodity as specified in the Electronic Warehouse Receipt;



- (f) Any Electronic Warehouse Receipt that has been cancelled by the Collateral Management Company;
- (g) Any transaction that has been carried out on the Electronic Warehouse Receipt; and
- (h) Any other information as may be required by the Commission.

2. The Collateral Management Company shall submit a summary of all Electronic Warehouse Receipts issued, along with the total value of the relevant Commodity, on a monthly basis to the Commission.

3. The Collateral Management Company shall inform the Commission immediately of any loss, damage or destruction of any record or report in relation to the Electronic Warehouse Receipt.

#### **9. DELIVERY AND WITHDRAWAL OF COMMODITIES**

1. Delivery of Commodities shall be made after due charges are paid. The Collateral Management Company/Warehouse Operator shall deliver the Commodity to the depositor or endorsee subject to payment of all dues to the warehouse and cancellation of the Electronic Warehouse Receipt.

2. Commodities deposited in the Warehouse by the Depositor on the basis of which Electronic Warehouse Receipt has been issued by the Collateral Management Company may be withdrawn in the manner prescribed by the Collateral Management Company.

#### **10. PLEDGING AGAINST ELECTRONIC WAREHOUSE RECEIPT IN RESPECT OF COMMODITIES**

1. The Collateral Management Company shall make necessary arrangements for provision of pledging against the Electronic Warehouse Receipt, issued in respect of the Commodity, including the matters concerning the collateral management of such financing and matters connected therewith.

2. The Collateral Management Company shall provide a financial institution necessary access to the data for verification of Electronic Warehouse Receipt.

3. The Depositor of Commodities or other person holding an Electronic Warehouse Receipt may create a Pledge in favor of a financial institution, by instruction to the Collateral Management Company, against the Commodity represented in such Electronic Warehouse Receipt in the manner prescribed by the Collateral Management Company.

4. Information to be provided for the purpose of creation of Pledge on an Electronic Warehouse Receipt by the Collateral Management Company, Pledgor and the



financial institution shall be in the manner prescribed by the Collateral Management Company.

5. The Collateral Management Company shall give effect to the Pledge transaction in favor of the financial institution upon the instructions of the Depositor of the Commodity or such other person in whose favor Electronic Warehouse Receipt has been issued, in the manner prescribed by it.

6. The financial institution shall have a lien on the Commodity represented through the Electronic Warehouse Receipt and the Collateral Management Company shall not release the Commodity from the warehouse if a pledge exists on the Electronic Warehouse Receipt issued against the Commodity.

7. The financial institution, upon satisfaction, may release the Pledge as prescribed.

8. Upon release of the Pledge by the financial institution, such Commodity shall be available to the Depositor of the Commodity or other person holding the Electronic Warehouse Receipt.

## **12. Inspection**

The Commission shall conduct inspection of registered warehouses and Collateral Management Companies.

### **Justification:**

*These Rules have been developed to provide the enabling regulatory framework for the operations of Collateral Managers and to provide certainty regarding the rights, roles and responsibilities of participants.*

## **2. PROPOSED RULE ON CROWDFUNDING (RE-EXPOSURE)**

The following rules were exposed in March 2020. However, due to the inclusion of some comments received from stakeholders and further review by the Rules Committee, there is a need to re-expose the rules to reflect the new amendments for the information of the public.

### **PART 1 – GENERAL PROVISIONS**

#### **1. Definition of Terms**

~~Act~~—The Investments and Securities Act, 2007 or as amended



**AML/CFT – Anti-Money Laundering /Combatting the Financing of Terrorism**

**Associated Person** - "~~Associated person of a funding portal member~~" or "~~person associated with a funding portal member~~" means any sole proprietor, partner, officer, director or manager of a funding portal, or other natural person occupying a similar status or performing similar functions, or any natural person directly or indirectly controlling or controlled by a funding portal member, or any employee of a funding portal member;

**Blind pool:** A business plan which is solely for the purpose of merging with or acquiring an unidentified entity;

**Complex Structures:** A complex structure is an entity without immediate transparency of ownership and/or control thereby making it difficult to immediately ascertain the beneficial owners of the entity;

**Control:** For the purpose of this rule, an entity will be regarded as controlled by the Issuer Fundraiser or being under common control with the Issuer Fundraiser where the Issuer Fundraiser or the entity in control:

(a) beneficially owns more than one half of the issued share capital of the company;  
or

(b) is entitled to vote a majority of the votes that may be cast at a general meeting of the company, or has the ability to control the voting of a majority of those votes, either directly or through a controlled entity of that company;

(c) is able to appoint or to veto the appointment of a majority of the directors of the company;

(d) is a holding company, and the company is a subsidiary of that company as contemplated by the Companies and Allied Matters Act.

(e) has the ability to materially influence the policy of the company in a manner comparable to an entity who, in ordinary commercial practice, can exercise an element of control referred to in paragraphs (a) to (d).

**Cooling-off Period:** An interval during which the investor can withdraw the decision to invest.

**Crowdfunding:** The process of raising funds to finance a project or business from the public through an online platform;

**Crowdfunding Portal:** A website, platform, portal, intermediary portal, application, or other similar module that facilitates interaction between ~~issuers~~ Fundraisers and the investing public;



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**Crowdfunding Intermediary:** An intermediary organized and registered as a corporation to facilitate transactions involving the offer or sale of securities or investments through an online electronic platform;

**Digital Commodities Investment Platform:** An electronic digital platform that connects investors to specific agricultural or commodities projects for the purpose of sponsoring such projects in exchange for a return;

**Funding Round:** The round of funding period for within which a specific project, business, or venture is hosted on a crowdfunding platform to raise funds from a large number of people in exchange for shares, debt securities or other investment instruments approved by the Commission;

**High Net Worth Investor:** Shall have the same meaning as provided in the SEC Rules;

**Investment-based crowdfunding:** The process of raising funds from a ~~large number of people~~ the public through an online platform in exchange for shares, debt securities or other investment instruments approved by the Commission;

**Investment Instruments:** Ordinary shares, plain vanilla bonds or debentures, and simple investment contracts approved by the Commission for issuance through a crowdfunding portal from time to time". ~~Instruments approved by the Commission for issuance through a crowdfunding portal from time to time including shares, plain vanilla bonds or debentures, and simple contracts;~~

**Investor:** ~~refers to any person or entity that seeks to make, are making, or have made an investment in an investment vehicle with the expectation of achieving returns; means investors is as defined in the Act.~~

**Issuer Fundraiser:** ~~refers to the originator, maker or obligor, or creator of the security or investment instrument to be issued pursuant to these Rules which shall be registered with the intermediary;~~

**KYC:** Know Your Customer;

**Material Adverse Change:** Means any event, development or circumstance that has had or could reasonably be expected to have an unfavourable effect. It also includes changes in the condition (financial or otherwise), operations, business, performance, properties or assets of the Fundraiser Borrower and its Subsidiaries, taken as a whole such that it would impede them from delivering on their intended activity or commitment.



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**Minimum Threshold:** The minimum percentage of the target amount which must be raised by an Fundraiser issuer in a funding round in order to be eligible for the disbursement of the proceeds;

**MSME:** Micro, small and medium enterprises shall be as prescribed by the Small and Medium Enterprises Development Agency of Nigeria (SMEDAN) in relation to total asset ~~or~~ and annual turnover or number of employees;

**Non-Permissible Investment Instrument:** Means any investment instrument other than ~~plain vanilla bonds/debentures, ordinary shares, and simple investment contracts and other instruments as may be approved by the Commission from time to time~~ an Instruments defined under investment instrument;

**Operator:** A Crowdfunding Intermediary registered by the Commission;

**Qualified Institutional Investor:** Shall be as defined in the SEC Rules;

**Plain vanilla bonds/debentures:** Non-complex debt instruments with fixed rates and a defined maturity that involves an investor (lender) purchasing a bond at its face value, receiving periodic interest payments from the bond ~~issuer~~ Fundraiser (borrower) and receiving the full principal upon maturity;

**Predecessor:** An entity which has been ~~followed~~ or replaced by another entity whether through a merger, acquisition, or other form of corporate action;

**Public Company by Default:** A private company whose members exceed 50 as ~~defined~~ prescribed by the Companies and Allied Matters Act (CAMA) at the end of a funding round;

**Restricted Dealer:** A dealer registered by the Commission to only carry out crowdfunding activities as specified under these Rules;

**Retail Investor:** Any investor other than a High Net worth, Sophisticated Investor or Qualified Institutional Investor;

**Simple Investment Contract:** A contract or scheme for the placing of capital ~~or laying out of money~~ in a way intended to secure income or profit from its employment and includes participation in any profit-sharing agreement by virtue of which:

- The investors provide the capital;
- The promoters manage, control and/or operate the enterprise; and
- The investors share in the earnings and profits;

**Sophisticated Investor:** Shall ~~have the meaning assigned to it in the SEC Rules and Regulations~~; for the purpose of this Rule, mean any person with 3 years' experience of



actively investing in the capital market and understands the relationship between risk and return;

**Target Plan:** Means the proposed use of the funds to be raised on the portal specifying full details of the project to be funded and documentary evidence of all forms of insurance, and contract with relevant third parties including off-takers and land owners (as applicable).

**Trust Account:** ~~is as defined shall have the meaning assigned to it in the Act.~~

## 2. Applicability

~~These is Rules shall apply only to only Investment-Based Crowdfunding.~~

## 3. Eligibility

~~Only the following entities shall be eligible to raise funds through a Crowdfunding Portal operated by a registered Crowdfunding Intermediary, in exchange for the issuance of investment instruments;~~

- ~~i. ~~Only~~All MSMEs incorporated as a company in Nigeria with a minimum of two-years operating track record;~~
- ~~ii. MSMEs incorporated as a company in Nigeria with less than two years operating track record but which has a core investor or strong technical partner that possesses a minimum of 2 years' operating track record or has a core investor; shall be eligible to raise funds through a Crowdfunding Portal registered by the Commission, in exchange for the issuance of shares, debentures, or such other investment instrument as the Commission may determine from time to time.~~

## 4. Exemptions from Certain Provisions of the Act

- ~~1. An issuer Fundraiser may offer or sell securities or other investment instruments under these Rules without the need for prior registration of the securities or investment instruments pursuant to the Act, provided that:~~
  - ~~a. The issuer Fundraiser is an entity incorporated in Nigeria, and accredited and/or accepted by a Crowdfunding Portal Intermediary to utilize its portal platform;~~





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- b. The aggregate amount of ~~securities or~~ investment instruments that can be offered and sold by the ~~issuer~~ Fundraiser within a 12-month period shall comply with the following limits:
- i. The maximum amount which may be raised by a Medium enterprise shall not exceed N100Million;
  - ii. The maximum amount which may be raised by a Small enterprise shall not exceed N70Million;
  - iii. The maximum amount which may be raised by a Micro enterprise shall not exceed N50Million
2. The limits set forth above shall not apply to ~~MSMEs operating as digital~~ commodities investment platforms, or such other MSMEs as may be designated by the Commission from time to time, ~~provided that such additional requirements as may be specified in these rules are complied with.~~
3. The aggregate amount of ~~securities or~~ investments instruments sold to any investor across all ~~issuers~~ Fundraisers in investment-based crowdfunding during the 12-month period shall not exceed the following limits:
- (i) Retail investors may not invest more than 10% of their net annual income in a calendar year.
  - (ii) Sophisticated, High Net worth and Qualified Institutional Investors are not subject to the limits set forth above.
4. The issuance of ~~securities or other~~ investment instruments shall be conducted through a Crowdfunding Portal operated by a registered Crowdfunding Intermediary, operating a registered Crowdfunding Portal.
5. ~~Only plain vanilla bonds/debentures, ordinary shares and other investment instruments as may be determined by the Commission shall be issued pursuant to this exemption.~~
6. For the purpose of calculating the aggregate amount of ~~securities and~~ investment instruments offered and sold by an ~~an issuer~~ Fundraiser under this Rule, and determining whether an ~~issuer~~ Fundraiser has previously sold ~~securities or~~ investment instruments within a 12-month period, the term ~~issuer~~ Fundraiser as used in this Rule, shall include all entities controlled by or under common control with the ~~issuer~~ Fundraiser and any predecessors of the ~~issuer~~ Fundraiser.



## **PART 2 - CROWDFUNDING PORTAL REQUIREMENTS**

### **5. General Provisions**

- (a) Every portal that facilitates, operates, provides or maintains interactions between fundraisers and the investing public (crowd) in Nigeria for the purpose of any investment-based crowdfunding shall be operated only by an entity registered as a Crowdfunding Intermediary

~~Every platform that facilitates, operates, provides, or maintains interaction between issuers and the investing public (crowd) in Nigeria through a portal, for the purpose of any investment-based crowdfunding shall be registered with the Commission as a Crowdfunding Intermediary Portal;~~

- (b) ~~A person~~ entity is considered to be facilitating, operating, providing or maintaining a Crowdfunding Portal in Nigeria if:

- (i) the Crowdfunding Portal platform is operated, provided or maintained in Nigeria; or
- (ii) the Crowdfunding Portal platform is located outside Nigeria but actively targets Nigerian Investors in Nigeria; or
- (iii) the component parts of the platform when taken together are physically located in Nigeria even if any of its component parts, in isolation, is located outside Nigeria;

- (c) A Crowdfunding Portal that is located outside Nigeria will be considered as actively targeting investors in Nigeria ~~investors~~ if the operator, or the operator's representative, promotes directly or indirectly the Crowdfunding Portal platform in Nigeria;

~~A Crowdfunding Portal may be registered and operated only by an operator registered with the Commission as a Crowdfunding Intermediary;~~

~~Only entities registered with the Commission as an Exchange, Dealer, Broker, Broker/Dealer or Alternative Trading Facility as prescribed under the Act and the SEC Rules and Regulations may be registered as a Crowdfunding Intermediary;~~

~~A Dealer Only CMOs registered by the Commission as Crowdfunding Intermediaries for the purpose of crowdfunding will be considered a "Restricted Dealer" and can only carry out activities covered under this Rule;~~

- (d) ~~The requirement for registration as a restricted dealer~~ Crowdfunding Intermediary is as listed in Schedule 1 of these Rules;

- (e) These provisions do not apply to:

- (i) a technology service provider who merely provides the infrastructure, software or the system to an operator;
- (ii) an operator of a communication infrastructure that merely enables orders to be routed to an approved stock market;



- (iii) an operator of a financial portal that aggregates content and provides links to financial sites of service and information provider.

## 6. Registration Requirements

- (a) An application for registration of a Crowdfunding Intermediary Portal shall be made to the Commission in the prescribed form and in the manner specified by the Commission and shall be accompanied with:
- (i) copy of the certificate of incorporation certified by the ~~company secretary~~ Corporate Affairs Commission (CAC);
  - (ii) Memorandum and Articles of Association and amendments (if any) certified by the Corporate Affairs Commission;
  - (iii) CAC Form(s) showing Statement of Share Capital, Return of Allotment, and Particulars of Directors;
  - (iv) Latest copy of the audited accounts or a copy of the statement of affairs signed by its auditors and management accounts that are not more than thirty (30) days old as at time of filing with the Commission;
  - (v) A profile of the Company which shall include amongst other information; a brief history of the company, organizational and shareholding structure, principal officers as well as details of past and current activities;
  - (vi) The name(s) and address(es) of the company's subsidiaries/associated companies/ related entities, type of business and percentage holding;
  - (vii) Evidence of payment of shares allotted to the shareholders;
  - (viii) Operational manual of the company;
  - (ix) Business plan;
  - (x) ~~Bank statement of accounts operated by the Company for the last 6 months~~;
  - (xi) ~~2 copies of~~ Existing or proposed by-laws or rules, and such other document governing the conduct of subscribers on the platform;
  - (xii) Sworn undertaking to promptly furnish the Commission with copies of any amendments to its by-laws, rules, or codes;
  - (xiii) Information ~~relating to market facilities~~ on Crowdfunding IT System to be adopted;
  - (xiv) Detailed information about the crowdfunding system to be adopted including technical details associated with the portal's online presence;
  - ~~(xv)~~ Proposed brand name of the Crowdfunding Portal including evidence of trademark registration of the brand name of the Crowdfunding Intermediary if the brand name is different from the incorporated name (where applicable)



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- (xvi) Details of Evidence of registration of all domain names of any website through which the Crowdfunding Portal will be operated, social media handles and any other online identifiers including evidence of registration (where applicable)  
~~Information as to its organization including structure and profile of Management as well as rules and procedures;~~
- (xvii) detailed information about the promoters and principal officers of the Crowdfunding Portal Intermediary;
- (xviii) Sworn undertaking to keep such records and render such returns as may be specified by the Commission from time to time;
- (xix) An application for registration of at least three (3) principal officers of the Crowdfunding Intermediaries as sponsored individuals Portal on the prescribed Form;
- (xx) A person to be so appointed shall include the chief executive of the Crowdfunding Intermediary, and any person who is primarily responsible for the operations and financial management, by whatever name called of the Crowdfunding Portal;
- (xxi) ~~Complete postal addresses of previous employers, bankers and nominated referees of sponsored individuals;~~
- (xxii) ~~A detailed curriculum vitae of the sponsored individuals and Directors with a chronology of activities from Secondary School to date; all gaps in employment and educational history should be explained;~~
- (xxiii) ~~Copies of credentials and relevant certificates; originals will be required for sighting by the SEC;~~
- (xxiv) ~~Police clearance report for each Sponsored Individual.;~~
- (xxv) ~~Copy of a valid means of Identification of the Directors and the Sponsored Individuals of the Company;~~
- (xxvi) minimum paid-up capital requirement of N100 million;
- (xxvii) Current Fidelity Insurance Bond valued at a minimum of 20% of the paid-up capital as stipulated by the Commission's Rules and Regulations;
- (xxviii) a written ~~annual~~ declaration by the ~~operator's~~ chief executive of the Crowdfunding Intermediary, and which shall be filed annually, confirming that the Crowdfunding Intermediary has, in relation to the Crowdfunding Portal:
  - i. sufficient and capable personnel to carry out operations;
  - ii. adequate security measures, systems capacity, business continuity plan and procedures, risk management, data integrity and confidentiality, record keeping and audit trail, for daily operations and to meet emergencies; and
  - iii. sufficient IT and technical support arrangements.



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- (xxix) Any other information required by the Commission from time to time for the protection of investors.
- (b) ~~The cash assets ratio shall be a minimum of 30% liquid assets and 70% fixed and other assets. A restricted dealer shall comply with the registration requirements of a Dealer as prescribed in the SEC Rules and Regulation.~~

**7. Criteria for Registration**

- (a) The Commission may register a Crowdfunding Intermediary Portal if the Commission is satisfied that:
- (i) ~~the operator~~ Crowdfunding Intermediary will be able to operate an orderly, fair and transparent market system in relation to the ~~securities or investment instruments that are traded~~ offered through its electronic platform;
  - (ii) ~~the Crowdfunding Intermediary's operator's~~ board, chief executive, and any ~~person-officer of the Crowdfunding Intermediary~~ who is primarily responsible for the operations or financial management of the Crowdfunding Portal, are fit and proper persons who have not:
    - 1. been convicted, whether within or outside Nigeria, of an offence involving fraud or other dishonesty ~~or violence~~ or the conviction of which involved a finding that he acted fraudulently or dishonestly;
    - 2. been convicted of an offence under the Act or any other law relating to the capital market;
    - 3. been blacklisted by a professional body which he belongs to;
    - 4. been subjected to any disciplinary process or action by the Commission or other Self-Regulatory Organization in the Nigerian capital market;
    - 5. contravened any provision made by or under any written law, whether within or outside Nigeria appearing to the Commission to be enacted for protecting members of the public;
      - a. against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies; or
      - b. against financial loss due to the conduct of discharged or un-discharged bankrupts;
    - 6. engaged in any unlawful business practice;
    - 7. engaged in or has been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgment; or



8. engaged in or has been associated with any conduct that cast doubt on his ability to act in the best interest of investors, having regard to his reputation, character, financial integrity and reliability;
- (iii) the Crowdfunding Intermediary operator will be able to manage any risk associated with its business and operation;
- (iv) the Crowdfunding Intermediary operator will be able to take appropriate action against a person in breach of any rules, policies, terms and other standards of the portal including directing the person in breach to take any necessary remedial measure;
- (v) the rules of the Crowdfunding Intermediary Crowdfunding Portal make satisfactory provisions:
1. for the protection of investors and public interest;
  2. to ensure proper functioning of the market;
  3. to promote fairness and transparency;
  4. to manage any conflict of interest that may arise;
  5. to promote fair treatment of all users;
  6. to ensure proper regulation and supervision of its users, or any person utilizing or accessing its platform, including suspension and expulsion of such persons after consultation with the Commission;
  7. to provide an avenue of appeal against the decision of the operator; and;
- (vi) the Crowdfunding Intermediary operator has sufficient financial, human and other resources for the operation of the Crowdfunding Portal, as prescribed by the Commission from time to time.

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## 8. Revocation of Registration

- (a) Without prejudice to the provisions of the SEC Rules and Regulations, the Commission may revoke the registration of a Crowdfunding ~~Portal~~ Intermediary where:
- (i) the Crowdfunding Intermediary fails to meet the requirements under any relevant provisions of these rules;
  - (ii) the ~~operator~~ Crowdfunding Intermediary fails or ceases to operate or maintain the Crowdfunding Portal for a consecutive period of 6 months;
  - (iii) there is a failure to pay fees as prescribed by the Commission.

The Commission may cancel or suspend the registration of a Crowdfunding Intermediary where the intermediary contravenes any of the provisions of the Act, the rules and regulations, the code of conduct for capital market operators, is guilty



of fraud, repeated defaults, has been convicted of an offence involving moral turpitude. ~~or fails to do any of the following:~~

- ~~(i) furnish any information relating to its activities as required by the Commission or furnishes information which is false and misleading in any material particular;~~
- ~~(ii) submit periodic returns or reports as required by the Commission;~~
- ~~(iii) co-operate in any enquiry or inspection conducted by the Commission;~~
- ~~(iv) update its systems and procedures as recommended by the Commission;~~
- ~~(v) resolve the complaints of clients or to give a satisfactory reply to the Commission in this regard.~~

#### **9. Change of Structure or Cessation of Business Operations**

- (a) ~~The operator~~ Crowdfunding Intermediary shall not change the its ownership structure or discontinue the business or operations of a Crowdfunding Portal without the prior approval of the Commission.
- (b) When notifying the Commission of a proposed discontinuation of the business or operations of a Crowdfunding portal, the Crowdfunding Intermediary shall submit a contingency plan for the reasonable conclusion of any of its regarding any of its ongoing operations or processes for the consideration of the Commission;
- (c) Without prejudice to any provisions in this Rule, the Commission may issue a directive or impose any term or condition for the purposes of ensuring the orderly cessation of the business or operations of a Crowdfunding Portal.

#### **10. Action by the Commission in the event of Cessation or Suspension**

Without prejudice to the powers of the Commission pursuant to the Act, where the Commission suspends, cancels or revokes the registration of a Crowdfunding Intermediary, or where a Crowdfunding Intermediary seeks to voluntarily cease operations, the Commission shall issue directives regarding one or more of the following as may be applicable:

- i. Ongoing issuances on the platform;
- ii. Funds held with custodians on behalf of issuers Fundraisers;
- iii. Repayment to its of investors;
- iv. Interim management of the operations of the intermediary;
- v. Such other matter as the Commission considers necessary in the interest of investors.

### **PART 3 - OBLIGATIONS OF THE CROWDFUNDING INTERMEDIARY**



## 11. General Obligations

Every Crowdfunding ~~Intermediary Portal~~ shall

- (a) disclose and display prominently on its portal, ~~any relevant~~ information relating to the ~~portal platform~~ and its use including:
  - (i) ~~disclosures of the Fundraisers issuers in respect of:~~
    - a. Details of ownership, management and overall controls structure in place at the time of the offering;
    - b. Details of ~~internal~~ control measures that will guard against losses or certifications possessed by the underlying business, if any; and
    - c. Any other information relating to issuers Fundraisers hosted on the portal as required by these regulations;
  - (ii) investor education materials and appropriate risk disclosures;
  - (iii) information on how the ~~platform portal~~ facilitates the investor's investment including providing communication channels to permit discussions about offerings hosted on the portal its platform;
  - (iv) a general risk warning on participating in funding through the portal platform;
  - (v) information about complaints handling or dispute resolution and its procedures;
  - (vi) the fees, charges and other expenses that it may impose on ~~an issuer a~~ Fundraiser or investor.
  - (vii) An attestation by the crowdfunding intermediary that it has verified the legitimacy of the Fundraiser's issuer's business;
  - (viii) An attestation by the crowdfunding intermediary that the operations of the Fundraiser's issuer's business are in agreement with the disclosed objectives and will continue to be so;

~~Information on processes and contingency arrangement approved by the Commission, in the event that the Crowdfunding Intermediary ceases to continue operation of the portal~~

- (b) carry out investor education programmes;
- (c) ensure the disclosure document lodged with the portal by each ~~issuer~~ Fundraiser is verified for accuracy and made accessible to investors through the platform;
- (d) inform investors of any material adverse change to ~~an issuer's a~~ Fundraiser's proposal as set out under this rule;
- (e) Ensure ~~Issuers Fundraisers~~ issuers Fundraisers comply with the responsibilities and obligations prescribed by this rule.

## 12. Due Diligence





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- (a) ~~A Crowd Funding Intermediary Portal~~ shall carry out due diligence on prospective ~~Fundraisers issuers~~ intending to use its ~~portal platform~~;
- (b) ~~the Crowdfunding Intermediary should have a reasonable basis for believing ensure that a Fundraiser seeking to offer and sell investment instruments through the portal complies with the requirements in this regulation;~~
- (c) The scope of the due diligence by a ~~Crowdfunding Portal~~ Crowdfunding Intermediary shall include taking reasonable steps to:
  - (i) conduct background checks on the Fundraiser issuer to ensure ~~that the fit and properness of the issuer's~~ board of directors, officers and controlling shareholder(s) of the Fundraiser issuer are fit and proper and shall in particular, verify that the board, chief executive, and any officer of the Fundraiser Issuer who is primarily responsible for its operations or financial management have not:
    - a. been convicted, whether within or outside Nigeria, of an offence involving fraud or other dishonesty, or violence or the conviction of which involved a finding that he acted fraudulently or dishonestly;
    - b. been convicted of an offence under the Act or any other law relating to the capital market;
    - c. been blacklisted by a professional body which he belongs to;
    - d. contravened any provision made by or under any written law, whether within or outside Nigeria appearing to the Commission to be enacted for protecting members of the public:
      - a. against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies; or
      - b. against financial loss due to the conduct of discharged or un-discharged bankrupts;
    - e. engaged in any unlawful business practice;
    - f. engaged in or has been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgment; or
    - g. engaged in or has been associated with any conduct that cast doubt on his ability to act in the best interest of investors, having regard to his reputation, character, financial integrity and reliability;
  - (ii) verify the accuracy and viability of the business proposition of the issuer Fundraiser, the solvency of the Fundraiser issuer and if the business forecast is based on sound assumptions; and
  - (iii) comply with all relevant KYC, and AML/CFT regulations as stipulated by the Commission.

**13. Monitoring and Reporting**

A Crowdfunding Intermediary Portal shall:

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- (a) monitor the conduct of issuers Fundraisers on its portal and take action against misconduct of the issuer Fundraiser;
- (b) monitor issuers Fundraisers to ensure that the fundraising limits imposed on the issuer Fundraiser are not breached;
- ~~(c) monitor investors to ensure that the investment limits imposed on the investors are not breached and ascertain the classification of prospective investors into relevant investor categories;~~
- (d) comply with all reporting obligation as may be specified by this rule and all rules and regulations relating to market operators;
- (e) in addition to quarterly and annual CMO returns, file the following reports with the Commission, through stipulated such channels as may be stipulated from time to time:
  - I. Monthly reports specifying the following;
    - 1. Total number of issuers Fundraisers who raised funds through the portal during the reporting period;
    - 2. Total number of investors who invested through the portal platform during the reporting period;
    - 3. Number and Types of securities or investment contracts issued during the reporting period;
    - 4. Total amount raised on the portal platform during the reporting period;
    - 5. Such other information as may be required by the Commission.
  - II. Quarterly reports, specifying the following;
    - 1. Information on Issuers Fundraisers who raised funds during the reporting period;
    - 2. Total amount raised on the portal platform during the reporting period;
    - 3. Observed breaches or risk incidents during the reporting period and steps taken to address same;
    - 4. Complaints received and steps taken to resolve same during the reporting period from investors;
    - 5. Such other information as may be required by the Commission;

#### **14. Data Protection and Privacy**

A Crowdfunding Intermediary Portal shall:

- (a) establish appropriate safeguards for ensuring the integrity of the information received and published;
- (b) ensure security and confidentiality of information collected from investors;
- (c) ensure that the security of the portal is incorporated into the naming development and hosting of the website of the Crowdfunding Portal in a manner which enables the general public identify its safety prior to creating an account on the platform;



- (d) comply with the provisions of the Nigerian Data Protection Regulation and other applicable laws;
- (e) Maintain reliable and secure operating systems;
- (f) identify the sources of operational risks and adopt adequate procedures and controls to avoid operational disruptions;
- (g) develop and implement a written identity theft prevention program;
- (h) install and ensure the operation of suitable back-up facilities;
- (i) be adequately insured against portal failure or closure;
- (j) keep a copy of all relevant documents for a period of at least 7 years after the date on which the document comes into the possession of the portal;
- (k) within 5 working days of receipt of a request for information from an investor, provide a copy of, or an extract from, a document that is relevant to the investor.

#### **15. Operation of Trust Account**

- (a) Every Crowdfunding ~~Portal~~ Intermediary shall appoint a custodian registered by the Commission, who shall establish and maintain a separate trust account for each funding round on its ~~platform-portal~~.
- (b) The Crowdfunding Intermediary shall only direct the custodian to release the funds to the Fundraiser Issuer after the following conditions are met:
  - (i) the targeted amount sought to be raised or the minimum threshold has been met;
  - (ii) there is no material adverse change relating to the offer during the offer period; and
  - (iii) all applicable requirements for the registration of securities have been met
- (c) Funds invested will be maintained by the Custodian in an interest yielding trust account and will only be released to the issuer Fundraiser after specified conditions provided in these rules and regulations have been met.
- (d) The Custodian ~~A crowdfunding intermediary~~ shall take all reasonable steps and establish measures to ensure that the custodian performs all its responsibilities as required by these Rules

#### **16. Issue, Publication and acknowledgment of Warning Statements**

- (a) The Crowdfunding ~~Portal~~ Intermediary shall ensure that a warning statement is prominently displayed:
  - (i) to all visitors to the site on the home page of the portal; and
  - (ii) to every investor, on the subscription landing page for each ~~issuer~~ Fundraiser; and
  - (iii) on all application forms for investing through the portal.



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(b) The Warning Statement should among other things, warn and advise investors that;

- (i) Investing through an online portal is risky and ~~Issuers-Fundraisers~~ raising funds through the portal include new or rapidly growing ventures;
- (ii) Investment in the businesses hosted on the portal is very speculative and carries high risks;
- (iii) Investors may lose their entire investment, in the ordinary course of business, and must be in a position to bear this risk ~~without undue hardship~~;
- (iv) Past results are not indicative of future performance
- (v) It is important to ask questions, read all information given carefully, and seek independent financial advice before committing themselves;
- (vi) The investment limits of investors are being monitored by the Crowdfunding Intermediary;

(c) The Crowdfunding ~~Portal-Intermediary~~ shall ensure every investor affirms to a risk acknowledgement form by which the investor confirms:

- (i) their understanding that the proposed investment is a risky investment;
- (ii) the investor may be overpaying for the securities or investment contracts issued;
- (iii) their understanding that there may be additional classes of shares with rights that are superior to the class of shares being issued through crowdfunding;
- (iv) they are able to economically absorb the complete loss of the investment they intend to make;
- (v) the proposed investment amount falls within the prescribed investment limit for the his/her investor category;
- (vi) the investor will be subject to a lock-in period of at least one year and may be subject to a further restriction on the transfer of the securities;
- (vii) the investor may never be able to sell the securities or investment instruments,
- (viii) the investor will be provided with no disclosure or less disclosure than publicly traded companies,
- (ix) the investor will not have the benefit of protections associated with an investment made under a prospectus;
- (x) the investor will not be entitled to claim from the National investor protection fund;
- (xi) the portal will not be responsible if the investor loses all or some of the money invested.

(d) At or before the time the investor enters into an agreement to invest, the ~~issuer~~ Fundraiser must obtain a signed risk acknowledgement from the investor by which the investor confirms that hee falls within the investment limits and acknowledges the risks associated with the investment including the following:



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- (i) that the Investor is in compliance with his total annual investment limit.;
- (ii) that the investor has seen and read the warning statement about crowd funding (as provided in these Rules);
- (iii) the investor understands that investment based crowd funding is risky and that the investor may never be able to sell the securities;
- (iv) the investor may be provided with less disclosure than public companies provide;
- (v) the investor may lose his entire investment and confirms that he can bear that loss without suffering undue hardship.;

(e) The confirmation must be obtained in writing in a separate document or, if it is obtained by electronic means, through a process which ensures it is obtained signed electronically in a legally binding form, and obtained separately from the agreement to use the service.

(f) The document must be retained by the issuer Fundraiser for at least 57 years' after distribution.

**17. Compliance**

(a) *Policies and procedures.* A ~~Crowdfunding portal~~ Crowdfunding Intermediary must implement written policies and procedures relating to ~~its~~ the operations of its portal which are reasonably designed to achieve compliance with the provisions of the Act and the rules and regulations thereunder.

(b) *Inspections and examinations.* A ~~Crowdfunding portal~~ Crowdfunding Intermediary shall permit the examination and inspection of all of its business and business operations that relate to its activities, such as its premises, systems, ~~platforms~~ portal, and records by representatives of the Commission.

**18. Record Keeping**

- (a) A ~~Crowdfunding portal~~ Intermediary shall make and preserve the following records ~~in an accessible place~~:
- (i) All records relating to an investor who registers on the portal, purchases or attempts to purchase securities or investments through ~~the~~ its Crowdfunding portal;
  - (ii) All records relating to ~~issuers Fundraisers~~ who offer and sell or attempt to offer and sell securities or investments through ~~the~~ its funding portal and the control persons of such ~~issuers Fundraisers~~;
  - (iii) Records of all communications that occur on or through its ~~platforms~~ portal;
  - (iv) All records related to persons that use communication channels provided by a ~~Crowdfunding portal~~ Crowdfunding Intermediary to promote a



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~~issuer's Fundraiser's~~ securities or investments or communicate with potential investors;

(v) Records of all maintenance and internal change logs carried out on the portal;

(vi) All notices records provided by such Crowdfunding portal Crowdfunding Intermediary to issuers Fundraisers and investors through the crowdfunding portal's its platform portal or otherwise, including, but not limited to:

1. notices addressing hours of ~~funding~~ portal operations (if any),
2. ~~funding~~ portal malfunctions,
3. changes to ~~funding~~ portal procedures,
4. maintenance of hardware and software,
5. instructions pertaining to access to the Crowdfunding portal; and
6. denials of, or limitations on, access to the Crowdfunding portal;

(vii) All written agreements (or copies thereof) entered into by such ~~Crowdfunding portal~~ Crowdfunding Intermediary relating to its business as such;

(viii) All daily, monthly and quarterly summaries of transactions effected through the Crowdfunding Portal, including:

1. ~~Issuers Fundraisers~~ for which the target offering amount has been reached and funds distributed;
2. Transaction volume, expressed in number of transactions, number of securities involved in a transaction and total amounts raised by, and distributed to, ~~issuers Fundraisers~~;
3. A log reflecting the progress of each ~~issuer Fundraiser~~ who offers or sells securities through the funding portal toward meeting the target offering amount.

(b) *Organizational documents:* A ~~funding portal~~ Crowdfunding Intermediary shall make and preserve during the operation of ~~the funding its Crowdfunding portal~~ and of any successor Crowdfunding portal, all organizational documents relating to the Crowdfunding portal, ~~including but not limited to, pre incorporation agreements, Memorandum and Articles of Association, minute books.~~

(c) *Format:* The records required to be maintained and preserved pursuant to paragraph (b) of this Rule must be produced, reproduced, and maintained in a non-alterable format which ensures the integrity of the content.



(d) *Third parties:* The records required to be made and preserved pursuant to this section may be prepared or maintained by a third party on behalf of a Crowdfunding intermediary provided that:

- (i) An agreement with a third party shall not relieve a ~~funding portal~~ Crowdfunding Intermediary from the responsibility to prepare and maintain records as specified in this rule.
- (ii) A ~~Crowdfunding portal~~ Intermediary must file with the Commission a written undertaking in a form acceptable to the Commission and signed by a duly authorized person of the third party, stating in effect that;
  - 1. such records are the property of the ~~Crowdfunding portal~~ Crowdfunding Intermediary; and will be surrendered upon request by the ~~funding portal~~ Crowdfunding Intermediary.
- (iii) The undertaking shall include the following:

With respect to any books and records maintained or preserved on behalf of [name of ~~Crowdfunding portal~~ Crowdfunding Intermediary, the undersigned hereby acknowledges that the books and records are the property of [name of ~~Crowdfunding portal~~ Crowdfunding Intermediary, and hereby undertakes to permit examination of such books and records at any time, or from time to time, during business hours by representatives of the Securities and Exchange Commission and to furnish to the Commission, and its representatives, a true, correct, complete and current copy of any, all, or any part of, such books and records.

(e) *Examination of Records:* All records held by a Crowdfunding Intermediary ~~and/or Issuer~~ are subject at any time, or from time to time, to reasonable periodic, special, or other examination by the representatives of the Commission as the Commission may deem necessary or appropriate in the public interest or for the protection of investors. Every Intermediary and/or ~~Issuer~~ Fundraiser shall furnish to the Commission true, correct, complete and current copies of such records of the Intermediary and/or ~~Issuer~~ Fundraiser that are requested by the representatives of the Commission.

(f) *Preservation of Records:* The records required to be kept under this part shall be preserved for a period of at least 7 years and kept at the principal place of business of the Platform Operator. If the principal place of business is outside Nigeria, then upon request of the Commission, the operator shall provide such records as requested at a place in Nigeria within seventy-two (72) hours after receipt of the request.



(g) *Submission of Yearly Reports:* ~~The operator of a Crowdfunding Portal~~ Crowdfunding Intermediary shall, not later than 30 days after the end of each year, submit a report on all crowdfunding transactions on its crowdfunding platform. ~~The operator~~ Crowdfunding Intermediary shall file with the Commission and post on the crowdfunding portal;

- (i) a report on an annual basis along with Issuer Fundraiser disclosures
- (ii) other Issuer Fundraiser submissions certified by the principal executive officer of the Issuer Fundraiser to be true and complete in all material respects; and
- (iii) a description of the financial condition of the Issuer Fundraiser as described under "Issuer Fundraiser Requirements".

**19. Use of Manipulative, Deceptive or Other contrivances**

No Crowdfunding Intermediary ~~operator~~ or associated person of ~~an operator of a crowdfunding portal~~ Crowdfunding Intermediary shall effect any transaction in, or induce the purchase or sale of, any security or investment instrument by means of, or by aiding or abetting, any manipulative, deceptive or other fraudulent device or contrivance.

**20. Restriction on Cross Ownership**

A Crowdfunding Intermediary shall not allow ~~an issuer Fundraiser access to the to raise funds on its Portal~~ if the ~~Portal~~ Crowdfunding Intermediary or any of its officers, directors, significant shareholders or associated persons beneficially own or control more than 5% of the securities of that issuer Fundraiser.

PROVIDED THAT where the directors, significant shareholders or associated persons of the Crowdfunding Intermediary beneficially own or control more than 5% of the securities of a Fundraiser seeking to raise funds through its portal, the prior approval from of the Commission shall be sought obtained before the Fundraiser is provided granted access to the portal.

**PART 4 - PARTICIPANTS FOR CROWDFUNDING**

**21. Fundraiser Issuers**

- (a) ~~An eligible issuer shall maintain the accurate list and details of investors, post issuance, including investors from countries other than Nigeria. Such details~~





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- to include full names, address, email and the number of units and monetary value of shares, debenture or any other instruments issued.
- (b) ~~An issuer~~ A Fundraiser shall offer its investment instruments through a Crowdfunding Portal operated by a registered Crowdfunding Intermediary;
- (c) ~~All Issuers~~ All Fundraisers shall be required to file a standardized offering document with the Crowdfunding Intermediary providing amongst others:
- (i) key information on the issuer Fundraiser, including name, legal status, physical address, place of incorporation and website;
  - (ii) the use of the proceeds;
  - (iii) the nature of its existing or proposed business, its business plan, the offering amount to be raised and the duration of the offer;
  - (iv) proposed details of applicable return on investment, coupon rate or profit sharing structure as well as information on historical performance if any;
  - (v) a certification signed by the Fundraiser stating that:
    1. the offering document does not contain a misrepresentation;
    - and
    2. Investors have rights of action and withdrawal in the case of a misrepresentation
  - (vi) financial information relating to the issuer Fundraiser including:
    1. Unaudited interim reports and accounts
    2. Comprehensive schedule of the issuer's Fundraiser's current debt profile by type, purpose, tenor and maturity dates;
    3. bank reference on the issuer-Fundraiser;
    4. evidence that the issue does not exceed the limit of the Issuer's Fundraiser's borrowing powers or authorized issued share capital;
    5. particulars details of any bank overdrafts, loans, mortgages, charges, hire purchase commitments or guarantees or other material contingent liabilities of the Fundraiser and any of its subsidiaries;
    6. particulars details of the nature and extent of the interest direct or indirect, if any, of every director in any assets;
    7. A statement by the directors that in their opinion the working capital available is sufficient, or if not, how it proposes to provide the additional working capital required;
    8. details of any share options or such incentives to any person, including without limitation, directors, employees, and other officers of the issuer Fundraiser; and
    9. other information as the Commission may require from time to time.



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- (vii) Two years Audited financial statements (if any) or Audited Statement of Affairs;
- (viii) A clear outline of investors rights and ownership of investment instruments;
- (ix) details of all crowdfunding campaigns embarked on
- (d) An eligible Fundraiser shall maintain an accurate list and details of all investors post issuance, which shall include the full names, address, email and the number of units and monetary value of investment instruments and which shall specify investors from countries other than Nigeria.
- (e) The issuer shall clearly outline in the offering document, investors rights and ownership of securities or investment instruments
- (f) An issuer shall offer its securities or investments through a registered Crowdfunding Portal
- (g) All Issuers shall be required to file a standardized offering document with the Crowdfunding Intermediary providing amongst others:
  - (i) key information on the issuer, including name, legal status, physical address, place of incorporation and website;
  - (ii) the use of the proceeds;
  - (iii) the nature of its existing or proposed business, its business plan, the offering amount to be raised and the duration of the offer;
  - (iv) proposed details of applicable return on investment, coupon rate or profit sharing structure as well as information on historical performance if any;
  - (v) a certification signed by the issuer stating that:
    1. the offering document does not contain a misrepresentation;
    - and
    2. Investors have rights of action and withdrawal in the case of a misrepresentation
  - (vi) financial information relating to the issuer including:
    1. Unaudited interim reports and accounts
    2. Comprehensive schedule of the issuer's current debt profile by type, purpose, tenor and maturity dates;
    3. bank reference on the issuer;
    4. evidence that the issue does not exceed the limit of the Issuer borrowing powers or authorized share capital;
    5. particulars of any bank overdrafts, loans, mortgages, charges, hire purchase commitments or guarantees or other material contingent liabilities of the issuer and any of its subsidiaries;
    6. particulars of the nature and extent of the interest direct or indirect, if any, of every director in any assets;



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~~7. A statement by the directors that in their opinion the working capital available is sufficient, or if not, how it is proposed to provide the additional working capital required;~~

~~8. details of any share options or such incentives to any person, including without limitation, directors, employees, and other officers of the issuer; and~~

~~9. other information as the Commission may require from time to time.~~

~~(vii) —~~

~~(viii) — Two years Two years audited financial statements (if any) or Audited Statement of Affairs;~~

~~(ix) — details of all crowdfunding campaigns embarked on;~~

~~(h) A crowdfunding offering shall not remain open for more than 60 days.~~

~~(i) Where an issuer is un-able to meet the prescribed minimum threshold for the target offering amount within 60 days, the offer must be withdrawn and the issuer may only commence a new crowdfunding offering not earlier than 90 days after the said withdrawal.~~

~~(j) An issuer Fundraiser shall make an the offering document available to the investor through the portal before the investor enters into an agreement to purchase the securities or investment instrument.~~

~~(k) An issuer Fundraiser offering securities or investment instruments shall provide an investor with a contractual right to withdraw from an offer or agreement to purchase the securities or investment instrument by delivering a notice to the funding portal within up to 48 hours after before the close of the offer~~

~~(l) The offering document shall not be posted on any other website apart from those of the Crowdfunding Portal, provided however that the Fundraiser may post a notice on its website regarding the offering which directs users to the details on the Crowdfunding Portal.~~

~~(m) The issuer, through the Crowdfunding Intermediary shall deliver a copy of the offering materials to the Commission at the time they are posted on the its portal.~~

~~(n) Disclosure shall be provided about any entity or person other than the issuer Fundraiser promoting the offering.~~

## 22. Investors

- (a) Investors may be allowed to invest in companies hosted on the Crowdfunding Portal subject to the investment limit specified by the Commission from time to time.



- (b) Investors will be given a cooling off period from the time of investment -until 48 hours from the date of to the close of the offer within which they may withdraw their investment.
- (c) If there is a material adverse change prior to the closing date of the offer, affecting the project or the issuer Fundraiser, investors may rescind the investment within 7 days from the date the material adverse change became public; where the proceeds have not been transferred to the Issuer Fundraiser.
- (d) Where an investor cancels the offer or agreement to purchase securities or investment instruments, all funds which may have been debited from or blocked in the account of the investor shall be refunded or released within 48 hours of the request to cancel.

### **23. Obligations of a Crowdfunding Portal**

The Crowdfunding Intermediary Portal shall;

- (a) Comply with all rules, regulations, code of conduct, and laws governing capital market operators in Nigeria;
- (b) be knowledgeable about the general structure, features and risks of securities or investment instruments presented on its platform- portal;
- (c) conduct due diligence on issuers Fundraisers and their business plans in order to ensure that the issuers Fundraisers have genuine business ideas;
- (d) have the obligation, following a notification to the Commission, to restrict access of a Fundraiser to its portal, if it has reason to believe that the Fundraiser or any of its officers has been convicted of fraud or otherwise raises reasonable suspicions of fraudulent activity;
- (e) verify the financial condition of the issuers Fundraisers and disclose relevant information on the portal;
- (f) prescribe the minimum threshold for all offers on its portal platform which shall not be less than 50%;
- (g) maintain a list of investors registered on the its portal
- (h) maintain a list of investors that invested in each issuance and amounts invested;
- (i) take measures to reduce the risk of fraud including, but not limited to;
  - (i) having a reasonable basis for believing that an issuer Fundraiser is complying with the securities laws; and
  - (ii) obtaining background and securities enforcement regulatory history checks on the issuer Fundraiser;
- (j) review the information presented by the issuer Fundraiser on its website to ensure that the information adequately sets out the following:
  - (i) general features and structure of the investment,
  - (ii) issuer Fundraiser-specific risks,
  - (iii) parties involved and any inherent conflicts of interest, and
  - (iv) intended use of funds.



- (k) facilitate a moderated interactive forum on the portal for investors and Fundraisers which provides investors with the opportunity to comment on offers and Fundraisers subject to the following- the Crowdfunding Intermediary shall:
- (i) monitor postings to confirm that the Fundraiser is not making any statement or providing information that is inconsistent with the offering document, the rules of conduct of the portal, or these rules;
  - (ii) remove any material that may contain a statement or information that is false, deceptive, misleading or that may constitute a misrepresentation or untrue statement of a material fact;
  - (iii) ensure that Fundraisers respond to questions publicly;
  - (iv) not participate in any communications through the communication channels, apart from establishing guidelines for communication and removing abusive or potentially fraudulent communication.

#### **Part 5 - REQUIREMENTS WITH RESPECT TO TRANSACTIONS**

#### **24. General Provisions Receipt of an application by the Crowdfunding Intermediary**

- (a) Upon receipt of an application from an eligible issuer Fundraiser, a crowdfunding platform Crowdfunding Intermediary shall, prior to approving the hosting of the offer on its portal, provide information to the Commission specifying;
- (i) Promoters;
  - (ii) Directors;
  - (iii) Shareholders, specifying highlighting holders of 5% and above (directly or indirectly) of the Fundraisers' shares;
  - (iv) Area of business; and
  - (v) Such other information as the Crowdfunding Portal deems relevant or as may be required by the Commission.

#### **25. Procedure by the Commission Upon Receiving an application**

- ± The Commission may, within 2 working days of receipt of information from a Crowdfunding Intermediary, if it considers it necessary and in the interest of the capital market, require a Crowdfunding Intermediary to provide additional information or prohibit an offering on business of an eligible issuer prior to approval by the crowdfunding intermediary.



2. ~~Within 5 working days of receipt of all requested information the Commission shall direct the crowdfunding portal to prohibit or approve the offering with or without conditions and specify the terms.~~
3. Prior to directing the Crowdfunding Portal Intermediary to prohibit an offering, it shall:
  - (a) state the reasons;
  - (b) direct the Crowdfunding Portal Intermediary to give the eligible Issuer Fundraiser an opportunity to be heard;
  - (c) make a decision and communicate the decision, as the case may be, recommending the appropriate measures that the eligible Fundraiser may take in order to comply.

26. **The Offering**

- (a) A crowdfunding offering approved by a Crowdfunding Intermediary shall ~~not~~ remain open be open for no more than 60 days, provided that the period may be extended for a further period of not more than 30 days upon such conditions as may be specified by the portal;
- (b) The Crowdfunding Intermediary shall adopt an IT System which limits the acceptable amount to the target amount and reject additional subscriptions once the target amount is reached.
- (c) Where a Fundraiser is unable to meet the prescribed minimum threshold for the target offering amount within the approved period, the offer shall be withdrawn and the Fundraiser may only commence a new crowdfunding offering:
  - (i) not earlier than 30 days after the said withdrawal; and
  - (ii) upon demonstrating to the Crowdfunding Intermediary that all relevant financial and other relevant information have been updated.
- (d) In case of any material adverse change relating to an ~~issuer~~ Fundraiser during the course of an offering, the investors must be notified of such change within a period of 24 hours after becoming aware.
- (e) For an offer to be successfully completed, the minimum threshold or target amount indicated in the offering document which must be sufficient to accomplish the business objectives of the Fundraiser must have been subscribed ~~for~~ to
- (f) Funds raised would only be released to the Fundraiser if the target amount or the minimum threshold of funds to be raised is met.
- (g) Where the funding target is reached, the Crowdfunding Intermediary shall direct the custodian to make funds available to the Fundraiser within 24 hours of the end of the offer, provided that where the Fundraiser is a public company or a public company by default, the Crowdfunding Intermediary shall require



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evidence of registration of the securities with the Commission prior to directing the custodian to transfer the funds to the Fundraiser (where applicable);

- (h) Where the amount raised meets the minimum amount but falls short of the target amount, the Crowdfunding Intermediary shall direct the custodian to make the funds available to the Fundraiser upon provision of a revised plan for the proposed use of funds to the investors and the Crowdfunding Intermediary within one week of the end of the offer. Provided that the underlying project(s) to the proposed use of funds can be downscaled and executed independently without negatively impacting operations of the Fundraiser.
- (i) Where the minimum threshold is not reached at the end of an offer, the Crowdfunding Portal Intermediary shall effect a refund to all investors within 48 hours;
- (j) Investors shall have the right to withdraw any offer or agreement to purchase the investments instruments up to 48 hours before the closing date stated in the Fundraiser's offering materials. After the closing date, an investor is only able to cancel in the event of a material adverse change to the offering where the proceeds have not been transferred to the Fundraiser.
- (k) The ability to cancel shall be permissible by means of an automated system on the Crowdfunding portal or by notice to the Crowdfunding intermediary and the Fundraiser;
- (l) Where the target amount is reached prior to the expiration of a 90-day period from the date of the opening of an offer, and a withdrawal occurs which reduces the target amount, the Crowdfunding Intermediary may permit a re-opening of the offer only for the balance sum and for a period not exceeding the unexpended period of 90 days.
- (m) ~~\_\_\_\_\_ The investors will be given the option to withdraw their investment if they choose to do so within 7 days after the said notification.~~
- (n) ~~Funds invested will be maintained by the Custodian in a trust interest yielding account and will only be released to the issuer after specified conditions provided in these rules and regulations are met.~~

~~**26.**\_\_\_\_\_ A funding project shall remain live on a Crowd funding portal for not more than (60 days); provided that the period may be extended for a further period of not more than 30 days upon such conditions as may be specified by the portal;~~

~~**27.** Investors shall have the right to withdraw any offer or agreement to purchase the securities or investments instruments 48 hours after before the closing date stated in the issuer's offering materials. Thereafter After the closing date, an investor is only able to cancel in the event of a material change to the offering.~~

~~**28.** The ability to cancel shall be permissible by means of an automated system on the Crowdfunding portal or by notice to the Crowdfunding portal and the issuer;~~



- ~~29. Where the funding target is reached, the Crowdfunding portal shall make funds available to the Issuer within 24 hours of the cooling-off period provided that where the Issuer is a public company or a public company by default, the portal shall require evidence of registration of the securities with the Commission prior to transferring the funds to the Issuer (where applicable);~~
- ~~30. For an offer to be successfully completed, the minimum amount indicated in the offering document which must be sufficient to accomplish the business objectives of the issuer must have been subscribed for.~~
- ~~31. Where the amount raised meets the minimum amount but falls short of the target amount, the issuer shall provide a revised plan for the proposed use of funds to the investors and the portal. Provided that the underlying project(s) to the proposed use of funds can be downscaled and executed independently without negatively impacting operations of the issuer.~~
- 32. Lock-in period:**
- a. Investors shall not transfer their securities or investment instrument for a period of one year after allotment except if a transfer is:
- (a) to the issuer Fundraiser of the securities or investment instrument;
  - (b) to a qualified an institutional investor/High Net-worth Individual(s); or
  - (c) part of an offer for sale registered with the Commission;
- b. The Rules of the Commission on trading in securities of unlisted companies as well as the law on the restriction on transferability of the shares of a private company shall apply after the lock-in period;
- 33. Tag-along rights**
- Admission of an equity offer to a Crowdfunding portal shall be subject to the existence and confirmation of tag-along rights for retail investors. The issuer's Fundraiser's articles of association shall provide for the right of retail investors to withdraw from the company or to sell the stake, in the event that controlling shareholders transfer control of the company to third parties within three years from the conclusion of the offer.
- 34. Admission of a debt offering to a Crowdfunding Portal shall be subject to the existence of an early redemption (put) option for all investors. The offering document and/or any other agreement governing the investment, shall provide for the right of investors to request for an early redemption of their investment, in the event that the controlling shareholders transfer control of the company to third parties within three years from the conclusion of the offer.**
- ~~e. A crowdfunding portal intermediary shall take all reasonable steps and establish measures by which it is able to verify that the proceeds raised from its platform are utilized for the stated purpose to ensure that the custodian performs all its responsibilities as required by these Rules.~~





## **Part 6 – OBLIGATIONS OF THE ~~ISSUER~~ FUNDRAISER**

**35.** An ~~issuer~~ Fundraiser proposing to be hosted on a Crowdfunding Portal shall submit the relevant information to the Crowdfunding ~~Intermediary Portal~~ including the following:

- (a) information that explains the key characteristics of the company;
- (b) information on the expertise of the its Management
- (c) information that explains the purpose of the offer listing and the targeted offering amount;
- (d) Audited financial statements or audited statement of affairs of the company

**36.** Every eligible ~~issuer~~ Fundraiser seeking to raise funds through a Crowdfunding portal shall issue an offering document;

**37.** The offering document must be short, easy to read, standardized for comparability and digital friendly by utilising HyperText links to give easy access to detailed information.

### **38. General Disclosure Requirements**

- (a) The offering document shall disclose the following;
  - (i) warnings to investors
  - (ii) the name and address of the ~~issuer~~ Fundraiser, directors and officers;
  - (iii) holders of more than 5% of the ~~issuer's~~ Fundraiser's securities;
  - (iv) description of the business of the ~~issuer~~ Fundraiser;
  - (v) principal and peculiar risks facing the business of the ~~issuer~~ Fundraiser;
  - (vi) copies of resolutions of the board of the company
  - (vii) a narrative discussion of the financial condition of the ~~issuer~~ Fundraiser. The discussion should address, to the extent material;
    - 1. the ~~issuer's~~ Fundraiser's historical results of operations;
    - 2. its liquidity and capital resources;
    - 3. how the proceeds from the offering will affect the ~~issuer's~~ Fundraiser's liquidity; and
    - 4. whether these funds or any other additional funds are necessary to the viability of the ~~issuer's~~ Fundraiser's business.
  - (viii) use of proceeds;
  - (ix) target offering amount (and a deadline to reach the target offering amount);
  - (x) number and price of the securities or investment instruments being offered and the associated obligations;
  - (xi) capital structure and ownership of the ~~issuer~~ Fundraiser;
  - (xii) risk factors;
  - (xiii) information about an investor's right to cancel his/her investment;
  - (xiv) related party transactions



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- (xv) exit options for investors (which shall be in accordance with the provisions of these rules, the rules and regulations of the Commission, and applicable companies law).

**39. Risk Disclosure**

- (a) The offering document shall state all risks associated with the investment without mitigants. This should include:
  - (i) Liquidity of the securities;
  - (ii) the absence of a secondary market;
  - (iii) restrictions on the ability of an investor to cancel the investment;
  - (iv) the risk of not getting expected performance on the securities purchased;
  - (v) risk of not being able to influence management of the issuer Fundraiser, including minority shareholding disadvantages for corporate action, and the collective action problem;
  - (vi) dilution risk; and
  - (vii) ~~inability to obtain a~~ there is no guarantee of return on the investment.

**40. Ongoing disclosure requirements**

- (a) Every Issuer Fundraiser with a successful Funding Round on a Crowdfunding Portal shall comply with the following continuous disclosure requirements:
  - (i) prompt notification to the portal Crowdfunding Intermediary and to the investors in the event of changes and prescribed documentation as contained in this regulation;
  - (ii) deliver annual audited financial statements to the Crowdfunding Portal Intermediary and make them available to each investor on its website;
  - (iii) the financial statements must be accompanied by a notice of the issuer Fundraiser disclosing in reasonable detail the actual use of the gross proceeds of the offer;
  - (iv) make available on its website, the Crowdfunding Portal and by email to each of its investors, within 24 hours of their occurrence a notice of each of the following events within 24 hours of their occurrence:
    - 1. a discontinuation of the issuer's Fundraiser's business,
    - 2. a change in the issuer's Fundraiser's industry business, or
    - 3. a change of control of the issuer Fundraiser.
- (b) Issuers Fundraisers under this regime are required to provide ongoing disclosure on the issues specified above until the earliest of the following dates:
  - (i) the issuer Fundraiser becomes a reporting issuer Fundraiser (listed on a recognized exchange),
  - (ii) the issuer Fundraiser has completed a winding up or dissolution,
  - (iii) the Fundraiser has redeemed its debt securities



**41. Access to offering and ongoing disclosure documents**

All ongoing disclosure documents must be provided to investors through ~~the website of~~ the Crowdfunding portal, the website of the ~~Issuer Fundraiser~~ and such other reasonable means as may be determined by the Commission from time to time;

**42. Marketing and Communication**

- a. a Crowdfunding Intermediary is not prohibited from advertising the existence of its platform provided that such advertisement is restricted to general information about the platform and its business model, and does not include any information on specific offers.
- b. Crowdfunding Intermediaries should ensure that all marketing communications to investors by ~~Issuers Fundraisers~~ are clearly identifiable as such.
- c. The Crowdfunding Intermediary shall approve all marketing materials and ensure that marketing materials by ~~Issuers Fundraisers~~ comply with the general rules of the Commission on advertisements.

**PART 7 – RESTRICTIONS**

**43. Prohibited Activities**

- (a) The Crowdfunding Intermediary is prohibited from:
  - (i) providing any financial assistance to investors for the purpose of investing in an offer hosted on its ~~platform portal~~; or for which it has provided a service; and
  - (ii) compensating any finder or introducer for providing the Crowdfunding Intermediary with information about potential investors.
- (b) ~~Crowdfunding Portals Intermediaries~~ and or their managers and officers of their portals are prohibited from soliciting investments or making recommendations;
- (a) No Crowdfunding ~~portal-Intermediary~~ shall ~~act as intermediary intermediate or facilitator of facilitate~~ secondary trades between buyers and sellers for securities or investment instruments issued pursuant to these rules.
- (c) A Crowdfunding Intermediary is prohibited from utilizing any, website, social media platforms, or third-party platforms other than the registered website of the Crowdfunding Portal for the purpose of facilitating a crowdfunding offering.

**44. ~~Issuer Fundraisers~~ Prohibitions/Restrictions**

- (a) ~~An issuer Fundraiser~~ shall not directly or indirectly pay a commission, finders' fee, referral fees or similar payment to any person in connection with an offering other than to the Crowdfunding ~~Portal~~ Intermediary.



- (b) This restriction does not apply to payments to persons as compensation for their services to an issuer a Fundraiser in preparing materials in connection with the offering such as accounting or legal fees.
- (c) ~~A Crowdfunding Portal, its respective directors and executive officers shall not lend or finance or arrange lending or finance for an investor to purchase investment instruments under a crowdfunding offer.~~
- (d) The ~~issuer~~ Fundraiser shall not offer “non-permissible investment instruments”
- (e) An ~~issuer~~ Fundraiser shall not host an offer concurrently on multiple Crowdfunding Portals;

#### **45. Non-permitted ~~Issuers~~ Fundraisers**

The following entities are prohibited from raising funds through a Crowdfunding Portal:

- (a) complex structures;
- (b) public listed companies and their subsidiaries;
- (c) companies with no specific business plan or a blind pool;
- (d) companies that propose to use the funds raised to provide loans or invest in other entities;
- (e) such other entity as may be specified by the Commission.

#### **PART 8 –**

#### **ADDITIONAL REQUIREMENTS FOR ~~DIGITAL~~ COMMODITIES INVESTMENT PLATFORMS**

- 46.** Without prejudice to the generality of the foregoing, a crowdfunding intermediary may operate a ~~digital~~ commodities investment platform subject to compliance with the following additional requirements:
- a) Eligibility: in addition to the eligibility requirements specified in these rules, the Crowdfunding Intermediary shall not be registered as a fund manager with the Commission;
  - b) Portal Requirements: The Crowdfunding Intermediary shall not facilitate on its platform any other crowdfunding business other than sourcing funds for investments in agriculture or other commodities;
    - i. The platform operated by the Crowdfunding Intermediary for investments in agricultural or commodities projects shall not be utilised for any other funding or marketing purpose;
    - ii. A crowdfunding intermediary registered to operate a ~~Digital~~ Commodities Investments Platform shall not host a different crowdfunding portal where funds would be sourced for non- agricultural or commodities projects



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- c) Registration Requirements: The cash assets ratio requirement for a Crowdfunding Intermediary operating a Digital Commodities Investment Platform shall, without prejudice to the other registration requirements specified in these rules, be a minimum of 60% liquid assets and 40% fixed and other assets;
- d) Project Hosting: The Crowdfunding Intermediary shall be eligible to host commodities investment projects on its Digital Commodities Investments Platform subject to compliance with the following:
  - i. Ensure that proper due diligence is carried out on all projects and project executors or beneficiaries;
  - ii. Provide investors with the following information which shall be displayed prominently to investors prior to making an investment;
    - 1. a Target Plan as defined in these rules;
    - 2. location of the proposed project (s) which shall specify the city, town and local government area of the relevant state where the project will be located;
    - 3. A disclosure document which complies with the requirements of Rule 38 as applicable and in addition specifies:
      - a. total size of land, quantity of livestock or other measurable feature and total amount required to fund the hectare with appropriate breakdowns;
      - b. the kind of title held to the project site specifying whether host owned, executor owned or leased;
      - c. information on the commitments reached with the project executors/beneficiaries;
      - d. general information regarding the commodity which shall include the specie (s) to be cultivated, life cycle/time to harvest, risk factors which shall include common pests/diseases and other risks associated with cultivation or rearing, storage facilities, average returns on cost of production and secured off-takers; where applicable
      - e. information on the custodian of the funds to be raised;
      - f. detailed information on expected profits from the project and the percentages to be allocated to the executors/beneficiaries, crowdfunding intermediary and investors;
      - g. a link to the Terms and conditions of sponsorship for each project;
- e) Additional Obligations: The Crowdfunding Intermediary shall:

Deleted: ;



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- i. Ensure that adequate records on project owners/executors including identification, project location, membership of relevant association, guarantors and other relevant details are maintained and disclosed;
  - ii. comply with the requirements for appointment of a custodian under these rules provided that where the Crowdfunding Intermediary is also the host of the commodities investment project on its platform, the Custodian shall only release funds to the intermediary, where the target amount has been raised and in such amounts per time as may be required for each stage of the production plan specified in the disclosure document to investors;
  - iii. file appropriate returns to the Commission as indicated in these rules, including information on compliance with the additional requirements specific to its operations;
  - iv. where insurance is listed as a feature of an agriculture or other in commodities project, the Crowdfunding Intermediary shall ensure that the insurance coverage is specific to each agricultural or commodities project and shall disclose the following:
    - 1) Name of the insurance company
    - 2) Amount of insurance coverage
    - 3) Other details of the insurance coverage
    - 4) Copy of the insurance policy
- f) Inspections
- i. The operator of the DCIP shall provide investors or their appointed agents with adequate access to inspect sponsored projects within the project cycle;
  - ii. Inspections shall be organised at least once in each quarter of the life cycle of the project;
  - iii. Investors shall be given notice of at least 7 days of a proposed joint site visit with other sponsors investors.
  - iv. Requests for individual site visits by investors or their appointed representatives shall be honoured within 7 days of such requests subject, to the cost being borne by the investors;
- g) Funding Limit: The maximum amount which may be raised on a Digital Commodities Investment Platform within a 12-month period shall not exceed N1,000,000,000.00 (One Billion Naira) provided that the Commission may, on application and proper verification, grant approval to exceed the specified amount.

A digital commodities investment platform shall:



- ~~h) Be permitted to provide crowdfunding portal services as prescribed in these Rules / Source funds from the crowd on its platform only for the purpose of its commodities investments;~~
- ~~i) The Commodities investments~~
- ~~j) If in operation prior to the commencement of these rules, apply for the Commission's "No Objection" to continue to operate as a digital commodities investment platform~~
- ~~k) Not be registered as fund manager~~
- ~~l) Only host commodities investment projects on crowdfunding platforms other than a platform which it controls whether directly or indirectly~~
- ~~m) Submit a target plan to its host Crowdfunding portal for verification and inspection~~
- ~~n) Ensure that due diligence is carried out on projects and project owners~~
- ~~o) Ensure that adequate records on project owners including identification, project location, membership of relevant association, guarantors and other relevant details are maintained~~
- ~~p) Provide an investor or his appointed agent with adequate access to inspect projects to which they have provided sponsorship any time within the project cycle.~~
- ~~q) Be permitted to raise the sum of N1,000,000,000 (One Billion Naira) per year. Provided that the Commission may give approval to raise a sum in excess of N1,000,000,000 in a year.~~

## **PART 9 - MISCELLANEOUS**

### **47. ~~Procedure by the Commission Upon Receiving an application~~**

- ~~1. An Organization or Association may approach the Commission, for the purpose of supervising registered Crowdfunding Intermediaries, to register an independent Industry Association as a Self-Regulatory Organization or Trade Association.~~
- ~~2. An application for registration or recognition as the industry association for Crowdfunding Intermediaries shall be made in such form and accompanied by such documents as the Commission may prescribe from time to time, provided however that there can be no life trustees for the association;~~
- ~~3. Upon receipt and consideration of an application for registration as an industry association for Crowdfunding Intermediaries, the Commission shall issue a notice in two daily newspapers and on the website of the Commission, requesting objections, if any, to the registration of the body and the grounds on which such objections are made;~~



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4. ~~The Industry Association shall be subject to all rules, regulations and guidelines applicable to Self-Regulatory Organisations or Trade Associations as may be applicable.~~
5. ~~The Commission may, if it considers it necessary and in the interest of the capital market, require an eligible issuer a Crowdfunding Intermediary to provide certain additional information on the business of an eligible issuer prior to approval by the ing a crowdfunding intermediary offering.~~
6. ~~Upon receipt and review of all the information submitted, the Commission may shall within 5 working days of receipt of the information, direct the crowdfunding portal to prohibit or approve the offering with or without conditions and specify the terms.~~
7. ~~Prior to directing the Crowdfunding Portal to prohibit an offering, it shall:~~
  - ~~(a) state the reasons;~~
  - ~~(b) direct the Crowdfunding Portal to give the eligible issuer an opportunity to be heard;~~
  - ~~(c) make a decision and communicate the decision, as the case may be, recommending the appropriate measures that the eligible issuer may take in order to comply.~~

**PART 10- PENALTY**

48. ~~Any crowdfunding portal or crowdfunding intermediary that fails to comply with these rules shall be liable to a fine of not less than N100,000.00 (One Million Hundred Thousand Naira Only) and the sum of N5,00.00 ~~ten~~ (Five Thousand Naira Only) for every day the violation continues and shall in addition be liable for any loss of investor funds arising due to the Crowdfunding Intermediary's failure to comply with its obligations under these rules.~~

**PART 11- TRANSITIONAL PROVISION**

49. Every person/entity operating a crowdfunding portal/digital commodities investment platform prior to the commencement of these rules shall restructure its operations in compliance with these rules and apply for registration no later than 90 days from the effective date of these rules.

**Schedule 1**

**~~Requirements for Registration as Restricted Dealer~~**

**Forms Required for Registration Forms**

1. Duly Executed Form SEC 3 – For the Company
2. Form SEC 2 and 2D – Sponsored Individuals/Compliance Officer
3. Form SEC 2 and 2D – Directors of the Company





### **Registration Fees**

1. Evidence of Payment of **Filing/Application Fee** – N50,000 (Fifty Thousand Naira);
2. Evidence of Payment of **Processing Fee** – N200,000 (Two Hundred Thousand Naira);
3. Evidence of Payment of **Registration Fee** – N500,000 (Five Hundred Thousand Naira);
4. Evidence of Payment of **Sponsored Individual Fee** – N50,000 (Fifty Thousand Naira) for each sponsored individual.

### **Minimum Paid-Up Capital and Fidelity Insurance Bond**

1. Evidence of Required Minimum Paid up Capital – N100,000,000 (One Hundred Million Naira) for operating a crowd-funding portal
2. Current Fidelity Insurance Bond valued at a minimum of 20% of the paid up capital as stipulated by the Commission's Rules and Regulations.

### **Sponsored Individuals and Directors**

1. A minimum of three sponsored individuals, one of whom shall be a compliance officer;
2. The Managing Director of the Company shall be registered as a sponsored individual;
3. Complete postal addresses of previous employers, bankers and nominated referees of sponsored individuals;
4. A detailed curriculum vitae of the sponsored individuals and Directors with a chronology of activities from Secondary School to date; all gaps in employment and educational history should be explained.
5. Copies of credentials and relevant certificates; originals will be required for sighting by the SEC;
6. Police clearance report for each Sponsored Individual.;
7. Copy of a valid means of Identification of the Directors and the Sponsored Individuals of the Company.

### **Applicant Company**

1. A profile of the Company shall include amongst other information; a brief history of the company, organizational and shareholding structure, principal officers as well as details of past and current activities;
2. The name(s) and address(es) of the company's subsidiaries/associated companies/ related entities, type of business and percentage holding;
3. Evidence of payment of shares allotted to the shareholders;
4. Operational manual of the company;
5. Business plan;
6. Bank statement of accounts operated by the Company for the last 6 months.

### **Corporate Documents**



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A copy of the following, duly certified by the CAC;

1. Certificate of Incorporation;
2. Memorandum and Articles of Association — this shall include the power to perform the specified function;
3. CAC Form(s) showing Statement of Share Capital, Return of Allotment, and Particulars of Directors;
4. Latest audited accounts or audited statement of affairs of the company;
5. The cash assets ratio shall be a minimum of 30% liquid assets and 70% fixed and other assets.

## **Schedule 2**

### **Transaction Fees**

1. The total fees payable to parties to a crowdfunding issue shall not exceed 5% of the total funds raised.
2. Fees payable by the Crowdfunding Intermediary to the Commission shall be 5% of the annual turnover of the Crowdfunding Intermediary.

### **Justification:**

*In a bid to foster economic development and deepen the market, a proposed rule has been developed to provide a regulatory framework permitting private companies with the required structure and mechanism in place to raise capital from the public through Crowdfunding.*

## **3. PROPOSED AMENDMENT TO RULE 45 (1) & (2): REGISTRABLE FUNCTIONS**

### **Full Text of Existing Rule:**

- (1) The following are capital market operators:
  - a. issuing houses/merchant bankers;
  - b. underwriters;
  - c. broker/dealers;
  - d. sub-brokers;
  - e. receiving bankers;
  - f. registrars;
  - g. trustees;
  - h. investment advisers (corporate and individuals);
  - i. fund/portfolio managers;
  - j. rating agencies;
  - k. market makers
  - l. custodian
  - m. nominee



n. any other function the Commission may determine from time to time.

(2) Only corporate bodies are qualified to file applications for the following functions:

- a. Broker/Dealer;
- b. Underwriter;
- c. Issuing House;
- d. Registrar
- e. Trustee;
- f. Fund/Portfolio Manager;
- g. Rating Agency
- h. Market Makers
- i. Receiving Bankers

Provided that where an existing entity intends to perform the functions of a registrar, it shall incorporate a separate body for that purpose.

**Proposed Amendment to Rule 45 (1):**

**Creation of new items "n" and "o" under Rule 45 to read as follows:**

(1) The following are Capital Market Operators:

- a. Issuing Houses/Merchant Bankers;
- b. Underwriters;
- c. Broker/Dealers;
- d. Sub-brokers;
- e. Receiving Bankers;
- f. Registrars;
- g. Trustees;
- h. Investment Advisers (corporate and individuals);
- i. Fund/Portfolio Managers;
- j. Rating agencies;
- k. Market Makers
- l. Custodians
- m. Nominees
- n. Crowdfunding Intermediaries
- o. Central Counterparty Clearing Members
- p. Any other function the Commission may determine from time to time.

**Proposed Amendment to Rule 45 (2):**

**Creation of new items "j", "k" and "l" under Rule 45 to read as follows:**



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(2) Only corporate bodies are qualified to file applications for the following functions:

- a. Broker/Dealer;
- b. Underwriter;
- c. Issuing House;
- d. Registrar
- e. Trustee;
- f. Fund/Portfolio Manager;
- g. Rating Agency
- h. Market Maker
- i. Receiving Banker
- j. Nominee
- k. Crowdfunding Intermediary
- l. Central Counterparty Clearing Member

Provided that where an existing entity intends to perform the functions of a registrar, it shall incorporate a separate body for that purpose.

**Justification:**

*To provide for the new registrable functions and the laid down registration and regulation requirements.*

**4. PROPOSED AMENDMENT TO RULE 67- SUB- BROKER (RE-EXPOSURE)**

**Full Text of the Existing Rule**

**Registration requirements**

**Corporate Sub-Broker**

An application for registration as sub-broker shall be filed on Form SEC 2C as contained in schedule III to these rules and regulations and accompanied by-

- a) Form SEC 2 and 2D to be filed by the sponsored individual; (to be completed in duplicates) Form SEC 2 and 2D - Directors of the company (To be completed in duplicates);
- b) A copy of the certificate of incorporation certified by the Corporate Affairs Commission (CAC). Where a copy not certified is filed, the applicant shall present the original copy for sighting by an authorized officer of the Commission;
- c) a copy of the memorandum and articles of association certified by the Corporate Affairs Commission which among others shall include powers to act as a sub-broker;



- d) copy of Return on allotment and particulars of Directors (Forms CO2 and CO7) certified by the Corporate Affairs Commission;
- e) copy of latest audited accounts or audited statement of affairs for companies in operation for less than one year;
- f) profile of the company covering among others brief history of the company, organizational structure, shareholding structure, principal officers, etc;
- g) Fidelity bond representing 20% of paid-up capital;
- h) sworn undertaking to keep proper records;
- i) a copy of the agreement signed between the sponsoring broker/dealer firm and sub-broker;
- j) evidence of minimum paid-up capital of N10 million;
- k) letter of recommendation and undertaking signed by the sponsoring Broker/Dealer on behalf of the Sub-Broker
- l) Evidence of compliance with rule 20(4);
- m) operational manual and organizational chart;
- n) Any other information or document that may be required by the Commission from time to time.

**Proposed Amendment- (Creation of new sub-section 3)**

**Registration requirements**

**1. Corporate Sub-Broker**

An application for registration as sub-broker shall be filed on Form SEC 2C as contained in schedule III to these rules and regulations and accompanied by-

- a) Form SEC 2 and 2D to be filed by the sponsored individual; (to be completed in duplicates) Form SEC 2 and 2D - Directors of the company (To be completed in duplicates);
- b) A copy of the certificate of incorporation certified by the Corporate Affairs Commission (CAC). Where a copy not certified is filed, the applicant shall present the original copy for sighting by an authorized officer of the Commission;
- c) a copy of the memorandum and articles of association certified by the Corporate Affairs Commission which among others shall include powers to act as a sub-broker;
- d) copy of Return on allotment and particulars of Directors (Forms CO2 and CO7) certified by the Corporate Affairs Commission;
- e) copy of latest audited accounts or audited statement of affairs for companies in operation for less than one year;
- f) profile of the company covering among others brief history of the company, organizational structure, shareholding structure, principal officers, etc;
- g) Fidelity bond representing 20% of paid-up capital;
- h) sworn undertaking to keep proper records;



- i) a copy of the agreement signed between the sponsoring broker/dealer firm and sub-broker;
- j) evidence of minimum paid-up capital of N10 million;
- k) letter of recommendation and undertaking signed by the sponsoring Broker/Dealer on behalf of the Sub-Broker
- l) Evidence of compliance with rule 20(4);
- m) operational manual and organizational chart;
- n) Any other information or document that may be required by the Commission from time to time.

(2) Individual Sub-Broker

a) An Application for registration as an individual sub-broker shall be filed on Form SEC 2 as provided in Schedule III of these rules and regulations and shall be accompanied by the following:

- (i) Certified copy of certificate of registration of business name (where applicable);
- (ii) Evidence of minimum net worth of N500,000;
- (iii) Sworn undertaking to comply with the provisions of the Act and the rules and regulations as may be required from time to time by the Commission;
- (iv) Evidence of compliance with Rule 20(4);
- (v) Sworn undertaking to keep proper records and render returns.

b) Rule 83(3) and (4) shall, with all necessary modifications, apply in case of denial or suspension of registration of a sub-broker.

**Proposed Amendment: Creation of a new sub-section (3) as follows-**

**(3) Sub-Broker/Sub-Broker Serving Multiple Brokers Through a Digital Platform**

An application for registration as Sub-Broker/Sub-Broker Serving Multiple Brokers through a Digital Platform shall comply with the following: -

**Payment**

- a. Evidence of Payment of Filing/Application Fee – N50,000 (Fifty Thousand Naira);
- b. Evidence of Payment of Processing Fee – N200,000 (Two Hundred Thousand Naira);
- c. Evidence of Payment of Registration Fee – N200,000 (Two Hundred Thousand Naira);
- d. Evidence of Payment of Sponsored Individual Fee – N50,000 (Fifty Thousand Naira) for each sponsored individual;

**Forms**

- e. Duly Executed Form SEC 2C – For the Company



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- f. Form SEC 2 and 2D – Sponsored Individuals/Compliance Officer (To be completed in duplicates); (Note that every applicant is to have at least three sponsored individuals, one of whom should be a Compliance Officer who shall be responsible for monitoring compliance with the ISA 2007, Rules and Regulations, notifications, guidelines, instructions etc. issued by the Commission or the Federal Government)
- g. Form SEC 2 and 2D – Directors of the Company (To be completed in duplicates)

**Minimum Paid-Up Capital and Fidelity Insurance Bond**

- h. Evidence of Required Minimum Paid up Capital – N10,000,000 (Ten Million Naira) (i.e. Bank balances, Fixed asset or Investment in quoted Securities);
- i. Current Fidelity Insurance Bond covering at least 20% of the minimum paid-up capital as stipulated by the Commission’s Rules and Regulations;

**Sponsored Individuals and Directors**

- j. Minimum of three sponsored Individuals;
- k. Managing Director of the Company to be among the sponsored individuals;
- l. Full postal addresses of immediate previous employers, bankers (with Current Account number) and nominated referees of sponsored individuals;
- m. Evidence of compliance with Rule 20 (4) of the Commission’s Rules and Regulations;
- n. Detailed curriculum vitae of sponsored individuals and Directors which should include details of activities arranged from Secondary School to date with dates; (all gaps in employment and educational history should be explained);
- o. Copies of credentials of sponsored individuals to be made available for sighting by the SEC;
- p. Evidence from the Sponsored Individuals of having the minimum post-graduation experience to perform the function as stipulated by the Commission`s Rules and Regulations;
- q. Police clearance report for each Sponsored Individual. Each Sponsored Individual is to report at the SEC head office in Abuja or the Lagos zonal office with two recent passport photographs to commence the process;
- r. Copy of means Identification of the Directors and the Sponsored Individuals of the Company (current International Passport, National Identity Card, current driver’s licence issued by Federal Road Safety (FRSC), Inland Revenue Tax Clearance Certificate or recent utility payment documents voters card and BVN);

**Applicant Company**

- s. Profile of the Company to include among others, brief history of the company, organizational and shareholding structure, principal officers as well as details of past and current activities;
- t. The name(s) and address (es) of the company’s subsidiaries/associated companies, type of business and percentage holding;
- u. Evidence of payment of shares allotted to the shareholders;
- v. A copy of the agreement signed between the sponsoring broker/dealer firm and sub-broker;
- w. Sworn statement of guarantee from the sponsoring Broker/Dealer;



- x. Securities owned by such broker or dealer or in which the broker or dealer has an interest shall be listed in a separate schedule and valued at the current market price;
- y. Operational manual or organizational chart of the company
- z. Business plan;
- aa. Bank statement of accounts operated by the Company for the last 6 months;

**Corporate Documents**

- bb. A copy each of the following, duly certified by the CAC;
  - I. Certificate of Incorporation;
  - II. Memorandum and Articles of Association – this should include the power to perform the specified function;
  - III. CAC Form(s) showing Statement of Share Capital, Return of Allotment, and Particulars of Directors;

Note: the original copy of the certificate is to be presented for sighting by an authorized officer of the SEC;

- cc. Latest audited accounts or audited statement of affairs of the company. Note that the cash assets ratio shall be 60% liquid assets and 40% fixed and other assets;
- dd. Sworn undertaking to keep proper records and render returns;
- ee. Sworn undertaking to abide by SEC Rules and Regulations and Investments and Securities Act No.29 of 2007 by a director or the company secretary (to be notarized);
- ff. The Commission may require such other documents as it considers necessary for registration;
- gg. An application for registration will only be considered as having been filed when all document (s)/information have been completed;
- hh. Every applicant Company/Firm will be inspected in the course of processing an application for registration;
- ii. A fair knowledge of the Rules and Regulations of the Commission and Investments & Securities Act No 29 of 2007 and the Capital Market is an essential prerequisite for registration.

**Sub-Broker Serving Multiple Brokers Through a Digital Platform**

This is a sub-broker who utilizes a digital platform to serve clients and interact with the sponsoring broker. This sub-broker has an agreement with multiple brokers.

In addition to existing requirements in Rule 67, Sub-broker shall submit the following:

- jj. Copy of "multiple principal agreement" with every sponsoring broker.
- kk. Description of the Technology on which it's infrastructure is built:
  - I. Structure
  - II. Capability/limitation
  - III. Security
  - IV. back-up & recovery process





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- ll. Certification that the Infrastructure is sufficient to perform the required function by an IT Service Provider registered by NITDA or other recognized Agency, and endorsed by a representative of the Association of Securities Exchanges
- mm. Evidence of documented policies and procedures for managing technology risks.
- nn. Electronic Communication channel, through which all communications with clients would be made.
- oo. Method of establishing the suitability of potential clients to utilize its infrastructure for transactions.
- pp. Notice to potential client of the features, risks, responsibilities, obligations and liabilities associated with the use of its infrastructure.
- qq. Before execution of an order, proof that the Client is fully aware of and understands the risks associated with service being offered.
- rr. Confirmation that it would not delegate its functions to another sub-broker without the written permission of the Commission
- ss. Adequate KYC requirements
- tt. Binding Legal Agreement with Potential clients taking into consideration the following amongst others:
  - i. the respective rights and liabilities of the parties
  - ii. Provisions relating to the security (physical and IT security) of the infrastructure (user identity, passwords, authentication codes, etc.), to avoid unauthorized system access;
  - iii. Limits that are expressed as a notional amount for each Customer above which the orders cannot be placed
  - iv. Warranties, indemnities, charges and Customer/product specific conventions;
  - v. Conditions (such as for entering orders, error trade policies, etc.) and restrictions such as the right to suspend the service, to reject or cancel orders, etc.
  - vi. A requirement to have knowledge of trading rules and applicable laws and regulations; and
  - vii. A requirement that the Customer of his/her personnel who manage the process are authorized, qualified and competent.

**Justification:**

*These additional requirements further assess the fitness and propriety of the modified function by providing fuller information on how it works, available disclosures, protection of clients and consent of parties. It also addresses sufficiency of its KYC and on-boarding method, availability of complete information to enable clients make informed decisions & the extent of liability of the operator.*



**5. PROPOSED AMENDMENT TO RULE 70 – RECORDS OF TRANSACTIONS WITH CLIENTS (RE-EXPOSURE)**

**Full Text of the Existing Rule**

A sub-broker shall maintain proper and adequate records of transactions for and on behalf of each client. Such records shall include among others: -

- a) Duly executed mandate form;
- b) Deposit receipt for purchase of shares;
- c) Script receipt for certificate deposit;
- d) Client's statement from any recognized and registered depository.

**Proposed Amendments-Creation of additional sub-clauses as follows:**

- e) Proof of execution of trade on behalf of a client;
- f) Money Transfer receipt confirmation;
- g) All communications with the client through the dedicated communication channel;
- h) All transactions carried out on its platform;
- i) All parties related to every transaction carried out on its platform

**Justification:**

*Five additional clauses were added to ensure aspects of record keeping that pertain to digital platforms and multiple sponsors (brokers) are taken into consideration and included.*

**6. PROPOSED AMENDMENT: CREATION OF A NEW RULE 76- RISK MANAGEMENT (RE-EXPOSURE)**

**Rule 76 – Risk Management**

All sub-brokers using digital platforms shall:

- a) have policies, procedures and controls in place to monitor and test their algorithms on a regular basis to ensure that they are performing as intended
- b) put in place and implement internal policies and procedures to address technology risks, which may arise as they interact with their clients, transmit, store and process information electronically
- c) have adequate cyber-security mechanisms against cyber-attacks.
- d) comply with the SEC's Technology Risk Guidelines as may be determined from time to time



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- e) establish an Anti-Money laundering and countering the financing of terrorism mechanism, similar to those of other Capital Market Operators,
- f) put in place adequate operational and technical control systems to manage appropriate risks
- g) periodically conduct capacity stress tests to determine the performance of its systems under a variety of simulated conditions;
- h) seek on a periodic basis the assessment of independent reviewers with regard to the adequacy of its infrastructure and security;
- i) ensure that all Electronic Communication (ECN) are digitally signed, encrypted, and non-tamperable
- j) be responsible for keeping a backup of all the ECN in a soft and non-tamperable form

**Justification:**

*This is a new addition intended to provide appropriate risk measures to mitigate common technology risks and ensure the integrity of the automated processes used by the Sub-broker and their optimal performance.*