



EXPOSURE OF DRAFT FRAMEWORK FOR SHORT-TERM COMMODITY – LINKED NOTES (STCLNs)

LEGEND: Justification in *Italics*

Name/Citation of the Rule:

Framework for Short-Term Commodity – Linked Notes (STCLNs)

DEFINITIONS

The following terms and expressions shall, unless the context otherwise requires, have the following meanings:

“Accredited Investor” align with SEC Rules (RC secretariat)	means a Qualified Institutional Investor or an Eligible Individual Investor who is financially sophisticated as defined in the commission’s Rules and Regulation
“Compliance Report”	means a quarterly report prepared and submitted by the Issuer (defined below) through its Sponsor (defined below), confirming compliance with the post-Listing requirements as provided in this Rule and other disclosure standards as may be prescribed from time to time.
“Dealing Member”	means a body corporate licensed by the Commodities Exchanges to trade in securities through any of the trading systems.
“ISIN”	means International Securities Identification Number.
“Listing”	means admission of publicly issued Short-Term Commodity-Linked Notes to trade on a Commodity Exchange.
“Market Maker	means any specialist licensed by the Commodity Exchange and permitted to act as a dealer, any dealer acting in the capacity of block positioner, and any



	dealer who with respect to a security, holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis.
“Member”	means a duly-licensed member of a Commodity Exchange.
“Offer Documents”	means Prospectus (as defined in these Rules) for the issue of the Short-Term Commodity-Linked Notes (STCLNs) including any other documents containing relevant information to help an investor make an investment decision. Such documents may include pricing supplement, programme memorandum or an equivalent document.
“Platform”	means a Commodity Exchange-organized market place for registration, listing, order execution, trade reporting, <i>inter alia</i> .
“Programme”	means the method of issuance of STCLNs that allows for multiple Issues covered by a standardized documentation framework.
“Prospectus”	means any written or electronic information, notice, advertisement or other forms of invitation offering to the public for subscription or purchase of this STCLNs
“Qualified Institutional Investor (QII)”	as defined in the Commission’s Rules and Regulations
“Red Herring”	means the preliminary Prospectus filed with a Commodity Exchange for the issue of STCLNs to Accredited Investors. A Red Herring does not constitute an offer for sale or an invitation to treat.
“Registration	means the process by which an Issuer files documentation and other disclosure requirements with a Commodity Exchange detailing the particulars of a



	proposed issuance of STCLNs with the ultimate aim of listing those STCLNs on the Commodity Exchange.
“Introducing Broker”	means a commodity broker sponsoring an Issue of Short-Term Commodity-Linked Notes for Listing on a Commodity Exchange.
“Reverse Enquiry”	means a process whereby the investor(s) approach(es) the Issuer to sell STCLN on the basis of mutually agreed terms and conditions.
“STCLN Rules”	means these Short-Term Commodity-Linked Notes Registration Process and Listing Rules.
“Short-Term Commodity-Linked Notes (STCLN) or the Issue”	Means commodity-linked Notes with maturities of zero (0) to three (3) years.
“Syndication”	means a process involving the offer and sale of the STCLN to a group of intermediaries (such as the lead issuing house or Underwriter) for onward sale to investors.

PART A: APPROVAL PROCESS FOR SHORT-TERM COMMODITY-LINKED NOTES

1. GENERAL RULES

- 1.1 STCLN shall be reviewed by a Commodity Exchange, and approved by the Commission, before they are issued and listed on a commodity exchange.
- 1.2 Applications for the approval of STCLNs shall only be entertained if sponsored by a duly-SEC-registered Issuing House.
- 1.3 STCLN may be approved as a single Issue or through a Shelf Programme. Where the STCLN is issued under a Programme, Issuers through their Sponsors shall file with the Commodity Exchange, any updated or supplementary Offer Documents, containing details of the new series/tranche and material changes, if any



- 1.4 All applications shall be submitted along with the relevant fees as provided in the SEC-approved fee structure for STCLN.
- 1.5 STCLN approved by the Commission shall be eligible for listing on a Commodity Exchange in line with the provision of the SEC Rules and Regulations.
- 1.6 A Commodity Exchange shall complete the review of an STCLN application in not more than five (5) working days, and the Commission shall approve the reviewed application in not more than two (2) working days based on the attestation provided by the Commodity Exchange.

2. ELIGIBILITY CRITERIA FOR THE ISSUER

- 2.1 To qualify for approval of its STCLN, the Issuer shall:
 - i. be a company duly incorporated under the laws of the Federal Republic of Nigeria as a public limited company or;
 - ii. be a corporate entity as maybe determined or permitted by the Commission;
 - iii. be in conformity with the contents of its Memorandum and Articles of Association; and
 - iv. shareholders' agreement or other constitutional documents where applicable.
- 2.2 The Issuer shall present its latest audited accounts (not being later than nine (9) months from the last financial year end), provided management account can be filed under oath where the latest audited account is more than nine months old.
- 2.3 The Issuer shall have a valid and subsisting credit rating of a minimum of investment grade obtained from a credit rating agency registered or recognized by the Commission.
- 2.4 The Issuer must have been in operation not less than three (3) years from the date of application for Registration of the Issue.
- 2.5 The Issuer shall not exceed the borrowing limits as stipulated in its MEMART, shareholders' agreement or its constitutional documents.
- 2.6 Where the Issuer fails to meet the requirements stipulated in Rules 2.4 and 2.5 above, the Issuer may qualify under any of the following circumstances:
 - i. Where the Issuer is an SPV and the sponsor or parent company of the SPV meets the criteria stipulated in Rules 2.4 and 2.5 above.



- ii. Where the Issuer provides a guarantee by a corporate entity which meets the criteria stipulated in Rules 2.4 and 2.5 above, the guarantor shall provide a full guarantee of all the obligations of the Issuer under the Issue for the entire period the Issue remains outstanding.
- iii. Where the Issuer provides a guarantee by the Federal Government of Nigeria or Federal Government agencies of all the obligations of the Issuer for the entire period the Issue remains outstanding.

3. REQUIREMENTS FOR APPROVAL

The Issuer of an STCLN sought to be approved shall, through its Issuing house, file an application with the Commodity Exchange. The application shall be made on an appropriate SEC Form and shall be accompanied by supporting documents.

The Issuer shall file the following documents with the Commission:

- i. Prospectus- The issuer shall file prospectus containing all relevant information in respect of the issue in line with the requirements of the Commission's Rules and Regulations.
- ii. Certified true copy (CTC) of the Memorandum and Articles of Association (including amendments).
- iii. CTC of Certificate of Incorporation
- iv. Form CAC 2 – (Statement of Share Capital and Return of Allotment) (where applicable)
- v. Form CAC 7 – (Particulars of Directors).
- vi. Audited annual reports and accounts covering the last three (3) years, the most recent not exceeding nine (9) months from the date of the submission of the application for the Registration of the Issue, or management account where the latest audited account of the issuer is more than nine months old.
- vii. Valid and subsisting credit rating report of the Issuer obtained from a credit rating agency registered or recognized by the Commission.
- viii. Schedule of all material contracts entered into by the Issuer.
- ix. Details of any litigations/claims currently involving the Issuer/sponsor.



- x. Confirmation that the issuance of the STCLN does not exceed the limit of the Issuer's borrowing powers.
- xi. Such other documentation/disclosure as may be required by the Commission.
- xii. Resolution of the board of directors and where applicable, the resolution of the shareholders of the Issuer, authorizing the Issue/Programme and the approved amount.
- xiii. Draft vending agreement.
- xiv. Draft Trust Deed.
- xv. Draft Underwriting Agreement (where applicable).
- xvi. Notarized letters of consent of all parties named in the Offer Documents. Where the consent is given through a power of attorney, the power of attorney shall be executed and stamped.
- xvii. Details of any credit enhancement to support the Issue in the form of Deed of Guarantee or other equivalent document. Provided that where the Issue is guaranteed by a corporate entity, the following supporting documentation shall be required by the Exchange:
- xviii. Evidence of payment of all relevant SEC fees.
- xix. Such other documentation/disclosure as may be required by the Commission.

4. METHOD OF ISSUANCE

4.1 To qualify for Approval, the STCLN shall be issued through any of the following methods:

- i. Offer for subscription
- ii. Auction.
- iii. Private Placement.
- iv. Syndication.
- v. Reverse Enquiry.
- vi. Such other method as may be permitted by the Commission.

4.2 Features and Mode of Issue



- i. The STCLN shall be issued and held in dematerialized form with a CSD registered/recognized by the Commission.
- ii. The Issue shall be tradable in the secondary market and there shall be no restriction on its transferability.
- iii. The Issue shall qualify as an eligible investment for collective investment schemes such as mutual funds or Exchange Traded Funds.

4.3 Shelf Programme

- i. Where the STCLN is issued under a Shelf Programme, the Issuer shall have the discretion to issue several tranches of STCLN with separate maturity dates or re-issue existing STCLN Issues (where there is no change in the maturity date).
- ii. Where the STCLN is issued under a Shelf Programme, the Issuer shall be required to file subsequent supplementary shelf prospectus/pricing supplement which shall also be reviewed by the Exchange, and approved by the Commission.
- iii. A Shelf Programme by an issuer shall be effective for a period of three (3) years from the date it is approved by the Commission and shall be subject to renewal as may be prescribed by the Rules and Regulations of the Commission.

4.4 Minimum Size of an Issue

- i. The minimum size of an Issue shall be ~~₦~~100,000,000.00 (One hundred million naira).
- ii. However, where the STCLN is issued under a Programme through a Shelf Programme, the minimum size of the programme shall not be less than ~~₦~~5,000,000,000.00 (five billion naira).
- iii. The aggregate amount of the Issue shall at all times be within the limit as approved by the Issuer's board of directors or shareholders.

4.5 Credit Enhancement of an Issue

- i. An Issue may be guaranteed (fully or partially) by any of the following entities:



- a) Federal Government of Nigeria or Federal Government agencies
 - b) CBN-licensed banks
 - c) Such other category of guarantor as may be recognized by the Commission.
- ii. Where an Issue is guaranteed by a corporate entity, such entity shall have a valid and subsisting credit rating of a minimum of investment grade obtained from a credit rating agency registered or recognized by the Commission.

4.6 Prohibition of Sale of STCLN

- i. The Offer of an STCLN at any time before the Commission's approval is prohibited.
- ii. Failure to comply with the provisions of Rule 4.6 (i) above shall attract appropriate sanctions including but not limited to disqualification of the STCLN sought to be registered.

4.7 Guidelines for advertisement of Offers

- i. The Issuer or Issuing House shall not publish any advertisement relating to an STCLN intended to be issued by way of a public offering without the review of the Exchange and approval of the Commission.
- ii. The Issuer shall sign an undertaking not to directly or indirectly release, during any conference or at any other media, any material or information which is not contained in the approved Offer Documents.
- iii. The information in the advertisement shall be restricted to the information in the approved Offer Documents.
- iv. The information in the advertisement shall be clear, concise, devoid of any ambiguity and presented in a manner which is easily understandable to an investor with limited knowledge of financial/legal parlance.
- v. The advertisement shall not include any information which is in violation of the provisions of the Act and the SEC Rules and Regulations.

4.8 Book Building

- i. Where the Issuer opts to undertake a Book Building process for the purpose of demand and price discovery, the Issuer shall file a Red



- Herring with the Commodity Exchange along with other relevant documentation requirements as stated in Rule 3 above for review.
- ii. Upon approval of the Offer documents by the Commission, the Issuer shall commence a Book Building process by circulating the prospectus to prospective investors along with a letter of invitation which shall indicate the price range at which the Issue is to be offered for subscription.
 - iii. Upon receipt of the orders, the Issuing House and other book runner(s) – where applicable – shall maintain a record of the number of the units of the STCLN ordered and the price at which the investor is willing to subscribe to the STCLN.
 - iv. The Book Building process shall not exceed one (1) week and the STCLN shall be offered on the basis of the aggregation of orders received.
 - v. Upon the determination of the Issue size, price and coupon rate, the relevant Offer Documents shall be updated, filed with the Commodity Exchange for approval by the Commission and subsequently executed by the parties to the Issue.
 - vi. Executed Offer Documents shall be filed with the Exchange within twenty-four (24) hours of the execution of the updated Offer Documents.

4.9 Allotment

- i. Where the STCLN is to be issued through a public offering, upon conclusion of the Issue, the issuing house shall be required to provide an allotment proposal which contains list of allottees, bank statement and consent letter of both the issuer and issuing house for approval of the Commission, through the exchange. The Commission shall approve the allotment within two working days based on the attestation provided by the exchange.

4.10 Parties to an Issue

- i. All parties to an Issue shall give their written consent to be named in the Offer Documents. The written consent letters filed with the Offer Documents shall be dated, signed and sealed by the parties to the Issue and filed by the Exchange.



PART B: LISTING OF SHORT-TERM NOTES

5. LISTING AND POST-LISTING REQUIREMENTS

- 5.1 Approved Issues are eligible for Listing in accordance with the approved Listing requirements.
- 5.2 The Issuer shall execute a written undertaking to comply with the post-Listing requirements of the Commodity Exchange in the form set out in Appendix V of these Rules.
- 5.3 The Commodity Exchange may defer any of the requirements of this part of the Rules where the Issuer or Issuing House undertakes to regularize its application within three (3) months of the approval of the STCLN for Listing on the Exchange or waive the provisions of these Rules where the Issuer/Issuing House provides concrete justification to satisfy the Commodity Exchange that such provisions are not applicable or should be exempt.
- 5.4 STCLN—issued in two (2) or more series under a Programme shall be regarded as separate issuances for the purposes of this part of the Rules.
- 5.5 Upon the approval of the Listing of the Issue, the Issue shall be registered and lodged with a CSD recognized by the Commodity Exchange and the Commission. Upon registration, an ISIN code will be assigned by the CSD in respect of the STCLN.
- 5.6 Issuers may be required to appoint one (1) or more Commodity-Linked Bond Specialists to support the liquidity of its Issue in the secondary market (where necessary).
- 5.7 Failure of the Issuer to comply with the provisions of these Rules shall attract a penalty of not less than N1,000,000 (One million naira) and may lead to delisting of such STCLN.
- 5.8 Rating reports in respect of the Issuer and the Issue shall be provided by the Issuer on an annual basis. For an Issue to remain listed on the Commodity Exchange, the credit ratings of both the Issuer and the Issue shall not be lower than investment grade for the entire life of the STCLN.
- 5.9 The Issuer shall be required to execute a Declaration of Compliance in the form set out in Appendix VI of these Rules.



5.10 The Issuer shall also provide a Letter of Indemnity in the form set out in Appendix VII of these Rules.

5.11 The Issuing House shall be required to execute a Declaration in respect of the Issue in the form set out in Appendix VIII of these Rules.

PART C: DUTIES, OBLIGATIONS AND ENFORCEMENT OF THE RULES

6. DUTIES AND OBLIGATIONS OF THE ISSUER

6.1 The Issuer shall be bound by the terms and conditions contained in the approved Offer Documents

6.2 The Issuer shall provide all investors in the STCLN with relevant information which shall be disclosed in the Offer Documents.

6.3 The Issuer shall take necessary steps to ensure that it does not default on payment of principal and interest on the STCLN as and when due to investors.

6.4 The Issuer shall treat the investors in the STCLN fairly and in accordance with established terms and conditions of its Offer Documents Rules and guidelines as may be prescribed by the Commission and the Commodity Exchange.

6.5 The Issuer shall guarantee that the amount raised from the issue are used exclusively for the purposes outlined in the approved offer documents.

6.6 The Issuer shall ensure that it obtains and submits to the Commodity Exchange and the Commission, the annual rating reports for the tenor of the STCLN

6.7 The Issuer, upon the approval of the Listing by the Commission, shall pay all applicable fees as provided in the SEC and Exchange - approved fee structure.

7. DUTIES AND OBLIGATIONS OF THE ISSUING HOUSE

7.1 The Issuing House shall

(i) Verify the accuracy and fairness of the issuer's disclosures

(ii) Ensure compliance with the specified Rules and Regulations



- (iii) Confirm adherence to any additional guidelines set by the commodity exchange and the commission.
- 7.2 The Issuing House shall notify the Commodity Exchange of any circumstances resulting from omission of a material fact or rendering the statement of a material fact untrue.
- 7.3 The Issuing House shall use all reasonable effort to obtain and provide revised or additional documentation that corrects any false or misleading information or includes any previously omitted essential facts mentioned in rule 7.2 above.
- 7.4 The Issuing House shall file all updated or additional Offer Documents with respect to each series/tranche, containing details of the material changes, if any
- 7.5 The Issuer shall meet all the Listing and post-Listing compliance requirements as is provided in these
- 7.6 The Issuing House and the Issuer shall file with the Commission and the Commodity Exchange their quarterly compliance report not later than 30 days after each quarter
- 7.7 The Issuing House shall conduct adequate due diligence on the assignments they undertake related to the offer and distribution of the STCLN to investors.
- 7.8 The Issuing house shall submit the necessary information and allotment report within 48 hours after the book building process is complete, to the Exchange and the Commission providing a summary of the various groups of investors in the STCLN.
- 7.9 The Issuing House shall provide such other information as may be required by the Commodity Exchange throughout the tenor of the Issue.
- 7.10 The Issuing House shall be bound by these Rules and all other relevant Rules and Regulations of the Commission.

8. ENFORCEMENT OF THE RULES



- 8.1 The Commodity Exchange shall impose sanctions where it determines that an Issuer or other relevant party to the Issue has breached listing or trading rules and shall
- (a) File a report with the Commission regarding breaches on registration of the securities
- 8.2 A violation of the provisions of these Rules may also result in criminal or civil liability in accordance with all relevant Nigerian laws and regulation.
- 8.3 Power to suspend or delist an Issue:
- a) Where the Commodity Exchange considers it necessary for the protection of investors or the maintenance of an orderly market, it may at any time suspend or delist any Issue in such circumstances and subject to such conditions as it deems fit. Such conditions include but not limited to circumstances where:
- i. The Issuer fails to comply with the Rules of the Commodity Exchange and/ or SEC.
 - ii. The Commodity Exchange considers that the Issuer does not have satisfactory level of operations or sufficient assets to warrant the continued Listing of its STCLN.
 - iii. The Issuer fails to meet corporate governance standards as may be prescribed by the Rules and Regulations of the Commission, SEC Corporate Governance Guideline and the Nigerian Code of Corporate Governance.
 - iv. The Commodity Exchange considers that the Issue is no longer suitable for Listing
 - v. Such other circumstances as the Commodity Exchange may deem fit to suspend or delist the Issue, subject to the approval of the Commission.
- b) Where an Issuer seeks to suspend its listed security, the request for suspension must be made by the Issuer and be confirmed in writing by the Exchange.
- c) In all circumstances, the request for suspension must include detailed justification, specifying;
- (i) The reasons for the request
 - (ii) The desired duration of the suspension
 - (iii) The nature of the event impacting the issuer's activities



- (iv) The current status of the issuer's activities.
- d) Where the issuer fails to take necessary steps to restore listing during an extended suspension period, the commodity exchange shall delist the security.

Where the Commodity Exchange considers the Issue no longer suitable for Listing, the Issuer/Issuing House shall be informed in writing of the decision. In certain circumstances, the Issuer may be given an opportunity to take remedial action and resolve any issues raised by the Commodity Exchange within a stipulated timeframe. Where the issuer/issuing house fails to take such remedial action within the stipulated timeframe, the issue shall be delisted.

FEE STRUCTURE

The proposed fee structure is provided in the table below:

	FEE	TO BE PAID TO	
Application/Filing Fee	₦50, 000	SEC	
Processing Fee	0.3% of offer size	Commodities Exchange	30%
		SEC	70%



Justification

These Short-Term Commodity-Linked Notes (STCLN) approval process and listing rules are developed to guide the Issuers, their Sponsors and the investing public on the requirements and process for the approval of STCLNs. These Rules shall be read in conjunction with all relevant and applicable laws and regulation relating to the issuance and listing of commodity-linked bonds in Nigeria. All STCLNs which are reviewed by Commodities Exchanges and approved by the Commission shall be listed on the Commodity Exchange.