



## **1. New Rule**

New Rules on Issuance and Allotment of Private Companies' Securities

## **2. Sundry Amendments**

- a. Amendments to Rules on Corporate Bonds
- b. Amendments to Rule 39- Annual Report
- c. Amendments to Rule 41- Quarterly Reports
- d. Amendments to Part N- Miscellaneous Rules
- e. Amendments to Schedule 1- Part D- SEC Fees on Market Deals
- f. Amendments to the Rules on Private Equity Funds
- g. Sundry Amendments to CIS Rules
- h. Amendments to Rule 450- New Sub-rule (9) General Rules for CIS

**Details of the Rules are as follows:**

**LEGEND :** Additions are underlined

## **1. NEW RULES ON THE ISSUANCE AND ALLOTMENT OF PRIVATE COMPANIES' SECURITIES**

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

**Bonds/Debentures** are non-convertible debt instruments with defined maturities, variable periodic interest payments and amortized or bullet principal repayments at maturity;

**Qualified Investor** means an institutional investor or high net worth individual as defined in the Commission's rules;

**Securities** in these rules refers to fixed income securities including bonds, debentures and alternative asset classes such as sukuk.

### **2. Scope/Applicability**

These rules shall apply to:



- a) Debt securities issuances by private companies either by way of public offer or other methods as may be approved by the Commission, where the offer is:
  - i. Published, advertised or disseminated in a newspaper, broadcast, cinematograph, internet media or any other means by which the public is made aware of the offer;
  - ii. made to anyone or circulated among persons on the terms that the person or persons to whom it is made may renounce or assign the benefit of the securities to be obtained in favour of any other person or persons;
  - iii. made to or circulated among members or debenture holders of the company concerned or clients of the person circulating information on the offer or in any other manner;
  - iv. made to one or more persons to acquire securities dealt in by a securities exchange or the invitation states that an application has been or shall be made for permission to deal in those securities on a securities exchange.
- b) Registered exchanges and platforms which admit debt securities issued by private companies for trading, price discovery or information repository purposes.
- c) Registered capital market operators who are parties in issuances and allotment of debt securities of private companies

### **3. Commencement**

These rules shall become effective immediately on the date issued by the Commission

### **4. Existing Debt Securities of Private Companies**

At the issuance of these rules, a private company with existing debt securities which are:

- a. held by qualified investors, the issuer shall no later than three (3) months from the date of issuance of these rules, file an application for the registration of the outstanding securities to the Commission.



Failure to comply with this provision shall attract a penalty of not less than ₦2,000,000 (Two Million Naira) and a further sum of ₦100,000 (One hundred thousand Naira) for every day the violation continues.

## **5. Eligibility**

a) A private entity seeking to issue securities under these rules shall:

- i. be a company duly incorporated under Companies and Allied Matters Act (CAMA), or other enabling Laws;
- ii. have at least three (3) years track record of operation.

Provided that, it shall not be required where:

- a. the private company is set up by a state or municipal government for the purpose of issuing bonds.
- b. the company has existed for less than three (3) years, a guarantor who must have a minimum of three (3) years operational track record and investment grade rating shall be provided.

No Issuer shall offer securities if it is in default of payment of interest or repayment of principal in respect of previous debt issuance(s) for a period of more than six (6) months.

- b) Issuers and the bonds to be issued shall be rated by a rating agency (optional for private placements);
- c) The credit rating of a bond shall not be below investment grade;
- d) All necessary approvals (where applicable) in relation to the issue, from other regulatory authorities shall be obtained and filed with the Commission. Any



conditions imposed by such regulatory authorities, shall be complied with throughout the tenor of the bond.

## **6. General**

- a) These rules shall apply only to debt securities issued by a private company.
- b) Private companies may issue debt securities under a shelf programme in accordance with the Commission's rules on Shelf Registration.
- c) The option of book building in the issuance of debt securities shall be available to a private company, in accordance with the provisions of the Commission's rules on Book Building.
- d) Any party that makes any misrepresentation to prospective investors or violates the provisions of these rules, shall be subject to sanctions/penalty as prescribed in these rules and the ISA.

## **7. Restrictions**

- a) A private company shall not offer its equity securities (shares) to the public under any circumstance.
- b) Debt securities issued under these rules, shall be sold only to qualified investors.
- c) Only registered capital market operators shall be parties to debt securities issuances under these rules.
- d) No private company or any person acting on its behalf shall offer, sell or allot securities to the public without the prior registration of the securities by the Commission.
- e) Securities purchased in a public offer pursuant to these rules shall only be traded on a registered securities exchange.



## **8. Conditions for Securities Issuance**

A private company may issue its securities under these Rules provided that: -

- a) Only bonds/debentures and other debt instruments including sukuk and as may be determined by the Commission from time to time, shall be issued;
- b) For sukuk issuances, the issuer shall comply with the provisions on sukuk (as applicable) and set out in the Commission's Rules, as amended from time to time.
- c) The securities shall be offered to and traded only by qualified investors;
- d) A private company may undertake a maximum of three debt securities issuances within a one-year period, whether through a shelf program, either in series or tranches or one-off offering, the total amount to be raised not exceeding ₦15 billion, provided that where a private company intends to undertake any further debt securities issuance, it shall be required to re-register as a public company.

## **9. Registration Requirements**

A private company intending to offer its debt securities by way of an offer to the public or private placement under these rules, shall, along with a duly completed checklist for debt securities issued by private companies, file the following with the Commission:

- a) A copy each of the board and shareholders' resolutions authorizing the issue;
- b) Current CAC report on the statutory information of the issuer including, evidence of registration, statement of share capital, particulars of directors and company secretary, and shareholders and their respective holdings;
- c) Memorandum and Articles of Association of the issuer. Provided that where the document has already been filed with the Commission and there has been no



change since the previous filing, the issuer shall file an undertaking that there has been no change(s) to the document;

- d) A signed copy of the Issuer's latest audited accounts for the preceding 3 years, with the latest account not more than 9 months old at the time of filing with the Commission. Provided that the account shall remain valid throughout the offer period.
- e) A draft prospectus containing the following information:
  - i. Amount of securities offered;
  - ii. Basic terms of the securities to be offered, including status of the bond, minimum subscription, coupon rate, maturity, listing;
  - iii. Offer period;
  - iv. Purpose of the offering/use of proceeds;
  - v. Risks of investment;
  - vi. Tax considerations
  - vii. Company's profile/business;
  - viii. Management and Board;
  - ix. Extract of 3 years audited accounts;
  - x. Reporting accountant's report;
  - xi. Rating reports (where applicable);
  - xii. Extract of Solicitor's opinion on the claims and litigation of the issuer
  - xiii. Any other information that the Commission may require from time to time.
- f) Draft trust deed (in the case of a shelf programme, a programme trust deed);
- g) Draft vending agreement between the issuer and issuing house;
- h) Draft joint issuing houses' agreement (where applicable);
- i) Draft underwriting agreement and sub-underwriting agreement (where applicable);



- j) Form SEC 6 (duly completed)
- k) Letter of "No Objection" from the relevant regulatory body (where applicable);
- l) Details of any asset or collateral provided to secure the debt issue, or third-party guarantee (where applicable)
- m) A copy of the mandate letter from the issuer to the issuing house;
- n) Letters of consent given by the parties to the issue, sworn to before a Notary Public or Commissioner for Oaths. Consent letters shall not be notarized by a person who is also a named signatory on the consent letter or who is a member or employee of the firm whose consent is required. Where the consent is contained in a power of attorney, it shall be executed and stamped by the stamp duties office;
- o) A sworn declaration that the Issuer has fully disclosed all material facts in the offer document. The declaration shall be signed by two directors and the company secretary;
- p) Schedule of claims & litigations of the Issuer and the solicitor's opinion;
- q) Letter of confirmation of going concern from the directors of the issuer;
- r) Any other document required by the Commission under these Rules and Regulations.

#### **10. Execution of Offer Documents**

- a) The copies of the approved prospectus shall be signed by the directors of the issuer and other parties to the offer and together with other offer documents, shall be forwarded to the Commission for registration. Where a party will not be available to sign the offer documents, he shall execute a power of attorney in favor of any



other available party to sign on his behalf. The power of attorney shall be filed with the offer documents.

- b) Upon signing the offer documents or holding a completion board meeting the following executed documents must be filed within 2 business days with the Commission (where applicable):
  - i. Executed shelf prospectus;
  - ii. Executed supplementary prospectus/ pricing supplement;
  - iii. Vending agreement (signed and stamped);
  - iv. Programme and series trust deeds (signed and stamped);
  - v. Underwriting agreement (signed and stamped);
  - vi. Sub-underwriting agreement (signed and stamped);
  - vii. Specimen e-allotment notice;
  - viii. Signed newspaper advert material;
  - ix. Power of attorney in case of absentee parties;
  - x. Any other material information.
- c) Where the securities registered by the Commission under this part are not offered to the public or select qualified investors within a period of 6 months after the registration, the Issuer shall revert to the Commission, for a revalidation of the registration before they are offered to the public.

## **11. Allotment**

- a) For securities offered under these rules, whether listed or not, the issuer and the issuing house shall be responsible for the allotment of the securities of the company, in accordance with the guidelines prescribed hereunder.
  - i. No fresh offer of securities shall be made unless the allotment with respect to any previous offer has been concluded or the offer aborted.





- ii. An allotment of securities shall not be made, unless the sums payable on application for the amount stated in the prospectus have been paid to and received by the issuer and issuing house.
- iii. In the case of a fixed price offer, where the issue is less than 50% subscribed, the offer shall be aborted and the Commission shall be notified within one (1) business day.
- iv. Where the offer is aborted, subscribers' funds shall be refunded within two (2) business days.
- v. In the case of an over-subscription, a minimum modified pro-rating approach shall be adopted. This entails that all subscribers to the offer shall be allotted the minimum subscription units as specified in the offer documents, and then the residual balance shall be pro-rated i.e. all subscribers would be allotted equal proportion of the amount applied for. Where the minimum subscription cannot accommodate all the subscribers, the minimum to be allotted shall be reduced so as to accommodate all the subscribers.
- vi. The issuer/issuing house shall within five (5) working days of allotment, publish the allotment and approval on the issuer's website.
- vii. The Commission may declare any irregular allotment of securities null and void and may prescribe appropriate measures to rectify such irregularities.

## **12. Listing of Securities**

- a) A private company may list its securities on a registered securities exchange upon approval by the Commission.
- b) Such securities shall be listed not later than thirty (30) days after completion of allotment.



### **13. Summary Report on Completion of Offer**

The issuing house shall within twenty-one (21) working days of allotment, file with the Commission a summary report containing among others, the following:

- a) Post allotment information including: -
  - i. summary of applications received;
  - ii. list of allottees of 50,000 units of securities or more and list of all allottees acquiring 5% or more of the securities on offer;
  - iii. list of all applications received including list of those rejected and the basis for rejection;
  - iv. Statement of issue proceeds account;
  - v. Joint consent letter signed by the Issuer and the Issuing House(s) consenting to the basis of allotment.
  - vi. Evidence of publication of allotment
- b) Problems arising generally from the conduct of the issue;
- c) Satisfactory compliance of parties with their obligations under the issue;
- d) Details regarding the return of surplus monies;
- e) Status of listing of the securities at the exchange;
- f) Details and evidence of payment of net proceeds of the issue to the issuer;



- g) Analysis of total costs incurred during the course of the offer;
- h) Any other relevant information and recommendation.

#### **14. Utilization of Proceeds**

- a) The issuer is prohibited from using the proceeds of the issue for purposes other than those stated in the offer document without the prior approval of the Commission;
- b) The issuer shall file with the Commission not later than ninety (90) days after the conclusion of an issue on the appropriate SEC Form, detailed information on the utilization of proceeds. Evidence of such utilization shall be provided as appendix to the report. The rendition shall be on a quarterly basis until issue proceeds are fully utilized.

#### **15. Reporting**

- a) The Issuer, Issuing House and the Trustee shall comply with the following continuous reporting and disclosure requirement as may be prescribed by the Commission from time to time:
  - i. Quarterly report on utilization of proceeds
  - ii. Quarterly unaudited financial statements of the Issuer
  - iii. Annual audited financial statements of the Issuer
  - iv. Review of annual rating report
  - v. Annual Shariah certification (where applicable)
  - vi. Any other information that the Commission may from time-to-time request



- b) Failure to file the periodic report/returns with the Commission within the prescribed period shall attract a penalty of not less than ₦1,000,000 (One Million Naira) and a further sum of ₦50,000 (Fifty Thousand Naira) for every day the default continues.

## **16. Code of Conduct**

Registered exchanges and capital market operators shall strictly abide by the Code of Conduct for Capital Market Operators and their Employees as set out in the Commission's Rules and Regulations.

## **17. Sanctions/Penalty**

- a) Any person who issues or allots securities without the prior approval of the Commission, or violates any provisions of these rules shall be liable to any one or more of the following sanctions:
  - i. A penalty of not less than ₦10,000,000 (Ten Million Naira) and a further sum of ₦100,000 (One Hundred Thousand Naira) for every day the violation continues;
  - ii. Suspension, or withdrawal of the registration of the capital market operator(s) involved;
  - iii. Disgorgement of proceeds/income from the transaction; and
  - iv. The Commission may ratify or rescind a transaction if it is in the interest of the public to do so;
  - v. Any other sanction the Commission deems fit in the circumstance.

## **18. Fee Structure**

- a) The following registration fee shall be applicable:
  - First ₦500 Million @ 0.15%
  - Next ₦500 Million @ 0.145%



Balance above ₦1 Billion @ 0.1425%

- b) A non-refundable filing fee of ₦100,000 (One Hundred Thousand Naira only) shall be payable to the Commission.
- c) The fees chargeable by the parties shall also be in line with the fees regime provided in the Commission's Rules and Regulations.

## **2. SUNDRY AMENDMENTS**

### **A. Amendments to Rules on Corporate Bonds**

#### **Full text of Existing Rule**

#### **567. Registration Requirement**

These rules shall apply to all bond issuance by any public company, foreign public companies and supranational bodies.

Documents/Information Required:

In relation to any issue, offer or invitation made pursuant to these rules, the following documents shall be filed along with the registration statement:

- (a) Duly completed form SEC 6;
- (b) Appropriate filing and registration fees;
- (c) Two (2) copies of the board resolution authorizing the issue of the bond;

Provided that a resolution of the general meeting shall be required where;

- (i) The amount to be borrowed is beyond the specified limit on the borrowing powers of directors in the Memorandum and Articles of Association of the Issuer.



- (ii) The bond to be issued is convertible.
- (d) Two (2) copies of the Memorandum and Articles of Association of the Issuer certified by the Corporate Affairs Commission;
- (e) A copy of certificate of incorporation of the issuer certified by the company secretary;
- (f) A signed copy of the Issuers latest audited accounts for the preceding three (3) years, with the latest account not more than nine (9) months old at the time of filing with the Commission;
- (g) Reporting accountant report;
- (h) Consent letters of the parties to the offer;
- (i) Two (2) copies of the draft vending agreement between the issuer and the issuing house;
- (j) Draft underwriting agreement (where applicable);
- (k) Rating report by a registered rating agency;
- (l) A letter of "**No Objection**" from the relevant regulatory body (where applicable);
- (m) Two (2) copies of draft trust deed;
- (n) A draft prospectus, right circular, placement memorandum or any form of information memorandum shall contain the following information: -
  - i. Background information on the issuer and/or originator in the case of asset-backed securities (ABS) issue including mortgage backed securities (MBS);
  - ii. Profile of directors of the issuer;



- iii. A description of the transaction and structure of the issue;
- iv. Details of the utilization of proceeds. If proceeds are to be utilized for project, details of the project;
- v. Details of estimated expenses for the issue;
- vi. Conflict of interest situations, risk factors and mitigating factors;
- vii. For issuances made for the purpose of refinancing an existing debt, information on the existing debt should be provided;
- viii. Coupon rate, the date of maturity or if the issue matures severally, a brief information on the serial maturities;
- ix. Names, telephone numbers and facsimile number and the e-mail addresses of principal officers of the issuer and principal advisers of the issue;
- x. Terms and conditions of the issue;
- xi. Any other material information in relation to the issue.
- (o) Declaration by the issuer on compliance with all requirements of the Act;
- (p) Such other material information as may be required by the Commission.

#### **568. Condition for Approval**

The issuance of bonds by public companies and supranational bodies shall be subject to the following conditions:

##### **a. *Eligibility of Debt Offering***

- i. Any public company, foreign public company or supranational body is eligible to issue corporate bonds;
- ii. All necessary approvals (where applicable) in relation to the issue, from other regulatory authorities shall be obtained and filed with the Commission together with



the registration statement. Any conditions imposed by such regulatory authorities, shall be complied with throughout the tenor of the bond;

- iii. All issues of corporate bonds shall be rated by a rating agency (optional for private placements;
- iv. For a bond that will be issued through public offering, the credit rating shall not be below an investment grade;
- v. No Issuer shall offer bond if it is in default of payment of interest or repayment of principal in respect of previous debts issuance for a period of more than six (6) months.

#### **(b) *Mode of issue***

Corporate bonds may be issued by way of an offer for subscription, rights issue or private placement.

#### **(c) *Resolution***

There shall be a resolution by the board authorizing the issue of the bond.

Provided that a resolution of the general meeting resolution shall be required where:

- (i) The amount to be borrowed is beyond the specified limit on the borrowing powers of directors in the Memorandum and Articles of Association of the issuer;
- (ii) The bond to be issued is convertible.

#### **(d) *Disclosure and creation of charge***

Where the debenture is secured, the issuer shall ensure the assets on which the debenture is secured are adequate and this should be specifically stated together with the ranking of the charge(s) in the offer documents.

In case of second or residual charge or subordinated obligation, the offer documents shall clearly state the risks associated with such subsequent charges by giving details.





## **Amendment to the Rule:**

The issuance of bonds by public companies and supranational bodies shall be subject to the following conditions:

### **1. Eligibility of Debt Offering**

- a) Any public company, foreign public company or supranational body is eligible to issue corporate bonds;
- b) All necessary approvals (where applicable) in relation to the issue, from other regulatory authorities shall be obtained and filed with the Commission together with the registration statement. Any conditions imposed by such regulatory authorities, shall be complied with throughout the tenor of the bond;
- c) All issuers of corporate bonds and the bonds to be issued shall be rated by a rating agency (optional for private placements). Provided that for an SPV, the Sponsor rating shall be forwarded.
- d) For a bond that will be issued through public offering, the credit rating shall not be below an investment grade;
- e) No Issuer shall offer bonds if it is in default of payment of interest or repayment of principal in respect of previous debts issuance for a period of more than 6 months.

### **2. Mode of issue**

Corporate bonds may be issued by way of an offer for subscription, rights issue or private placement.

### **3. Resolution**



There shall be a resolution by the board authorizing the issue of the bond provided where the issuance is by a special purpose vehicle, the sponsor's resolution shall be filed.

Provided that a resolution of the general meeting shall be required where: -

- a. The amount to be borrowed is beyond the specified limit on the borrowing powers of directors in the memorandum and articles of association of the Issuer;
- b. The bond to be issued is convertible.

#### **4. Disclosure and creation of charge**

Where the debenture is secured, the Issuer shall ensure the assets on which the debenture is secured are adequate and this should be specifically stated together with the ranking of the charge(s) in the offer documents.

In case of a second or residual charge or subordinated obligation, the offer documents shall clearly state the risks associated with such subsequent charges by giving details.

#### **5. Registration Requirements**

- a. An issuer shall register securities to be issued under this Rule with the Commission by filing an application on the appropriate SEC Form as provided in the Schedules to these Rules and Regulations accompanied by the following documents (where applicable): -
  - i. a copy of the resolution(s) by the general meeting authorizing the offer. The resolution shall be certified by the company secretary;
  - ii. a copy of the board resolution authorizing the issue of the bond provided where the issuance is by a special purpose vehicle, the sponsor's resolution shall be filed;
  - iii. a copy of the memorandum and articles of association (including amendments thereto) of the Issuer certified by the Corporate Affairs Commission (CAC);
  - iv. a copy of certificate of incorporation of the Issuer certified by the CAC. Where a copy has already been filed with the Commission a photocopy of the certificate of incorporation certified by the company secretary may be forwarded;



- v. A signed copy of the Issuers latest audited accounts for the preceding 3 years, with the latest account not more than 9 months old at the time of filling with the Commission. Provided that the Account shall remain valid throughout the offer period.
- vi. In the case of a new company, an audited statement of affairs disclosing the following information:
  - a. financial statements;
  - b. date of incorporation;
  - c. Issued share capital;
  - d. paid-up capital which shall not be less than 25% of the issued share capital of the company;
  - e. profile of promoters/directors;
  - f. profile of management staff;
  - g. a summary of the objectives and business of the company.
- vii. A copy each of the draft prospectus and abridged prospectus containing the following: -
  - a. Background information on the Issuer and/or originator in the case of asset-backed securities (ABS) issue including mortgage-backed securities (MBS);
  - b. Profile of directors of the Issuer;
  - c. A description of the transaction and structure of the issue;
  - d. Details of the utilization of proceeds. If proceeds are to be utilized for the project, details of the project;
  - e. Details of estimated expenses for the issue;
  - f. Conflict of interest situations, risk factors;
  - g. For issuances made for the purpose of refinancing an existing debt, information on the existing debt should be provided;
  - h. Coupon rate, the date of maturity or if the issue matures severally, brief information on the serial maturities;
  - i. Names and telephone numbers along with the e-mail addresses of principal officers of the Issuer and principal advisers to the issue;
  - j. Terms and conditions of the issue;
  - k. Any other material information in relation to the issue.
- viii. a copy of the draft trust deed
- ix. reporting accountant report;



- x. a copy of the draft underwriting agreement and sub-underwriting agreement;
- xi. a copy of draft vending agreement, between Issuer and the issuing house.  
Where there are joint issuing houses, the terms of their relationship should be incorporated in the vending agreement;
- xii. a letter of "No Objection" from the relevant regulatory body;
- xiii. letters of consent given by the parties to the issue, sworn to before a Notary Public or Commissioner for Oaths. Consent letters shall not be notarized by a person who is also a named signatory on the consent letter or who is a member or employee of the firm whose consent is required. Where the consent is contained in a power of attorney, it shall be executed and stamped by the stamp duties office;
- xiv. evidence of technical agreement (if any) reached between the Issuer and technical draft partner(s), advisers/consultants;
- xv. a copy of CAC Form containing the particulars of directors, certified by the CAC;
- xvi. a copy of the mandate letter by the Issuer to the Issuing House;
- xvii. evidence of payment of registration and filing fees;
- xviii. rating report by a registered or recognized rating agency, the rating of the Issue and the Issuer or Sponsor in the case of an SPV, shall be of Investment grade and shall be annually reviewed throughout the life of the bond;
- xix. list of claims & litigations of the Issuer and the solicitor's opinion;
  
- xx. a sworn declaration that the Issuer has fully disclosed all material facts in the offer document. The declaration shall be signed by the Chief Executive Officer (CEO), the company secretary and the Chief Financial Officer (CFO) of the Issuer;
  
- xxi. any other document required by the Commission under these Rules and Regulations.
  
- b. Where the Issuer had already filed such documents with the Commission (*e.g.* Memorandum and Articles of Association or certificate of incorporation or certificate of increase in share capital, *etc.*), such issuer need not file the documents in subsequent transactions. Provided the Issuer enters into an undertaking that since the previous filing, there has been no change in the document already filed with the Commission.



- c. Where it is intended to list on the Securities Exchange or with any association or body of securities dealers recognized by the Commission, the Issuer shall in addition file with the Commission such copies of the application to the Securities Exchange, association or body of security dealers and a certificate that an application to the effect has been made.
- d. The copy of the approved prospectus shall be signed by the directors of the Issuer and other parties to a public offer and together with other offer documents, shall be forwarded to the Commission for registration. Where a party will not be available to sign the prospectus, he shall execute a power of attorney in favor of any other available party to sign on his behalf. This shall be filed with the offer documents.
- e. Upon signing the offer documents or holding a Completion Board Meeting the following documents must be filed within 3 Business Days with the Commission (where applicable): -
  - i. A signed/executed copy of the shelf prospectus;
  - ii. A signed/ executed copy of the prospectus/ pricing supplement;
  - iii. A copy of vending agreement (signed/ sealed and stamped);
  - iv. A copy each of programme and supplemental trust deeds (signed, sealed and stamped);
  - v. A copy of underwriting agreement (signed, sealed and stamped));
  - vi. A copy of sub-underwriting agreement (signed, sealed and stamped);
  - vii. A copy of specimen e-allotment notice;
  - viii. A signed copy of newspaper advert material;
  - ix. power of attorney in case of absentee parties;
  - x. any other material information.
- f. Where the securities registered by the Commission under this part are not offered to the public within a period of 6 months after the registration, the Issuer shall revert to the Commission for a revalidation of the registration before they are offered to the public.

**6. Sponsors without Financial Track Record.**

Where the Sponsor of an SPV has no financial track record, the following shall apply:



- I. The offer shall be supported by credit enhancement in the form of guaranty by a registered/recognized Guarantor. For the purpose of this rule, the guarantor shall be a financial institution or any other entity as may be approved by the Commission.
- II. The Guarantor must be AAA rated;
- III. A Guarantee Agreement must be forwarded which shall include amongst others:
  - a. Details of the nature and extent of the payment obligations of the Special Purpose Vehicle (SPV) to be guaranteed by the Guarantor for the benefit of the beneficiaries.
  - b. The irrevocability and unconditionality of the Guarantee Agreement, including a waiver of all defences to a claim.
  - c. The mechanics and timelines for the payment of claims under the guarantee

**B. Amendment to Rule 39- Annual Report**

**C. Amendment to Rule 41- Quarterly Report**

**D. Amendment to Part N- Miscellaneous Rules**

**E. Amendment to Schedule 1 Part D- SEC Fees on Market Deals**

**Details of the amendments are as follows:**

**LEGEND :** Additions are underlined



## **B. Amendment to Rule 39 (7)- Penalty**

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

Any company that fails to file its annual report with the Commission as in (1) above shall be liable to a fine of ₦1 million and the sum of ₦25,000.00 for every day the default continues.

### **Amendment:**

Any public company that fails to file its annual report with the Commission as in (1) above comply with any of the provisions of Rule 39 above shall be liable to a penalty of not less than ₦1 million and the sum of ₦25,000.00 for every day the default continues.

## **C. Amendment to Rule 41 (5) - Penalty**

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

Any company which fails to file quarterly report with the Commission shall be liable to a fine of N1million and the sum of N25,000 for every day the default continues.

### **Amendment:**

Any public company which fails to file quarterly report with the Commission comply with any of the provisions of Rule 41 above shall be liable to a fine of ₦1 million and the sum of ₦25,000.00 for every day the default continues for each of the violation.

## **D. Amendment to PART N: MISCELLANEOUS RULES**

### **Full Text of Existing Rule 602 (Title):**

Attendance at General Meetings of Securities Exchanges/other S.R.Os, public companies, collective investment schemes, and court-ordered meetings in mergers and take-overs.

### **Amendment:**



~~Attendance at General Meetings of Securities Exchanges/other S.R.Os, public companies, collective investment schemes, and court-ordered meetings in mergers and take-overs.~~

**E. Amendment to Schedule 1, Part D: SEC Fees on Market Deals**

**Full Text of Existing Rule:**

**PART D**

***Others***

**S.E.C. FEES ON MARKET DEALS**

- |    |   |           |
|----|---|-----------|
| 2. | Filing fee for proxy materials                                      | N5,000.00 |
| 3. | Fees for inspection, copying and certifying records kept by S.E.C.: |           |
|    | (a) Inspection of any document                                      | N500.00   |
|    | (b) Certification of any document:                                  |           |
|    | (1) First page  | N1000.00  |
|    | (2) Every subsequent page   | N100.00   |
|    | (c) Photocopying (each page)  | N100.00   |

**Amendment:**

**PART D**

***Others***

**OTHER S.E.C. FEES ON MARKET DEALS**





2. Filing fee for proxy materials for general meetings      ~~₦5,000.00~~ 500,000.00

3. Fees for inspection, copying and certifying records kept by S.E.C.:

|                                    |          |
|------------------------------------|----------|
| (a) Inspection of any document     | ₦1000.00 |
| (b) Certification of any document: |          |
| (1) First page                     | ₦1000.00 |
| (2) every subsequent page          | ₦100.00  |
| (c) Photocopying (each page)       | ₦100.00  |

## **F. Amendments to the Rules on Private Equity Funds**

1. Rule 557 — Definition of Terms

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

In these rules, except otherwise stated, the following terms are defined as follows:

**"Private Equity Funds"** means a type of collective investment scheme that invests primarily in private equity/unlisted companies, whether or not in an attempt to gain control of the company.

**"Qualified Investors"** shall have the same meaning as defined in these rules.

A Private Equity Fund shall be subject to authorization and registration by the Commission.

### **Amendment:**



In these rules, except otherwise stated, the following terms are defined as follows:

**"Private Equity Funds"** means a type of collective investment scheme that invests primarily in private equity/unlisted companies, whether or not in an attempt to gain control of the company, based on a specified investment strategy, and defined investment horizon.

**"Qualified Investors"** shall have the same meaning as defined in these Rules.

~~A Private Equity Fund shall be subject to authorization and registration by the Commission.~~

## 2. Rule 558 — Applicability

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

These rules shall apply to all private equity funds with a minimum commitment of ~~₦1~~ billion investors' funds.

#### **Amendment:**

~~These Rules shall apply to all private equity funds with a minimum commitment of ₦1 billion investors' funds.~~

A Private Equity Fund shall be subject to authorization and registration by the Commission.

Provided that Private Funds with a target fund size of ₦5 billion or less shall not be subject to registration but shall file governing documents as provided for under the general requirements in these Rules for the purpose of obtaining a "no objection" from the Commission prior to commencement of operations raising capital.

## 3. Rule 560 — Restrictions

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

A private equity fund shall not:



- a. solicit funds from the general public, but shall privately source funds from qualified investors alone;
- b. invest more than 30% of the Funds' assets in a single investment.

**Amendment:**

~~A private equity fund shall not:~~

- ~~a. solicits funds from the general public, but shall privately source funds from qualified investors alone;~~
  - ~~b. invest more than 30% of the Funds' assets in a single investment.~~
- a. A private equity fund shall not solicit funds from the general public, but shall privately source funds from qualified investors alone and; investment restrictions shall be disclosed in the fund's governing documents.  
Provided that not more than 39% 70% of the Fund's assets shall be invested in a single investment;
  - b. Where a Private Equity Fund targets pension fund assets, it the Private Equity Fund Manager shall at all times maintain a proprietary investment of not less than 3% of the fund size in the Fund;  
  
Provided that where a sovereign wealth fund or any multilateral development finance institution is an investor in the Private Equity Fund, the fund manager shall maintain a minimum proprietary investment of 1% in the Fund.
  - c. The total management fees and expenses of a Private Fund shall not exceed 2% of the total sum raised in Nigeria;
  - d. The total performance fee of a Private Equity Fund shall not exceed 20% of the total sum raised in Nigeria.

4. Rule 561 — General Requirements

**Full Text of Existing Rule:**



An application for authorization and registration of a private equity fund shall be filed along with the information memorandum to be issued to the target investors. The information memorandum shall amongst others contain the following information:

1. the investment policy and objective of the fund;
2. the industry or geographical focus of the fund;
3. the fund managers experience in private equity;
4. the investment criteria for target portfolio companies;
5. the names and profile of the fund managers principal officers and management team;
6. tax issues;
7. Material risks of investing in the fund;
8. a statement of any minimum investment commitment required of an investor;
9. total capital commitment;
10. net target investment return;
11. distribution of proceeds and sharing ratio;
12. relevant fees and charges connected with investment in the fund;
13. provision for admission of new and withdrawal of existing investors;
14. valuation methodology and frequency of valuation;
15. exit routes from investments;
16. management participation in the fund;
17. repayment of capital;
18. duration of the fund and extension;
19. prototype agreement between the fund manager and investors;
20. the establishment of an anti-money laundering program and duty to report suspicious activity;
21. the duties, responsibilities and liabilities of the fund manager;



22.provision for meetings and voting quorum.

23.economic development impact.

24.provision for termination or winding up.

### **Amendment:**

An application for authorization and registration of a private equity fund shall be filed along with the information memorandum to be issued to the target investors. The information memorandum shall amongst others contain the following information:

1. the investment policy and objective of the fund;
2. the industry or geographical focus of the fund;
3. the Fund Manager's experience in private equity;
4. the investment criteria for target portfolio companies;
5. the names and profiles of the Fund Manager's principal officers and management team;
6. tax issues;
7. Material risks of investing in the fund;
8. a statement of any minimum investment commitment required of an investor;
9. total capital commitment;
- 10.net target investment return;
- 11.distribution of proceeds and sharing ratio;
- 12.relevant fees and charges connected with investment in the fund.
- 13.provision for admission of new and existing investors;
- 14.valuation methodology and frequency of valuation;
- 15.exit routes from investments;
- 16.management participation in the fund.
- 17.repayment of capital;
- 18.duration of the fund and extension;
- 19.prototype agreement between the Fund Manager and investors;



20. the establishment of an anti-money laundering program and duty to report suspicious activity;
21. the duties, responsibilities and liabilities of the Fund Manager;
22. provision for meetings and voting quorum.
23. economic development impact.
24. provision for termination or winding up.
25. policy on conflict of interest

## 5. Rule 562 — Reporting

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

1. A private equity fund manager shall submit to the Commission:
  - a. Quarterly returns of the fund which shall state amongst others:
    - i. The total number of investors in the fund;
    - ii. The total commitment received from investors;
    - iii. The total commitment already drawn-down;
    - iv. The current investments of the fund;
    - v. The current value of the assets of the fund.
  - b. Annual account/report of the fund.
2. A private equity fund manager shall issue semi-annual reports to the investors which shall contain relevant information including the following:
  - a. Details of total commitments;
  - b. Draw-down and distributions;
  - c. Changes to investment strategy (if any);
  - d. Current and new investments;
  - e. Detailed realization summary by investments;
  - f. Valuation of each investment;
  - g. Statement of benefits, fees and net management fee.

### **Amendment:**



1. A private equity Fund Manager shall submit to the Commission:
  - a. Quarterly returns of the fund which shall state amongst others:
    - i. The total number of investors in the Fund;
    - ii. The total commitment received from investors;
    - iii. The total commitment already drawn-down;
    - iv. The current investments of the Fund;
    - v. The current value of the assets of the Fund.
  - b. Annual account/report of the Fund.
2. In addition to any reports and information required by the investor, a private equity Fund Manager shall issue semi-annual reports to the investors which shall contain relevant information including the following:
  - a. Details of total commitments;
  - b. Draw-downs and distributions;
  - c. Changes to investment strategy (if any);
  - d. Current and new investments;
  - e. Detailed realization summary by investments;
  - f. Valuation of each investment;
  - g. Statement of benefits, fees and net management fee.

## 6. Rule 563 — Valuation

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

1. A private equity fund investments' shall be valued at fair value, where fair value is the amount for which an asset could be exchanged between knowledgeable willing parties in an arm's length transaction.
2. In the absence of an active market for the financial instrument, the valuer shall estimate fair value utilizing a disclosed valuation methodology.



### **Amendment:**

- ~~1. A private equity fund investments' shall be valued at fair value, where fair value is the amount for which an asset could be exchanged between knowledgeable willing parties in an arm's length transaction.~~
- ~~2. In the absence of an active market for the financial instrument, the valuer shall estimate fair value utilizing a disclosed valuation methodology.~~
1. The assets held by a private equity Fund shall be valued "in good faith" by the Fund Manager on the basis of appropriate valuation methods based on principles approved by the fund's advisory board.
2. The valuation shall be documented and the supporting data in respect of each security so valued shall be preserved at-least for a minimum period of seven (7) years after the expiration of the scheme.
3. The methods used to arrive at the value good faith' shall be reviewed annually by the statutory auditor of the Fund.
4. The valuation policy approved by the board of the Fund Manager shall be disclosed in the Fund information document.

### **G. Sundry amendments to CIS Rules**

#### **(1) Rule 466.** Filing Executed and Registered Trust Deed

Creation of new sub-rules (4) and (5) as follows:

- (4) A fund manager shall obtain the consent of the trustees and approval of the Commission prior to amending a trust deed.
- (5) An executed copy of the amended trust deed shall be submitted to the Commission within 7 working days of obtaining approval. Where such amendments require the ratification of unitholders, the executed copy of the amended trust deed shall be filed with the Commission within 7 working days after of the ratification by unitholders provided that the meeting of unitholders shall be convened not later than 2 months after the Commission's approval of the amended trust deed.

#### **(2) Rule 533.** Filing Executed and Registered Trust Deed

Creation of new sub-rules as follows:

- (4) A fund manager shall obtain the approval of the Commission and consent of the trustees prior to amending a trust deed.





(5) An executed copy of the amended trust deed shall be submitted to the Commission within 7 working days of obtaining approval. Where such amendments require the ratification of unitholders, the executed copy of the amended trust deed shall be filed with the Commission within 7 working days after of the ratification by unitholders provided that the meeting of unitholders shall be convened not later than 2 months after the Commission's approval of the amended trust deed.

### **3. Offer Process for Closed-Ended Collective Investment Schemes/450(B)**

#### **Existing Rule:**

#### **B. Executed Offer Documents**

Convening of a completion board meeting for a closed-ended CIS offer shall be optional; however, executed Offer documents of a closed-ended CIS offer shall be submitted to the Commission within 5 working days of clearance by the Commission.

#### **Amendment:**

Convening of a completion board meeting for a closed-ended CIS offer shall be optional; however, executed Offer documents of a closed-ended CIS offer shall be submitted to the Commission within ~~5~~ 10 working days of clearance by the Commission.

### **4. Offer Process for Closed-Ended Collective Investment Schemes/ 450(B)**

#### **D. Opening and Closing of Offer**

#### **Existing Rule**

- a) An offer for a closed-ended scheme shall remain open for a period not exceeding 28 working days.

#### **Amendment:**

- a) An offer for a closed-ended scheme shall remain open for a period not exceeding 28 working days;



Provided that this shall not apply to Infrastructure Funds and other Alternative Investment Schemes targeted at qualified investors, which shall disclose the applicable offer period in their offering document.

## **5. Offer Process for Open-Ended Collective Investment Schemes/ 450(C)**

### **Existing Rule:**

#### **B. Registration Requirements**

- (2) The Registration Statement shall be accompanied by the following documents —
- j. Such other relevant documents as may be required from time to time

### **Amendment:**

- (2) The Registration Statement shall be accompanied by the following documents —
- j. schedule of scheme set-up costs
  - k. Such other relevant documents as may be required from time to time

## **6. Offer Process for Open-Ended Collective Investment Schemes/ 450(C)**

### **C. Filing of Executed Scheme Document**

#### **Existing Rule:**

Executed Scheme Documents shall be submitted to the Commission within 3 working days of their clearance.

#### **Amendment:**

Executed Scheme Documents shall be submitted to the Commission within 3 10 working days of their approval, before operations and marketing of fund can commence.

## **7. Rule on Payment of Administrative Charges for ~~Review of Supplemental Amendments to Trust Deeds and Amendments to Sundry Other Agreements,~~ and Sundry Filings for CISs/Schedule I, Part D, Others**



- (1) Every proposed alteration to any document or other filing submitted with respect to the administration of a scheme shall attract the following processing charges:

|     | <b>NATURE OF ALTERATION</b>   | <b>CHARGE</b>                   |
|-----|---|---------------------------------|
| (a) | Supplemental trust deed   | ₦100 000                        |
| (b) | Amended and Restated trust deed   | ₦200 000                        |
| (c) | Where (b) above involves the merger of two or more funds                      | ₦50,000(additional)             |
| (d) | Amendments to an other  | ₦100,000                        |
| (e) | New agreement/document not previously filed during the scheme offer or launch | ₦100,000                        |
| (f) | Request for legal opinion or advisory clarifications                          | Not less than ₦50,000           |
| (g) | <u>Advert materials</u>   | <u>₦20,000 (per submission)</u> |

## 8. General Rules for Collective Investment Schemes (CIS)

### Existing Rule:

- (3) (f) A supplementary shelf prospectus shall—
- (i) state such information as may be specified in these Rules and Regulations on contents of prospectus;
  - (ii) state the offer period which should not be longer than twenty-eight (28) working days from the date of the issue of the Supplementary Prospectus or such longer period as may be allowed by the Commission;

### Amendment:

- (3) (f) A supplementary shelf prospectus shall—
- (i) state such information as may be specified in these Rules and Regulations on contents of prospectus;
  - (ii) state the offer period which should not be longer than twenty-eight (28) working days from the date of the issue of the Supplementary Prospectus or such longer period as may be allowed by the Commission; Provided that this shall not apply to Infrastructure Funds and other Alternative Investment Schemes targeted at qualified investors, which shall disclose the applicable offer period in their offering document.
  - (iii) disclose for infrastructure funds or other alternative investment schemes targeted at qualified investors, that no subsequent series shall be issued until at least 50%



70% of the proceeds of the previous issuance has been utilized according to the investment objective and policy of the fund.

## **9. Part C. Securities, Registration Fees for Units/Securities and Others**

Filing fee for application documents of portfolio products, flat rate of ₦100,000.00

## **10. Part D. SEC Fees on Market Deals**

### **Existing Rule:**

2. Filing fee for proxy materials ₦500,000

### **Amendment:**

- |   |          |
|---|----------|
| 2. (a) Filing fee for proxy materials (company) | ₦500,000 |
| (b) Filing fee for materials (CIS)              | ₦50,000  |

## **H. Amendment to Rule 450:**

### **New Sub-Rule (9) General Rules for CIS**

1. The fund manager of a scheme shall provide every unitholder with an electronic investment statement at within two weeks after the end of each month.
  - a. The investment statement shall be an unaudited financial summary of the scheme's operations comprising abridged and concise statement of comprehensive income, statement of financial position, cash flow statement and statement of changes in equity of the scheme.
  - b. The investment statement shall disclose:
    - i. the scheme's yield for the period and a month on month comparison.
    - ii. the number of units held by the unitholder and the unit-price as at the date of the statement.
    - iii. a breakdown of inflows and outflows from the unit-holder's account including any accrued or deducted expenses, capital appreciation or depreciation and any income accruing to the account of the unitholder.



2. The fund manager of a scheme shall disclose on its website:
- a. Daily bid and offer prices of each scheme under its management calculated in accordance with the Basis of Computation of Bid and Offer Prices for Collective Investment Schemes under the rules and regulations.
  - b. Details of the schemes under its management including the parties, risk profile and tax considerations of each scheme.
  - c. Annual total expense ratio of each scheme for the last five accounting years in ascending order.
  - d. Year on year comparison of each scheme's yield for the last five accounting years including comparison with the scheme's stated benchmark.
  - e. Approved Trust deed including approved supplemental/amendments of each scheme.
  - f. Rights of the unitholders of each scheme.
  - g. Distribution frequency of each scheme and a distribution table of the last 10 years showing the distribution reference date, dividend type (interim or final) dividend announcement date, dividend record date, dividend ex-date, dividend payment date, gross dividend, tax deducted, net dividend and the financial years to which the dividends relate to.
  - h. Full audited financial accounts of each scheme for the last five years.
  - i. The SEC approved initial ~~full SEC approved~~ prospectus and/or the updated prospectus of each scheme.

Subject to the prior approval of the Commission, a fund manager shall issue a 3-page updated prospectus on an annual basis disclosing the information to be contained in a prospectus including the scheme's 1, 5 and 10-year total return performance compared to the scheme's benchmark with a disclaimer that past performance is not an indication of future performance.

- j. Any approvals obtained from the Commission affecting a scheme's operations including changes to any party to the scheme.





## Securities & Exchange Commission


- d. Year on year comparison of each scheme's yield for the last five accounting years including comparison with the scheme's stated benchmark.
- e. Approved Trust deed including approved supplemental/amendments of each scheme.
- f. Rights of the unitholders of each scheme.
- g. Distribution frequency of each scheme and a distribution table of the last 10 years showing the distribution reference date, dividend type (interim or final) dividend announcement date, dividend record date, dividend ex-date, dividend payment date, gross dividend, tax deducted, net dividend and the financial years to which the dividends relate to.
- h. Full audited financial accounts of each scheme for the last five years.
- i. The SEC approved initial ~~full~~ SEC approved prospectus and/or the updated prospectus of each scheme.

Subject to the prior approval of the Commission, a fund manager shall issue a 3-page updated prospectus on an annual basis disclosing the information to be contained in a prospectus including the scheme's 1, 5 and 10-year total return performance compared to the scheme's benchmark with a disclaimer that past performance is not an indication of future performance.

- j. Any approvals obtained from the Commission affecting a scheme's operations including changes to any party to the scheme.

MADE AT ABUJA THIS 24<sup>TH</sup> .....

DAY OF APRIL ..... 2025

  
.....

**Simnom Garba (Mrs.)**

**Ag. Secretary to the Commission**

  
.....

**Emomotimi Agama**

**Director General**