



REGULATORY CHANGES AND COMPLIANCE IN THE NIGERIAN CAPITAL MARKETS

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INTRODUCTION

The Nigerian capital market is a subsector of the Nigerian financial market and a major driver of economic growth and development.ⁱ It is principally a market for long-term investments, where equities and debt securities are issued and traded.ⁱⁱ The Capital market also fosters economic growth and investment opportunities in Nigeria through these economic activities.

The Capital Market is regulated by both the Nigeria Exchange Group (NGX) especially where the activities concern a public company and the Securities and Exchange Commission (SEC). According to a 2023 report on the Nigerian capital market issued by Price Waters Coopers, about NGN 235 billion was raised via corporate bond issuances from January to June 2022, and this has continued at a steady rise.ⁱⁱⁱ In June 2023 the Nigerian capital market capitalization was noted to be about N35.011 trillion on the

Nigerian Stock Exchange Limited (NGX), which is a 5.5% increase from the 2022 stock report. Capital market accumulation has an observed positive impact on Nigeria's economy due to its relationship with the Gross Domestic Product (GDP).^v

Another crucial function of the Capital market is its ability to serve as an investment platform where capital is raised in a regulated environment to protect investors' funds.^{vi} Therefore, there is a need for regulation and the enforcement of compliance issues for capital market activities. Hence, it is advised that all players in the market must comply with the set laws, rules, and regulations to ensure fairness, transparency, and market integrity. This article thus explores the key regulatory framework in the Nigerian capital markets and their far-reaching impact on the Nigerian financial economy.

AN OVERVIEW OF THE LAWS REGULATING CAPITAL MARKETS IN NIGERIA

Some various laws and regulations govern and regulates the capital markets in Nigeria, the primary one being the Investment and Securities Act 2007.

i. INVESTMENT AND SECURITIES ACT 2007

The Investment and Securities Act (ISA) is the major law in the Nigerian capital markets. It provides a comprehensive framework for regulating investment and securities business in Nigeria. The ISA contains; the establishment of the SEC, the registration and regulation of capital market operators, the control and regulation of initial public offerings (IPOs), and the establishment of the Investors Protection Fund, among others.^{vii} The purpose of the ISA is to control the activities of persons who are engaged or involved in the capital markets. Additionally, the ISA also mandates the conduct of special and routine supervisory inspections and investigations of capital market operators.^{viii} Furthermore, the ISA introduced the Investors Protection Fund^{ix} which is a fund that is aimed at protecting subscribers against loss and damage arising from the default of issuers and their agents.

ii. SECURITIES AND EXCHANGE COMMISSION (SEC) RULES 2013

The Securities and Exchange Commission Rules (SEC Rules) provide general and specific rules for market participants. It

covers registration of market participants, issuance and trading of securities, disclosure of information to investors, etc. Non-compliance with the SEC Rules attracts sanctions, such suspension and revocation of operating licenses.

iii. COMPANIES AND ALLIED MATTERS ACT (CAMA) 2020

Another regulatory framework guiding the Capital Market activities is the Companies and Allied Matters Act (CAMA) 2020. CAMA focuses on enhancing corporate governance, ease of doing business, and investor protection. Also, it introduces provisions that simplify company registration processes, such as the providing for the promotion of electronic means of conducting business and strengthen mechanisms for corporate accountability, provisions aimed at protecting minority shareholders and improving disclosure requirements, etc. These changes collectively contribute to a more robust and investor-friendly business environment, aligning with the broader goal of attracting investments and promoting a thriving capital market in Nigeria.

iv. BUSINESS FACILITATION (MISCELLANEOUS PROVISIONS) ACT 2022

The Business Facilitation (Miscellaneous Provisions) Act 2022 (BFA) has set objectives including the promotion of ease of conducting business in Nigeria, elimination of administrative bottlenecks, and amendment of relevant laws to institutionalize all reforms to enhance legislation implementation. Salient provisions of the BFA relating to the Nigerian capital markets are highlighted below:

- a. **Part 1(5) of the BFA** amended section **149 of CAMA** by inserting a new subsection (1) which states that the powers to allot the shares of a company are not exercised by the directors of a company unless express authority to do so has been given to the company in a general meeting or through the company's articles. Where the directors of a company decide to allot shares to the public without express authority from the general meeting or the company's articles, the allotment made will be deemed to be irregular and voidable on the part of the allottee.
- b. **Part X(42) of BFA** amended **section 67 of the Investment and Securities Act 2007** by highlighting that no allotment shall be made of any securities of a company offered to the public for a subscription unless, in the case of a public company, the amount stated in the prospectus, as the minimum amount has been subscribed and the sum payable on application for the amount so stated has been paid to and received by the company, or in the case of a private company, through any lawful means, as SEC may by regulation prescribe. By this amendment, private companies can now issue shares to the public through

lawful means as prescribed by SEC. Where a private company does so, it will now come under the regulatory purview of the SEC and will be subject to strict market standards.

v. REGULATION AND DIGITAL ASSETS

The SEC released rules on the issuance, offering platforms, and custody of digital assets on 11th May 2022 titled the New Rules on Issuance, Offering Platforms and Custody of Digital Assets.

The rules outlined aim to comprehensively address diverse facets of transactions involving digital and virtual assets within the Nigerian capital market, such as cryptocurrency trading, Security Token Offerings, Initial Coin Offerings, etc. This Rule contains; the issuance of digital assets as securities, encompassing regulations for entities seeking to raise capital through digital asset offerings, registration requirements for Digital Asset Offering Platforms (DAOP) and Digital Asset Custodians (DAC), respectively, regulations for Virtual Assets Service Providers (VASP), and Digital Assets Exchanges (DAX).

Notably, the Rules mandate that digital tokens representing assets such as debt or equity claims on issuers must be registered with the SEC before public issuance. The document delves into eligibility criteria for entities issuing digital assets securities and outlines investor protection measures, including ownership requirements for directors and senior management. Additionally, it stipulates investment limits for digital securities, fundraising ceilings for digital securities, and exemptions to the registration of digital assets, emphasizing the SEC's commitment to safeguarding investors and ensuring the integrity of digital asset transactions in the Nigerian capital markets.

THE IMPACT ON MARKET PARTICIPANTS

The cumulative impact of these regulatory changes on market participants, including investors, issuers, and intermediaries, is multifaceted. Investors benefit from enhanced protection, assured return on investment, transparency, and regulated investment avenues. Issuers, especially those venturing into the digital asset space, face a more structured framework that ensures compliance with market standards. Intermediaries, including offering platforms, custodians, and digital asset exchanges, are subject to clear rules that promote responsible and secure market practices.

Overall, these regulatory changes aim to foster a resilient, transparent, and investor-friendly capital market in Nigeria that aligns with broader economic goals. Therefore, failure to adequately comply with these regulations not only attracts sanctions and fines for operators and individuals including the suspension and revocation of operating licenses, but it is inimical to the Nigerian financial economy, and it drives away investors' funds into the economy thereby encouraging economic stagnation in the country.

FUTURE OUTLOOK

In recent years, the Nigerian capital market has witnessed significant innovation, improved regulatory controls, and a diversified investor base. For example, the SEC in 2nd December 2022 launched a ten (10) year Master Plan to drive the vision and growth of the Nigerian capital market, and the need to align the market's aims, objectives, metrics, and targets to current realities has necessitated an update to the Capital Market Master Plan. The future outlook of the capital market in Nigeria appears promising, with several factors, such as the innovative approach of the SEC by acknowledging digital securities contributing to its

potential growth. The renewed focus on private sector-driven growth, coupled with the reawakening of regulatory institutions in Nigeria, gives a glimpse of hope.

Additionally, on the legislative side, the enactments of legislation like the BFA, which is expected to improve the ease of doing business in Nigeria and attract foreign direct investment, is a representation of the government's political will toward improving the capital market and ensuring that adequate regulation is provided to guide the capital market in its significant role as an economic amplifier.^x

CONCLUSION

The Nigerian capital market is the major driving force behind economic development. due to it is a parallel relationship with the GDP. Thus, where the capital market is successful, the nation is likely to improve economically. It is important for regulations governing capital markets and financial transactions to be strictly adhered to improve market integrity and attract foreign and domestic investors to the market. This would significantly develop and promote the Nigerian financial market and the economic state of the country simultaneously.

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¹Oluwasola Egbetola, 'The Capital Market in Nigeria: Opportunities for Lawyers.' (2022) < https://www.linkedin.com/pulse/capital-market-nigeria-opportunities-lawyers-oluwasola-egbetola?utm_source=share&utm_medium=member_android&utm_campaign=share_via > accessed 4 December 2023.

²'Capital market benefits to the Nigerian government' (18 May 2023)

<<https://www.thecable.ng/capital-market-benefits-to-the-nigerian-government/amp>> accessed 4 December 2023.

³Elizabeth Ekpo, 'Nigerian Capital Markets Update' (2022) < www.pwc.com/ng > accessed 5 December 2023.

⁴Peter Egwuatu, 'Capital Gains Decline as Market Capitalisation Hits N35 trillion' (2023) < <https://www.vanguardngr.com/2023/08/capital-gain-declines-as-market-capitalisation-hits-n35trn/>. Accessed 5 December 2023.

⁵Madubuko Cyril Ubesie, 'Impact of Capital Market on Economic Growth in Nigeria' July 2020, available at https://www.researchgate.net/publication/342822597_Impact_of_Capital_Market_on_Economic_Growth_in_Nigeria.

⁶Ahmed and bello at 170 Supra.

⁷Investmetn and Securities Act 2007.

⁸ISA 2007, s. 45(1).

⁹ISA 2007, s. 198.

¹⁰See generally Bosede on the need for Nigeria to pay attention to financial globalisation. Note 25 Supra.

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