Key Provisions of the Investments and Securities Act 2025: Strengthening Nigeria's Capital Markets

Introduction

The recently enacted ***Investments and Securities Act 2025*** ("ISA 2025" or the "Act") marks a significant milestone in Nigeria's financial regulatory landscape. As the backbone of the country's capital markets regulatory framework, the Act introduces several key reforms aimed at enhancing regulatory oversight, bolstering investor confidence, and aligning Nigeria's securities laws with global best practices.

From strengthening the regulatory prerogative of the Securities and Exchange Commission ("SEC" or the "Commission") to enhancing its investigative and enforcement powers, the ISA 2025 equips the Commission with increased authority to combat illegal investment schemes and manage systemic risk, and expands the licensing categories in the market. The Act also expands investor protection mechanisms and refines the regulatory framework for mergers and acquisitions involving public companies.

With these sweeping reforms, the ISA 2025 is poised to create a more transparent, efficient, and resilient capital markets ecosystem, with the objective of fostering economic growth and attracting both local and foreign investment.

This article sets out some of the key provisions of the Act and their implications for Nigeria's evolving financial ecosystem.

1. **Expanded Regulatory Prerogative of the Commission**

The ISA 2025 reinforces the independence of the SEC, ensuring its ability to execute its regulatory functions.[1] This aligns with the International Organisation of Securities Commissions (IOSCO) principles, which require that securities regulators have sufficient authority, resources, and capacity.[2]

Key enhancements to SEC's mandate include:

i. the extension of the list of entities regulated by the Commission to include virtual and digital asset exchanges,[3] virtual asset service providers, digital asset operators and credit enhancement facility providers;[4]

ii. the registration and regulation of collateral management companies, warehouse operators, warehouses and electronic warehouse receipts, ensuring efficient trading of commodities on commodities exchanges;[5]

iii. the registration and regulation of online forex trading activities, platforms and intermediaries;[6] and

iv. the extension of the powers of the Commission to include the power to penalise sponsors of prohibited schemes such as ponzi schemes or pyramid schemes.[7]

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[1] Section 1(3) of the ISA 2025.
[2] IOSCO Objectives and Principles of Securities Regulation.
[3] Section 3(3)(b) of the ISA 2025.
[4] Section 3(3)(i) of the ISA 2025.
[5] Section 3(3)(m) and (n) of the ISA 2025.
[6] Section 3(3)(o) of the ISA 2025.
[7] Section 196 of the ISA 2025.

2. Enhanced Oversight of Public Companies

To strengthen investor protection and corporate governance, the ISA 2025 expands the Commission's supervisory authority over capital market operators, public companies and other regulated entities. The Commission can now, in the exercise of its power:

i. intervene in the management of public companies which have acted in a manner that is detrimental to their investors or shareholders, or in a manner causing corporate governance violations. This includes the power to enter premises and take necessary corrective measures.[8]

ii. appoint independent directors to the board of public company in which the Commission has intervened.[9]

iii. place directors of public companies on probation for a reasonable period of time or remove any person associated with misconduct or the mismanagement of a public company.[10]

3. Investigative Powers of the SEC

The Act significantly enhances the Commission's ability to investigate potential violations of securities laws.[11] Key provisions include:

i. the authority to audit public companies and other regulated entities, and demand records;[12] and

ii. the power to obtain subscriber data from telecommunication and internet service providers located within Nigeria in connection with investigations related to securities laws violations.[13]

4. Redefinition of Securities Exchanges

A major reform in ISA 2025 is the classification of securities exchanges into composite and non-composite categories.[14] According to the Act:

i. composite securities exchanges permit the listing, quotation, and trading of all financial instruments, commodities, and securities.[15]

ii. non-composite securities exchanges either specialise in the listing, quotation and trading of a single financial product (mono securities exchange) or operate as an alternative trading system that brings together orders from buyers and sellers in a physical location or on an online platform.[16]

We note that the prior approval of the SEC is now expressly required for the appointment of chief executives and other principal officers of securities exchanges.[17] The Act further empowers the SEC to suspend or remove the chief executive and other principal officers of a securities exchange for failure to comply with securities laws.[18]

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[8] Section 3(4)(a) of the ISA 2025.
[9] Section 3(4)(b) of the ISA 2025.
[10] Section 3(4) (c) and (d) of the ISA 2025.
[11] Section 3(4)(g), ISA 2025.
[12] Section 3(4)(g), ISA 2025.
[13] Section 3(4)(J) of the ISA 2025.
[14] Section 27 of the ISA 2025.
[15] Section 27(2) of the ISA 2025.
[16] Section 27(3) of the ISA 2025.
[17] Section 29(1) of the ISA 2025.
[18] Section 29(2) of the ISA 2025.

5. **Regulation of Financial Market Infrastructure**

The Act sets out extensive provisions on the registration and administration of financial market infrastructures ("**FMIs**"), including trade repositories, securities exchanges, central counterparties, central clearing houses, central securities depositories and securities settlement systems.[19] Under the Act, the SEC is empowered to:

i. withdraw or revoke the registration of FMIs in the interest of the public and for the protection of investors;[20] and

ii. shut down and seal up the premises of an unregistered FMI and prosecute each director, promoter or other person in control of the FMI.[21]

6. **Development of a Derivatives Framework**

The Act introduces more extensive provisions for the regulation of derivatives, marking a crucial step in the advancement of the Nigerian derivatives market.

The Act defines derivatives broadly[22] and vests the SEC with the explicit power to make rules regulating derivatives exchanges, market infrastructure, business operators, trade associations, and rules to prevent unfair derivatives trading practices.[23]

The extensive derivatives provisions, together with the provisions of the Act which disapply the application of insolvency laws to market contracts, indicate an intention to create a robust derivatives market in Nigeria with the necessary risk management framework. These provisions are expected to strengthen the confidence of local and foreign participants and ensure that derivative transactions are conducted within a well-regulated environment.

7. **Central Clearing and Treatment of Market Contracts**

The Act contains provisions which apply to securities exchanges, FMIs, and parties to market contracts, allowing for central clearing and the disapplication of the provisions of the general insolvency laws to market contracts cleared by FMIs. This will help mitigate counterparty credit risk in the capital and financial markets, thus providing a long-anticipated buffer against significant market disruptions.

8. **Repositioning of the Investments and Securities Tribunal ("IST" or "Tribunal")**

The Act introduces significant changes to strengthen the position of the IST as a tribunal for resolving capital markets disputes. Some of the key changes include:

i. an increase in the composition of the Tribunal from 10 (ten) to 12 (twelve) members to accommodate seasoned capital markets experts alongside legal professionals, reinforcing its role as a specialised court.[24]

ii. the transfer of the power to appoint Tribunal members from the Minister of Finance (the "Minister") to the President of Nigeria, who will act on the Minister's recommendation.[25] This change enhances the IST's visibility and lays the groundwork for its potential recognition as a specialised court under the Constitution of the Federal Republic of Nigeria.

iii. the broadening and clarification of the IST's jurisdiction to explicitly define its original and appellate jurisdictions.[26]

[19] Sections 41- 52 of the ISA 2025.
[20] Section 43(1) of the ISA 2025.
[21] Section 41(2) & (3) of the ISA 2025.
[22] Section 357 of the ISA 2025.
[23] Section 355(m) of the ISA 2025.
[24] Section 315 of the ISA 2025.
[25] Section 316 of the ISA 2025.
[26] Section 326 of the ISA 2025.

iv. Under its original jurisdiction, the IST will preside over any matter where:

   a. the complaint is against a direction of the SEC;

   b. a matter had been referred to the SEC and the SEC failed to act within 60 (sixty) days; and

   c. the matter arose from a regulatory action taken by the SEC pursuant to the provisions of the Act.[27]

v. Under its appellate jurisdiction, the IST will preside over any matter:

   a. concerning a dispute between participants in the securities markets;

   b. arising from the administration, management and operation of collective investment schemes; and

   c. relating to the review, approval and regulation of mergers, takeovers and restructuring of public companies.[28]

9. **Recognition of Virtual Assets as Securities**

The Act expands the definition of securities to include virtual assets and digital assets, effectively recognising them as instruments tradable on securities exchanges.[29] This shift reflects the government's move from a prohibitive stance to a regulatory approach that ensures its oversight and the integration of virtual assets, digital assets, and other distributed ledger technology offers, tokens and products into the Nigerian securities markets.

10. **Treatment of Unclaimed Dividends of Public Companies**

The Act permits the SEC to create a regulatory framework for the treatment of unclaimed dividends.[30] We note that the Companies and Allied Matters Act 2020 (as amended by the Finance Act 2020) contains provisions for the treatment of unclaimed dividends of a quoted public limited liability companies under the supervision of the Debt Management Office. We will continue to monitor the developments on this matter.

Conclusion: A New Era for Nigeria's Capital Markets

The *Investments and Securities Act 2025* represents a bold step toward strengthening Nigeria's financial markets, fostering investor confidence, and enhancing regulatory efficiency. By granting SEC broader powers, introducing new market structures, and enhancing key regulations, the Act ensures a more transparent and resilient capital markets.

However, as with any significant regulatory shift, market participants, investors, and stakeholders must familiarise themselves with these changes to navigate the evolving landscape effectively. If you require further clarity on any of the provisions or how they may impact your investments or business operations, feel free to reach out for more insights and guidance.

[27] Section 326(2) of the ISA 2025.
[28] Section 326(3) of the ISA 2025.
[29] Section 357, ISA 2025.
[30] Section 93 of the ISA 2025.

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