

NIGERIA'S SEC INTRODUCES DIGITAL SUB-BROKER REGULATIONS





On 19 December 2020, the Securities Exchange Commission, Nigeria (“SEC”) published a statement, informing the public that the Investments and Securities Tribunal, (“IST”) had made interim Orders restraining a Fintech company, Chaka Technologies Limited, and its promoters from advertising or offering for sale shares, stock or other securities of companies or other entities [1]. SEC’s position was that companies that offer a platform for the purchase of shares in foreign companies (“investment tech” or “wealth tech”) acted outside its regulatory purview and in breach of extant laws and regulations particularly the Investments and Securities Act and the Rules and Regulations of the SEC.

Investment tech companies were faced with another dilemma again when on 8 April 2021, SEC stated that by the provisions of Sections 67-70 of the Investments and Securities Act (ISA), 2007 and Rules 414 & 415 of the SEC Rules and Regulations, only foreign securities listed on any Exchange registered in Nigeria may be issued, sold, or offered for sale or subscription to the Nigerian public [2]. Therefore, their activities were contrary to the laws and regulations governing securities in Nigeria. The SEC noted that it is aware the most investment tech companies like Chaka have partnerships with registered Capital Market Operators in Nigeria to offer foreign shares to Nigerians. However, according to SEC, such arrangement is illegal.

Nigerians who used such platforms and saw the innovation they offered as the democratisation of the purchase of shares were frustrated by the actions of the regulator, especially those who had purchased many shares. However, stakeholders in the ecosystem informed Nigerians to stay calm as a way forward was being discussed with the SEC.

Now, it seems that way forward has come to the fore. On 22 April 2021, SEC released amendments to their Consolidated Rules and Regulations (the “Amendments”). The Amendments provide a new definition of who a Sub-Broker is by defining such person (s) as any person or entity not being a dealing member of an Exchange who acts on behalf of a sponsoring Broker/Dealer as an agent or otherwise for assisting the investors in buying, selling, or dealing in securities through such sponsoring Broker/Dealer [3]

It also states that a Sub-broker who is serving multiple brokers through a Digital Platform is a sub-broker who utilizes a digital platform to serve clients and interact with the sponsoring broker or brokers [4]

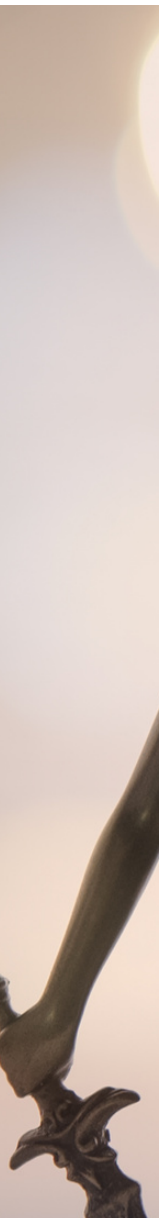
The definitions encapsulate the activities of most investment tech companies as they leverage on their digital platforms and partner with registered brokers to offer shares on their platforms. Consequently, according to the amendments, an application for registration as a Sub-Broker/Sub-Broker Serving Multiple Brokers through a Digital Platform must be made to SEC alongside the requirements listed in the Amendment such as Payment of Filing Fees and ensuring the application is accompanied by the required duly executed SEC Form.

[1] “The Investments and Securities Tribunal (IST) Restrains Unregistered Fintech Company from Stock Trading” by the Securities and Exchange Commission, Nigeria, accessed 30 April 2021. <https://sec.gov.ng/the-investments-and-securities-tribunal-ist-restrains-unregistered-fintech-company-from-stock-trading/>

[2] “Proliferation of Unregistered Online Investment and Trading Platforms Facilitating Access to Trading in Securities Listed in Foreign Markets” by the Securities and Exchange Commission, Nigeria, accessed 30 April 2021. <https://sec.gov.ng/proliferation-of-unregistered-online-investment-and-trading-platforms-facilitating-access-to-trading-in-securities-listed-in-foreign-markets/>

[3] The amendment can be accessed here.

[4] The amendment can be accessed here.



Sub-Brokers/Sub-Brokers Serving Multiple Brokers through a Digital Platform are required to have a minimum paid up capital of N10,000,000 (Ten Million Naira) and a Current Fidelity Insurance Bond covering at least 20% of the minimum paid-up capital as stipulated by the Commission's Rules and Regulations [5]. Applicants must also submit the necessary information on their Sponsored Individuals [6], the Company Profile and other required business organisation documents, and the Company's corporate documents like a copy of their Certificate of Incorporation.

Sub-Brokers Serving Multiple Brokers through a Digital Platforms, must submit a copy of their Principal Agreement with Brokers, a description of the technology on which its infrastructure is built (Structure, Capability/limitation, Security back-up, and recovery process).

They must also submit a Certification showing that their Infrastructure is sufficient to perform the required function by an IT Service Provider registered by the National Information Technology Development Agency (NITDA) or other recognized Agency and endorsed by a representative of the Association of Securities Exchanges, Evidence of the companies documented policies and procedures for managing technology risks, and the company's Know-Your-Customer process amongst other things.

Innovators and existing companies who leverage on digital platforms to offer shares to Nigerians, should examine the amendments to see whether their business structure requires them to register as a Sub-Brokers Serving Multiple Brokers through a Digital Platform.

[5] The amendment can be accessed [here](#).

[6] According to Paragraph 19 of the Consolidated Rules and Regulations of SEC, Sponsored Individuals are the principal officers and/or professionals held out by the applicant (company) as experts and on whose advice or actions investors are expected to rely.



Oluwapelumi Omoniyi

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CONTACT DETAILS

LAGOS, NIGERIA

4th Floor,
Marble House
1, Kingsway Road, Falomo
P. O. Box 52901, Ikoyi
Lagos, Nigeria

Telephone: (+ 234 1) 2793367; 2793368
4736296, 4617321-3;
Facsimile: (+ 234 1) 2692072; 4617092
E-mail: lagos@aelex.com

ABUJA, NIGERIA

4th Floor,
Adamawa Plaza
1st Avenue, Off Shehu Shagari Way
Central Business Area
FCT Abuja, Nigeria

Telephone: (+234 9) 8704187, 6723568,
07098808416
Facsimile: (+234 9) 5230276
E-mail: abuja@aelex.com

PORT HARCOURT, NIGERIA

2nd Floor,
Right Wing UPDC Building
26, Aba Road
P.O. Box 12636, Port Harcourt
Rivers State, Nigeria

Telephone: (+234 84) 464514, 464515
574628, 574636
Facsimile: (+234 84) 464516, 574628
E-mail: portharcourt@aelex.com

ACCRA, GHANA

7th Floor, Suite B701
The Octagon
Accra Central, Accra
P.M.B 72, Cantonment Accra, Ghana

Telephone: (+233-302) 224828, 224845-6
Facsimile: (+233-302) 224824
E-mail: accra@aelex.com