



SECURITIES OFFERINGS, MERGERS/ACQUISITION RESTRUCTURING AND INVESTMENT MGT. UNDER THE NEW ISA-2025

Presented by: Abdulkadir Abbas
Director, Securities & Investment Services Department
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Part IX – Regulation of securities, XVI – Issuance of Securities and XVII — Miscellaneous Provisions

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- Tenure of member on board of trustees reduced from 4 years to 3 years renewable for another 3 years – Section 200(2) (b) (Amendment)
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- Investor's claims shall be charged in the first instance against the defalcating license holder who is not insolvent or bankrupt, before recourse to exchange and fund – Section 214 (New) and 215(2) (Amendment)
- Investors can make a claim within 6 years from date of defalcation by dealing member firm – Section 216 (2) (Amendment)

MAJOR PROVISIONS OF THE ISA 2025

Section 86(1) (AMENDMENT)

The 2007 ISA required all securities of public companies and collective investment schemes to be registered. The ISA 2025,- there are no classification of the entities whose securities are required to be registered, **but it refers to all securities issued under the ISA 2025. This empowers the Commission to regulate the issuance of all categories of securities, including those of private companies.**

Section 86(6) (AMENDMENT)

The 2007 ISA provided for issuances, transfers, sales or offers to the public. The 2025 ISA clarifies the ambit of the Commission's **regulation to include proposed offers or actual offers of securities outside Nigeria or listing of such securities outside Nigeria**

Section 86(7&8) (AMENDMENT)

To provide stiffer penalty for issuing securities without approval of the Commission, **(not less than 50% or 10% for a defaulting entity or individual, respectively, in value of securities offered) including the refund of issue proceeds, plus interest.** This to discourage issuance of securities without prior approval of the Commission

Section 87(1) (AMENDMENT)

The 2007 ISA restricted electronic issuance through an exchange, capital trade point or any SRO. **Now by virtue of the 2025 ISA, securities can be issued electronically through any approved channel**

MAJOR PROVISIONS OF THE ISA 2025

Section 95(1) (AMENDMENT)

Expanded the scope of entities that can make public offering to include entities licensed by CBN to accept deposit and savings **and Free Trade Zone Entities (as approved by the Commission; and shall become subject to tax laws and other regulation in Nigeria)**

Section 95(3) (NEW)

provide more clarity and enable companies offer new shares to the public, without the requirement to first offer the shares to existing shareholders.

This section renders s. 142 of the CAMA 2020 inapplicable – Pre-emptive Rights of Existing Shareholders in the offer of new shares.

MAJOR PROVISIONS OF THE ISA 2025

Section 95(4) (AMENDMENT)

To provide stiffer penalty for invitation to the public without Commission's approval. This is to discourage unauthorised public solicitation without prior approval of the Commission.

Section 103 (3) (AMENDMENT)

To expand the scope to include advert circulated through electronic media platforms.

In the 2007 ISA, the media identified were only newspaper, radio or television broadcasting and cinematography.

MAJOR PROVISIONS OF THE ISA 2025

Section 109 (NEW)

ISA 2025 provides that changes to terms of a contract disclosed in the prospectus, at the instance of the issuing company, **to require approval of the shareholders and the Commission.**

Section 113(2) (e) - (g) (AMENDMENT)

Expanded the provision on civil liability **for misstatements in prospectus to include other professional parties who may be liable, such as stockbroker, underwriter, auditor, banker, solicitor of the issuer or other expert named in the prospectus; promoter and other consenting persons named in the prospectus,** to the extent of their involvement, resulting in the loss or damage.

MAJOR PROVISIONS OF THE ISA 2025

Section 117(4&5) (NEW)

ISA 2025 provides that application monies in an offer do not constitute assets, deposit liabilities or other liabilities of the bank in whose custody it is held in trust. **In event of liquidation of the bank, the money shall be treated as priority to any other claim and the liquidator shall transfer the monies to the issuing house**

Section 120 (3) (AMENDMENT)

In the 2007 ISA, the interest on the surplus monies was 1% above CBN minimum rediscount rate.

Now by virtue of the 2025 ISA, Interest due on surplus monies belonging to subscribers, held beyond the period permitted by the Commission's regulation , **shall not be less than CBN MPR + 5%.**

MAJOR PROVISIONS OF THE ISA 2025

Section 268 (AMENDMENT)

Under the 2007 ISA only debt issuances by companies wholly owned by the Federal, States, Federal Capital Territory and Local Governments were required to be registered with the Commission.

Under 2025 ISA, **debt securities issued by companies which are guaranteed or sponsored by Federal, State, Local Governments and Federal Capital Territory are required to be registered with the Commission.**

Section 269 (1) & (2) (AMENDMENT)

To further classify debt securities that can be issued by sub nationals **into general obligation bonds and revenue bonds. The former is a balance sheet item while the latter is off-balance sheet.**

The ISA 2025 **includes non-interest financial instruments such as Sukuk as securities that can be issued, and further classified debt securities into general obligation bonds and revenue bonds (project/asset backed or guaranteed).**

MAJOR PROVISIONS OF THE ISA 2025

Section 269(3) (AMENDMENT)

Under the 2007 ISA the condition for raising debt capital generally was that the total loans outstanding (including proposed bond) was not to exceed 50% of the actual revenue for the year.

ISA 2025 introduces the requirement that the Internally Generated Revenue of States and Federal Capital Territory shall not be less than 60% of consolidated revenue for 3 years; and further provides flexibility for Commission to make rules as it deemed fit.

MAJOR PROVISIONS OF THE ISA 2025

Section 269 (4) (NEW)

ISA 2025 **provide for issuance of a revenue/project tied securities**. This is going to be a game changer towards financing infrastructural projects for both states and local governments, thereby enhancing rapid infrastructural development.

Section 270 (NEW)

ISA 2025 makes provisions for the appointment **of custodians to warehouse issue proceeds for project-tied bond issuances**.

This is to ensure that monies raised by states for projects are protected.

Section 271 (3) (C) (III) – (G) (AMENDMENT)

To include the requirement of **an irrevocable letter of guarantee of repayment of the obligation, issued by a third-party, and not necessary the federal or state government that owns the agency or company**.

This is to further provide comfort to investors for investing in state issues

MAJOR PROVISIONS OF THE ISA 2025

Section 271(3)(D)(I) (NEW)

To provide clear documentary requirements for project-tied bonds especially where it is issued by sub nationals.

ISA 2025 includes a requirement **of an irrevocable letter of consent by the banker to the project on the funding of the debt service reserve account or sinking fund to be established from the accruing project cash flows.**

Section 276 (AMENDMENT)

Under ISA 2007, bondholders were entitled to receive bond certificates covering their holdings.

However, under ISA 2025, **securities are required to be allotted in dematerialised form and registered electronically, with bond holders being entitled to electronic proof of ownership of the bonds held.**

Section 285 (AMENDMENT)

ISA 2025 requires trustees to be registered with the Commission as underwriters, before they can underwrite an offer. **It also prohibits trustees from underwriting an offer in which they act as trustee**

To give clarity on the role of a trustee in an issuance and to provide instances where trustees cannot underwrite in an issuance in which they are trustees.

MAJOR PROVISIONS OF THE ISA 2025

Section 297 (NEW)

ISA 2025 has introduced a limitation of legal action in respect of issued securities after the lapse of 6 years

Consequently, an action shall not lie against the issuer in respect of the affected securities after 6 years lapses.

To align with the statute of limitation.

Section 303 (AMENDMENT)

ISA 2025 extended the power of the Commission to make rules under Part XVI to include the following items:

Debt sustainability guidelines and ratio for issuances by State and Local Government

Considerations by custodians in the disbursement of proceeds of securities issue

Minimum content of a trust deed or other indenture

MAJOR PROVISIONS OF THE ISA 2025

Section 307 (NEW)	ISA 2025 has introduced penalties for diversion or mismanagement of issue proceeds by officers of government or government agencies.
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Penalties are also applicable to registrars, issuing houses, trustees, custodian, or other professional parties to an issue

Section 308 (NEW)	ISA 2025 introduces summary provisions in respect of the issuance of debt securities by corporate and supranational bodies.
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The provision prohibits the issuance of debt securities to the public without prior review and approval of the Commission; and empowers the Commission to make rules and regulations to that effect.

Section 357 (AMENDMENT)	To expand the Commission's regulatory powers to cover virtual and digital assets.
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ISA 2025 revised the interpretation section, and specifically, defined "securities" to include virtual and digital assets

MAJOR PROVISIONS OF THE ISA 2025

MERGERS, ACQUISITIONS, AND OTHER FORMS OF RESTRUCTURING

Section 140 (NEW)	ISA 2025 requires public companies to obtain prior approval of the Commission for all types of restructuring involving the issuance of shares, including the conversion of a public company and acquisition or disposal of assets that significantly change the business direction or policy of the company
Section 141 (NEW)	ISA 2025 reintroduces regulations governing mergers and other forms of business combination (involving public companies) that were repealed by the FCCPC Act , thereby strengthening the Commission's regulatory oversight, protection of minority shareholders and ensuring market fairness and integrity.
Section 142 (1) (NEW)	ISA 2025 outlines the parties to whom the takeover, merger, or compulsory acquisitions laws apply to, including the acquirer, target company, offeror, offeree, their officers, and associates

MAJOR PROVISIONS OF THE ISA 2025

Section 142 (2-4)
(AMENDMENT)

ISA 2025 require **persons intending to acquire 30% or more of a company's voting rights to simultaneously make a takeover bid to other shareholders** as part of the proposed acquisition.

This is total departure from ISA 2007 which provision allows MTO after acquisition

Section 142 (6 – 9)
(NEW)

ISA 2025 ensures **that the identity and other relevant information of the acquirer or offeror is disclosed to all shareholders** and directors of the offeree company to enable them make informed decision

Section 143 (2 – 3)
(NEW)

ISA 2025 requires that an acquirer who has obtained control, **shall not acquire additional shares in the company unless exempted.**

MAJOR PROVISIONS OF THE ISA 2025

Section 146 (1 – 5) (AMENDMENT)	These provisions cover payment of compensation to individuals, including company directors, who lose their positions as a result of a merger, takeover, or other form of corporate restructuring with prior approval of shareholders.
Section 147 (1 – 3) (NEW)	This section provides liabilities for false or misleading statements or deceptive conduct which are applicable to an acquirer/offeree their officers and associates, and financial advisers
Section 148 (1) (NEW)	ISA 2025 prescribe penalties under mergers, takeovers and corporate restructuring to include denial of access to the facilities of an exchange, suspension of listed companies and trading of their shares, refusal to list

INVESTMENT MANAGEMENT

SECTION 150 (AMENDMENT)

Provision Summary

Under the 2007 ISA, in the definition of CIS, the term “members of the public” was ambiguous. This created a problem because the market misinterpreted the term as referring to retail investors.

Now by virtue of the 2025 ISA, the term “qualified investors” was added to indicate that CIS also refers to investment pools targeted at qualified investors.

SECTION 164(2)(C) (AMENDMENT)

Provision Summary

The 2025 ISA permits the use of CIS assets in securities lending and borrowing transactions. This will boost securities lending activities in the market because CISs hold a significant portion of securities.

The 2007 ISA was silent on this; as a result, a CIS could not earn extra income from idle securities in its portfolio.

SECTION 151 (AMENDMENT)

Provision Summary

Under the 2007 ISA, the types of CIS did not categorically include schemes targeted at qualified investors. This created a problem because such schemes assumed they were exempt from registration with the Commission.

Now by virtue of the 2025 ISA, the term “specialized or alternative investment schemes” was added as a type of CIS to emphasize that investment pools targeted at qualified investors are subject to registration with the Commission. An omnibus clause was also introduced to accommodate any other type of scheme that the Commission may approve

SECTION 168(2) (AMENDMENT)

Provision Summary

Under the 2007 ISA, the permissible assets for CISs did not include new asset classes that had emerged in the market. This created a problem because CISs were unable to diversify their investments to accommodate investors’ appetite for emerging assets in the capital market.

Now by virtue of the 2025 ISA, CISs can invest in Sukuk; securities of government agencies; securities of subnational governments and supranational institutions; private debt registered with the Commission; derivatives/commodities instruments traded on a recognised exchange; up to 20% in foreign securities listed/traded in IOSCO member countries, and specialised/alternative investment schemes can invest in SMEs, real estate development projects and infrastructure

INVESTMENT MANAGEMENT

SECTION 169 (NEW)

Provision Summary

The 2007 ISA did not categorically prohibit misappropriation of clients' funds and strict consequences for such actions. This created a problem because the fiduciary duties of parties to a scheme were implied and not expressed.

Now by virtue of the 2025 ISA, the fund manager, trustee and custodian are prohibited from misappropriating clients' funds or securities. They are also prohibited from withholding, refusing, neglecting or failing to remit to the client proceeds of sale of securities. Contravention of this provision is a criminal offence liable to a fine of ₦50 million or more, ₦50,000 for additional days of default, disgorgement and restitution of client plus interest, and suspension or revocation of license by the Commission.

SECTION 195 (NEW)

Provision Summary

The 2025 ISA provides for CISs (with the exception of specialised/alternative investment schemes) to be treated as pass-through vehicles for purposes of taxation.

The 2007 ISA did not have this provision. This created a problem of double taxation – taxation at the CIS level and at the hands of investors. The treatment of CIS as pass-through vehicles achieves tax neutrality for CISs thereby treating investors in CISs as if they had invested directly in the underlying asset, for tax purposes. The income received by CISs will no longer be subject to withholding tax at the CIS level.

SECTION 171 (AMENDMENT)

Provision Summary

The 2007 ISA required the Commission to apply to the court to wind-up a fund manager, a CIS and to appoint a receiver. This created a problem because it stripped the Commission of its administrative powers and discretion to take actions against an ailing/recalcitrant fund manager or an ailing CIS.

Now by virtue of the 2025 ISA, the requirement to apply to court has been expunged. The Commission has direct powers to remove and replace any party to a CIS and issue directives to wind-up a CIS and/or fund manager. Sub-sections (2) and (3) of the 2007 ISA were expunged. The sub-sections implied that persons other than the Commission could wind-up the fund manager or a scheme.

SECTION 196 (NEW)

Provision Summary

The 2025 ISA empowers the Commission to take legal and enforcement actions against prohibited schemes. The Commission is empowered to enter and seal up such schemes; obtain an order of the IST or a court to freeze and forfeit assets of such schemes to the FGN; and recover costs and expenses from the assets of such schemes, and from the personal assets of the scheme's owners/promoters/managers.

Operating and promoting such scheme is a criminal offence liable to a fine of at least ₦20 million or 10-year imprisonment term or both.

There are no provisions for investors in such schemes to recover their monies. All assets are forfeited to the FGN.

GENERAL IMPLICATION

1. Enhancing market deepening in line with the Commission objective as provided in the market plan
2. Providing innovative and alternative financing instrument, thereby expanding the depth of the capital market
3. Providing more transparent mechanism for state and local governance financing through the capital market for infrastructural development
4. Protection of minority shareholders
5. Overall investor protection in line with the Commission's core mandate as provided in IOSCO principle of securities regulation.

Thank you for listening



**SEC Towers, Plot 272, Samuel Adesujo Ademulegun Street,
Central Business District
P.M.B:315, Garki, Abuja
www.sec.gov.ng**



+234+ 9167723240; 234 (0)2094621168



sec@sec.gov.ng