



EXPOSURE OF NEW RULES AND SUNDRY AMENDMENTS TO THE RULES AND REGULATIONS OF THE COMMISSION

New Rules

1. Proposed Rules on General Rules for Collective Investment Schemes (CIS)
2. Proposed New Rules on Annual Supervision Fees for Collective Investment Schemes
3. Proposed New Rules on Payment of Administrative Charges for Review of Supplemental Deeds and Amendments to Sundry Agreements

Sundry Amendments

1. Proposed Amendment to Rule 465(d)&(e)- Content of a Trust Deed
2. Proposed Amendment to Rule 497- Investment by Collective Investment Schemes in Unlisted Securities/Additional Disclosure
3. Proposed Amendment to Rule 517- Amount to be Underwritten
And Rule 519- Time Amount Underwritten is to be made Available
4. Proposed Amendment to Rule 522- Valuation Report

LEGEND:

Additions are underlined
Deletions are ~~struck through~~
Justifications are *italicized*

NEW RULES

1. Name of Proposed Rule- General Rules for Collective Investment Schemes (CIS)/ PART A – COLLECTIVE INVESTMENT SCHEMES

Full Text of the Proposed Rule – General Rules for Collective Investment Schemes (CIS)

- (1) All units/securities of a collective investment scheme shall be registered by the Commission.
- (2) All units/securities subject to registration by the Commission may be offered through the following methods –
 - (a) offer for subscription;
 - (b) offer for sale;



(3) Shelf Registration of Collective Investment Scheme

- (a) Definition of Shelf Registration: Shelf Registration is a filing undertaken by issuers intending to access the market in the near future. It permits issuers to disclose certain information in a core disclosure document that is updated on a regular basis;
- (b) General Requirements:
 - (i) The value of the issue ~~on offer under shelf programme registration~~ shall not be less than N5 billion
 - (ii) An issuer may issue, offer ~~for subscription~~ or purchase, or make an invitation to subscribe for or purchase units under a shelf registration where at the time of the issue, offer or invitation, there is in force a shelf prospectus as updated by a supplementary shelf prospectus, both of which have been registered by the Commission;
- (c) A shelf prospectus shall be ~~effective for a period of~~ subject to renewal every three years from the date of its issue ~~and it shall not may be renewed~~;
- (d) A shelf prospectus shall—
 - (i) comply with the general form and contents of a prospectus as set out in these Rules and Regulations;
 - (ii) state that the Shelf Prospectus has been registered by the Commission;
 - (iii) state that the registration of the Shelf Prospectus and Supplementary Shelf Prospectus shall not be taken to be that the Commission endorses or recommends the securities or assumes responsibility for the correctness of any statements made or opinions or reports expressed therein;
 - (iv) contain a statement that no units will be allotted or issued on the basis of the Shelf Prospectus read together with any Supplementary Shelf Prospectus later than three years after the date of the issue of the Shelf Prospectus;
 - (v) if it contains any statement made by an expert or contains what purports to be a copy of or an extract from a report, memorandum or valuation of an expert, state the date on which the statement, report, memorandum or valuation was made and whether or not it was prepared by the expert for incorporation in the Shelf Prospectus;
 - (vi) set out such other information as may be specified by the Commission.
- (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;
 - (iii) disclose information such as:



- I. where a matter has arisen and information in respect of that matter would have been required by the Act, these Rules and Regulations or any listing requirements of a recognized securities exchange, to be disclosed in a prospectus if the matter had arisen at the time the Shelf Prospectus was prepared;
 - II. where there has been a significant change affecting a matter disclosed in the Shelf Prospectus;
 - III. where the Shelf Prospectus contains a statement or information that is false or misleading;
 - IV. where the Shelf Prospectus contains a statement or information from which there is a material omission;
 - V. that the Supplementary Shelf Prospectus has been registered by the Commission and that a copy has been lodged with the Securities Exchange where the units/securities are listed.
- (iii) All shelf documents shall be made accessible to the public at the office/on the website of the Fund Manager/Promoter.
- (iv) The Fund Manager/Promoter of a shelf prospectus shall pay a filing fee of N50,000 and a vetting fee of N200,000 at the time of placement of documents on the shelf and the appropriate fees for registration of units/securities as provided in these Rules and Regulations at the time of the issuance of the units/securities.
- (v) In the case of a renewal, the Fund Manager/Promoter of a shelf prospectus shall pay a filing fee of N50,000 and a vetting fee of N200,000.

Justification – to provide for shelf registration and modes of offer of CISs similar to the provisions for public companies (with relevant adjustments).

2. Name of Proposed Rule- ANNUAL SUPERVISION FEES FOR COLLECTIVE INVESTMENT SCHEMES/ Schedule I, Part B, *Others*

Full Text of the Proposed Rule –

- (1) All CIS fund managers shall pay annual supervisory fees of 0.001% of the net asset value of the CIS under management not later than the 31st January of every year failing which the fund manager shall be liable to a fee penalty of N100,000 and a further sum of N5,000 for every day of default.
- (2) Every fund/portfolio manager shall pay an annual regulatory fee (on January first) of 0.25% of the total asset of all discretionary and non-discretionary funds/portfolios (other than CIS) under the management of the fund/portfolio manager, failing which the fund/portfolio manager shall be liable to a penalty of not less than N100,000 and a further sum of N5,000 for every day of default.



Justification – Section 13(a) of the Investment and Securities Act 2007 empowers the Commission to regulate investments and securities business in Nigeria as defined in the Act.

In addition to this, Section 13(u) empowers the Commission to levy fees, penalties and administrative costs of proceedings or other charges on any person in relation to investment and securities business in Nigeria.

The combined interpretation of these provisions is that the Commission may levy charges in relation to any investment and securities business in Nigeria, which include collective investment schemes.

In India, Morocco and Bermuda, mutual funds/CIS are required to pay annual regulatory fees (see attached research paper). In India this includes costs for inspection of such funds.

The recommendation of annual supervisory fees is also made against the following backdrop –

- a) Having regard to the continuous supervisory services the Commission renders for the duration of a CIS (typically between 21 to 99 years), the initial registration of fees (average of N200,000) is insufficient to justify the continued monitoring of such funds without additional fees to cover our services; This is critical in view of the Commission’s mandate on investor protection.
- b) The proposed fee is negligible when compared to the other costs and expenses of the CIS;
- c) The proposed fee is to make provision for onsite inspections of CIS funds.
- d) The higher fee for discretionary and non-discretionary funds/portfolios is to encourage capital flow towards CIS funds. Discretionary and non-discretionary funds/portfolios have consistently accounted for approximately twice the size of CIS funds in the investment management sector.

3. Name of Proposed Rule – PAYMENT OF ADMINISTRATIVE CHARGES FOR REVIEW OF SUPPLEMENTAL DEEDS AND AMENDMENTS TO SUNDRY AGREEMENTS/ Schedule I, Part B, Others

Full Text of the Proposed Rule –

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

	NATURE OF ALTERATION	CHARGE
(a)	Supplemental trust deed	N100,000
(b)	Amended and Restated trust deed	N200,000
(c)	Where (b) above involves the merger of two or more funds	N50,000 (additional)
(d)	Amendments to any other agreement/document	N100,000



(e)	New agreement/document not previously filed during the scheme offer or launch	N100,000
(f)	Request for <u>legal</u> opinion or advisory clarifications	<u>Not less than</u> N50,000

- (2) Every draft document, amendment or supplemental listed in (1) requiring the Commission’s approval or “No Objection” must be accompanied with evidence of payment of the corresponding administrative charge;
- (3) Failure to comply with (2) above shall be treated as non-filing.

Justification – *These rules are proposed further to Section 13(u) which empowers the Commission to levy fees, penalties and administrative costs of proceedings or other charges on any person in relation to investment and securities business in Nigeria, and Section 13(dd) which empowers the Commission to exercise such powers (not inconsistent with the Act) as are necessary and expedient for giving full effect to the provisions of the Act.*

The administrative fees/charges are proposed in view of the services rendered by the Commission in carrying out its functions.

In addition, it is observed that in South Africa and Bermuda fees are charged by the regulator for sundry filings and changes in respect of schemes.

SUNDRY AMENDMENTS

1. Name/citation of the Rule to be Amended – Contents of a Trust Deed/ 465(d)&(e)

Full Text of the Existing Rules –

- (5) investment policy, including investment outlets;

Proposed Amendments –

- (e) investment policy, including investment outlets and target asset allocation stated within a range; provided that a scheme shall not hold more than 5% in cash equivalent instruments. For the purpose of this rule, cash equivalent instruments mean call accounts and instruments with a tenor not exceeding 7 days;

Justification – *to enable funds meet liquidity needs without holding idle cash which can negatively impact the fund’s value, in addition to ensuring value addition to the fund.*

2. Name/citation of the Rule to be Amended – Investment by Collective Investment Schemes in Unlisted Securities / Additional Disclosure /497

Full Text of the Existing Rule –

- (3) Additional Disclosure**



A Fund Manager seeking to invest assets of a Fund in unlisted securities shall disclose:

Proposed Amendment –

(3) Additional Disclosure

A Fund Manager seeking to invest assets of a Fund in unlisted securities shall disclose in the Fund's prospectus and on the Fund Manager's website:

**3. Name/citation of the Rule to be Amended – Amount to be Underwritten/Rule 517; Time Amount Underwritten is to be made available/ Rule 519
Full Text of the Existing Rule –**

517. Amount to be Underwritten

- (i) Where the issue is underwritten, the amount or percentage of the issue underwritten by any Underwriter shall not be less than 35% of the number of units issued for subscription.
- (ii) The level of underwriting commitment by a single underwriter at any time shall not be more than 3 times its shareholders funds.

519. Time Amount Underwritten is to be made available

The underwriter(s) shall make the amount underwritten available to the issuer on the day the offer opens

Proposed Amendment – Amount to be Underwritten and Disclosure Time

(g) Amount to be Underwritten and Disclosure Time

- (i) Where the issue is underwritten, the amount or percentage of the issue underwritten by any Underwriter shall not be less than 35% of the number of units issued for subscription.
- (ii) The level of underwriting commitment by a single underwriter at any time shall not be more than 3 times its shareholders funds.
- (iii) The underwriter(s) shall make the amount underwritten available to the issuer on the day the offer opens

Justification – to merge/harmonize two related rules

**4. Name/citation of the Rule to be Amended – Valuation Report / Rule 522
Full Text of the Existing Rule –**



SEC NIGERIA

SECURITIES AND EXCHANGE COMMISSION, NIGERIA

- (i) The Valuation report for a new application shall be valid for nine months from the date of the valuation
- (ii) A valuation report of the REICO's real estate shall be filed with the Commission annually by a real estate valuer registered with the Commission in line with a recognised Valuation Standard.

Proposed Amendment –

(k) Rating and Valuation Reports

- (i) A rating report by a registered rating agency shall be filed with the Commission every two (2) years.
- (ii) The Valuation report for a new application shall be valid for nine months from the date of the valuation
- (iii) A valuation report of the REICO's real estate shall be filed with the Commission annually by a real estate valuer registered with the Commission in line with a recognised Valuation Standard.

Justification – to provide for rating of REICOs