



DUALE, OVIA &
ALEX-ADEDIPE



Review of the Framework on Banking Sector Recapitalisation Programme issued by the Securities and Exchange Commission

Introduction

The Central Bank of Nigeria (“**CBN**”) in a circular dated 28th of March 2024 titled “**Review of Minimum Capital Requirements for Commercial, Merchant and Non-Interest Banks in Nigeria**” (“**Recapitalisation Circular**”) announced an upward review of the regulatory minimum capital requirements for commercial, merchant and non-interest banks in Nigeria.

The new minimum requirement is aimed at strengthening the banking sector against potential shocks and enhancing financial system stability in alignment with the Federal Government’s goal of achieving a \$1 Trillion economy by 2030. To raise the new capital requirements, affected banks have the option of mergers and acquisitions; or new capital raise through rights issues, private placements, public offers/offers for subscription; or upgrade/downgrade of existing CBN licenses.

(A detailed review of the Recapitalization Circular can be assessed at: www.doa-law.com/wp-content/uploads/2024/04/Assessing-the-Banking-Sector-Recapitalization-Programme-2024-by-the-Central-Bank-of-Nigeria-Final040224.pdf)

Given that most banks in Nigeria are public and quoted companies, any recapitalization option undertaken to comply with the CBN’s requirement will come under the purview of the Securities and Exchange Commission (“**SEC**”), CBN and the Nigerian Exchange Limited (“**NGX**”). To facilitate and streamline the application process at SEC for the recapitalization exercise, the SEC on 21 June 2024 released the Framework on Banking Sector Recapitalisation Programme (“**Framework**”).

The Framework is a comprehensive guideline that stipulates the procedures banks are required to follow to raise capital through the approved methods during the recapitalization exercise. Detailed documentation requirements, application fees, and checklists for each capital raise option, merger and acquisition process is specified within the Framework. It is important to note that the Framework is an excerpt of the existing rules and regulations of SEC and is to be read in conjunction with the relevant provisions of the Investment and Securities Act, 2007 (“**ISA**”), SEC’s Rules and Regulations 2013 (as amended) (“**SEC Rules**”) and any additional requirement communicated by SEC. The objectives of the Framework are:

- To serve as a comprehensive guide for capital market operators, banks/holding companies to navigate the recapitalization programme effectively.
- To ensure that the capital raising process is conducted efficiently, transparently, and in a manner that protects the interests of all stakeholders.
- To ensure timely review and provide guidance to issuing banks/holding companies and capital market operators when filing applications for capital raise and/or mergers and acquisitions.
- To guide in ensuring full disclosure of material facts in compliance with the Investments and Securities Act 2007, Rules and SEC Rules.

To ensure there is no delay, all applications and documents are to be filed electronically via - offerapplications@sec.gov.ng. The full documentation checklist and SEC filing/processing fees can be assessed at The Securities and Exchange Commission, Nigeria.

Other salient provisions of the Framework regarding recapitalization applications to SEC are:

- Affected banks/holding companies are required to regularize/update their corporate information at the Corporate Affairs Commission prior to applying with the SEC.
- An affiliate Registrar to a bank or its holding company cannot maintain a register of shareholders of a bank or its holding company or act as the Registrar to an offer in which the bank or the holding company is the issuer.
- All applications with incomplete information will be rejected. Where an application is returned for being incomplete, a penalty of N1,000,000.00 and a re-filing fee of N100,000.00 shall apply. This fee is payable by the Issuing House without recourse to the Issuer or the Issue proceeds.
- There will be no preferential allotment and allotment proposals will not be approved by SEC until the CBN provides a capital verification report.
- Bank Verification Number (BVN) is mandatory for all applicants.

The indicative timelines by SEC for any proposed capital raise, merger and acquisition by banks are set out below:

Indicative Timeline for Capital Raising

SEC Responsibility

Estimated Duration for Capital Raising

| | | |
|--|---|-------------------------|
| Acknowledge receipt of filing | ➔ | 24 hours |
| Undertake a review of filing completeness | ➔ | 24 hours |
| Communicate deficiencies | ➔ | 10 business days |
| Grant approval of draft documents | ➔ | 5 business days |
| Communicate letter of approval of draft documents | ➔ | 24 hours |
| Review executed documents | ➔ | 5 business days |
| Grant approval of executed documents | ➔ | 5 business days |
| Communicate letter of approval for offer to open | ➔ | 24 hours |
| Review proposed basis of allotment | ➔ | 5 business days |
| Grant approval of the basis of allotment | ➔ | 5 business days |
| Issue letter of approval for allotment | ➔ | 24 hours |

Indicative Timeline for Mergers & Acquisitions

SEC Responsibility

Estimated Duration for Capital Raising

| | | |
|--|---|--------------------------|
| Acknowledge receipt of filing | ➔ | 24 hours |
| Undertake a review of filing completeness | ➔ | 24 hours |
| Communicate deficiencies | ➔ | 10 business days |
| Grant No objection to the Merger/Acquisition | ➔ | 5 business days |
| Communicate a No objection for Merger/Acquisition | ➔ | 24 hours |
| Review the report of Court Ordered Meeting | ➔ | 5 business days |
| Grant a formal approval of Merger | ➔ | 2 business days |
| Communicate letter of formal approval | ➔ | Approval 24 hours |

Conclusion

The SEC's Framework aims to facilitate a structured and regulatory compliant recapitalisation process. By providing robust oversight and procedural clarity during the process, SEC seeks to uphold the integrity and resilience of Nigeria's banking industry amid evolving economic challenges.



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