



# SEC NIGERIA

SECURITIES AND EXCHANGE COMMISSION, NIGERIA



## Overview and Regulatory Framework on Crowdfunding in Nigeria

**\*Crowdfunding is an umbrella term describing the use of small amounts of money, obtained from a large number of individuals or organisations, to fund a project, a business or personal loan, and other needs through an online web-based platform..**

# What is Crowdfunding

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- **Crowdfunding is an online money-raising strategy that began as a way for the public to donate small amounts of money, often through social networking websites, to help artists, musicians, filmmakers and other creative people finance their projects.**



# What is Crowdfunding

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- **The concept has recently been promoted as a way of assisting small businesses and start-ups looking for investment capital to help get their business ventures off the ground.**
- **SEC recently released regulations for the registration and operation of crowdfunding platforms and intermediaries.**
- **Traditionally, investment opportunities are offered by professionals, such as broker-dealer firms and investment advisers, who must recommend investments that are based on their clients' investment objectives and levels of sophistication.**
- **Through crowdfunding, individuals are able to invest in entrepreneurial start-ups through an intermediary, such as a broker-dealer or a “funding portal.” or intermediary**

**By law, “funding portals” are not allowed to provide investment advice.**

# What is Funding Portal

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- A funding portal is a website, also called a “platform,” that advertises the investment opportunities and facilitates the payment from the investor to the issuer.
- Some portals advertise a variety of investment opportunities on one website, allowing the investor to select one or more projects in which to invest.

# How Crowdfunding Work

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Today . . .

**Udoka's small business sells goat cheese made from her special pygmy goats.**

**To keep her business afloat or to help it grow, Udoka can turn to the Internet to seek online donations from the public who contribute small amounts of money and expect nothing in return.**

**Udoka usually sends a sample of her cheese as a thank you for the donation; large donors might even get a cheese named in their honor.**

# How Crowdfunding Works

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**Coming Soon . . .**

**SEC has now written the rules that will change how Udoka can raise money online.**

**By the rules, Udoka will be able to use the Internet to raise up to N100 million each year by selling investments in her company to thousands of investors.**

**Because Udoka will be issuing shares in her company in exchange for investment capital, her supporters are no longer donors; they become investors and will expect a financial return for their investment.**

# What is Funding Portal

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- Crowdfunding investments cannot be offered legally until you comply with the SEC rules that permit them.
- Beware of crowdfunding offerings that seek investments immediately.
- All investments have risk, but small business investments have even greater risk than normal. About 50 percent of all small businesses fail within the first five years.
- Issuers using funding portals to raise money may be inexperienced. Their track records maybe unproven, unsubstantiated or outright fraudulent.
- The information about the investment is limited to what is provided through the funding portal. Investors may need to rely on their own research to determine the issuer's track record.



# **Why Investors Should be Cautious about Crowdfunding**

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- **With the rules crowdfunding issuers or their offerings should provide full and complete disclosure and made available to investors.**
- **Investors may have limited legal ability to take action against the issuer should the investment not perform as represented.**
- **Due to limited regulatory oversight over these offerings, investors may be left on their own to pursue costly private lawsuits when things go wrong.**
- **Crowdfunding investments are mostly illiquid and investors must be prepared to hold their investments indefinitely.**
- **It also may be difficult or impossible to resell these securities due to the lack of a secondary market.**

# Rule on Crowdfunding

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- **In January 2021, the Commission released the rules for the regulation of the currently unregulated crowdfunding activities in Nigeria. The Rules detail the regulatory framework by which companies can raise debt or equity capital through crowdfunding, as well as the eligibility criteria and obligations of issuers, crowdfunding portals and crowdfunding intermediaries.**
  - ✓ Under the Regulation, all MSMEs incorporated as a company in Nigeria with a minimum of two years operating track record are eligible to raise funds through a Crowdfunding Portal registered by the Commission, in exchange for the issuance of shares, bonds/debentures, simple investment contracts or such other investment instrument as the SEC may determine from time to time. In addition to detailing the crowdfunding process, the Rules provide for the major participants/channels in the crowdfunding space, as follows the Crowdfunding Portal, the Crowdfunding Intermediary, the Issuer and the Investor.

# Rule on Crowdfunding

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**The Rules have been viewed by stakeholders as a step in the right direction, particularly given its overarching benefit, including driving national economic growth and allowing MSMEs raise much-needed capital required to finance businesses/projects within a regulated and structured framework. For investors, it opens up a wider pool of investment opportunities, as it provides retail investors with genuine investment options, other than Ponzi Schemes.**

# Part 1 – General Provisions

# 1. Definition of Terms

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<b>Act:</b>	The Investments and Securities Act 2007, or as amended;
<b>AML/CFT:</b>	Anti-Money Laundering /Combating the Financing of Terrorism;
<b>Associated Person:</b>	means any sole proprietor, partner, officer, director or manager of a funding portal, or other natural person occupying a similar status or performing similar functions, or any natural person directly or indirectly controlling or controlled by a funding portal member, or any employee of a funding portal member;
<b>Blind pool:</b>	A company that raises capital from the public without any stated investment goals informing investors how their funds will be utilised;
<b>Complex Structures:</b>	A complex structure is an entity without immediate transparency of ownership and/or control thereby making it difficult to immediately ascertain the beneficial owners of the entity;

# 1. Definition of Terms

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<b>Control:</b>	<p>For the purpose of this rule, an entity will be regarded as controlled by the Fundraiser or being under common control with the Fundraiser where the Fundraiser or the entity in control:</p> <ul style="list-style-type: none"><li>(a) beneficially owns more than one half of the issued share capital of the company; or</li><li>(b) is entitled to vote a majority of the votes that may be cast at a general meeting of the company, or has the ability to control the voting of a majority of those votes, either directly or through a controlled entity of that company;</li><li>(c) is able to appoint or to veto the appointment of a majority of the directors of the company;</li><li>(d) is a holding company, and the company is a subsidiary of that company as contemplated by the Companies and Allied Matters Act.</li><li>(e) has the ability to materially influence the policy of the company in a manner comparable to an entity who, in ordinary commercial practice, can exercise an element of control referred to in paragraphs (a) to (d).</li></ul>
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# 1. Definition of Terms

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<b>Cooling-off Period:</b>	An interval during which the investor can withdraw the decision to invest;
<b>Crowdfunding:</b>	The use of small amounts of money, obtained from a large number of individuals or organizations, to fund a project or, a business through an online web based platform;
<b>Crowdfunding Portal:</b>	A website, platform, portal, intermediary portal, application, or other similar module that facilitates interaction between Fundraisers and the investing public;
<b>Crowdfunding Intermediary:</b>	An entity organized and registered as a corporation to facilitate transactions involving the offer or sale of securities or investment instruments through a Crowdfunding Portal;

# 1. Definition of Terms

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<b>Commodities Investment Platform:</b>	An electronic platform that connects investors to specific agricultural or commodities projects for the purpose of sponsoring such projects in exchange for a return;
<b>Family Member:</b>	A member of the investor's household or a relative with whom the investor has a close personal relationship including any person who lives with the investor;
<b>Funding Round:</b>	The round of funding for a specific project, business, or venture hosted on a crowdfunding portal to raise funds from a large number of people in exchange for shares, debt securities or other investment instruments approved by the Commission;
<b>High Net Worth Investor:</b>	Shall have the same meaning as provided in the SEC Rules;



# 1. Definition of Terms

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<b>Investment-based crowdfunding:</b>	The process of raising funds from the public through an online portal in exchange for shares, debt securities or other investment instruments approved by the Commission;
<b>Investment Instruments:</b>	Ordinary shares, plain vanilla bonds or debentures, and simple investment contracts approved by the Commission for issuance through a crowdfunding portal from time to time”;
<b>Investor:</b>	is as defined in the Act;
<b>Fundraiser:</b>	refers to the originator, maker or obligor of the investment instrument to be issued pursuant to these Rules;
<b>KYC:</b>	Know Your Customer;

# 1. Definition of Terms

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<b>Material Adverse Change:</b>	means any event, development or circumstance that has had or could reasonably be expected to have an unfavourable effect. It also includes changes in the condition (financial or otherwise), operations, business, performance, properties or assets of the Fundraiser and its Subsidiaries, taken as a whole such that it would impede them from delivering on their intended activity or commitment;
<b>Minimum Threshold:</b>	The minimum percentage of the target amount which must be raised by a Fundraiser in a funding round in order to be eligible for the disbursement of the proceeds;
<b>MSME:</b>	Micro, small and medium enterprises shall be as prescribed by the Small and Medium Enterprises Development Agency of Nigeria (SMEDAN) in relation to total asset annual turnover or number of employees;

# 1. Definition of Terms

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<b>Non-Permissible Investment Instrument:</b>	Means any investment instrument other than an Instrument defined under investment instrument;
<b>Operator:</b>	A Crowdfunding Intermediary registered by the Commission;
<b>Plain vanilla bonds/debentures:</b>	Non-complex debt instruments with fixed rates and a defined maturity that involves an investor (lender) purchasing a bond at its face value, receiving periodic interest payments from the bond Fundraiser (borrower) and receiving the full principal upon maturity;
<b>Predecessor:</b>	An entity which has been replaced by another entity whether through a merger, acquisition, or other form of corporate action;

# 1. Definition of Terms

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<b>Public Company Default:</b>	<b>by</b> A private company whose members exceed 50 as prescribed by the Companies and Allied Matters Act (CAMA) at the end of a funding round;
<b>Qualified Institutional Investor:</b>	Shall be as defined in the SEC Rules;
<b>Retail Investor:</b>	Any individual investor other than a Corporate, High Net worth, Sophisticated Investor or Qualified Institutional Investor;

# 1. Definition of Terms

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<b>Simple Investment Contract:</b>	<p>A contract or scheme for the placing of capital in a way intended to secure income or profit from its employment and includes participation in any profit-sharing agreement by virtue of which:</p> <ul style="list-style-type: none"><li>• The investors provide the capital;</li><li>• The promoters manage, control and/or operate the enterprise; and</li><li>• The investors share in the earnings and profits;</li></ul>
<b>Sophisticated Investor:</b>	<p>Shall for the purpose of this Rule, mean any person with 3 years' experience of actively investing in the capital market and understands the relationship between risk and return;</p>
<b>Tag-along Rights:</b>	<p>Means pre-negotiated agreements allowing minority stakeholders to sell shares under the same conditions as majority stakeholders.</p>

# 1. Definition of Terms

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<b>Target Plan:</b>	Means the proposed use of the funds to be raised on the portal specifying full details of the project to be funded and documentary evidence of all forms of insurance, and contract with relevant third parties including off-takers and land owners (as applicable).
<b>Trust Account:</b>	is as defined in the Act.

## 2. Applicability

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These Rules shall apply only to Investment-Based Crowdfunding.

# 3. Eligibility

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Only the following entities shall be eligible to raise funds through a Crowdfunding Portal operated by a registered Crowdfunding Intermediary, in exchange for the issuance of investment instruments;

- i. MSMEs incorporated as a company in Nigeria with a minimum of two-years operating track record;
- ii. MSMEs incorporated as a company in Nigeria with less than 2 years operating track record but which has a strong technical partner that possesses a minimum of 2 years operating track record or has a core investor;



## 4. Exemptions from Certain Provisions of the Act

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- 1) A Fundraiser may offer or sell investment instruments under these Rules without the need for prior registration of the investment instruments pursuant to the Act, provided that:
  - a. The Fundraiser is an entity incorporated in Nigeria, and accredited and/or accepted by a Crowdfunding Intermediary to utilize its portal;
  - b. The aggregate amount of investment instruments that can be offered and sold by the Fundraiser within a 12-month period shall comply with the following limits:
    - i. The maximum amount which may be raised by a Medium enterprise shall not exceed N100Million;
    - ii. The maximum amount which may be raised by a Small enterprise shall not exceed N70Million;
    - iii. The maximum amount which may be raised by a Micro enterprise shall not exceed N50Million

## 4. Exemptions from Certain Provisions of the Act

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- 2) The limits set forth above shall not apply to Commodities Investment Platforms, or such other MSMEs as may be designated by the Commission from time to time.
- 3) The aggregate amount of investments instruments sold to any investor across all Fundraisers in investment-based crowdfunding during the 12-month period shall not exceed the following limits:
  - a. Retail investors may not invest more than 10% of their net annual income in a calendar year.
  - b. Sophisticated, High Net worth and Qualified Institutional Investors are not subject to the limits set forth above.

## 4. Exemptions from Certain Provisions of the Act

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- 4) The issuance of investment instruments shall be conducted through a Crowdfunding Portal operated by a registered Crowdfunding Intermediary.
- 5) For the purpose of calculating the aggregate amount of investment instruments offered and sold by Fundraiser under this Rule, and determining whether a Fundraiser has previously sold investment instruments within a 12-month period, the term Fundraiser as used in this Rule, shall include all entities controlled by or under common control with the Fundraiser and any predecessors of the Fundraiser.

# Part 2 – Crowdfunding Portal Requirements

## 5. General Provisions

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- a) Every portal that facilitates, operates, provides or maintains interactions between fundraisers and the investing public (crowd) in Nigeria for the purpose of any investment-based crowdfunding shall be operated only by an entity registered as a Crowdfunding Intermediary
- b) An entity is considered to be facilitating, operating, providing or maintaining a Crowdfunding Portal in Nigeria if:
  - i. the Crowdfunding Portal is operated, provided or maintained in Nigeria; or
  - ii. the Crowdfunding Portal is located outside Nigeria but targets Investors in Nigeria; or
  - iii. the component parts of the Portal when taken together are physically located in Nigeria even if any of its component parts, in isolation, is located outside Nigeria;

## 5. General Provisions

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- c) A Crowdfunding Portal that is located outside Nigeria will be considered as actively targeting investors in Nigeria if the operator, or the operator's representative, promoted directly or indirectly the Crowdfunding Portal in Nigeria;
- d) The requirement for registration as a Crowdfunding Intermediary is as listed in Schedule 1 of these Rules;
- e) These provisions do not apply to:
  - i. a technology service provider who merely provides the infrastructure, software or the system to an operator;
  - ii. an operator of a communication infrastructure that merely enables orders to be routed to an approved stock market;
  - iii. an operator of a financial portal that aggregates content and provides links to financial sites of service and information provider.

## 6. Registration Requirements

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- a) An application for registration of a Crowdfunding Intermediary shall be made to the Commission in the prescribed form and in the manner specified by the Commission and shall be accompanied with Certified True Copies (CTC) of:
- i. The certificate of incorporation certified by the Corporate Affairs Commission (CAC);
  - ii. Memorandum and Articles of Association and amendments (if any) certified by the Corporate Affairs Commission;
  - iii. CAC Form(s) showing Statement of Share Capital, Return of Allotment, and Particulars of Directors;
  - iv. Latest copy of the audited accounts or a copy of the statement of affairs signed by its auditors and management accounts that are not more than 9 months old or a copy of the statement of affairs signed by its auditor as at time of filing with the Commission;

# 6. Registration Requirements

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- v. Management accounts that are not more than 1 month old as at the time of filing with the Commission;
- vi. A profile of the Company which shall include amongst other information; a brief history of the company, organizational and shareholding structure, principal officers as well as details of past and current activities;
- vii. The name(s) and address(es) of the company's subsidiaries/associated companies/ related entities, type of business and percentage holding;
- viii. Evidence of payment of shares allotted to the shareholders;
- ix. Operational manual of the company;
- x. Business plan;
- xi. Existing or proposed by-laws or rules, and such other document governing the conduct of fundraisers and investors on the portal;
- xii. Sworn undertaking to promptly furnish the Commission with copies of any amendments to its by-laws, rules, or codes;



## 6. Registration Requirements

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- xiii. Information on Crowdfunding IT System to be adopted;
- xiv. Detailed information about the crowdfunding system to be adopted including technical details associated with the portal's online presence;
- xv. Proposed brand name of the Crowdfunding Portal including evidence of trademark registration of the brand name (where applicable)
- xvi. Detailed information of all domain names of any website through which the Crowdfunding Portal will be operated, social media handles and any other online identifiers including evidence of registration (where applicable)
- xvii. detailed information about the promoters and principal officers of the Crowdfunding Intermediary;
- xviii. Sworn undertaking to keep such records and render such returns as may be specified by the Commission from time to time;
- xix. An application for registration of at least three (3) principal officers of the Crowdfunding Intermediary as sponsored individuals on the prescribed Form;

# 6. Registration Requirements

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- xx. A person to be so appointed shall include the chief executive of the Crowdfunding Intermediary, any person who is primarily responsible for the operations and financial management, by whatever name called;
  - xxi. minimum paid-up capital requirement of N100 million;
  - xxii. Current Fidelity Insurance Bond valued at a minimum of 20% of the paid-up capital as stipulated by the Commission's Rules and Regulations;
  - xxiii. a written declaration by the Chief Executive of the Crowdfunding Intermediary, and which shall be filed annually, confirming that the Crowdfunding Intermediary has, in relation to the Crowdfunding Portal:
    - i. sufficient and capable personnel to carry out operations;
    - ii. adequate security measures, systems capacity, business continuity plan and procedures, risk management, data integrity and confidentiality, record keeping and audit trail, for daily operations and to meet emergencies; and
    - iii. sufficient IT and technical support arrangements.
  - xxiv. Any other information required by the Commission from time to time for the protection of investors.
- b) The cash assets ratio shall be a minimum of 30% liquid assets and 70% fixed and other Asset.

# 7. Criteria for Registration

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- a) The Commission may register a Crowdfunding Intermediary if the Commission is satisfied that:
- i. the Crowdfunding Intermediary will be able to operate an orderly, fair and transparent system in relation to the investment instruments that are offered through its electronic platform;
  - ii. the board, chief executive, and any officer of the Crowdfunding Intermediary who is primarily responsible for the operations or financial management of the Crowdfunding Portal, are fit and proper persons who have not:
    1. been convicted, whether within or outside Nigeria, of an offence involving fraud or other dishonesty or the conviction of which involved a finding that he acted fraudulently or dishonestly;
    2. been convicted of an offence under the Act or any other law relating to the capital market;
    3. been blacklisted by a professional body which he belongs to;

# 7. Criteria for Registration

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4. been subjected to any disciplinary process or action by the Commission or other Self-Regulatory Organization in the Nigerian capital market;
5. contravened any provision made by or under any written law, whether within or outside Nigeria appearing to the Commission to be enacted for protecting members of the public;
  - a. against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies; or
  - b. against financial loss due to the conduct of discharged or un-discharged bankrupts
6. Engaged in any unlawful business practice.
7. engaged in or has been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgment; or

# 7. Criteria for Registration

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8. engaged in or has been associated with any conduct that cast doubt on his ability to act in the best interest of investors, having regard to his reputation, character, financial integrity and reliability;
- iii. the Crowdfunding Intermediary will be able to manage any risk associated with its business and operation;
- iv. the Crowdfunding Intermediary will be able to take appropriate action against a person in breach of any rules, policies, terms and other standards of the portal including directing the person in breach to take any necessary remedial measure;
- v. the rules of the Crowdfunding Intermediary make satisfactory provisions:
  1. for the protection of investors and public interest;
  2. to ensure proper functioning of the market;
  3. to promote fairness and transparency;
  4. to manage any conflict of interest that may arise;
  5. to promote fair treatment of all users;

# 7. Criteria for Registration

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6. to ensure proper regulation and supervision of its users, or any person utilizing or accessing its portal, including suspension and expulsion of such persons after consultation with the Commission;
  7. to provide an avenue of appeal against the decision of the operator and;
- vi. the Crowdfunding Intermediary has sufficient financial, human and other resources for the operation of the Crowdfunding Portal, as prescribed by the Commission from time to time.

## 8. Revocation of Registration

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- a) Without prejudice to the provisions of the SEC Rules and Regulations, the Commission may revoke the registration of a Crowdfunding Intermediary where:
- i. the Crowdfunding Intermediary fails to meet the requirements under any relevant provisions of these rules;
  - ii. the Crowdfunding Intermediary fails or ceases to operate or maintain the Crowdfunding Portal for a consecutive period of 6 months;
  - iii. there is a failure to pay fees as prescribed by the Commission.

The Commission may cancel or suspend the registration of a Crowdfunding Intermediary where the intermediary contravenes any of the provisions of the Act, the rules and regulations, the code of conduct for capital market operators, is guilty of fraud, repeated defaults, has been convicted of an offence involving moral turpitude.

## 9. Change of Structure or Cessation of Business Operations

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- a) The Crowdfunding Intermediary shall not change its ownership structure or discontinue the business or operations of a Crowdfunding Portal without the prior approval of the Commission.
- b) When notifying the Commission of a proposed discontinuation of the business or operations of a Crowdfunding portal, the Crowdfunding Intermediary shall submit a plan for the reasonable conclusion of any of its ongoing operations or processes for the consideration of the Commission;
- c) Without prejudice to any provisions in this Rule, the Commission may issue a directive or impose any term or condition for the purposes of ensuring the orderly cessation of the business or operations of a Crowdfunding Portal.



# 10. Action by the Commission in the event of Cessation or Suspension

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Without prejudice to the powers of the Commission pursuant to the Act, where the Commission suspends, cancels or revokes the registration of a Crowdfunding Intermediary, or where a Crowdfunding Intermediary seeks to voluntarily cease operations, the Commission shall issue directives regarding one or more of the following as may be applicable:

- i. Ongoing issuances on the portal;
- ii. Funds held with custodians on behalf of Fundraisers;
- iii. Repayment to its of investors;
- iv. Interim management of the operations of the intermediary;
- v. Such other matter as the Commission considers necessary in the interest of investors.

# Part 3 – Obligations of the Crowdfunding Intermediary

# 11. General Obligations

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## Every Crowdfunding Intermediary shall

1. disclose and display prominently on its portal, information relating to the portal and its use including:
  - a) disclosures of the Fundraisers in respect of;
    - i. Details of ownership, management and overall controls structure in place at the time of the offering;
    - ii. Details of control measures that will guard against losses or certifications possessed by the underlying business, if any; and
    - iii. Any other information relating to Fundraisers hosted on the portal as required by these regulations;
  - b) investor education materials and appropriate risk disclosures;
  - c) information on how the portal facilitates the investor's investment including providing communication channels to permit discussions about offerings hosted on the portal;
  - d) a general risk warning on participating in funding through the portal;

# 11. General Obligations

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- e) information about complaints handling or dispute resolution and its procedures;
  - f) the fees, charges and other expenses that it may impose on a Fundraiser or investor.
  - g) An attestation by the crowdfunding intermediary that it has verified the legitimacy of the Fundraiser's business;
  - h) An attestation by the crowdfunding intermediary that the operations of the Fundraiser's business are in agreement with the disclosed objectives and will continue to be so;
2. carry out investor education programmes;
  3. ensure the disclosure document lodged with the portal by each Fundraiser is verified for accuracy and made accessible to investors through the portal;
  4. inform investors of any material adverse change to a Fundraiser's proposal as set out under this rule;
  5. Ensure Fundraisers comply with the responsibilities and obligations prescribed by this rule.

# 12. Due Diligence

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- a) A Crowd Funding Intermediary shall carry out due diligence on prospective Fundraisers intending to use its portal;
- b) the Crowdfunding Intermediary should ensure that a Fundraiser seeking to offer and sell investment instruments through the portal complies with the requirements in this regulation;
- c) The scope of the due diligence by a Crowdfunding Intermediary shall include taking reasonable steps to:
  - i. conduct background checks on the Fundraiser to ensure that the board of directors, officers and controlling shareholder(s) of the Fundraiser are fit and proper and shall in particular, verify that the board, chief executive, and any officer of the Fundraiser who is primarily responsible for its operations or financial management have not:
    - a. been convicted, whether within or outside Nigeria, of an offence involving fraud or other dishonesty or the conviction of which involved a finding that he acted fraudulently or dishonestly;

# 12. Due Diligence

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- b. been convicted of an offence under the Act or any other law relating to the capital market;
- c. been blacklisted by a professional body which he belongs to;
- d. contravened any provision made by or under any written law, whether within or outside Nigeria to be enacted for protecting members of the public:
  - 1. against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of financial services or the management of companies; or
  - 2. against financial loss due to the conduct of discharged or undischarged bankrupts;
- e. engaged in any unlawful business practice;
- f. engaged in or has been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgment; or
- g. engaged in or has been associated with any conduct that cast doubt on his ability to act in the best interest of investors, having regard to his reputation, character, financial integrity and reliability;

# 12. Due Diligence

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- ii. verify the accuracy and viability of the business proposition of the Fundraiser, the solvency of the Fundraiser and if the business forecast is based on sound assumptions; and
- iii. comply with all relevant KYC, and AML/CFT regulations as stipulated by the Commission.

# 13. Monitoring and Reporting

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A Crowdfunding Intermediary shall:

- a) monitor the conduct of Fundraisers on its portal and take action against misconduct of the Fundraiser;
- b) monitor Fundraisers to ensure that the fundraising limits imposed on the Fundraiser are not breached;
- c) comply with all reporting obligation as may be specified by this rule and all rules and regulations relating to market operators;
- d) in addition to quarterly and annual CMO returns, file the following reports with the Commission, through channels as may be stipulated from time to time:
  - I. Monthly reports specifying the following;
    1. Total number of Fundraisers who raised funds through the portal during the reporting period;
    2. Total number of investors who invested through the portal during the reporting period;



# 13. Monitoring and Reporting

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3. Number and Types of securities or investment contracts issued during the reporting period;
4. Total amount raised on the portal during the reporting period;
5. Such other information as may be required by the Commission.

## II. Quarterly reports, specifying the following;

1. Information on Fundraisers who raised funds during the reporting period;
2. Total amount raised on the portal during the reporting period;
3. Observed breaches or risk incidents during the reporting period and steps taken to address same;
4. Complaints received and steps taken to resolve same during the reporting period from investors;
5. Such other information as may be required by the Commission;

# 14. Data Protection and Privacy

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A Crowdfunding Intermediary shall:

- a) establish appropriate safeguards for ensuring the integrity of the information received and published;
- b) ensure security and confidentiality of information collected from investors;
- c) ensure that the security of the portal is incorporated into the development and hosting of the website of the Crowdfunding Portal in a manner which enables the general public identify its safety prior to creating an account on the portal;
- d) comply with the provisions of the Nigerian Data Protection Regulation and other applicable laws;
- e) Maintain reliable and secure operating systems;
- f) identify the sources of operational risks and adopt adequate procedures and controls to avoid operational disruptions;

# 14. Data Protection and Privacy

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- g) develop and implement a written identity theft prevention program;
- h) install and ensure the operation of suitable back-up facilities;
- i) be adequately insured against portal failure or closure;
- j) keep a copy of all relevant documents for a period of at least 7 years after the date on which the document comes into the possession of the portal;
- k) within 5 working days of receipt of a request for information from an investor, provide a copy of, or an extract from, a document that is relevant to the investor.

# 15. Operation of Trust Account

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- a) Every Crowdfunding Intermediary shall appoint a custodian registered by the Commission, who shall establish and maintain a separate trust account for each funding round on its portal.
- b) The Crowdfunding Intermediary shall only direct the custodian to release the funds to the Fundraiser after the following conditions are met:
  - i. the targeted amount sought to be raised or the minimum threshold has been met;
  - ii. there is no material adverse change relating to the offer during the offer period; and
  - iii. all applicable requirements for the registration of securities have been met
- c) Funds invested will be maintained by the Custodian in an interest yielding trust account. The total funds raised and the accruing interest will only be released to the Fundraiser after specified conditions provided in these rules and regulations have been met.

# 15. Operation of Trust Account

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- d) The Custodian shall take all reasonable steps and establish measures to ensure that it performs all its responsibilities as required by these Rules

# 16. Issue, Publication and acknowledgment of Warning Statements

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- a) The Crowdfunding Intermediary shall ensure that a warning statement is prominently displayed:
  - i. to all visitors to the site on the home page of the portal; and
  - ii. to every investor, on the subscription landing page for each Fundraiser; and
  - iii. on all application forms for investing through the portal.
- b) The Warning Statement should among other things, warn and advise investors that:
  - i. Investing through an online portal is risky and Fundraisers raising funds through the portal include new or rapidly growing ventures;
  - ii. Investment in the businesses hosted on the portal is very speculative and carries high risks;
  - iii. Investors may lose their entire investment, in the ordinary course of business, and must be in a position to bear this risk;

# 16. Issue, Publication and acknowledgment of Warning Statements

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- iv. The investment limits of investors are being monitored by the Crowdfunding Intermediary;
- c) The Crowdfunding Intermediary shall ensure every investor affirms to a risk acknowledgement form by which the investor confirms:
  - i. their understanding that the proposed investment is a risky investment;
  - ii. the investor may be overpaying for the securities or investment contracts issued;
  - iii. their understanding that there may be additional classes of shares with rights that are superior to the class of shares being issued through crowdfunding;
  - iv. they are able to economically absorb the complete loss of the investment they intend to make;
  - v. the proposed investment amount falls within the prescribed investment limit for the investor category;

# 16. Issue, Publication and acknowledgment of Warning Statements

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- vi. the investor will be subject to a lock-in period of at least one year and may be subject to a further restriction on the transfer of the securities;
- vii. the investor may never be able to sell the securities or investment instruments,
- viii. the investor will be provided with no disclosure or less disclosure than publicly traded companies,
- ix. the investor will not have the benefit of protections associated with an investment made under a prospectus;
- x. the investor will not be entitled to claim from the National Investor Protection Fund; money invested.
- xi. the portal will not be responsible if the investor loses all or some of the money invested



# 16. Issue, Publication and acknowledgment of Warning Statements

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- d) At or before the time the investor enters into an agreement to invest, the Fundraiser must obtain a signed risk acknowledgement from the investor by which the investor confirms that falls within the investment limits and acknowledges the risks associated with the investment including the following:
- i. that the Investor is in compliance with his total annual investment limit;
  - ii. that the investor has seen and read the warning statement about crowdfunding (as provided in these Rules);
  - iii. the investor understands that investment based crowd funding is risky and that the investor may never be able to sell the securities;
  - iv. the investor may be provided with less disclosure than public companies provide;
  - v. the investor may lose his entire investment and confirms that he can bear that loss without suffering undue hardship.

## 16. Issue, Publication and acknowledgment of Warning Statements

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- e) The confirmation must be obtained in writing in a separate document or, if it is obtained by electronic means, through a process which ensures it is signed electronically in a legally binding form, and obtained separately from the agreement to use the service.
- f) The document must be retained by the Fundraiser for at least 7 years after distribution.

# 17. Compliance

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- a) Policies and procedures. A Crowdfunding Intermediary must implement written policies and procedures relating to the operations of its portal which are reasonably designed to achieve compliance with the provisions of the Act and the rules and regulations thereunder.
- b) Inspections and examinations. A Crowdfunding Intermediary shall permit the examination and inspection of all of its business and business operations that relate to its activities, such as its premises, systems, portal, and records by representatives of the Commission

# 18. Record Keeping

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- a) A Crowdfunding Intermediary shall make and preserve the following records:
- i. All records relating to an investor who registers on the portal, purchases or attempts to purchase securities or investments through its Crowdfunding portal;
  - ii. All records relating to Fundraisers who offer and sell or attempt to offer and sell securities or investments through its funding portal and the control persons of such Fundraisers;
  - iii. Records of all communications that occur on or through its portal;
  - iv. All records related to persons that use communication channels provided by a Crowdfunding Intermediary to promote a Fundraiser's securities or investments or communicate with potential investors;
  - v. Records of all maintenance and internal change logs carried out on the portal;

# 18. Record Keeping

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- vi. All records provided by such Crowdfunding Intermediary to Fundraisers and investors through portal or otherwise, including, but not limited to:
  - 1. notices addressing hours of portal operations (if any),
  - 2. portal malfunctions,
  - 3. changes to portal procedures,
  - 4. maintenance of hardware and software,
  - 5. instructions pertaining to access to the Crowdfunding portal; and
  - 6. denials of, or limitations on, access to the Crowdfunding portal;
- vii. All written agreements (or copies thereof) entered into by such Crowdfunding Intermediary relating to its business as such;
- viii. All daily, monthly and quarterly summaries of transactions affected through the Crowdfunding Portal, including:
  - 1. Fundraisers for which the target offering amount has been reached and funds distributed;

# 18. Record Keeping

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2. Transaction volume, expressed in number of transactions, number of securities involved in a transaction and total amounts raised by, and distributed to, Fundraisers;
3. A log reflecting the progress of each Fundraiser who offers or sells securities through the funding portal toward meeting the target offering amount.

*b) Organizational documents:* A Crowdfunding Intermediary shall make and preserve during the operation of its Crowdfunding portal and of any successor Crowdfunding portal, all organizational documents relating to the Crowdfunding portal.

*c) Format:* The records required to be maintained and preserved pursuant to paragraph (b) of this Rule must be produced, reproduced, and maintained in a non-alterable format which ensures the integrity of the content.

# 18. Record Keeping

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- d) Third parties:* The records required to be made and preserved pursuant to this section may be prepared or maintained by a third party on behalf of a Crowdfunding intermediary provided that:
- i. An agreement with a third party shall not relieve a Crowdfunding Intermediary from the responsibility to prepare and maintain records as specified in this rule.
  - ii. A Crowdfunding Intermediary must file with the Commission a written undertaking in a form acceptable to the Commission and signed by a duly authorized person of the third party, stating in effect that;
    1. such records are the property of the Crowdfunding Intermediary; and will be surrendered upon request by the Crowdfunding Intermediary.

# 18. Record Keeping

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iii. The undertaking shall include the following:

With respect to any books and records maintained or preserved on behalf of [name of Crowdfunding Intermediary, the undersigned hereby acknowledges that the books and records are the property of [name of Crowdfunding Intermediary,] and hereby undertakes to permit examination of such books and records at any time, or from time to time, during business hours by representatives of the Securities and Exchange Commission and to furnish to the Commission, and its representatives, a true, correct, complete and current copy of any, all, or any part of, such books and records.



# 18. Record Keeping

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- e) Examination of Records:* All records held by a Crowdfunding Intermediary are subject at any time, or from time to time, to reasonable periodic, special, or other examination by the representatives of the Commission as the Commission may deem necessary or appropriate in the public interest or for the protection of investors. Every Intermediary and/or Fundraiser shall furnish to the Commission true, correct, complete and current copies of such records of the Intermediary and/or Fundraiser that are requested by the representatives of the Commission.
- f) Preservation of Records:* The records required to be kept under this part shall be preserved for a period of at least 7 years and kept at the principal place of business of the Crowdfunding Intermediary. If the principal place of business is outside Nigeria, then upon request of the Commission, the operator shall provide such records as requested at a place in Nigeria within seventy-two (72) hours after receipt of the request.

# 18. Record Keeping

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- g) Submission of Yearly Reports:* The Crowdfunding Intermediary shall, not later than 30 days after the end of each year, submit a report on all crowdfunding transactions on its crowdfunding portal. The Crowdfunding Intermediary shall file with the Commission and post on the crowdfunding portal;
- i. a report on an annual basis along with Fundraiser disclosures
  - ii. other Fundraiser submissions certified by the principal executive officer of the Fundraiser to be true and complete in all material respects; and
  - iii. a description of the financial condition of the Fundraiser as described under Fundraiser Requirements”.

## 19. Use of Manipulative, Deceptive or Other contrivances

No Crowdfunding Intermediary or associated person of a Crowdfunding Intermediary shall effect any transaction in, or induce the purchase or sale of, any security or investment instrument by means of, or by aiding or abetting, any manipulative, deceptive or other fraudulent device or contrivance.

## 20. Restriction on Cross Ownership

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A Crowdfunding Intermediary shall not allow a Fundraiser to raise funds on its Portal if the Crowdfunding Intermediary or any of its officers, directors, significant shareholders or associated persons beneficially own or control more than 5% of the securities of that Fundraiser.

PROVIDED THAT where the directors, significant shareholders or associated persons of the Crowdfunding Intermediary beneficially own or control more than 5% of the securities of a Fundraiser seeking to raise funds through its portal, the prior approval of the Commission shall be sought before the Fundraiser is granted access to the portal.

# Part 4 – Participants for Crowdfunding

# 21. Fundraiser

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- a) A Fundraiser shall offer its investment instruments through a Crowdfunding Portal operated by a registered Crowdfunding Intermediary;
- b) All Fundraisers shall be required to file a standardized offering document with the Crowdfunding Intermediary providing amongst others:
  - i. key information on the Fundraiser, including name, legal status, physical address, place of incorporation and website;
  - ii. the use of the proceeds;
  - iii. the nature of its existing or proposed business, its business plan, the offering amount to be raised and the duration of the offer;
  - iv. proposed details of applicable return on investment, coupon rate or profit sharing structure as well as information on historical performance if any;

# 21. Fundraiser

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- v. a certification signed by the Fundraiser stating that:
  - 1. the offering document does not contain a misrepresentation; and
  - 2. Investors have rights of action and withdrawal in the case of a misrepresentation
  
- vi. financial information relating to the Fundraiser including;
  - 1. Unaudited interim reports and accounts
  - 2. Comprehensive schedule of the Fundraiser's current debt profile by type, purpose, tenor and maturity dates;
  - 3. bank reference on the Fundraiser;
  - 4. evidence that the issue does not exceed the limit of the Fundraiser's borrowing powers or issued share capital;
  - 5. details of any bank overdrafts, loans, mortgages, charges, hire purchase commitments or guarantees or other material contingent liabilities of the Fundraiser and any of its subsidiaries;
  - 6. details of the nature and extent of the interest direct or indirect, if any, of every director in any assets;

# 21. Fundraiser

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7. A statement by the directors that in their opinion the working capital available is sufficient, or if not, how it proposes to provide the additional working capital required;
  8. details of any share options or such incentives to any person, including without limitation, directors, employees, and other officers of the Fundraiser; and
  9. other information as the Commission may require from time to time.
- 
- vii. Two years Audited financial statements (if any) or Audited Statement of Affairs;
  - viii. A clear outline of investors rights and ownership of investment instruments;
  - ix. details of all crowdfunding campaigns embarked on.



# 21. Fundraiser

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- c) An eligible Fundraiser shall maintain an accurate list and details of all investors post issuance, which shall include the full names, address, email and the number of units and monetary value of investment instruments and which shall specify investors from countries other than Nigeria.
- d) Fundraiser shall make the offering document available to the investor through the portal before the investor enters into an agreement to purchase the investment instrument.
- e) A Fundraiser offering securities or investment instruments shall provide an investor with a contractual right to withdraw from an offer or agreement to purchase the securities or investment instrument by delivering a notice to the funding portal up to 48 hours before the close of the offer.

# 21. Fundraiser

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- f) The offering document shall not be posted on its website or any other media apart from those of the Crowdfunding Portal, provided however that the Fundraiser may post a notice on its website regarding the offering which directs users to the details on the Crowdfunding Portal.
- g) The Crowdfunding Intermediary shall deliver a copy of the offering materials to the Commission at the time they are posted on its portal.
- h) Disclosure shall be provided about any entity or person other than the Fundraiser promoting the offering.
- i) The Fundraiser shall not guarantee return on investment either expressly or by any implied terms in the offering document or advertisement material.

## 22. Investors

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- a) Investors may be allowed to invest in companies hosted on the Crowdfunding Portal subject to the investment limit specified by the Commission from time to time.
- b) Investors will be given a cooling off period from the time of investment until 48 hours to the close of the offer within which they may withdraw their investment.
- c) If there is a material adverse change prior to the closing date of the offer, affecting the project or the Fundraiser, investors may rescind the investment within 7 days from the date the material adverse change became public; where the proceeds have not been transferred to the Fundraiser.
- d) Where an investor cancels the offer or agreement to purchase securities or investment instruments, all funds which may have been debited from or blocked in the account of the investor shall be refunded or released within 48 hours of the request to cancel.

# 23. Obligations of a Crowdfunding Portal

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The Crowdfunding Intermediary shall;

- a) Comply with all rules, regulations, code of conduct, and laws governing capital market operators in Nigeria;
- b) be knowledgeable about the general structure, features and risks of investment instruments presented on its portal;
- c) conduct due diligence on Fundraisers and their business plans in order to ensure that the Fundraisers have genuine business ideas;
- d) have the obligation, following a notification to the Commission, to restrict access of a Fundraiser to its portal, if it has reason to believe that the Fundraiser or any of its officers has been convicted of fraud or otherwise raises reasonable suspicions of fraudulent activity;
- e) verify the financial condition of the Fundraisers and disclose relevant information on the portal;
- f) prescribe the minimum threshold for all offers on its portal which shall not be less than 50%;
- g) maintain a list of investors registered on its portal

## 23. Obligations of a Crowdfunding Portal

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- h) maintain a list of investors that invested in each issuance and amounts invested;
- i) take measures to reduce the risk of fraud including, but not limited to;
  - i. having a reasonable basis for believing that a Fundraiser is complying with the securities laws; and
  - ii. obtaining background information and regulatory compliance history checks on the Fundraiser;
- j) review the information presented by the Fundraiser on its website to ensure that the information adequately sets out the following:
  - i. General features and structure of the investment,
  - ii. Fundraiser-specific risks,
  - iii. Parties involved and any inherent conflicts of interest, and
  - iv. Intended use of funds
  - v. Dashboard showing performance of previous funds raised for non first timer in addition to quarterly fact sheets of running investment

## 23. Obligations of a Crowdfunding Portal

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- k) facilitate a moderated interactive forum on the portal for investors and Fundraisers which provides investors with the opportunity to comment on offers and Fundraisers subject to the following:
  - i. monitor postings to confirm that the Fundraiser is not making any statement or providing information that is inconsistent with the offering document, the rules of conduct of the portal, or these rules;
  - ii. remove any material that may contain a statement or information that is false, deceptive, misleading or that may constitute a misrepresentation or untrue statement of a material fact;
  - iii. ensure that Fundraisers respond to questions publicly;
  - iv. not participate in any communications through the communication channels, apart from establishing guidelines for communication and removing abusive or potentially fraudulent communication.
- l) ensure that the Fundraiser does not guarantee return on investment either expressly or by any implied terms in the offering document or advertisement material.

# Part 5 – Requirements with Respect to Transactions

## 24. Receipt of an application by the Crowdfunding Intermediary

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- a) Upon receipt of an application from an eligible Fundraiser, a Crowdfunding Intermediary shall, prior to approving the hosting of the offer on its portal, provide information to the Commission specifying;
- i. Promoters;
  - ii. Directors;
  - iii. Shareholders, highlighting holders of 5% and above (directly or indirectly) of the Fundraisers' shares;
  - iv. Area of business; and
  - v. Such other information as the Crowdfunding Portal deems relevant or as may be required by the Commission.



## 25. Procedure by the Commission Upon Receiving an Application

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1. The Commission may, within 2 working days of receipt of information from a Crowdfunding Intermediary, if it considers it necessary and in the interest of the capital market, require a Crowdfunding Intermediary to provide additional information or prohibit an offering.
2. Prior to directing the Crowdfunding Intermediary to prohibit an offering, it shall:
  - a. state the reasons;
  - b. direct the Crowdfunding Intermediary to give the eligible Fundraiser an opportunity to be heard;
  - c. make a decision and communicate the decision, as the case may be, recommending the appropriate measures that the eligible Fundraiser may take in order to comply.

## 26. The Offering

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- a) A crowdfunding offering approved by a Crowdfunding Intermediary shall be open for no more than 60 days, provided that the period may be extended for a further period of not more than 30 days upon such conditions as may be specified by the portal;
- b) The Crowdfunding Intermediary shall adopt an IT System which limits the acceptable amount to the target amount and reject additional subscriptions once the target amount is reached.

## 26. The Offering

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- c) Where a Fundraiser is unable to meet the prescribed minimum threshold for the target offering amount within the approved period, the offer shall be withdrawn and the Fundraiser may only commence a new crowdfunding offering:
  - i. not earlier than 30 days after the said withdrawal; and
  - ii. upon demonstrating to the Crowdfunding Intermediary that all relevant financial and other relevant information have been updated.
- d) In case of any material adverse change relating to a Fundraiser during the course of an offering, the investors must be notified of such change within a period of 24 hours after becoming aware.

## 26. The Offering

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- e) For an offer to be successfully completed, the minimum threshold or target amount indicated in the offering document which must be sufficient to accomplish the business objectives of the Fundraiser must have been subscribed to.
- f) Funds raised would only be released to the Fundraiser if the target amount or the minimum threshold of funds to be raised is met.
- g) Where the funding target is reached, the Crowdfunding Intermediary shall direct the custodian to make funds available to the Fundraiser within 24 hours of the end of the offer, provided that where the Fundraiser is a public company or a public company by default, the Crowdfunding Intermediary shall require evidence of registration of the securities with the Commission prior to directing the custodian to transfer the funds to the Fundraiser (where applicable);

## 26. The Offering

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- h) Where the amount raised meets the minimum amount but falls short of the target amount, the Crowdfunding Intermediary shall direct the custodian to make the funds available to the Fundraiser upon provision of a revised plan for the proposed use of funds to the investors and the Crowdfunding Intermediary within one week of the end of the offer. Provided that the underlying project(s) to the proposed use of funds can be downscaled and executed independently without negatively impacting operations of the Fundraiser.
- i) Where the minimum threshold is not reached at the end of an offer, the Crowdfunding Intermediary shall effect a refund to all investors within 48 hours;

## 26. The Offering

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- j) Investors shall have the right to withdraw any offer or agreement to purchase the investments instruments up to 48 hours before the closing date stated in the Fundraiser's offering materials. After the closing date, an investor is only able to cancel in the event of a material adverse change to the offering where the proceeds have not been transferred to the Fundraiser.
- k) The ability to cancel shall be permissible by means of an automated system on the Crowdfunding portal or by notice to the Crowdfunding intermediary and the Fundraiser;
- l) Where the target amount is reached prior to the expiration of a 90-day period from the date of the opening of an offer, and a withdrawal occurs which reduces the target amount, the Crowdfunding Intermediary may permit a re-opening of the offer only for the balance sum and for a period not exceeding the unexpended period of 90 days.

## 27. Lock-in Period

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- a) Investors shall not transfer their investment instrument for a period of one year after allotment except if a transfer is:
- i. to the Fundraiser of the securities or investment instrument;
  - ii. to a qualified institutional investor/High Net-worth Individual(s); or
  - iii. part of an offer for sale registered with the Commission;
  - iv. to Retail Investors registered on the Crowdfunding Portal or to a family member of the Investor or to a trust created for the benefit of the family member of the investor or in connection with the death or divorce of the investor or other similar circumstance.
- b) The Rules of the Commission on trading in securities of unlisted companies as well as the law on the restriction on transferability of the shares of a private company shall apply after the lock-in period;

## 28. Tag-along Rights

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- a) Admission of an equity offer to a Crowdfunding portal shall be subject to the existence and confirmation of tag-along rights for retail investors and promoters. The Fundraiser's articles of association shall provide for the right of retail investors and promoters to withdraw from the company or to sell the stake, in the event that controlling shareholders transfer control of the company to third parties within three years from the conclusion of the offer.
- b) Admission of a debt offering to a Crowdfunding Portal shall be subject to the existence of an early redemption (put) option for all investors. The offering document and/or any other agreement governing the investment, shall provide for the right of investors to request for an early redemption of their investment, in the event that the controlling shareholders transfer control of the company to third parties within three years from the conclusion of the offer.



# Part 6 – Obligations of the Fundraiser

## 29.

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A Fundraiser proposing to be hosted on a Crowdfunding Portal shall submit the relevant information to the Crowdfunding Intermediary including the following:

- a) information that explains the key characteristics of the company;
- b) information on the expertise of its Management;
- c) information that explains the purpose of the offer and the targeted offering amount;
- d) Audited financial statements or audited statement of affairs of the company

## 30.

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Every eligible Fundraiser seeking to raise funds through a Crowdfunding portal shall issue an offering document.

## 31.

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The offering document must be short, easy to read, standardized for comparability and digital friendly by utilising HyperText links to give easy access to detailed information.

## 32. General Disclosure Requirements

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- a) The offering document shall disclose the following;
- i. warnings to investors;
  - ii. the name and address of the Fundraiser, directors and officers;
  - iii. holders of more than 5% of the Fundraiser's equities;
  - iv. description of the business of the Fundraiser;
  - v. principal and peculiar risks facing the business of the Fundraiser;
  - vi. copies of resolutions of the board of the company
  - vii. a narrative discussion of the financial condition of the Fundraiser.

## 32. General Disclosure Requirements

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The discussion should address, to the extent material;

1. the Fundraiser's historical results of operations;
  2. its liquidity and capital resources;
  3. how the proceeds from the offering will affect the Fundraiser's liquidity; and
  4. whether these funds or any other additional funds are necessary to the viability of the Fundraiser's business.
- 
- viii. use of proceeds;
  - ix. target offering amount (and a deadline to reach the target offering amount);
  - x. number and price of the securities or investment instruments being offered and the associated obligations;
  - xi. capital structure and ownership of the Fundraiser;
  - xii. risk factors;
  - xiii. information about an investor's right to cancel his/her investment;
  - xiv. related party transactions
  - xv. exit options for investors (which shall be in accordance with the provisions of these rules, the rules and regulations of the Commission, and applicable companies law).

## 33. Risk Disclosure

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The offering document shall state all risks associated with the investment without mitigants. This should include:

- i. liquidity of the securities;
- ii. that it may be difficult for the investor to resell securities or Investment Instruments purchased through the Crowdfunding Portal;
- iii. restrictions on the ability of an investor to cancel the investment;
- iv. the risk of not getting expected performance on the securities purchased;
- v. risk of not being able to influence management of the Fundraiser, including minority shareholding disadvantages for corporate action, and the collective action problem;
- vi. dilution risk; and
- vii. there is no guarantee of return on the investment.

## 34. Ongoing Disclosure Requirements

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- a) Every Fundraiser with a successful Funding Round on a Crowdfunding Portal shall comply with the following continuous disclosure requirements:
- i. prompt notification to the Crowdfunding Intermediary and to the investors in the event of changes and prescribed documentation as contained in this regulation;
  - ii. deliver annual audited financial statements to the Crowdfunding Intermediary and make them available to each investor on its website;
  - iii. the financial statements must be accompanied by a notice of the Fundraiser disclosing in reasonable detail the actual use of the gross proceeds of the offer;

## 34. Ongoing Disclosure Requirements

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- iv. make available on its website, the Crowdfunding Portal and by email to each of its investors, a notice of each of the following events within 24 hours of their occurrence:
  - 1. a discontinuation of the Fundraiser's business,
  - 2. a change in the Fundraiser's business, or
  - 3. a change of control of the Fundraiser.

b) Fundraisers under this regime are required to provide ongoing disclosure on the issues specified above until the earliest of the following dates:

- i. the Fundraiser becomes a reporting Fundraiser (listed on a recognized exchange),
- ii. Fundraiser has completed a winding up or dissolution,
- iii. the Fundraiser has redeemed its debt securities,
- iv. the Fundraiser buys back the securities issued.

## 35. Access to offering and ongoing disclosure documents

All ongoing disclosure documents must be provided to investors through the Crowdfunding portal, the website of the Fundraiser and such other reasonable means as may be determined by the Commission from time to time.

## 36. Marketing and Communication

- a) a Crowdfunding Intermediary is not prohibited from advertising the existence of its portal provided that such advertisement is restricted to general information about the portal and its business model, and does not include any information on specific offers.
- b) Crowdfunding Intermediaries should ensure that all marketing communications to investors by Fundraisers are clearly identifiable as such.
- c) The Crowdfunding Intermediary shall approve all marketing materials and ensure that marketing materials by Fundraisers comply with the general rules of the Commission on advertisements.



# Part 7 – Restrictions

# 37. Prohibited Activities

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- a) The Crowdfunding Intermediary is prohibited from:
  - i. providing any financial assistance to investors for the purpose of investing in an offer hosted on its portal; or for which it has provided a service; and
  - ii. compensating any finder or introducer for providing the Crowdfunding Intermediary with information about potential investors.
- b) Crowdfunding Intermediaries and or their managers and officers of their portals are prohibited from soliciting investments or making recommendations;
- c) No Crowdfunding Intermediary shall intermediate or facilitate secondary trades between buyers and sellers for investment instruments issued pursuant to these rules.
- d) A Crowdfunding Intermediary is prohibited from utilizing any, website, social media portals, or third-party portals other than the registered website of the Crowdfunding Portal for the purpose of facilitating a crowdfunding offering.

## 38. Fundraisers Prohibitions/Restrictions

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- a) Fundraiser shall not directly or indirectly pay a commission, finders' fee, referral fees or similar payment to any person in connection with an offering other than to the Crowdfunding Intermediary.
- b) This restriction does not apply to payments to persons as compensation for their services to a Fundraiser in preparing materials in connection with the offering such as accounting or legal fees.
- c) The Fundraiser shall not offer "non-permissible investment instruments";
- d) The Fundraiser shall not host an offer concurrently on multiple Crowdfunding Portals;
- e) The Fundraiser is prohibited from lending or financing or arranging lending or financing for an investor to purchase Investment Instruments under a Crowdfunding offer.

## 39. Non-permitted Fundraisers

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The following entities are prohibited from raising funds through a Crowdfunding Portal:

- a) complex structures;
- b) public listed companies and their subsidiaries;
- c) companies with no specific business plan or a blind pool;
- d) companies that propose to use the funds raised to provide loans or invest in other entities;
- e) such other entity as may be specified by the Commission.

# **Part 8 – Additional Requirements for Commodities Investment Platforms**

Without prejudice to the generality of the foregoing, a crowdfunding intermediary may operate a commodities investment platform subject to compliance with the following additional requirements:

- a) Eligibility: in addition to the eligibility requirements specified in these rules, the Crowdfunding Intermediary shall not be registered as a fund manager with the Commission;
- b) Portal Requirements: The Crowdfunding Intermediary shall not facilitate on its portal any other crowdfunding business other than sourcing funds for investments in agriculture or other commodities;
  - i. The portal operated by the Crowdfunding Intermediary for investments in agricultural or commodities projects shall not be utilised for any other funding or marketing purpose;
  - ii. A crowdfunding intermediary registered to operate a Commodities Investments Platform shall not host a different crowdfunding portal where funds would be sourced for non- agricultural or commodities projects.

- c) **Registration Requirements:** The cash assets ratio requirement for a Crowdfunding Intermediary operating a Commodities Investment Platform shall, without prejudice to the other registration requirements specified in these rules, be a minimum of 60% liquid assets and 40% fixed and other assets;
- d) **Project Hosting:** The Crowdfunding Intermediary shall be eligible to host commodities investment projects on its Commodities Investments Platform subject to compliance with the following:
  - i. Ensure that proper due diligence is carried out on all projects and project executors or beneficiaries;
  - ii. Provide investors with the following information which shall be displayed prominently to investors prior to making an investment;
    - 1. A Target Plan as defined in these rules;
    - 2. Location of the proposed project (s) which shall specify the city, town and local government area of the relevant state where the project will be located;

3. A disclosure document which complies with the requirements of Rule 38 as applicable and in addition specifies:
  - a. total size of land, quantity of livestock or other measurable feature and total amount required to fund the hectare with appropriate breakdowns;
  - b. the kind of title held to the project site specifying whether host owned, executor owned or leased;
  - c. information on the commitments reached with the project executors/beneficiaries;
  - d. general information regarding the commodity which shall include the specie(s) to be cultivated, on cost of production and secured off-takers; where applicable
  - e. information on the custodian of the funds to be raised;
  - f. detailed information on expected profits from the project and the percentages to be allocated to the executors/beneficiaries, crowdfunding intermediary and investors;
  - g. a link to the Terms and conditions of sponsorship for each project;



e) **Additional Obligations: The Crowdfunding Intermediary shall:**

- i. Ensure that adequate records on project owners/executors including identification, project location, membership of relevant association, guarantors and other relevant details are maintained and disclosed;
- ii. Ensure that the Fundraiser does not guarantee return on investment either expressly or by any implied terms in the offering document or advertisement materials;
- iii. Comply with the requirements for appointment of a custodian under these rules;
- iv. File appropriate returns to the Commission as indicated in these rules, including information on compliance with the additional requirements specific to its operations;

- v. Where insurance is listed as a feature of an agriculture or other commodities project, ensure that the insurance coverage is specific to each agricultural or commodities project and shall disclose the following:
  - 1. Name of the insurance company
  - 2. Amount of insurance coverage
  - 3. Other details of the insurance coverage
  - 4. Copy of the insurance policy

## f) Inspections

- i. The operator of the CIP shall provide investors or their appointed agents with adequate access to inspect sponsored projects within the project cycle;
- ii. Inspections shall be organised at least once in each quarter of the life cycle of the project;
- iii. Investors shall be given notice of at least 7 days of a proposed joint site visit with other investors,
- iv. Requests for individual site visits by investors or their appointed representatives shall be honoured within 7 days of such requests subject, to the cost being borne by the investors;

- g) **Funding Limit:** The maximum amount which may be raised on a Commodities Investment Platform within a 12-month period shall not exceed N1,000,000,000.00 (One Billion Naira) provided that the Commission may, on application and proper verification, grant approval to exceed the specified amount.

# Part 9 – Miscellaneous

41.

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An Organization or Association may approach the Commission, for the purpose of supervising registered Crowdfunding Intermediaries, to register an independent Industry Association as a Self-Regulatory Organization or Trade Association.

# Part 10 – Penalty

Any crowdfunding intermediary that fails to comply with these rules shall be liable to a fine of not less than N100,000.00 (One Hundred Thousand Naira Only) and the sum of N5,000.00 (Five Thousand Naira Only) for every day the violation continues and shall in addition be liable for any loss of investor funds arising due to the Crowdfunding Intermediary's failure to comply with its obligations under these rules.

# Part 11 – Transitional Provision



43.

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Every person/entity operating a crowdfunding portal/digital commodities investment platform prior to the commencement of these rules shall restructure its operations in compliance with these rules and apply for registration no later than 90 days from the effective date of these rules.

# Schedule 1

# Registration Forms

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1. Duly Executed Form SEC 3 – For the Company
2. Form SEC 2 and 2D – Sponsored Individuals/Compliance Officer
3. Form SEC 2 and 2D – Directors of the Company

# Registration Fees

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1. Evidence of Payment of Filing/Application Fee – N50,000 (Fifty Thousand Naira);
2. Evidence of Payment of Processing Fee – N200,000 (Two Hundred Thousand Naira);
3. Evidence of Payment of Registration Fee – N500,000 (Five Hundred Thousand Naira);
4. Evidence of Payment of Sponsored Individual Fee – N50,000 (Fifty Thousand Naira) for each sponsored individual.

# Schedule 2

# Transaction Fees

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1. The total fees payable to parties to a crowdfunding issue shall not exceed 5% of the total funds raised.
2. Fees payable by the Crowdfunding Intermediary to the Commission shall be 5% of the annual turnover of the Crowdfunding Intermediary.

# Bottom Line for Investors

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- It **pays to be skeptical** of investment opportunities you learn about through the Internet.
- When you see an offering on the Internet — whether it is on a funding portal, in an online newsletter, on a message board or in a chat room — you should **be cautious** until you have done your homework and proven that it isn't a scam.



**THANK YOU**  
**QUESTIONS?**



For more information

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**Email us:**  
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