

AN OVERVIEW OF THE INVESTMENTS AND SECURITIES ACT 2025 AND THE NIGERIAN CAPITAL MARKET

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Abstract

The Nigerian capital market provides long tenure funding for economic units in the Nigerian financial system. It promotes corporate solvency, efficiency, competitiveness, financial discipline, accountability and transparency. The market has demonstrated strong earning potentials for investors and visibility for the Nigerian economy as a destination for direct and portfolio investment. This, notwithstanding, Nigeria yearns for investment finance to leverage on her immense endowments for growth and development. The Investments and Securities Act 2025 introduced fundamental reforms in the regulation of the Nigerian capital market warranting the compelling need for an exposition on the Act for proper fund sourcing and usage match. This article, essentially expository, seeks to attain a robust capital market that ensures efficient capital mobilisation and allocation in the Nigerian financial system. Using doctrinal methodology and relying on statutes and case law as primary source and existing literature as secondary source the discussion examined salient features of the Investments and Securities Act, 2025. In the exposition of the liberalised capital formation process, enhanced supervision of the market, retooling of the market's dispute resolution mechanism, the paper found that the Act has strategically positioned the Nigerian Capital Market as an investment destination. The article recommended, *inter-alia*, aggressive advocacy on the reforms by statutory and self-regulatory organisations in the Nigerian capital market for the benefit of investors and the burgeoning capital market.

Keywords: Nigerian Capital Market, Investments and Securities Act, Securities and Exchange Commission

1.1. Introduction

On January 5 2026, the Nigerian Exchange (NGX) crossed the one hundred trillion naira capitalisation¹ threshold effectively ranking the Nigerian stock exchange along with the Johannesburg Stock Exchange and the Egypt Stock Exchange among the elite *bourses* in Africa.² This milestone gives global visibility to the robust and unbundling character of the Nigerian economy. In the global race for finance, this testament strategically places Nigeria as a destination for direct and portfolio investment.

The Investments and Securities Act,³ 2025 introduced fundamental reforms in the regulation of the Nigerian capital market. An understanding of the reform is imperative to leverage on the immense potentials of the Nigerian capital market. There is therefore the compelling need for an exposition on the Act for proper fund sourcing and usage match and the orderly development of the jurisprudence of the Nigerian Capital market. This article seeks to attain a robust capital market that will ensure efficient capital mobilisation and allocation in the Nigerian financial system. Using doctrinal methodology and relying on statutes and case law as primary source and existing literature as secondary source the paper examines the salient features of the ISA 2025. This is undertaken under the five headings of Introduction, Conceptual Clarification and Theoretical Foundation, Regulation of the Nigerian Capital Market, Dispute Resolution and Conclusion.

1.2. Conceptual Clarification and Theoretical Foundation

According to Black's Law Dictionary⁴, capital market is defined as “financial markets in which long term securities are bought and sold”. The Capital Market Glossary⁵ defines capital market as “financial markets which trades in medium to long term financial instruments (stocks and bonds) with maturity in excess of one year”. The capital market is a permanent feature of sovereign economies and performs critical functions in the economy.

The market liberalises investment opportunities. The variety of securities enables economic agents to effectively mobilise and efficiently allocate funds for efficient use. The market reduces pressure on the money market and ensures even growth and stability in the financial market.

The capital market enables private and public institutions to manage risks effectively. By resort to the array of funding options in the capital market, government and companies are able to prudently

¹ <https://statehouse.gov.ng/president-tinubu-applauds-ngx-n100-trillion-milestone-charges-nigerians-to-invest-morelocally/> accessed 20/7/2026 @8:43am. In June 2026, it surpassed N150 trillion. Tayo Oyedele “Rethinking Capital Mobilisation for National Development; Why Should Capital Choose Nigeria”, Inaugural Lecture delivered by the Minister of Finance, on the Occasion of Conferment of Fellowship By the Capital Market Academics of Nigeria, SEC Towers, Abuja, 30/6/2026.

² <https://ngxgroup.com/ngx-ranks-3rd-in-africa-as-listed-firms-hit-156/> accessed 20/7/2026 @8:55am

³ No.2 2025 (ISA 2025) signed into law on March 29, 2025

⁴ Black, H.C., *Black's Law Dictionary* (West Group, 1990, 6th edn. Centennial edn.(1891-1991)) P.209.

⁵ Securities and Exchange Commission; *Capital Market Glossary* (Capital Market Education Series, SEC) P.10

manage corporate risk and reduce the costs of accessing funds. Conversely, by allocating investors' resources prudently, it is also a market for corporate control.

The statutory and self-regulatory mechanism of the market reduces illicit financial flows in the system thereby raising the standards against criminality. The enforcement of disclosure requirements, Know Your Customer rules, Anti-Money Laundering /Counter Terrorism Financing laws and regulations makes it difficult to launder proceeds of crime in the financial system.

The capital market provides the gauge for measuring corporate and national wealth. The stream of periodic reportage on gains, losses and capitalisation of the market reflect wealth creating activities of corporate and individual units in the economy. The market gives national and international visibility to corporate entities providing opportunities to attract venture capital funds, human resources, financial innovation and creativity.

The capital market provides a veritable platform for the implementation of governments' economic policies. It has been relied on to facilitate the development of agriculture and solid mineral sectors of the Nigerian economy thereby promoting diversification of the economy and success of government privatisation agenda over the years. Recently, the digital and blue economies have looked up to the infrastructure of the Nigerian capital market to thrive.

To perform these critical functions efficiently, the capital market is strictly regulated. The Securities and Exchange Commission (SEC) is the apex statutory regulator tasked with regulating and developing the market. Several theories in Economics, Law and Finance validate the essence of capital market or securities market regulation.

Public Interest theory is the most traditional and prevalent theory on securities regulation. It is advanced to buttress the point that regulation in the securities market is implemented to correct market failures, protect investors and ensure market stability through a normative framework on investor protection and fair and orderly market. It proceeds on the assumption that investors often lack full information; issuers may hide or distort facts; and markets can fail without oversight. The goal of this theory is to ensure full disclosure, prevent fraud and manipulation and promote fair and efficient markets. Arthur Cecil Pigou⁶ and Paul Samuelson⁷ stalwarts of this school advocate regulation or Government intervention to correct market failures and promote social welfare. This theory underpins the long title to the ISA, 2025 and Parts V, VI, IX of the Act providing for registration of market platforms, capital market operators and securities.

Information Asymmetry theory posits that, because insiders have better information than investors, regulation prohibits insider trading and prescribes mandatory disclosure to ensure some level of information parity enabling investors to make informed decisions and act rationally in the market.

⁶ Pigou, A.C., *The Economics of Welfare* (Macmillan, 1932, 4th ed)

⁷ Samuelson, P.A., *Economics: An Introductory Analysis* (McGraw-Hill, 1948)

George Akerlof⁸ and Joseph Stiglitz⁹ have made immense contributions in the advancement of this theory. The ISA 2025 prescribes a strict regime of disclosure and Section 3 of the Act sets out the objectives, powers and functions of the SEC to ensure compliance.

Regulatory capture theory argues that regulatory bodies can become controlled by the industries they are supposed to regulate, creating rules that benefit industry participants rather than the public thus making a case for independent and transparent regulators. George Stigler¹⁰ is of this school. Sections 59 and 60, ISA 2025 lay out the duties for self-regulatory organisation and set the parameters to prevent conflict of interest situations.

Investor Protection theory advanced by Louis Loss¹¹ advocated for transparency and strong legal protection for the benefit of investors who stake their resources. He famously emphasised “sunlight is the best disinfectant”. The fulcrum of this theory is the need to protect minority from the tyranny of the majority or those who have control of the enterprise. Disclosure, mandatory or voluntary, is the major market correctional handmaiden of this school of thought. In section 3 ISA, 2025, the SEC is empowered to regulate the industry through the registration requirements for markets, operators and securities.

Efficient Market Hypothesis theory developed by Eugene Fama¹² advocated that markets reflect all available information. Prices in the market are the reflection of available information in a perfect market. Realistically however, markets are not so perfect or efficient hence regulation helps to correct information gap and manipulation by ensuring fair disclosure and transparency. Efficient market theory focused on stakeholders whose activity keeps markets efficient. Part VIII ISA, 2025 contains ample provisions for the management of systemic risks.

1.3. Regulation of the Nigerian Capital Market

Securities, capital market intermediaries, market regulators, and investors are the basic features of all capital markets. The law regulates the capital market by interfacing with these features.

1.3.1 Market Regulators

In global best practice,¹² institutional regulation may be statutory or self-regulation. While the former is prescribed by law, the latter is membership driven in the nature of trade associations. In Nigeria, the apex statutory regulator of the Nigerian Capital market is the Securities and Exchange

⁸ Akerlof, G.A., ‘The Market for “Lemons”: Quality Uncertainty and the Market Mechanism’ *Quarterly Journal Of Economics*, 1970, 84(3), 488-500

⁹ Stiglitz, J.E. (2000) The Contributions of the Economics of Information to twentieth century economics, *Quarterly Journal of Economics*, 115(4), 1441-1478

¹⁰ Stigler, G.J., ‘The Theory of Economic Regulation’ *Bell Journal of Economics and Management Science*, (1971) 2(1), 3-21

¹¹ Brandeis, L.D. *Other People’s Money and How the Bankers Use It*. (Frederick A. Stokes Company, 1914) ¹² Fama, E.F. ‘Efficient Capital Markets: A Review of theory and Empirical Work’ *Journal of Finance* (1970) 25(2), 383-417.

¹² IOSCO Objectives and Principles of Securities Regulation (principle 6)
<<https://share.google/WFQ6THx0HWOfPoz0A>> accessed on April 27, 2026

Commission (SEC). First established in 1979¹³ and retained in the 1988¹⁴, 1999¹⁵, 2004¹⁶ and 2007¹⁸ repealed Acts, it is armed with very wide powers to regulate the securities industry in Nigeria. Registration, surveillance and inspection, rule-making and enforcement are the SEC's tools for regulating the capital market.

In complete repackaging of the SEC the ISA, 2025 has unbundled the 30 functions of the Commission under section 13, ISA 2007 into 6 clear regulatory objectives, 33 Powers and 20 functions. Emulating the Canadian practice of stating regulatory objectives, the ISA, 2025 has laid out clear objectives for the SEC. According to section 3(2) ISA 2025, the objectives of the Securities and Exchange Commission shall be to:

- (a) act in the public interest having regard to the protection of investors and the maintenance of fair, efficient and transparent markets;
- (b) protect the integrity of the securities market against all forms of market abuse and insider dealing;
- (c) prevent unauthorised, illegal, unlawful, fraudulent and unfair trade practices relating to securities and investments;
- (d) contribute to the reduction of systemic risk and promote financial stability;
- (e) ensure the development of the capital market and facilitate capital formation for economic development;
- (f) pursue such other objectives as may be related to those stated above.

This, without doubt, places investors' protection as the main theme of capital market regulation in Nigeria. The ISA 2025 gives prominence to the Self-Regulatory Organisations (SROs) in securities market regulation. According to section 59, ISA 2025, no entity, trade group or association shall operate or hold itself out as a self-regulatory organisation unless recognised or registered as such by the Commission. In bringing the role of the SROs into limelight, the Act prescribes clear duties for the SROs. By section 60 ISA, 2025, a self-regulatory and trade association/ organisation shall:

- (a) at all times act in the public interest to ensure the integrity of the market and the protection of investors;
- (b) supervise the conduct of its members to ensure a fair, orderly and efficient market;
- (c) immediately notify the Commission if it becomes aware of any matter which adversely affects or is likely to adversely affect the interests of the market or the investing public,
- (d) immediately notify the Commission if it becomes aware of any contravention of the Act or the rules and regulations made thereunder by its members

¹³ Securities and Exchange Commission Decree No.71,1979, section 1(1)

¹⁴ Securities and Exchange Commission Decree No.29,1988, section 1(1)

¹⁵ Investments and Securities Decree No.45, 1999, section 1(1)

¹⁶ Investments and Securities Act, Laws of the Federation of Nigeria, 2004, section 1(1) ¹⁸ Investments and Securities Act, No.29, 2007, section 1.

- (e) not make a decision under its rules that adversely affects the rights of its members unless it has given the affected member an opportunity to make representations to it about the matter.

These statutory prescriptions require the SROs to maintain the delicate balance between protecting the interest of their members and safeguarding the integrity of the wider capital market.

1.3.2. Market for Capital

The ISA regulates the market for issuance and sale of securities to the market. Offer for sale, offer for subscription, bonus issue, rights offer or private placements as methods of offering securities in the capital market are regulated by the ISA.¹⁷

Under section 28 ISA 2007, securities exchanges are registerable by the SEC. Section 315 ISA, 2007 defined securities exchange to mean “an exchange or approved trading facility such as a commodity exchange, metal exchange, petroleum exchange, options, futures exchanges, over the counter market, and other derivatives exchanges”. Improving on this, the ISA 2025 defined securities exchange or registered exchange to mean “an organised facility which maintains and provides an infrastructure:

- (a) for bringing together buyers and sellers of securities, virtual assets, commodities, or financial products or instruments;
- (b) for matching bids and offers for securities, virtual assets, commodities, or financial products or instruments of multiple buyers and sellers; and
- (c) whereby a matched bid and offer for securities, virtual assets, commodities, or financial products or instruments constitutes a transaction.¹⁸

This definition accords with contemporary global trend of financial asset classification to accommodate digital assets.

Section 28 ISA, 2025 provides for the registration of composite and non-composite securities exchange. This gives securities exchanges the leverage to trade multiple securities on their platforms and not to be confined to one security alone. A registered exchange is now at liberty to operate as a single product secondary market or composite exchange market for trading several products like equities and commodities in so far as the exchange has the facilities and registered as such.

In a major reform, the ISA 2025 has replaced the Capital Trade Points with Financial Market Infrastructure. The Capital Trade Points, as mini exchanges were conceived as nurturing platform for promising companies that may be groomed for eventual listing on the main stock exchange. Since its introduction in 1999, the idea had not met with the desired success. It became necessary to review the entire concept of the Capital Trade Point. Now replaced with Financial Market

¹⁷ ISA, 2025, sections 3(3)(d) & 95.

¹⁸ ISA 2025, section 357

Infrastructure, the latter is defined as any entity set up to carry out centralised, multilateral clearing, settlement, caching or recording activities, or provide a platform for trading securities, and, includes systemically important market participants, trade repositories, securities exchanges, central counterparties, central clearing houses, central securities depositories, and securities settlements systems.¹⁹ Any trading platform that qualifies for registration otherwise as securities exchange can be regarded as a Financial Market Infrastructure. This innovation liberalises the market space for capital market activities. Section 41 ISA, 2025 prescribes registration for Financial Market Infrastructure.

Part XVI, ISA 2025 has liberalised the capital formation space to include government bodies and agencies, supranational bodies or entities approved by the SEC. Entities in the free trade zone approved by the SEC can also engage in capital raising activities in Nigeria. This is an improvement over the former restricted framework²⁰ where only public companies duly authorised by the SEC, banks properly so called²³ and municipal bodies could solicit or issue securities to raise funds from the public.

The capital market is divided into commodities market (tangible) and securities Market (intangible). In previous enactments, the securities market enjoyed prominence over the commodities market. The commodities exchange was only mentioned in the definition of securities exchange in section 315 ISA, 2007. In the ISA 2025, it is a different situation. The entire Part XV²⁴, ISA 2025 is on commodities exchange and warehouse receipts. According to section 224 ISA 2025, a person shall not establish or maintain or hold himself out as providing or maintaining a commodity exchange unless such exchange has been registered by the Commission. The operations of the commodities exchange are enabled by warehouse services expected to have custody of the commodities to be traded in the market. A person shall not carry on business as commodity broker²¹ or operate a warehouse storing commodities linked to an exchange or issuing warehouse receipts tradable on an exchange without registration of the warehouse by the Commission.²² This has brought clarity to commodity exchange regulation and provided an enabling ambience for sustained development of the commodities market as a critical component of the capital market.

To ensure liquidity in the market place, section 122 ISA 2025 provides for all securities to be transacted in the secondary market to be in dematerialised form. This makes for electronic book ledgering and easy transferability leveraging on the immense gains of the advancement in technology.

¹⁹ ISA 2025, section 357

²⁰ ISA 2007, Part XV ²³

ISA, 2007, section 67. ²⁴

Section 224-267

²¹ ISA 2025, section 236

²² ISA 2025, section 240

1.3.3. Securities

Securities are choses in action issued to raise needed capital. They may be ownership, debt or derivatives securities. In their characterisations, securities are intangible, exotic, intricate merchandise and sometimes grotesquely complicated.²³ All securities to be offered in the capital market must be registered with the SEC. The ISA 2025 has enlarged the scope of securities beyond ownership, debt and derivatives securities²⁴. In section 357, ISA 2025, securities" means-

- (a) debentures, stocks or bonds issued by a government;
- (b) debentures, stocks, shares, bonds, notes issued by a body corporate, any right or option in respect of any such debentures, stocks, shares, bonds or notes; or
- (c) virtual or digital assets;
- (d) investment Contracts;
- (e) commodities, futures, contracts, options and other derivatives; or
- (f) any other instrument deemed as securities which may be transferred by means of any electronic mode or which may be deposited, kept or stored with depository or custodian.

Virtual or digital assets and investment contracts are new in the definition of securities in Nigeria. The inclusion of digital assets in the definition of securities accommodates technologically enabled assets following the pervasiveness of crypto assets in the global financial system. ‘Investment contract’ in the definition of securities is sourced from section 2, US Securities Act, 1933 which has been the subject of several judicial interpretations.²⁵ ‘Investment contract’ provides a flexible test to protect investors who advanced their funds to issuers of securities.

Securities in the capital market must be distinguished from fraudulent investment schemes. Sham investment schemes with promises of good returns have dotted the financial landscape across several jurisdictions. These scams are largely described by the compound name of *Ponzi* schemes. The *Ponzi* scheme in so many variants has spread to so many countries in the world leaving devastating consequences on its trail and throwing up challenges for regulators. They distort the system and misallocate resources.²⁶ Taking an aggressive stance against fraudulent investment schemes, section 196 ISA 2025, empowers the SEC to enter and seal up all prohibited schemes and obtain an order of the Investments and Securities Tribunal or a court to freeze and forfeit all assets of such schemes to the Federal Government of Nigeria. A promoter of prohibited scheme commits an offence and is liable on conviction to a fine of not less than ₦20,000,000 or

²³ Augustine Robert Agom *Capital Market Adjudication: Judging Judicially and Judiciously*, Inaugural Lecture, serie No.02/03, Ahmadu Bello University, Zaria, delivered in the Ahmadu Bello University Assembly Hall on the 30th August 2023

²⁴ As contained under the ISA 2007, section 315.

²⁵ *SEC v W.J. Howey Co* (328 Us 293 (1946) SC (US): *People v White* 12 P. 2d 1078, 1079 (1932): *Stevens v Liberty Packing Corp.* 111 N.J Eq. 61, 62-63, 161a. 193, 193-194(1932): *Curren v Merrill Lynch Pierce, Fenner & Smith* (622 F.2d, 266 C6 Cir 1980):

²⁶ Augustine Robert Agom *The Legal Framework Against Ponzi Schemes in Nigeria* (Mind field Publishing, Abuja , 2021)

imprisonment for a term of 10 years or both. The ISA 2025 has armed the SEC with fierce powers to contend with this menace.

The subject of debt securities is covered under Part XVI ISA, 2025. By the provision of section 268 ISA, Federal Government agencies, State Governments and their agencies, Federal Capital Territory and its agencies, Local Governments, companies wholly owned by the Federal, State, Federal Capital Territory or Local Governments and companies guaranteed or sponsored by the Federal, State, Federal Capital Territory or Local Governments can source for funds in the capital market by the issuance of debt securities. These bodies may issue debt securities in the form of bonds, promissory notes, non-interest financial instruments or such other instruments as may be approved by the SEC.²⁷

The debt securities may be general obligation debt securities or project tied debt securities. While the former is issued on the full faith and credit of the issuing body charged upon and payable out of the revenue fund or other statutory fund of such body, the latter is issued for specific projects charged upon and payable out of the revenue from the project, or a specific asset or assets, or a guarantee from the relevant Federal, State or Local government or other acceptable third party.

As an improvement over the former position,²⁸ the Federal Government is excluded under Part XVI ISA 2025 as Federal Government debt issuance is under Debt Management Office (DMO).²⁹ This is a tidier situation as Federal Government debt issues are handled by the DMO and not under the Investments and Securities Act, consequently rendering the section 222, ISA, 2007 redundant. Furthermore, sections 308-313 ISA 2025 allow the issuance of debt securities by bodies corporate and Supranational bodies. The ISA 2025 brought clarity on the subject of debt securities by municipal bodies and liberalised the capital formation space for public and private entities.

1.3.4. Capital Market Intermediaries

In reaching investment decisions, investors rely on information about an issuer supplied by its management. The information provided is verified by professionals such as auditors, reporting accountants, registrars, issuing houses, stockbrokers, trustees, solicitors to issuer and to issue. It is necessary that those saddled with verification dutifully and responsibly ensure that the information supplied to the investing public is true and accurate, free from any material misstatement, concealment of facts or deliberate misrepresentation of facts about the issuer.

Capital market operators are subject to a regime of prudential regulation and conduct of business regulation. A capital market operator is an agent of the investor who maintains account with him³⁰.

²⁷ ISA, section 269

²⁸ ISA, 2007, section 222(a)

²⁹ Investments and Securities Act, Investments and Securities (Exemption) Order 2005

³⁰ *Niger State Polytechnic Zungeru Senior Staff Co-Operative & Multipurpose Society Ltd v SEC & Anor* (2024) 14 NISLR 125

The regulation provides for strict segregation of accounts to ensure that client's trading accounts are separated from other accounts of the capital market operator³¹.

By section 61 ISA 2025, a person shall not operate in the Nigerian capital market or carry on investments and securities business unless the person is registered in accordance with the Act and the rules and regulations made under it. Specifically, the SEC shall register and regulate corporate and individual capital market operators as defined by the Act. Obviously calculated to take care of the situation in the case of *SEC v Kasunmu SAN*,³² the SEC registration determines who a capital market operator is. The registration requirements, client relationship and fees are prescribed by the SEC. This effectively donates supervision of all persons in the intermediary chain to the SEC to ensure a fair, efficient and transparent market.

A novel instrument in the toolkit of the SEC to proactively superintend the market is the provision on management of systemic risk. The SEC may *suo motu* or on the request from a financial sector regulator request any capital market participant to submit any information or document which it considers necessary for the purpose of monitoring, mitigating and managing systemic risks in the capital market.³³ This no doubt will put some life into the Financial Services Regulation Co-ordination Committee established by the Central Bank of Nigeria³⁴ for interagency cooperation and collaboration in the regulation of the financial system.

The ISA 2025 prescribes a legal entity identifier for any entity involved directly or indirectly in securities transactions to monitor and minimise systemic risks, arising from parties' and counterparties' activities. All participants in securities transactions shall obtain the legal entity identifier and disclose it in every securities transaction it is involved in for accuracy of financial data and risk management.³⁵ This makes easy audit tracking of defalcation for self-regulatory organisations and the statutory regulators.

The innovative reforms introduced by the ISA 2025 are potent and designed to grow the Nigerian capital market. The SEC, as the apex industry regulator must ensure faithful enforcement of the Act to keep the search and allocative engines of the market in optimal performance.

1.4. Dispute Resolution

A remarkable attainment of the Nigerian capital market in the last century was the introduction of the special grievance resolution mechanism called the Investments and Securities Tribunal (IST). It was conceived as a specialised dispute resolution body with the mandate to resolve capital market disputes speedily, fairly and firmly.

³¹ *FINBank PLC v SEC & Anor* (2013) 7 NISLR 80

³² (2009)10 NWLR (Pt.1150) p.509

³³ ISA section 82-85

³⁴ Central Bank of Nigeria Act, No.7, 2007, section 43.

³⁵ ISA section 123

Section 314 ISA, 2025 re-established the Investments and Securities Tribunal. From the membership of 9 assessors³⁶ to 10 members,³⁷ section 315 ISA 2025 has increased the membership of the tribunal to 12 members: 6 full time and 6 Part time members. The members are now to be appointed³⁸ by the President of the Federal Republic of Nigeria on the recommendation of the Minister of Finance. The tribunal is gradually inching to a constitutional place. The chairman shall have 15 years post call experience in capital market matters.³⁹ In seeking to professionalise the back end of the tribunal, section 324 ISA 2025 requires the Chief Registrar of the Tribunal, a legal practitioner of at least 10 years' post-call experience in capital market matters, to be appointed by the Minister of Finance. This is a marked departure from the former position where the Chief Registrar was anyone who appeared to the Minister to be a fit and proper person.⁴⁰ Considering the administrative role of the Chief Registrar, this requirement for professional qualification is significant and should bring value to the mandate of the tribunal.

Jurisdiction is the life wire of every judicial proceeding.⁴¹ Deemed a civil court, the tribunal has jurisdiction throughout the Federation, and the Chairman, for administrative purposes, shall divide the country into such number of divisions for the sitting of the tribunal as may be deemed appropriate.⁴²

The tribunal has exclusive jurisdiction to adjudicate on disputes arising from investments and securities transactions in Nigeria.⁴³ It has original and appellate jurisdictions.⁴⁴ Any misunderstanding of the difference between the two can be catastrophic. Under the ISA 1999, this distinction was not of any serious moment and the appellate or original jurisdiction of the tribunal could be activated at will to address investors' grievances. All that changed with the reform under the ISA, 2007 Act and the ISA, 2025. In *Blue-Chip Acquisition Ltd v Zenith Bank & Ors*⁴⁵ a complaint for inordinate delay in the release of share certificate was a fit cause in the exercise of the tribunal's original jurisdiction in 2004. In *Eze Okorochoa v UBA & Ors*⁴⁶ a similar complaint for inordinate delay in the release of share certificate was held not to be a matter for the original jurisdiction of the tribunal in 2018.

Under section 326 (2), ISA 2025, the tribunal shall invoke its exclusive original jurisdiction where:

(a) the complaint is against a direct action of the SEC;

³⁶ Investments and Securities Decree, No.45, 1999 (ISD), section 225

³⁷ ISA,2007, section 275

³⁸ (No longer by the Minister of Finance as provided under the ISA, 1999 and ISA 2007) See section 315, ISA 2025

³⁹ No longer the nebulous "cognate experience in capital market matters" under the repealed ISA 2007

⁴⁰ ISA 2007, section 282

⁴¹ *SCOA (Nig) Ltd v Sterling Bank PLC* (2016) LPELR 40566

⁴² ISA 2025, section 318: The tribunal currently sits in Abuja, Enugu, Port-Harcourt, Lagos and Kano.

⁴³ Austin Agom "Clarity on the Appropriate Forum for Investment Dispute Resolution in Nigeria" *Businessday Newspaper*, 13/04/2023

⁴⁴ ISA 2025, section 326

⁴⁵ (2005) 3 ISLR 72

⁴⁶ (2018) LPELR-45122(SC)

- (b) failure to act on a matter referred to the SEC within 60 days; or (c) the matter arose from a regulatory action taken by the SEC.

Commendably, section 326(2)(b) codifies the *ratio decidendi* in *Ogbuikwe v Value Line Securities & Investment Ltd & 2 Ors*⁴⁷ where the tribunal held that delay by the SEC in responding to a complaint amounted to an action to vest the right to litigate at the IST as the complainant could not be expected to wait on the SEC forever.

The tribunal shall exercise its exclusive appellate jurisdiction on matters

(a) relating to disputes between:

- (i) the SEC and any person in respect of any capital market matter, (ii) capital market operators and securities exchanges or financial market infrastructure,
- (iii) capital market operators *inter se*,
- (iv) capital market operators and their clients,
- (v) public companies and the SEC or the exchanges or investors,
- (vi) an investor and an exchange or financial market infrastructure,
- (vii) capital market operators and self-regulatory organisations,
- (ix) an investor and the Commission, or
- (x) an issuer of securities and the Commission;

(b) arising from the administration, management and operation of collective investment schemes; or

(c) relating to the review, approval and regulation of mergers, takeovers and restructuring of public companies.

Pre-action notice requirement in capital market litigation was introduced by section 289(1) ISA, 2007. Following the call⁴⁸ for the reform of the section for being too brief to make sense of the essence of pre-action notice; section 331(2) ISA 2025 came to the rescue. The pre-action notice must now state the address of the complainant, cause of action and the remedy sought. These details give the recipient the opportunity to deal appropriately with the cause of action.

Speedy dispensation of justice is a major attribute of the IST. Under the ISA 1999, the IST was obligated to hear and determine any cause before it within three months of commencement of the action.⁴⁹ The tribunal was hard pressed on this time line to ensure that justice was not sacrificed on the altar of speed and resorted to tedious interpretations to save its judgment from being rendered a nullity by the three-month rule. In *Unilever Nig. PLC v International Standard Securities Ltd*⁵⁴ on an originating application that could not be determined within three months

⁴⁷ (2013) 5 NISLR,18

⁴⁸ A.R.Agom 'An Examination of the Regime on Pre-Action Notice in Capital Market Litigation in Nigeria' *Section on Legal Practice Nigerian Bar Association Law Journal*, Vol.9, July 2023, p.141)

⁴⁹ Investments and Securities Decree, No.45, 1999, section 236(5) ⁵⁴ (2007) 2 NISLR 267

requirements of Section 236(5) ISA 1999, the tribunal fell back on its overriding objective in the IST Rules of Procedure, 2003; the CFRN 1999 and case law on the need for substantial justice to save a judgment that was delivered outside three months.

In the ISA 2007, the three months requirement was slightly relaxed. Section 289 (5) ISA, 2007 required the tribunal to deliver its judgment within 3 months from the commencement of hearing of the cause. Section 298 (5) ISA, 2025 has introduced a major reform on the subject of time for delivering judgment by the tribunal. The subsection provides:

The Tribunal, shall in the exercise of its powers under this Act, conduct its proceedings in such manner as to avoid undue delays and shall dispose of any matter before it finally within three months from the date of the commencement of the hearing of the substantive action: Provided that no judgment shall be rendered void by virtue of a delay in delivering same except where it is established that the delay occasioned a miscarriage of justice. (Underlining for emphasis)

These changes align the tribunal with section 294(5) CFRN 1999 and the case law⁵⁰ on the requirement for delivering judgment by courts of law in Nigeria.

Another significant change introduced by the ISA, 2025 is on enforcement of judgment of the tribunal. Under the ISA 1999⁵¹ and the ISA, 2007⁵², a judgment of the IST was enforceable by registering the judgment with the Chief Registrar of the Federal High Court and enforced as judgment of the Federal High Court. The call⁵³ for reform of this requirement led to section 332 (2) ISA, 2025 which now empowers the Tribunal to enforce its judgment and commit any person for contempt.

The Supreme Court is increasingly deferring to the IST. In *Unijoy Paper Products Ltd v. NDIC & Anor*⁵⁴ reversing the decision of the Court of Appeal and restoring the judgment of the IST, the Supreme Court stated:

Based on the foregoing, the trial tribunal being a special court was in the best and expert position to know and decide whether in the transaction between the appellant and the respondents, interest was concomitant and part and parcel of their dealings; whether as of right, under a mercantile custom or under a principle of equity such as breach of a fiduciary relationship. Since it had also the expertise domain of cases of this nature, it professionally decided it and awarded interest to the appellant. The

⁵⁰ *Ifezue v Mbadugha* (1984) 1 SCNLR 427; *Odi v Osafile* (1985) 1 NWLR (Pt.1) 17; *College of Education, Ediadolor v Obayagbona* (2016) LPELR 40154

⁵¹ ISD, section 241(3)

⁵² ISA, 2007, section 293(2)

⁵³ A.R.Agom 'Enforcement of the Judgment of the Investments and Securities Tribunal' *Nigerian Bar Association Section on Legal Practice Newsletter* Vol. 1, No.2, March, 2024, p.03

⁵⁴ (2022) 10 NWLR (Pt.1839) 567, 599, per Abba Aji JSC: *Mufutau Ajayi v SEC* [2023] 6 NWLR (Pt.1881) 533: *UBN PLC v SEC* [2026] 8 NWLR (Pt.2045) 277

decision of the trial tribunal appears to be based on statutory provisions, mercantile custom and claim of right by the appellant. Thus the lower court does not have the vires to meddle into it or to act as it did (underlined for emphasis)

Access to capital is a crucial need across jurisdictions of the world. Nigeria as an endowed nation holds so much promise for direct investment and portfolio investments. The ISA, 2025 provides the enabling framework and access to the Nigerian financial system. An understanding of this Act and its nuances will aid capital formation process in Nigeria. For this purpose, advocacy is the master key.

1.5. Conclusion

The Nigerian Capital Market provides long tenure funding for economic units in the Nigerian financial system promoting solvency, efficiency, competitiveness, corporate financial discipline, accountability and transparency thereby. It is regulated by the Investments and Securities Act, 2025. The reforms in this Act expanded the frontiers for capital formation, rejigged the penalty regime for defalcation, unpacked the powers of the SEC into regulatory objectives, powers and functions and retooled the dispute resolution mechanism in the market. It is the finding of this paper that these reforms have strategically positioned the Nigerian capital market as an investment destination. Crossing the one hundred trillion naira capitalisation of the Nigerian Exchange is a testament to the unbundling potential of the Nigerian economy. It is recommended that the SEC as the apex sector regulator must ensure a faithful implementation of this Act. As a developer of the market, it should undertake a structured aggressive advocacy through a campaign of awareness of the ISA 2025 reforms for the benefit of investors and the Nigerian capital Market. The selfregulatory organisations can do likewise for their members who work this Act in the course of their duties as intermediaries.