

A person's hands are shown using a calculator and a smartphone on a desk. In the background, a laptop displays a stock market chart. A magnifying glass is on the desk, and a cup of coffee is visible in the foreground. The text is overlaid on a white semi-transparent box.

GRF DALLEY & PARTNERS

DIGITAL SUB-BROKERS:

An Overview of the
Amendments to Rule 67 of
the Securities and Exchange
Commission Rules and
Regulations 2013

STOCK MARKET

DIGITAL SUB-BROKERS: AN OVERVIEW OF THE AMENDMENTS TO RULE 67 OF THE SECURITIES AND EXCHANGE COMMISSION RULES AND REGULATIONS 2013

In April 2021, the Securities and Exchange Commission (SEC) issued a circular advising online investment and trading platforms facilitating access to foreign stocks to desist from such activities.¹ This was in view of the fact that by virtue of a combined reading of Rules 414 and 415 of SEC Rules and Regulations 2013 and Sections 67-70 of the Investment and Securities Act 2007, foreign securities could only be sold to the public in Nigeria through the Nigerian Capital Market.

The SEC introduced major amendments to the SEC Rules and Regulations 2013. These major amendments include introducing provisions governing sub-broker(s) serving multiple brokers through a digital platform through the insertion of subsection (3) to Rule 67.

Amendments

Defining the term “sub-broker”

Prior to the amendments, the SEC Rules and Regulations 2013 solely provided for the registration requirements for corporate sub-brokers and individual sub-brokers without specifically defining the term sub-broker. Rule 67(3) corrects this by defining a sub-broker as “any person or entity not being a dealing member of an Exchange who acts on behalf of a

¹ <https://sec.gov.ng/proliferation-of-unregistered-online-investment-and-trading-platforms-facilitating-access-to-trading-in-securities-listed-in-foreign-markets/>

sponsoring Broker/Dealer as an agent or otherwise for assisting the investors in buying, selling or dealing in securities through such sponsoring Broker/Dealer."

Recognition of digital sub-brokers

The definition section of Rule 67(3) accords formal recognition to digital sub-brokers operating in Nigeria such as Bamboo and Chaka. By virtue of the amendments, a sub-broker serving multiple brokers through a digital platform is defined as *" a sub-broker who utilizes a digital platform to serve clients and interact with the sponsoring broker or brokers."*

Introduction of registration requirements for digital sub-brokers

Aside from the payment of registration fees, providing evidence of minimum capital requirements, filling and submitting requisite forms and corporate documents, digital sub-brokers registering under Rule 67(3) are required to meet additional requirements as stated in Rule 67(4). They can be classified in the following manner for ease of reference:

Requirements in relation to agreements and policies

- Agreements with multiple brokers
- Copy of "multiple principal agreement" with every sponsoring broker
- Evidence of documented policies and procedures for managing technology risks
- Confirmation that it would not delegate its functions to another sub-broker without the written permission of the Commission
- Binding Legal Agreement with potential clients

Requirements as to technology infrastructure

- Description of the technology on which its infrastructure is built
- Certification that the infrastructure is sufficient to perform the required function. This certification is to be given by an IT Service Provider registered by the National Information Technology Development Agency (NITDA) or other recognized Agency, and endorsed by a representative of the Association of Securities Exchanges.

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Requirements in relation to clients

- Electronic Communication channel through which all communications with clients would be made
- Method of establishing the suitability of potential clients to utilize its infrastructure for transactions
- Notice to potential clients of the features, risks, responsibilities, obligations and liabilities associated with the use of its infrastructure
- Before execution of an order, proof that the Client is fully aware of and understands the risks associated with the service being offered
- Adequate Know Your Customer (KYC) requirements and processes

Conclusion

In June 2021, Chaka Technologies Limited became the first investment company to be issued a digital sub-broker licence under the aforementioned provisions. The amendment of Rule 67 is a welcome development in the sense that it addresses the issues faced by online investment and trading platforms when it comes to offering the public access to invest in foreign securities without contravening existing laws and regulations. It is hoped that through the existence of this licence, fears over regulatory uncertainty on the part of investors would be mitigated.

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