



# NEW RULES ON ISSUANCE, OFFERING PLATFORMS AND CUSTODY OF DIGITAL ASSETS

On 13 May 2022, the Securities and exchange Commission “the Commission” released the New Rules on Issuance, Offering Platforms and Custody of Digital Assets “New Rules”. The New Rules is divided into five(5) parts:

- A. Rules on Issuance of Digital Assets as Securities
- B. Rules on Registration Requirements for Digital Assets Offering Platforms (DAOPs)
- C. Rules on Registration Requirements for Digital Asset Custodians (DACs)
- D. Rules on Virtual Assets Service Providers (VASPs)
- E. Rules on Digital Assets Exchange (DAX)

**A. Rules on Issuance of Digital Assets as Securities:** The Commission has defined Digital Assets to mean digital token that represents assets such as a debt or equity claim on the issuer, stating that the rules apply to all issuers seeking to raise capital through digital asset offerings in addition to any requirements provided for under securities laws or any other rules issued by the Commission.

- i. Registration Requirements for Digital Asset Offering:** After an Initial Assessment Filing by promoters, entities or businesses proposing to conduct initial digital asset offerings within Nigeria or targeting Nigerians, and the digital asset is determined by the commission to be a security, the issuer shall apply to register the said securities and shall include:
  - a) A registration statement of the digital assets
  - b) KYC procedures, disaster recovery plans and risk management protocol;

- c) Copy of the escrow agreement with an independent Custodian/Trustee registered with the Commission;
- d) Corporate governance disclosures;
- e) Evidence of payment of the applicable fees and any other information to be determined by the Commission from time to time

**ii. Limit of Funds to be Raised:** The maximum amount which may be raised by an issuer of digital assets within any continuous 12-month period is limited to a sum not exceeding NGN10,000,000,000 (ten billion naira) or twenty times the shareholders' funds of the issuer (if less).

**iii. Investment Limits:** A person may invest in an initial digital asset offering subject to the following limits: a. For qualified institutional and high net worth investors, no restriction on investment amount; and b. For retail investors, a maximum of N200,000 per issuer with a total investment limit not exceeding N2 million within a 12-month period

## **B. Rules on Registration Requirements for Digital Assets Offering Platforms (DAOPs):**

The Commission has defined Digital Assets to mean an electronic platform operated by a DAOP operator for offering digital assets. The rules also set out the prescribed fees for registration as a DAOP:

- a) Filing/Application Fee - N100,000 (One Hundred Thousand Naira only)
- b) Processing Fee - N300,000 (Three Hundred Thousand Naira only)
- c) Registration fee - N30,000,000 (Thirty Million Naira only)
- d) Sponsored Individuals Fee - N100,000 (One Hundred Thousand Naira only). A DAOP is also required to hold a minimum paid-up capital of NGN500,000,000 (five hundred million naira) and a current Fidelity Bond coverings at least 25% of the minimum paid-up capital.

**C. Rules on Registration Requirements for Digital Asset Custodians (DACs):** The Commission has defined Digital Asset Custodians to mean a person who provides the services of providing safekeeping, storing, holding or maintaining custody of virtual assets/digital tokens for the account of another person.

Registration Requirements: In addition to the general requirements for VASPs, an applicant seeking to register as a DAC shall comply with the following requirements:

- a) Satisfy eligibility requirements for registration as a Custodian or Trustee, and any additional requirements which the Commission may prescribe from time to time;
- b) Where a registered Custodian or registered Trustee seeks to provide DAC services, such CMO shall apply to the Commission for approval;
- c) Payment of fees as prescribed by the Commission. The Commission may register a foreign DAC, provided that they fulfill requirements set out in these Rules, and the Commission is satisfied that:
  - i. the applicant is authorized to operate or carry out an activity of a similar nature in the foreign jurisdiction; and
  - ii. the applicant is from a comparable jurisdiction with whom the Commission has regulatory arrangements on enforcement, supervision and sharing of information.

**D. Rules on Virtual Assets Service Providers (VASPs):** The commission has defined VASPs to mean any entity who conducts one or more of the following activities or operations for or on behalf of another person:

- i. exchange between virtual assets and fiat currencies;
- ii. exchange between one or more forms of virtual assets;
- iii. transfer of virtual assets;
- iv. safekeeping and/or administration of virtual assets or instruments enabling control over virtual assets; and
- v. participation in and provision of financial services related to an issuer's offer and/or sale of a virtual asset.

VASPs are required to be structured as a body corporate unless specified otherwise by the Commission. VASPs general requirements also covers requirements for the following registrable entities

- a) VASPs
- b) Digital Asset Exchange
- c) Digital Asset Custodian
- d) Digital Asset Offering Platform and
- e) Digital Assets to be offered as securities

**E. Rules on Digital Assets Exchange (DAX):** DAX Operator are mandatorily required to comply with the VASP registration requirements with a registration fee of NGN30,000,000 (thirty million naira only). The Chief Executive Officer and other Principal Officers of a DAX shall have at least 5 years of cognate experience, who shall hold office for a period of five (5) years in the first instance and may be re-appointed for a further period of five (5) years and no more.

The New Rules now contain specific provisions not expressly provided for under the proposed rules with a wider scope of regulation and adoption of cryptocurrency by the Commission.

**Kindly reach us for further information**

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