



**INVESTORS PROTECTION FUND RULES
OF
NASD OTC SECURITIES EXCHANGE**



NASD INVESTORS' PROTECTION FUND RULES

1 ESTABLISHMENT

- 1.1. In line with the provisions of Section 197 of the Investment and Securities Act, 2007 ("the Act") the Board of Directors of NASD PLC ("NASD") shall establish its Investors' Protection Fund ("the Fund").
- 1.2. NASD shall constitute a Board of Trustees ("the Board") in line with regulatory requirements and the Investors' Protection Fund Rules ("the Rules") which shall be vested with all assets of the Fund to be applied for the purposes set out in the Act and these Rules.

2 OBJECTIVES OF THE FUND

The Fund shall be used solely to compensate investors who suffer pecuniary loss arising from:

- a) the insolvency or bankruptcy of a Participating Institution.
- b) defalcation committed by a Participating Institution or any of its directors, officers, employees or representatives in relation to securities, money or any property entrusted to, or received or deemed received by the Participating Institution in the course of its business as a capital market operator.
- c) the suspension or cancellation of registration of a Participating Institution by the Securities and Exchange Commission ("the Commission") in accordance with the provisions of Section 38 of the Act.

3 MANAGEMENT OF THE FUND

The Fund shall be managed and administered by a Board of Trustees subject to the regulatory supervision of the Commission.

- 3.1. The Board of Trustees shall comprise a maximum of nine members representing the following:
 - a) Dealing member firms
 - b) NASD
 - c) Securities and Exchange Commission
 - d) Institutional investors
 - e) Association of Capital Market Registrars
 - f) Registered shareholders association
 - g) One person with proven integrity and knowledgeable in the capital market matters
 - h) A legal practitioner knowledgeable in capital market matters.



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3.2. Tenure

The Board of NASD shall nominate each member for a period of four years subject to the recommendation of the representative body. Provided that a member may be withdrawn at any time by the body on whose recommendation he was appointed.

3.3. Removal

A person shall cease to be a member of the Board of Trustees if such a person:

- a) ceases to be a member of the body S(he) represents on the Board of Trustees.
- b) is withdrawn by the body S(he) represents.
- c) is guilty of any crime involving dishonesty or sanctioned for misconduct by any professional body or association.
- d) is adjudged to be engaged in activities prejudicial to or inconsistent with his position as a member of the board of trustees by a Resolution of the Board of Trustees supported by at least two-thirds of its membership.
- e) is confirmed to be a lunatic or person of unsound mind.
- f) resigns by notice in writing to NASD.
- g) becomes bankrupt or makes any arrangement or composition with creditors.
- h) is convicted by a court of competent jurisdiction of any offence.

4 POWERS OF THE BOARD

4.1. The assets of the Fund shall be vested in the Board and the administration of the Fund by the Board shall be subject to the regulatory supervision of the Commission.

4.2 In furtherance of its administration of the Fund, the Board shall have power to:

- a) prepare its own rules governing the operations and effective management of the Fund subject to the approval of the Commission
- b) take out policies of Insurance for the purpose of the Fund
- c) Appoint entities and establish sub-committee for such periods as it deems necessary for the effective management and application of the Fund
- d) Prescribe such contributions to be made to the Fund and take all necessary steps to ensure that the contributions are made
- e) The Board shall have the power to call for such additional contributions, as may be required from time to time to make up for any shortfall in the Fund
- f) Do anything or perform any act incidental to or in relation with the operation and management of the Fund



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5 CONTRIBUTIONS TO THE FUND

- 5.1. The Fund assets shall consist of:
 - a. A one-time contribution of ₦100,000 (One Hundred Thousand Naira) by all registered and intending Participating Institutions. A firm seeking registration with NASD shall make the initial contribution into the Fund not later than five (5) working days from the receipt of its Trading License and shall not be allowed on the Market until receipt of the payment.
 - b. 1% of the annual transaction income earned by NASD.
 - c. 90% of penalties levied/collected by NASD, excluding settlement related penalties, and transferred to the Fund from time to time.
 - d. interest and profits which may accrue from the investment of the Fund.
 - e. monies recovered by or on behalf of the Board in the exercise of any right of action conferred by the Act.
 - f. monies paid in respect of any contract of insurance or indemnity entered into by a Participating Institution or the Board.
 - g. grants, subventions, and donations received by NASD
 - h. Monies borrowed by the Board from NASD for the purpose of the Fund
 - i. all other monies lawfully paid into the Fund pursuant to the provisions of the Act
- 5.2. NASD undertakes to match any sums contributed by Participating Institutions to the Fund, with the result that the Company would contribute 50% of the Fund. The amount thus guaranteed by the Company would be kept in the books as a reserve, and the Board would determine from time to time how the reserve is increased and managed.
- 5.3. NASD on the recommendation of the Board may call from each Participating Institution an additional contribution of ₦50,000 (Fifty Thousand Naira) to make up for any short fall in the Fund.
- 5.4. The Board reserves the right to modify, suspend or discontinue the sources of contribution to the Fund.

6 MANAGEMENT SUBCOMMITTEE

- 6.1. The Board may for the purpose of management of the Fund appoint a management subcommittee of not less than 3 and not more than 5 persons.
- 6.2. The Board may at any time remove any member of the management sub-committee appointed by it under this section and may fill any vacancy which may arise from time to time in the management subcommittee.
- 6.3. The Board may by resolution delegate to the management subcommittee all or any of its powers and in like manner rescinded or vary the powers so delegated.



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- 6.4. Any power, authority or discretion so delegated by the Board may be exercised by members forming a majority of the management subcommittee as if that power, authority or discretion had been conferred on a majority of the members of the management subcommittee.
- 6.5. The decisions of the management subcommittee shall be of no effect until confirmed or ratified by the Board.

7 INVESTMENT OF THE FUND

The Board shall invest any monies in the Fund not immediately required in accordance with the Trustee Investment Act.

8 FUNDS TO BE KEPT IN SEPARATE BANK ACCOUNT

The Board shall open a separate bank account in Nigeria into which all contributions to the Fund and proceeds from the investment of the Fund shall be paid or transferred pending their investment or application in accordance with the provisions of the Act.

9 PAYMENTS OUT OF THE INVESTORS' PROTECTION FUND

The Board may from time to time make the following payments from the Fund:

- a) payment to investors in respect of claims in line with the provisions of the Act
- b) premium due in respect of contracts of insurance or indemnity entered into by the Board in respect of the Fund
- c) monies required for the arrangement, service or repayment of loans obtained by the Board for the purpose of the Fund
- d) All expenses including salaries of staff, professional and other expenses incurred by the Board in connection with the creation, administration, and management in respect of the Fund
- e) all other monies payable out of the Fund in accordance with the provisions of the Act

10 ACCOUNTS AND REPORTING

10.1. The Board shall not later than three (3) months after the end of its financial year submit to NASD and the Commission an Annual Report covering each successive financial year which amongst others shall include:

- a) A statement showing the movements in the Fund during the year.
- b) A statement of assets and liabilities of the Fund at the end of the year.
- c) A statement indicating all payments into the Fund and payments out of the Fund during the year.
- d) An Audit Report of the accounts of the Fund by approved Auditors of the Fund.



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10.2. The Board shall make quarterly reports to NASD within one month of the end of each quarter giving details of the exercise of its powers and functions.

10.3. The Board shall notify NASD and the Commission in writing of significant events occurring in the process of administering the Fund within 14 days of the occurrence of such events.

11 RECORDS

The Board shall maintain records which show and explain the transactions of the Fund and shall:

- a) Disclose with reasonable accuracy the position of the Fund at any time; and
- b) Maintain and preserve the records for a period of Seven (7) years from the end of the year during which the last entry was made on such record.

12 COMPENSATION OF INVESTORS

12.1 The Board shall verify claims made and determined in accordance with the provisions of these Rules and the ISA. The Board shall consider a claim which:

- a) Is made in writing by way of an application in the form stipulated by the Board from time to time.
- b) Is made within 6 months after the investor became aware of the defalcation.
- c) Is accompanied by proof of the investor's investment with a Participating Institution and evidence that the Participating Institution is in distress and that the investor has suffered loss.
- d) The investor has not yielded profit either directly or indirectly from the events leading up to the distress suffered by the Participating Institution.
- e) Is accompanied by proof that a prior claim was made to the affected Participating Institution and no payment was received within a reasonable period.
- f) arose from events occurring after the commencement of these Rules.

12.2. Where negligence on the part of the Participating Institution is established, the Participating Institution and not the Investor Protection Fund shall bear the cost of compensating the investor.



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13 AMOUNT OF COMPENSATION

- 13.1. The maximum amount payable to an investor who has suffered loss is **One Hundred Thousand Naira (₦100, 000.00)**. Where the amount of loss is lesser, the investor shall be paid the calculated amount of loss.
- 13.2. The Board shall from time to time determine the limit of compensation payable to investors from the Fund subject to the approval of the Commission provided that where the amount of loss is less than the maximum amount payable, the investor shall be paid the amount of loss.
- 13.3. Where the investor has received any amount or other benefits from any source other than the Fund in reduction of the loss, then these shall be deducted from the amount to be paid to the investor from the Fund.

14 ADJUSTED PAYMENTS

The Board may determine to reduce the compensation which would otherwise be payable to an investor where the Board is satisfied that:

- a) payment in full would not be prudent having regard to other applications for compensation, or to any uncertainty as to the amount of the investors overall net claim, it may determine to pay an appropriate lesser sum in final settlement;
- b) the investor is partly to blame for the loss which he has suffered; and
- c) the investor has any prospect of recovery in respect of the claim from any third party or through an application for compensation to any other person or authority.

15 RECOVERIES AND SUBROGATION

- 15.1. The Board upon the payment of an amount as compensation to any investor shall be subrogated to all rights of the investor against the distressed Participating institution to the extent of such payment, and such subrogation shall include the right on the part of the Board to receive the same amount from the Participating institution or from proceeds from the sale of its assets.
- 15.2. Any amount received by the Board by virtue of this rule shall be paid into the account of the Fund.

16 INDEMNITY

The Fund shall indemnify the Board and all those appointed by the Board in furtherance of the objective of the Fund against all actions filed or made against them except those arising out of their negligence, willful default, or fraud.



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17 BREACH OF OBLIGATIONS AND DEFAULT

- a) Where a Participating Institution breaches its obligations under these Rules or defaults in the payment of its contribution as stipulated in Clause 4, NASD may commence disciplinary action against such a Participating Institution in line with the Rules and Regulations of the NASD OTC Market.
- b) The maximum amount payable out of the Fund in respect of a Participating Institution that is in the process of liquidation or winding up shall be 5% of the total Fund.

18 PUBLIC ENLIGHTENMENT

The Board may from time to time disseminate information to the investing public on the operations of the Fund.

19 PENALTIES

19.1. A Participating Institution in default of these Rules shall:

- a) Pay ₦50,000 (Fifty Thousand Naira) or one percent (1%) of the net value of a failed transaction or loss suffered by an investor whichever is higher as penalty not later than seven days from the receipt of notification of a claim against it.
- b) Be suspended until compliance with these Rules.

19.2. NASD reserves the right to expel an erring Participating Institution from the Market subject to the recommendation of the Disciplinary Committee.

Approved by the Securities and Exchange Commission

On

21st day of September 2020