
SCHEDULE IX

Code of Conduct for Capital Market Operators and their Employees

PREAMBLE:

The Nigerian capital market has experienced considerable growth and development in recent years. The number and range of Issuing Houses and Stockbrokers have expanded significantly. Similarly, there has been considerable growth in the number of other market operators such as Registrars, Trustees and Financial Advisers. A natural consequence of this growth has been the increased complexity of transactions. In such an environment, there is a paramount need to ensure that high standards are maintained in order to protect the integrity of the capital market. In essence, this code of ethics is necessitated by the need to ensure discipline, enhance professionalism, integrity and protect the interest of clients of market operators and indeed the reputation of their institutions. It should be borne in mind that the unethical activities of one member of a registered institution could jeopardise the reputation of the entire institution and the securities market. The following code of ethics is merely a guide as each institution is free to add to it, in line with observed practices.

Definitions:

SEC or Commission	– Securities and Exchange Commission;
APC	– Administrative Proceedings Committee of SEC;
Operators/Registered Institutions	– All capital market operators and Individuals registered with the Securities and Exchange Commission;
SRO	– Self-Regulatory Organisation;
His	– Refers to both genders;
Director	– Refers to Executive or non-executive directors.

Scope:

All operators and their employees are bound by this code. When in doubt about any of the provisions of this code, clarification should be sought from the S.E.C.

Persons having business interest with these institutions such as auditors, accountants, lawyers etc., who in the course of such business relationship might have access to price-sensitive, non-public information about clients of registered institutions, must enter into an undertaking (oath of secrecy) to keep such information confidential.

It is obligatory for employees to bring to the notice of management, suspected breaches of the securities laws or other unethical behaviour by other employees. Such reports should be treated in strict confidence. In essence, the identity of the reporting officer must under no circumstance be disclosed to other members of staff.

1. Code of Conduct for Capital Market Operators (Institutions)

All Operators—

- (i) Shall strictly abide, at all times, by all existing Securities Laws, Rules and Regulations made thereunder;
- (ii) Shall ensure that any dispute among themselves will initially be referred to the relevant SRO or other organisation established for the resolution of dispute between members. If this body is not able to settle a dispute to the satisfaction of the parties involved, such dispute will then be referred to the Administrative Proceedings Committee of SEC. Under normal circumstances, it is only where the APC is also unable to resolve such dispute to the satisfaction of all the parties involved that a court action can be instituted in respect of such dispute;
- (iii) shall not engage in any act that would adversely affect the general investing public's image of, and confidence in, the capital market;
- (iv) shall ensure that their employees act in a manner that is consistent with the best interest of their clients. To this end, operators shall preserve the confidentiality of all clients' information;
- (v) shall operate securities trading accounts strictly according to clients' instructions;
- (vi) shall segregate clients' monies and keep such funds in a separate account;
- (vii) shall ensure that employees maintain their securities trading accounts with their employers, where practicable, or provide full disclosure of such accounts and all activities therein to their employers;
- (viii) shall monitor the transactions in securities by all directors, employees and their spouses, dependent children and relatives;
- (ix) shall have a duty to report in writing to the S.E.C. any actual or suspected breach or infringement or non-compliance with any of the regulations of the SEC. Operators will immediately notify the Commission in writing of any other events or matters that the Commission may from time to time specify;
- (x) shall not recommend or connive in the employment of any person who has been employed by another operator and has had his employment terminated or who was dismissed for reasons relating to fraud, dishonesty or any such dishonourable behaviour, or who has been convicted of an offence involving same;
- (xi) shall communicate to the S.E.C. and SROs the names of staff dismissed for any fraudulent act, dishonesty, misbehaviour or, any other acts of misconduct;
- (xii) may pay or be paid for services provided free of charge with respect to financial products and services. For example, research material may be provided to investment companies in return for commission income from securities trading orders. However, in such cases the volume/amount of financial products and services must be reasonable and commensurate with the services provided; and
- (xiii) shall not discriminate or give preferential treatment to any customer, including members of the general public, in the conduct of their professional business.

2. Code of Conduct for Employees of Capital Market Institutions (Operators)

An employee shall—

- (i) at all times conduct himself with integrity and display high level of professionalism expected of the industry;
- (ii) not engage in any act that would adversely affect the general investing public's image of, and confidence in, the capital market;
- (iii) not discriminate or give preferential treatment to any client, in the conduct of his professional business;
- (iv) comply with all existing securities laws, rules and regulations thereunder.

Disclosure of Information by Employees—

- (1) To prevent possible conflict of interest, insider dealings and impropriety, an employee must disclose to his employer, transaction in securities by himself, spouse, dependent children and relatives;
- (2) Periodically, (as may be determined by the institution) employees must submit to management, statement of their personal securities investment portfolio in the securities market;
- (3) All new employees must at the time of assumption of duty lodge details of their holdings in long term securities of government and public companies with their employers;
- (4) Although employees may be allowed to invest in securities of private companies, such investment shall be disclosed to the employer when the affected company is about going public.

Avoidance of Conflict of Interest

An employee shall ensure that his personal interest does not at any time conflict with his duty to his employer's clients. In this regard, all personal interests beneficial or not, in any company assigned to him must be disclosed to his employer. He must also ensure that his advice to clients or his employer on investment decision on behalf of clients is not beclouded by any conflict of interest which might exist. In other words, in the performance of his duty, his client's best interest must be given priority over his personal interest.

An employee shall not engage in any activity which might directly or indirectly influence his judgement prior to or during a business transaction.

Trading with Insider Information

An employee shall not trade in securities either for himself or on behalf of others based on non-public price-sensitive information. Such information shall under no circumstance be disclosed to a third party for the purpose of trading. Employees of Broker/Dealer firms must pay particular attention to substantial orders from clients in companies in which such clients are directors, employees, or have business relationship, e.g. auditors, reporting accountants and lawyers. Furthermore, all orders which are out of tune with established trading pattern should be investigated.

All suspected cases of insider dealings including those involving employees should be promptly brought to the notice of management which should in turn lodge a formal report with the S.E.C. for necessary action.

Market Manipulation

An employee must not on his own or in connivance with others engage in activities aimed at manipulating the market. Unverified information which might impact on the market must not be circulated or form the basis of advice to clients.

Staff Employment

An employee shall not recommend or connive in the employment of any person who has been employed by another operator and has had his employment terminated or who was dismissed for reasons relating to fraud, dishonesty or any such dishonourable behaviour, or who has been convicted of any offence involving same.

Clients' Account

An employee shall uphold the confidentiality of clients' accounts. No information in a clients' account must therefore be disclosed to other employees who have no *bona-fide* reasons to know.

Deposits/Credit Arrangements and Gifts

An employee shall not—

- deposit clients' funds in his personal account or accounts of others or vice versa;
- act as trustee or executor for clients;
- enter into direct or indirect undisclosed arrangements, before or subsequent to transactions, to share in profits or losses;
- enter into a credit arrangement on behalf of clients unless through the institution.

Duty to Employer

An employee shall not, except with the approval of his employer, engage in any activity whether or not for compensation, which is in direct competition with his employer.

3. Code of Conduct Peculiar to Employees of Broker/Dealer Firms

An employee of a broker/dealer firm shall—

- operate strictly within the Rules and Regulations of the Stock Exchange or other licensing authority with which he is registered;
- willingly and promptly disclose to his superior officer mistakes or errors that may lead to monetary loss to clients;
- not under any circumstance utilise a client's funds other than in strict compliance with the client's instructions and requirements;
- keep proper records and books of account of clients;
- fully disclose any dealing in securities to the firm's management;
- maintain personal trading accounts with his firm of employment. No account should be held with another broker/dealer firm without the prior approval of the management;
- operate securities dealing account in accordance with client's instruction.

An employee of a broker/dealer firm shall not—

- manipulate the demand for or supply of securities in the market in order to influence prices of securities. In this regard, a broker/dealer must not falsify orders thereby creating artificial supply or demand in the market;

- act in concert with others without reasonable justification to influence price movements of securities in the market;
- on his own or in connivance with others alter or forge share/stock certificates, transaction records and other related documents;
- accept or execute any order not emanating from the beneficial owner of an account or certificate;
- accept or execute any order in which the true identity of the beneficial owner is concealed;
- take advantage of a client's order by first buying into or selling from his own or the institution's account or advise others to do same. This could amount to market manipulation;
- transact business for his account or advise others to do same based on an order by a client perceived to have insider knowledge about the security.

4. Code of Ethics Peculiar to Employees of Issuing Houses

Once an issue is before an issuing house for sponsorship, an employee with unpublished price-sensitive information shall not:

- effect transaction on the security for his own account;
- disclose such information about the issue to other members of staff or professionals who have no reason to access the information.

An employee shall not:

- lodge proceeds from an issue in his account or in the accounts of others;
- engage in fraud, bribery, or attempt to engage in fraud, extortion, fronting for ineligible investors and other dishonourable conduct or behaviour inconsistent with equitable principles of business;
- engage in market conduct aimed at creating a false market or unduly affecting the value of securities such as the provision of false information to the market and circulation of unsubstantiated or false rumours;
- knowingly submit false information to management or regulatory authorities;
- engage in unbusiness-like conduct or any acts detrimental to the interest and progress of the capital market;
- knowingly connive or recommend persons of dubious character and record for employment by any firm in the securities industry;
- engage in any alliances or arrangements with a view to interfering with the market, in order to increase profits or limit losses arising from underwriting activities.

An employee shall:

- be careful and diligent in giving advice to prospective issuers of securities;
- exhibit care, objectivity and competence in the valuation of securities and general handling of issues before him;
- separate all application monies that come into his possession and promptly lodge all such funds into the designated accounts;

- hold for a minimum period of six months subsequent to the issue any holding in security packaged by his employer before sale may be effected. Unit Trust Schemes are however exempted from this restriction.

5. Code of Ethics for Investment Advisers/Portfolio Managers

An investment adviser shall:

- exhibit diligence, thoroughness and competence in his investment advice to clients and in managing investors' funds where he also acts as a portfolio manager. The clients' best interest must influence his investment decision at all times;
- maintain proper records of all investment decisions made on behalf of clients;
- send at the end of every quarter statements to clients showing their investment positions during the period;
- disclose to clients when giving investment advice whether the advice is based on facts or opinion;
- bear in mind at all times, that investment is a risk. In advising his clients therefore, no guarantee as to the future performance of the investment must be given;
- be compensated (i.e. charge fees) for advisory services and investment management in accordance with industrial standards as approved by the Securities and Exchange Commission from time to time;
- take adequate care and display integrity in the management of investors' funds. A portfolio manager must avoid the mismatch of term commitments;
- not deposit investors' funds in his personal account or the accounts of other persons;
- not employ investors' funds to acquire assets for himself, his companies or others' or otherwise employ the funds in violation of his mandate;
- display impartiality and objectivity in his relationship with his clients;
- not invest his clients' funds in his business or businesses controlled by him, his associates, relations and subsidiaries of those companies without a prior disclosure of his relationship with the companies to the clients.

6. Code of Ethics Peculiar to Employees of Registrars' Departments

An employee of a Registrar's Department shall:

- in all cases of transfer of securities, carefully and properly verify all signatories with specimens lodged with the department;
- properly reflect all changes in address and/or signature in the register;
- act honestly and in good faith in the ordinary course of business and in a manner that is consistent with the best interest of the investing public and growth of the capital market;
- not delay without reasonable cause and authorisation, the despatch to any share-holder of his dividend warrant, return money, share/stock certificate and notices of annual and extra-ordinary general meetings. In addition, care must be exercised in addressing mails for despatch to share/stock holders;

- not on his own or in concert with others, forge, deface, alter or convert any security document;
- not lodge in his own account or in the account of others or in any manner, misappropriate funds meant for share/stock holders.

Sanctions for Violations

1. A registered capital market operator who shall be found guilty under a disciplinary proceeding of a registered SRO or of S.E.C. for a violation of any provision of this code of conduct shall be suspended or expelled from the capital market and may in addition be liable for any other penalty prescribed by law.

2. (a) Any violation of this code of conduct by a member of an SRO or registered individual or an employee of a market operator shall be cause for appropriate disciplinary and/or remedial action by the market operator or for disqualification from membership of an SRO which action may be in addition to any other penalty prescribed by law.

(b) Remedial action by a market operator may include:

- (i) Changes in assigned duties;
- (ii) Divestment by sponsored individual or an employee of his conflicting interests;
- (iii) Disciplinary action; or
- (iv) Disqualification for a particular assignment.

(c) Any disciplinary or remedial action taken by a registered market operator shall be reported in writing to the appropriate SRO and to the Commission.

(d) Any suspension or expulsion of a member by an SRO for violation of this code shall be notified and communicated in writing to the Commission.

TO BE SIGNED BY EVERY MARKET OPERATOR AND A COPY TO BE DEPOSITED WITH THE SECURITIES AND EXCHANGE COMMISSION (SEC).