NGXREG/RAD/IG/ FFR1/4/22

INTERPRETATIVE GUIDANCE TO RULES GOVERNING FREE FLOAT REQUIREMENTS FOR ISSUERS LISTED ON NIGERIAN EXCHANGE LIMITED

RULEBOOK OF THE EXCHANGE (ISSUERS' RULES)

BACKGROUND

In line with the objective of Nigerian Exchange Limited ("NGX" or "The Exchange") to ensure and promote liquidity in the capital market, The Exchange introduced the Rules Governing Free Float Requirements for Issuers Listed on The Nigerian Stock Exchange in 2018, now known as Rules Governing Free Float for Issuers Listed on Nigerian Exchange Limited (the "Free Float Rules"). The Securities and Exchange Commission ('SEC' or the 'Commission') approved the Free Float Rules on 6 May 2019[1].

NGX provides a platform on which companies or entities ("Issuers") may list their shares or products. These listings are done on NGX Boards[2], and an Issuer is allowed to choose any of the Boards for listing of its equity securities, depending on the Issuer's ambitions, intentions or ability to meet the respective Boards' listing requirements. As part of the requirements for listing equity securities on any of the NGX Boards, The Exchange mandates a prospective Issuer to ensure that a certain percentage of its shares are owned by, or available to the public, and such proportion of shares are known as the "public float", or the "free float".

However, the free float requirements have often been misinterpreted by observers and the market, against its true meaning, and the intentions of The Exchange. Thus, NGX Regulation Limited (NGX RegCo), as the regulatory services provider to The Exchange, issues this Interpretative Guidance (IG) to provide clarity and guidance to the market on the Free Float Rules, as well as to provide relevant information required to comply with the rules, and for general benefit of stakeholders.

INTERPRETATION

1. DEFINITION OF TERMS

The following terms are defined here to provide clarity and further explain the context in which these words are used in this Interpretative Guidance:

[1] The Free Float Rules became effective on 2 January 2020. To enhance the efficiency of the Rules, proposed amendments to the Rules have reached an advanced stage.

[2] There are currently four Boards provided under the Free Float Rules, which are the Premium Board, Main Board, ASeM Board and Growth Board.

1.1 Board or NGX Board

This means the Board on which the Issuer's securities are admitted for trading on The Exchange.[3] Presently, The Exchange has four Boards on which Issuers may choose to list their shares – the Premium Board, Main Board, ASeM (Alternative Securities Market) Board and Growth Board (Entry and Standard Segments).

1.2 Compliance Status Indicator (CSI)

This is a mark ascribed to an Issuer by NGX RegCo for easy identification by investors and general market where such Issuer is not compliant with the Rules of The Exchange. Where an Issuer is non-compliant with the free float requirements, such Issuer's trading symbol displayed across NGX's platform is marked "Below Listing Standard" (BLS).

1.3 Free Float

Free Float is the number of shares that an Issuer has outstanding and available to be traded on The Exchange. It includes all shares held by the investing public, and excludes shares held directly or indirectly by promoters, directors and their close relatives; strategic investors; other investors holding five percent (5%) and above of the issued share capital; and shares owned by the government (federal, state or local government).

1.4 Free Float Deficiency or Free Float Deficient

An Issuer is free float deficient when the number of its shares or the value of its shares held by the public or available for trading by the public falls below the free float requirements for the Board on which the Issuer's securities are listed.[4]

1.5 Issuer

An Issuer is a legal entity, any class of whose products have been admitted to The Exchange's Daily Official List, and that has agreed to comply with The Exchange's Listing Requirements, the relevant provisions of the Companies and Allied Matters Act 2020, the Investment and Securities Act, 2007 (as both may be amended from time to time), and any other applicable legislation that may be enacted from time to time.

1.6 Public:

The public means persons other than the directors and employees of a company and any other persons excluded in the Free Float Rules and any other Rules of The Exchange.

1.7 Shareholding Structure:

[3] In practice, a Board is a dedicated platform of The Exchange on which the securities of an Issuer have been listed for trading.

[4] Rule 4.1 of the Free Float Rules

This means the analysis of an Issuer's issued share capital, showing the distribution of shares held directly and/or indirectly by various classes of shareholders.

1.8 X-Compliance Report

The X-Compliance Report is a transparency initiative of The Exchange which is designed to maintain market integrity and protect the investors by providing compliance-related information on all listed companies.[5] Issuers with free float deficiency are published in the X-Compliance Report.

2. FREE FLOAT REQUIREMENTS

2.1 Methods of Meeting the Free Float Requirement

2.1.1 Under the Free Float Rules, there are two (2) ways by which an Issuer may achieve free float, as discussed below:

(a) **Percentage of Issued Shares**: ensuring that a specified percentage of its issued shares is held by, or made available to the public;[6] or

(b) **Capitalization**: ensuring that a specified monetary value of its issued shares is held by the investing public. Free Float by capitalization is calculated by multiplying the value of the total shares held by the public, by the prevailing share price of an Issuer[7].

2.1.2 Thus, an Issuer is required to comply with the free float requirements, by ensuring that its publicly-held shares are either within the percentage threshold prescribed by The Exchange or meet the prescribed value threshold of shares (also known as free float by capitalization). Therefore, The Exchange will adjudge an Issuer to be compliant with the free float requirements where the public is holding the stipulated percentage of the shares of such Issuer, or, where the public is holding a stipulated value of its shares.

2.2 Free Float Thresholds

Every company seeking to list on any of NGX's Boards is required and expected to comply with the free float requirements prescribed for the applicable Board. The free float

[5] Definition of X-Compliance Report as provided on NGX's website.

[6] For example, if an Issuer listed on the Main Board has a total of ₦200 billion issued shares, such Issuer must ensure that 20% (that is, ₦40 billion) of its issued shares is held by or available to the public in order to be compliant with the Free Float requirements, by way of Percentage of Issued Shares.

[7] For the Issuer mentioned in footnote 7 above to be compliant with the Free Float Requirement through capitalization, the Issuer need not have 20% (or ₦40 billion) of its issued shares held by the public. If the Issuer has 15 billion shares held by the public and its share price is ₦1.80, such Issuer will be deemed compliant with the free float requirements by capitalization, since the value of its shares in the hands of the public would be ₦27 billion (calculated by multiplying 15 billion shares by the share price of ₦1.80). By the Free Float Rules, an Issuer listed on the Main Board is compliant with the Rules by capitalization where its free float is valued at ₦20 billion or above.

requirements for the different Boards as prescribed in the Free Float Rules, are detailed below:

S/N	Board	% Free Float	Value/Capitalization Float
1.	Premium Board	20%	₦40 billion
2.	Main Board	20%	₦20 billion
3.	ASeM Board	15%	₦50 million
4.	Growth Board (Standard Segment)	15%	₦50 million
5.	Growth Board (Entry Segment)	10%	₦50 million

Fig 1: Representation of free float requirements

(a) Premium Board[8]: For any Issuer seeking to list on the Premium Board of The Exchange, such Issuer is required to have and maintain a minimum Free Float of twenty percent (20%) of the listed shares, and which shares must be held by not less than three hundred (300) public shareholders. As an alternative to achieving 20% Free Float, an Issuer listed on the Premium Board will be deemed compliant with the Free float requirements where its shares held by or available to the public are valued at forty billion naira (₦40,000,000,000) or more at the time such issuer is making an application to list on The Exchange.

(b) Main Board[9]: To qualify for admission on the Main Board of The Exchange, a prospective Issuer is required to meet a minimum Free Float of twenty percent (20%) of the listed shares, held by not less than three hundred (300) shareholders, or a Free Float valued at twenty billion naira (₦20,000,000,000) or more, at the time such Issuer is making an application to list on The Exchange.

(c) ASeM Board[10]: Any Issuer seeking to list on the ASeM Board is required to have and maintain a minimum of fifteen percent (15%) Free Float and such publicly-held shares must be held by at least fifty-one (51) shareholders. Alternatively, any Issuer on this Board seeking to meet the free float requirements by value is required to have a Free Float valued at fifty million naira (₦50,000,000) on the date that The Exchange receives the Issuer's application to list.

(d) Growth Board[11]: There are two segments of the Growth Board – Entry and Standard Segment. For the Entry segment, the percentage of free float that an Issuer is required to have is ten percent (10%), while the free float percentage for the Standard Segment is

[8] Rule 1.1. 1 of the Free Float Rules
[9] Rule 1.1.2, Free Float Rules
[10] Rule 1.1.3 of the Free Float Rules
[11] Rule 1.1.4, Free Float Rules

fifteen percent (15%). Also, the free float shares must be held by at least fifty-one (51) shareholders. An Issuer seeking listing on either of the segments can also meet the free float requirement where the value of its publicly-held/publicly available shares are valued at fifty million naira (₦50,000,000) or more.

All companies listed on The Exchange are required and expected to continue to comply with the free float requirement for the respective Boards on which they are listed.

2.3 Revision of Free Float Value Thresholds

In the event that there is any need to review the Free Float value/capitalization thresholds, The Exchange will rely on the provisions of the Rules[12] which state that the Issuer will be adjudged if free float compliant by *such value as The Exchange may prescribe from time to time or* deemed *appropriate by The Exchange*, to communicate a revised free float value threshold for each of the Boards to the market. Thus, there will not be any need to amend the Rules in that regard.

3. SELF-ASSESSMENT, SELF-REGULATION AND HALF-YEAR REPORTING

3.1 Every Issuer is expected to independently review its free float every half-year, and where a free float deficiency is discovered, such Issuer must take the steps[13] provided in the Free Float Rules, which include the disclosure of the free float deficiency to The Exchange, and the rectification of the deficiency.

3.2 In addition, every Issuer is expected to indicate in its half-year financial statement filed with The Exchange, its Shareholding Structure and whether or not its free float is in compliance with the Free Float requirements for the Board on which it is listed[14].

4. FREE FLOAT DEFICIENCY - CAUSES AND IMPACT

4.1 An Issuer is free float deficient when the number or value of its shares held by the public or available for trading by the public falls below the free float requirements for the Board on which the Issuer's securities are listed. Free Float deficiencies may be caused by several factors including the lack of public demand for a company's securities; or concentration of a company's issued shares in the hands of its promoters, majority shareholders, or strategic investors who may be unwilling to sell down their shares.

4.2 Notwithstanding the reason behind an Issuer's free float deficiency, failure of a company to have adequate shares available for trading by the public may create a negative perception to investors and the public regarding the company and may make investors avoid such company. In addition, free float deficiency creates low liquidity in the market for the shares of such Issuer, and makes investment in the affected Issuer unattractive to investors. Thus, where the free float of a company is low, it may give the powerful few in the company, the power to organise

[12] Rules 1.1.1, Rule 1.1.2, Rule 1.1.3 and Rule 1.1.4 of the Free Float Rules
[13] See Rule 2 of the Free Float Rules.
[14] Rule 2.2 of the Free Float Rules

the company's affairs in the direction that they want, which may not be beneficial to the company and its minority shareholders, and may lead to a manipulation of share prices, or a perception of manipulation.

4.3 The Exchange has therefore prescribed the Free Float Rules, and sanctions for non-compliance, in order to build a fair and sustainable market, promote transparency and investor's confidence, and prevent market manipulation.

5. HOW FREE FLOAT DEFICIENCIES ARE TREATED

Free float deficiencies occur when Issuers fail to meet the free float requirements for the NGX Board on which their securities are listed. The Rules provide that where The Exchange determines that a company's free float is below the stipulated threshold, the following series of events will occur:

(a) The Exchange will issue a notice to the delinquent Issuer;

(b) The Issuer will initiate discussions with The Exchange on its plan to fully comply with the free float requirement, within ten (10) business days of receiving The Exchange's notification of breach;

(c) Within a period not exceeding three (3) months from the date that the Issuer receives The Exchange's notice of Breach, the Issuer will prepare and submit to The Exchange a Compliance Plan detailing how it plans to fully become compliant with the Free Float requirements for the Board on which it is listed;

(d) The Exchange will review the Compliance Plan and where it is acceptable to The Exchange, may approve that the Issuer immediately takes steps to implement the plan or program mentioned in the Compliance Plan. The Exchange shall communicate the timeframe within which the Issuer is to fully comply with the free float requirement. However, if The Exchange finds a Compliance Plan submitted by the Issuer as unacceptable and rejects it, the Issuer is required to submit an alternative acceptable compliance plan for approval within twenty-one (21) business days from the date that The Exchange informed the Issuer of its rejection of the initial plan[15];

(e) The Issuer is required to, within 10 business days of receiving The Exchange's approval of its Compliance Plan, notify its shareholders through The Exchange's Issuers Portal that The Exchange may suspend trading in its securities where it does not achieve the Free Float requirement within the timeframe communicated to it by The Exchange.

(f) If the Issuer still fails to cure the free float deficiency within the timeframe granted by The Exchange, The Exchange may proceed to suspend the Issuer's shares. However, an Issuer's shares will not be suspended from trading where the Issuer requests for and

[15] Rule 3.1.3, Proposed Amendments to Free Float Rules.

obtains an extension of time from The Exchange to enable it achieve the required free float[16].

6. EXTENSION OF TIME FOR COMPLIANCE

6.1 Extensions of time are often, and in appropriate circumstances, granted by The Exchange to enable regulated entities comply with the Rules of The Exchange. Extensions enable delinquent Issuers to comply with the Free Float Rules of The Exchange. Such periods of grace usually take into consideration delays due to circumstances beyond the Issuer's control. Extensions are sometimes necessary because although an Issuer and its promoters may be willing to make shares available for sale in order to comply with the Free Float requirements, the market's appetite or demand for the Issuer's shares may not be high at that particular time, and there may not be sufficient numbers of willing buyers who are able to buy the shares put up for sale. As such, the Issuer would be constrained to comply on an extended timeline.

6.2 Extensions are granted to ensure that the intent of the Rules of The Exchange are achieved and that The Exchange's market is operated in an efficient, orderly and fair manner. As it is mandatory for Issuers to comply with the Free Float requirements in order to remain listed on The Exchange, delinquent Issuers that timeously request for extensions in order to remedy their deficiencies may not be liable to all the applicable sanctions for non-compliance with the Free Float Rules of The Exchange. However, their names will be published in the X-Compliance Report and their securities symbol marked with the appropriate CSI.

6.3 In line with the Free Float Rules[17], and upon request by the Issuer, The Exchange has the discretion to grant an extension of time to an Issuer who is free float deficient, to comply with the free float requirements. The extended timeline that may be granted will depend on the circumstances of the Issuer.

6.4 As a precondition for the extension, the affected Issuer is required to submit its request for extension along with signed undertakings by its majority shareholders (holders of five per cent (5%) or more of the company's issued capital) or a combination of holders of shares that are up to or more than five per cent (5%) of the issued shares, to make available to the investing public, the quantum of shares sufficient to resolve the free float deficiency[18] within the timeframe approved by The Exchange[19].

6.5 The delinquent Issuer is also required to produce and submit to The Exchange for consideration and approval, a compliance plan detailing how the Issuer plans to comply with the free float requirements. To ensure appropriateness and diligence, The Exchange will not grant any extension where the Compliance Plan submitted by the Issuer is unacceptable to The Exchange.

---

[16] Rule 3.1.6 of Proposed Amendments to Free Float Rules

[17] Rule 3.2 of the Free Float Rules.

[18] This requirement secures the commitment of these shareholders to reduce their holdings in the company and sell the Issuer's shares to the public.

[19] Rule 3.2.2 (b) requires a delinquent Issuer, whose Compliance Plan has been approved by The Exchange to resolve its free float deficiency within "the next one (1) financial year or a longer period as The Exchange may approve".

7. EFFECTS OF NON-COMPLIANCE WITH FREE FLOAT REQUIREMENTS

7.1 Where The Exchange determines that an Issuer is in breach of the Free Float Requirements,

(a) the Issuer's name will be published in The Exchange's periodic X-Compliance Report; and

(b) the Issuer's securities' symbol published on any of The Exchange's systems or media will be marked with the CSI, "Below Listing Standard" (BLS)" and the Issuer will be so marked as such, for as long as its free float is below the threshold. The Exchange can also use any other CSI which it deems appropriate to indicate that the Issuer has failed to comply with free float requirements[20].

7.2 As indicated under Paragraph 5(f) above, The Exchange may suspend the shares of a delinquent Issuer from trading unless the Issuer takes steps to remedy the deficiency by seeking and obtaining an extension of time from The Exchange. As a last resort, The Exchange, through NGX RegCo, will commence the delisting of an Issuer that fails to correct its free float deficiency.

8. DELISTING AS A SANCTION

The Exchange is empowered under the Free Float Rules to commence the delisting of an Issuer whose Free Float is below the stipulated threshold, where such affected Issuer:

(a) fails to respond to The Exchange's notice[21] within the stipulated timeframe; or

(b) fails to submit a Compliance plan acceptable to The Exchange within the stipulated time frame; or

(c) fails to request for additional extension of time or take necessary steps within three (3) months of being suspended from trading to produce a Compliance Plan that is acceptable to The Exchange[22];

(d) is unable to resolve the free float deficiency within the period approved by The Exchange[23].

The Free Float requirements provided in the Free Float Rules supersede all free float provisions that may have been stipulated in other parts of the Rules of The Exchange.

[20] Rule 4.1 of Free Float Rules
[21] This is a notice given by The Exchange in line with Rule 3.1 informing the Issuer that its free float has fallen below the stipulated threshold.
[22] Rule 4.2.4 of Proposed Amendments to Free Float Rules
[23] See Rule 4.2, Free Float Rules for fuller details.

NOTES:

1. The above information does not constitute professional investment, service, or legal advice to anyone. Professional advice should be sought by stakeholders or potential investors where required.

2. Should you require further clarification, kindly contact the Listings Regulations Department of NGX Regulation Limited at ListingsTeam@ngxgroup.com.

3. The Rules Governing Free Float Requirements for Issuers Listed on Nigerian Exchange Limited and the Proposed Amendments to the Rules are available on The Exchange's website (www.ngxgroup.com), for additional reference.

Issued this 11th day of April 2022