

FREQUENTLY ASKED QUESTIONS ON TECHNICAL SUSPENSION OF SECURITIES

1. What is technical suspension?

Technical suspension is the interruption of price movement in listed shares for a specified period so that any dealings in the shares which occur during the period of the suspension will not result in any change in price, which change may have occurred had the suspension not been implemented.

See also, <http://www.sec.gov.ng/sec-assures-investors-following-the-establishment-of-bridge-banks.html> (“*Technical suspension means that trading on the Shares can continue without any change in price.*”)

2. Under what authority can The Exchange place shares on technical suspension?

The relevant provision is in Chapter 2 of The Exchange’s Green Book (Listings Requirement) which addresses *Subsequent Listing of Securities (In Respect of Companies Whose Securities Are Already Listed on The Exchange)*. Clause 6 of Chapter 2 provides that:

“Subject to the provisions of this rule if the directors issue and/or offer to issue any shares in the original or any increase in the share capital of the company:

- (i) For cash; or*
- (ii) For consideration other than cash, **dealings in all the shares of the company on The Exchange shall be suspended for such period as may be determined by the Council.***”

In addition, please note that Clause 23 of the Amendments to the Listings Rules provides as follows:

- 23. Request for Suspension at the instance of The Issuer*
- 23.1 Any request for suspension must be made to The Exchange in writing by the Issuer or the Issuer’s authorized representative or financial adviser and must be supported by the specific reasons which the issuer wishes The Exchange to take into account in The Exchange’s determination of whether or not trading in the issuer’s securities should be suspended.*
- 23.2 The burden is on any Issuer that requests a suspension of trading in its securities to satisfy The Exchange that a suspension would be necessary.*

However, the Amendments to the Listings Rules will not come into effect until 1 November 2014.

Further, under Rule 198 of the SEC Consolidated Rules 2013,

“An exchange may, in accordance with its rules, suspend from trading a security listed thereon and the Exchange shall within 24 hours notify the Commission of any such suspension, the effective date and the reasons therefore.”

3. Is there an existing SEC directive on this issue?

First, SEC Rules (Amendment) 2006 (I), s. 27, (which became Rule 82 of SEC Rules 2011) provides as follows:

Rule 82

- (a) *The Issuer shall ensure that existing shareholders receive a copy of the rights circular or become aware of the rights offer not less than 21 days before the opening of the offer.*
- (b) *The Registrar shall despatch to the existing shareholders copies of the rights circular approved and registered by the Commission which have the same control numbers as the share certificates from which the rights are derived.*
- (c) ***The Exchange(s) shall in the interval between the receiving of the application for the rights offer and the opening date of the offer, place the share price of the Issuer on technical suspension which suspension shall be lifted after the close of the offer.***

In 2008, the Commission directed The Exchange to henceforth cease the practice of technical suspension for capital-raising exercises.

However, when the SEC Rules 2013 were promulgated, Rule 82(c) above was removed from the new SEC Rules, leaving in SEC Rule 198 cited above. This effectively left suspension of securities to the discretion of The Exchange, subject to notifying the SEC within twenty-four (24) hours.

In the hierarchy of laws in Nigeria, the general practice is that Rules made pursuant to an Act of the National Assembly supersede policy statements, directives or Rules which were made by a government agency or body before the most recent relevant Rules came into effect, i.e., the SEC Rules 2013, which were made pursuant to the Investments and Securities Act 2007, supersede any SEC Policy statements, directives or previous Rules made earlier than the SEC Rules 2013.

Thus, The Exchange’s understanding is that the SEC currently has no extant prohibition against technical suspensions. Recent consultations with the SEC appear to support this conclusion.

4. By placing Access Bank Plc's shares on technical suspension, is The Exchange signaling that it will grant technical suspensions, going forward?

Anticipatory approval to place Access Bank Plc's shares on technical suspension was granted based on a written request by the Bank in anticipation of its proposed rights issue. By granting anticipatory approval, The Exchange is indicating to the capital market that in appropriate circumstances, it will entertain requests from issuers to place their shares on technical suspension.

5. What happens to "good till date" orders?

"Good till date" orders can be cancelled or remain on the system until expiry, as set up by the broker.