



RESEARCH ARTICLE

AN ANALYSIS OF PERTINENT ISSUES ARISING FROM THE ADJUDICATION OF CAPITAL MARKET CASES IN THE NIGERIAN COURTS

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ABSTRACT

The capital market plays a crucial role in stimulating economic growth and development in a country. Its role in maintaining financial stability through trading in the primary and secondary markets earns it a prized position as one of the most effective ways of transforming a country's economy, boosting investors' confidence and preserving the integrity of the capital market. Fostering a safe and reliable market requires a sound regulatory and supervisory regime as well as a strong enforcement mechanism capable of maintaining effective dispute resolution. The inherent nature of the market necessitates the ability to effectively and efficiently resolve disputes as they arise, thereby enhancing the market's effectiveness in fostering economic growth and development. The judiciary plays a key role in the adjudication of capital market disputes. The paper analyses the pertinent issues that arise in the adjudication of capital market disputes, including jurisdictional conflict between the Federal High Court and the Investments and Securities Tribunal, slow and cumbersome judicial processes due to insufficient expertise of judicial officers to decide on intricate capital market cases, and incessant interlocutory applications by litigants, amongst others. The paper asserts that strengthening the judiciary to create a strong and efficient dispute resolution body with clear, unambiguous jurisdictional boundaries, improved capacity-building knowledge, enhanced enforcement tools and the establishment of a sanction regime for unnecessary applications by litigants is essential for a resilient and effective Nigerian capital market.

INTRODUCTION

As a financial intermediary, the capital market facilitates the transfer of funds from the surplus (savers) to the deficit (borrowers), thereby promoting economic growth and stability¹. The capital market facilitates the buying and selling of equity and debt instruments, popularly known as stocks, and debt securities, such as bonds, that confer financial obligations or rights to the holder for medium- and long-term durations, generally one year or more². Capital markets consist of primary and secondary markets³. Investors sell new stock and bond issues in the primary markets. Primary capital markets allow

companies desirous of issuing stocks and bonds to businesses, investors and other institutions to do so through underwriting, in addition to allowing the companies to raise capital without or before issuing public offer to new subscribers to raise more funds. More so, the issuing company may further offers shares for sale to a few investment banks and firm thereby allowing the shares to move to the secondary market⁴. The secondary market facilitates trading of existing securities in the market. In a typical secondary market, investment banks, firms, private investors and other parties involved resell their equity and debt securities to investors. The process takes place in the stock market or the bond market bond all over the world, like the Nigerian Stock Exchange. When securities are resold in the secondary market, the original sellers do not make money from the sale. Nevertheless, these original sellers will likely continue to hold some amount of stake in the company, often in the form of equity, so the company's performance in the secondary market will remain relevant to them⁵. The vast nature of capital markets operation encourages numerous participants, including individual investors,

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¹Adeoye, AmudaAfolabi, 'Impact of the Nigerian Capital Market on the Economy' European Journal of Accounting Auditing and Finance Research' (2015) 3 (2) 1-9 <<http://eprints.abuad.edu.ng/182/1/Impact-of-the-Nigerian-Capital-Market-on-the-Economy.pdf>> accessed 28 August 2025

²Pat Donwa and James Odia, 'An Empirical Analysis of the Impact of the Nigerian Capital Market on Her Socio-economic Development' (2010) J SocSci, 24(2) 135-142 <<https://d1wqxts1xzle7.cloudfront.net/98999415/JSS-24-2-135-10-902-Donwa-P-Tt-libre.pdf?1677090194=&response-content->> accessed 28 August 2025

³ Sunday Uchendu, 'Effect of Selected Financial Instruments on Capital Market Development in Nigeria AFIT' Journal of Marketing Research (2023) 3 (1) 14-26

⁴F.T.Kolapo and A O. Adaramola, 'The Impact of the Nigerian Capital Market on Economic Growth (1990-2010)' International Journal of Developing Societies (2012) 1 (1) 11-19 <<https://worldscholars.org/index.php/ijd/article/view/02>> accessed 12 August 2025

⁵IkennaNneji, 'Efficiency of the Nigerian Capital Market; an Empirical Analysis' Research Journal of Finance and Accounting (2013) 4 (4) 69-77

institutional investors such as pension funds and mutual funds, municipalities and governments, companies and organisations, banks and other financial institutions, including Fintech companies, to engage in capital markets ventures. While many different kinds of groups, including governments, may issue debt through bonds (government bonds), governments may not issue equity through stocks. Suppliers of capital generally want the maximum possible return at the lowest possible risk, while users of capital want to raise capital at the lowest possible cost⁶. The size of a country's capital markets invariably determines the size of that country's economy. Take, for instance, the United States of America, which is known to be the world's largest economy and has the largest and deepest capital markets. Because capital markets move money from people who have it to organisations that need it in order to be productive, they are critical to a smoothly functioning modern economy. Equity and debt securities hold significant importance as they often serve as indicators of the relative health of global markets. The capital markets connect the globe through a centralised economy; however, a drawback in any specific economy can lead to a major crisis in the global capital market. The drawback of this interconnection is best illustrated with the global financial crisis of 2007-2009 that was triggered by the collapse in mortgage securities in the U.S capital market⁷. The effects of this meltdown were globally transmitted by capital markets since banks and institutions in Europe and Asia held trillions of dollars of these securities⁸.

Brief History of the Nigeria Capital Market: The history of the Nigerian capital market dates back to the early 1940s when the government administered by the then British colonial masters issued government stock worth over £300,000 to subscribers⁹. This initial step laid the groundwork for the establishment of a formal stock exchange, later evolved into a vital component of Nigeria's economic landscape. Over the decades, the market has undergone significant transformations, adapting to the changing political and economic environment of the country. At that time, there was no formal legislation nor market for secondary trading, as the market was self-regulated. Toward the late 1950s, the financial system took a significant turn following the establishment of the Central Bank (CBN) of Nigeria in 1959, which subsequently led to the CBN issuing development loan stock worth £2 million in development to boost and promote financial growth¹⁰. During this period, there was still no legal framework nor institutional framework to regulate capital market activities in Nigeria. Nigeria's government acknowledged the necessity for a stock market owing to declining governmental revenues and persistent expenditures, and not long after, in 1959, the Lagos Stock Exchange was established by the Lagos Stock Exchange Act 1960, making it the first legal and institutional framework for the Nigerian capital market, with the first branch being opened in Lagos. The Lagos Stock Exchange began its operations in 1961, listing 19 securities in the market. In the early 1970s, post-independence, the CBN established the Capital Issues Committee, saddled with the responsibility of overseeing security issues, thereby marking a move towards formal capital market regulation. In 1977, the Lagos Stock Exchange was renamed as the Nigerian Stock Exchange, and branches were established in many locations of the country. Decree

⁶ Sunday O. E. Ewah, Atim E. Esang & Jude U. Bassey, 'Appraisal of Capital Market Efficiency on Economic Growth in Nigeria' *International Journal of Business and Management* (2009) 12 (9) 219-228 <[⁷ Panel Milda Maria Burzala, 'Contagion effects in selected European capital markets during the financial crisis of 2007-2009' *Research in International Business and Finance* \(2016\) 37 556-571 <<https://www.sciencedirect.com/science/article/abs/pii/S0275531916300265?via%3Dihub> > accessed 8 August 2025](https://d1wqtxts1xzle7.cloudfront.net/101179387/83776a08fe2d777edefbc8b2403273fca2e2-libre.pdf?> accessed 8 August 2025</p>
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⁸ Vladimir Tsenkov and Ani Stoitsova-Stoykova, 'The Impact Of The Global Financial Crisis On The Market Efficiency Of Capital Markets Of South East Europe' *International Journal of Contemporary Economics and Administrative Sciences* (2017) 7 (1-2) 31-57

⁹ Adamu J.A and Sanni I, 'Stock market development and Nigerian economic growth' *Journal of Economic and Allied Fields*(2005)2 (2) 116-132

¹⁰ Anyanwu T C, 'Monetary Economics Theory; Policy and Institutions' (Onitsha Nigeria Hybrid Publishes Ltd 1993) Ltd, pp. 93

No. 71 of 1979 founded the Securities and Exchange Commission (SEC), which controls the Nigerian Stock Exchange¹¹. The Commission was created to facilitate trading in stocks and shares, enhance private sector public engagement, promote savings investments, serve as a central institution for stock transactions, mobilise savings for productive investments, generate new capital, support governmental initiatives, mitigate liquidity risk, safeguard the public from fraudulent activities, and offer opportunities for sustained operations and foreign capital influxes for Nigeria's development¹².

The Nigerian capital market operates on two levels: the primary market for new securities and the secondary market for existing securities. Key regulators include the Securities and Exchange Commission, the Nigerian Stock Exchange, the Central Bank of Nigeria, and the Federal Ministry of Finance¹³. The Investment and Securities Act 2007, Part XVI establishes the Investments and Securities Tribunal for dispute resolution.

Impact of Capital Markets on Economic Growth: Capital markets play a crucial role in the global economy, contributing to the growth of assets and Gross Domestic Product (GDP). In Nigeria, the performance of the stock market is an impetus for economic growth and development with a market size of over 233 listed equities¹⁴. The 2007-2009 global economic recession nearly wrecked the global economy, nevertheless, capital markets are gradually bouncing back¹⁵. In Nigeria, the capital market and economic growth are co-integrated, with the government and corporate entities raising long-term capital through bonds and equities. However, the capital market in Nigeria is negatively correlated with long-run growth due to the pre-liberation and post-liberation eras, leading to an unsteady economy, increased capital market disputes, and a proliferation of laws. The Nigerian capital market has the potential to foster economic growth, but it has not contributed meaningfully due to limiting factors such as mismanagement of funds, poor capitalisation, low absorptive capacity, illiquidity, insufficient deal volume, small market size, few listed companies, incessant disputes, and conflicting laws.¹⁶

Legal and Institutional Framework for Capital Markets Operation in Nigeria: Capital markets in Nigeria are regulated by various laws, including the Constitution of the Federal Republic of Nigeria 1999, the Investment and Securities Act 2025, the Securities and Exchange Commission (SEC) Rules and Regulations 2013, and the Central Bank of Nigeria Act 2007/Securities and Exchange Commission (CBN/SEC) Guidelines and Rules on Margin Lending. The operation of capital markets in Nigeria revolves around financial institutions. Existing laws and modifications to the laws can co-exist with the Constitution, as long as they are in conformity with the Constitution. The Investments and Securities Act regulates investments and securities business, registers securities exchanges, and regulates all offers for securities by public companies and entities. It also empowers the SEC to prohibit trading in particular securities where persons buying or selling such securities will be jeopardized. The Act ensures the protection of investors, maintains a fair, efficient,

¹¹ Eyisi Adanma Sabina, Chioma Dorathy Oleka and Nwanne T F I, 'The Nigerian Stock Exchange: a Bane for Sustainable Economic Development' *European Journal of Business and Social Sciences* (2015) 3 (12) 19 - 27 <<http://www.ejbss.com/recent.aspx-/> accessed 11 August 2025

¹² The Investments and Securities Act, s13

¹³ Capital Market Operations, Players, Products, Efficiency, Index Etc (A Paper Presented by Mr. Azu Odita General Manager/Ceo, Network Securities & Finance Limited (A Member of the Nigerian Stock Exchange) Lagos, Nigeria. <<http://www.waifem-cbp.org/V2/Dloads/Capital%20market%20operations.pdf>> accessed 8 August 2025

¹⁴ Emeh Yadirichukwu and E.E. Chigbu, 'The impact of capital market on economic growth: the Nigerian Perspective' *International Journal of Development and Sustainability* (2014) 3 (4) 838-864 <<https://www.isdsnet.com/ijds-v3n4-17.pdf>> accessed 11 August 2025

¹⁵ Edame, Greg Ekpung and Okoro, Uchenna, 'The Impact of Capital Market on Economic Growth in Nigeria' *Journal of Poverty, Investment and Development* (2013) 45-56 <<https://core.ac.uk/download/pdf/234695021.pdf>> accessed 12 August 2025

¹⁶ F.T. Kolapo & A.O. Adaramolas, 'The Impact of the Nigerian Capital Market on Economic Growth (1990-2010)' *International Journal of Developing Societies* (2012) 1 (1) 11-19

and transparent market, and minimizes systemic risks. The Investments and Securities Tribunal (TST) is established under Part XVII of the Act¹⁷, with ten members appointed by the Minister. One of these members must be a full-time chairperson with at least fifteen years of experience in capital market matters. The Tribunal has the authority to adjudicate on matters related to the decision or determination of the SEC in the operation and application of the Investment and Securities Act 2007 on disputes arising from capital market operations. It can also interpret any law, rule, or regulation while exercising its powers. The Securities and Exchange Commission (SEC) has the power to make rules and regulations to give effect to the provisions of the Act, promoting fairness and equality of treatment among similarly situated persons. The AML/CTF Compliance Manual for Capital Market Operations 2010 vests regulatory, supervisory, and administrative powers in the SEC to protect the integrity of the securities market in Nigeria. The Investment and Securities Tribunal (Procedure) Rules 2003 aim to enable the Tribunal to deal with cases fairly and justly, ensuring equal procedural footing, using the Tribunal's special expertise effectively, and avoiding delay. The Tribunal is the highest capital market adjudicatory body in Nigeria.

Disputes That Arise in the Nigerian Capital Markets: Capital market-related disputes usually arise because of activities that take place in the capital markets. Such disputes may arise because of violations of the Investments and Securities Act 2007 (ISA) or SEC Rules by capital market operators and institutions, disputes among capital market operators, disputes between capital market operators and the Securities and Exchange Commission (SEC) or Nigerian Stock Exchange (NSE), and disputes arising from any guidelines issued or decisions made by the SEC or NSE. Section 326 of the Investment and Securities Act conferred adjudicator powers on the Investment and Securities Tribunal to hear and determine disputes relating to capital markets operation in Nigeria. Furthermore, Rule 312 of SEC Rules and Regulations provides that capital markets-related disputes are to be referred to the Administrative Proceedings Committee of SEC and/or the Investments and Securities Tribunal. The Federal High Court also determines cases arising from the capital market by virtue of Section 251(1)(e) of the Constitution of the Federal Republic of Nigeria 1999. The section confers the Court with exclusive jurisdiction in civil matters arising from the operation of the Companies and Allied Matters Act or any other enactment replacing that Act or regulating the operation of companies incorporated under the Companies and Allied Matters Act. See also 251 (1) (d) and (r). When such disputes arise between capital markets operators, **Schedule IX** of the SEC Rules and Regulations provides that the disputants must first refer the dispute to the relevant Self-Regulatory Organisation (SRO) to which the capital markets operators belong or other relevant organisation established for the resolution of disputes between its members before such disputes can be referred to the Administrative Proceedings Committee (APC) of the SEC and thereafter to litigation. Article 125 of the NSE Rules and Regulations authorises the NSE to adjudicate on disputes between its members, members and clients, and members and management of the NSE.

Pertinent Issues Arising in the Adjudication of Disputes Arising from the Nigerian Capital Market

In resolving disputes arising from the Nigerian capital market, the pertinent issues that continue to arise are:

- Issue of jurisdiction.
- Issue interlocutory applications.
- Exercise of discretionary powers.
- Adjournments.
- Gaps in the applicable laws.

Jurisdiction: The most frequent issue arising from the adjudication of disputes emanating from the capital markets operations in Nigeria is the issue of jurisdiction¹⁸. According to Black's Law Dictionary,

¹⁷Investments and Securities Act, 2025

¹⁸ Matteo Gargantini, 'Capital Markets and the Market for Judicial Decisions: In Search Of Consistency' (Max Planck Institute Luxembourg for

jurisdiction is the courts' power to decide a case or issue a decree. However, the enabling statutes provide the limits of such jurisdictional powers. It is trite law that issues of jurisdiction are fundamental to courts in the determination of cases brought before them; hence, the issue of a court's competence to entertain an action before it can be raised at any time in the course of the proceeding prior to judgement. The issue of jurisdiction may also come up in appellate courts. In the words of Mohammed Bello,

“Jurisdiction is the blood that gives life to the survival of an action in a court of law, and without jurisdiction, the action will be like an animal that has been drained of its blood. It will cease to have life; any attempt to resuscitate it without infusing blood into it would be an abortive exercise.”¹⁹

In **Amechi v. INEC**²⁰, the Court of Appeal held inter-alia:

“Jurisdiction is a term of comprehensive import, embracing all kinds of judicial action. It is the legal right by which judges exercise their authority to hear and determine the subject matter in controversy between parties to a suit. It is the basis, the foundation and the conduit of access to court in adjudication under the Nigerian legal system.”

The Supreme Court in **Madukolum v. Nkemdilim**²¹ laid down the criteria upon which a court may adjudicate on a matter brought before it, amongst which is that the court must be properly constituted, the subject matter of the case must be within the jurisdictional ambit of the court, and all the conditions precedent to instituting such actions are met.

In **Samuel Osigwe v. B.P.E & Anor**²², the court stated that in adjudicating matters arising from capital markets operations in Nigeria, the issue of jurisdiction is a reoccurring phenomenon. Litigants always accost the court with interlocutory applications challenging the jurisdiction of court to entertain cases bordering on capital market activities in Nigeria²³. Section 230 of the 1979 Constitution of the Federal Republic of Nigeria section 3 [3] vested exclusive jurisdiction on the Federal High Court, formerly known as the Revenue Court, to hear and decide on issues connected with or pertaining to the revenue of the Government of the Federation as may be prescribed by the National Assembly. This particular provision opened floodgates of jurisdictional confusion that are that are still biting hard in the adjudication of cases in Nigeria, particularly the capital market disputes. Section 251 (d),(e) and (r) of the 1999 Constitution of the Federal Republic of Nigeria (CFRN) further conferred exclusive jurisdiction on the Federal High Court (FHC) to entertain civil causes and matters connected with or pertaining to banking, banks, other financial institutions, etc. lowing from the provisions of (r), the FHC wields exclusive jurisdiction to determine cases pertaining to the validity of any executive or administrative action or decision by the Federal Government or its agencies (i.e. CBN, CAC, SEC, etc.). It should be noted these agencies are also financial institutions. Furthermore, the FHC also has exclusive jurisdiction to entertain civil causes and matters arising from the operation of the Companies Allied Matters Act (CAMA) or any other subsidiary legislation brought pursuant to CAMA. The Investment and Securities Act (ISA), 2025, on the other hand, vests exclusive adjudicatory powers in the Investment and Securities Tribunal to hear and determine any question of law or dispute arising from capital market operations in Nigeria²⁴.

International, European and Regulatory Procedural Law Working Paper Series MPILux Working Paper 1) (2016) 5-48 <http://www.mpi-ierpl.lu/fileadmin/mpi/medienn/research/Gargantini_Capital_Markets_Brux_I_2_016-01-11_MPI.pdf> accessed August 18 2025

¹⁹ First Bank of Nigeria Plc & Anor v Ben-Segba Technical Services Limited and Anor [2015] LER CA/B/269/2011

²⁰ *Amechi v. INEC* (2008) 5 NWLR pt. 1080 SC 227

²¹ *Madukolum v. Nkemdilim* (1962) 2 SCNLR Pt. 342

²² (2005) 3 ISLR at pp 8 & 13

²³ *ibid*

²⁴ Section 284

It appears the provision with respect to the jurisdiction of the FHC over matters arising from CAMA on one hand and/or matters arising from other laws regulating the Nigerian capital market (ISA) are disjunctive. To further elucidate on this assertion, let us consider the case of *Skenconsult (Nig) Ltd v. Ukey*²⁵. When the matter was decided, CAMA, then known as the Companies and Allied Matters Act 1968, was the only law in Nigeria regulating the incorporation companies and dealings in companies' shares prior to the emergence of other laws, then the ISA 1999, 2007 subsequently 2025. Albeit the emergence of Investments and Securities Act brought about the removal of dealings in securities from CAMA, jurisdictional conflicts never ceased to arise, subsequent pronouncements have been made by the supreme to clear this jurisdictional conflict. The Court of Appeal in *Mufutau Ajayi v. Securities and Exchange Commission*²⁶ that any person aggrieved by an action or decision of SEC under the ISA may institute an action in IST²⁷. It further held that the jurisdiction of the IST is not of a concurrent application with that of the Federal High Court (FHC).

The provisions of section 251 (d) of CFRN 1999 with respect to the Banks and Other Financial Institutions Act (BOFIA) 2020 are always in contention before the court. It had been hard to answer the question as to whether, with the creation of IST and the exclusive jurisdiction conferred on it to entertain matters relating to the capital market, the exclusive jurisdiction of FHC by the Constitution has been totally severed.

A jurisdictional issue arises when litigants argue that:

- The CFRN, 1999, which conferred exclusive jurisdiction on the Federal High Court, supersedes all laws in Nigeria
- By virtue of the fact that the CFRN 1999 is supreme, the FHC's jurisdiction supersedes that of the IST
- The Investment and Securities Act cannot limit the jurisdiction of the FHC, particularly on issues bothering on administrative or executive actions and/or decisions emanating from the SEC
- The FHC wields jurisdiction to adjudicate on disputes arising from violations of ISA.
- The ISA confers exclusive jurisdiction on the IST to hear and determine matters arising from the capital market.
- Section 6 (4) (a) of the CFRN, 1999, empowers the National Assembly of the Federal Republic of Nigeria to establish courts other than those to which the section relates; therefore, the ISA, being an act of the National Assembly, is also provided for in the Constitution.
- How can the exclusive jurisdiction of the FHC over matters arising from CAMA (which includes SEC) be exercised by the IST to the exclusion of the FHC, knowing full well the fact that public companies can issue securities?
- What if the intention of the CFRN is to put IST under the FHC? Why then should litigants appeal straight to the Court of Appeal instead of the FHC?

In *Nospecto Oil & Gas Ltd v. Matiluko Emmanuel Olorunnimbe & Ors*²⁸, the court held that when a relief is sought against SEC and CBN, the matter ought not to have come before the IST consequent upon the power conferred on the FHC. The Supreme Court ruled in 2023 that the Investment and Securities Tribunal (IST) has exclusive jurisdiction over capital market disputes, including Ajayi's claim that the SEC violated his right to a fair hearing in a prospectus containing false debt information²⁹. Will it then suffice to say that the exclusive jurisdiction conferred on the FHC by the CFRN over company matters, including cases consisting of both corporate law issues and securities regulations, goes to the IST, or will the parties isolate the issues and take them to the FHC and IST, respectively? Wouldn't it amount to unnecessary delay and additional costs for litigants?

Despite the court's efforts to resolve these jurisdictional issues in *Ajayi v. SEC and Ors*, the adjudication of matters arising from capital market operations in Nigeria remains hindered by jurisdictional issues. It is pertinent to know that this jurisdictional tussle revolves around the FHC and the IST.

Interlocutory Applications: Essentially, interlocutory applications are brought before the court during the pendency of a case³⁰. These applications are provided for and guided by the rules of various courts. An interlocutory application may be brought at any time in the cause of the proceeding before judgement and even in appellate courts. Whilst some of these applications are used to remedy certain defects in the substantive suit, some are conditions precedent to the proper commencement of the substantive matter or applications targeted at seeking some temporary reliefs in addition to the final claims as may be contained in the final judgement. Once an action has commenced, subsequent applications are referred to as interlocutory, which the court is bound to entertain prior to the determination of the substantive case. *Nalsa Teem Associates Ltd v. NNPC and Kotoye v. Saraki*³¹. Interlocutory applications are brought by way of motion pursuant to the Rules of Court applicable in the circumstance.

Although these applications have proven effective for ensuring speedy justice and fair hearings, litigants have abused this right and privilege, thereby inadvertently encouraging delays in case adjudication. In *Samuel Osigwe v. B.P.E. & Anor*³², the court held that the interlocutory application brought by the defendant or applicant challenging the jurisdiction of the court simpliciter is not a ground for granting a stay of proceeding. It was further held that where an interlocutory application is raised in bad faith, the court must refuse to grant it. Albeit the refusal or grant of an interlocutory application is discretionary, the court must nevertheless exercise such power judicially and judiciously. Undoubtedly, interlocutory applications are essential as well as acceptable in the adjudication of cases anchored on capital market operations in Nigeria; the improper use of these applications affects the speedy and effective dispensation of cases. Often times, litigants engage in bringing interlocutory applications that are incompetent, frivolous, and vexatious, thereby delaying justice and wasting the court's time. In most cases, some litigant, particularly those with very poor cases, capitalize on technicalities and besiege the court with different applications with the aim of delaying proceeding or destroying the case. The issues related to interlocutory applications can be compared to stabbing a man in the stomach; removing the knife will lead to the man's death, and leaving the knife will also result in his death.

Exercise of Discretionary Powers: There is hardly an angle of life that does not allow the exercise of discretion, be it in the exercise of executive, judicial or legislative functions. The judges are allowed to exercise discretion in adjudicating on disputes before them, including capital markets disputes. In the words of Stephen Brown, Judge of the Washington State Court of Appeal;

“Discretion is fundamental to the judicial system, and its exercise is an integral part of the role of the judge. An essential tool in the kit of every lawyer and judge, it enables the application of what are often blunt instruments to the subtle nuances of the individual case³³.”

The Rules of Courts and applicable legislation expressly vest judicial discretion in judges in certain cases³⁴. The judge is duty bound, after

³⁰Ojukwu C N, 'Introduction to Civil Procedure' (Abuja, Helen Roberts Limited, 3rdedn 2009) pg 205

³¹(1991) 8 N.W.L.R. pt 212 at 652; (1991) 11 S.C.N.J. 51

³²Ibid n20

³³Abdulkarim A Kana1, 'Perspectives and Limits of Judicial Discretion in Nigerian Courts' Journal of Law, Policy and Globalization (2014) 29 157-159 <www.iiste.org ISSN 2224-3240 (Paper) ISSN 2224-3259> accessed 21 August 2025

³⁴Order 1, rule 2 of the Federal High Court Rules 2019 grants the court a wide range of discretion, particularly where no specific or sufficient provision is made, to apply its discretion to ensure that justice is served. The Investment

²⁵ (1981) NSCC 1

²⁶ (2009)13 NWLR

²⁷ ibid

²⁸ (2011) LPELR-CA/L/474/11

²⁹ Ibid n 23

weighing the evidence before him, to make findings upon which he will rely to reach a decision. In addition, judges have discretionary powers to devise remedies from the enforcement rules and statute apart from the applicable statutes and practice guidelines, as most statutes involve discretion through findings of fact³⁵. The judge is duty bound to be just, fair and reasonable in exercising discretion. The issue with the exercise of discretion in capital market matters is the lack of a yardstick for measuring the exercise of this power. Litigants, on the other hand, put judges at a crossroad through their unquenchable taste for interlocutory applications to stay proceedings, raise the issue of bias, etc. In such a scenario, judges find themselves in a precarious situation between battling to save their integrity and saving the case before them. When out of anger they decide to exercise the discretion at their disposal in their favour, it delays justice and even leads to a waste of time for the court, especially when the matter has gone very far before the application was made. Would it then suffice to say that the exercise of such discretion is judicially and judiciously made? In *Samuel Osigwe v. B.P.E.*³⁶, the court held that the discretion to grant an interlocutory application must be exercised judicially and judiciously by having regard to all the circumstances of each case. There is no yardstick for measuring discretion; what Judge A considers expedient may not be the same to Judge B, and that is the reason behind conflicting judgements³⁷.

In other words, the exercise of discretionary powers by judges in the adjudication of issues arising from capital market operation in Nigeria has continued to be an obstacle in the effective and speedy dispensation of cases. Some of the appeals lying before the appellate courts are products of the wrong exercise of discretion and deciding similar cases with similar facts differently due to lack of unified precedent as was the case in *Wike v Dakuku Peterside and Ors*³⁸. In this case, the Electoral Act that was in force at that time contained gaps and ambiguities, which allowed the court to exercise discretion in interpreting its provisions, leading to varying interpretations by different courts.

Adjournment: Call it adjournment, suspension, breaking off, discontinuation, interruption, postponement, rescheduling, deferment, deferral, delay, shelving, stay, terminating or halting; they mean one and the same thing. Adjournment is inevitable and sometimes a necessity in the effective adjudication of cases. However, when the application and grant of adjournment are excessively and unwarrantedly made, it affects the overall essence of seeking justice in court³⁹. Lawyers hide under the cloak that they have the right to adjourn to exhibit laziness and carelessness. Capital market disputes require expedient adjudication, but incessant applications for adjournment even go as far as delaying justice, which is one of the major reasons behind the establishment of the Investment and Securities Tribunal.

Lacunae in the Laws: Another recurrent issue in the adjudication of capital market cases in Nigeria is the presence of lacunas in some of the laws regulating capital market operations there. There is no such thing as a perfect law, the Investment and Securities Act 2025 and the Constitution (section 251) still conflict with respect to the jurisdiction of the Investment and Securities Tribunal and the Federal High Court. Notwithstanding the repeal of the Investment and Securities Act of 2007 and the enactment of the 2025 ISA, the Act seems not to have covered the field. Even though the Supreme Court in Securities

Exchange Commission v. Kasunmu⁴⁰ tried to resolve the jurisdictional issue arising from Section 326 of the Investment and Securities Act and Section 251(r) of the 1999 Constitution, the dust seems not to have settled. The existing legal framework is not sufficiently comprehensive to address the complex issues that arise in the adjudication of capital market disputes. The Investments and Securities Act (ISA) of 2025 does not grant the Investments and Securities Tribunal (IST) clear, exclusive jurisdiction over all capital market disputes, including criminal matters. This leads to a fragmented and cumbersome judicial process, which in turn reduces the effectiveness of the IST in resolving capital market cases. The tribunal's lack of full criminal jurisdiction makes it a less effective deterrent, inadvertently creating loopholes for offenders to evade justice. Furthermore, the Act's provision of a three-month time limit for the IST to adjudicate a matter is an unrealistically restricted deadline that often leads to rushed judgments and a potential compromise in the quality of justice.

CONCLUSION AND RECOMMENDATIONS

Capital markets worldwide are regulated by a distinct set of laws, rules, and regulations unique to each jurisdiction. These frameworks are guided by international best practices and the principles of international market regulations, as provided by the International Organization of Securities Commissions (IOSCO). In Nigeria, the Securities and Exchange Commission (SEC), established under Section 1 of the Investments and Securities Act (ISA) 2025, regulates capital market operations. Part II of the Act confers regulatory power on the SEC, while Part XVII establishes the Investment and Securities Tribunal (IST) and grants it the authority to adjudicate matters arising from capital market operations. The Federal High Court also holds constitutional power to entertain matters concerning banking, banks, and other financial institutions under Section 251 of the 1999 Constitution. As disputes are inherent in capital market operation, the burden of resolving these disputes rests on the judiciary. Effective adjudication of the disputes lies in holistic reforms, legislative, judicial, and procedural. There is a need to reform the Nigerian legal system to address the gaps in the laws, strengthen the judiciary through capacity building and instill stiffer penalties for abuses by litigants.

Legislative Reforms: It is essential to amend the Constitution to clearly separate and define all causes and matters related to capital market operations in Nigeria. Consequently, the Investments and Securities Act (ISA) should be amended to explicitly vest the Investment and Securities Tribunal (IST) with sufficient powers to entertain all capital market issues, including criminal matters.

Judicial Reforms: The judiciary must be extremely cautious when granting interlocutory applications, ensuring they are granted both judicially and judiciously. Courts should exercise caution to avoid injustice and should not hesitate to resist ploys by litigants who use these applications solely to delay justice. To curb incessant applications, the rules of court and relevant statutes allowing for interlocutory applications need to be reviewed. Judges must also exercise discretion carefully, as it is a powerful tool that reveals their competence, integrity, and sense of justice, fairness, and neutrality. Additionally, continuous capacity building is needed for judicial officers regarding capital market operations and new developments in the markets and law, aligning with global best practices.

Procedural Reforms and Sanctions: To prevent delays, courts should only grant adjournments when absolutely necessary to preserve a case. They must consistently resist frivolous requests for adjournments and impose stiff costs on parties who make unnecessary requests. Furthermore, the court must not hesitate to sanction litigants who abuse the judicial process and cause unnecessary delays through incessant and unrealistic interlocutory applications.

and Securities Act (ISA) 2025 does not include a general "discretion" rule but gives the Securities and Exchange Commission (SEC) stronger powers and more authority, enabling it to make better decisions in complicated cases, like fighting market manipulation and managing digital assets.

³⁵ *ibid*

³⁶ (2005) 3 ISLR at pp.9, 12, 16 and 17

³⁷ *ibid*

³⁸ (2016) 1 NWLR (Pt 1429) 71

³⁹ Adjournment in Judiciary; a Relentless Adversity; a Descriptive Study of the Three Adjournments Rules in Civil Suits' Indian Journal of Law and Legal Research (2021) II (II) P1 <<https://heinonline.org/HOL/LandingPage?handle=hein.journals/injlo1w2&div=396&id=&page=>> accessed 22 August 2025

⁴⁰ (2008) LPELR-CA/L/451/2004