

The Investments and Securities Act 2025 (ISA 2025) introduces a consolidated statutory framework for Nigeria's capital markets. Among its most significant features is the express inclusion of private equity (PE) and venture capital (VC) funds within the legal and regulatory perimeter governing collective investment schemes (CISs).

This article outlines the key reforms under ISA 2025 that impact PE and VC stakeholders, including fund managers, investors, and service providers.

1. Legal Classification of PE and VC Funds as CISs

Section 150 of the ISA 2025 expands the statutory definition of CISs to include both open- and closed-ended pooled investment vehicles, including those offered to qualified investors only. This presumption now extends to most PE and VC funds unless specifically exempted by regulation.

Section 151 authorises the Securities and Exchange Commission (SEC) to recognise a wider range of legal forms, including limited partnerships, trust structures, and contractual schemes. This alignment with international practice provides structural flexibility for domestic and cross-border fund sponsors.

2. Permissible Investment Activities and Foreign Asset Limits

Section 168 expands the scope of investments permitted for CISs, including infrastructure, private debt, unlisted equity, commodities, derivatives, and digital assets. It also imposes a 20% cap on foreign securities (listed on exchanges in International Organisation of Securities Commissions (IOSCO) member jurisdictions) unless otherwise approved by the SEC. This formalises the types of investments typically undertaken by PE and VC funds.

3. Public Fundraising and Statutory Disclosure Requirements

Section 95(1)(d) authorises CISs to raise capital from the public, subject to compliance with disclosure and registration rules. Section 95(2) classifies private equity and venture capital activities as legitimate commercial investment business, reinforcing their eligibility for regulated fundraising.

Sections 162 to 165 mandate the pre-clearance of offering documents and impose liability for misstatements or omissions. These disclosure

requirements apply regardless of whether the fund targets public or qualified investors.

4. Manager Registration and Conduct Standards

Under Section 155, all CIS operators must register with the SEC, satisfy fit and proper criteria, and operate within the scope of approved documents. The Act also introduces more stringent penalties for unauthorised fund activity and raises the prospect of personal liability for breaches committed by managers or officers.

5. Regulation of Foreign Fund Offerings

Section 193 strengthens controls on foreign CISs soliciting Nigerian investors. Prior SEC approval is mandatory. Failure to comply attracts penalties of ₦10 million or 10% of capital raised. Importantly, investors have a statutory right to rescind such investments and seek redress, closing a major enforcement gap in the former regime.

6. Custodial and Trustee Liability

Section 181 clarifies that custodians remain liable to investors for wilful default or negligence, but no longer owe a statutory indemnity to fund managers. This change necessitates that fund managers negotiate appropriate contractual protections in custody agreements.

7. Systemic Risk Monitoring Obligations

Sections 82 to 85 empower the SEC to request systemic risk data from CISs and related operators, including information on leverage, counterparty exposure, and sectoral concentration. Confidentiality clauses do not override this statutory obligation. These provisions introduce new reporting expectations for private capital vehicles with potentially systemic relevance.

8. Digital Assets and Technology-Linked Investments

Section 357 classifies digital and virtual assets, including cryptocurrencies and tokenised securities, as securities. This places related issuers, platforms, and custodians under the SEC's licensing and oversight framework. PE and VC investors must evaluate the regulatory posture of digital asset-backed portfolio companies accordingly.

9. Tax Treatment of CISs and Specialised Funds

Section 195 confirms that registered CISs are eligible for pass-through tax treatment, subject to conditions. However, this does not apply to “specialised or alternative schemes”, which include many PE and VC funds. These funds must rely on their legal form (e.g. limited partnership) to secure tax transparency under the Companies Income Tax Act (CITA) and Personal Income Tax Act (PITA).

10. Fraudulent Schemes and Market Conduct

Section 196, supported by definitions in Section 357, prohibits Ponzi, pyramid, and similar schemes. Penalties include fines of ₦20 million and/or imprisonment of up to 10 years. The SEC may seek asset forfeiture and court orders for enforcement. These measures bolster public confidence in regulated investment products.

11. Free Trade Zone Capital Raising and Regulatory Alignment

Section 95(1)(f) allows entities in Free Trade Zones (FTZs) to raise capital from the Nigerian public, subject to SEC approval. However, this provision may trigger questions about the tax treatment of such activities. Issuers and investors may require further guidance to assess the implications for FTZ-related tax exemptions when accessing domestic capital markets.

Conclusion

ISA 2025 introduces a more structured and expansive legal regime for private equity and venture capital in Nigeria. It codifies many aspects of the regulatory environment, broadens the investment scope for funds, and strengthens both compliance obligations and investor protections.

Stakeholders will need to assess:

- Whether their vehicles qualify as CISs (**Sections 150–151**).
- Registration status and fitness to operate (**Section 155**).
- Marketing and disclosure compliance (**Sections 95, 162–165**).
- Systemic risk exposure and readiness (**Sections 82–85**).
- Digital asset investment obligations (**Section 357**).
- Custody arrangements and liability allocation (**Section 181**).
- Tax implications and fund structuring (**Section 195**).
- Rules for foreign offerings and investor rescission rights (**Section 193**).

The full implementation of the ISA 2025 will depend on forthcoming SEC rules and interpretative guidance. In the interim, private capital participants are encouraged to review existing documentation, compliance frameworks, and investor communications to ensure alignment with the ISA 2025’s provisions and updated Rules, as and when they are issued by the SEC.

Disclaimer: Udo Udoma & Belo-Osagie’s Private Equity and Venture Capital team advises investors and fund sponsors on regulatory compliance, fund structuring, and investments. This memorandum is authored by team members Folake Elias-Adebawale, Damilola Adedoyin, Aanuoluwapo Odunaike, Solomon Adegboyo, and Ayomide Soretire (who are grateful to Omotayo Ogunnaike for her editorial contributions to this update). This update is for general information purposes only and does not constitute and may not be relied upon as legal advice or recommendations in any respect. Independent professional advice should be sought. For specific guidance on the ISA 2025 or any related issue, the authors may be reached at pemateam@uubo.org; uubo@uubo.org and please visit our website for information on our 23 practice group offerings at www.uubo.org.

OVERVIEW OF THE INVESTMENTS AND SECURITIES ACT 2025: KEY CHANGES FOR PRIVATE EQUITY AND VENTURE CAPITAL FUNDS IN NIGERIA

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