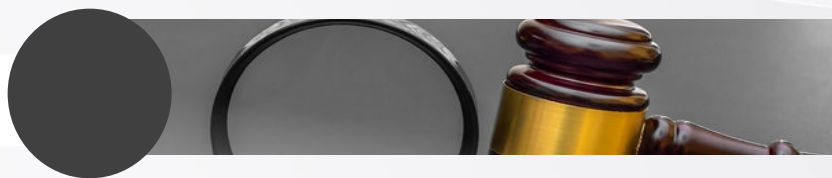


**Strengthening Corporate Governance  
Culture in Public Companies  
and SEC-Regulated Entities:**  
SEC Circular on the Transmutation  
and Tenure of Independent Non-executive  
Directors and Tenure Of Directors



## INTRODUCTION

In response to the unethical conduct of independent non-executive directors transmuting to executive directors, within the same group or structure, the Securities and Exchange Commission (SEC), on 19<sup>th</sup> June, 2025, issued a circular targeted at proscribing the practice as a part of its larger regulatory mandate. In the circular, the SEC raised concerns about *the worrying trend of the transmutation/conversion of Independent Non-Executive Directors (INEDs) to Executive Directors, including to the position of the Chief Executive Officer*.<sup>1</sup> It equally noted that the practice erodes the neutrality of the transmuting INEDs and compromises their ability to provide objective judgment, the foundational principle governing independent directorship, as contained in extant regulations including the National Code of Corporate Governance (NCCG) and the SEC Corporate Governance Guidelines (SCGG), both referenced in the circular.



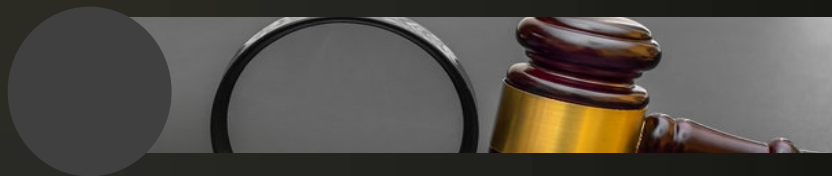
## The Unique and Gatekeeping Role of Independent Directors in Corporate Organizations.

Simply put, independent directors are directors with no personal stake or material relationship in an organisation. They are often referred to as “outside directors”. Central to the role of independent directors, to enable them effectively discharge their responsibilities within the organization or group, is neutrality. Essentially, they are appointed to offer impartial opinions on the organization's status, key corporate decisions of individuals and activities in an organisation; evaluate its financial management, oversee the accuracy of financial reporting and effectiveness of internal controls; and where the need arise, report any instance of unethical behavior, fraud, or violations of company policies.

**Principle 7** of the NCCG reiterates the high level of independence and objectivity an INED must possess. Among other things, it states that an INED *should represent a strong independent voice on the Board, be independent in character and judgment and accordingly be free from such relationships or circumstances with the Company, its management, or substantial shareholders as may, or appear to, impair his ability to make independent judgment*. In the same vein, Guideline 4 of the SCGG reiterates the need for INEDs to have an impeccable/pristine history and no previous attachments that

<sup>1</sup> Securities Exchange Commission, “Circular To All Public Companies And Capital Market Operators On The Transmutation Of Independent Non-Executive Directors And Tenure Of Directors” dated 19th June, 2025, accessible at [The Securities and Exchange Commission, Nigeria](#)





leave room for bias, compromise or undermine stakeholder trust, and blur lines between corporate governance and day-to-day management. Thus, where any compromise in their status or position within an organization might be reasonably perceived to inhibit this neutrality, it invariably offends the corporate governance principle. It is against this backdrop that SEC has decided to wield the big stick against the practice particularly against public companies and significant public interest capital market operators.

## Key Innovations Under the New Regime

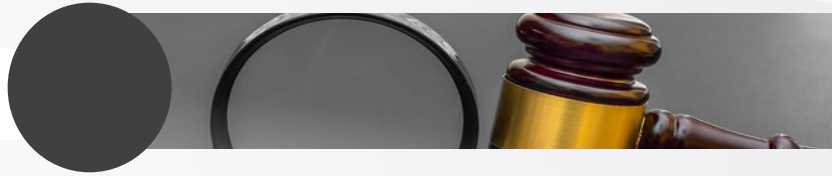
The innovations/best practice enacted by the Circular may be summarized as follows:

- i. The prohibition of transmutation/conversion of INED:** With a view to maintaining neutrality and independence of INEDs in accordance with existing corporate governance guidelines and best practices, INEDs can no longer transition to executive roles within the same company or within a group structure.
- ii. Tenure cap for directors of significant public interest entities:** In furtherance of its powers under Section 355(r)(iv) of the Investments and Securities Act (ISA) 2025 to prescribe corporate governance standards for regulated entities, the Circular also limits the tenure of Directors of Capital Market Operators considered as significant public interest entities to ten (10) years for those within the same company; and twelve (12) years for those within the same group structure.
- iii. Restriction on chairmanship roles for former CEOs and EDs:** In an apparent bid to limit the influence of former Chief Executive Officers of Directors within the company or group structure, the Circular stipulates a 3-year “cool off period” during which they may not be appointed as Chairman and also pegs their Chairmanship (when so appointed) to a maximum of 4-years.

## Outlook for the Industry and Its Stakeholders

Without a doubt, the practice of INEDs quietly transitioning into executive roles blurs the lines of neutrality. Under this arrangement, conflicts of interest, lack of transparency, and compromised objectivity could easily become the order of the day. This is particularly pertinent given the discreet manner in which some of these transitions are carried out. Some of these instances include when INEDs are brought in as fresh executive appointments; reinstating them under different titles, making it difficult to trace their prior independent status; or modifying the roles of INEDs behind closed doors without the knowledge of stakeholders.



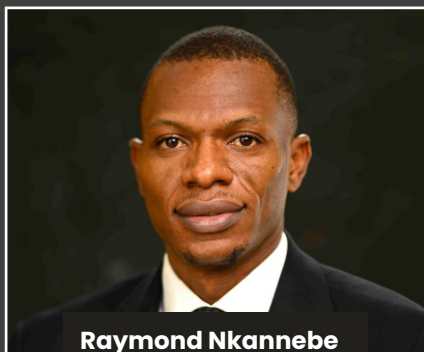


In the face of these realities, it is our considered view that SEC's directive is a timely measure to guard against such non adherence and re-educate stakeholders and institutions on the need to ensure strict compliance with corporate governance standards. In any event, when all is said and done, it is our view that these organisations have more to gain from an environment with truly independent boardrooms and assured accountability. Not only will stakeholder trust be protected, but it will also foster a long-lasting and profitable enterprise and contribute to the long-term stability of Nigeria's capital market.

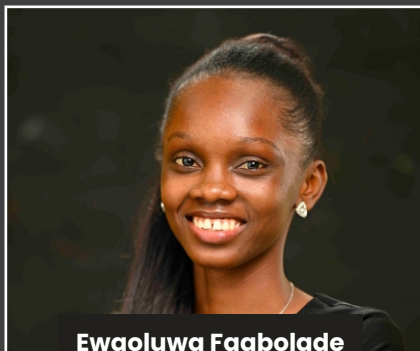
It is expected that all public companies and “significant public interest” entities will take steps to update their existing corporate governance policies in line with the innovations under the Circular in order to ensure that subsequent appointments align with the extant regulatory regime.



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