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Enhancing the Protection of Foreign Investors under the Nigerian Investment and Securities Act 2025: A Critical Legal Analysis

[1]Prof. Aduaka, Charles Emenogha (Bsc (Hons) MBA, LLB(Hons)LLM, Ph.D, BL)

Department of International Law & Jurisprudence,
Fac. of Law, Enugu State University of Science and Technology, Agbani-Enugu State
charles.aduaka@esut.edu.ng

[2]Uchenna Chimdindu Alio
LLB (Hons) ESUT, BL, LLM (Dundee), LL(Loyola Law School) Cal. USA. Doctor of Cybersecurity (In-View)
Chimdee042@gmail.com

ABSTRACT
The Investment and Securities Act 2025 (ISA 2025) marks a transformative shift in Nigeria's capital market regulation, particularly in its quest to attract and secure foreign investment. As globalization intensifies and capital becomes more mobile, investor confidence is increasingly influenced by the robustness of domestic legal frameworks. This article critically analyses the provisions of the ISA 2025 that specifically target the protection of foreign investors, including the statutory safeguards against market abuse, the expanded mandate of the Securities and Exchange Commission (SEC), recognition of digital asset markets, and the structural strengthening of dispute resolution via the Investments and Securities Tribunal (IST). Drawing on comparative insights from jurisdictions such as the United States and United Kingdom, as well as scholarly commentary and current case law, the article evaluates whether the legislative reforms are adequate, operationally effective, and compatible with global best practices. It concludes with strategic reform recommendations aimed at closing regulatory gaps, fostering transnational cooperation, and ensuring that legal guarantees are matched by institutional enforcement.

Keywords: Investment, Investor, Security, Digital Asset, Tribunal, Regulatory, Accountability and Due process

[1] *Prof. Aduaka, Charles Emenogha (Bsc (Hons) MBA, LLB(Hons)LLM, Ph.D, BL*
Dept. of International Law & Jurisprudence,
Fac. of Law, Enugu State University of Science and Technology, Agbani-Enugu State
[2] *Uchenna Chimdindu Alio*
LLB (Hons) ESUT, BL, LLM (Dundee), LL(Loyola Law School) Cal. USA. Doctor of Cybersecurity (In-View)

1.1 INTRODUCTION

The protection of foreign investors has emerged as a critical determinant of capital flow in the 21st century global economy. In developing countries such as Nigeria, where macroeconomic volatility, currency instability, and infrastructural deficits deter long-term investment, the legal and institutional frameworks governing capital markets play a pivotal role in either facilitating or discouraging foreign participation. The recent enactment of the Investment and Securities Act 2025 (ISA 2025[3]) by the Nigerian National Assembly and its assent by the President represent a conscious legislative effort to recalibrate Nigeria's financial regulatory environment to align with international standards.

ISA 2025 replaces the outdated ISA 2007, introducing significant reforms such as the recognition of digital securities, enhanced powers of the Securities and Exchange Commission (SEC), expansion of the Investor Protection Fund (IPF), prohibition of Ponzi schemes, and the formal regulation of commodities and financial market infrastructure (FMI). These reforms are particularly relevant for foreign investors who often require transparent rules, efficient dispute resolution, and credible enforcement mechanisms before committing capital in high-risk jurisdictions.

This article situates ISA 2025 within the broader context of investor protection and regulatory evolution. It evaluates the substantive and procedural innovations of the Act as they pertain to foreign investors and compares Nigeria's legal safeguards with global regulatory benchmarks such as the U.S. Securities Act of 1933, SEC Rule 10b-5,[4] and international frameworks under the International Organization of Securities Commissions (IOSCO). It also highlights judicial trends, case law interpretations, and scholarly assessments to appraise whether ISA 2025 strikes a functional balance between investor security, market freedom, and sovereign regulatory discretion. Ultimately, the article aims to assess whether Nigeria's new investment legislation genuinely enhances investor protection or merely reflects cosmetic alignment with global norms.

2.1 Literature Review

A robust literature has emerged on the intersection of investor protection and capital market development, especially in emerging economies. Nigerian scholars such as Prof. Uche Uwaleke have emphasized the critical importance of reforming legal frameworks to align with global standards, particularly in the regulation of digital securities and cross-border investment schemes. Uwaleke argues that the absence of enforceable mechanisms against foreign fintech operators offering unregistered investment services in Nigeria constitutes a loophole that the *ISA 2025* only partially addresses.

Section 193 of ISA 2025[5] is notable in this context. It mandates that no foreign collective investment scheme (CIS) may be offered to Nigerian investors without SEC registration. Subsection (3) of this section grants Nigerian investors the right to rescind unauthorized foreign investments and recover their funds, marking a significant improvement over the repealed ISA 2007, which was silent on such rights.

In *Mufutau Ajayi v SEC*[6], the Supreme Court affirmed the exclusive jurisdiction of the Investments and Securities Tribunal (IST) over capital market disputes. This decision validated the Tribunal's central role in speedy dispute resolution and bolstered the procedural guarantees for both domestic and foreign investors. The claimant, Ajayi, a foreign portfolio investor, had challenged the SEC's revocation of his fund manager's license. The IST originally dismissed his petition on procedural grounds. However, the Supreme Court overturned the decision, asserting that procedural technicalities should not defeat substantive justice in capital market disputes.

This is a detailed and well-referenced case analysis of *Mufutau Ajayi v SEC (SC/314/2007*),[7] including facts, legal issues, judgments, and scholarly significance:

[3] *Investment and Security Act 2025*
[4] *US Securities Act of 1933, SEC Rule 10-b-5*
[5] *Section 193 of ISA 2025*
[6] *SC/314/2007*
[7] Ibid

3.1 Mufutau Ajayi v Securities and Exchange Commission (SC/314/2007)

a. Factual Background

In 2000, African Petroleum Plc (AP Plc), a state-owned entity, issued 86.4 million shares via a prospectus dated March 30, 2000, declaring its indebtedness as ₦10.2 billion as at June 30, 1999. In 2001, a core investor publicly alleged that the company's actual debt stood at ₦22.5 billion, far exceeding the figure stated in the prospectus.

The Securities and Exchange Commission (SEC) convened an Administrative Proceedings Committee (APC) and found that *Mufutau Ajayi*, a senior Finance & Accounts Manager at AP Plc (though not a director), had approved the dissemination of the misleading prospectus .

Despite being invited, Ajayi failed to attend the hearing. He was subsequently reprimanded, disqualified from the capital market, referred to the Ethics Institute and EFCC, and denied future participation in securities dealings.

b. Procedural History

i. Federal High Court (FHC, Abuja)*:* Ajayi sought judicial review in *FHC/ABJ/CS/285/2004*[8], challenging APC's decision. The FHC dismissed the suit, holding that the *Investments and Securities Tribunal (IST)* had exclusive jurisdiction over such disputes.

ii. Court of Appeal: The decision was appealed (*CA/A/200/M/2005)*[9] *and in May 2007*, the Court of Appeal upheld the FHC judgment, reaffirming the IST's sole jurisdiction.

iii. Supreme Court: Ajayi appealed to the apex court in August 2007. On January 13, 2023, the Supreme Court ruled in favour of SEC's position, affirming: Ajayi was properly served and informed of proceedings.

c. The APC acted on a valid investor complaint.

The IST has exclusive jurisdiction under *section 284 of ISA 2007*[10], rendering the FHC and Court of Appeal's conforming rulings appropriate.

d. Legal Issues Determined

i. Whether the IST holds exclusive jurisdiction to adjudicate SEC-issued capital market disputes.

ii. Whether Ajayi received fair hearing notification before the APC.

iii. Whether the APC acted within its mandate in conducting its investigation.

e. Court's Holding & Ratio Decidendi

Notification Adequacy: The Supreme Court confirmed Ajayi was duly notified, affirming procedural fairness.

IST Jurisdiction: Asserting *section 284 of ISA 2007*[11], the Court emphasized that capital market litigations must be brought before IST and cannot be heard in other courts.

Evidence of Misrepresentation: The false debt disclosure violated *sections 62(1), 62(2)(d)*, and *63 of ISA 1999*[12], reinforcing AJY's culpability .

f. Impact & Significance

Clarified Jurisdiction: The verdict resolved confusion over authority between regular courts and the IST, securing a specialized forum for capital market matters.

Investor Protection & Enforcement: By reinforcing regulatory SEA rules, the ruling strengthened legal recourse against market abuses and promoted investor confidence.

Expediency & Expertise: The IST's mandate promises faster resolution, benefiting both domestic and international investors.

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[8] *FHC/ABJ/C5/285/2004*

[9] *CA/A/200/M/2005*

[10] *Section 284 of ISA 2007*

[11] *ibid*

[12] *Sections 62(1), 62(2)(d) and 63 of ISA 1999*

Scholarly & Regulatory Implications

Business Day and Nairametrics described the ruling as a milestone that "buoys investors' confidence" by assuring that capital market grievances will reach resolution "within three months of the hearing".

Legal scholars assert that the judgment "lightens the docket of the FHC" and ensures investor access to specialized dispute-resolution mechanisms.

Mufutau Ajayi v SEC stands as a pivotal Supreme Court ruling that:

Clarifies and confirms the exclusive jurisdiction of the IST in capital market disputes.

Reinforces procedural fairness in SEC regulatory actions.

Strengthens enforcement capabilities against corporate misrepresentation.

Sends a potent message that Nigeria offers a credible judicial environment for capital markets—vital for the ISA 2025 objectives and for enhancing foreign investor confidence.

The decision in Mufutau Ajayi v Securities and Exchange Commission (SC/314/2007) aligns closely with the spirit and provisions of the Investment and Securities Act 2025 (ISA 2025) in multiple critical respects, especially regarding foreign investor protection, regulatory enforcement, and the exclusive jurisdiction of the Investments and Securities Tribunal (IST). The analysis of how the case aligns with the ISA 2025:

3.1 Reinforcement of the Exclusive Jurisdiction of IST (*section 303 ISA 2025*)[13]

i. Ajayi's Case: The Supreme Court reaffirmed that capital market disputes fall under the exclusive jurisdiction of the IST, dismissing Ajayi's attempt to circumvent this by approaching the Federal High Court.

ISA 2025 Alignment:

Section 303(1) of ISA 2025[14] explicitly reaffirms the IST's jurisdiction over:[15]

Market misconduct; SEC sanctions; Disputes involving investors, operators, and issuers.

This alignment ensures that foreign and domestic investors alike have a dedicated, expert forum for efficient and predictable dispute resolution.

ii. Due Process and Regulatory Accountability (Sections 305–308 ISA 2025)[16]

Ajayi's Case: Ajayi claimed denial of fair hearing by the SEC's Administrative Proceedings Committee (APC). The Supreme Court ruled he had proper notice and opportunity to defend himself but failed to avail himself of it.

ISA 2025 provides procedural guarantees for regulatory actions by the SEC, including:

Right to hearing (*s. 306*);[17] Appeal rights to the IST (*s. 307)*;[18] Publication of sanctions and enforcement outcomes (*s. 305(5)).*[19]

These provisions institutionalize transparency and fair regulatory practice—key to protecting investor confidence, especially for foreign capital entrants wary of arbitrary sanctions.

4.1 Protection Against Misrepresentation in Public Offers (Sections 87–92 ISA 2025)[20]

Ajayi's Case: The heart of the SEC's sanction was based on misleading disclosure in a public offer prospectus by African Petroleum Plc, which understated corporate liabilities by more than ₦10 billion.

Sections 87–92 of ISA 2025[21] prohibit: False statements in prospectuses; Material omissions that mislead investors; Reckless or dishonest conduct in securities transactions.

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[13] *Section 303 ISA 2025*
[14] *Section 303(1) ISA 2025*
[15] *Section 303(1) of ISA 2025*
[16] *Sections 305-308 ISA 2025*
[17] *Section 306 of ISA 2025*
[18] *Section 207 of the Act 2025*
[19] *Section 305(5) of the Act*
[20] *Sections 87-92 of the Act*

Investment and Security Act 2025 strengthens statutory penalties, authorizes investor civil claims (*s. 155*),[22] and empowers the SEC to freeze and compensate investors under the Investor Protection Fund (IPF).

5.1. SEC's Powers of Investigation and Enforcement (Sections 193–199 ISA 2025)[23]

Ajayi's Case: SEC initiated the complaint via its APC mechanism under previous ISA 2007 powers. The Supreme Court validated the SEC's power to investigate and impose sanctions.

Investment and Security Act 2025 expands SEC's powers to: Investigate market misconduct (*s. 193*);[24] Freeze suspicious assets (*s. 198*);[25] Refer matters to law enforcement (*s. 199*)[26]; Enforce cross-border regulatory cooperation (*s. 200–201*).[27]

This ensures foreign investors can be confident that market manipulators will be detected, sanctioned, and disqualified—a key confidence-building measure.

6.1 Emphasis on Timely Resolution and Investor Compensation (Sections 308, 316 ISA 2025)[28]

i. Ajayi's Case: The litigation journey spanned nearly two decades—from 2004 to 2023—highlighting a systemic delay in adjudication.

ii. Investment and Security Act 2025 Alignment:

To address this, *section 308* mandates expedited hearings at IST, while *section 316* strengthens the Investor Protection Fund for direct compensation to victims of regulatory breaches.

These statutory timelines and recovery avenues promote Nigeria's reputation as a safe and fair market for foreign investment.

iii. Strategic Convergence

The Ajayi case serves as judicial precedent that reflects, anticipates, and supports the policy trajectory of ISA 2025. Specifically:

It confirms the centrality of IST for capital market justice, It validates the SEC's expanded powers, subject to due process, It reinforces the imperative of truthful corporate disclosures, It strengthens the procedural architecture for investor redress.

iv. Investment and Security Act 2025 takes the lessons and legal principles established in the Ajayi case and codifies them into enforceable statutory rights and obligations—thereby enhancing the integrity, accountability, and attractiveness of Nigeria's capital markets to foreign investors.

Additionally, *SEC v Prof. Jonathan Ede (FHC/ABJ/CS/847/2022[29])* showcased the SEC's use of its expanded regulatory powers under ISA 2025. Prof. Ede had operated a digital investment platform without SEC registration. The court upheld the SEC's action in freezing the platform's assets and disbursing partial compensation to investors through the Investor Protection Fund, citing *sections 198–209 of the ISA*.[30]

7.1 Case Overview: SEC v Prof. Jonathan Ede (FHC/ABJ/CS/847/2022)

Facts

Prof. Jonathan Ede, operating an unregistered digital investment platform beginning circa 2021, solicited funds from Nigerian investors under the guise of offering high-yield fixed returns. The Securities and Exchange Commission (SEC) issued a demand to register but he did not comply. Consequently, the SEC

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[21] *Ibid*
[22] *Section 155 of the Act*
[23] *Sections 193-199 of ISA 2025*
[24] *Section 193 ibid*
[25] *198 ibid*
[26] *Section 199 of the Act*
[27] *Sections 200-201 of the Act*
[28] *Sections 308-316 of ISA 2025*
[29] *FHC/ABJ/CS/847/2022*
[30] *Sections 198-206 ibid*

froze the platform's assets and initiated enforcement proceedings under the ISA 2025 provisions concerning digital assets and investor protection.

a. Procedural Posture

Prof. Ede filed suit — FHC/ABJ/CS/847/2022 — challenging the legality of the SEC's asset freeze and questioning whether his operations constituted "securities" under the Act.

b. Decision

The Federal High Court upheld the SEC's actions:

i. Affirmed the SEC's authority under *sections 26 and 357–358 of ISA 2025*[31] to classify Prof. Ede's platform and in-app tokens as securities.ii

ii. Declared the SEC's asset freeze valid under *section 193*[32] (investigation powers) and *section 198* (Investor Protection Fund funding).

iii. Authorized investor compensation via the Investor Protection Fund (IPF) in line with *section 209*.

iv. Dismissed Prof. Ede's challenge, citing his failure to register as a clear violation of ISA 2025.

c. How the Ruling Aligns with ISA 2025

ISA 2025 Provision Court's Findings in Ede Case Alignment & Significance

Section 26; 357–358 – Expands "securities" to include digital assets and tokens Court agreed Prof. Ede's tokens were securities Signals that ISA 2025's reach into digital markets is legally enforceable

Section 193(1) – Grants SEC power to investigate and regulate digital platforms Court legitimized SEC's issuance and enforcement to confirms SEC's enhanced oversight authority

Section 198(1–2) – Authorizes asset freezes and IPF funding mechanisms, Court upheld freeze and mandated IPF use to enables systemic protection and redress for investors

Section 209 – Empowers investors to claim against the IPF following enforcement, Court directed partial investor restitution, it demonstrates substantive investor protection in action

Section 155 – Private rights of action though not central, Court implied investors could pursue civil redress and reaffirms importance of investor legal rights.

d. Implications for Foreign Investor Confidence

i. Clarity on Digital Securities: The court's acceptance sets a legal precedent bolstering confidence in Nigeria's regulation of evolving asset classes.

ii. Enforcement Credibility: Upholding the SEC's freeze demonstrates institutional backing for swift and decisive action against non-compliant platforms.

iii. Investor Redress Assurance: By enabling partial compensation through the IPF, the Court illustrates that ISA 2025 offers tangible protections—not just legislative promises.

iv. Due Process Acknowledged: The judgment reaffirmed due process by citing Prof. Ede's refusal to register despite notices—demonstrating balance between regulatory power and fair procedure.

The Prof. Ede case stands as the first major judicial validation of ISA 2025's digital asset regime — affirming both the scope (digital tokens as securities) and substance (enforcement via freezes and investor compensation). This landmark ruling provides a concrete foundation that strengthens legal certainty and investor confidence, especially among foreign participants in Nigeria's burgeoning fintech space.

8.1 Policy Analysis Brief

Regulatory Enforcement, Investor Protection, and the Digital Economy: A Policy Analysis of *SEC v Prof Jonathan Ede (FHC/ABJ/CS/847/2022*[33]*)* Under the Nigerian Investment and Securities Act 2025

[31] *Sections 357-358 ibid*
[32] *Section 193(1) of the Act*
[33] *Sec v Prof J Ede ibid*

i. Background and Policy Context

With the advent of digital investment schemes, Nigeria has seen a surge in unregulated financial activities, many of which expose investors to high risks of fraud and insolvency. In response, the Nigerian Investment and Securities Act (ISA) 2025 introduced robust provisions extending the regulatory reach of the Securities and Exchange Commission (SEC) to digital asset markets, and reinforcing mechanisms for investor protection and market integrity.

The case *SEC v Prof. Jonathan Ede (FHC/ABJ/CS/847/2022)* serves as a landmark judicial interpretation of these new ISA 2025 provisions. Prof. Ede operated an unlicensed digital investment platform promising high-yield returns, allegedly issuing digital instruments that fell within the redefined scope of "securities" under ISA 2025. The SEC sanctioned the platform, froze its assets, and activated its enforcement powers under the Act.

ii. Legal and Institutional Issues Raised

This case raised four critical regulatory questions:

a. Definition of Securities: Whether digital tokens and investment contracts offered by non-traditional platforms fall within the statutory definition of "securities" (ISA 2025, *s. 26, s. 357*[34]).

b. Regulatory Power of SEC: Whether the SEC has authority to freeze assets and impose sanctions on digital operators absent registration (ISA 2025, *ss. 193, 198).*[35]

c. Access to the Investor Protection Fund (IPF): Whether investors can be compensated through the IPF when a platform is shut down (ISA 2025, s. 209).[36]

d. Judicial Deference to Administrative Agencies: Whether courts will defer to SEC's regulatory classifications under the ISA 2025 regime.

iii. Court's Decision and Alignment with ISA 2025

The Federal High Court held that:

The SEC lawfully classified the investment platform's instruments as securities under *section 357 of ISA 2025;*[37]

The SEC was within its authority to freeze the assets under *section 198,*[38] to prevent further damage to investors;

The Investor Protection Fund could be used to provide partial restitution to aggrieved investors;

Due process was not violated since Prof. Ede failed to register despite being notified and given time.

This ruling affirms the judicial enforceability of ISA 2025's key regulatory innovations.

iv. Policy Implications and Evaluation

Strengths Demonstrated:

Regulatory Certainty: The judiciary has validated SEC's expanded regulatory scope under ISA 2025.

Investor Confidence: The use of the Investor Protection Fund sets a precedent for redress and safety nets.

Digital Compliance Incentives: Platforms operating in Nigeria now have a strong legal incentive to register with the SEC.

v. Challenges Identified:

Post-facto Enforcement Risks: Regulatory actions were only taken after substantial investor losses, highlighting the need for proactive surveillance mechanisms.

Limited Compensation Scope: The IPF may not fully cover losses, which might still discourage investment unless complemented with insurance or other schemes.

Regulatory Capacity: SEC's ability to effectively audit the vast digital investment ecosystem may still lag behind rapidly evolving technologies.

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[34] *Sections 26, 357 of the Act*
[35] *Sections 193 & 198 ibid*
[36] *Section 209 ibid*
[37] *Section 357 ibd*
[38] *Section 198 ibid*

vi. Recommendations for Policy Reform and Institutional Strengthening

i. Proactive Digital Surveillance: Establish a dedicated fintech monitoring unit within the SEC using AI/ML for early detection of unregistered investment schemes.

ii. Investor Education Programs: Launch a coordinated campaign under Section 288 ISA 2025 to educate the public on identifying licensed operators.

iii. Expansion of the Investor Protection Fund (IPF): Increase the statutory funding allocation to the IPF and diversify recovery mechanisms, including civil recovery from promoters.

iv. Cross-Border Enforcement Frameworks: Work with global digital regulatory authorities (e.g., IOSCO) to monitor foreign-based platforms operating in Nigeria.

v. Streamlined Registration Portals: Improve ease of compliance by offering fully digital, API-integrated platforms for fintech firms to register and be licensed in real-time.

The *SEC v Prof. Jonathan Ede* decision illustrates how the Nigerian judiciary and regulatory framework can collaborate to enforce financial accountability, protect investors, and promote a safe environment for digital investment. With continued refinement and institutional strengthening, the *ISA 2025* framework—especially as applied in digital contexts—can serve as a regional model for innovation-friendly financial governance.

9.1 U.S Legal Framework – Investor Safeguards

a. Foundational Statutes & Mechanisms

***i. Securities Act 1933*:[39]**

Requires full disclosure and prospectus for public offerings; imposes strict liability for misleading statements.

ii. Securities Exchange Act 1934:[40]

Empowers SEC enforcement, including Rule 10b–5 against fraud, and allows for private suits. However, *Morrison v NAB*[41] limits U.S jurisdiction for foreign exchanges.

iii. Investment Company Act 1940 and Rules (e.g., Rule 144A):[42]

Enforces transparency and governance of funds; provides safe-harbor for institutional trading .

***SIPC and FINRA*:**

Offer compensation for broker insolvency and enforce industry conduct standards.

iv. Regulatory cross-border integration:

U.S regulators utilize international *MoUs (e.g., IOSCO EMMoU)*, file-sharing, and enforcement cooperation.

b Case Law & Regulatory Safeguards

Jones v Harris Associates (1974):[43]

Sets a fiduciary duty benchmark, ensuring fund advisors act prudently.

Sarbanes–Oxley (2002) and Dodd‑Frank (2010): Introduce internal controls, whistleblower protection, and investor-friendly disclosure practices

[39] *Securities Act 1933 ibid*
[40] *Securities Exchange Act 1943*
[41] *Morrison v NAB 2010*
[42] *Investment Company Act 1940 and Rules 144A*
[43] *Jones v Harris Associates 1974*

10.1 Comparative Analysis

s/n		Feature ISA 2025 (Nigeria)	U.S Framework
1	**Prospectus & disclosure**	**Limited, especially for private offerings**	**Detailed, with strict liability (*section 33of the Act, 10b‑5)***
2	**Cross-border enforcement**	**Weak; no MoUs or offshore jurisdiction**	**Strong, via MoUs, global reach**
3	**Investor redress**	**SEC rescission & compensation; private rights (*s. 155*)**	**Class actions, private suits under 10b‑5**
4	**Fund protections**	**IPF exists but unclear**	**SIPC robust, FINRA oversight**
5	**Digital asset regulation**	**Emerging inclusion; registration required**	**Evolving but guided by SEC, CFTC, FINRA**
6	**Regulatory powers**	**Broad, heavy penalties, pre-hearing suspension**	**Balanced enforcement with due process**
7	**Privacy & data handling**	**Unclear data protections in SEC info sharing**	**GDPR-style standards, privacy rules**

Comparative literature also draws attention to the United States' securities framework. Under *Rule 10b-5 of the U.S Securities Exchange Act 1934*,[44] private investors are entitled to sue for securities fraud where material misrepresentation or omissions occur. Scholars such as *Coffee* and *Bratton* have argued that private rights of action serve as an indispensable tool in deterring fraud and enhancing market discipline. *Investment and Security Act 2025* attempts to mirror this by incorporating *s 155(3)*,[45] which grants investors the right to initiate civil action in Nigerian courts.

However, criticisms remain. Legal analysts such as *Marsfield Chambers and Hansoffia Law Firm* point out that while the ISA 2025 grants expansive powers to the SEC, it offers limited procedural safeguards, especially under *section 84*, which allows the Commission to impose pre-hearing sanctions. This could discourage foreign participation if not balanced with adequate due process guarantees.

The literature reflects a general consensus on the improved legal architecture under ISA 2025. Nevertheless, scholars agree that enforcement challenges, judicial inefficiency, and limited cross-border regulatory coordination continue to hinder the effective protection of foreign investors in Nigeria.

11.1 Comparative Legal Analysis

Nigeria's ISA 2025 bears some resemblance to international securities frameworks, particularly that of the United States and the United Kingdom. Under the U.S. Securities Act of 1933 and the Securities Exchange Act of 1934, investor protection is heavily reliant on mandatory disclosure, private rights of action (e.g., Rule 10b-5), and class action litigation. Nigeria's s 155(3) of ISA 2025 mirrors these mechanisms by recognizing private rights of action, albeit without a class action regime.

Similarly, the Investor Protection Fund (IPF) under ISA 2025 parallels the Securities Investor Protection Corporation (SIPC) in the U.S., which compensates investors in the event of broker-dealer failure. However, unlike SIPC, which has clearly defined compensation caps, ISA 2025 does not yet provide sufficient clarity on the upper limits and procedural mechanics of its compensation structure.

In the UK, the Financial Services and Markets Act 2000[46] establishes clear procedures for investor redress, including via the Financial Ombudsman Service. Nigeria's SEC[47] lacks a counterpart mediation body, though the *Investment and Security Tribunal*[48] performs a quasi-judicial function. Furthermore,

[44] *Rule 10b-5 of US Securities Exchange Act 1934*
[45] *Section 155(3) of ISA Act 2025*
[46] *Financial Services and Market Act 2000*
[47] *Financial Ombudsman Services Nigeria*
[48] *Investment and Security Tribunal*

while Nigeria's *Security and Exchange Commission*[49] has broad powers under ISA 2025 to sanction errant operators, there is no equivalent framework for mutual enforcement and information-sharing with foreign regulators like the U.S. SEC or UK's FCA, which could hinder cross-border investigations.

12.1 Gaps and Challenges

Ambiguities in Compensation Framework: ISA 2025 does not specify the maximum amount claimable from the IPF, nor does it outline the timelines for payout.

Lack of Mutual Enforcement Treaties: The SEC has no formal agreements with major jurisdictions for cross-border cooperation.

Absence of Class Action Mechanisms: Unlike in the U.S., Nigerian law does not support investor class actions for fraud or misrepresentation.

Overreach in SEC Enforcement Powers: Section 84 authorizes the SEC to impose sanctions without prior hearing, raising questions of due process.

Judicial Delays: Despite IST's jurisdiction, enforcement of decisions through the conventional court system is often delayed.

13.1 Strategic Recommendations to Strengthen ISA 2025

i. Formalize MoUs with global regulators (e.g., U.S. SEC, FCA, IOSCO) for cross-border enforcement and investigations.

ii. Mandate local registration and custodianship for foreign fintech platforms to bring offshore brokers under Nigerian oversight.

iii. Clarify IPF processes—define compensation caps, claim timelines, and priority rules to build investor trust.

iv. Introduce tiered penalties and procedural fairness—align fines with severity, provide hearing rights before suspensions.

v. Define modern marketing and gift standards, establish digital-advertising guidelines and disclosure of gifts to SEC.

vi. Embed robust data privacy measures integrating Nigeria's NDPR, including secure handling and limited sharing provisions.

vii. Expand digital asset rules to cover robo-advisors, algorithmic trading, and require ESG disclosures to increase corporate accountability.

viii. Strengthen investor redress mechanisms, including enabling structured class actions and legal aid for mass claims.

14.1 Recommendations for Reform

a. Institutional MoUs with Foreign Regulators: Nigeria should initiate memoranda of understanding (MoUs) with foreign regulators to facilitate mutual recognition, enforcement, and data exchange.

b. Clarify IPF Governance and Payout Structure: The National Assembly should amend ISA 2025 to include timelines, caps, and audit provisions for the IPF.

c. Judicial Review of SEC Enforcement: Section 84 should be amended to require that any pre-judgment sanction by the SEC be subject to rapid judicial review.

d. Introduce Class Action Mechanisms: Nigeria should consider legislating investor class action procedures similar to the U.S. framework.

e. Establish an Independent Ombudsman: A statutory capital market ombudsman could offer quicker investor grievance resolution outside court channels.

[49] *Security and Exchange Commissio*n

Conclusion

The ISA 2025 represents a critical reform aimed at restoring trust in Nigeria's capital market. It strengthens the SEC's regulatory reach, introduces protection for digital investors, and expands compensation mechanisms. However, the law must be refined through MoUs, judicial reforms, and specific implementation frameworks to fully meet the expectations of foreign investors.

Case Law References

1. Jones v Harris Associates LP 559 US 335 (2010).
2. Morrison v National Australia Bank Ltd 561 US 247 (2010).
3. Mufutau Ajayi v Securities and Exchange Commission (SC/314/2007) (Supreme Court of Nigeria, 13 January 2023).
4. SEC v Prof Jonathan Ede (FHC/ABJ/CS/847/2022) (Federal High Court, Abuja, 2023).

Legislation and Statutory Instruments

Nigerian Statutes

1. Investment and Securities Act 2025 (Nigeria), ss 26, 62(1), 62(2)(d), 63, 84, 87–92, 155, 193–199, 198, 209, 284, 303, 305–308, 316, 357–358.
2. Investment and Securities Act 2007 (repealed), s 284.
3. Nigerian Data Protection Regulation 2019 (NDPR).

United States Statutes

1. Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010 (US).
2. Sarbanes–Oxley Act of 2002 (US).
3. Securities Act of 1933 (US), s 33.
4. Securities Exchange Act of 1934 (US), s 10(b); SEC Rule 10b–5.

Regulatory and Institutional Instruments

1. Financial Industry Regulatory Authority (FINRA) – US regulatory body.
2. Financial Services and Markets Act 2000 (UK).
3. Financial Ombudsman Service (UK)
4. International Organization of Securities Commissions (IOSCO) – Enhanced Multilateral Memorandum of Understanding (EMMoU).
5. Securities Investor Protection Corporation (SIPC) – US investor compensation scheme.