

8 June 2022

Dear Stakeholder

## **Why Self-regulation is Vital in the Virtual Assets Sector: SiBAN's Approach in Nigeria**

### **Introduction**

When the Stakeholders in Blockchain Technology Association of Nigeria (SiBAN) was founded in 2018, the vision was to have an association that promotes blockchain awareness, adoption, and advocacy towards ensuring a friendlier, safer, and bigger blockchain industry in Nigeria.

While we have been committed to that vision over the years, we are increasingly seeing the need for a self-regulatory model that will help us imbibe global best practices in the virtual assets sector. A body with a voluntary membership system, SiBAN has found itself playing a self-regulatory role amongst its registered members.

Understanding and appreciating the need for self-regulation, SiBAN on 3 June 2022 adopted the [Code of Conduct for Virtual Asset Service Providers \(VASPs\) in Nigeria](#) for the benefit of our members and nonmembers who voluntarily adopt the code.

### **SiBAN Code of Conduct is consistent with global best practices.**

In preparing the SiBAN Code of Conduct, we considered the principles and code of conducts generally applicable to virtual asset service providers (VASPs) as contained in the following documents:



Moneta Hub, 2 Allen Avenue, Gabriel Akinmade Plaza, Buffalo Building, Ikeja, Lagos, Nigeria

[info@siban.org.ng](mailto:info@siban.org.ng), <https://siban.org.ng>

**Member:** Blockchain Industry Coordinating Committee of Nigeria ([BICCON](#)); Fintech Alliance Coordinating Team ([FACT](#)); [Fintech Association of Nigeria](#)'s Regulators Forum; Blockchain Associations Forum ([BAF](#)); Centre for Evidence-Based Blockchain ([CEEB](#)); International Digital Asset Exchange Association ([IDAXA](#))-unofficial member status; Global Digital Asset & Cryptocurrency Association ([Global DCA](#)); Key stakeholder in Nigeria's [National Blockchain Adoption Strategy](#) by the Federal Ministry of Communications & the Digital Economy and the National Information Technology Development Agency (NITDA)

- The Cayman Islands' Statement of Principles: Conduct of Virtual Asset Services;
- The Global Digital Asset & Cryptocurrency Association's (Global DCA) Code of Conduct; and
- The New Rules on Issuance, Offering Platforms and Custody of Digital Assets issued by the Securities and Exchange Commission (SEC), Nigeria, on 11 May 2022, which, amongst other things, sets out the obligations of VASPs in Nigeria.

At SiBAN, our philosophy and plan for self-regulation in Nigeria's blockchain industry is clear and in the best interest of our nascent industry.

What follows are SiBAN's philosophy on self-regulation. First, we provide four reasons why self-regulation is vital. Second, we briefly discuss how self-regulation will work and benefit all stakeholders towards securing the future of our industry. These benefit from the SiBAN Policy & Regulation Committee's engagement with the International Organization of Securities Commissions (IOSCO) SRO Consultative Committee's *Model for Self-Regulation*. And third, we seek your support and collaboration as a stakeholder in Nigeria's emerging virtual assets sector.

## Why Self-regulation is vital

### 1. Foster integrity in the blockchain & crypto marketplace.

First, self-regulation fosters integrity in the marketplace and among participants. As blockchain-industry players, we are knowledgeable about the underlying technology which powers digital assets. We are familiar with the complex nature of the industry as well as the products and services marketed by players in the industry. This puts us in a strong position to implement self-regulatory policies.

As acknowledged and pointed out by the International Organization of Securities Commissions (IOSCO) SRO Consultative Committee, "the broad objectives of self-regulation are the same as those identified for government regulation of financial markets in the IOSCO Objectives and Principles of Securities Regulation: to preserve market integrity (fair, efficient and transparent markets), to preserve financial integrity (reduce systemic risk) and to protect investors".<sup>1</sup>

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<sup>1</sup> *Model for Effective Regulation: Report of the SRO Consultative Committee of the International Organization of Securities Commissions*, May 2000, 2, <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD110.pdf>

The vital role SROs play in a nascent and fast-growing industry such as the virtual assets sector cannot be overemphasized. "[W]hether established by legal mandate or organized voluntarily by industry", states the Chief Executive Officer (CEO) of Global Digital Asset & Cryptocurrency Association (Global DCA), SROs "can serve as a powerful force for bolstering public trust and encouraging industry growth, especially when it comes to cryptocurrency."<sup>2</sup>

## **2. Define and encourage adherence to standards of best practice.**

Second, as a private association, SiBAN wishes to—as put by IOSCO in its work on self-regulation—"define and encourage adherence to standards of best practice among its participants".<sup>3</sup>

This is self-regulation that typically "focuses on oversight of the market itself, qualification standards for market intermediation and oversight of the business conduct of intermediaries including their relationship with their client market-users".<sup>4</sup>

At SiBAN, we realize that we will need the adoption of ethical standards which go beyond government regulation. With our volunteer network, we will adopt our own codes of conduct and procedural rules, and then enforce these codes and rules in our community of registered members.

## **3. Achieve effective self-regulation in the (near) absence of regulation in the virtual asset sector.**

Third, self-regulation has proven to be effective regulation. As a self-regulatory association, SiBAN will be engaging its member market participants with a sound knowledge of the market to draft the rules that will ensure fair markets, consumer protection, investment safety, etc. amongst our registered members.

Because the rules are made by market participants themselves, there is a higher degree of acceptability and cooperation. This boosts compliance. Self-regulation inherently secures industry representation and participation.

Essentially, with its self-regulatory work, SiBAN will be ensuring investor protection by working towards a fair, efficient, and transparent virtual assets market. Besides, in the current state of virtual assets

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<sup>2</sup> Gabriella Kusz, 'Inclusivity In SROs Leads To SRO Effectiveness', Talk Markets, 5 May 2022, <https://talkmarkets.com/content/inclusivity-in-sros-leads-to-sro-effectiveness?post=351352>

<sup>3</sup> *Model for Effective Regulation: Report of the SRO Consultative Committee of the International Organization of Securities Commissions*, May 2000, 2, <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD110.pdf>

<sup>4</sup> *Model for Effective Regulation: Report of the SRO Consultative Committee of the International Organization of Securities Commissions*, May 2000, 3, <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD110.pdf>

regulation in Nigeria, self-regulation serves as a self-governing system, helping to check against bad actors in the space. Even in a sector where regulation is present, self-regulation can finely complement and reinforce principles and practices that government regulation enforces.

**4. Be more responsive to constantly changing market conditions in the blockchain & crypto space.**

Finally, with industry participants' relative expertise and experience regarding operations and practices in the market, we will be able to respond quicker and more flexibly to changing market conditions by reviewing or updating these codes and rules periodically in response to changing market conditions in the virtual assets sector.

Out of economic, reputational, and regulatory self-interest, SiBAN is motivated to act responsibly by developing best practices and policing our members in the virtual assets market. If we do not police the market effectively, innovators will lose business to other markets where there is a fair, transparent, and efficient market with consumer protection and investor confidence.

## **How Self-regulation is in every stakeholders' best interest**

**1. Self-regulation share the same primary objectives as government regulation**

First, the IOSCO SRO Consultative Committee recommends that government regulators should recognize self-regulatory organizations (SROs). According to its recommendation:

*"Government regulators recognize that SROs have the same primary objectives as statutory regulators (i.e., protect investors, ensure fair and efficient markets and reduce systemic risk) and rely on the SROs to execute their responsibilities accurately, completely, effectively and efficiently in accordance with their governing documents or delegation orders."*

Also, as aptly put by the IOSCO SRO Consultative Committee:

*"Self-policing systems and the general concept of self-regulation work because of the business incentive to operate a fair, financially sound and competitive marketplace. Reputation and competition are powerful motivating forces for sustained proper behavior, especially in today's global environment"*

*where market participants have virtually immediate, 24-hour access to a range of competing markets and products.*<sup>5</sup>

We agree with the IOSCO SRO Consultative Committee and wish to adopt for SiBAN global best practices towards ensuring a fair, efficient, and transparent market in Nigeria's virtual assets sector.

## **2. Self-regulation by industry participants does not equate to self-interest.**

Though SiBAN advocates self-regulation, this should not be mistaken for self-interest. Our self-regulatory framework will be based on accountability and transparency. For example, our code of conduct, and the disciplinary actions we take, will be accessible to the members of the public.

Other measures include maintaining an open engagement system involving both industry players and public representatives in SiBAN's self-regulatory structures and activities and encouraging public participation in our deliberations. These measures will ensure that we adhere to professional standards of behavior on matters, including confidentiality and procedural fairness.

## **3. Self-regulation to be fully funded by industry participants.**

Towards ensuring that self-regulation works for us, SiBAN will strongly encourage all industry participants to commit themselves to self-regulation by demonstrating willingness to pay for or fund self-regulation. Similar to successful self-regulatory models around the world, SiBAN will be entirely funded by industry participants.

## **Self-regulatory practices and objectives to be adopted by SiBAN**

### **1. SiBAN will be adopting regulatory practices and objectives modeled along the recommendations of the IOSCO SRO Consultative Committee**

- Adopting codes of conduct and procedural rules for the virtual asset industry generally and specific rules for market segments;
- Enforcing rules and regulations through investigations and disciplinary actions;
- Conducting fitness screening for access to Nigeria's blockchain & crypto marketplace;
- Conducting financial/operations and sales practice examinations;

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<sup>5</sup> *Model for Effective Regulation: Report of the SRO Consultative Committee of the International Organization of Securities Commissions*, May 2000, 5, <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD110.pdf>

- Handling complaints submitted to us by customers of both individual and corporate members registered with us;
- Having surveillance programs to detect violative conduct;
- Sharing information and cooperating with other SROs and government regulators and law enforcement agencies; and
- Providing a dispute resolution forum.<sup>6</sup>

As a pro-innovation and pro-regulation association, SiBAN considers the need for a regulatory approach that "minimizes cost burdens while maximizing investor confidence and fairness in the market and contributes to the reduction of systemic risk".

A situation where businesses migrate to other jurisdictions with lower regulatory costs because the costs of regulation outweigh the benefits must be avoided.

## **2. SiBAN to operate the IOSCO SRO Consultative Committee's template for self-regulation.**

Consistent with the self-regulatory practices and objectives outlined above, SiBAN has considered the template recommended by the IOSCO SRO Consultative Committee for adoption. This template has the following list of basic areas:

- Internal rulemaking procedures;
- Authorization and access to marketplace, including fitness/qualification standards for market intermediaries;
- Establishment and enforcement of financial, operational, and sales practice standards;
- Surveillance of market activity;
- Investigation, prosecution and adjudication of rule violations;
- Administration of a dispute resolution forum;
- Development and implementation of education programs for market participants and public investors; and
- Sharing information and cooperating with other SROs and statutory regulators.<sup>7</sup>

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<sup>6</sup> *Model for Effective Regulation: Report of the SRO Consultative Committee of the International Organization of Securities Commissions*, May 2000, 6, <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD110.pdf>

<sup>7</sup> *Model for Effective Regulation: Report of the SRO Consultative Committee of the International Organization of Securities Commissions*, May 2000, 10, <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD110.pdf>

We realize that the above task is a demanding one, but it is a task that we at SiBAN are committed to continually pursue and improve upon. This is in our industry's best interest. And we believe that this will also benefit the good work relevant regulators are doing or will do in the industry towards ensuring a fair, transparent, and efficient virtual assets market.

### **3. SiBAN to access global advisory on self-regulation of the digital assets industry through the Global Digital Asset & Cryptocurrency Association (Global DCA)**

Global DCA is currently the largest self-regulatory digital asset & cryptocurrency association in the United States. Both SiBAN and Global DCA share common values about the digital assets industry. In March 2021, SiBAN signed a [Memorandum of Understanding \(MoU\)](#) with Global DCA for international collaboration on blockchain & cryptocurrency education, policy, and regulation in March 2021.

Established "to guide the evolution of digital assets, cryptocurrencies, and the underlying blockchain technology within a regulatory framework", Global DCA helps to "build public trust, foster market integrity, and maximize economic opportunity for all participants".

Global DCA boasts an [Advisory Board](#) that is a collective of distinguished and well-regarded international financial sector and blockchain industry executives, innovators, and thought leaders.

Because we understand and appreciate that digital assets are inherently globalized and because we realize the vital role collaboration plays, SiBAN will have access to global advisory from Global DCA. Having access to the Global DCA Advisory Board is critical to our shared mission of advancing credible and modern self-regulation in the digital assets industry.

The CEO of Global DCA, Gabriella Kusz, was a guest speaker at last month's [Legal Business Conference 2022](#) on regulating blockchain, FinTech, and innovation in Nigeria. Amongst other issues, she spoke on the vital role self-regulation plays in the digital assets industry.

## **Conclusion**

We draw five conclusions. First, SiBAN strongly believes that with proper implementation, self-regulation in Nigeria's blockchain & crypto space can lead to "efficient rules, wide compliance with and acceptance of those rules, timely adjustment of rules to meet changing conditions, and flexible and effective enforcement of rules".

Second, by recognizing or supporting self-regulation by legitimate market participants, statutory regulators or other relevant government agencies would be able to safeguard consumers against fraud and other illicit practices while substantive regulation or direct regulation is still in the works. Completely leaving the blockchain & crypto space unregulated may portend substantial risks to the system regulators are trying to protect.

Third, self-regulation should not be seen as a form of deregulation but "an important part of a model of efficient and broad-based regulation".<sup>8</sup> It could be seen as a co-regulatory mechanism that ensures that industry players play a significant role in policing industry practices.

Fourth, by leveraging self-regulation rather than only relying on government's direct (limited) regulation of the digital assets industry, the Nigeria government can benefit from significant cost savings.

Finally, as pointed out by IOSCO, "[t]he statutory regulator's role should truly be an oversight role" by being "able to rely on the work performed by the SRO in light of the strong incentives that exist to encourage SROs to act responsibly in performing their self-regulatory functions, including the powerful motivating forces of reputation and competition".<sup>9</sup>

Every stakeholder in the virtual assets sector, including innovators and regulators, is welcomed to collaborate with us towards achieving a fair, transparent, and efficient virtual assets sector in Nigeria. The SiBAN [Code of Conduct](#) is our first major step in this direction. [Join hands with us.](#)

Senator Ihenyen  
*President*

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<sup>8</sup> *Model for Effective Regulation: Report of the SRO Consultative Committee of the International Organization of Securities Commissions*, May 2000, 13, <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD110.pdf>

<sup>9</sup> *Model for Effective Regulation: Report of the SRO Consultative Committee of the International Organization of Securities Commissions*, May 2000, 8, <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD110.pdf>