

# SEC and FCCPC issue joint advisory on mergers and acquisitions



**The Federal Competition and Consumer Protection Commission (“FCCPC”) and the Securities and Exchange Commission (“SEC”) released their first joint advisory (‘the Advisory’) and guidance on mergers, acquisitions and other forms of business combinations.**

For a deeper discussion, please contact any member of our team below or your usual contact with PwC Nigeria:

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## Background

The Federal Competition and Consumer Protection Act (“FCCPA”) was signed into law on 30 January 2019. The FCCPA established the Federal Competition and Consumer Protection Commission (“FCCPC”) and repealed the provisions of the Investments and Securities Act (ISA) relating to mergers, and other business combination control.

With the passage of the Act, the FCCPC was vested with the powers to review all mergers and business combinations to ensure that such combinations do not distort or impede the markets; a function which was previously handled by the SEC.

The lack of guidance on the next steps after the passage of the FCCPA, gave rise to uncertainties around the status of the applications pending before the SEC, and the way forward for companies who were contemplating new transactions. The delay in constituting the Board of the FCCPC further heightened the uncertainties around the regulation of mergers and acquisitions.

In a bid to address these uncertainties, the FCCPC and the SEC have on 3 May 2019, issued a joint statement to clarify the status of pending applications and provide guidance for new applications.

As stated in the joint advisory, a transition period commences on 3 May 2019 and will remain in force until otherwise discontinued. The major highlights of the Advisory are discussed below:

## Highlights of the Advisory

- **Pending transactions** - All transactions pending before the SEC will be subject to this interim process and handled jointly by the SEC and FCCPC. The FCCPC will however convey decisions to applicants.
- **Applicable guidelines/regulations** - All notifications and filings will be reviewed under existing SEC regulations, guidelines and fees.
- **Fees** - The applicable fees will now be paid to the FCCPC and not to the SEC.
- **Interim Office** - There is now an interim joint merger review desk at the SEC offices in Lagos and Abuja.

## Takeaway

The joint advisory provides some clarity on how companies should proceed in respect of current or potential transactions. This interim structure is not expected to extend indefinitely as the FCCPC is likely to issue more robust guidelines for the entire process. The FCCPA already includes some salient distinctions on the scope of mergers which is different from what was provided under the ISA and also gives the FCCPC powers to set thresholds for mergers. Companies are keen to see how the FCCPC will address such issues, but until then, the procedure remains largely the same.

A copy of the Advisory can be found [here](#).

