



LEGAL CONSIDERATIONS FOR INVESTING IN NIGERIA

As a Foreign Investor

Introduction

Nigeria, Africa's largest economy and most populous nation, presents a compelling destination for foreign investors and entrepreneurs.

With a vast youthful population, a burgeoning tech ecosystem, and diverse natural resources, the country is ripe for business opportunities. However, foreign participation in Nigerian businesses requires compliance with specific legal and regulatory frameworks.

This article outlines the process and legal requirements for starting a business in Nigeria for foreign investors.

How To Establish a Business In Nigeria As a Foreign Investor

1. Navigating the Legal Landscape:

Foreigners may wholly own a company or partner with Nigerian nationals to establish one, provided they comply with applicable legal and regulatory provisions.¹

There are several laws governing foreign participation in business in Nigeria, and it is crucial for any foreign investor to be well-informed and properly guided to ensure compliance with these laws.

Engaging a qualified professional at this stage is advisable to ensure that the investor satisfies regulatory compliance requirements.

2. Choosing the Right Business Structure:

A foreign investor must, identify the appropriate vehicle for the business. This decision forms the foundation of the entire business setup. This structure must align with both regulatory requirements and the investor's strategic objectives.

Factors such as the nature of the proposed business, the investors' needs and objectives, tax exposure, succession plans, required minimum share capital fundraising needs and the peculiarities of the sector to be invested in all influence the choice of structure.

The most commonly adopted structures by foreign investors are Limited Liability Companies (LLC) or a Limited Liability Partnership (LLP) for their investor-friendly nature.

After selecting a suitable business structure, the investor must establish the ownership arrangement where partners or other shareholders are involved.



3. Register the Business with the Corporate Affairs Commission (CAC)/Relevant Government Agency:

In accordance with the Companies and Allied Matters Act (CAMA) 2020, no person or association of persons or foreign company shall carry on business in Nigeria as a Company, limited liability partnership, limited partnership or under a business Name without being registered under this Act.² Failure to register a company with foreign participation unless exempted by CAMA³ or any other relevant law, attracts prescribed penalties.⁴

A foreign company may be exempt if it was previously granted exemption under the repealed Companies and Allied Matters Act, or where such exemption arises from an international treaty to which Nigeria is a party.⁵ Additionally, the Minister may grant exemption to a foreign company upon a formal application, where the company meets the statutory criteria.⁶

These criteria typically cover foreign companies invited into Nigeria by or with the approval of the Federal Government to execute a specified individual project; companies engaged in specific loan-funded projects on behalf of a donor country or international organization; foreign government-owned entities involved solely in export promotion activities; and engineering or technical consulting firms carrying out specialized projects under contracts approved by the Nigerian government or its agencies.⁷

Upon approval of exemption application, the company may legally operate in Nigeria without undergoing incorporation with the CAC.

Also, some foreign entities, such as those operating exclusively within a Free Trade Zone, can operate without registration with the Corporate Affairs Commission provided they are registered by the Nigeria Export Processing Zone Authority (NEPZA).⁸

It is advisable for foreign investors to consult experienced legal professionals to determine the exemptions that apply to their operations.

4. Register with the Nigerian Investment Promotion Commission (NIPC):

After incorporating a company with the Corporate Affairs Commission (CAC), foreign-owned or foreign-participating entities are required to register with the Nigerian Investment Promotion Commission (NIPC) before commencing business in Nigeria.⁹ The NIPC is the government agency responsible for promoting and coordinating investment in Nigeria. Registration with the NIPC involves submitting the prescribed application, details of shareholders and directors, payment of the official fee, amongst other requirements. Upon satisfaction with the documentation, the NIPC issues a Certificate of Business Registration, usually within 14 working days.¹⁰

This registration not only ensures legal compliance but also secures investment protection under Nigerian law.

5. Obtain Business Permit, Work Permit and Expatriate Quota:

For a wholly foreign-owned company to operate legally in Nigeria, it requires more than incorporation and registration with the CAC and NIPC, respectively. Such companies must obtain a Business Permit from the Federal Ministry of Interior.¹¹ This permit, issued through the Department of Citizenship and Business, grants approval for foreign entities to operate within Nigeria and helps ensure that their business activities do not displace indigenous companies operating in similar sectors.

Where the company intends to employ foreign nationals, it must also obtain an Expatriate Quota. This quota outlines the specific positions that may be occupied by foreigners within the company and serves as a prerequisite for applying for a work permit on behalf of each foreign employee.

Once the expatriate quota is granted, the company can proceed to apply for the Combined Expatriate Residence Permit and Aliens Card (CERPAC).¹² This document, issued by the Nigeria Immigration Service (NIS), serves as both a residence and work permit. It authorizes the expatriate to live and legally work in Nigeria for the duration specified.

CERPAC is typically valid for one year and renewable thereafter, subject to continued compliance with immigration laws and employment regulations. It also includes biometric data and must be carried by the expatriate at all times as proof of lawful status in Nigeria.

6. Register with Tax Authorities:

All businesses must register either with the Federal Inland Revenue Service (FIRS) or the relevant State Internal Revenue Service based on their structure. Upon registration, a Tax Identification Number (TIN) and Tax Certificate are issued, which are mandatory for business operations.

Failure to comply with tax obligations can result in fines, interest charges, and criminal prosecution. Some businesses may qualify for tax incentives. It is advisable to consult a legal professional to assist in navigating tax compliance in Nigeria.

7. Obtain Certificate of Capital Importation (CCI)

Following the initial approvals from the Nigerian Investment Promotion Commission (NIPC), a company with foreign shareholders is required to take concrete steps to import its equity contribution into Nigeria. To formally document this, the company must obtain a Certificate of Capital Importation (CCI) from an authorised dealer, typically a local Nigerian bank. This certificate serves as official evidence that capital, whether in the form of equity, debt, cash, or goods, has been brought into the country.

The CCI is crucial not only for validating the investment but also for securing the unconditional repatriation of capital and profits to the investor's home country. Without this certificate, such repatriation may be denied or delayed under Nigerian foreign exchange regulations.

8. Secure Industry-Specific Business Licenses:

Before a foreign-owned company can begin operations in Nigeria, it must obtain the appropriate license required for its particular line of business. The license needed varies depending on the sector in which the company intends to operate. For instance, a financial technology (FinTech) company is required to obtain the relevant license for its category from the Central Bank of Nigeria (CBN), while educational institutions must secure registration from the relevant Federal or State Ministry of Education. Failing to obtain the appropriate licenses or permits can result in regulatory sanctions and may prevent the business from operating legally in the country.

9. Register with the Special Control Unit Against Money Laundering (SCUML):

Foreign companies planning to operate in Nigeria under certain categories are required to register with the Special Control Unit Against Money Laundering (SCUML), a division under the Economic and Financial Crimes Commission (EFCC).

This requirement applies particularly to businesses classified as Designated Non-Financial Institutions which include a wide range of entities, such as financial institutions, insurance companies, real estate agents, jewelers, law firms, and accountants, businesses dealing in high-value goods like luxury items and automobiles, as well as hotels and casinos.

This registration is essential, as most banks will not allow a business to open a corporate account without a SCUML certificate. Beyond this, registration helps protect businesses from being inadvertently involved in suspicious or illicit financial transactions. It also signals to regulators and partners that the company is committed to operating within Nigeria's financial integrity framework.



10. Engage ongoing legal support

Starting a business in Nigeria is not a one-off legal task, it requires continuous legal oversight to ensure compliance with evolving laws and regulations. Foreign investors are strongly advised to retain the services of a qualified legal professional or firm to guide them beyond incorporation. Ongoing legal support helps address issues such as contract drafting and review, regulatory filings, dispute resolution, and corporate governance. It also plays a crucial role in protecting valuable assets like intellectual property by ensuring proper registration and enforcement of rights.

Having trusted legal counsel ensures that your business stays compliant, avoids legal pitfalls, and is well-positioned for long-term success in Nigeria's regulatory environment.



Conclusion

While Nigeria offers significant business opportunities, especially for foreign investors, compliance with legal and regulatory requirements is non-negotiable.

From incorporation to immigration and sector-specific approvals, entrepreneurs must navigate a complex landscape with due diligence. As mentioned earlier, engaging local legal is strongly recommended to facilitate a smooth entry and sustained operations in Nigeria's dynamic business environment.

As experienced corporate and commercial lawyers in Nigeria, we can help you navigate the entire process seamlessly, from ideation to business setup in Nigeria.

Footnote

¹Section 20(4) Companies and Allied Matters Act (CAMA), 2020

² Section 78(1) and 863 (1) CAMA, 2020

³ Section 80 CAMA, 2020

⁴ Section 863 (2) CAMA, 2020.

⁵ Section 78 (3) CAMA, 2020

⁶ Ibid footnote No.3

⁷ Section 80 (1) CAMA, 2020

⁸ Section 10 NEPZA Act, 1992

⁹ Section 20 (1)NIPC Act, 1995

¹⁰Section 20 (2) NIPC Act.

¹¹Section 36(1)(a) and (b) of the Immigration Act (2015), and Paragraph 4 of the Immigration Regulations (2017)

¹²<https://firstfiduciary.ng/expatriates-permits-and-quotas-compliance-obligations-in-nigeria-part-2>

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