



# **BUSINESS ESTABLISHMENT THE RIGHT WAY FOR COMPANIES HAVING FOREIGN PARTICIPATION**



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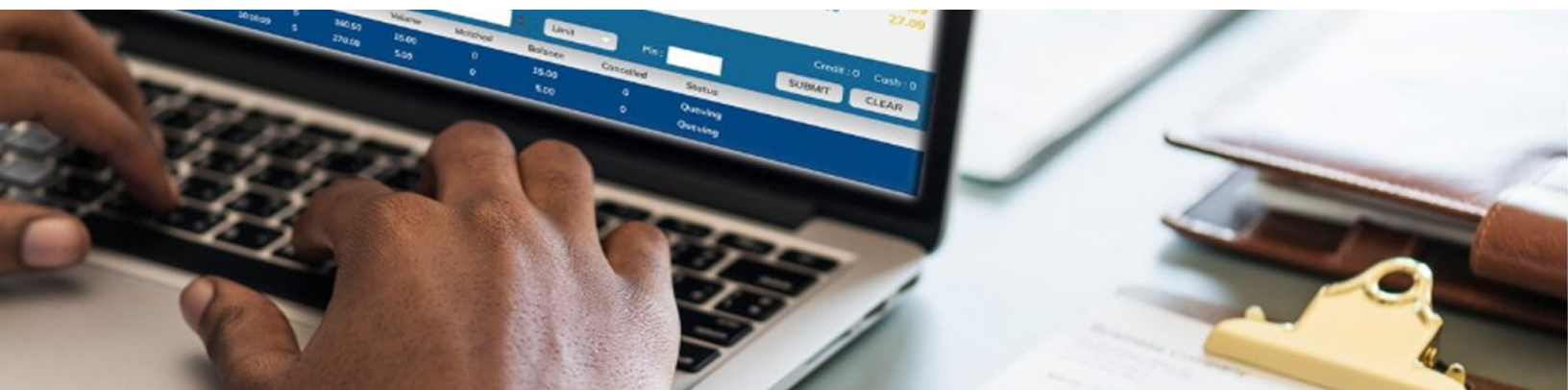


## INTRODUCTION

When it comes to doing business in Nigeria, the opportunities are as vibrant as the colours of the Nigerian flag. Nigeria, often referred to as the "Giant of Africa," boasts a diverse and dynamic market full of potential for entrepreneurs and investors alike. From the bustling streets of Lagos to the rich cultural heritage found throughout the country, Nigeria offers a unique blend of tradition and modernity that creates an exciting environment for business ventures.

Navigating the business terrain in Nigeria requires an understanding of the local customs, regulations, and market trends. Particularly, section 78 of the Companies and Allied Matters Act, 2020 (as amended) ("CAMA") requires every foreign company that intends to carry on business in Nigeria to be incorporated as a separate entity in Nigeria for that purpose. Until so incorporated, the foreign company must not carry on business in Nigeria or exercise any of the powers of a registered company or have a place of business or an address for the service of documents or processes in Nigeria for any purpose other than the receipt of notices and other documents, as matters preliminary to incorporation under CAMA.





## THE CONSIDERATIONS

1. Company Registration: The first step is to register your company with the Corporate Affairs Commission (“CAC”) in Nigeria. This process involves submitting the necessary documents, such as the company's memorandum and articles of association, and obtaining a certificate of incorporation. There are a number of corporate structures that are recognised by the CAMA such as (i) Private company limited by shares, (ii) Public limited liability company, (iii) Company limited by guarantee, (iv) Unlimited liability company, (v) Incorporated trustees, (vi) Limited liability partnerships, and (vii) Limited partnerships.
2. Business Permits and Licenses: In order for a company incorporated in Nigeria with foreign shareholders to do business, it is required by the Nigerian Investment Promotion Commission Act Cap N117 Laws of the Federation of Nigeria 2004 (the “NIPC Act”) to register its business with the NIPC. The NIPC Act provides that all companies with foreign participation in their capital structure should register with the NIPC after they are incorporated.

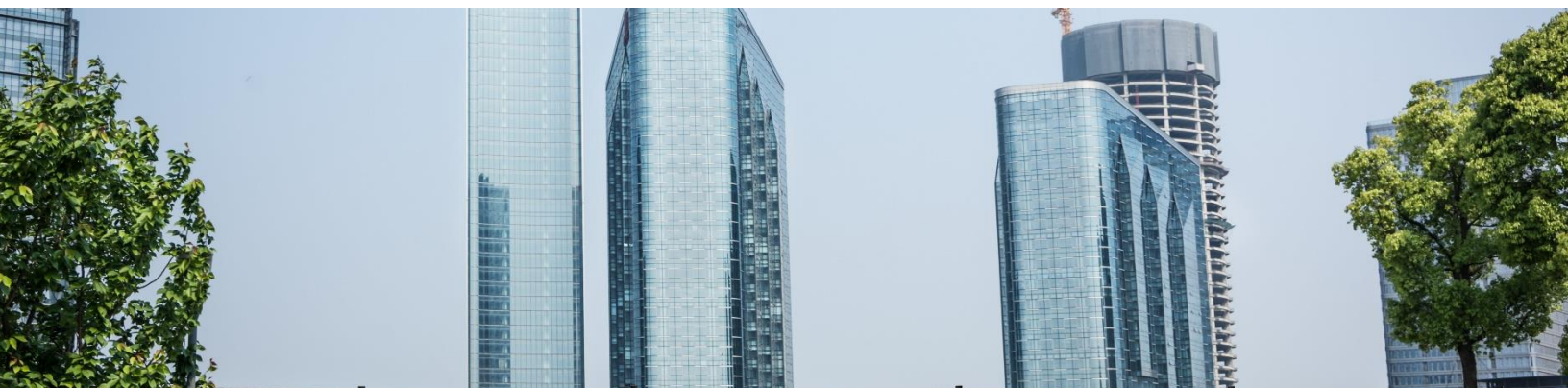
In addition to the registration with the NIPC, a company that has foreign participation must obtain a business permit from the Federal Ministry of Interior (“FMI”). A business permit is the authorisation that must be obtained in order for a company with foreign participation to carry on business in Nigeria. To obtain the business permit, a company with foreign participation should provide evidence that it has made an equity injection into the Nigerian company, either as cash and/or equipment.

The business permit application requires a minimum paid-up share capital of ₦100,000,000.00 (One Hundred million Naira).

Depending on the nature of your business, you may need to obtain specific permits and licences from regulatory bodies in Nigeria in addition to the above-mentioned registrations. For example, sectors like banking, oil and gas, telecommunications, and healthcare have industry-specific regulations that foreign investors must adhere to.



3. Tax Registration: Companies are required to register for tax purposes with the Federal Inland Revenue Service (“FIRS”). This includes obtaining a Tax Identification Number (TIN) and complying with Nigeria's tax laws and regulations. The company, after incorporation, makes an application to the relevant tax office requesting a Value Added Tax (“VAT”) registration and a Tax Clearance Certificate (“TCC”).
4. Foreign Exchange Regulations: Nigeria has foreign exchange regulations that govern the repatriation of profits, dividends, and capital by foreign investors. It is essential to understand these regulations to ensure compliance and smooth repatriation of funds.
5. Employment Regulations: If your business involves hiring employees in Nigeria, you need to comply with labour laws, including obtaining work permits for expatriate staff and adhering to employment regulations such as minimum wage requirements and employee benefits (pension contributory scheme, contribution to the employee compensation fund and submission of returns to the Nigeria Social Insurance Trust Fund, contribution to the Industrial Training Fund for companies with 25 or more employees, registration under the health insurance, among others).
6. SCUML Registration: By the provisions of the Special Control Unit against Money Laundering (“SCUML”) Regulations, all designated non-financial businesses and professions (“DNFBPs”) such as automotive dealers, businesses involved in the hospitality industry, casinos, clearing and settlement companies, consultants and consulting companies, dealers in pieces of jewelry, dealers in mechanised farming equipment, farming equipment and machinery, dealers in precious metals and precious stones, dealers in real estate, estate developers, estate agents and brokers, high-value dealers, hotels, legal practitioners and notaries, licensed professional accountants, mortgage brokers, practitioners of mechanised farming, supermarkets, tax consultants, trust and company service providers, pools betting, or such other businesses and professions as may be designated by the Minister of the Federal Ministry of Trade and Investment or appropriate regulatory authorities may from time to time designate, are required to obtain the SCUML certificate.



## **CONCLUSION**

By understanding and complying with these regulatory and statutory requirements, foreign investors can navigate the Nigerian business landscape effectively and establish a strong and compliant presence in Nigeria.

If you are considering establishing a business in Nigeria, we at Alsec Nominees Limited can guide you through the intricacies of company registration, compliance with regulatory frameworks, and navigating sector-specific requirements.