

# A Foreigner's Guide to Doing Business in Nigeria.



Lagos, Nigeria.



+2348064231176



corporateservices@kabbizlegal.com



[www.kabbizlegal.com](http://www.kabbizlegal.com)

**KABBIZ**  
LEGAL & ADVISORY

## Introduction to Doing Business in Nigeria: General Country Overview

Doing business in Nigeria has become easier in recent times due to the breakneck pace of technological advancements. Global borders are shrinking. Nigeria has one of the highest rates of youth growth in the world, exploding into a large population with myriad business needs that cannot be solved by Nigerians and Nigerian entities alone. Nigerians have imbibed the “hustle culture”; they are a hard, resilient bunch who power through the Nigerian [and by extension, the global] business sector.

For conglomerates, international companies and other entities seeking business opportunities in emerging markets, Nigeria presents a golden opportunity where preparation meets deals. With a land mass that covers around 923 768 square kilometres and a population projected to be around 200 Million, Nigeria is the most populous black nation on earth and thus presents a popular destination for international businesses seeking to harness Nigeria’s positioning in Africa.

### Political Landscape in Nigeria

Despite previous military rule, Nigeria currently operates a democratic system of Government, with the 1999 Constitution of the Federal Republic of Nigeria providing for a multi-political Party system that allows citizens to belong to different political parties of their choice. There are two leading political parties in Nigeria: the Peoples Democratic Party [PDP] and the All Peoples Congress [APC]. The country also operates a Presidential system of Government, with three distinct arms of Government: the Executive [which enforces laws], the Legislature [which creates laws] and the Judiciary [which interprets the law].

### Importance of Foreign Businesses in Nigeria

Foreign businesses doing business in Nigeria are very important to the country’s economy because these companies contribute to Nigeria’s foreign direct investment portfolio both at the

national and state levels. They also provide employment to locals, create technology transfers and bring about export diversification in Nigeria.

Foreign businesses doing business in Nigeria has attracted a lot of FDI inflows into the country in different sectors, including the oil and gas sector, manufacturing, and telecommunications.

## **Legal Framework for Businesses Operating in Nigeria**

Businesses in Nigeria are governed by several laws, and these include:

1. The Companies and Allied Matters Act
2. The Investment and Securities Act
3. Federal High Court Act
4. National Industrial Court Act
5. Business Facilitation Act
6. Finance Act
7. The Nigerian Investment Promotion Commission Act
8. Immigration Act

There are other Sector-specific Regulations that apply for those operating in oil and gas, technology, Power, Telecommunications, Banking, etc etc.

## **Regulatory Bodies and Compliance Requirements**

The general regulatory bodies that regulate business activities in Nigeria are as follows:

1. Corporate Affairs Commission [CAC]
2. Securities and Exchange Commission [SEC]
3. Federal Competition and Consumer Protection Council [FCCPC]
4. Federal Inland Revenue Services [FIRS]

## **Competition**

Like other countries around the world, Nigeria practises a free economy and encourages competition in the numerous sectors of the Nigerian economy. To promote healthy competition

and even protect the interests of the consuming public, the Government enacted the Federal Competition and Consumer Protection Act, 2019 to regulate competition and promote fair business practises within Nigeria. Taking it further, the Act established the Federal Competition and Consumer Protection Commission [“the Commission”] which is responsible for the administration of the Act and the enforcement of its provisions within Nigeria. The Act applies to all commercial activities in Nigeria and seeks to develop and regulate a competitive goods and services economy in Nigeria by ensuring that hazardous goods are eliminated from the marketplace, anti-competitive practices and agreements are stifled, and to stop unfair trading and business practises.

## **Business Structures and Forms of Business in Nigeria**

### **Joint Ventures**

A Joint Venture is a type of business arrangement wherein two or more parties agree to, and collaborate and contribute their resources to pursue a specific business objective. In such cases, the parties involved share all the risks, profits and control over the “Venture” despite them remaining independent entities. Instances of joint ventures abound in certain sectors in Nigeria which are capital-intensive.

### **Partnerships**

A partnership is a type of business structure where two or more individuals operate a , business together, in line with their agreed objectives as set out in their Partnership Deed. Nigeria allows for its citizens to float Limited Partnerships, General Partnerships, and Limited Liability Partnerships.

### **Incorporated Companies**

Companies in Nigeria can be private or public companies. These two can be further sub-divided into companies limited by shares, companies limited by guarantee, and unlimited companies.

Foreigners and foreign entities seeking to do business in Nigeria are required to incorporate a local entity in Nigeria and meet all the necessary requirements locally including capital

importation, obtaining business permits, seeking and obtaining registrations with certain regulatory bodies, among others.

Under the new companies regime in Nigerian as governed by the provisions of the Companies and Allied Matters Act, 2020, incorporated companies in Nigeria that are either wholly foreign-owned or owned in conjunction with Nigerians, are required to have a minimum share capital of ₦100,000,000 [One Hundred Million Naira]. Such companies are further required to not only have this share capital, but to import their business capital into Nigeria through authorized channels, then obtain a certificate of capital importation. It is a regulatory compliance requirement for such companies. In the past, companies incorporated in Nigeria with foreign participation were required to have a minimum share capital of ₦10,000,000 [Ten Million Naira] but the new regime has upgraded this requirement. Failure to comply will lead to the Corporate Affairs Commission refusing to register the company in question until its share capital is increased, and, in cases of already registered companies with foreign participation, they are required to increase their share capital to meet these requirements.

## Company Incorporation Process for Companies owned by Foreigners in Nigeria

### Documents and Information required to Register a Foreign-Owned Company in Nigeria

A foreign entity or individual seeking to register a local company in Nigeria must be aware of and prepare the following facts and documents, preparatory to beginning the incorporation process. These include:

- **Memorandum and Articles of Association:** Every registered company in Nigeria must have their Memorandum and Articles of Association [MemArt]. The MemArt outlines the entire objectives of the company and further outline the structure of the company, its members, governing regulations, among other details that are required by the Corporate Affairs Commission.
- **Proofs of identification:** The principal officers of the company—encompassing the directors and company secretary—alongside the owners of the company [its

shareholders] will need to provide their personally identifiable details and identification, for the CAC records.

- **Certificate of [foreign] incorporation and Board Resolution approving subscription to the Nigerian company:** If the foreigner that wants to incorporate a company in Nigeria is a foreign company as opposed to individuals, then the Corporate Affairs Commission requires them to provide additional context and authorization which the Board resolution that set the plans in motion for the foreign company to incorporate locally in Nigeria and become a local company in Nigeria.
- **Evidence of payment of all appropriate filing fees.** The appropriate filing fees include the name reservation fee, the incorporation fee and the stamp duties payable to the Federal Inland Revenue Service, the precise sum calculated from the authorized share capital of the company under incorporation.

### **Checklist Foreigners need to note in order to incorporate a company in Nigeria**

- **Proposed Names for the Company.** This is the very first step for a foreign company seeking to incorporate in Nigeria. The first article to set down are the proposed names of their proposed Nigerian company which they can submit to their local attorney for a search to ensure that the company name is free and unencumbered, and that the proposed names are not prohibited names or restricted names they cannot use for their company.
- **Particulars of directors and secretary.** The particulars of each director required simply entails supplying the names, addresses, signature print, valid identification card, residence, email addresses, phone numbers.
- **Particulars of members of the company.** The members of the company are the people that initially subscribe to the shares of the proposed company in the course of registration. A company can be wholly owned by indigenes, owned by a mix of Nigerian citizens and foreigners, or wholly owned by foreigners [individuals and/or companies, as the case may be].
- **Authorized share capital.** Once a company in Nigeria has foreign participation where the company is either wholly or partly owned by foreigners, the authorized share capital for that company must be ₦100,000,000 [One Hundred Million Naira] and above. This

share capital must be imported into Nigeria through authorized channels with evidence to show actual capital importation of the capital into Nigeria.

## **Foreign Exchange Regulations**

In Nigeria, the Central Bank of Nigeria regulates foreign exchange; it is also regulated by the provisions of the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act. As the apex financial regulator in Nigeria, the Central Bank of Nigeria issues guidelines, monitors transactions, and ensures compliance with the Foreign Exchange Act. It regulates the activities of and directs fiscal policies of banks in Nigeria.

There are other laws in Nigeria that affect foreign exchange in Nigeria, such as the Customs and Excise Management Act, Terrorism (Prevention) Act, alongside various circulars and directives which the Central Bank of Nigeria issues from time to time, all of which must be obeyed in Nigeria.

## **Exemption of Foreign Companies Doing Business in Nigeria**

Foreigners [whether individuals or foreign corporate entities] seeking to do business in Nigeria are required by law to incorporate a Nigerian company which can be a limited liability company or unlimited company through which they can operate. Despite this compliance requirement, there are some exceptions which section 80 in the [new] Companies and Allied Matters Act provides for. For instance, companies invited by the federal Government of Nigeria to execute specific projects are exempt from registration; likewise, foreign companies in Nigeria for the execution of specific loan projects on behalf of a donor country or international organization. Foreign companies owned by foreign governments engaged solely in export promotion activities are exempt. Foreign companies which comprises of engineering consultants and technical experts engaged on individual specialist project under contract with any government in Nigeria or any of these governments' agencies are exempt.

## **Investment Incentives in Nigeria for Foreigners**

There are numerous incentives for foreigners who choose to do business in Nigeria. These incentives are a way to encourage foreign participation in the Nigerian economy. For example,

Nigeria operates a liberal ownership policy which allows foreigners to own up to 100% of the shares of any Nigerian enterprise. Nigeria also has bilateral trade treaties with different countries, and the aim of these treaties is to protect foreign investors from expropriation and nationalization of their business assets. Furthermore, foreigners can operate in areas designated as export processing zones, where they can enjoy free repatriation of capital, are exempt from export and import licenses, and enjoy simplified procedures. All these incentives were created with a view to attracting and keeping foreign investment in Nigeria.

### **Investment Promotion Agencies in Nigeria**

In Nigeria, the Nigerian Investment Promotion Commission was created as an agency of the Federal Republic of Nigeria to coordinate and monitor all investment promotion activities in the Nigerian economy. Every foreign company operating in Nigeria must register with the Nigerian Investment Promotion Commission after incorporation—it is a compliance requirement.

### **Taxation**

Nigeria has a robust tax regime, with its Federal Inland Revenue Service at the helm of tax affairs in Nigeria. In Nigeria, incorporated companies are expected to apply for and obtain their Tax Identification Number [TIN] through which they can pay taxes to the government. Companies pay companies income tax, while individuals pay personal income tax. The Federal Inland Revenue Service regulates and issues tax identification numbers for tax payment purposes, regulates taxation policy in Nigeria, and issues guidelines on tax compliance and statutory filings.

### **Protection of Foreign Investments in Nigeria**

The NIPC Act provides the framework and rules for the protection of foreign investments in Nigeria. Likewise, the constitution of the Federal Republic of Nigeria provides for the protection and treatment of citizens and foreigners alike in Nigeria, with rights that protects everyone in the country irrespective of citizenship status.



Furthermore, the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act makes provisions which allow foreigners to import working capital into Nigeria through authorized dealers and also for 100% repatriation of capital and profits back to their countries from their investments in Nigeria.

### **Intellectual Property Rights protection in Nigeria**

This is closely tied to the protection of foreign investments in Nigeria. To keep in line with global Intellectual property rights protection afforded to creators and inventors, Nigeria has a developed intellectual property rights protection regime through which copyrights, Industrial Designs, Trademarks and Patents are protected in Nigeria for nationals and foreigners alike doing business in Nigeria. Thus, where a foreigner is doing business in Nigeria, or even if they are not doing business in Nigeria but has business interests in Nigeria, they can protect their Brand's IP like logos, Designs, innovations, utility models, et al, as the Commercial Law Department of the Federal Ministry of Trade and Industry is readily available to register their IP in line with Nigeria's local legal regime for IP protection.

### **Employment Laws in Nigeria**

Nigeria has legal frameworks that regulate the issue of employment in the country. The main legal framework that governs employment in Nigeria is the Labour Act which covers the terms and conditions of employment such as payable wages, leave, work hours, termination of employment, etc for workers who do not exercise administrative, professional or technical functions in the workplace.

The Employee Compensation Act is another law that regulates employment in Nigeria; it provides for compensatory payments to employees who suffer occupational injuries or diseases which arise from their employment.

The National Industrial Court Act establishes the National Industrial Court, a specialized court with exclusive jurisdiction in Nigeria to handle employment disputes in Nigeria, to the exclusion of any other Court in Nigeria.

### **Labour Regulations for Foreigners Doing Business in Nigeria**

There are several laws which affect foreigners that do business or work in Nigeria.

- **Immigration Act:** The Immigration Act regulates the entry, stay and exit of foreigners who migrate into Nigeria for work and business purposes. The Act also makes copious provisions for the grant of visas and work permits for these foreigners and regulate their activities in Nigeria.
- **Nigeria Data Protection Regulation, 2019:** This Act protects the privacy of the data of individuals in Nigeria, including foreigners in Nigeria. There are numerous compliance obligations imposed on data processors and data controllers to ensure that they comply with the law.

There are other laws that regulates the business activities of foreigners in Nigeria, and these include Sector-specific Regulations like the Nigerian Oil and Gas Industry Content Development Act, the Pension Reform Act and the National Minimum Wage (Amendment) Act.

### **Work Permits and Visas**

Foreigners seeking to do business in Nigeria cannot just fly into Nigeria and begin operations, irrespective of whether or not they're exempted foreign companies. The type of visa foreigners can apply for depends on the length of their stay and nature of work they are doing in Nigeria. The [Nigerian Immigration Service](#) is the government Body responsible for handling issues of visas and migration into Nigeria.

Foreigners seeking to fly into Nigeria for employment purposes are required to go through the Nigerian Immigration Service and apply for Employment [Expatriate] Visa based on their applicable expatriate quota. Foreigners can apply for their visas online from anywhere around the Globe.

### **Employee Rights and Obligations**

A foreigner living and working in Nigeria has rights and obligations recognized and protected under Nigerian Labour Regulations. A foreigner has the right to be paid minimum wage per month, enjoy a safe and healthy work environment and be adequately compensated for injuries

which arise in the course of work, among other benefits. Likewise, a foreigner doing business or working in Nigeria has the obligation to obtain a valid work permit before flying into, staying and working within Nigeria; to comply with all the terms of their employment contract and to refrain from questionable conduct which can harm their (Nigerian) employer.

### **Dispute Resolution in Nigeria**

In Nigeria, citizens and foreigners alike utilize numerous dispute resolution mechanisms like Negotiations, Conciliation, Arbitration, Mediation, Courtroom Litigation, among others. Courtroom litigation practice in Nigeria is quite robust, with several law firms leading the legal profession in this regard and handling high-ticket commercial and other disputes in Nigeria. Arbitration is generally a very acceptable means of dispute resolution particularly in commercial transactions.

Coming down to the Court system in Nigeria, Nigeria has the Supreme Court of Nigeria as its apex Court, with the Court of Appeal following close behind in hierarchy, then the Federal High Court, the High Court, the National Industrial Court which has exclusive jurisdiction in employment-related issues, coming behind them. These are the superior Courts of Record, and there are other smaller Courts as well.

### **Banking and Finance Regulations in Nigeria**

In Nigeria, the banking system is mainly governed by Nigeria's apex Bank, the Central Bank of Nigeria [CBN] and the [Securities and Exchange Commission](#) [SEC]. The CBN licenses banks, supervises banks and other financial institutions [FinTechs, payment systems, etc] and implementing monetary policies in Nigeria. In essence, the CBN sets the direction for the banking system and outlines regulations for banks and other financial institutions in the country.

On the other hand, the SEC regulates the Nigerian Capital Markets and the conduct of capital market operators.

The Financial Reporting Council of Nigeria ensures compliance with auditing, corporate governance and financial reporting standards.

The laws that regulate banking and financial activities in Nigeria include the Banks and Other Financial Institutions Act, the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act and the Financial Reporting Council of Nigeria Act.

### **Nigerian Business Culture**

Nigerians are business-oriented, but despite this orientation, the business culture displayed in Nigeria is generally diverse and reflects its history, culture and ethnic diversity. Nigerians are generally very much influenced by the traditional social hierarchy, which places a great emphasis on respect for elders and superiors who they defer to and expect the subordinates to, as well. Thus, in business dealings, it is sometimes necessary to speak to and interact with the business leader in each given company, or business. That aside, Nigerians are generally very welcoming and love doing business with foreigners at all levels of engagement.

### **Challenges Foreign Companies and Businesses face in Nigeria**

While Nigeria presents a good business opportunity for foreigners, it also presents its fair amount of challenges. These include:

1. **Electricity and Power Supply:** Electricity in many parts of Nigeria is unstable at best and epileptic as worst. There is marked uncertainty in daily electricity distribution across Nigeria, with frequent power outages and occasional national grid collapses. All of these can seriously impact and negatively affect production levels and productivity in industries and companies, all of which rely on Power supply to be able to do their work. In many cases, to get adequate and near-uninterrupted power supply, companies may have to take their business premises off the official electricity grid and provide their own electricity by relying on the use of solar energy and/or diesel generators.
2. **Foreign Exchange Restrictions:** Foreign Companies operating in Nigeria can make a lot of gains, but sometimes repatriating their profits may be an issue because of the foreign exchange restrictions in Nigeria. Foreign exchange is tightly controlled by the CBN and the apex Bank tightly controls its circulation to Nigerians who seek same.
3. **Regulatory Inconsistency:** The regulatory environment in Nigeria can be sometimes very complex and inconsistent, leading to serious uncertainties for local and foreign

operators in Nigeria. This can pose serious challenges to foreigners and foreign entities in terms of tax, compliance, licensing and administrative bureaucracy which they have to navigate while doing business and/or operating in Nigeria. This is a huge issue on its own.

4. **Security:** Across different regions of Nigeria, insecurity rages, encompassing kidnappings and local terrorism. Furthermore, foreigners may be seen as easy targets for such targeted crimes and stealing of their assets. This can heavily disrupt their operations and supply chains as they ply business in Nigeria.

### Use of Nominees

Many people and entities doing business in Nigeria utilize nominee directors and nominee shareholders to hold their shareholding and company control due to numerous reasons, including for confidentiality and reasons which border on the sensitivity of the matters they are handling. Foreigners also do use and can use nominees to operate in Nigeria without being directly involved.

If you are a foreign entity expansion into Nigeria, or a foreigner seeking to migrate into Nigeria for work, or register a company for your Nigerian operations, we invite you to reach out to us at [corporateservices@kabbizlegal.com](mailto:corporateservices@kabbizlegal.com) or call us on +234864231176, or alternatively click the link [here](#) to chat us on [WhatsApp](#). We respond to all business enquiries within twenty-four hours.

This article was written as a Thought Leadership post for our [Corporate and Commercial Law](#) practice group with our [Regulatory Compliance & Corporate Governance](#) and [Company Secretarial and Nominee Services](#) sub-practices at [Kabbiz Legal & Advisory](#).

# Key Contacts



**Kingsley Ani**

Managing Partner



**Aglaia Obiekwe**

Chief Operating Officer



**Fidelia Amaka Ogbu**

Head, Corporate Communications

# Contact Us



[corporateservices@kabbizlegal.com](mailto:corporateservices@kabbizlegal.com)



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