



New Capital Requirements for Foreign Investors in Nigeria



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The Immigration Act, 2015, makes it mandatory for every company with foreign equity participation to obtain a business permit from the Minister of Interior before it commences business in Nigeria. This applies to a company that is wholly owned by foreigners or a joint venture company between locals and foreign partners irrespective of the percentage shareholding of the foreign partners in the company.

The guidelines for the issuance of a business permit are issued by the Minister of Interior in a Handbook implemented by the Citizenship and Business Department of the Ministry of Interior. For the last 18 years, the minimum issued share capital requirement for such companies, based on the requirements of the Handbook on Expatriate Quota Administration 2004, was the sum of NGN10,000,000 (Ten Million Naira).

The issued shares must be fully paid up and evidence of inflow of payment for the shares by the foreign partner must be provided in support of the application for a business permit. The shares may be paid for in cash/foreign currency inflowed into the company's local bank account in Nigeria or by consideration other than cash, in which case the import value of equipment or machinery imported into the country would serve as the evidence of value of the inflow. The only acceptable evidence of payment for foreign currency inflow is a Certificate of Capital Importation (CCI) issued by the local bank or an authorised dealer.

The Ministry of Interior has recently issued a revised Handbook on Expatriate Quota Administration 2022 (the "Handbook") which has increased the minimum share capital requirement to NGN100,000,000 (One Hundred Million Naira).

We note as follows:

1. The guidelines in the Handbook do not have a retrospective effect. Therefore, companies with valid subsisting business permits under the old rules are not caught by the new rule.
2. Companies that were registered with the previous minimum share capital of NGN10,000,000 (Ten Million Naira) and are yet to obtain business permits may need to increase their share capital to align with the new regime.
3. The guidelines do not say that the foreign partner or non-resident alone must be issued the entire NGN100,000,000 (One Hundred Million Naira) share capital. A foreign non-resident may thus own only a portion of the shares and only that portion will be required to be inflowed into Nigeria (with CCI as evidence) to satisfy the requirement for business permit.
4. The Corporate Affairs Commission (CAC) is yet to implement the new regime for the purpose of incorporation of new companies. Thus, the CAC still registers companies with foreign equity participation with a minimum share capital of NGN10,000,000 (Ten Million Naira). We will monitor developments and provide a further update as soon as the CAC begins to implement the new minimum capital requirement of NGN100,000,000 (One Hundred Million Naira) for incorporation purposes.

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