Nigeria's Critical Minerals Moment:

A Legal and Investment Framework for the Global Race Below the Surface

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ABSTRACT

The global energy transition has repositioned Nigeria's solid minerals sector from a policy aspiration into a strategic imperative. Sitting atop confirmed reserves of lithium, copper, niobium, tantalum, manganese, and rare earth elements across 44 other mineral types, Nigeria holds an estimated $700 billion in unexplored mineral wealth. A confluence of legislative reform, institutional modernisation, and surging global demand for energy transition minerals now presents a compelling, if time-limited, window for international investors. This article examines the legal architecture governing entry, the trajectory of ongoing reforms, the key structural risks associated with the mining sector in Nigeria.

I. The Macro Context: Why Nigeria, Why Now

As Africa's largest economy and most populous nation, Nigeria occupies a strategically important position within the continent's industrial, energy, and infrastructure landscape. For most of its post-independence history, the country's mineral endowment has been an underfunded footnote to its hydrocarbon economy, with oil and gas accounting for the bulk of export earnings, fiscal revenues and foreign investment inflows for decades. Despite the presence of commercially prospective mineral deposits in all 36 states and the Federal Capital Territory, the sector contributed only 4.6% to the Gross Domestic Product (GDP) in 2025 according to data from the National Bureau of Statistics. That dynamic is now changing. The global energy transition has repositioned Nigeria's solid minerals sector from a long-standing policy ambition to a strategic economic priority. Three converging forces are now driving this shift fundamentally.

First, the energy transition. The International Energy Agency projects that demand for lithium alone could increase by over 40 times by 2040, driven primarily by electric vehicle manufacturing and grid-scale battery storage. Cobalt, nickel, manganese, graphite and rare earth elements face similarly transformative demand trajectories. Nigeria holds confirmed reserves of all of them. While the pace and politics of the global energy transition remain subject to increasing debate, including concerns around energy security, industrial competitiveness, and continued hydrocarbon dependence in major economies, the broader direction of travel is becoming difficult to reverse. Even where oil and gas continue to play a significant role in the global energy mix for decades, the underlying demand for electrification infrastructure, battery storage, grid expansion, and strategic mineral supply chains is expected to remain structurally strong.

Second, geopolitical supply chain diversification. The concentration of critical mineral production in a small number of countries, with China controlling the majority of rare earth refining capacity and the Democratic Republic of Congo supplying over 70% of global cobalt, has prompted the European Union (through its Critical Raw Materials Act), the United States (through the Inflation Reduction Act), and other major economies to actively seek alternative, stable supply sources. Nigeria is positioned to be part of that solution.

Third, a policy and institutional step-change. The Tinubu administration's Ministry of Solid Minerals Development, under the leadership of Dr. Dele Alake, has pursued a more structured, investment-focused reform agenda than any preceding government, culminating in the formal launch of the Energy Transition and Critical Minerals (ETCM) Roadmap in H2 2025 as a successor to the 2016 growth framework.

Nigeria's Minister of Solid Minerals Development has stated that the country's unexplored critical mineral deposits are valued at over $700 billion. The question is no longer whether Nigeria has what the world needs; it is whether investors can navigate the path to unlock it.

II. The Resource Endowment: What Is in the Ground

Nigeria hosts over 44 mineral types across more than 500 confirmed locations. The minerals most strategically relevant to the global energy transition include:

Lithium — Lithium is usually found in lithium-caesium-tantalum (LCT) pegmatite formations across Nasarawa, Kwara, Kogi, Oyo, and Ekiti States. Thor Explorations, the Canadian-listed operator of the Segilola Gold Mine (Nigeria's first large-scale commercial gold producer), has identified what it considers the country's most significant lithium pegmatite deposits across a 600 km² area spanning the Western Oyo, Kwara, and Ekiti States as well as in the Federal Capital Territory, Abuja. In addition, an ASX-listed, Australian company has entered the Nigerian lithium sector through its acquisition of a controlling interest in a Nigerian joint venture vehicle holding a portfolio of lithium exploration licenses. The underlying asset portfolio includes multiple prospective lithium-bearing pegmatite projects located across key mineral belts in Kwara and Oyo States (including the Fonlo, Gbugbu, Iganna, and Saki project areas). Beyond upstream exploration, Nigeria's lithium sector is rapidly evolving into a vertically integrated value chain, driven largely by foreign, particularly Chinese, investments. Chinese firms have made significant commitments to the development of lithium processing and refining capacity in Nigeria, including multiple industrial-scale processing plants designed to convert raw spodumene and lithium-bearing ores into higher-value intermediate and battery-grade products. Notably, companies such as Canmax Technology, Jiuling Lithium, Avatar New Energy, and Asba have collectively invested over US$1.3 billion in lithium processing projects since 2023. One of such projects is the ASBA-Wisdom Lithium Refinery located at Wasa in the Federal Capital Territory, Abuja, which has the capacity to produce 1.6 Million Tons of Lithium per annum. These projects reflect a strategic shift from raw mineral exportation to domestic value addition and industrial processing.

Rare Earth Elements, Graphite, and Manganese — Nigeria's National Integrated Mineral Exploration Project (NIMEP) has confirmed the presence of graphite, manganese, and rare earth elements across multiple geological belts, with ongoing mapping and resource delineation activities. These minerals are increasingly significant to the global energy transition, particularly graphite for lithium-ion battery anodes, manganese for cathodes and steel decarbonization applications, and rare earth elements for permanent magnets used in wind turbines, electric vehicles, and advanced electronics. While most deposits remain at early exploration stage, there is growing interest in downstream beneficiation and pilot-scale processing initiatives aimed at positioning Nigeria within emerging critical mineral supply chains.

Copper (Emerging Energy Transition Metal) — Although not yet fully delineated at scale, copper mineralization has been identified in parts of the Middle Belt and North-West regions. Copper is increasingly central to global energy transition infrastructure, particularly in power transmission, grid expansion, renewable energy systems, and electric mobility. Exploration activity remains early-stage, but it is attracting renewed interest given its critical role in electrification infrastructure.

The Nigerian Geological Survey Agency (NGSA) launched the Nigeria Minerals Decision Support System (NMDSS) in May 2024, which now provides investors with online access to geological and policy data This reflects a modest but meaningful improvement to historical data accessibility challenges.

III. The Legal and Regulatory Framework

The Constitution of the Federal Republic of Nigeria 1999 (As Amended). Understanding Nigeria's mining investment framework begins with its constitutional foundation. Section 44(3) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) vests exclusive ownership and control of all minerals in the Federal Government, regardless of where they are found. Accordingly, mineral rights do not arise at the state or local level, and no sub-national entity has the legal capacity to issue or recognize mineral titles independently.

As a result, even State Governments that seek to participate in mining activities must do so indirectly through duly incorporated investment vehicles or joint ventures, which are then required to obtain mineral titles from the MCO in the same manner as private sector participants. This is a critical point of distinction from other common law jurisdictions in that land ownership confers no property rights in the subsurface minerals, and all mining rights derive solely from federal statutory grant rather than land tenure.

The Nigerian Minerals and Mining Act 2007 (NMMA) is the primary statutory instrument governing the sector. Enacted to replace the Minerals and Mining Act 1999, the MMA deregulated the sector and established the key institutional and licensing architecture still in force today. In tandem with Section 44(3), the Act vests ownership and control of all minerals in Nigeria. The Act governs the acquisition and administration of mineral rights, sets out environmental and safety obligations for mining companies, and establishes regulatory bodies to oversee compliance. It aims to promote sustainable development of the mining sector, ensure responsible environmental practices, and maximize the economic benefits of Nigeria's mineral resources for the nation. This statutory provision is operationalised through the federal licensing regime administered by the Mining Cadastre Office ("MCO"), which is the sole statutory authority empowered to grant, administer, and regulate mineral titles in Nigeria under the NMMA.

The Minerals and Mining Regulations 2011 supplements the NMMA by providing detailed rules for implementing its provisions. It also outlines the procedure for obtaining and managing mineral titles, including licenses and leases and sets standards for environmental protection, safety and operational reporting. The Regulations also define the responsibilities of mining companies, establish processes for monitoring and compliance, and provide guidelines for sustainable and responsible mineral exploitation in Nigeria.

Key Regulatory and Institutional Bodies

Nigeria's mining ecosystem is supported by a multi-agency regulatory architecture designed to oversee title administration, operational safety, environmental compliance, artisanal formalization, and downstream mineral beneficiation.

For investors, understanding the institutional roles of each regulator is critical to effective and efficient operation in the Mining Sector.

Mining Cadastre Office (MCO) is responsible for the administration of mineral titles, including the grant, renewal, transfer, suspension, and revocation of mining licenses and permits.

Federal Ministries. Since 2024, the Mining Sector is regulated by two ministries, the **Ministry of Solid Minerals Development (MSMD*)*** and the **Ministry of Steel Development**. The MSMD is primarily responsible for sector policy formulation, strategic oversight of the mining industry, and the issuance of ministerial consents required for the transfer or assignment of mineral titles and other regulated transactions with respect to critical minerals. The competitive bidding regime, established under the MMA, allows the Minister of Solid Minerals Development to designate specific areas for competitive allocation. This mechanism has been used with increasing frequency to structure entry for strategically significant mineral blocks, and investors should expect it to feature more prominently as the government seeks to maximise value capture from critical mineral assets.

Nigerian Geological Survey Agency (NGSA) is responsible for the generation, collation, and maintenance of geological and geoscientific data, including national mineral resource mapping and the provision of baseline exploration information through national geological databases.

State Governments (through relevant land administration authorities) are responsible for the administration of land under the Land Use Act 1978, including the grant of rights of occupancy and facilitation of land access arrangements required for mining operations within their respective jurisdictions.

Nigeria Revenue Service (NRS) is responsible for the administration and collection of all applicable fiscal obligations arising from mining operations, including corporate income tax, royalties on mineral production, withholding taxes, VAT (where applicable), customs duties on imported equipment, and other statutory levies under Nigeria's mining and fiscal framework.

Nigeria Customs Service (NCS) is responsible for the regulation and monitoring of imports and exports of goods, including mining equipment and mineral exports, as well as the enforcement of applicable customs duties and border controls.

Mines Inspectorate Department (MID) oversees mining operations from exploration to production, ensuring safe operations, compliance with work programmes, accurate mineral reporting, and production oversight nationwide.

Mines Environmental & Compliance Department (MEC) serves as the sector's ESG regulator, setting standards, reviewing environmental reports, and ensuring mining activities remain sustainable and compliant.

KEY REGULATORY AND INSTITUTIONAL BODIES

Under the MMA, the following titles are generally available to investors and may be acquired either directly or through joint venture arrangements:

Reconnaissance Permit — A non-exclusive, one-year (annually renewable) right to granted to individuals, incorporated companies and mining co-operatives which permits them to undertake surface surveys, aerial reconnaissance, and limited sampling. Applications are processed by the MCO within 30 days of receipt. The holder is only allowed to conduct preliminary exploration and to obtain and remove samples in small quantities. This is typically the entry-level instrument for initial geological assessment.

Exploration License — An exclusive right granted to incorporated companies, mining cooperatives and holders of Reconnaissance Permits to conduct detailed exploration activities. Duration and area of coverage are set by regulation, with obligations on the holder to report exploration results and comply with prescribed minimum work commitments. Applications are processed by the MCO within 30 days of receipt and, if granted, licenses last for 3 years subject to renewal for 2 further periods of 2 years each.

Small-Scale Mining Lease (SSML) — This lease is awarded to Nigerian citizens, incorporated companies, mining cooperatives and holders of Exploration Licenses in respect of a mining area who may convert same to SSML. The holder of this lease has the exclusive right to undertake small-scale mining activities within the leased area. In practice, and consistent with extant government policy on local content and mineral resource sovereignty, SSML interests are generally structured to ensure Nigerian control and participation. Accordingly, foreign investors are typically unable to hold SSML interests directly but may participate through contractual and operational structures, including technical services agreements, mine development and management arrangements, offtake-linked funding structures, and other permissible commercial frameworks that allow economic participation without conferring legal title to the mineral license.

Mining Lease — The primary instrument for large-scale commercial production. This license is granted to an incorporated company or any legal entity that has met the laid down conditions for issuance in respect of a subject area of application as well as the holders of an Exploration License and Small-Scale Mining Lease. The holder is authorised to mine, remove, and dispose of specified minerals and retains ownership of extracted minerals after severance from the ground. The lease duration is up to 25 years, renewable for subsequent 20-year periods. Applications are processed within 45 days of receipt by the MCO

Water Use Permit — This permit grants the holder the exclusive right to obtain and convey water and/or occupy land for the conveyance of water to the mining site. This permit is concurrently granted to holders of Exploration Licenses, Mining Leases, Quarry Leases and Small-Scale Mining Leases for the duration of the original license granted.

Surface Rights v. Mineral Title

A critical point is that mineral development in Nigeria operates within a dual legal framework under which surface rights are owned by the respective states, communities, families and individuals pursuant to the Land Use Act 1978, while mineral rights are vested in the Federal Government. In this context, mining is treated as an activity undertaken in the public interest and may constitute an "overriding public purpose" for which existing rights over land can be subject to lawful revocation under Section 28 of the Land Use Act, subject to due process.

However, notwithstanding the foregoing, the statutory framework does not dispense with the requirement to engage with and compensate surface rights holders. Accordingly, the Nigerian Minerals and Mining Act (and extant regulations) requires mineral title holders to obtain lawful access to land and to pay compensation to affected landowners or occupiers for disturbance of surface rights.

Navigating this requirement, particularly in communities with historical grievances about extractive industries, is one of the most operationally sensitive dimensions of any Nigerian mining project.

Key Precedents in the Mining Sector

Patterns in recent judicial decisions indicate that Nigerian courts place significant emphasis on legal certainty, procedural compliance, and regulatory integrity, often prioritizing these considerations over commercial convenience in mining-related disputes. This approach is exemplified in ***PALLADIUM MINING LTD. & ANOR v. GEXPAM (NIG.) LTD***, where the Court held that, upon the expiration of a Mining Technical Partnership Agreement (MTPA), the appellants' continued occupation of the site and refusal to decommission mining operations constituted trespass. The decision highlights the judiciary's insistence on strict adherence to contractual and regulatory timelines and serves as a reminder that mining rights and operational authority must be exercised within the limits prescribed by law and the governing agreements.

The judicial attitude toward environmental and community obligations in the Nigerian mining sector has taken a firm stance, with Courts making clear that federal licensing alone does not legitimize mining operations. In ***MULTIVERSE MINING AND EXPLORATION PLC v. ISHAKA & ORS (2025) LPELR-81387(CA),*** the Court of Appeal affirmed the Federal High Court's decision sitting at Ilorin that the Appellant's failure to obtain community consent, execute a Community Development Agreement, and conduct an Environmental Impact Assessment was sufficient to invalidate their Exploration License entirely. The decision sends a decisive signal that the grant of a license by a federal authority is merely one layer of a broader compliance architecture and that stripping away the social and environmental layers leaves no valid license standing.

Beyond the substantive rights of parties, Nigerian Courts have increasingly treated dispute resolution pathways as jurisdictional gateways that cannot be bypassed without consequence. In ***ASABA (NIG) ENTERPRISES LTD v. MANGAL INDUSTRIES LTD & ORS (2023) LPELR-61008(CA),*** the Court of Appeal held that Section 141 of the Nigerian Minerals and Mining Act 2007, read alongside Section 26 of the Nigerian Investment Promotions Commission Act, Cap. N117, LFN 2004, mandates a structured sequence, amicable resolution first, then Mediation, and only thereafter Arbitration, before any dispute of a bonafide investment nature may be properly ventilated. The Court treated this sequence as a condition precedent, holding that failure to exhaust these steps deprives the Court of jurisdiction, a position that coheres with the present administration's deliberate policy of steering commercial parties away from litigation and toward negotiated settlement.

IV. The Reform Trajectory and Investment Incentives

The present administration has made considerable reforms in the mining sector. Key developments with direct implications for investors include:

Investment in Geological Data and Exploration Infrastructure. A major historical constraint in Nigeria's mining sector has been the absence of reliable and commercially bankable geological data. In response, the Federal Government has increased investment in geological mapping and mineral data generation through the Nigerian Geological Survey Agency (NGSA) and the National Integrated Mineral Exploration Project (NIMEP).

While significant data gaps remain, these investments represent an important shift toward a more exploration-driven mining framework capable of attracting institutional and technically sophisticated mining capital. The continued development of the Nigerian Mineral Decision Support System (NMDSS) also reflects broader efforts toward digitisation and data accessibility within the sector.

Sector Financing and Investment Vehicles. The Nigerian Solid Minerals Development Fund (SMDF) plays an important role in providing financing support, technical assistance, and early-stage intervention funding for mining projects and sector participants. The operationalisation of the Nigeria Solid Minerals Company (NSMC) further signals a broader policy objective of mobilising strategic capital into the sector and supporting commercially viable mining ventures.

Together, these initiatives reflect increasing recognition by government that mining development requires not only regulatory reform, but also institutional capital mobilisation and project financing support mechanisms.

Formalisation and Regulatory Digitisation. The government has prioritised the formalisation and digitisation of the mining sector. This includes ongoing efforts to modernise mineral title administration, improve cadastral transparency, strengthen royalty collection mechanisms, and digitise geological information systems.

These reforms are intended to address one of the sector's long-standing structural weaknesses: the reliability of the mining administration framework.

The Energy Transition and Critical Minerals (ETCM) Roadmap (2025). The ETCM Roadmap formalises the government's intention to position Nigeria as a significant player in global critical mineral supply chains, with phased output targets and a framework aligning with international partnerships including the EU Critical Raw Materials Act. The Roadmap complements the Ministry's Seven-Point Agenda, which addresses data infrastructure, environmental standards, artisanal mining formalisation, and regulatory efficiency.

The Nigeria Solid Minerals Company (NSMC). The NSMC operationalised in H2 2025, represents the government's vehicle for direct state participation in mining ventures. Its establishment signals that the government intends to retain meaningful economic exposure to critical mineral assets, and investors in flagship projects should anticipate a state equity participation dimension to their negotiations.

> **Glencore, one of the world's largest diversified resource companies, expressed its intention to explore Nigerian mining opportunities in 2024, with emphasis on nickel, cobalt, and zinc. The trajectory of institutional interest has shifted from cautious observation to active evaluation.**

Fiscal incentives and Investment Protection. With the enactment of the Nigerian Tax Act 2025, the incentives available to operators in the sector has changed. Current incentives available to mining investors under Nigerian law include:

a) eligibility for the Economic Development Tax Credit (EDT Credit), which allows qualifying companies operating in designated mining sub-sectors to claim a tax credit of 5% per annum on qualifying capital expenditure for a period of five years, subject to the conditions prescribed under the Nigeria Tax Act 2025;

b) capital allowances on qualifying capital expenditure claimed on a straight-line basis at 20% per annum over five years under the Nigeria Tax Act 2025;

c) immediate tax deductibility of contributions made to environmental protection, mine rehabilitation, reclamation and mine closure reserves;

d) deductibility of mineral royalties and other qualifying business expenditures incurred wholly, exclusively, reasonably and necessarily for mining operations; and

e) the right to freely transfer dividends, profits, loan repayments and capital through authorised channels, subject to compliance with applicable foreign exchange regulations and the possession of the requisite investment documentation.

These incentives are supported by the Nigerian Minerals and Mining Act 2007, the Nigeria Tax Act 2025, the Nigeria Tax Administration Act 2025, the Nigerian Investment Promotion Commission Act, and applicable bilateral investment treaties and investment protection frameworks to which Nigeria is a party

Mining Marshals and Security Reforms. Security and illegal mining remain among the most material operational risks in Nigeria's mining sector. In response, the Federal Government established the Mining Marshals under the Nigeria Security and Civil Defence Corps (NSCDC) in 2024 as a specialised enforcement unit mandated to combat illegal mining activities, secure mining sites and protect mineral assets.

V. Structural Challenges and Mitigation Strategies for Investors

Credible counsel is one that clearly identifies and explains risks rather than obscuring them. Nigeria's mining sector presents genuine structural challenges that international investors must assess with rigour alongside the opportunities.

Data and geological information gaps. Nigeria's exploration investment per square kilometre remains a fraction of comparable African economies. A UNDP analysis noted that Nigeria's annual exploration funding of approximately $2.5 million contrasts starkly with Côte d'Ivoire's $147 million. The NMDSS is a meaningful step, but geological coverage remains uneven. Accordingly, investors should treat available geological datasets as indicative rather than definitive and should undertake independent exploration and verification programmes prior to committing material capital.

Illegal and artisanal mining. Unregulated mining activity, particularly acute in gold-producing states including Zamfara, Osun, and Kaduna, creates material risks for licensed investors. Beyond the immediate security implications, illegal extraction depletes the mineral resources over which investors hold title, creating disputes that are costly to resolve. The government's enforcement capability has improved with the establishment of the Mining Marshalls. This specialized security task force launched on 21 March 2024 operates under the Nigeria Security and Civil Defence Corps to curb illegal mining, secure mining sites and protect national economic interests. However, their efforts remain insufficient relative to the scale of the problem.

Accordingly, effective risk mitigation requires a dual-track security strategy comprising (i) coordinated engagement with relevant law enforcement agencies, and (ii) significant investment in private site security infrastructure. In practice, licensed operators increasingly deploy layered security frameworks, including perimeter control systems, community surveillance arrangements, and private security personnel, while maintaining structured coordination protocols with federal enforcement agencies.

Infrastructure deficits. Power, roads, and water access in Nigeria's mineral-rich regions, predominantly in the North-Central, North-West, and South-West, remain inadequate for industrial-scale mining operations. Investors should assume the requirement to develop significant ancillary infrastructure as part of their project capital expenditure, and structure agreements accordingly, including tax deductibility and ring-fencing of infrastructure investments.

Community and surface rights dynamics. As noted earlier, the interplay between mining operations and host communities remains one of the most legally complex aspects of Nigerian project development. The statutory requirement for landowner consent, combined with Community Development Agreement (CDA) obligations, creates a multi-party negotiation environment. Well-structured CDAs, developed with experienced local counsel, are not merely a compliance exercise but a risk mitigation tool that directly affects project viability.

Slow judicial system and dispute resolution delays. Nigeria's court system is often characterised by extended timelines for the resolution of commercial disputes. These delays can materially affect project economics, disrupt operational continuity, and increase enforcement uncertainty for investors. Accordingly, investors are increasingly advised to structure transactions with robust alternative dispute resolution ("ADR") mechanisms as the primary dispute management framework. This typically includes arbitration clauses seated in commercially recognised jurisdictions (or under recognised institutional rules such as LCIA, ICC, or LCA), coupled with tiered dispute resolution provisions requiring negotiation and mediation prior to arbitration.

VII. The Strategic Imperative

The World Bank has noted with urgency that the current moment of global supply chain realignment, driven by the EU Critical Raw Materials Act, the US Inflation Reduction Act, and equivalent policies in Japan, South Korea, and India, are narrowing the window for resource-holding nations to secure their position in critical mineral value chains. Countries that act decisively in the next three to five years will shape the supply architecture for decades. Those that do not risk being relegated to raw commodity exporters on unfavourable terms.

Nigeria has the geology, the legislative foundations, and for the first time in a generation, the political will to capitalise on this moment. A $1.3 billion investment commitment for lithium processing facilities, spearheaded by the Africa Finance Corporation (AFC) and the Solid Minerals Development Fund (SMDF), reached a critical commissioning phase in Q2 2025. These facilities are now projected to generate $1.2 billion in annual economic output, signaling a shift from raw ore exportation to high-value domestic processing.

The Avatar New Energy Materials plant in Nasarawa State, commissioned in May 2024, serves as the primary evidence that first movers are already establishing dominant positions.

Aluko & Oyebode has advised on the full spectrum of Nigerian energy and natural resources transactions for four decades, across project development, regulatory licensing, structured finance, community engagement, and dispute resolution. We are present at every stage of the investment lifecycle and bring the institutional depth, sector knowledge, and government relationships that complex mineral investments in Nigeria require.

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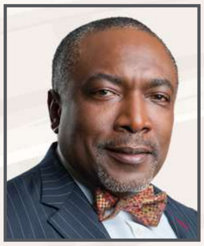

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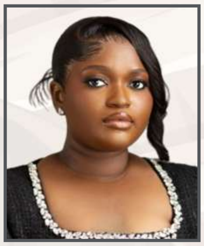

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