

# President Signs Companies and Allied Matters Bill 2020 into Law – Highlights and Major Changes

**TAX ALERT**

On 07 August 2020, the President of the Federal Republic of Nigeria signed the Companies and Allied Matters Bill 2020 into law. The new Companies and Allied Matters Act (CAMA or “the Act”) contains new, significant changes and provisions aimed at enhancing the ease of doing in Nigeria, including reduction of filing fees, and streamlining of the business registration process for small and medium-sized enterprises, etc. Some highlights of the new Act are discussed below:

## **Authorised Share Capital Replaced with Minimum Share Capital**

Section 27 has seen the concept of ‘authorised share capital’ replaced with ‘minimum share capital. The import of this replacement is that with minimum share capital, promoters of a company are no longer required to pay for shares that they do not need at a certain time.

## **Provisions for Virtual Annual General Meetings (AGM)**

Section 240(2) of the new CAMA provides that a private company may now hold its AGM electronically if said meetings are conducted in accordance with the company’s Articles of Association. This is meant to enable the attendance of all persons entitled to attend from all corners of the globe. This provision is made doubly relevant by the many restrictions that the recent COVID-19 pandemic has imposed on normal company procedure and operations.

## **Provision for Formation of Private Companies with One Shareholder**

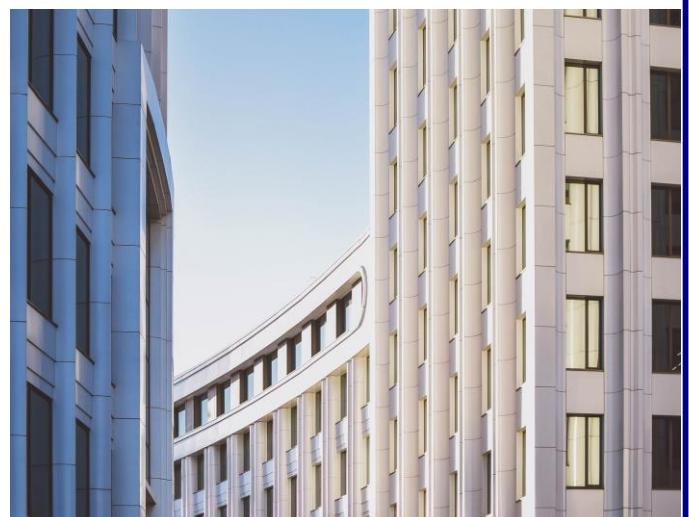
Section 18(2) of the new CAMA provides that a company can now be established with only one (1) shareholder.

## **Statement of Compliance**

By virtue of Section 40(1) of the new CAMA, a Statement of Compliance must be signed by an applicant, or his agent, who seeks to register a company, confirming that the requirements of the law as to registration have been met. This provision is included to replace the requirement for the submission of Declaration of compliance, that was to be signed by a lawyer or before a Notary public, that obtained under the old CAMA.

## **Procurement of Common Seal No Longer a Mandatory Requirement**

Based on the provisions of Section 98 of the new CAMA, a company is no longer mandated to have a common seal as provided under the old CAMA. This provision was incorporated into the new CAMA in line with international best practices, as most other jurisdictions the world over no longer make the procurement of a common seal mandatory.



## **Provisions for Electronic Filing, Electronic Transfer of Shares and Online Meetings for Private Companies**

Section 860 of the new CAMA makes provision for private companies to meet their filing obligations through electronic means e.g. email. Ownership of shares may be transferred electronically, and meetings may be held online. Furthermore, the new CAMA makes certified true copies of electronically filed documents admissible in evidence before a court of law. Additionally, section 176(1) requires that transfer of shares include an electronic instrument of transfer to be valid.

### **Exemption from The Appointment of Auditors**

Section 402 of the new CAMA provides that it is no longer mandatory for small companies and companies that have not done any business since incorporation to appoint auditors at their AGM to audit the company's accounts in respect of a financial year.

### **Merger of Incorporated Trustees**

Section 849 of the new CAMA provides that two or more associations registered as incorporated trustees with similar aims and objectives may merge under terms and conditions that the Corporate Affairs Commission (CAC) may prescribe by regulation.

### **Exemption from Appointment of Company Secretary**

Section 330(1) provides that small companies are now exempted from previously mandatory requirement of appointing a Company secretary.

### **Obligation to Disclose Persons with Significant Control in Companies**

Section 119 of the new Act makes it mandatory for a person with significant control over a company to disclose same to the company. The company, in turn, must disclose to CAC the particulars of every person with significant control over it within the time prescribed by the Act.

### **Creation of Limited Liability Partnerships (LLPs) And Limited Partnerships (LPs)**

Sections 746-810 of the new CAMA introduces the concept of Limited Liability Partnerships (LLPs) and Limited Partnerships (LPs). Entities so registered can now enjoy the tax treatment afforded to partnerships while maintaining the limited liability of members of a company.



### **Reduction of Filing Fees for the Registration or Release of Charges**

Section 222(12) of the Act reduces the total fees payable to the CAC for filing, registration or release to 0.35% of the value of the Charge. It is expected that this amendment will reduce associated costs.

### **Restriction of Multiple Directorship in Public Companies**

According to section 307(2) of the Act, it is now prohibited for one person to be a director in more than five (5) public companies at one time.

### **Provisions for Rescue of Insolvent Companies**

Sections 434 to 442 - Company Voluntary Arrangements

Sections 443 to 549 – Administration

Sections 718 to 721 Netting

The new CAMA has put measures in place, captured in the provisions listed above, to rescue struggling companies from becoming insolvent and keep them alive.

### **Comments**

The signing into law of the new Companies Allied Matters Act seems to reflect and address the current realities and issues surrounding modern businesses, which directly affects the decision to invest in the Nigerian economy. It is expected that this new development would increase commercial activities in Nigeria especially for Small and Medium enterprises and is in line with Global Corporate Best Practice. The introduction of electronic filings and virtual meetings would ease the process of carrying out business especially during the COVID pandemic. The Act is a welcome development, however, there are some envisaged challenges with the practical enforcement of some of these provisions. The tax implication is that more tax revenue may be generated as more businesses are efficiently captured and managed.

For enquiries:

**Azeez Alatoye**

Senior Partner

azeez.alatoye@ascensioncsng.com

**Matthew Johnson**

Partner/Chief Operating Officer

matthew.johnson@ascensioncsng.com

**Oluwasike Ibiwoye**

Partner

oluwasike.ibiwoye@ascensioncsng.com

### Office Locations:

#### Lagos

3B, Bosun Adekoya Street

Lekki Phase 1

Lagos State,

Nigeria.

#### Port Harcourt

102, Old Aba Road, Shell Industrial

Area, Rumuobiakani, Port Harcourt,

Rivers State

Nigeria.

**Ademola Olanrewaju**

Managing Partner

ademola.olanrewaju@ascensioncsng.com

**Oludolapo Ogunkanmi**

Partner

oludolapo.ogunkanmi@ascensioncsng.com

W: [www.ascensioncsng.com](http://www.ascensioncsng.com)

E: [Info@ascensioncsng.com](mailto:Info@ascensioncsng.com)

T: +234 1 700 1006

#### Abuja

Apo Sparklight Mall (Suite BC 7-8, 1<sup>ST</sup>

Floor), Durumi Phase II

(Federal Capital Territory) Abuja

Nigeria.



@AscensionNG



@AscensionNG



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@ascension\_ng