

Doing Business in Nigeria

2010



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1. Introduction

UHY is an international organisation providing accountancy, business management and consultancy services through financial business centres in more than 80 countries throughout the world. Business partners work together through the network to conduct trans-national operations for clients as well as offering specialist knowledge and experience within their own national borders. Global specialists in various industry and market sectors are also available for consultation.

This detailed report providing key issues and information for investors considering business operations in Nigeria has been provided by the office of UHY representatives:

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Information in the following pages has been updated so that they are effective at the date shown, but inevitably they are both general and subject to change and should be used for guidance only. For specific matters, investors are strongly advised to obtain further information and take professional advice before making any decisions. This publication is current at February 2011.

We look forward to helping you do business in Nigeria.

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2. Business environment

Nigeria's economy has much in common with those of China, Brazil, Malaysia and India; free enterprise is the norm. However, electricity and water continue to be partially government owned and controlled. Government policy is to promote the commercialization, restructuring and privatization of certain government owned enterprises.

Economic structure

Nigeria has the second largest economy in Africa and accounts for the highest production of oil and gas in Africa. Most of Nigeria's economic activity occurs in key metropolitan areas—Lagos, Abuja, Kano, Kaduna, Onitsha and Port Harcourt.

Privatisation

The public sector's role in Nigeria's economy has historically been substantial in comparison with the private sectors. The Federal and 36 State governments have taken steps to commercialize, restructure and increase private sector participation in government enterprises.

Imports, exports and free trade areas

Most of Nigeria's exports to industrialized countries consist of primary and intermediate commodities. A large proportion of exports consist of unprocessed raw materials, with the oil and gas industry contributing the greatest proportion to the country's total exports. Nigeria is a major exporter of crude oil and gas. The country is also an exporter of cocoa, rubber, cashew nut and raw timber.

Imports include mainly capital goods, refined petroleum, and intermediate goods.

International relations and associations

With the largest population in Africa (150 million), Nigeria is a significant player on the world's political stage.

Nigeria is one of the founding members of the African Union (AU), successor to the former Organization for African Unity (OAU).

Nigeria has become an important international conference centre, and has in recent years hosted a number of large international conferences like the OAU/AU and the Commonwealth Summits. Its largest commercial centre,

Lagos and the federal capital Abuja are major international conference destinations

General investment incentives

The Nigerian Government has put in place a number of investment incentives for the stimulation of private sector investment from within and outside the country. While some of these incentives cover all sectors, others are limited to some specific sectors. The nature and application of these incentives have been considerably simplified. The incentives include:

(i) Companies Income Tax Act

The Companies Income Tax Act has been amended in order to encourage potential and existing investors and entrepreneurs. The current rate in all sectors, except for petroleum, is 30%.

(ii) Pioneer Status

The grant of Pioneer Status to an industry is aimed at enabling the industry concerned to make a reasonable level of profit within its formative years. The profit so made is expected to be ploughed back into the business.

Pioneer status takes the form of five years tax holiday to qualified or eligible industries anywhere in the Federation and seven year tax holiday in respect of industries located in economically disadvantaged local government areas of the Federation. At the moment, there is a list of 69 approved industries declared pioneer industries, which can benefit from a tax holiday.

To qualify, a joint venture company or a wholly foreign-owned company must have incurred a capital expenditure of not less than five million Naira whilst that of qualified indigenous company should not be less than ₦150, 000.00. In addition, an application in respect of Pioneer Status must be submitted within one year of the applicant's company starting commercial production otherwise the application will be time-barred.

(iii) Tax relief for research and development

Industrial establishments are expected to engage in research and development (R&D) for the improvement of their processes and products. Up to 120% of expenses on R&D are tax deductible, provided that such R&D activities

are carried out in Nigeria and are connected with the business from which income or profits is derived. Also, for the purpose of R&D on local raw materials, 140% of expenses are allowed. Where the research is long-term, it will be regarded as a capital expenditure and will be written off against profit. The result of such research could be patented and protected in accordance with internationally accepted Industrial Property Rights.

(iv) Capital allowances

The current rates applicable in respect of capital allowances are:

S/N	Qualifying expenditure in respect of:-	Initial allowance percentage	Annual allowance percentage
i)	Building Expenditure	5	10
ii)	Industrial Building Expenditure	15	10
iii)	Mining	20	0
iv)	Plant excluding furniture and fittings	20	10

3. Foreign investment

Currency

The currency of Nigeria is the Naira, 100 kobo = 1 Naira.

Investment

Nigeria is West Africa's most populous country and one of the most developed. Oil and gas are the major exports and revenue earners for the country. Shell, ExxonMobil, Chevron, Total and ENI dominate petroleum exploration and production operations.

In December 1989, a new Nigeria Enterprises Act permitted 100% foreign ownership in any new venture except those involving the production of arms and ammunitions.

The Nigeria Free Trade Zone Act established the Nigerian Export Processing Zone Authority (NEPZA). In Free Trade Zones (FTZs) all products and services are designated for export with specific exceptions. Enterprises in the zones are exempted from custom duties, local taxes and foreign exchange restrictions, and qualify for incentives - tax holidays, rent-free land, no strikes or lockouts and no quotas in the EU or US markets.

Nigeria already has free trade zones that are developed. The most advanced is the Calabar FTZ in the southeast and accommodates about 100 businesses. Other free trade zones are Onne Oil and Gas FTZ near Port Harcourt, Maigatari, Snake Island, Lekki and Olokola. Under the Export Processing Zones (EPZ) initiative, seven factory sites in Ondo, Akwa Ibom and Kano states, with another 12 that are under construction in Lagos, have received infrastructure improvements, tax exemptions, and incentives to reduce their production costs in order to make their exports more competitive. There are also five Export Processing Farms (EPFs) selected for their export potential to receive support for improvements, exemptions and incentives.

Banking and finance

Banking in Nigeria is regulated by the Central Bank of Nigeria (CBN) to protect the interest of investors and depositors. The banking system consists of a central bank, large, financially strong universal banks, investment bankers, mortgage houses and microfinance banks. In recent

years, there has been a reform in the financial sector, which reduced the number of universal banks in the country from 89 to 24.

Securities and Exchange Commission (SEC)

www.sec.gov.ng

The SEC is the apex regulatory institution of the Nigerian capital market. It is a federal government agency established by the Securities and Exchange Commission Act 71 of 1979 which has been replaced by the Investment and Securities Act of 2007.

The old manual trading system used in the Nigerian Stock Exchange has been successfully converted to a fully automated electronic trading.

The Commission's functions include regulation, approval, registration, investigation and monitoring of capital issues, review of the capital issues document, approval of mergers and acquisitions, approval of state and local government bonds and authorization of unit trust schemes.

Central Bank of Nigeria (CBN)

www.cenbank.org

The CBN is the apex regulatory authority of the banking system. It was established by the Central Bank of Nigeria Act of 1958 and commenced operations on 1 July 1959. Among its primary functions, the Bank promotes monetary stability and a sound financial system. It is banker and financial advisor to the federal government, as well as banker of last resort to the banks. The Central Bank of Nigeria Act also encourages the growth and development of financial institutions. Enabling laws made in 1991 gave the CBN more flexibility in regulating and overseeing the banking sector, licensing finance companies and mortgaging houses, which until then operated outside any regulatory framework.

The Nigerian Deposit Insurance Corporation (NDIC)

www.ndic-ng.com

The NDIC complements the regulatory and supervisory role of the CBN. It is however autonomous of the CBN and reports to the Federal Ministry of Finance. The NDIC effectively took off in 1989 and was set up to provide deposit insurance and related services for banks in order to promote confidence in the banking industry. The NDIC is empowered to examine the books and affairs of insured banks and other deposit-taking financial institutions. Licensed banks are mandated to pay 15/16 of 1% of their total

deposit liabilities as insurance premium to the NDIC. A depositor's claim is limited to a maximum of N 200,000.00 in the event of a bank failure.

The Nigerian Communications Commission (NCC)

www.ncc.gov.ng

This is the regulatory authority for the telecommunications industry in Nigeria. Its major role is to facilitate private sector participation in communication services delivery, co-ordinate and regulate the activities of the operators to ensure consistency in availability of service delivery and fair pricing.

It has powers to give written directions to a licensee or an authorized carrier in connection with its functions and consult, where appropriate with the President of Nigeria, commercial and industrial organizations, consumers and standards organizations as well as other relevant bodies.

The body has given licenses to five digital mobile phone operators and several private telephone operators. The main licensed operators in the country include:

1. Zain Nigeria
2. MTN Nigeria
3. Globacom
4. NITEL/M-TEL
5. Etisalat Nigeria
6. Multilinks
7. Starcoms
8. Intercellular
9. Visafone
10. Reltel
11. MTS

The Nigerian Stock Exchange (NSE)

www.nigerianstockexchange.com

This is a statutory body licensed by the SEC to operate a stock exchange for trading in financial securities. It has branches with trading floors in some of the major commercial cities of the country.

The branch in Lagos was opened in 1961; Kaduna, 1978; Port Harcourt 1980; Kano, 1989; Onitsha, 1990; Ibadan, 1990, Abuja, 1999; Yola, 2002; and Benin, 2007.

The Corporate Affairs Commission (CAC)

www.cac.gov.ng

The Corporate Affairs Commission was established by the Companies and Allied Matters Act of 1990 to regulate the formation and management of companies.

Its establishment as an autonomous body was as a result of the perceived inefficiency and ineffectiveness of the former Companies Registry, a department within the Federal Ministry of Commerce and Tourism, which was then responsible for the registration and administration of the repealed Companies Act of 1968.

The Commission's mandate is to maintain a Companies Registry and offices in the 36 states of the Federation to discharge its functions under the Act, or any law in respect of which it is charged with responsibility and conduct investigations into the affairs of any company where the interests of the shareholders and the public so demand.

The Commission also registers business names, incorporated trustees and Non-Government Organisations as well as provides a wide range of ancillary services.

The Institute of Chartered Accountants (ICAN)

www.ican-ng.org

It has been 39 years since the first group of professionally qualified accountants came into existence in Nigeria under the name "The Association of Accountants in Nigeria". This Association was absorbed by the Institute created by Parliament Act 15 of 1965, which came into force on 1 September 1965. The Institute has over 20,000 members and 90,000 students on its register at present.

The Institute has reciprocal privileges with many regional and international professional accountancy associations. It is an active member of ABWA (Association of Accountancy Bodies in West Africa) and IFAC.

National Agency for Food and Drugs Administration and Control (NAFDAC)

www.nafdacnigeria.org

By the provisions of the enabling law (Act 15 of 1993), the Agency is mandated to:

- Regulate and control the importation, exportation, manufacture, advertisement, distribution, sale and use of drugs, cosmetics, medical devices, bottled water and chemicals;
- Conduct appropriate tests and ensure compliance with standard specifications approved by the Council for the effective control of the quality of foods, drugs, cosmetics, medical devices, bottled water and chemicals and their raw materials as well as their production processes in factories and other establishments;
- Undertake appropriate investigation into the production premises and raw materials for food, drugs, cosmetics, medical devices, bottled water and chemicals, and establish relevant quality assurance system, including certification of the production sites and of the regulated products;
- Undertake inspection of imported food, drugs, cosmetics, medical devices, bottled water and chemicals, and establish relevant quality assurance system, including certification of the production sites and of the regulated products;
- Compile standard specifications and regulations and guidelines for the production, importation, exportation, sale and distribution of foods, drugs, cosmetics, medical devices, bottled water and chemicals;
- Undertake the registration of food, drugs, medical devices, bottled water and chemicals;
- Control the exportation and issue quality certification of foods, drugs, medical devices, bottled water and chemicals intended for export;
- Establish and maintain relevant laboratories or other institutions in strategic areas of Nigeria as may be necessary for the performance of its functions;
- Pronounce on the quality and safety of foods, drugs, cosmetics, medical devices, bottled water and chemicals after appropriate analysis;

- Undertake measures to ensure that the use of narcotic drugs and psychotropic substances are limited to medical and scientific purposes;
- Grant authorization for the import and export of narcotic drugs and psychotropic substances as well as other controlled substances ;
- Collaborate with National Drug Law Enforcement Agency in measures to eradicate drug abuse in Nigeria;
- Advise Federal, State and Local Governments, the Private sector and other interested bodies regarding the quality, safety and regulatory provisions on food, drugs, cosmetics, medical devices, bottled water and chemicals;
- Issue guidelines on, approve and monitor the advertisement of food, drugs, cosmetics, medical devices, bottled water and chemicals;
- Compile and publish relevant data resulting from the performance of the functions of the Agency or from other sources;
- Sponsor such national and international conferences as it may deem appropriate;
- Liaise with relevant establishments within and outside Nigeria in pursuance of its functions.

In discharging the above functions, the agency envisages that its activities will be evident in all sectors that deal with food, cosmetics, medical devices, bottled water and chemicals to the extent of instilling extra need for caution and compulsion to respect and obey existing regulations both for healthy living and knowledge of certain sanctions or default.

The Nigerian Investment Promotion Commission (NIPC)

www.nipc-nigeria.org

The NIPC is the one-stop-shop for potential foreign investors. The NIPC is tasked with overcoming the bureaucratic and institutional red tape that had previously discouraged foreign investors especially from taking advantage of Nigeria's wealth of opportunities.

Located in Nigeria's capital, Abuja, with a zone office in major commercial centres of the country, the NIPC serves as a central investment support agency, streamlining the activities of ministries, government departments and agencies involved with investment promotion. It helps in matters such as registration or incorporation of foreign enterprises, obtaining expatriate quotas or providing information about the different tax regimes for various sectors of the economy.

The Nigerian Immigration Service (NIS)

www.immigration.gov.ng

The Nigerian Immigration Service (NIS) has come a long way since it was extracted from the Nigerian Police Force (NPF) in 1958, as a separate entity entrusted with core immigration duties under the headship of the Chief Federal Immigration Officer. The new department inherited the Immigration Ordinance of 1958 for its operation. In-line with the reciprocal nature of immigration laws world-wide, the Federal Minister of Internal Affairs, under whose responsibility immigration matters fell, continued to make amendments to existing laws and make new laws as and when appropriate.

By 1 August 1963, the NIS really came of age when it was formally established by an Act of Parliament (Section 5 of Immigration Act L.N. Cap. 171).

Nigerian Civil Aviation Authority (NCAA)

www.ncaa.gov.ng

The NCAA was established by Decree 49 of 1999, with among others, the statutory responsibilities of ensuring regulating, monitoring and promotion of the safety, security, economic and reliability of air navigation oversight in-line with International Civil Aviation organisation (ICAO) standard and recommended practices (SARPs). The Authority effectively commenced operations on 1 January 2000.

The NCAA was established to provide aviation safety and economic regulatory services in the most efficient, effective, quality and technology driven manner to the satisfaction and benefit of all stakeholders, consistent with the highest international standards and the sustainable development of the industry and national economy.

Prior to 1989, the regulations of the aviation industry as well as provision of air traffic services were carried out by the Civil Aviation Department (CAD) of the Federal Ministry of Aviation. Sequel to the adoption of the National policy on Civil Aviation of 1988 by the Federal Government, the Federal Civil Aviation Authority (FCAA) was established under Decree 8 of 1990 as an Aviation regulatory body and took over the function of the CAD.

The International Civil Aviation Organisation (ICAO) is the body responsible for setting standards of international civil aviation activities

and ensuring that states fulfil obligations provided in the convention on international civil aviation. The body, as part of its conditions, requires all member states to establish an appropriate state organization to be known as Civil Aviation Authority charged with necessary powers to ensure compliance with air navigation regulations promulgated by the state. Nigeria as a signatory to the convention and desirous to maintain its membership of ICAO had to fulfil this obligation. It was in view of this and in response to calls from stakeholders in the Aviation Industry that the then Federal Military Government enacted Decree 49 of 1999, establishing the NCAA. The Authority commenced effective operations on 1 January 2000.

National University Commission

www.nuc.edu.ng

The National University Commission was established in 1962 as an advisory agency in the Cabinet Office. However, in 1974 it became a statutory body with a governing council.

In the 44 years of its existence, the Commission has transformed from a small office in the Cabinet Office to an important arm of government in the area of development and management of university education in Nigeria.

The main functions of the Commission are as follows:

- i. Granting approval for all academic programmes run in Nigerian universities;
- ii. Granting approval for the establishment of all higher educational institutions offering degree programmes in Nigerian universities;
- iii. Ensuring quality assurance of all academic programmes offered in Nigerian universities;
- iv. Channelling for all external support to the Nigerian universities.

The Commission has six departments: the Department of Academic Standards, the Department of Inspection and Monitoring, the Department of Management Support Services, the Department of Students' Support Services, the Department of Research and Innovations and the Executive Secretary's Office. Each of the departments is headed by a director.

Nigeria Export Processing Zone Authority

(www.nepza.org)

The Nigeria Export Processing Zone Authority is Nigeria's Investment Promotion Agency for investment into the Free Trade Zone areas in Nigeria. The licensing, monitoring and regulation of Free Trade Zones is vested on the Nigeria Export Processing Zones Authority by the Nigeria Export Processing Zones Act 63 of 1992.

Several objectives were set for the adoption of the Free Zones Scheme in Nigeria, amongst which are the diversification of the revenue base of the economy, employment generation and promotion of export.

The enabling Act also allows the Authority to grant all licenses or permits on free trade zone activity to the exclusion of all other agencies, and enforce compliance with its rules and regulations. The Act is an omnibus law, which gives the Authority power to define policy directions and provide a one-stop-shop for approval of business activities in the zones.

The idea of setting up Free Trade Zones in Nigeria dates back to the early seventies, when evidence of the effectiveness of the scheme began to show in the Far East and the Caribbean. This prompted the Federal Government, commissioned the United Nations Industrial Development Organization (UNIDO), to conduct further investigation on the viability of immediate establishment of an Export Processing Zone in Calabar and identified other locations suitable for the scheme.

Incentives

1. Complete tax holiday from all Federal, State and Local Government taxes, rates, customs duties and levies.
2. One-stop approvals for all permits, operating licenses and incorporation papers.
3. Duty-free, tax-free import of raw materials and components for goods destined for re-export.
4. Duty-free introduction of capital goods, consumer goods, machinery, equipment and furniture.
5. Permission to sell 100% of manufactured, assembled or imported goods into the domestic Nigerian market.
6. Goods manufactured in the Free Zone sold into the domestic market shall attract import duty calculated only on the basis of the

value of the raw materials or components used in assembly not on the finished products.

7. 100% foreign ownership of investments.
8. 100% repatriation of capital, profits and dividends.
9. Waiver of all import and export licenses.
10. Waiver on all expatriate quotas for companies operating in the zones.
11. Prohibition of strikes and lockouts.
12. Rent-free land at construction stage within the zone.

Investment Opportunities

Government economic policies place priority on greater investment in agricultural production and manufacturing and exports of manufactured or processed goods. Abundantly skilled and versatile human resources and access to a vast local market of over 150 million people and beyond in the sub-region, provides the scale necessary to produce export quality goods at competitive prices.

Priority Areas of Investment

There are four industrial sectors which are considered priority areas of development because of their linkage effects on the other sectors and potential catalytic role in the overall growth of the industrial sectors. These priority areas which are most favoured in the administration of government industrial incentives are:

- i. Metallurgical/Engineering industries
- ii. Agriculture (forest-based and agro-allied activities)
- iii. Chemical/Petrochemicals
- iv. Construction

Specifically the industrial projects desired from these sectors are:

- i. Foundries and Forges;
- ii. Metal Fabrication/Machine Tools;
- iii. Pharmaceuticals;
- iv. Rubber and plastic;
- v. Leather and leather products;

- vi. Textiles and weaving apparels;
- vii. Cement;
- viii. Other non-metallic material building materials, bricks, ceramic glass;
- ix. Food processing;
- x. Sugar, confectioneries and beverages;
- xi. Cereal and grain milling;
- xii. Fruits, vegetables, vegetable oils, oil seeds, roots and tubers.

In addition to the identified priority areas mentioned above, investors are welcome to also participate wholly or jointly with Nigerians in the following specific projects:

- i. Gemstones cutting and polishing;
- ii. Gold processing;
- iii. Mini-sugar production plants;
- iv. Multi-mineral plants for gypsum, talc, kaolin, marble/dolomite, baryte etc;
- v. Cement production (700- 1000 metric tonne per day);
- vi. Lead and zinc project;
- vii. Processing of salt from sea water;
- viii. Sodium triphosphate production
- ix. Small/medium scale plant for sheet metal production;
- x. Mining of industrial minerals; bitumen etc;
- xi. Stone cutting/polishing;
- xii. Fabrication of spare parts;
- xiii. Exploitation of coal with known reserve of 293 140 000 tonnes in Enugu, Kogi and Adamawa States; and
- xiv. Timber/wood processing

Nigeria Accounting Standard Board (NASB)

www.nig-asb.org

The Nigerian Accounting Standards Board (NASB) came into being on September 9, 1982. It is the only recognised independent body in Nigeria responsible for the development and issuance of Statements of Accounting Standards for users and preparers of financial statements, investors, commercial enterprises and regulatory agencies of government. Although the NASB is a parastatal of the Federal Government, it operates independently in the discharge of its technical duties. The membership of NASB comprises organisations drawn from the banking, manufacturing, commercial, educational and regulatory sectors of the economy.

Objectives

(a) To formulate and publish, in the public interest, accounting standards to be observed in the preparation of financial statements and to promote the general acceptance and adoption of such standards by preparers and users of financial statements.

(b) To promote and sponsor legislation when necessary in order to ensure that standards developed and published by the Board receive nationwide acceptance, adoption and compliance.

Nigeria Tourism Development Corporation (NTDC)

www.nigeriatourism.net

Tourism

The Federal Government of Nigeria in its determined efforts to develop and promote tourism into an economically viable industry evolved a tourism policy in 1991. The main thrust of the policy is to make Nigeria a prominent tourism destination in Africa, generate foreign exchange, encourage even development, promote tourism-based rural enterprises, generate employment, accelerate rural-urban integration and foster socio-cultural unity among the various regions of the country through the promotion of domestic and international tourism. It also aims at encouraging active private sector participation in tourism development.

Institutions

The following institutional framework has been put in place to enhance effective execution of the tourism policy:

- The Federal Ministry of Commerce and Tourism assumes full responsibility for policy initiation and monitoring, maintaining the

link with the state governments on funding and monitoring of nationwide tourism infrastructure and relating with international tourism agencies.

- State Ministries of Commerce and Tourism implement policies and directives from the Federal Ministry of Commerce and Tourism and initiate projects for tourism development on the states.
- National Council on Commerce and Tourism, chaired by the Federal Minister of Commerce and Tourism, insures the coordination of national planning and development of tourism in the federation. It is an annual forum for discussing and perfecting modalities for tourism management.
- The Nigerian Tourism Development Corporation (NTDC) is the apex tourism body responsible for promoting, marketing and disseminating information on the industry locally and internationally, through publication of hand books, brochures and general guidelines for the operation of the industry. It collaborates with the private sector as well as other tiers of government in implementing policy directives and executing tourism projects. It coordinates the activities of organised private sector tourism associations and practitioners.
- State tourism boards are to identify, preserve, protect and develop tourism assets and resources within the states.
- Local government tourism committees locate and identify potential tourist attractions in their areas, serve as information centres and provide tour guides, preserve and maintain monuments and museums in their areas of jurisdiction.

Incentives for investors

The following incentives have been put in place to encourage domestic and foreign investor's participation in the tourism industry in Nigeria:

- The tourism sector was accorded preferred sector status in 1991. This makes the sector qualify for incentives (available to similar sectors of the economy) such as tax holidays, longer years of moratorium and import duty exemption on tourism related equipment.
- Establishment of a specialised training institute, National Institution for Hotels and Tourism Studies, Bagauda, Kano, where middle level manpower training is provided.
- State governments are willing and prepared to facilitate acquisition of land through issuance of certificate of occupancy for tourism development purpose.

- Some states have specific areas as tourism development zones, thereby making acquisition of land for such projects more viable.

Infrastructure

The combination of factors, both geographical and socio-cultural makes Nigeria a good tourist destination in the continent of Africa. Nigeria, because of its size and physical location, spans several climatic and vegetation belts. The equatorial climate provides radiant sunshine most of the year.

Airports and airlines

There are airports in the major cities of Nigeria. Several domestic airlines and major European and African airlines, such as Nigerian Airlines, combine to link Nigeria with the rest of the world through the international airports in Lagos, Kano, Port Harcourt, Calabar, Abuja and Maidugiri.

Investment opportunities

The following tourism investment potentials exist in the country:

- Overland safaris;
- National parks;
- Game and gorilla viewing;
- Deep sea recreational fishing;
- Lake and river fishing;
- Archaeological tours;
- Beach resorts and hotels;
- Transportation— water, land and air;
- Surfing and snorkelling;
- Theme parks and exposition centres.

Department of Petroleum Resources (DPR)

www.dprnigeria.com

The Department of Petroleum Resources is vested with the necessary powers by various legal provisions to discharge the following functions and responsibilities:

- Supervising all petroleum industry operations carried out under licenses and leases in the country in order to ensure compliance with the applicable laws and regulations in line with good oil producing practices;
- Enforcing safety and environmental regulations and ensuring that those operations conform to national and international industry practices and standards;
- Keeping and updating records of petroleum industry operations, particularly on matters relating to petroleum reserves, production and exports of crude oil, gas and condensate licenses and leases as well as rendering regular reports on them to the Government;
- Advising Government and relevant agencies on technical matters and policies which may have impact on the administration and control of petroleum;
- Processing all applications for licenses so as to ensure compliance with laid-down guidelines before making recommendations to the Minister of Petroleum Resources;
- Ensuring timely and adequate payments of all rents and royalties when due; and
- Monitoring the government local content policy.

These functions cover all activities in the petroleum industry – upstream, midstream and downstream.

National Pension Commission

www.pencom.gov.ng

Prior to the enactment of the 2004 Pension Reform Act, pension schemes in Nigeria had been bedevilled by many problems. The Public Service operated an unfunded Defined Benefits Scheme and the payment of retirement benefits were budgeted annually.

In the private sector on the other hand, many employees were not covered by the pension schemes put in place by their employers and many of these schemes were not funded.

Objectives

The main objectives and features of the 2004 Pension Reform Act are:

- To ensure that every person who worked in either the Public Service of the Federation, Federal Capital Territory or Private Sector receives their retirement benefits as and when due;

- To assist individuals by ensuring that they save to support their livelihood during old age and thereby reducing old age poverty;
- To ensure that pensioners are not subjected to untold suffering due to inefficient and cumbersome process of pension payment;
- To establish a uniform set of rules, regulations and standards for the administration and payments of retirement benefits for the Public Service of the Federation, Federal Capital Territory and the Private Sector;
- To stem the growth of outstanding pension liabilities.

The pension reform programme is governed by the key principles of sustainability, safety and security of benefits, transparency, accountability, equity, flexibility, inclusivity, uniformity and practicability

Functions of the Commission

The 2004 Pension Reform Act established the National Pension Commission (PenCom) as the body to regulate, supervise and ensure the effective administration of pension matters in Nigeria.

The functions of the Commission include:

- Regulation and supervision of the scheme established under the Act;
- Issuing guidelines for the investment of pension funds.
- Approving, licensing, regulating and supervising pension fund administrators, custodians and other institutions relating to pension matters as the Commission may, from time to time, determine;
- Establishing standards, rules and guidelines for the management of the pension funds under the Act;
- Ensuring the maintenance of a National Data Bank on all pension matters;
- Carrying out public awareness and education on the establishment and management of the scheme;
- Promoting capacity building and institutional strengthening of pension fund administrators and custodians;
- Receiving and investigating complaints of impropriety levelled against any pension fund administrator, custodian or employer or any of their staff or agents;
- Performing such other duties which, in the opinion of the Commission, are necessary or expedient for the discharge of its functions under the Act.

Powers

The Commission shall have the power to:

- Formulate, direct and oversee the overall policy on pension matters in Nigeria;
- Fix the terms and conditions of service including remuneration of the employees of the Commission;
- Request or call for information from any employer or pension fund administrator or custodian or any other person or institution on matters relating to retirement benefit;
- Charge and collect such fees, levy or penalties, as may be specified by the Commission;
- Establish and acquire offices and other premises for the use of the Commission in such locations as it may deem necessary for the proper performance of its functions under the Act;
- Establish standards, rules and regulations for the management of the pension funds under the Act;
- Investigate any pension fund administrator, custodian or other party involved in the management of pension funds;
- Impose administrative sanctions or fines on erring employers or pension fund administrators or custodians;
- Order the transfer of management or custody of all pension funds or assets being managed by a pension fund administrator or held by a custodian whose licence has been revoked under this Act or subject to insolvency proceedings to another pension fund administrator or custodian, as the case may be.
- Do such other things which, in its opinion, are necessary to ensure the efficient performance of the functions of the Commission under the Act.

Pension Fund Administrators

The new pension scheme requires pension funds to be privately managed by licensed Pension Fund Administrators (PFA's). They are mandated to maintain Retirement Savings Accounts for employees, invest and manage the pension funds in a manner as the Commission may from time to time prescribe, maintain books of accounts on all transactions relating to the pension funds managed by it, provide regular information to the employees or beneficiaries and pay retirement benefits to employees in accordance with the provisions of the 2004 Pension Reform Act. To be issued an operating licence, the PFA must be a limited liability company

the sole object of which is the management of pension funds. To discourage frivolous applications and to ensure credibility, the company must have a paid up share capital of ₦ 150,000,000 and demonstrate professional capacity to manage pension funds and administer retirement benefits.

Nigerian Association of Chambers of Commerce, Industry, Mines and Agriculture

www.naccima.com

The Nigerian Association of Chambers of Commerce, Industry, Mines and Agriculture popularly referred to by its acronym, NACCIMA, is the umbrella organization for all City/State and Bilateral Chambers of Commerce within the Federal Republic of Nigeria.

The Association at its inception in 1960 was known as the Association of Chambers of Commerce in Nigeria and the Southern Cameroons. In 1999, the membership structure, which formally embraced city, state and bilateral chambers, was reviewed to embrace the mixed system which allowed for the inclusion of business/professional bodies, trade groups and corporate organizations. By the beginning of the 21st century, the membership of the Association had expanded to over 60. The cardinal objective of the NACCIMA is to provide a common platform for joint action by all its members on all matters of concern to the Association.

In order to take advantage of emerging opportunities, NACCIMA upgraded its Business Information Centre to the Trade and Investment Promotion Centre (TIPC) to provide prospective investors with the latest information on the variety of investment opportunities in Nigeria. Since it was established, the Centre has hosted numerous foreign business and economic delegations and arranged trade missions to foreign countries.

Objectives

The primary objective of the Association is to create an enabling environment for the pursuit of commerce, industry and all other forms of economic activities of interest to the private sector. Other objectives include:

- To promote, protect and develop all matters affecting business;
- To encourage an orderly expansion and development of all segments of the community;
- To contribute to the overall economic stability of the community;
- To encourage and promote the nations private sector;

- To provide a network of national and international business contacts and opportunities;
- Carry out training programmes for members and other relevant economic agents;
- Create business services and information and attract inflow of investments and tourists; and
- Advocating for better business environments and creating new opportunities and industries.

Functions

- Collection and dissemination of vital business information;
- Monitoring the performance of the economy and making representation to Government and its agencies with regard to the effects of various economic, fiscal and monetary measures;
- Identification of obstacles to the establishment and profitable operations of commercial, industrial and other enterprises, especially those arising from government policies or the administration of such policies and the exertion of pressure for the removal of such obstacles;
- Organizing seminars and workshops on various aspects of the economy, business and management;
- Promoting commercial, industrial and in general, economic cooperation between Nigeria and other countries; and
- Assisting to protect Nigeria's image and business interests abroad by mediating in commercial disputes.

Lagos Chamber of Commerce

The Lagos Chamber of Commerce and Industry was established in 1888 and is the premier Chamber of Commerce in Nigeria. It was incorporated in 1950 as a non-profit making organization, limited by guarantee under the Companies Act of 1948. The primary objective of the Chamber is to promote, support or oppose legislative or other measures affecting trade, industry, commerce and agriculture as well as represent the opinion of the business community on these matters in particular and the economy as a whole.

The Chamber has grown impressively from a membership of 14 in 1888 to about 1,500 today. Since its incorporation, the Chamber has continued to play a significant role in the economic growth of Lagos in particular and Nigeria in general through the promotion and development of commercial and industrial opportunities.

Bilateral Chambers of Commerce in Nigeria

There are many chambers of commerce operating which promote bilateral trade with countries around the world, some of which include:

- Franco-Nigerian Chamber of Commerce & Industry
- Nigerian-American Chamber of Commerce
- Nigerian-Asian Chamber of Commerce & Industry
- Nigerian-Belgium Chamber of Commerce
- Nigerian-Brazilian Chamber of Commerce and Industry
- Nigerian-British Chamber of Commerce and Industry
- Nigerian-Canadian Chamber of Commerce and Industry
- Nigerian-Chinese Chamber of Commerce & Industry
- Nigerian-Hungarian Chamber of Commerce & Industry
- Nigerian-Israeli Chamber of Commerce & Industry
- Nigeria-Jamaica Chamber of Commerce & Industry
- Nigeria-Japan Chamber of Commerce & Industry
- Nigerian-Korean Friendship Association
- Nigerian-Netherlands Chamber of Commerce & Industry
- Nigeria-Philippine Chamber of Commerce & Industry
- Nigerian-Polish Chamber of Commerce & Industry
- Nigeria-Romania Chamber of Commerce
- Nigerian-South African Chamber of Commerce
- Nigeria-Taiwan Chamber of Commerce & Industry

Nigerian Maritime Administration and Safety Agency

www.nimasaonline.com

The Nigerian Maritime Administration and Safety Agency (NIMASA) is the regulatory and promotional agency for the maritime industry. The Agency was created from the merger of National Maritime Authority and Joint Maritime Labour Industrial Council (former parastatals of the Federal Ministry of Transport) on 1 August 2006.

The mandate of the Agency is derived from the following:

- i. Nigerian Maritime Administration and Safety Agency Act of 2007
- ii. Merchant Shipping Act of 2007
- iii. Coastal and Inland Shipping (Cabotage) Act.

These Acts confer the following functions on the Agency:

- (a) Pursue the development of shipping and regulate matters relating to merchant shipping and seafarers;
- (b) Administering the registration and licensing of ships;
- (c) Regulate and administer the certification of seafarers;
- (d) Establish maritime training and safety standards;
- (e) Regulate the safety of shipping as regards to the construction of ships and navigation;
- (f) Provide search and rescue services;
- (g) Provide directions and ensure compliance with vessel security measures;
- (h) Carry out air and coastal surveillances;
- (i) Control and prevent maritime pollution;
- (j) Provide direction on qualification, certification, employment and welfare of maritime labour;
- (k) Develop and implement policies and programmes which will facilitate the growth of local capacity in ownership, manning and construction of ships and other maritime infrastructure;
- (l) Enforce and administer the provisions of the Cabotage Act 2003;
- (m) Perform port and flag state duties;
- (n) Receive and remove wrecks;
- (o) Provide National Maritime Search and Rescue Services;
- (p) Provide Maritime Security; establish the procedure for the implementation of conventions of the International Maritime Organisation and the International Maritime Labour Organisation and other international conventions to which the Federal Republic of Nigeria is a party on Maritime Safety and Security, Maritime Labour, Commercial Shipping and for the implementation codes, resolutions and circulars arising there from.

Regulatory services

- a) Flag State Administration
- b) Port State Control/Administration

- c) Marine Environment Management
- d) Implementation of ISPS Cod
- e) Certification of Seafarers and Registration of Dockworkers
- f) Registration of Shipping Companies

Nigerian Electricity Regulatory Commission

www.nercng.org

The Nigerian Electricity Regulatory Commission (NERC) is an independent regulatory agency which was officially inaugurated on 31 October 2005 as provided in the [Electric Power Sector Reform Act 2005](#). The Commission is authorized to carry out the monitoring and regulation of the electricity industry, issue licences to market participants and ensure compliance with market rules and operating guidelines.

Objectives and functions of the commission

The Commission's objects and functions are outlined in the [Electric Power Sector Reform Act 2005](#).

The principal objectives are:

- a) To create, promote and preserve efficient industry and market structures, and to ensure the optimal utilisation of resources for the provision of electricity services;
- b) To maximise access to electricity services by promoting and facilitating consumer connections to distribution systems in both rural and urban areas;
- c) To ensure that an adequate supply of electricity is available to consumers;
- d) To ensure that the prices charged by licensees are sufficient to allow the licensees to finance their activities and to allow for reasonable earnings for efficient operation;
- e) To ensure the safety, security, reliability and quality of service in the production and delivery of electricity to consumers;
- f) To ensure that regulation is fair and balanced for licensees, consumers, investors, and other stakeholders;

- g) To present quarterly reports to the National Assembly on its activities.

For the maintenance of the items referred to previously, the Commission shall perform the following functions:

- a) Promote competition and private sector participation, when and where feasible;
- b) Establish or, as the case may be, approve appropriate operating codes and safety, security, reliability, and quality standards;
- c) Establish appropriate consumer rights and obligations regarding the provision and use of electric services;
- d) License and regulate persons engaged in the generation, transmission, system operation, distribution, and trading of electricity;
- e) Approve amendments to the market rules;
- f) Monitor the operation of the electricity market; and
- g) Undertake such other activities which are necessary or convenient for the better carrying out of or giving effect to the objects of the Commission.

Moreover, the Commission will:

1. Receive general policy directions on matters concerning electricity, including directions on overall system planning and co-ordination from the ministry;
2. Set up and administer a fund under the name: "Power Consumer Assistance Fund" to be used to subsidise underprivileged power consumers as specified by the Minister;
3. Support the preparation of the Rural Electrification Strategy and Plan, issue the licenses for rural electrification, regulate the rural systems, and determine the contribution rates to be sent to the Rural Electrification Fund.

It is also established in the EPSR Act that there will be seven Commissioners and one of them will be the president of the Board.

Standard Organisation of Nigeria

www.sononline-ng.org

The Standard Organisation of Nigeria (SON) is the statutory body vested with the responsibility of standardising and regulating the quality of all products in Nigeria.

When it was established through Act 56 in 1971, it was called the Nigerian Standards Organisation (NSO). The Act establishing the body was amended in 1976.

The original Act provided the body with the authority to specify and elaborate standards, as well as provide a quality assurance system for commodities, including manufactured, industrial and imported products and services. However, the 1976 amendment to the Act conferred on the Minister of Industry the power to declare Mandatory Industrial Standards in respect of products or processes recommended by the Nigerian Standards Council.

Functions of the Organisation

- 1 To investigate the quality of facilities, materials and products in Nigeria, and establish a quality assurance system, including certification of factories, products and laboratories;
- 2 To ensure reference standards for calibration and verification of measures and measuring instruments;
- 3 To compile an inventory of products requiring standardisation;
- 4 To foster interest in the recommendation and maintenance of acceptable standards by industry and the general public;
- 5 To develop methods for testing materials, supplies and equipment, including items purchased for use by State and Federal departments and private establishments;
- 6 To register and regulate standard marks and specifications;
- 7 To undertake preparation and distribution of standard samples;
- 8 To establish and maintain laboratories or other institutions, as may be necessary for the performance of its functions;
- 9 To advise State and Federal departments of Government on specific problems relating to standards;
- 10 To sponsor appropriate national and international conferences;
- 11 To undertake research as may be necessary for the performance of its functions;
- 12 To use research facilities, whether public or private, according to terms and conditions agreed upon between the Organisation and the institutions concerned.

To help fulfil their responsibility to protect the consumers of Nigeria, the Standards Organisation of Nigeria (SON), the SON Conformity Assessment Program (SONCAP) was established.

The aim of SONCAP is to identify those goods which pose the highest risk to consumers in Nigeria and ensure that their claims of safety are verified before they are exported to Nigeria. This will help ensure that Nigerian consumers are protected from unsafe and sub-standard goods as well as ensuring that Nigerian manufacturers are not subjected to unfair competition from such goods.

Since 1 September 2005, the SONCAP has become mandatory for products within its scope. These products are known as Regulated Products. Failure by exporters to comply with the SONCAP in relation to these products may result in the rejection of goods or additional testing and delays at Nigerian ports. SONCAP is independent of and additional to any existing import processes.

The presentation of the SONCAP Certification, which consists of a Product Certificate and a SONCAP Certificate will be the means through which the SONCAP will be enforced. Both of these items are mandatory clearance documents for Regulated Products.

Nigerian Insurance Commission

The insurance industry in Nigeria is regulated by the National Insurance Commission under the Insurance Act of 2003. All operators in the industry—insurers, re-insurers, insurance brokers, insurance agents and loss adjusters require a licence from the Commission to do business in Nigeria.

The law recognises two main classes of business for which license may be granted – Life Insurance business and General Insurance business. The minimum equity capital for each operator is increased from time to time. The current amounts are:

General Insurance Business	₦ 3 Billion Naira
Life Insurance Business	₦ 2 Billion Naira
Re-insurance Business	₦ 10 Billion Naira

Related laws allow foreign insurers to set up wholly or partly owned subsidiaries or hold minority stakes in local associates or affiliates. Only locally registered operators can take part in what is described as ‘domestic insurance or reinsurance business’. This includes:

- Fire insurance and reinsurance business;
- Motor insurance and reinsurance business;
- Liability insurance and reinsurance business;
- Life insurance and reinsurance business;
- Accident insurance and reinsurance business;
- Such other insurance and reinsurance business as the commission may from time to time prescribe.

4. Setting up a Business

Companies

The most common form of business entity in Nigeria is the limited liability company.

Companies can be limited by guarantee or by shares. Companies limited by guarantee are generally not for profit organizations that primarily promote religious, charitable, educational and/or other similar interests. The names of companies limited by guarantee must end with "Limited by Guarantee" or "Ltdgte".

Companies that have share capital may be public or private companies. The name of public companies must end with the word "Public Limited Company" or "Plc.", whereas those of private companies must end with the words "Limited" or "Ltd."

A public company may be listed on the Nigerian Stock Exchange subject to the rules and regulations of the SEC.

For a private company, the maximum number of shareholders is 50 while a public company can have an unlimited number of shareholders. Directors do not need to own shares in the company, nor do they need to be a resident of Nigeria, but a Nigerian resident must be appointed as a public officer of the company. The company secretary of a public company must also be a Nigerian resident. The board of directors is responsible for the governance of the company for the benefit of its shareholders.

The shareholders exercise their powers in general meetings. The annual general meeting must be held within nine months of the financial year-end and not more than 15 months after the last meeting. Shareholders may be individuals or corporate bodies, and any or all of the company's shares may be held by non-residents. The minimum amount of share capital is 10,000 Naira for a private company and 500,000 Naira for a public company.

Associations and unions

Associations and unions are non profit making organizations set up to coordinate the activities of members and to represent and defend their common rights and interests. They are separate legal entities independent of the members composing them. Associations and unions must be registered.

Partnership and sole proprietorships

A partnership is not subject to the requirements imposed on companies, but they are subject to the general principles of the law of contract and to various special principles of common law applicable particularly to partnerships. They are not separate legal entities but must be registered. Individuals may also carry on business as sole proprietors and only need to register if they carry out the business in any name other than their own names.

5. Labour

The Labour Act, Chapter 198, Laws of the Federation of Nigeria 1990, prohibit forced or compulsory labour. They also prohibit the employment of children less than 15 years of age in commerce and industry and restrict other child labour to domestic or agricultural work.

The contract of employment and the employment relationship are regulated by the provisions of the basic conditions of employment (i.e., Employee Handbook) and the provisions of the Labour Act.

The basic conditions of employment contained in the employee/staff handbook provides for minimum terms on which employees must be employed in relation to annual leave, sick leave, overtime and daily and weekly maximum working hours. The staff handbook stipulated minimum terms and conditions of employment such as maximum ordinary hours of work and overtime, minimum payment for overtime worked including work performed on Sundays and public holidays, as well as minimum meal intervals, rest periods and leave provisions, including minimum annual leave and maternity leave.

To safeguard the interest of either the employer or employee, trade unions are formed. The employee trade unions represent members in negotiating and concluding collective agreements with employers and in industrial disputes.

Types of employment

There are different types of employment:

- (i) Probationary: This is a brief period of observing the employee before confirming or terminating the appointment. During this period, both the employer and the employee may terminate the employment giving one or two months notice or payment in lieu thereof.
- (ii) Temporary: This type of employment shall not include most of the provisions entrenched in permanent appointment (e.g., it is not pensionable).
- (iii) Permanent: This commences from the date of confirmation of probationary employment or with the conversion of temporary employment to permanent one.

- (iv) Contract: The terms under this employment will be spelt out between the two parties (i.e., the company and the person under such contractual agreement.) However, this appointment shall not be pensionable.

Social Security

The only Social Security net in Nigeria is pensions. An employer with more than 10 employees must take a monthly contribution of at least 7.5% of the employee's remuneration defined as basic salary plus housing allowance plus transport allowance for each employee's Retirement Savings Account. These are paid to a pension fund administrator. Employees are allowed to choose pension fund administrators of their choice without any restriction from the employers. Employees also pay the same minimum percentage as paid by their employer monthly.

6. Taxation

In Nigeria all persons in employment, individuals in business, non-residents who derive income from Nigeria and companies that operate in Nigeria are liable to pay tax.

Some taxes are payable to the Federal Government (and administered by Federal Inland Revenue Service), some are payable to the State Government and some to the Local Government.

Taxes payable to the Federal Government:

- (i) Company income tax
- (ii) Withholding tax on companies
- (iii) Petroleum profit tax
- (iv) Value Added Tax
- (v) Education tax
- (vi) Capital gain tax on residents of FCT
- (vii) Stamp duties on bodies, corporate and residents of FCT
- (viii) Personal income tax (e.g., Army, Police, etc.)

Taxes payable to the State Government:

- (i) Personal income tax (i.e., pay-as-you-earn)
- (ii) Capital gains tax
- (iii) Stamp duties on instruments executed by individuals
- (iv) Withholding tax on individuals
- (v) Business premises registration

Taxes payable to the Local Government:

- (i) Shops and lock rates
- (ii) Tenement rates
- (iii) Marriage, birth and death fee
- (iv) Market taxes
- (v) Wrong parking charges

Income taxes

- Individual income tax – an annual tax on the income of individuals, partnerships, trusts, etc.
- Company tax – an annual tax on the income of companies

Capital taxes

- Estate duty – an inheritance tax payable by the estate on the value of property.
- Capital gains tax – disposal of any asset

Value Added Tax (VAT)

An invoiced based VAT is levied on supplies of goods and services:

- Excise and customs duties;
- Charges on imports, exports and local ex-factory shipments;
- Stamp duties;
- Charges levied on certain documentary instruments.

Administration

Responsibility for the administration of taxes is entrusted to the Federal Inland Revenue Service and the 36 State Internal Revenue Services. The Board appoints inspectors who carry out the work of assessment for all taxes and banks that collect these taxes.

Employers are required to deduct employee's tax from their employee's remuneration and to pay such amounts to the authorities on a monthly basis. Employees' tax thus deducted is allowed as a credit against the total amount of an employee's liability for tax as finally assessed on the basis of his or her annual return.

Corporate tax

This refers to tax levied on the profits made by companies or associations. Companies are taxed on income at the rate of 30%, while education tax is 2% on assessable profit.

Capital gains tax

The scope of the capital gains tax covers the disposal of moveable and immovable assets. The rate of tax is 10% of capital gain, with effect from 1996.

Petroleum Profits Tax

This is payable under the Petroleum Profit Tax Act of 1959. The rates are on exports—85%, on domestic sales of oil and gas—65.75% and 2% on education tax.

7. Accounting & reporting

The generally accepted standards of accounting in Nigeria are set by the Nigerian Accounting Standards Board. These requirements converge to a large extent with the standards set by the International Accounting Standards Committee and the International Federation of Accountants.

Annual financial statements

The directors of every company must ensure that annual financial statements are prepared and presented to the annual general meeting of the company. The financial statements must consist of the following at a minimum:

- A balance sheet and notes
- An income statement and related notes
- A directors' report
- An auditors' report
- A cash flow statement.

The annual financial statements must fairly present the true state of affairs of the company as at the financial year-end and its profit or loss for that year.

Annual audit requirement

The financial statements of both public and private companies are subject to an annual audit under the Companies and Allied Matters Act 1990.

8. UHY firms in Nigeria

Lagos (UHY liaison office)

UHY Maaji & Co.

Lisa Court
1, Ilaka Street, Off Coker Road
Ilupeju
Lagos
Nigeria

Contact: Gabriel Idahosa
Tel: +234 01 851 7203
Email: g.idahosa@uhy-maaji-ng.com
Web: www.uhy-ng-maaji.com

With offices also in:

- Abuja
- Benin City
- Kaduna
- Kano
- Lokoja
- Maiduguri
- Port Harcourt
- Yola
- Uyo

9. UHY offices worldwide

For contact details of UHY offices worldwide, or for details on how to contact the UHY executive office, please visit www.uhy.com