

## HIGHLIGHT OF POSITIVE CHANGES TO THE COMPANIES AND ALLIED MATTERS ACT (CAMA) VIA THE PASSAGE OF THE CAM BILL 2020

President **Muhammadu Buhari** signed into law the Companies and Allied Matters Act (CAMA) on August 7, 2020. The new CAMA is Nigeria's most significant business legislation in three decades and it introduces new provisions that promotes ease of doing business and reduces regulatory hurdles.

- 1. Provision of single member/shareholder companies** - S.18(2) of the new CAMA now makes it possible to establish a private company with only one (1) member or shareholder.
- 2. Introduction of Statement of Compliance** - S.40 (1) of the new Act introduces the Statement of Compliance which can be signed by an applicant or his agent, confirming therein that the requirements of law as to registration have been complied with. This serves as an alternative to the requirement to submit a Declaration of Compliance, which must be signed by a lawyer or attested to before a notary public. A Statement of Compliance need not be signed by a lawyer.
- 3. Replacement of Authorized Share Capital with Minimum Share Capital** - The concept of "authorised share capital" has now been replaced in S.27 of the Act with the concept of "minimum share capital". With minimum share capital, promoter(s) of a business need not pay for shares that are not needed at a specific time.
- 4. Procurement of a Common Seal is no longer a mandatory requirement** - The procurement of a Common Seal is no longer a mandatory requirement according to S.98 of the new CAMA: Every company is required under the previous Act to have a common seal, the use of which is to be regulated by the Articles of Association. This amendment is in line with international best practices as most jurisdictions around the world have expunged the requirement from their respective laws.
- 5. Provision for electronic filing, electronic share transfer and e-meetings for private companies** - The new CAMA makes provision for electronic filing, electronic share transfer and e-meetings for private companies. S.861 of the new CAMA provides that certified true copies of electronically filed documents are admissible in evidence, with equal validity with the original documents. S.176(1) also provides that instruments of transfer of shares shall include electronic instruments of transfer.
- 6. Provision for virtual Annual General Meetings** - The new CAMA also provides for remote

or virtual general meetings, provided that such meetings are conducted in accordance with the Articles of Association of the company. This will facilitate participation at such meetings from any location within and outside the shores of the country, at minimal costs. This is especially relevant today given the disruptions caused by the Covid-19 pandemic to company operations around the world.

**7. Exemption from appointing Auditors** - Small companies or any company having a single shareholder are no longer mandated to appoint auditors at the annual general meeting to audit the financial records of the company. S. 402 of the new CAMA provides for the exemption in relation to the audit of accounts in respect of a financial year.

**8. Exemption from the appointment of company secretary** - The appointment of a Company Secretary is now optional for private companies. According to S. 330 (1) of the new CAMA, the appointment of a company secretary is only mandatory for public companies.

**9. Creation of Limited Liability Partnerships (LLPs) and Limited Partnerships (LPs)** - The new CAMA introduces the concept of Limited Liability Partnerships (LLPs) and Limited Partnerships (Lps). This combines the organisational flexibility and tax status of a partnership with the limited liability of members of a company.

**10. Reduction of Filing Fees for Registration of Charges** – Under S. 223 (12) of the new Act, the total fees payable to the CAC for filing has been reduced to 0.35% of the value of the charge. This is expected to lead to up to 65% reduction in the associated cost payable under the regime.

**11. Merger of Incorporated Trustees** – S. 849 of the new Act provides for merger between two or more associations with similar aims and objects under such terms and conditions as may be prescribed by the CAC.

**12. Disclosure of persons with significant control in companies** – S.119 of the new Act introduces new transparency provision with an obligation for entities to disclose capacity in which shares are held, either as beneficial owner or as a nominee of an interested person.

**13. Restriction on Multiple Directorship in Public Companies** – S.307(1) of the Act prohibits a person from being a director in more than five (5) public companies at a time.

**14. Business Rescue provisions for Insolvent Companies** - The new Act introduces a framework for rescuing a company in distress and to keep it alive as against allowing it such entity to become insolvent. Provisions were made with respect to Company Voluntary

Arrangements (S.434 to S.442), Administration (S.443 to S.549) and Netting (S.718 to S.721).

15. **Enhancement of Minority Shareholder Protection and Engagement** – S. 265 (6) restricts firms from appointing a director to hold the office of the Chairman and Chief Executive Officer of a public company.