
CHAMBERS GLOBAL PRACTICE GUIDES

Banking & Finance 2025

Definitive global law guides offering
comparative analysis from top-ranked lawyers

Nigeria: Law & Practice

Ben Unaegbunam, Omolola Coker, Sanford Mba, Promise Osimhen,
Chidera Chikere and Oluwaseun Denagan

Dentons ACAS-Law (Adepetun, Caxton-Martins, Agbor & Segun)



NIGERIA



Law and Practice

Contributed by:

Ben Unaegbunam, Omolola Coker, Sanford Mba, Promise Osimhen,
Chidera Chikere and Oluwaseun Denagan

Dentons ACAS-Law (Adepetun, Caxton-Martins, Agbor & Segun)

Contents

1. Loan Market Overview p.5

- 1.1 The Regulatory Environment and Economic Background p.5
- 1.2 Impact of Global Conflicts p.5
- 1.3 The High-Yield Market p.5
- 1.4 Alternative Credit Providers p.6
- 1.5 Banking and Finance Techniques p.6
- 1.6 ESG/Sustainability-Linked Lending p.6

2. Authorisation p.6

- 2.1 Providing Financing to a Company p.6

3. Structuring and Documentation p.7

- 3.1 Restrictions on Foreign Lenders Providing Loans p.7
- 3.2 Restrictions on Foreign Lenders Receiving Security p.7
- 3.3 Restrictions and Controls on Foreign Currency Exchange p.7
- 3.4 Restrictions on the Borrower's Use of Proceeds p.7
- 3.5 Agent and Trust Concepts p.7
- 3.6 Loan Transfer Mechanisms p.8
- 3.7 Debt Buyback p.8
- 3.8 Public Acquisition Finance p.8
- 3.9 Recent Legal and Commercial Developments p.8
- 3.10 Usury Laws p.8
- 3.11 Disclosure Requirements p.9

4. Tax p.9

- 4.1 Withholding Tax p.9
- 4.2 Other Taxes, Duties, Charges or Tax Considerations p.9
- 4.3 Foreign Lenders or Non-Money Centre Bank Lenders p.10

5. Guarantees and Security p.10

- 5.1 Assets and Forms of Security p.10
- 5.2 Floating Charges and/or Similar Security Interests p.11
- 5.3 Downstream, Upstream and Cross-Stream Guarantees p.11
- 5.4 Restrictions on the Target p.11
- 5.5 Other Restrictions p.12
- 5.6 Release of Typical Forms of Security p.12
- 5.7 Rules Governing the Priority of Competing Security Interests p.12
- 5.8 Priming Liens p.12

6. Enforcement p.12

- 6.1 Enforcement of Collateral by Secured Lenders p.12
- 6.2 Foreign Law and Jurisdiction p.13
- 6.3 Foreign Court Judgments p.13
- 6.4 A Foreign Lender's Ability to Enforce Its Rights p.14

7. Bankruptcy and Insolvency p.14

- 7.1 Impact of Insolvency Processes p.14
- 7.2 Waterfall of Payments p.14
- 7.3 Length of Insolvency Process and Recoveries p.15
- 7.4 Rescue or Reorganisation Procedures Other Than Insolvency p.15
- 7.5 Risk Areas for Lenders p.16

8. Project Finance p.16

- 8.1 Recent Project Finance Activity p.16
- 8.2 Public-Private Partnership Transactions p.16
- 8.3 Governing Law p.17
- 8.4 Foreign Ownership p.17
- 8.5 Structuring Deals p.17
- 8.6 Common Financing Sources and Typical Structures p.17
- 8.7 Natural Resources p.18
- 8.8 Environmental, Health and Safety Laws p.18

Contributed by: Ben Unaegbunam, Omolola Coker, Sanford Mba, Promise Osimhen, Chidera Chikere and Oluwaseun Denagan, Dentons ACAS-Law (Adepetun, Caxton-Martins, Agbor & Segun)

Dentons ACAS-Law (Adepetun, Caxton-Martins, Agbor & Segun) was established in 1991 and offers a comprehensive range of legal services to its diverse clientele. The firm's Financial Services team is a leading practice in banking and finance, with a track record in structuring and executing complex financings across Nigeria's petroleum, infrastructure, and power sectors. The team advises on corporate finance, acquisition finance, trade finance, asset finance, and large-scale infrastructure and project finance, including renewable energy projects such as solar, wind, hydro, and biomass. A significant part of the practice is dedicated to debt restructuring and

refinancing, where the team works closely with lenders, guarantors, and advisers to provide solutions to financing needs. Their experience spans evaluating restructuring options, preparing transaction documents, and providing ongoing legal support to ensure smooth execution. By embedding themselves in client operations and maintaining a strong understanding of commercial drivers, the team delivers precise, business-focused advice that enables efficient deal structuring, risk mitigation, financial regulatory insights and successful project delivery in Nigeria's dynamic energy market.

Authors



Ben Unaegbunam is a partner in Dentons ACAS-Law's Lagos office, in the Corporate and Commercial Practice Group. He specialises in infrastructure and project finance, M&A, real estate and property law,

foreign investment, restructuring, taxation, and employment law. His experience includes advising on large-scale infrastructure and private sector projects, handling due diligence, regulatory and tax issues, and securing necessary consents and permits. Ben has advised clients in high-value acquisitions, corporate restructuring, concessional and concession transactions, and real estate developments. He is known for his skill in navigating regulatory frameworks and structuring deals to resolve legal, commercial, and operational risks.



Omolola Coker co-leads the Financial Services Practice Group at Dentons ACAS-Law, and is recognised for her exceptional leadership in banking, finance and energy-related projects. She steers the firm's most significant

financing, consistently providing strategic direction and oversight. Renowned for her ability to bridge legal and commercial considerations, Omolola delivers innovative solutions that protect client

interests and unlock value in complex regulatory and economic environments. Her combination of technical expertise, client responsiveness, and transaction leadership has earned her the trust of lenders, sponsors, borrowers and development finance institutions, solidifying her reputation as a pre-eminent practitioner in Nigeria's banking and finance sector.



Sanford Mba co-leads the Financial Services Practice Group at Dentons ACAS-Law. He is recognised for his expertise in handling technically complex, high-value mandates. He advises across key sectors such as

fintech, infrastructure, and capital markets, with a strong focus on cross-border transactions and regulatory-driven financings. Known for his precision, commercial awareness, and ability to co-ordinate across multiple jurisdictions, Sanford consistently provides strategic guidance on lender protections, regulatory compliance, and transaction structuring. His growing reputation as a trusted adviser to development finance institutions, private credit funds, and sponsors underscores his position as a leading practitioner in Nigeria's banking and finance space.

NIGERIA LAW AND PRACTICE

Contributed by: Ben Unaegbunam, Omolola Coker, Sanford Mba, Promise Osimhen, Chidera Chikere and Oluwaseun Denagan, Dentons ACAS-Law (Adepetun, Caxton-Martins, Agbor & Segun)



Promise Osimhen is a senior counsel in the Lagos office of Dentons ACAS-Law, practising in the Financial Services Practice Group. Her focus is primarily on banking and finance, capital markets, restructuring, and other commercial transactions. She frequently advises clients on due diligence, capital raising, debt issuance programmes, loans and securities, share acquisitions, and tax-compliance matters. Promise has experience handling both advisory and regulatory aspects of financial and capital markets transactions, including managing compliance under market regulation and supporting clients with capital management arrangements.



Chidera Chikere is a senior counsel in the Lagos office of Dentons ACAS-Law and a key member of the Financial Services Practice Group. He advises local and international businesses on project structuring, financing, and regulatory compliance within the energy and finance industries. His work spans negotiation and drafting of complex transaction documents, legal due diligence, and strategic

advisory across banking, finance, mergers and acquisitions, and structured finance. Chidera supports clients through the full investment cycle from selecting operating entities to managing operations, divestments, and exits – delivering commercially sound, tailored solutions that balance risk, regulatory requirements, and business objectives in high-value, cross-border transactions.



Oluwaseun Denagan is an associate counsel in Dentons ACAS-Law's Financial Services and Commercial Practice Groups. He advises local and international clients across a broad range of sectors, with particular focus on banking, corporate and project finance, mergers and acquisitions, private equity, capital markets, fintech, and corporate restructuring. His experience also spans employment and labour law, real estate transactions, and company secretarial matters. He is skilled in negotiating, drafting, and reviewing complex finance and transaction documentation, and has extensive experience conducting legal due diligence and providing regulatory compliance advisory services.

Adepetun Caxton-Martins Agbor & Segun ("Dentons ACAS-LAW")

9th Floor
St Nicholas House
Catholic Mission Street
Lagos Island
Lagos State
Nigeria

Tel: +234 911 169 5112
Web: www.dentonsacaslaw.com



1. Loan Market Overview

1.1 The Regulatory Environment and Economic Background

Nigeria's loan market over the last five years has been shaped by a confluence of macroeconomic volatility and an increasingly assertive regulatory environment.

The removal of fuel subsidies, liberalisation of the foreign-exchange regime, and persistent inflationary pressures since mid-2023 have driven the Central Bank of Nigeria (CBN) to adopt a markedly contractionary stance. The Monetary Policy Rate has been raised to historically high levels (currently 27.5% in 2025), accompanied by a 50% Cash Reserve Ratio and tighter liquidity-management operations. These measures, aimed at stabilising prices and the naira, have materially increased funding costs and heightened lenders' perception of credit risk. Banks have consequently shortened loan tenors, repriced facilities upward, and increased collateral requirements, while many corporates face significantly higher borrowing costs than in the pre-2023 period.

These economic and regulatory dynamics have collectively steered the loan market toward caution and selectivity. Deposit-money banks have increased allocations to high-yield sovereign securities, constraining growth in private-sector credit. In summary, credit growth is likely to remain measured until inflationary pressures recede and monetary policy eases. Should foreign-exchange stability persist and banks complete recapitalisation programmes, a gradual recovery in private-sector lending may emerge, albeit with continued emphasis on risk-based pricing and rigorous supervisory oversight.

1.2 Impact of Global Conflicts

The Nigerian loan market has experienced significant fluctuations and recurrent economic shocks, driven in part by the indirect impact of ongoing global conflicts and uncertainty. These factors have sustained pressure on the naira and elevated domestic inflation, compelling the market to adapt in order to preserve financial stability and support economic activity.

The Russia–Ukraine war has amplified Nigeria's macroeconomic challenges by disrupting global energy

and grain supply chains. Although Nigeria is an oil exporter, it remains heavily reliant on imported refined petroleum products and key food commodities. The resulting surge in international prices has fed directly into higher domestic inflation and further exchange-rate volatility.

Additionally, the conflict in the Middle East, particularly the Israeli–Palestinian escalation, has fuelled global uncertainty and volatility in crude-oil prices – Nigeria's principal source of foreign exchange – creating planning challenges for fiscal authorities and adding pressure to the external account.

Heightened global risk aversion has reduced international lenders' appetite for Nigerian risk. Nigerian banks and corporations therefore face higher external funding costs, prompting a stronger reliance on local-currency borrowing and more conservative credit underwriting locally. Recognising the strain on these critical sectors, the CBN has renewed and expanded targeted intervention programmes, particularly for agriculture, manufacturing, and small and medium-sized enterprises, to moderate the impact of high borrowing costs and to sustain employment and output.

1.3 The High-Yield Market

The Nigerian loan market has witnessed growing high-yield lending, particularly amid rising interest rates, tighter monetary policy, and constrained bank liquidity. While traditional lending has focused on investment-grade borrowers, high-yield facilities now provide critical access to capital for non-investment-grade corporates, influencing loan terms, structures, and risk allocation.

CBN Prudential Guidelines mandate prudent credit assessment, capital adequacy, and liquidity management for higher-risk lending, ensuring systemic stability. Securities and Exchange Commission (SEC) Rules on Private Debt Issuance require disclosure and registration where structured or securitised loans are offered, promoting transparency and enforceability.

Impact on Loan Terms and Structures

High-yield loans attract elevated interest rates reflecting credit risk, often coupled with shorter tenors, stricter covenants, and enhanced reporting obligations.

Contributed by: Ben Unaegbunam, Omolola Coker, Sanford Mba, Promise Osimhen, Chidera Chikere and Oluwaseun Denagan, Dentons ACAS-Law (Adepetun, Caxton-Martins, Agbor & Segun)

Lenders frequently require asset-backed structures, receivables assignments, or subordinated positions, shaping both contract complexity and enforceability.

Exposure to high-yield borrowers has prompted banks to adopt structured covenants, blended financing, and risk-adjusted portfolio strategies, influencing broader lending practices. Also, lenders are adapting by structuring their loans with call protection, prepayment fees, or step-up margins, in anticipation that borrowers may refinance through high-yield notes.

High-yield facilities provide diversification opportunities for institutional lenders and encourage private capital participation, supporting liquidity and market development.

1.4 Alternative Credit Providers

Nigeria's loan market has grown with alternative credit providers such as fintech-driven digital lenders, peer-to-peer platforms, microfinance banks, leasing firms, and specialised finance companies. These players have expanded offerings like invoice discounting, supply chain finance, blended finance structures, and credit guarantees for SMEs. Most digital loans are short-term (30–180 days) with same-day disbursement, prompting banks to streamline small-ticket lending. Commercial banks now partner with fintechs in co-lending and revenue-sharing models that combine bank funding with fintech origination. These innovations have widened credit access for retail borrowers and SMEs while pushing traditional banks to accelerate approvals, adjust pricing, and improve terms.

1.5 Banking and Finance Techniques

Banking and finance techniques in Nigeria are adapting to a more diverse investor base and shifting borrower needs. Large corporations and financial sponsors increasingly employ holding-company (HoldCo) structures to centralise funding, ring-fence operating risks, and facilitate cross-border investments, particularly in power, infrastructure, and fintech conglomerates.

Preferred equity and quasi-equity instruments are gaining traction as borrowers seek capital without immediate dilution and investors look for yield with downside protection. Private equity funds, develop-

ment finance institutions, and local pension funds are participating in structured preferred shares that carry dividend preferences, convertibility features, or participation rights similar to mezzanine debt.

In parallel, lenders are embedding hybrid instruments, such as convertible debt, revenue-sharing notes, and subordinated debt that qualifies as regulatory capital, to strengthen balance sheets and appeal to investors seeking higher yield.

1.6 ESG/Sustainability-Linked Lending

Nigeria has seen a sharp rise in ESG and sustainability-linked lending, driven by policy and private demand. The federal government's NGN50 billion Series III Sovereign Green Bond (2025) and earlier issuances show growing labelled debt for renewable energy, clean transport, and water projects. Commercial lenders are following suit, for example Ecobank's USD200 million sustainability-linked loan tied to climate targets. The Nigerian Exchange (NGX), with IFC support, is building capacity for green, social, blue, and sustainability bonds. Banks like FCMB and FirstHoldCo now embed ESG criteria in lending and credit approvals. Activity is strongest in gender finance, renewables, clean infrastructure, water, waste, and green real estate.

2. Authorisation

2.1 Providing Financing to a Company

In Nigeria, banks and non-bank financial institutions must obtain regulatory approval to provide financing to local companies. Banks are licensed and supervised by the CBN under the Banks and Other Financial Institutions Act 2020 (BOFIA), with minimum paid-up capital requirements, prudential ratios, and governance standards. Once licensed, banks may offer a full range of credit facilities, subject to ongoing CBN oversight.

Non-bank financial institutions including finance companies, microfinance banks, leasing and factoring firms, and digital lenders are also required to secure CBN authorisation, with capital thresholds and licensing requirements tailored to their specific business models. Foreign lenders may provide cross-border

Contributed by: Ben Unaegbunam, Omolola Coker, Sanford Mba, Promise Osimhen, Chidera Chikere and Oluwaseun Denagan, Dentons ACAS-Law (Adepetun, Caxton-Martins, Agbor & Segun)

loans without a local CBN licence, provided the lending is on an offshore basis.

3. Structuring and Documentation

3.1 Restrictions on Foreign Lenders Providing Loans

Foreign lenders are not restricted from providing cross-border loans to Nigerian borrowers.

3.2 Restrictions on Foreign Lenders Receiving Security

Foreign lenders are not prohibited from taking security or receiving guarantees in Nigeria. Nigerian law allows foreign creditors to hold various forms of collateral, including mortgages over real property, fixed and floating charges over corporate assets, share pledges, assignments of receivables, and corporate or personal guarantees. Accordingly, there is no requirement that the secured party be a Nigerian entity. However, certain regulatory and procedural requirements are critical to ensure enforceability. Please see **5.1 Assets and Forms of Security** on the nature of security interests that may be taken in Nigeria and the perfection requirements.

3.3 Restrictions and Controls on Foreign Currency Exchange

Foreign-exchange transactions fall under the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act (FEMM Act), the CBN Act, and the CBN Foreign Exchange Manual 2018 (as revised).

Repatriation of loan repayments, interest, or investment capital through the official market requires proof of the original inflow via an electronic certificate of capital importation (issued by authorised dealers, such as banks), which provides the legal basis for outward remittance.

The Money Laundering (Prevention and Prohibition) Act 2022 and CBN AML/CFT Regulations 2022 impose strict KYC, monitoring, and suspicious-transaction reporting.

Although the FEMM Act protects repatriation rights, CBN circulars and adjustments to official-window

rates can affect timing and cost. Accordingly, cross-border loan documentation often incorporates hedging or forward-contract provisions permitted under the FX Manual to mitigate liquidity and policy risks.

3.4 Restrictions on the Borrower's Use of Proceeds

In Nigeria, the use of proceeds from loans or debt securities is subject to both regulatory and contractual constraints. Borrowers are generally expected to apply funds for the purposes disclosed to the lender and, where applicable, to regulators such as CBN or SEC. For foreign-currency loans, CBN rules require that proceeds be used for permissible transactions, including working capital, capital expenditure, import financing, or debt refinancing, while prohibiting speculative forex trading and certain restricted imports. Similarly, corporate debt instruments such as bonds or Sukuk typically specify the intended use of proceeds in their offering documents, and deviations may trigger regulatory scrutiny or investor claims. Loan agreements often reinforce these limitations by first specifying the purpose of the loan and through covenants that restrict distributions, mandate compliance with financial ratios, or require lender consent for material deviations. Collectively, these regulatory and contractual frameworks ensure that borrowers apply debt proceeds responsibly and in a manner that safeguards creditor interests and preserves compliance with Nigerian law.

3.5 Agent and Trust Concepts

Nigeria recognises the legal concepts of agency and trust, though their application in corporate and financial transactions is shaped by both statutory and common-law frameworks.

Under the common law and the Companies and Allied Matters Act, 2020 (CAMA), agency relationships permit an agent to act on behalf of a principal, owing fiduciary duties to act within the scope of authority granted. In syndicated lending, for example, an agent bank commonly administers the loan, collects repayments, and manages the interests of multiple lenders. Trusts, governed by the Trustee Act and the Trustee Investment Act, allow trustees to hold and manage property for the benefit of beneficiaries in accordance with fiduciary obligations.

Market participants may adopt alternative structures to achieve similar outcomes. For instance, collateral-agent arrangements designate a bank or financial institution to hold security on behalf of multiple lenders, effectively replicating a trustee's role without establishing a formal trust. Intercreditor agreements co-ordinate lender rights and priorities with respect to collateral enforcement, while special-purpose vehicles (SPVs) are used in structured finance or project finance transactions to hold assets and manage cash flows.

3.6 Loan Transfer Mechanisms

The Nigerian legal framework recognises several mechanisms for the transfer of loans and the corresponding rights over associated security packages, providing flexibility in syndicated lending, secondary loan markets, and structured finance transactions.

Assignment of loans is the primary mechanism by which a lender may transfer its rights under a loan agreement, including the right to receive repayments and enforce collateral, to another party. Assignments may be absolute or partial, and borrower consent is generally required if stipulated in the loan agreement. Security interests, ranging from mortgages to fixed and floating charges, share pledges, and guarantees can also be assigned, either directly or via a security trustee or collateral agent acting on behalf of multiple assignees.

Novation offers an alternative whereby the original lender is replaced by a new lender, transferring both rights and obligations under the loan agreement. Novation extinguishes the original contractual relationship and creates a new agreement between the borrower and incoming lender. This mechanism is particularly relevant in syndicated loans or debt restructurings, allowing both the loan and the associated security to be effectively transferred with minimal disruption to the borrower's obligations.

3.7 Debt Buyback

There is no statutory or regulatory prohibition on loan buybacks in Nigeria. Accordingly, a borrower or its sponsor may repurchase outstanding debt, provided that any contractual restrictions in the facility agreement, such as negative covenants, prepayment pre-

miums, or lender-consent requirements, are complied with.

3.8 Public Acquisition Finance

Nigerian law does not explicitly mandate "certain funds" provisions in acquisition finance transactions. However, market practice, particularly for transactions involving listed companies or regulated sectors, has developed contractual protections to ensure funding certainty at signing. In such deals, lenders are generally required to confirm the availability of funds at completion, often through commitment letters or funding confirmations delivered to the target, its advisers, or SEC as part of the regulatory approval process.

Regarding public filing, long-form acquisition agreements are generally submitted to the SEC in transactions requiring regulatory approval, whereas short-form documentation is typically retained for internal or lender due diligence purposes and is not filed with public registries. There is no reported Nigerian case law directly addressing "certain funds" obligations in public acquisitions.

3.9 Recent Legal and Commercial Developments

Recent legal and commercial shifts in Nigeria have driven updates to loan structuring and documentation for compliance, enforceability, and global alignment. For instance, the CBN now imposes stricter rules on foreign-currency collateral for naira loans, cash pooling, and repatriation, requiring tailored provisions on timing, access, and approvals. CAMA amendments reinforce fiduciary duties and corporate-benefit tests for guarantees and intercompany loans, prompting revised representations and warranties.

3.10 Usury Laws

Nigeria does not have traditional usury laws that set explicit statutory caps on interest rates for commercial loans. Instead, interest rates are largely market-determined and influenced by CBN's monetary policy instruments, such as the Monetary Policy Rate (MPR) and the Cash Reserve Ratio (CRR).

While corporate and institutional borrowers typically negotiate rates freely, legal and regulatory frameworks provide constraints to ensure fairness. The CBN Pru-

dential Guidelines require transparent disclosure of interest rates and fees, promoting compliance and borrower protection. A notable recent development is the Federal Competition and Consumer Protection Commission (FCCPC) Digital Lending Regulation 2025, under which the FCCPC oversees interest rates charged by digital and non-traditional lenders to prevent exploitative practices. Additionally, Nigerian courts may intervene in cases where interest rates are deemed unconscionable or extortionate.

3.11 Disclosure Requirements

Disclosure obligations for financial contracts in Nigeria promote transparency, investor and consumer protection, and regulatory compliance. Requirements depend on the contract type, parties, and regulatory framework.

Banks and regulated financial institutions are required to disclose key loan terms including interest rates, fees, repayment schedules, and collateral under CBN Prudential Guidelines and BOFIA, ensuring borrowers understand their obligations and risks. For securities such as bonds, debentures, or structured products, disclosure is governed by SEC Rules under the Investment and Securities Act 2025. Issuers must provide prospectuses or offering memoranda detailing terms, risks, financial position, and any material contracts or guarantees.

4. Tax

4.1 Withholding Tax

Under Nigerian law, interest payments made by a Nigerian borrower to a lender are generally subject to withholding tax (WHT) at the rate of 10%, which functions as an advance corporate-income tax. However, where the interest is paid under a loan to lenders in countries with a concessionary withholding tax arrangement with Nigeria, the WHT is 7.5%. Following the FIRS Information Circular No: 2022/15 on “Claim of Tax Treaties Benefits and Commonwealth Relief in Nigeria”, the principal treaty partners benefiting from the 7.5% for interest are South Africa, China, Singapore, Spain and Sweden.

In practice, lenders typically include tax gross-up provisions which ensure that where a borrower is obligated to withhold taxes, it grosses up the payment so that the lender receives the full amount it would have received absent withholding.

4.2 Other Taxes, Duties, Charges or Tax Considerations

The following taxes, duties and charges are relevant to lenders advancing credit facilities to Nigerian entities or taking security and guarantees in support thereof.

Stamp Duties

Stamping is required to be done within 30 days of the execution of such a loan or security instrument or within 30 days of such an instrument being brought into Nigeria. Stamp duties chargeable may be a nominal amount or calculated at an ad valorem rate on the secured amount, depending on the nature of the transaction as assessed by the Stamp Duties Commissioner. Loan documents are chargeable to stamp duties at the ad valorem rate of 0.125% of the loan amount. Security instruments such as legal mortgages, debentures, and similar registrable charges attract stamp duty at the ad valorem rate of 0.375%. Guarantee instruments, by contrast, are subject to a nominal flat duty of NGN500. To manage transactional costs that may arise under Nigerian law, typically, in practice, parties may choose to stamp the security documents for a lesser amount than the facility sum and then upstamp for an additional amount at a later date.

Consent Fees

In the case of a mortgage over real estate, an ad valorem fee is payable for obtaining the consent of the governor; such fee is charged at a rate of 1% to 13% of the secured amount, depending on the state where the land/property is situated.

Registration Fees

Security documents creating charges on any asset of a Nigerian company are required to be registered at the CAC within 90 days of their creation. Registration of charges at CAC attracts a fee of 0.35% of the secured obligation. Further registration fees may be required for perfection of regulated assets at the various statutory registries, as may be stipulated by the different sector regulators.

4.3 Foreign Lenders or Non-Money Centre Bank Lenders

The principal fiscal and regulatory tax implications for foreign and non-money centre bank lenders extending credit facilities within Nigeria are the imposition of withholding tax on interest payments remitted to non-resident lenders. Foreign and non-money bank lenders also have the obligation to adhere to the arm's length principle and documentation requirements stipulated under Nigerian transfer pricing regulations.

These material considerations may be effectively mitigated through the implementation of several prudent measures, including strategic utilisation of bilateral investment and double taxation treaties, and express incorporation of gross-up and tax indemnity clauses within facility agreements to allocate withholding tax risk.

5. Guarantees and Security

5.1 Assets and Forms of Security

Secured assets typically include real estate, material contracts, insurance proceeds, book debts, intellectual property, shares, and investment proceeds, etc. These assets may be constituted under a general security document or an all-asset debenture.

Real Estate

Real estate security is created by a legal mortgage, transferring proprietary interest to the mortgagee subject to redemption – or an equitable mortgage where legal formalities are incomplete. A legal mortgage is required to be registered at the state land registry, with governor's consent obtained. State-specific fees range from 1%–13% of the secured value. Industry-specific fees may be payable for the perfection of the security where the secured asset is a regulated asset, such as petroleum assets, intellectual property, ships or aircraft.

Contractual Rights and Insurances

Rights arising under a contract or agreement, including intellectual property licences and insurance proceeds, are commonly assigned by way of security to lenders with a provision to reassign the assigned rights to the assignor upon the full discharge and sat-

isfaction of all obligations secured under the relevant finance documents.

Bank Accounts

Bank accounts can be secured by fixed or floating charges. Fixed charges restrict account use without lender consent; floating charges permit ordinary dealings until crystallisation. Perfection is achieved by notifying counterparties or account banks. A legal assignment of contractual rights and charges over bank accounts is perfected by giving notice of the security interest to the counterparty, and in case of bank accounts, to the account banks.

Share Pledges

Pledges of shares are usually created by a deed of share pledge under which a security interest is created in favour of the lender. To perfect a pledge over shares, the borrower is often required to deposit the share certificates with the lender or the security agent. In addition, and as part of the security package, the lender is provided with a signed but undated share transfer form in respect of the shares executed in blank. These documents will also be accompanied by a signed and undated resolution of the board of directors of the company in which the shares are held approving the transfer of the shares in the event of an enforcement.

Perfection of Security Interest

The nature of the secured asset typically determines the perfection required. However, CAMA generally requires that all securities created over assets of a company be registered with the CAC within 90 days of creation. Where the security includes assets that are specifically regulated (eg, petroleum assets and intellectual property), such security interest may be required to be registered at the relevant regulatory registry. In addition to registration at the CAC, stamp duties are required to be paid on any instrument executed in Nigeria or relating, wheresoever executed, to any property situated or to anything done or to be done in Nigeria. Any instrument not duly stamped is inadmissible in civil proceedings in court.

5.2 Floating Charges and/or Similar Security Interests

Nigerian law permits the creation of floating charges over the whole or a specified part of a company's undertakings and assets, whether present or future. A floating charge is an equitable charge, and it allows the company to continue dealing with the charged assets in the ordinary course of business until the charge crystallises. According to CAMA, a floating charge crystallises when the security becomes enforceable and the chargee, under powers in the instrument of creation, appoints a receiver or manager or takes possession of the assets; when the court makes such an appointment at the instance of the charge-holder; or when the company enters liquidation.

In practice, financing documents often provide that assets intended to be secured by a fixed charge but which, for any reason, are not validly charged as such, or which by law cannot be validly charged by way of a fixed charge, will fall under a floating charge. Similarly, assets acquired by a company after the creation of a fixed charge will be classified as subject to a floating charge.

5.3 Downstream, Upstream and Cross-Stream Guarantees

A Nigerian company can provide upstream guarantees for its parent companies' liabilities and downstream guarantees for the liabilities of its subsidiaries and affiliates. In each case, the provision of guarantees is subject to the powers of the company in its constitutional document.

There is, however, a limitation on the extent of guarantees a Nigerian company may give. An upstream or downstream guarantee may be voidable where it amounts to unlawful financial assistance under Nigerian law. Under CAMA, a Nigerian company and its Nigerian subsidiaries are prohibited from providing financial assistance directly or indirectly for the purpose of acquiring shares in that company. The exceptions to provisions of financial assistance and ways to resolve these credit support issues are discussed in

5.4 Restrictions on the Target

5.4 Restrictions on the Target

It is unlawful for a company or any of its subsidiaries to give financial assistance directly or indirectly for the acquisition of its shares before or at the same time as such acquisition takes place, unless such assistance is permitted under CAMA. Furthermore, where a person or company has acquired shares in a company and any liability has been incurred thereby for the purpose of the acquisition, it would be unlawful for the company to give financial assistance directly or indirectly for the purpose of reducing or discharging the liability so incurred in the acquisition of its shares.

These legal restrictions on financial assistance do not apply to funds provided to:

- trustees under a scheme, to acquire fully paid-up shares of the company to be held for the benefit of employees of the company, including any director holding a salaried employment or office in the company;
- employees (not directors) by way of loans for the purchase of fully paid-up shares of the company; or
- any act or transaction authorised by law. The prohibition also does not apply in cases of loans made by a company which lends money in the ordinary course of its business.

In addition, and pursuant to CAMA, a company is not to be prevented from rendering financial assistance where:

- it is done in pursuance of an order of the court under a scheme of arrangement; a scheme of merger or any other scheme or restructuring of a company done with the sanction of the court; or
- its principal purpose in giving the assistance is not to reduce or discharge any liability incurred by a person for the purpose of the acquisition of shares in the company or its holding company, or the reduction or discharge of any such liability, but an incidental part of some larger purpose of the company, and the assistance is given in good faith in the interests of the company.

Transactions structured under any of the above exemptions are less likely to be challenged.

5.5 Other Restrictions

Generally, no other restrictions would apply outside the restriction on financial assistance in **5.4 Restrictions on the Target**. Please refer to **4.2 Other Taxes, Duties, Charges or Tax Considerations** for the attendant cost of granting a security and guarantee.

5.6 Release of Typical Forms of Security

Upon the discharge of the secured obligations secured by an asset, the lender is required to execute a deed of release or a memorandum of satisfaction. This deed or memorandum is stamped at 0.075% of the secured obligation and filed at the CAC to update the register of charges and release the registered charge. Where the secured asset is a regulated asset (eg, petroleum assets or intellectual properties), the release instrument is also filed at the relevant regulatory register.

5.7 Rules Governing the Priority of Competing Security Interests

Priority of Interest

In Nigeria, the priority of competing security interests is primarily governed by the “first in time” principle. Under CAMA, a charge created over a company’s assets is void against a liquidator or any creditor of the company unless such charge is registered with the CAC. Consequently, the supervening security interest that is duly perfected or registered will generally rank ahead of subsequent interests. For real estate, priority also depends on registration at the relevant state land registry.

Subordination

Subordination of priority can be achieved by structure or by contract. Structural subordination arises when senior creditors lend directly to an operating subsidiary of a company, thereby taking priority over junior creditors who lend to the holding or parent company. Contractual subordination occurs where junior creditors agree by contract to subordinate their claims to those of senior lenders. Debts can be contractually subordinated by the lenders using inter-creditor agreements, particularly in syndicated loans and project finance transactions, to regulate relationships among different classes of creditors, including provisions on enforcement rights, standstill periods, and payment waterfalls. Nigerian law upholds the principle of freedom of contract, and courts have consistently

recognised the enforceability of agreements that reorder priorities.

Contractual subordination provisions generally survive the insolvency of a Nigerian borrower, provided that the underlying security interests were validly created and perfected before the commencement of insolvency proceedings. However, under CAMA, a security or guarantee given within three months before the onset of insolvency, or given in favour of persons connected with the company (other than by reason of employment) within a period of a year ending with the onset of insolvency, may be deemed a fraudulent preference and declared invalid if it has the effect of giving the holder of such security an undue advantage.

5.8 Priming Liens

Under Nigerian law, there is no statutory lien that automatically primes a validly perfected fixed security interest. CAMA provides that secured creditors shall rank in priority to all other claims, including any preferential payment or any other debts, inclusive of winding-up expenses. However, while fixed-charge holders remain first in priority, there are categories of claims that are subordinate to fixed charges but still rank ahead of floating charges and unsecured creditors. These include insolvency expenses and the costs of preserving and realising the company’s assets, as well as preferential debts such as unpaid employee wages and salaries up to statutory limits, certain taxes, and pension contributions. To mitigate this risk of priming liens, lenders typically perfect fixed charges early and ensure proper registration with the CAC and limit the use of floating charges for critical assets.

6. Enforcement

6.1 Enforcement of Collateral by Secured Lenders

Under Nigerian law, a secured lender may enforce its collateral when the borrower defaults on its obligations under the loan agreement or security instrument. The events of default may include non-payment of principal or interest, breach of financial or operational covenants, insolvency or winding-up of the borrower, cross-default on a separate financing arrangement, or

any other enforcement trigger expressly provided in the finance documents.

Lenders have several methods available for enforcing security interests. One common method is the appointment of a receiver or receiver/manager under CAMA, which may be made under the terms of the debenture or security document, or, where necessary, by obtaining a court order. The lender or appointed receiver may also exercise the statutory power of sale, which is typically included in legal mortgages and fixed-charge instruments, such that upon default occurring and statutory or contractual notice requirements being satisfied, the lender or receiver will sell the secured asset without court intervention. For equitable securities, the lenders or receiver may also apply to the court for an order of foreclosure to obtain ownership of the secured asset. Where a personal or corporate guarantee secures a loan, a lender may file a suit to enforce the guarantee and recover the debt.

There are certain restrictions and considerations that affect enforcement. Under CAMA, a receiver or receiver/manager must act in the best interests of the company and its creditors and is required to file statutory returns with the CAC. Secured lenders must comply with all statutory notice requirements before exercising remedies such as sale or possession, as failure to do so can render the enforcement action invalid.

6.2 Foreign Law and Jurisdiction

Under Nigerian law, parties to a contract are generally free to choose a foreign governing law for their agreement. Nigerian courts will uphold such a choice where the transaction bears a reasonable connection to the selected foreign jurisdiction or where the parties have clearly expressed their intention in the contract to adopt that choice of law for their transaction. However, this is subject to whether such foreign law is genuine, bona fide, legal and reasonable.

Notwithstanding the above, where a security asset is necessarily governed or regulated by Nigerian laws, Nigerian courts are inclined to apply the law that regulates such assets. Assets typically regulated under local laws include shares in a Nigerian company, land in Nigeria, upstream petroleum assets, etc.

Similarly, Nigerian courts will ordinarily respect a contractual submission to a foreign jurisdiction, including clauses specifying that disputes should be resolved by foreign courts or arbitral tribunals. A Nigerian court will enforce exclusive jurisdiction clauses unless there are strong reasons not to do so, such as fraud, oppression, or a denial of justice.

A waiver of sovereign immunity by a Nigerian state-owned entity or government body is also generally recognised under Nigerian law and will be deemed valid and enforceable. Nigerian courts have upheld waivers of immunity in cases involving international financing and investment agreements, provided that the waiver is clear and unequivocal. However, enforcement against certain categories of state-owned property, especially assets used for diplomatic or public purposes, may still be restricted under principles of public international law and the Nigerian State Immunity Act.

6.3 Foreign Court Judgments

Nigerian courts will generally recognise and enforce foreign judgments without a further review of the merits, subject to certain conditions. Any final and conclusive judgment obtained in a foreign jurisdiction, including an award against an obligor under the finance documents, may be registered and enforced as a judgment of the courts of Nigeria, provided that specific conditions are satisfied. These include:

- The country whose court or institution entered the judgment accords reciprocal treatment to judgments delivered by Nigerian courts.
- The parties to the finance documents had the capacity to enter into the agreements.
- It is established that the foreign court or arbitral tribunal was properly constituted and had jurisdiction over the subject matter of the judgment.
- Notice of the proceedings in the foreign court or arbitral tribunal was duly served on the defendant in sufficient time to enable a defence to be made.
- The judgment was not obtained by fraud.
- Enforcement of the judgment would not be contrary to Nigerian public policy.
- The matter in dispute had not already been the subject of a final and conclusive judgment by another competent court.

- Enforcement proceedings are instituted in Nigeria within 12 months from the date of the judgment.

A foreign arbitration award will also be recognised in Nigeria following an application to the court for that purpose, provided that none of the limited grounds for non-recognition applies. Such grounds include:

- A party to the arbitration agreement does not have capacity, or the arbitration agreement is invalid under the chosen law or Nigerian law.
- Proper notice of the appointment of an arbitrator or of the arbitral proceedings was not provided, or a party was unable to present its case.
- The award deals with a dispute not contemplated by or falling within the terms of the submission to arbitration, or contains decisions beyond the scope of that submission.
- The composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or the law of the country where the arbitration took place.
- The award has not yet become binding on the parties or has been set aside or suspended by a competent court in the country where, or under the law of which, the award was made.
- The subject matter of the dispute is not capable of settlement by arbitration under Nigerian law, or recognition or enforcement of the award would be contrary to Nigerian public policy.

Once a foreign judgment has been duly registered in Nigeria, it has the same effect as a judgment originally obtained in Nigeria.

6.4 A Foreign Lender's Ability to Enforce Its Rights

Outside the conditions detailed in **6.3 Foreign Court Judgments**, and the requirement to perfect a security interest as detailed in **4.1 Withholding Tax**, there are no matters that specifically impact a foreign lender's ability to enforce its rights under a loan or security document.

7. Bankruptcy and Insolvency

7.1 Impact of Insolvency Processes

Commencement of insolvency proceedings has a significant impact on a lender's right to enforce its loan, security, or guarantee. When a winding-up petition is filed or a company enters administration, the primary effect is the imposition of a statutory moratorium on enforcement actions which prevent creditors from commencing or continuing legal proceedings, enforcing security interests, or taking possession of a company's assets without the leave of the court or the consent of the liquidator. However, a holder of a fixed charge may take action to enforce and realise the security interest. Insolvency also poses the risk of fraudulent preferences for securities or guarantees concluded within the prescribed statutory limit as stated in **5.7 Rules Governing the Priority of Competing Security Interests**.

7.2 Waterfall of Payments

The priority of payments on a company's insolvency is set out in CAMA. CAMA provides that secured creditors shall rank in priority to all other claims, including any preferential payment or any other debts, inclusive of winding-up expenses. The waterfall of payments is generally as follows:

- **Secured Creditors Holding Fixed Charges Over Specific Assets:** They are paid first from the proceeds of the sale of those assets, provided their security interests were validly created and perfected prior to insolvency.
- **Costs and Expenses of the Insolvency Process:** These include remuneration for liquidators, administrators, or receivers, as well as court-approved expenses incurred in preserving and realising the company's assets.
- **Preferential Debts:** These include amounts owed to employees (such as wages and salaries up to a statutory limit), unpaid taxes, and certain pension contributions.
- **Secured Creditors Holding Floating Charges:** They are paid from the remaining assets subject to the floating charge after the preferential debts have been settled.

Contributed by: Ben Unaegbunam, Omolola Coker, Sanford Mba, Promise Osimhen, Chidera Chikere and Oluwaseun Denagan, Dentons ACAS-Law (Adepetun, Caxton-Martins, Agbor & Segun)

- **Unsecured Creditors:** They rank equally (*pari passu*) and share any remaining assets on a *pro rata* basis.
- **Subordinated Creditors:** Any subordinated claims are settled next, in accordance with the terms of their subordination agreements.
- **Shareholders or Members:** Any surplus remaining after all external debts and liabilities have been discharged is distributed among the shareholders or members according to their rights under the company's constitutional documents.

7.3 Length of Insolvency Process and Recoveries

The length of time for the insolvency process in Nigeria is dependent on the nature of the proceedings. A voluntary winding-up can take 12 to 24 months if uncontested, as it is driven mainly by the company's members and creditors and involves fewer court interventions. By contrast, a compulsory winding-up ordered by the court may extend longer, often two to five years or more, especially where disputes arise over creditor claims, the validity of security interests, or allegations of fraudulent preference or transactions at undervalue. Receiverships are faster, sometimes resolving within 6 to 18 months, but their duration depends on the complexity of the company's assets and the level of co-operation from the borrower or other stakeholders.

The value of recovery for a creditor is dependent on the priority of the creditor in the payment waterfall. Secured creditors with fixed charges are generally the most likely to achieve more commensurate recoveries, as their rights attach to specific assets that can be realised independently of the general insolvency process. Creditors with floating charges, preferential debts, or unsecured claims may recover only a less commensurate value of their exposures, especially where the borrower's assets are heavily encumbered by fixed secured creditors or where enforcement costs and delays erode asset values.

7.4 Rescue or Reorganisation Procedures Other Than Insolvency

There are alternative processes outside formal insolvency proceedings in Nigeria that companies use to manage financial distress or reorganise their affairs.

One of these processes is receivership, which allows secured creditors to take control of and realise specific assets of a borrower to recover an outstanding debt without winding up the borrower. In Nigeria, receivership is governed by CAMA and the terms of the relevant security agreement (eg, a debenture).

CAMA provides two formal procedures for rescue – administration and the company voluntary arrangement (CVA). An “administration” is a corporate rescue procedure where an insolvent company is placed under the control of an administrator to protect it from creditors while efforts are made to restructure or revive it. The administrator is empowered to manage the company's affairs, business, and property with the primary objective of rescuing the company as a going concern or achieving a better result for creditors than liquidation. During administration, a statutory moratorium applies, preventing creditors from enforcing claims without the court's consent.

Under CAMA, a CVA is a formal agreement between a financially distressed company and its creditors to restructure its debts, usually through reduced payments or extended timelines. The arrangement is initiated by the directors, administrator, or liquidator, and requires approval from creditors holding at least 75% in value of the debts. Once approved, the CVA becomes binding on all unsecured creditors, providing the company breathing space to continue operating while meeting its restructured obligations.

Another approach used as an alternative to formal rescue procedures is debt restructuring arrangements between a company and its creditors. These may involve debt rescheduling, refinancing, or converting debt to equity. In addition to administration, CAMA also provides for schemes of arrangement and compromise, which enable a company to reach binding agreements with its creditors or members to restructure debts or reorganise ownership and capital. Companies may also pursue mergers or business combinations, often co-ordinated with the Federal Competition and Consumer Protection Commission under Nigeria's competition law framework.

Contributed by: Ben Unaegbunam, Omolola Coker, Sanford Mba, Promise Osimhen, Chidera Chikere and Oluwaseun Denagan, Dentons ACAS-Law (Adepetun, Caxton-Martins, Agbor & Segun)

7.5 Risk Areas for Lenders

Lenders in Nigeria face some legal risks if a borrower, security provider, or guarantor becomes insolvent. Please refer to **7.1 Impact of Insolvency Processes** regarding the risk of securities and guarantees being set aside as fraudulent preferences or transactions at undervalue in the event of the insolvency of the security provider or a guarantor.

In addition, unsecured creditors face the risk of subordination and loss of priority in the payment waterfall. Where a lender's security is defective or partially unsecured, it will rank alongside other unsecured creditors, reducing the value of recovered debts. Please see **7.2 Waterfall of Payments** regarding the payment waterfall and priority of payments.

8. Project Finance

8.1 Recent Project Finance Activity

Project finance continues to thrive in Nigeria, with global lenders remaining at the forefront of capital provision and funding. The growth of project finance is driven by the country's need to improve infrastructure, diversify its economy, and encourage private sector participation through public-private partnerships. In recent years, Nigeria has witnessed significant financing across multiple sectors, including oil and gas, transportation, and infrastructure.

One notable transaction is the Lekki Deep Sea Port under a USD1.5 billion Chinese-backed arrangement combining equity and long-term debt provided primarily by China Development Bank. The project is designed to decongest Lagos ports and expand regional export capacity. Another landmark deal is the USD747 million syndicated loan co-ordinated by Deutsche Bank to fund the first phase of the Lagos-Calabar Coastal Highway. The Ajaokuta-Kaduna-Kano (AKK) Gas Pipeline, valued at approximately USD2.6–USD2.8 billion, is a flagship oil and gas infrastructure financing. The AKK project was structured on an 85% debt and 15% equity basis, with debt financing led by Industrial and Commercial Bank of China (ICBC), Bank of China, and other Chinese financial institutions, backed by export credit insur-

ance from Sinosure and supported by a sovereign guarantee from the federal government of Nigeria.

Nigeria has also seen final investment decisions (FIDs) and substantial equity commitments from sponsors in the oil and gas and renewable energy sectors in recent years. These commitments reinforce investor confidence in the Nigerian market, creating opportunities for innovative project finance structures in the years ahead.

8.2 Public-Private Partnership Transactions

The Infrastructure Concession Regulatory Commission Act (ICRCA) 2005 is Nigeria's principal legislation governing public-private partnerships (PPPs) between the private sector and the federal government. The ICRCA applies to investment and development projects involving any federal ministry, department, or agency (MDA). The ICRCA also empowers MDAs to enter PPP contracts or grant concessions to private entities for financing, constructing, and maintaining federal infrastructure. Several states also have their own PPP laws and offices.

The Fiscal Responsibility Act 2007 imposes borrowing and fiscal discipline limits on MDAs and states, indirectly shaping PPP structures. Sector-specific frameworks include the Electricity Act 2023 for power, the Nigerian Ports Authority Act for ports, and the Federal Highways Act for roads. All federal PPPs require Federal Executive Council approval, with similar approval requirements under state laws.

From a lender's perspective, the most significant obstacles are political and sovereign risk, off-taker creditworthiness, foreign-exchange convertibility and repatriation risk, and regulatory uncertainty. For projects financed in foreign currencies but which generate revenue in the local currency, currency controls and FX scarcity pose a significant commercial risk. In some cases, changes in administration may also come with a change in project priorities, affecting previous project commitments. To mitigate these, lenders typically require guarantees from the federal government or the relevant state government to support these PPPs.

Contributed by: Ben Unaegbunam, Omolola Coker, Sanford Mba, Promise Osimhen, Chidera Chikere and Oluwaseun Denagan, Dentons ACAS-Law (Adepetun, Caxton-Martins, Agbor & Segun)

8.3 Governing Law

There is no statutory requirement in Nigeria that project finance documents must be governed by Nigerian law. Please see **6.2 Foreign Law and Jurisdiction** regarding party autonomy as to the choice of governing law. Financing agreements usually adopt foreign law, especially where international lenders or multilaterals are involved. On the other hand, where there is a security over a Nigerian asset, the practice is to have the security documents governed by Nigerian law for certainty and ease of enforcement.

Similarly, Nigerian courts will ordinarily respect a contractual submission to a foreign jurisdiction, including clauses specifying that disputes should be resolved by foreign courts or arbitral tribunals. See **6.2 Foreign Law and Jurisdiction** regarding party autonomy as to submission to jurisdiction.

Foreign judgments and arbitral awards are enforceable in Nigeria upon satisfaction of specified conditions. See **6.3 Foreign Court Judgments** regarding the enforcement of foreign judgments and arbitral awards. Nigeria has also ratified and domesticated the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958).

8.4 Foreign Ownership

In Nigeria, foreign ownership of land and related real property faces significant restrictions under the Land Use regime, which vests all land in each state's governor to hold in trust for Nigerians. Most states maintain their own regulation of alien acquisition. Even where land rights are validly obtained, further authorisation is required for later transfers, alienations, or enforcement actions that would vest title in another foreigner. In *Heubner v A.le, & P.M. Co. Ltd.* (2017), the court confirmed that foreigners lack the legal capacity to hold a right of occupancy without the governor's consent, whether directly or through a nominee company. Likewise, mortgaged property cannot be enforced and sold to a foreign purchaser without securing the governor's approval.

Foreign lenders may take security interests over Nigerian assets but must accommodate these restrictions when structuring project financings. In practice, spon-

sors often rely on Nigerian-incorporated project companies or beneficial ownerships such as trusteeship.

8.5 Structuring Deals

Project finance transactions in Nigeria are typically structured through a special purpose vehicle typically incorporated as a limited liability company, to ring-fence project risk. Generally, unless an exemption is granted under the conditions set out in CAMA, foreign companies cannot carry on business without local incorporation; thus, they must establish a Nigerian subsidiary. There is no restriction on 100% foreign ownership in most sectors; however, sensitive areas such as oil and gas and aviation have some level of local content compliance requirements.

A project company with foreign participation is required to have a minimum NGN100 million share capital. In addition, foreign investors must register their equity with the Nigerian Investment Promotion Commission (NIPC) to benefit from guarantees of capital repatriation and protection against expropriation. Such project company must also obtain a certificate of capital importation (CCI) from an authorised dealer bank, which is essential to remit dividends, repay offshore loans, and repatriate capital on exit.

The CBN recently prohibited the practice of using foreign currency-denominated collateral for Naira loans except where the foreign currency collateral is Eurobonds issued by the federal government of Nigeria or guarantees of foreign banks, including standby letters of credit.

8.6 Common Financing Sources and Typical Structures

With the aid of special-purpose vehicles, project financing is typically structured as limited-recourse or non-recourse financings. This traditional funding is led by commercial bank debt, development financial institutions, multilateral agencies and other capital providers.

- **Bank Financing:** Domestic and international banks remain the primary source of debt financing. Nigerian banks frequently participate in project loans, often in syndicates to manage exposure limits. International banks also provide foreign currency.

Contributed by: Ben Unaegbunam, Omolola Coker, Sanford Mba, Promise Osimhen, Chidera Chikere and Oluwaseun Denagan, Dentons ACAS-Law (Adepetun, Caxton-Martins, Agbor & Segun)

The loan tenors of local bank financing are generally shorter due to local liquidity constraints, so international co-financing is crucial for long-term projects.

- **Export Credit Agencies (ECAs) and Multilateral Financing:** ECAs play important roles in large-scale funding of projects by providing guarantees, buyer credits or insurance to reduce credit risks. Multilateral lenders such as the African Development Bank (AfDB), International Finance Corporation (IFC), and African Export–Import Bank (Afreximbank) are active in Nigerian project finance. Their involvement often improves bankability by providing longer tenors, concessional rates, or partial risk guarantees.
- **Project Bonds and Capital Markets:** Project bonds are typically issued through infrastructure funds or listed on the FMDQ Securities Exchange or the Nigerian Exchange (NGX) and governed by the Investment and Securities Act 2025 (ISA) and the rules of the Securities and Exchange Commission (SEC), which regulate debt securities issuances. Bonds can be issued by corporates, state governments, and infrastructure vehicles. The Nigerian government, through the Debt Management Office (DMO), raises funds for infrastructure via FGN bonds, which are earmarked for roads, power, and transport projects.
- **Alternative Sources of Financing:** There are notable trends emerging in the Nigerian acquisition financing landscape, particularly in response to recent macroeconomic shifts, regulatory changes, and recapitalisation pressures on banks. These include private equity funding, commodity trader financing, mezzanine debts, etc.

8.7 Natural Resources

Natural resources projects in Nigeria are governed by a framework of constitutional provisions and sector-specific laws. Under the Nigerian Constitution, the Petroleum Industry Act 2021 (PIA), and the Nigerian Minerals and Mining Act 2007, all petroleum and solid minerals are vested in the federal government. Exploration, development, and production rights are granted through licences, leases, or permits to private investors. Foreign investors are required to comply with local content requirements which mandate par-

ticipation of Nigerian companies, labour, and services in upstream and midstream operations.

In the oil and gas sector, while crude oil exports are generally unrestricted once royalties and taxes are settled, and crude is traded on a “willing-buyer, willing-seller” basis, such exports must align with approved production quotas and satisfy Domestic Crude Supply Obligations to secure feedstock for local refineries. While the framework supports local refining and stabilises pricing, it also creates potential tension with pre-existing offtake or financing agreements, making predictable rules and commercially viable terms critical to maintaining investor confidence.

For solid minerals, the Nigerian Minerals and Mining Act requires certain minerals to undergo value addition or beneficiation such as crushing, grinding, smelting, or refining prior to export.

8.8 Environmental, Health and Safety Laws

- **The Environmental Impact Assessment (EIA) Act** mandates EIAs for projects likely to have significant environmental effects before commencement. It is overseen by the Federal Ministry of Environment and enforced through the National Environmental Standards and Regulations Enforcement Agency (NESREA).
- **The National Environmental Standards and Regulations Enforcement Agency (Establishment) Act** empowers NESREA to enforce environmental standards, regulations, guidelines, and compliance monitoring. It also covers pollution control, waste management, hazardous substances, and biodiversity protection.
- **The National Oil Spill Detection and Response Agency (NOSDRA) Act** regulates oil spill preparedness, detection, and clean-up and is administered by the National Oil Spill Detection and Response Agency.
- **The Factories Act** provides for worker safety, workplace health conditions, protective equipment, and reporting of accidents and is overseen by the Federal Ministry of Labour and Employment.
- **The Upstream Petroleum Safety Regulations 2022** enforce safety standards in operations in the upstream petroleum sector and are overseen by

Contributed by: Ben Unaegbunam, Omolola Coker, Sanford Mba, Promise Osimhen, Chidera Chikere and Oluwaseun Denagan, Dentons ACAS-Law (Adepetun, Caxton-Martins, Agbor & Segun)

the Nigerian Upstream Petroleum Regulatory Commission (NUPRC).

- The **Midstream and Downstream Petroleum Safety Regulations, 2023**, enforce safety standards in operations in the midstream and downstream petroleum sector and are administered by the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA).

Compliance with these health and safety laws is often included as a condition precedent in loan documentation. Breach of EHS obligations may trigger events of default or drawstop provisions in the financing agreements. Consequently, sponsors must integrate EHS compliance into project planning and financing strategies from the outset to ensure lender confidence, mitigate risk, and avoid delays or cost overruns.

CHAMBERS GLOBAL PRACTICE GUIDES

Chambers Global Practice Guides bring you up-to-date, expert legal commentary on the main practice areas from around the globe. Focusing on the practical legal issues affecting businesses, the guides enable readers to compare legislation and procedure and read trend forecasts from legal experts from across key jurisdictions.

To find out more information about how we select contributors, email Rob.Thomson@chambers.com