International Comparative Legal Guides

Practical cross-border insights into private equity law

Private Equity 2023

Ninth Edition

Contributing Editors:

Dr. Markus P. Bolsinger & Christopher Field
Dechert LLP

ICLG.com

Expert Analysis Chapter

1 2023 and Beyond: Private Equity Outlook for 2024
Siew Kam Boon, Sarah Kupferman & Sam Whittaker, Dechert LLP

Q&A Chapters

4 Australia
MinterEllison: Kimberley Low, Michael Wallin & Nick Kipriotis

14 Austria
Schindler Attorneys: Florian Philipp Cvak & Clemens Philipp Schindler

25 Brazil
Mello Torres Advogados: Carlos José Rolim de Mello, Roberto Panucci & Rafael Biondi Sanchez

33 Canada
McMillan LLP: Michael P. Whitcombe, Brett Stewart, Enda Wong & Bruce Chapple

42 Cayman Islands
Maples Group: Julian Ashworth, Patrick Rosenfeld, Lee Davis & Stef Dimitriou

50 China
Han Kun Law Offices LLP: Charles Wu & Hanpeng (Patrick) Hu

57 France
Vivien & Associés AARPI: Lisa Becker, Julie Tchaglass, Marine Pelletier-Capes & Julien Koch

65 Germany
Weil, Gotshal & Manges LLP: Andreas Fogel & Benjamin Rapp

73 Hungary
Moore Legal Kovács: Dr. Márton Kovács, Dr. Áron Kanti & Dr. Zsigmond Tóth

83 India
Shardul Amarchand Mangaldas & Co.: Iqbal Khan & Devika Menon

91 Italy
Legance: Marco Gubitosi & Lorenzo De Rosa

105 Japan
Tokyo International Law Office: Dai Iwasaki, Yusuke Takeuchi & Tomo Greer

113 Korea
Barun Law LLC: Min Hoon Yi & Si Yoon Lee

121 Luxembourg
Eversheds Sutherland (Luxembourg) S.C.S.: Holger Holle, José Pascual & Rafael Moll de Alba

130 Mexico
González Calvillo, S.C.: Jorge Cervantes Trejo, Bernardo Reyes Retana Krieger, Daniel Guaida Azar & Jerónimo Ramos Arozarena

138 Nigeria
Banwo & Ighodalo: Ayodele Adeyemi-Faboya, Mavis Abada & Ibiyemi Ajiboye

149 Norway
Aabø-Evensen & Co: Ole Kristian Aabø-Evensen

173 Singapore
Allen & Gledhill LLP: Christian Chin & Lee Kee Yeng

182 Spain
Garrigues: Ferran Escayola & María Fernández-Picazo

192 Switzerland
Bär & Karrer Ltd.: Dr. Christoph Neeracher & Dr. Luca Jagmetti

201 United Kingdom
Dechert LLP: Mark Evans & Sam Whittaker

213 USA
Dechert LLP: Allie Misner Wasserman, Dr. Markus P. Bolsinger, Soo-ah Nah & Marie Mast

Nigeria

Ayodele Adeyemi-Faboya

Mavis Abada

Ibiyemi Ajiboye

Banwo & Ighodalo

1 Overview

1.1 What are the most common types of private equity transactions in your jurisdiction? What is the current state of the market for these transactions?

The most common forms of private equity ("PE") transactions in Nigeria have traditionally been leveraged buyouts (by way of share or asset acquisitions), and expansion/growth capital. The market has, however, seen an uptick in venture capital ("VC") and bolt-on acquisitions in the last couple of years, particularly in the fintech space.

Despite the worsening macro-economic indices (the National Bureau of Statistics ("NBS") in fact reported that the investment inflow in 2022 was at its lowest in six years), PE transactions in Nigeria maintained an upward trajectory in 2022, with investor activity in sectors ranging from telecommunications, banking, waste management (recycling), financial services, fintech, information technology, oil and gas, and projects, amongst others. In 2022, 320 deals worth US$5.7 billion were recorded in the aforementioned sectors. Seed/Series funding and Venture rounds were the most popular, with 86 deals valued at US$886.3 million and 37 deals valued at US$50 million, respectively. Notably, the fintech sector recorded the highest deals valued at US$777.3 million. Whilst Q1 2023 showed a dip in activity, largely due to the uncertainties around the elections as well as foreign exchange ("FX") liquidity challenges, market indices suggest a rally, post elections, and increased investor confidence.

1.2 What are the most significant factors currently encouraging or inhibiting private equity transactions in your jurisdiction?

Factors encouraging PE investor activity in Nigeria include: large population size, growing consumer demographics and increasing regulatory clarity – via restructuring of the oil and gas sector under the Petroleum Industry Act of 2021; operational reformation of the landscape for financial technology by the Central Bank of Nigeria ("CBN"); reform by the competition commission by the introduction of various guidelines and guidance notes, thus bringing certainty to mergers and acquisitions ("M&A") and antitrust processes; recognition of PE-friendly corporate structures such as the LPs and LLPs by the Companies and Allied Matters Act of 2020 ("CAMA"); and increased governance flexibility with single member and single director companies, amongst others. In addition, the Federal Government's Ease of Doing Business Initiative ("EoDBI") with the aim to improve the business climate in Nigeria has driven the enactment of the Business Facilitation (Miscellaneous Provisions) Act, 2022 ("BFA"), which amends principal business-related provisions in legislations such as the CAMA, the Financial Reporting Council Act, Foreign Exchange (Monitoring and Miscellaneous Provisions) Act ("FEMMA"), Investment and Securities Act ("ISA"), Nigerian Investment Promotion Commission Act ("NIPC Act"), Nigerian Oil and Gas Industry Content Development Act, National Office for Technology Acquisition and Promotion Act amongst others. The enactment of the Nigerian Start-up Act 2022 creates a favourable business environment for startups by providing incentives and developing an ecosystem for startups to thrive.

From a tax perspective, tax reform also continues to be targeted at encouraging investment. The Finance Act 2021 designates Real Estate Investment Trust Scheme ("REITS") and Unit Trusts as pass-through vehicles for tax purposes, to encourage investment through those asset classes, while the Finance Act 2019, had earlier introduced exemptions to Excess Dividend Tax rule, to avoid double taxation. The Venture Capital Incentives Act, whilst not new, has recently re-entered the spotlight as it provides significant tax incentives in relation to start-up investments. The dispute resolution framework also continues to evolve with the Lagos Court of Arbitration emerging as the highest ranked court of arbitration in Africa, in a study by White & Case and the Queen Mary University of London. A revised Arbitration and Mediation Act has also recently been passed by the legislature and is expected to improve the seamlessness of the arbitration process in Nigeria.

Despite the overall positive outlook, the general global trend of rising inflation, geopolitical risks and other fiscal pressures continue to be a hindrance and to influence the way transactions are executed. For instance, there has been an increasing shift to debt and quasi-equity transactions, as investors attempt to hedge their risks. It is also expected that more investment activities will be witnessed following the 2023 Nigerian general elections.

Regulatory-wise, regulatory bottlenecks as well as steep fees for regulatory approvals (sometimes running into hundreds of millions) continue to be an issue. Additionally, the Finance Act

2021 removed the exemption of share transfers from capital gains tax, imposed excise duty on non-alcoholic, carbonated, and sweetened beverages (aimed at discouraging excessive consumption of beverages associated with excess sugar-related illnesses), and increased the Tertiary Education Tax to 2.5%, amongst others; it remains to be seen how these changes will impact deal structuring going forward.

1.3 Are you seeing any types of investors other than traditional private equity firms executing private equity-style transactions in your jurisdiction? If so, please explain which investors, and briefly identify any significant points of difference between the deal terms offered, or approach taken, by this type of investor and that of traditional private equity firms.

Angel investors, family offices, institutional investors such as sovereign wealth funds and development finance institutions, and more increasingly, VC firms, execute PE-style transactions across the value chain, with VCs and Angel Investors focusing on start-ups, whilst family offices and institutional investors are more interested in growth-stage investments. We have seen an increase in PE/VC partnerships – for instance the Verod-Kepple Africa Ventures; as well as in co-investments. This has allowed PE firms to broaden their investment appetite by leveraging on the expertise that VC firms have in early-stage valuation/investment. There has also been increased focus on crowdfunding as alternative financing, particularly with the introduction of the SEC Rules on Crowdfunding. However, given that only micro, small and medium-sized enterprises can raise funds under the SEC Crowdfunding Rules and the maximum that can be raised is NGN 100 million, we do not view crowdfunding, as currently structured, as a viable alternative. It remains an area to be watched though, with Obelix, a SEC-regulated Crowdfunding Intermediary, fundraising NGN 100 million for three small and medium-sized enterprises ("SMEs") in just 10 days earlier this year.

Some of these alternative financing sources can take longer-term positions than the traditional PE firms with five to seven years' investment lifespan. The VC and HNI investments are also characterised by reduced due diligence investigations and speed of execution.

2 Structuring Matters

2.1 What are the most common acquisition structures adopted for private equity transactions in your jurisdiction?

Transactions are typically structured as bilateral acquisitions implemented via an offshore-registered special purpose vehicles ("SPVs"), which act as the holding company for a chain of portfolio companies. As noted earlier, worsening macroeconomics, election uncertainty, and risk management concerns have also recently led to an increase in quasi-equity and debt transactions or equity/debt combinations.

In early-stage investments, there is also increasing acceptance of the use of standard form agreements such as Simple Agreements for Future Equity ("SAFEs"), for convenience and flexibility.

2.2 What are the main drivers for these acquisition structures?

Main drivers for acquisition structures remain: control; profit maximisation; tax efficiency for investors and/or the post-acquisition group; FX liquidity issues; risk mitigation; exit prospects and ease of exit, lender requirements; and, in certain cases, sector-specific regulatory requirements, such as local content restrictions.

2.3 How is the equity commonly structured in private equity transactions in your jurisdiction (including institutional, management and carried interests)?

The equity capital structure for equity contributed by PE investors typically consists of a combination of one or more of ordinary share capital, shareholder loans (which may be convertible), and preference shares.

Management equity is usually structured as ordinary shares, usually subsidised in the form of sweat equity or management incentive scheme, although there are cases in which management will inject capital.

Carried interest is typically dealt with as part of the fund formation and structuring and does not typically form part of the equity structuring at the portfolio company level. Management incentives tied to performance or returns for the PE investor at exit are, however, common.

2.4 If a private equity investor is taking a minority position, are there different structuring considerations?

The structuring considerations are the same as those outlined in question 2.2 above. The measures put in place to achieve control will, however, differ, as transaction documentation and constitutional documents, will typically be required to entrench standard minority protections, including prescriptions as to voting and quorum arrangements, information and access rights, rights to appoint key management team, membership and nomination rights in boards and committees of the target company, board members' and shareholders' rights (including those that translate into veto rights) in certain key decisions.

Such restrictions may also have an impact on transaction approvals, as minority protections that are deemed to confer an ability to materially influence the policy of the target will trigger control thresholds pursuant to the Nigerian antitrust commission, Federal Competition and Consumer Protection Commission ("FCCPC") regulations and bring such transaction under its purview.

2.5 In relation to management equity, what is the typical range of equity allocated to the management, and what are the typical vesting and compulsory acquisition provisions?

The range of equity allocated to management is between 5–10%; however, this usually varies from transaction to transaction and is generally lower in larger transactions. Provisions in the transaction documents may provide for compulsory acquisition triggers tied to whether a management officer holding equity is a good leaver or a bad leaver. Also, vesting triggers typically include achievement of key performance indicators, successful exits, or length of service.

2.6 For what reasons is a management equity holder usually treated as a good leaver or a bad leaver in your jurisdiction?

In Nigeria, a management equity holder is regarded as a good leaver where his/her employment is terminated by reason of

retirement, death, or disability, and regarded as a bad leaver where the employment is terminated on the grounds of breaches such as fraud, specified grounds of misconduct, other criminal or civil offences.

3 Governance Matters

3.1 What are the typical governance arrangements for private equity portfolio companies? Are such arrangements required to be made publicly available in your jurisdiction?

These arrangements are usually set out in the shareholder agreement or other investment agreement. Typical governance provisions include board and committee nomination and composition, appointment and removal of management team, quorum for board and shareholder meeting, information and access rights, veto rights and reserved matters, and shareholding control rights, amongst others.

There is no requirement for the governance arrangements set out in transaction documents to be made publicly available. Whilst disclosure of such documents to the regulator may be required in connection with obtaining regulatory approvals or notifications, (including antitrust and sector-regulatory approvals), other than the summary of the transactions, which might be published by such regulator, confidential transaction details including any governance arrangement will typically not be published.

However, the constitutional documents (memorandum and articles of association) of the portfolio companies are public documents. Critical governance arrangements/provisions (board composition, quorum, notice period, etc.) that are typically included in the articles of association are thus matters of public record.

3.2 Do private equity investors and/or their director nominees typically enjoy veto rights over major corporate actions (such as acquisitions and disposals, business plans, related party transactions, etc.)? If a private equity investor takes a minority position, what veto rights would they typically enjoy?

PE investors and nominee directors are usually conferred with veto rights as part of the governance arrangement for decisions on acquisitions and material disposals, mergers, capital raise (debt or equity), business plans, related party transactions, appointment and removal of auditors, incentive arrangement for the management team, amongst others.

The above are the typical veto rights taken by PE investors with a majority and minority shareholding interest of at least 15% and above for private or unlisted public companies. For shareholding interest below 15% in private companies (which is unusual for PE transactions), there are rarely veto rights available to the PE investor.

3.3 Are there any limitations on the effectiveness of veto arrangements: (i) at the shareholder level; and (ii) at the director nominee level? If so, how are these typically addressed?

The contractual agreement of parties (including veto rights) will generally be respected. This is, however, subject to statutory restrictions. Any veto arrangements that prescribe a lower threshold than that prescribed by the CAMA and the constitutional documents of portfolio companies cannot be enforced. Similarly, the CAMA prescribes minority shareholder rights that may be invoked notwithstanding existing veto arrangements. Section 343 of the CAMA specifically sets out acts in respect of which a minority shareholder may bring an action to restrain a controlling shareholder from abusing its dominant position. These include: entering into any transaction that is illegal or *ultra vires*; purporting to do by ordinary resolution any act that by its articles of association or the CAMA requires to be done by special resolution; any act or omission affecting the applicant's individual rights as a shareholder; committing fraud on either the company or the minority shareholders; where a company meeting cannot be called in time to be of practical use in redressing a wrong done to the company or to minority shareholders; where the directors are likely to derive a profit or benefit or have profited or benefitted from their negligence or from their breach of duty; and any other act or omission, where the interest of justice so demands.

In addition to the foregoing, Section 353 and Section 354 of the CAMA also allow a minority shareholder to bring a petition to the court on the grounds that: the affairs of the company are being conducted in a manner that is oppressive, unfairly prejudicial to, or unfairly discriminatory against a member or members, or in a manner that is in disregard of the interests of a member or members as a whole; or that an act or omission was or would be oppressive or unfairly prejudicial to, or unfairly discriminatory to a shareholder or shareholders.

Also, at the director nominee level, every director stands in a fiduciary relationship towards the company and is expected to observe utmost good faith towards the company in any transaction with it or on its behalf and act in the best interest of the company. This is so even when such a director is acting as the agent of a particular shareholder; specifically, a director is not to fetter his/her discretion to vote in a particular way. The statutory duties and fiduciary relationship imposed on directors are not relieved by any provisions in the articles of association or any contract.

In addition to the foregoing, Nigerian law does not recognise weighted or non-voting shares.

Parties can protect the enforceability of veto arrangements by ensuring that critical veto arrangements are included in the articles of association (to the extent permissible in the CAMA); equally considered at shareholders' level (to avoid fettering directors' discretion), and in line with applicable law.

3.4 Are there any duties owed by a private equity investor to minority shareholders such as management shareholders (or *vice versa*)? If so, how are these typically addressed?

PE investors may owe contractual duties and obligations to minority shareholders such as management shareholders arising from and as agreed in relevant investment agreements. Statutorily, a PE investor owes no direct statutory duties or obligation to any other shareholder; however, the CAMA, other applicable laws, and constitutional documents of portfolio companies confer individual rights on every shareholder (e.g., right to notice, dividends, voting rights, etc.) and provide mandatory rules for management and operation of companies. Non-compliance with these by a company (through a controlling/majority shareholder) will provide any shareholder with a cause of action. Please refer to question 3.3 above.

In addition, relevant corporate governance codes require the protection of rights of all shareholders including minority shareholders' rights.

3.5 Are there any limitations or restrictions on the contents or enforceability of shareholder agreements (including (i) governing law and jurisdiction, and (ii) non-compete and non-solicit provisions)?

Generally, Nigerian courts will recognise and enforce the provisions of shareholder agreements based on the principle of contractual autonomy of parties. However, there are instances where the enforceability of the provisions of a shareholder agreement will be subject to mandatory provisions of applicable Nigerian law, such as highlighted under question 3.3 above. In this regard, only damages for breach of agreement may be the most successful outcome of an enforcement action.

With regard to governing law, Nigerian courts will generally enforce parties' choice of law. However, where the choice of law is a foreign law, the courts have held that such foreign law must not be unreasonable, absurd, or capricious and must have some relationship to and be connected with the realities of the agreement. Choice of foreign law will not be applied in domestic subject matters such as tax, environment, antitrust, management and operation of corporations, etc. Similarly, based on precedents, courts will generally respect parties' choice of jurisdiction, save for where it is considered an attempt to oust the jurisdiction of the Nigerian courts over a matter or there are strong reasons to suggest that justice would not be done (considering such factors as the jurisdiction where evidence is available, parties' choice of law, the connection of the court to the parties, contractual limitation period, procedural advantage by either party, enforcement of judgment, etc.).

Non-compete and non-solicitation provisions are equally enforceable subject to terms imposed by appropriate competition and consumer protection laws in respect of non-compete provisions. For instance, the Federal Competition and Consumer Protection Act, 2018 ("FCCPA") limits non-compete provisions to a period of two years, and prohibits any provision that would operate to prevent, restrict, or distort competition.

3.6 Are there any legal restrictions or other requirements that a private equity investor should be aware of in appointing its nominees to boards of portfolio companies? What are the key potential risks and liabilities for (i) directors nominated by private equity investors to portfolio company boards, and (ii) private equity investors that nominate directors to boards of portfolio companies?

The CAMA and corporate governance codes have specific qualifications and requirements to be satisfied prior to appointing any nominee/person to the board of a Nigerian company. These range from mental ability, age, absence of fraudulent acts, to bankruptcy status. In addition, certain sectors, such as financial services, require minimum qualifications and regulatory approval for persons nominated as directors. There are also restrictions on multiple directorship positions and dual role, e.g., licensed financial institutions are most times required to separate the role of a chief executive officer and chairman on the board. This is also a general restriction in most codes of corporate governance. In addition, the BFA places a restriction on the number of public companies a person can act as director for and provides that the required numbers of independent directors in a public company shall be at least one-third of the size of its board.

As highlighted in question 3.3 above, directors have statutory (fiduciary) duties to the company. A breach of any of the statutory duties can result in personal liabilities for such a director. In addition, certain regulations, like the CBN Administrative Sanctions Regime applicable to banks and OFIs, impose specific liability (both civil and criminal) on directors of the company for specific breaches.

For PE investors, liabilities of its nominated director will not be imputed to it. However, by agreement, the shareholders may agree for a nominating shareholder to be liable for loss incurred by its nominee director.

3.7 How do directors nominated by private equity investors deal with actual and potential conflicts of interest arising from (i) their relationship with the party nominating them, and (ii) positions as directors of other portfolio companies?

A director's statutory duties and fiduciary relationship with the company trumps his/her obligation to a nominating shareholder and directors must always act in the best interest of the company.

Where a director occupies more than one directorship position, he/she must not derogate from his/her statutory duties and fiduciary relationship with each company. Such director is not to use the property, opportunity or any information derived during his/her management of one company for the benefit of the other company. In anticipation of conflict of interest from multiple directorships, the Nigerian Code of Corporate Governance and sector-specific codes generally discourage multiple directorships and require disclosure where they exist.

Typically, where either actual or potential conflict of interest arises, the affected director is expected to disclose and, where applicable, recuse himself from voting on such transaction.

4 Transaction Terms: General

4.1 What are the major issues impacting the timetable for transactions in your jurisdiction, including antitrust, foreign direct investment and other regulatory approval requirements, disclosure obligations and financing issues?

The major issue that typically impacts transaction timelines relates to regulatory approvals and/or wait periods. For instance: merger control approvals from the FCCPC may take between four and 18 weeks depending on the classification of the merger/scope of filing; barring any bureaucratic delays, approvals from the Securities and Exchange Commission ("SEC") may take between six and eight weeks; approvals from the CBN may take between 12 and 16 weeks; approvals from the Nigerian Exchange Group ("NGX") may take between one and two weeks; approvals from the National Insurance Commission may take between 10 and 12 weeks; and approvals from the Nigerian Communications Commission may take between four and 12 weeks. Often, these approvals are also contingent on having obtained a prior approval or require notice or wait periods, thus further lengthening time periods. Other factors that typically cause transaction delays include delays with raising transaction financing or conducting due diligence. Transactions can be completed fairly quickly where they are not complex, involve parties and professional advisers with sector expertise, network and compliant/organised targets (with up-to-date and available records), and require few or no regulatory approvals.

4.2 Have there been any discernible trends in transaction terms over recent years?

In recent times, there is a trend towards a risk-based approach to due diligence. PE investors are also increasingly taking a

minority stake, with terms allowing them to increase their stake as events pan out. Transactions are being increasingly structured as a mix of equity and debt or quasi-equity as PE investors attempt to de-risk these transactions in response to foreign currency volatility, global macro-economic and other challenges. In addition, there has been increased attention paid to Material Adverse Change/Effect ("MAC"/"MAE") clauses, liquidation preferences and the extent of the potential impact on and protection for the governance and financials of portfolio companies and the investment at large. Deferred consideration structures are also being more creatively packaged in the form of earnouts, etc., rather than the traditional escrow structures.

5 Transaction Terms: Public Acquisitions

5.1 What particular features and/or challenges apply to private equity investors involved in public-to-private transactions (and their financing) and how are these commonly dealt with?

Challenges prevalent in public-to-private acquisitions include:

(i) regulatory consents and authorisations required for such transactions, including the cost and the timing for obtaining same;
(ii) the cost of the transactions as well as the funding structure (for example a public-to-private transaction is usually more costly where a leveraged buy-out structure is used);
(iii) shareholders' voting/approval (i.e., minority shareholders engagement/management); and
(iv) employee and employee associations interests.

Deal timing, due diligence, transaction structure/documentation, and consideration (all-cash offer, part-cash/part-equity, escrow, etc.) are other hurdles to surpass. To navigate these issues effectively, parties tend to engage the respective regulators at the beginning of the transaction to discuss structure and transaction exigencies. Furthermore, parties sometimes adopt transaction structures that assure transaction certainty, such as a scheme of arrangement. The quality of advisers engaged by the parties and the pricing of the deal also assist in mitigating completion risks. Finally, public to private transactions generally entail extensive stakeholder engagement across the diverse interests particularly minority shareholders and employees.

5.2 What deal protections are available to private equity investors in your jurisdiction in relation to public acquisitions?

Generally, aside from the specific issues that may be uncovered upon carrying out detailed due diligence, PE investors typically protect themselves by adopting deal structures that isolate portfolio liabilities. A number of the protections are negotiated directly with the selling shareholder(s) and include representations and warranties, indemnities, the use of escrow structures, the use of custodian arrangements, deferred consideration, insurance, participation rights, information rights, break fees, exclusivity, etc.

6 Transaction Terms: Private Acquisitions

6.1 What consideration structures are typically preferred by private equity investors (i) on the sell-side, and (ii) on the buy-side, in your jurisdiction?

Cash structures have been traditionally preferred by both buy and sell sides, with the locked box structure being the most adopted structure. There is, however, a recent push for a completion accounts consideration structure by buyers, which may not be unrelated to the trend towards red flag due diligence. Share swaps representing a portion of the consideration are also not uncommon, particularly where the expertise rests on or the brand is associated with the seller. Earnout arrangements are also being increasingly proposed and adopted in primary acquisitions (i.e., from the founder/managers).

6.2 What is the typical package of warranties / indemnities offered by (i) a private equity seller, and (ii) the management team to a buyer?

PE sellers will typically push back on anything but fundamental warranties – title, capacity, authority, and pre-closing tax liabilities – and may insist that founders/managers provide any business warranties required. This is, however, subject to negotiation, and it is not unusual for a buyer to push back and to elicit business warranties from PE sellers, particularly where they have a controlling stake. Management who are "founder/managers" are typically required to and do provide both fundamental and business warranties. It is, however, unusual for the management team in its capacity as management simpliciter to offer warranties.

6.3 What is the typical scope of other covenants, undertakings and indemnities provided by a private equity seller and its management team to a buyer?

This is subject to negotiation but would usually be expected to include interim period undertakings as to actions between signing and completion, undertakings as to "no-leakages" (for locked box transactions), undertakings to cooperate in relation to regulatory filings, and in certain circumstances, information undertakings. Generally, PE sellers will resist any covenants or undertakings creating restrictions on their capacity to freely invest in competing businesses, whilst founder/managers would typically expect to be required to give such covenants.

Seller indemnities are commonplace, although PE sellers will typically push for the buyer to price most of the risk in, and thus seek to limit the scope of those indemnities. Please refer to question 6.5.

6.4 To what extent is representation & warranty insurance used in your jurisdiction? If so, what are the typical (i) excesses / policy limits, and (ii) carve-outs / exclusions from such insurance policies, and what is the typical cost of such insurance?

Taking out representations and warranties insurance is not common in Nigeria, although it has been utilised in some deals by offshore PE investors and is increasingly being considered a risk mitigant, particularly for larger transactions. The cost is, however, quite high, and the time implications (from a due diligence perspective) can also be discouraging. Standard exclusions include known risks identified during the due diligence, fraud or misrepresentation, tax liabilities, consequential losses, environmental matters, AML/CFT compliance, amongst others. Other than fraud-related exclusions, parties are typically able to negotiate to price in excluded risks. Policy limits, typically, are in line with what has been agreed in the SPA.

6.5 What limitations will typically apply to the liability of a private equity seller and management team under warranties, covenants, indemnities and undertakings?

Exiting PE investors and management typically seek to contract out of statutory time limitations by inserting limited periods by which claims can be made (usually between six and 24 months, for non-tax warranties). Other limitations include floors/materiality threshold and *de minimis* claim levels (individual and aggregate), caps on financial exposure, knowledge and materiality qualifiers, disclosures and liabilities being on a several (*pro rata*) basis.

6.6 Do (i) private equity sellers provide security (e.g., escrow accounts) for any warranties / liabilities, and (ii) private equity buyers insist on any security for warranties / liabilities (including any obtained from the management team)?

PE buyers will usually insist on security where the seller is not considered creditworthy or claims might otherwise be difficult to redeem (for example, an individual, trust or SPV entity, or entity domiciled in an "unfriendly" jurisdiction). PE sellers and management will usually push back on providing security; subject to the considerations stated above; however, security that might be provided includes retention amounts in escrow, security over founder/manager shares (where their exit is not total), and (in rare cases) personal guarantees. Some institutional buyers such as investment funds (and particularly infrastructure funds) also tend to request bank guarantees to secure their investments in infrastructure-based portfolio companies.

6.7 How do private equity buyers typically provide comfort as to the availability of (i) debt finance, and (ii) equity finance? What rights of enforcement do sellers typically obtain in the absence of compliance by the buyer (e.g., equity underwrite of debt funding, right to specific performance of obligations under an equity commitment letter, damages, etc.)?

Comfort in relation to the availability of debt and equity funding may be provided by way of (i) escrow of committed funds (this was traditionally the primary form of security but is becoming less common), (ii) evidence of "certain funds" in the form of signed debt term sheets, (iii) equity commitment letter from the sponsor/parent (particularly where an SPV is utilised by the buyer), (iv) comfort letters in respect of debt financing from reputable third-party lenders, and, in fewer cases (v) letters of credit. Ultimately though, reliance is usually given to the reputation and financial standing of the buyer, and such evidence may not be required where the buyer is reputable and of good standing, in which case the seller may choose to rely on appropriate financial capacity warranties in the SPA.

Seller remedies will typically lie in damages and, where negotiated, reverse break fees.

6.8 Are reverse break fees prevalent in private equity transactions to limit private equity buyers' exposure? If so, what terms are typical?

Reverse break fees are not historically prevalent in the Nigerian market but are becoming more common as buyers shy away from traditional protections such as escrow, and where sellers have committed time and resources to the deal.

7 Transaction Terms: IPOs

7.1 What particular features and/or challenges should a private equity seller be aware of in considering an IPO exit?

A PE seller should be aware of exit timing, regulatory requirements, the cost of effecting the initial public offering ("IPO"), the valuation of shares following changes in share capital and the underwriting of shares not taken up. Furthermore, political risks, the macroeconomic conditions in the country, including the weakening of the Naira and shortage of foreign currency, and the impacts of the pandemic on businesses may also pose challenges to a PE seller considering an IPO exit. Indeed, in recent years, companies such as Interswitch, seeking to create exit via an IPO have had to postpone or consider alternative exit routes.

7.2 What customary lock-ups would be imposed on private equity sellers on an IPO exit?

Pursuant to the provisions of the NGX Rulebook, promoters and directors of companies intending to undertake an IPO and list on any board of the exchange must hold a minimum of 50% of their shares in the company for a minimum period of 12 months from the date of listing and will not directly or indirectly sell or offer to sell such securities during the said period. Accordingly, PE sellers on an IPO exit will be required to comply with this provision of the NGX Rulebook, unless the requirement is waived by the NGX. Furthermore, agreements regarding the lock-up period and other management/transitional matters are usually entered into between the PE sellers and the listed company. PE sellers usually seek to avoid or minimise this requirement.

7.3 Do private equity sellers generally pursue a dual-track exit process? If so, (i) how late in the process are private equity sellers continuing to run the dual-track, and (ii) were more dual-track deals ultimately realised through a sale or IPO?

The most common exit process in Nigeria is secondary sales to trade buyers. However, there have been instances where PE sellers have pursued dual-track exit process. A PE seller may continue to run a dual-track deal until it binds itself to a particular exit process (i.e., either a sale or an IPO). For instance, the terms of acceptance of a binding offer in respect of a sale transaction may preclude the PE seller from exploring other exit options. Given the drought of IPOs in the Nigerian market in recent years, it can be garnered that PE sellers who considered/pursued dual-track routes ultimately exit through sales.

8 Financing

8.1 Please outline the most common sources of debt finance used to fund private equity transactions in your jurisdiction and provide an overview of the current state of the finance market in your jurisdiction for such debt (including the syndicated loan market, private credit market and the high-yield bond market).

Debt finance for PE transactions has traditionally been by way of external debt/leverage provided by syndicate banks, institutional financiers and a range of alternative private credit providers. Credit support instruments and mezzanine financing

are also common sources of debt finance. Less common, but still applicable sources for PE investors include commercial papers (CPs), loan notes, bonds and investments in relatively high-yield instruments including treasury bills. The market has seen an increase in recourse to private credit as bank financing tightens, which is also due to the trend towards debt investment or a mix of debt and equity by PE investors.

8.2 Are there any relevant legal requirements or restrictions impacting the nature or structure of the debt financing (or any particular type of debt financing) of private equity transactions?

Nigerian law guarantees the ability to repatriate principal and/or interest on foreign loans outside Nigeria utilising the official FX market, subject to having obtained an electronic certificate of capital importation from a CBN-authorised dealer when the original equity investment or loan capital is inflowed into Nigeria. This has given investors the ability to structure their capital inflow in accordance with their objectives/risk appetite. However, the Finance Act 2019 introduced clear thin capitalisation rules in Nigeria in the form of interest deductibility restrictions, restricting interest deductibility to 30% of EBITDA. Excess interest can also only be carried forward for five years, and we expect that this will have an impact on equity/debt mixes.

In addition, the CAMA expanded the scope of exceptions to the rule against financial assistance by Nigerian companies, thus granting parties greater flexibility in capital structuring.

8.3 What recent trends have there been in the debt-financing market in your jurisdiction?

Borrowers have continued to search for cheaper debt in the wake of the continued rise in interest rates. There has thus been a slow-down in syndicated lending, and more focus on alternative credit such as private credit. Telecoms, infrastructure, and sustainable investment such as renewable energy, recycling and upcycling have enjoyed popularity in this regard. Borrowers searching for cheaper debt have also led to a number of refinancings.

The Nigerian CP market has remained a viable funding option for corporate entities seeking to finance their short-term expenditure, including working capital shortfalls. The FMDQ Exchange reported that the value of quoted CPs on the Exchange stood at N 539.22 billion at the end of Q1 2023, with the total outstanding value of CPs rising to N 669.36 billion at the end of the same period.

Documentation wise, a number of banks are resorting to short-form documentation to reduce legal costs.

9 Alternative Liquidity Solutions

9.1 How prevalent is the use of continuation fund vehicles or GP-led secondary transactions as a deal type in your jurisdiction?

The use of continuation fund vehicles or GP-led secondary transactions remains uncommon in Nigeria. However, given: (1) the rise in popularity in other markets; (2) the fact that such vehicles are no longer globally viewed simply as a means of moving unrealised (and difficult to exit) portfolio investments out of a fund that was at the end of its lifespan, but as healthy vehicles to extract more value from their best performing assets; and (3) the impact of the pandemic as well as macro-economic conditions that have meant that GPs have been unable to maximise returns during the hold period on otherwise well-performing investments, we expect that we may begin to see the use of continuation fund vehicles, particularly in sectors such as education.

9.2 Are there any particular legal requirements or restrictions impacting their use?

Please refer to our response to question 9.1 above. Besides the CAMA, ISA and rules, regulations and guidelines of the National Pension Commission regulating the establishment and operation of funds in Nigeria, we are not aware of any particular legal requirements or restrictions impacting the use of continuation fund vehicles or GP-led secondary transactions.

10 Tax Matters

10.1 What are the key tax considerations for private equity investors and transactions in your jurisdiction? Are off-shore structures common?

The overriding tax focus for PE investors is the need to mitigate tax leakage, and to the extent possible, ensure that structures are flow-through in nature. More specific considerations include:

(a) Available tax incentives. Some of the tax reliefs available in Nigeria include double taxation relief – investors in countries with which Nigeria has a double taxation treaty enjoy tax reliefs of up to 2.5%, and exemption of capital gains tax ("CGT") from business reorganisations or transfers of assets within a group in the course of reorganisations, subject to a one-year minimum holding requirement.

(b) Taxes payable in connection with the investment, including taxes/charges payable in relation to the capital invested, taxes payable on the income or capital gains received on the investment or goods or services supplied in respect thereof, such as withholding tax on income, CGT, and value-added tax.

(c) Applicable corporate income taxes.

(d) Taxes payable for perfection of security/transaction documents such as stamp duties, and registration fees.

(e) Transfer-pricing-related risks. Where there are transfer pricing-related risks, the relevant tax authorities may flag the transaction and subject it to tax adjustments, which may increase the tax exposure of the investors in the transaction.

Offshore structures are common to minimise tax exposures and benefit from double taxation reliefs.

10.2 What are the key tax-efficient arrangements that are typically considered by management teams in private equity acquisitions (such as growth shares, incentive shares, deferred / vesting arrangements)?

Management teams will usually be exposed to tax on two fronts – personal income tax at a proportional graduating scale, with rates ranging from 7–24% payable in respect of income received from the investment; and transfer taxes/CGT at 10% in relation to management's participation in equity growth through partial exits.

There is no tax exposure to management at the point of acquisition of its equity whether upfront or by way of deferred/vesting arrangements, nor are there any special waivers or incentives in relation to management disposals. Management may be able to obtain some tax relief by structuring returns on equity interests as service-linked gratuity payouts, although this is not common.

The Finance Act 2020 also exempts compensation for loss of office up to NGN10 million from capital gains tax.

10.3 What are the key tax considerations for management teams that are selling and/or rolling over part of their investment into a new acquisition structure?

The primary consideration would be to avoid triggering transfer taxes in relation to the transfer, particularly for roll-overs, given that no gains will actually come into their hands at this point. For business reorganisations involving disposal or transfer of shares in a Nigerian company, 10% CGT applies except where the share disposal proceeds are: (i) reinvested within the same year of assessment, in the acquisition of shares in the same or other Nigerian company; or (ii) the share disposal proceeds, in aggregate, are less than NGN100 million in any 12 consecutive months, provided that the person making the disposal shall render appropriate returns to the Federal Inland Revenue Service ("FIRS") on an annual basis. Partial reinvestment will attract CGT proportionately. Re-investment offshore (as is often the case with management roll-overs) will not, however, attract this concession (except any of the other exemptions applies). (It may nonetheless be possible to engage the FIRS in the case of roll-overs, with a view to clarify that the same is simply an exchange of shares and therefore any transfer of shares ought to be exempted from CGT). This is a relatively new development and it is interesting to see how the market will respond.

10.4 Have there been any significant changes in tax legislation or the practices of tax authorities (including in relation to tax rulings or clearances) impacting private equity investors, management teams or private equity transactions and are any anticipated?

The Fiscal Policy Measure 2023 ("FPM 2023") took effect from May 1, 2023. The FPM 2023 provides for some operational tax that impacts investments in portfolio companies:

- Supplementary Protection Measures for the implementation of the ECOWAS Common External Tariff ("CET").
- Import Adjustment Tax ("IAT") list, with additional taxes on 189 tariff lines of the extant ECOWAS CET.
- Import Prohibition List (Trade), applicable only to certain goods originating from non-ECOWAS Member States.
- A National List consisting of items with reduced import duty rates to promote and stimulate growth in critical sectors of the economy.

Worthy of note are the provisions to encourage climate change interventions (green tax provisions), comprising:

- excise duty of 10% on single-use plastics, including containers, films, and bags;
- increase in IAT on the importation of other plastic items such as sheets, foils, polymers, and photocopying papers; and
- prescription of IAT of 2% on motor vehicles of 2,000cc to 3,999cc – while vehicles of 4,000cc and above will be taxed at 4% – and exemption of vehicles of below 2,000cc, mass transit buses, electric vehicles and locally manufactured vehicles from IAT.

The Nigerian Senate passed (and recommitted) the Finance Bill 2022 (the previous version passed in December 2022 by both houses had been amended by the presidency and re-sent for approval). Below are the relevant changes that pertain to PE transactions in Nigeria:

- Deduction of losses arising from sale of one asset from the gains derived from the sale of another asset of the same class. Accordingly, where a company sells shares and records a loss, the loss accruing from the disposal of those shares can be deducted against the gains derived by the company from the sale of other shares.
- Introduction of Digital Assets as Chargeable Assets under the CGTA.
- Increase in the Tertiary Education Tax ("TET") rate from 2.5% to 3%. It is instructive that the rate was only recently increased from 2% to 2.5% via the 2021 Finance Act.
- Expansion of scope of excise duty to cover services other than telecommunications.
- Removal of the investment allowance of 10% currently applicable to capital expenditure incurred on plant and equipment under section 32 of the CITA.
- Removal of the rural investment allowance ranging from 15% to 100% applicable to capital expenditure incurred on the provision of certain facilities such as electricity, water or tarred road for the purpose of a trade or business that is located at least 20 kilometres away from such facilities provided by the government.
- Removal of the income tax exemption applicable to 25% of incomes in convertible currencies derived from tourists by companies engaged as hoteliers.
- Provision for unrestricted deductions of capital allowances from assessable profits, for companies engaged in upstream or midstream gas operations.

11 Legal and Regulatory Matters

11.1 Have there been any significant legal and/or regulatory developments over recent years impacting private equity investors or transactions and are any anticipated?

Yes. The last few years have seen a plethora of regulatory interventions, particularly as related to the ease of doing business, the financial services sector and competition and merger control. Some of such developments include:

- Amendments to 21 business-related laws, by the BFA in February 2023, removing bureaucratic constraints to doing business in Nigeria. Of specific note are the provisions introduced to foster transparency, certainty and speed, such as the requirement for all MDAs to publish clearly the processes, timelines and requirements for obtaining approvals, as well as the deemed approval provisions in which a regulator fails to communicate an approval or rejection within the prescribed timeline. The BFA is expected to introduce yearly updates as a more efficient way of introducing amendments that ease bottlenecks.
- The release of the Nigerian Startup Act, 2022, which supports startups through the provision of access to funding, tax breaks and intellectual property protection.
- Amendments to regulatory capital for microfinance banks and insurance companies, which spawned a number of M&A in the sector in 2020 and 2021.
- The release of the Merger Review (Amended) Regulations, 2021 by the FCCPC hot on the heels of the Merger Review Regulations and Merger Review Guidelines released in 2020.
- Regulatory focus on contracts or relationships in restraint of trade and market dominance abuse, through the issuance of the Restrictive Agreements and Trade Practices Regulations, 2021 and the Abuse of Dominance Regulations, 2022, by the FCCPC.
- Expansion of investment options for PFA "dry powder" through the release of the National Pension Commission's Operational Framework for Co-Investment by Pension

Fund Administrators, 2022 (historically, one of the asset classes with the lowest allocation by PFAs has been PE).

Tax reforms via the Finance Acts of 2019–2022 have also impacted PE investment, particularly exemptions to the excess dividend tax rule. (Please also refer to the response to question 10.4.)

11.2 Are private equity investors or particular transactions subject to enhanced regulatory scrutiny in your jurisdiction (e.g., on national security grounds)?

100% foreign ownership of Nigerian businesses is permitted under Nigerian law, except in certain sectors where local content, such as in shareholding or makeup of workforce, is mandated by law. Some of these sectors include shipping, aviation, oil and gas, private security, broadcasting, and advertising, amongst others. Also, investing in the production of certain goods (e.g., arms and ammunitions, narcotic drugs, military, or paramilitary wear, etc.) is strictly prohibited by law for Nigerians or foreigners.

11.3 Are impact investments subject to any additional legal or regulatory requirements?

The legal and regulatory framework for general investments in Nigeria also applies to impact investments and there are no additional legal or regulatory requirements to be complied with. The regulatory framework is, however, evolving to encourage impact investment with laws such as the Climate Change Act, 2021, and the provisions on Host Communities Development Trust under the Petroleum Industry Act of 2021. Older tax incentives such as the Pioneer Status Incentive also indirectly encourage impact investment.

11.4 How detailed is the legal due diligence (including compliance) conducted by private equity investors prior to any acquisitions (e.g., typical timeframes, materiality, scope, etc.)?

This is relative to several factors, such as the scope of the transaction, nature and size of target, parties' objectives, and timelines of the transaction, amongst others. Key areas typically covered include the corporate structure, regulatory compliance, material contracts, debt and security, employment issues, intellectual property and other assets, insurance, tax and litigation profile. The market has seen an increasing shift to high-level red flag due diligence, although, in our experience, the more complex/larger transactions still adopt the granular approach.

The timeframe for legal due diligence may take between two and six weeks, depending on the scope of the due diligence and the availability of records, and accessibility to external regulatory and third-party records or confirmations.

11.5 Has anti-bribery or anti-corruption legislation impacted private equity investment and/or investors' approach to private equity transactions (e.g., diligence, contractual protection, etc.)?

Yes. The legislation impacting PE investment includes the Money Laundering (Prevention and Prohibition) Act 2022, the Terrorism (Prevention and Prohibition) Act 2022 and the CBN's Anti-Money Laundering and Combating the Financing of Terrorism in Banks and Other Financial Institutions in Nigeria Regulations (AML/CFT Regime). Contractual provisions on AML/CFT compliance have become more robust and typically extend to compliance with international requirements, such as the UK Bribery Act and the American Foreign Corrupt Practices Act.

Compliance/know-your-customer/integrity due diligence is also a more common phenomenon in PE transactions.

11.6 Are there any circumstances in which: (i) a private equity investor may be held liable for the liabilities of the underlying portfolio companies (including due to breach of applicable laws by the portfolio companies); and (ii) one portfolio company may be held liable for the liabilities of another portfolio company?

Generally, a shareholder in a limited liability company only bears liability to the extent of shares in his/her interest paid or yet to be paid. Nigerian law generally respects the concept of separate corporate legal personality, and it is only under limited circumstances that the courts would lift a corporate veil so that a director or a company may be considered liable for the acts of another company. Circumstances where executive management, designated officers of the company or the board of directors may be held responsible and sanctioned, include offences under the CBN Administrative Sanctions regime, which stipulates penalties for senior management and in some cases, members of the board, in addition to the company. Also, in the case of unlimited companies, the liability of the members for the debt of the company is unlimited.

12 Other Useful Facts

12.1 What other factors commonly give rise to concerns for private equity investors in your jurisdiction or should such investors otherwise be aware of in considering an investment in your jurisdiction?

One of the major obstacles for PE investment in Nigeria is the infrastructure deficit, which impacts the operations, profitability and ability to scale portfolio companies. However, the Infrastructure Corporation of Nigeria (touted as "Nigeria's Infrastructure Game Changer) debuted in February 2022. Infracorp was established with a start-up funding of NGN1 trillion for the construction of critical infrastructure projects to help accelerate growth in the country by originating, structuring, executing and managing end-to-end bankable projects. Its funding is expected to grow to NGN15 trillion; and assets will be managed by four independent asset managers with an impressive record in infrastructure development. Infracorp is promoted by the CBN, Africa Finance Corporation and the Nigeria Sovereign Investment Authority.

In addition to providing co-investment opportunities to PE investors, it is expected that the activities of Infracorp will have a positive effect on the market and ultimately the economy.

Nigeria also ratified the African Continental Free Trade Area Agreement ("AfCFTA") with effect from January 1, 2021; whilst gains remain slow to yield, and political commitment to scaling the hurdles appears to be more visible in speech than action, where properly implemented, AfCFTA will address the restrictions that have made it difficult to scale regionally.

In terms of economic outlook, the new administration, which took over on May 29, 2023, has announced the cessation of the fuel subsidy. This is expected to significantly drive up the cost of operations of portfolio companies, as well as the cost of living, thus leading to reduced spending power of consumers/clients. Another major focus of the administration,

as announced by the President, is the unification of the exchange rate. Whilst a unified exchange rate will ultimately increase efficiency, transparency and stability in the FX market and thus benefit FDI, these gains cannot be achieved without a supportive fiscal and monetary context. On the upside, the external reserves that were significantly depleted in 2022 are expected to grow in H2 2023, following the commissioning of the Dangote Refinery, the savings from subsidy removal being retained or invested in infrastructure, increase in oil production levels in Q4 2023, and the significant brain drain that is expected to increase foreign remittances.

Acknowledgments

The authors would like to thank Akorede Folarin and Nelson Iheanacho, who provided invaluable support in research, for their contributions to this chapter.

Ayodele Adeyemi-Faboya is a Partner in the Firm's Corporate, Finance & Securities practice group. Her areas of specialisation include funds advisory, corporate commercial law, corporate governance and regulatory compliance, M&A, project finance and development and, more recently, fintech. Ayodele is particularly known for her expertise in structuring foreign and local investments and divestments in key sectors of the economy, including finance, manufacturing, health and education; and has significant experience advising a number of private equity firms in this regard. She also has multijurisdictional experience, having advised on a number of strategic investments in the United Kingdom, Liberia, Guinea, Ghana, Sierra Leone and the Gambia.

In addition to M&A, Ayodele has advised in connection with the establishment of a number of PE and infrastructure funds (including Nigeria's first SEC-registered infrastructure fund) and fund management entities. In her spare time, Ayodele provides structuring and regulatory advice to SMEs, through her role as facilitator in the Fate Foundation Ltd/Gte Aspiring Entrepreneurs Programme.

Banwo & Ighodalo
48 Awolowo Road, South West Ikoyi
Lagos
Nigeria

Tel: +234 906 000 3561 2 / +234 805 087 5883 / +234 809 271 4452 / +234 902 052 4921
Email: afaboya@banwo-ighodalo.com
URL: www.banwo-ighodalo.com

Mavis Abada is a Senior Associate in the Firm's Corporate, Finance & Securities practice group, and has experience in M&A, PE and corporate restructuring transactions. She also has significant experience in merger control filings and has participated in some of the Firm's banking & finance transactions.

Mavis' M&A and PE transactions include foreign-led, intra-African, and core Nigerian transactions that cut across several industries, including: financial and business services; consumer and retail; education, logistics; and technology, media & telecommunications. Her clients are both foreign and Nigerian PE firms, strategic investors, management, sellers, and targets.

Banwo & Ighodalo
48 Awolowo Road, South West Ikoyi
Lagos
Nigeria

Tel: +234 906 000 3561 2 / +234 805 087 5883 / +234 809 271 4452 / +234 902 052 4921
Email: mabada@banwo-ighodalo.com
URL: www.banwo-ighodalo.com

Ibiyemi Ajiboye is an Associate in the Firm's Corporate, Finance & Securities practice group, and has significant experience in M&A, PE and corporate restructuring transactions. He also has significant experience in anti-trust matters and merger control filings involving cross-border M&A transactions. His clients include foreign and Nigerian PE firms, strategic investors, management, sellers, and targets.

Banwo & Ighodalo
48 Awolowo Road, South West Ikoyi
Lagos
Nigeria

Tel: +234 906 000 3561 2 / +234 805 087 5883 / +234 809 271 4452 / +234 902 052 4921
Email: iajiboye@banwo-ighodalo.com
URL: www.banwo-ighodalo.com

Banwo & Ighodalo ("B&I") is a foremost Nigerian legal services and business solution provider, delivering high-quality services. The firm was established on February 1, 1991 and is renowned for providing innovative, cost-effective and well-timed excellent solutions. B&I is structured as a partnership and is a large Nigerian firm, presently comprising over 80 lawyers. We undertake work for public and private companies, governments, Nigerian and foreign investors, financial institutions, foreign law firms and international consultancy firms. Our lawyers are often called upon to serve as resource persons at local and international seminars/workshops and as public and private sector office holders and advisers. We are consistently ranked Tier 1 in *The Legal 500* and are ranked in the top three in Nigeria, in areas of Capital Markets, Securities, M&A, Corporate Finance & Restructuring, Project Finance, Foreign Investment & Divestment, Shipping, Aviation & International Trade, Energy & Natural Resources and Intellectual Property & Technology. We also have a tested and dependable track record in Commercial Litigation & Arbitration. We are also *Chambers and Partners*' Nigeria Law Firm of the Year (Winner, *Chambers Africa* Awards 2022).

www.banwo-ighodalo.com

ICLG.com

Current titles in the ICLG series

Alternative Investment Funds
Anti-Money Laundering
Aviation Finance & Leasing
Aviation Law
Business Crime
Cartels & Leniency
Class & Group Actions
Competition Litigation
Construction & Engineering Law
Consumer Protection
Copyright
Corporate Governance
Corporate Immigration
Corporate Investigations
Corporate Tax
Cybersecurity
Data Protection
Derivatives
Designs
Digital Business
Digital Health
Drug & Medical Device Litigation
Employment & Labour Law
Enforcement of Foreign Judgments
Environment & Climate Change Law
Environmental, Social & Governance Law
Family Law
Fintech
Foreign Direct Investment Regimes
Franchise
Gambling
Insurance & Reinsurance
International Arbitration
Investor-State Arbitration
Lending & Secured Finance
Litigation & Dispute Resolution
Merger Control
Mergers & Acquisitions
Mining Law
Oil & Gas Regulation
Patents
Pharmaceutical Advertising
Private Client
Private Equity
Product Liability
Project Finance
Public Investment Funds
Public Procurement
Real Estate
Renewable Energy
Restructuring & Insolvency
Sanctions
Securitisation
Shipping Law
Technology Sourcing
Telecoms, Media & Internet
Trade Marks
Vertical Agreements and Dominant Firms

The International Comparative Legal Guides are published by: glg global legal group