African Journal of Law, Ethics, & Education [AJLEE] Vol. 8, No. 5 (2025)
Website: https://ajleejournal.com [ISSN: 2756-6870]

A CRITICAL ANALYSIS OF THE FORMALITIES FOR THE INCORPORATION OF A COMPANY IN NIGERIA

Eberechi Ndudi Ake Okere*

Abstract

The incorporation of a company is an important exercise governed by legal formalities that ensure transparency, accountability and adherence to statutory requirements. This paper critically analyzes the formalities involved in this process under the Companies and Allied Matters Act (CAMA) 2020. The paper seeks to conduct a comprehensive appraisal of the formalities entailed in the incorporation of companies in Nigeria, with a view to enhancing understanding, compliance, and efficiency in the company incorporation process. The paper further investigates the potential implications of non-compliance, such as penalties, invalidation of the company, and personal liability of promoters. The article presents an indepth analysis of the incorporation procedure, highlighting the issues and challenges fraught in the process. In conclusion, the article provides recommendations for improving the company incorporation process, emphasizing the need for streamlined procedures, reduced administrative burdens, and enhanced regulatory oversight.

Keywords: Company, Incorporation, Registration, Statutory

* LL.B, B.L, LLM, PhD, Senior Lecturer, Faculty of Law, Rivers State University, Port Harcourt, Rivers State. E-mail: eberechi.okere@ust.edu.ng, ebiprecious@yahoo.com

1. INTRODUCTION

The term "company" refers to a legal entity formed and registered under the provisions of the Companies and Allied Matters Act in Nigeria.[1] A company is an artificial person created by law, distinct from its owners, with its own rights, liabilities, and obligations.[2] In simple terms, a company is a corporate entity recognized by law, capable of entering into contacts, owning property and conducting business activities in its name. It is an organization of individuals who contribute finance to a common stock that is to be used for business activities and share the profit and loss arising.[3] In Nigeria, the establishment of companies plays a pivotal role in the nation's economic development and growth. With a rapidly expanding business landscape, the formation of companies serves as a fundamental mechanism for facilitating investment, entrepreneurship, and job creation.

There are different types of companies provided by CAMA 2020. These include private companies limited by shares, public companies limited by shares, unlimited liability companies and companies limited by guarantee.[4] Each type of company has specific characteristics and requirements regarding ownership, management and governance. These present investors with an array of choices to make depending on the kind of benefits they intend to derive from the company or how they want the company to governed.

The incorporation of a company is a foundational process that underpins the structure, operation and legal framework of business entities. CAMA 2020 serves as the principal legislation governing the

[1] Companies and Allied Matters Act 2020. s.868 (1).
[2] *Salomon v. Salomon & Co. Ltd*. (1895-99) ALL ER 33 (HL); *Lee v. Lee's Air Farming Ltd*. (1960) 3 All ER 420 (PC).
[3] Palfreman, D. *Law Relating to Banking Services* (4th ed, Pearson Education Limited 1999) 90.
[4] (n 1). s. 21.

incorporation and operation of companies in Nigeria. This includes the procedures for incorporation, administration and dissolution of a company. While these formalities serve important purposes in ensuring transparency, accountability, and legal compliance, they can also pose challenges, barriers, and complexities for aspiring entrepreneurs, investors and business owners. A critical analysis of the formalities for the formation of a company is essential to understand the efficacy and implications of regulatory frameworks governing company formation processes.

2. THE STATUTORY PROCEDURE FOR THE INCORPORATION OF A COMPANY

Incorporation of a company refers to the legal process through which a business entity is formally established and registered as a company under the relevant laws and regulations of a particular jurisdiction. Incorporation is a fundamental step in the process of company formation, as it confers legal personality upon the entity and enables it to commence business operations, enter into contracts, own assets, and incur liabilities in its own name. Compliance with registration formalities ensures the legitimacy and legal recognition of the company, providing stakeholders with confidence in its status and governance structure.

In Nigeria, the incorporation of a company is governed by CAMA 2020 and administered by the Corporate Affairs Commission (CAC).[5] The incorporation process involves several steps and requirements aimed at ensuring legal compliance, transparency, and accountability in the establishment of corporate entities. The key aspects of the incorporation of companies in Nigeria are examined below;

[5] *Ibid.* s.8 (1) (a).

2.1 **Reservation of Name**

The first step in forming a company is to select and reserve a unique name for the proposed company with the CAC. Section 31(2) of CAMA 2020 provides for the reservation of a name for a maximum of sixty days. The following key aspects characterize the reservation of a name;

i) **Availability Search:** Before applying for a name reservation, the applicant is required to conduct a name availability search to ascertain the availability of the desired name. This search helps to determine whether the proposed name is already in use or is similar to existing names or trademarks. The CAC's online portal provides a facility for conducting name searches to check the availability of names in the Commission's database.

ii) **Application for Reservation**: Once a suitable name is identified, the applicant applies for name reservation to the CAC either electronically or by completing a prescribed application form.[6] The application includes details such as the proposed company name, type of company and the intended business activities of the proposed company.

iii) **Compliance with Naming Guidelines**: The proposed name must comply with the naming guidelines provided in section 852 of CAMA 2020. These include restrictions on already existing names or names that are similar to already existing names, offensive or misleading names, names that imply government patronage, names that violate public policy or infringe on existing trademarks or intellectual property rights. The name must also include a corporate identifier such as ´federal, ´ ´national,´ ´regional,´ ´state,´ ´government,´ ´municipal´,

[6] *Ibid.* s.31 (1).

´co-operative´ or ´chamber of commerce´ unless it is a company limited by guarantee.

iv) **Payment of Reservation Fee:** A prescribed fee is payable to the CAC for processing the name reservation application. The fee varies depending on the type of company and the mode of application (electronic or physical submission). Payment of the fee is a prerequisite for the consideration of the name reservation application by the CAC.[7]

v) **Approval and Validity Period**: Upon receipt of the name reservation application and payment of the requisite fee, the CAC reviews the application to ensure compliance with naming guidelines and availability of the proposed name. If the name meets the necessary criteria, the CAC approves the reservation of the name and issues a name reservation certificate. The reserved name is valid for a specified period, typically 60 days, during which the applicant must complete the incorporation process and submit the required incorporation documents to the CAC.[8]

Overall, the reservation of a name is a critical aspect of the company registration process in Nigeria, ensuring the uniqueness, legality, and integrity of company names in the corporate registry. Adherence to the naming guidelines and procedures prescribed by the CAC is essential for securing approval and validity of the reserved name thus, laying the foundation for the formal establishment of a company in Nigeria.

[7] *Ibid.*
[8] (n.1). s.31 (2).

2.2 Preparation of Incorporation Documents

The incorporation of a company in Nigeria requires the preparation and submission of various documents by the promoters of the company to the CAC. These incorporation documents serve as evidence of compliance with statutory requirements and provide essential information about the company's constitution, structure and governance. The incorporation documents are the Memorandum of Association, Articles of Association, Statement of Initial Issued Shared Capital, Statement of Guarantee, Statement of Proposed Directors, Statement of the Proposed Registered Office of the Company and a Satement of Compliance declaring that all legal requirements for incorporation have been met.[9] The contents of these incorporation documents are examined here;

i) **Memorandum of Association**: The Memorandum of Association is a fundamental document that sets out the company's constitution, objects and powers.[10] It must be prepared in accordance with the requirements of CAMA and must contain essential information such as the company's name, registered office address, objects clause, the restrictions, if any, on the powers of the company, type of company and the share capital details.[11] It must be signed by the initial subscribers to the company´s shares.[12] The Memorandum of Association defines and limits the powers of the company particularly as regards its dealings with the outside world.[13]

ii) **Articles of Association**: The Articles of Association govern the internal management and regulation of the company,

[9] *Ibid.* s.36.
[10] *Ladejobi v. Odutola Holdings Ltd* (2002) 3 NWLR (Pt.753) 121, 133.
[11] (n.1). s.27.
[12] *Ibid.*
[13] Okene O.V.C & G.G. Otuturu, *Nigerian Company Law and Practice* (Zubic Infinity Concept, 2021) 36.

including the rights, duties, and powers of shareholders, directors and officers. It must be drafted in compliance with CAMA and may contain provisions relating to share transfer restrictions, board meetings, dividends and other corporate matters. The Article of Association typically covers matters such as share capital, shareholder meetings, directorial appointments and dividend distributions.[14] It complements the Memorandum of Association and must be prepared in conformity with statutory requirements.

i) **Statement of Initial Issued Share Capital**: A proposed company that has share capital must prepare a statement of initial issued share capital and initial shareholdings.[15] It provides details of the company's share structure, including the nominal value of each share and any special rights attached to specific classes of shares. The statement of share capital must be included in the Memorandum of Association and filed with the CAC as part of the incorporation documents.[16]

ii) **Statement of Guarantee:** Where the proposed company is a company limited by guarantee, it shall deliver to CAC a statement of guarantee that, in the event of the company winding up, every member of the company or any person who ceased being a member within one year of the event of winding up, will contribute to the assets of the company such amount as may be required to pay for the debts and liabilities of the company.

iii) **Statement of Proposed Directors:** A statement of the proposed company´s directors showing the particulars of the

[14] (n.1). s.32(1).
[15] *Ibid.* s.37.
[16] *Ibid.* s.38.

first directors and secretary of the company is required to be delivered to the CAC.[17]

iv) **Statutory Declaration of Compliance:** Before the company can commence business operations, the directors or company secretary must make a statutory declaration of compliance, confirming that all legal requirements for company formation have been duly complied with.[18] The declaration must be signed and notarized before a commissioner for oaths or a legal practitioner. Form CAC 2 is the statutory declaration of compliance, wherein the directors or company secretary declare under oath that all legal requirements for company formation have been duly complied with. The declaration must be signed and notarized before a commissioner for oaths or a legal practitioner and submitted along with the other registration documents to the CAC.[19]

v) **Additional Documents**: Depending on the type of company and the nature of its activities, additional documents may be required for registration, such as a deed of partnership for partnership firms, a resolution of the board of directors for public companies, or a consent letter from a regulatory authority for regulated entities.

Once all the necessary documents have been prepared and compiled, they must be submitted to the CAC for review and processing.

2.3 **Submission of Incorporation Documents**

The duly completed incorporation documents, along with the application for registration, requisite fees and supporting

[17] *Ibid.* s.39.
[18] *Ibid.* s.40(1).
[19] *Ibid.* s.40(2).

documentation, are submitted to the CAC for review and processing. The CAC verifies the accuracy and completeness of the documents before proceeding with the incorporation process.

2.4 **Payment of Prescribed Fees**

The payment of incorporation fees is a mandatory requirement for initiating the registration process and obtaining approval for the establishment of a company.[20] The CAC determines the registration fees applicable to different types of companies, depending on factors such as the company's share capital, nature of business activities and mode of application (electronic or physical submission). The fee structure for company registration may vary depending on the type and size of the company, as well as the complexity of the registration process. For example, the registration fees for a private company limited by shares may differ from those for a public company, or a partnership firm. The fees are established to cover the cost of processing registration documents, conducting inspections and maintaining the corporate registry. The CAC may also offer different fee options for expedited processing or priority services, subject to additional charges.

Applicants are required to pay the prescribed fees to the CAC through approved payment channels and methods designated by the Commission. These may include electronic payment platforms, bank transfers, cash deposits or payment at designated bank branches. Upon making the required payment, the applicant receives evidence of payment in the form of a payment receipt, transaction reference, or payment confirmation. This proof of payment serves as documentation of compliance with the fee requirements and must be submitted along with the registration documents to the CAC for processing.

[20] *Ibid.* s.37(4).

It is essential for applicants to ensure full compliance with the prescribed fee requirements and to accurately calculate and remit the applicable fees to the CAC. Failure to pay the required fees or provide adequate evidence of payment may result in delays, rejection of the registration application or other administrative consequences.

2.5 **Issuance of Certificate of Incorporation**

Upon satisfaction of all legal requirements and approval by the CAC, a Certificate of Incorporation is issued to the company officially confirming its establishment and registration as a legal entity.[21] The Certificate of Incorporation is *prima facie* evidence that a company has fulfilled all the requirements for registration and that it has been registered.[22] The Certificate of Incorporation contains essential information about the company and is recognized as proof of its establishment and corporate status.[23] Some of the incidences of a certificate of incorporation are highlighted below;

i) **Company Details**: The Certificate of Incorporation contains specific details about the company such as its registered name, registration number, date of incorporation, and registered office address. These details provide clarity and transparency about the company's identity and facilitate public verification of its legal status and registration particulars. The date of incorporation marks the commencement of the company's legal existence and signifies the point at which it becomes authorized to commence business operations and exercise its corporate powers.

ii) **Legal Recognition**: The Certificate of Incorporation officially recognizes the formation and existence of the

[21] *Ibid.* s.41(6).
[22] *A.C.B Plc v. Emostrade Ltd* (2008) 8 NWLR (Pt.770); 501, 504.
[23] *Jubilee Cotton Mills v. Lewis* (1924) AC 928.

company as a separate legal entity distinct from its owners, shareholders and directors.[24] It confers upon the company the rights, privileges and obligations of a corporate entity,[25] enabling it to conduct business activities, own property,[26] enter into contracts, incur liabilities, sue and be sued in its own name.[27] It provides assurance to third parties such as customers, suppliers, lenders and regulatory authorities that the company is duly registered and authorized to engage in commercial activities within the jurisdiction.

iii) **Legal Protection**: The Certificate of Incorporation affords the company limited liability protection, shielding its shareholders and directors from personal liability for the company's debts, obligations, and liabilities. Shareholders of a registered company enjoy limited liability meaning their personal assets are protected from the company's debts and obligations.[28] In the event of insolvency or legal proceedings, shareholders are only liable to the extent of their investment in the company's shares, safeguarding their personal wealth and assets. It ensures that the company's creditors and stakeholders are aware of the legal framework governing the company's liability and corporate governance.

iv) **Investor Confidence**: Incorporation enhances investor confidence in the company's legitimacy, credibility and stability. Incoporated companies are perceived as more trustworthy and reliable business partners, attracting

[24] (n.) s.42, *Union Bank of Nigeria Plc v. Orharhuge* (2000) 2 NWLR (Pt.645) 498.
[25] *Idiong & Ors v. The Incorporated Trustee of the Devine Assemblies of Christ Church Nigeria* (2021) LPERLR-53411 (CA).
[26] *Macaura v. Northern Assurance Co.* (1925) AC 619.
[27] *Foss v. Harbottle* (1843) 2 Hare 461, *Sparks Electric (Nig.) Ltd v. Ponmile* (1986) 2 NWLR (Pt. 23) 516.
[28] (n.2).

investment, financing and business opportunities from stakeholders, customers, suppliers and financial institutions.

Overall, the Certificate of Incorporation plays a crucial role in establishing the legal identity, status and authority of a company in Nigeria. It provides tangible evidence of the company's registration and incorporation. As a foundational document, the Certificate of Incorporation symbolizes the beginning of the company's journey and its commitment to operating in accordance with applicable laws and regulations.

2.6 Post-Incorporation Obligations

Following incorporation, the company is required to fulfill certain post-incorporation obligations such as the issuance of share capital, holding of statutory meetings, maintenance of statutory records and registers, and compliance with reporting requirements.

3. GROUNDS OF REFUSAL FOR REGISTERING A COMPANY

The Corporate Affairs Commisson may refuse to register a company in Nigeria if certain grounds or conditions are not met, or if the proposed company fails to comply with statutory requirements and regulatory standards. These grounds for refusal are outlined in CAMA and examined below.

3.1 Non-compliance with the Company and Allied Matters Act 2020

One of the grounds for refusal to register a company in Nigeria is non-compliance with the provisions of the CAMA.[29] This occurs in any of the following circumstances;

[29] *Ibid.* s.41(1) a.

i) **Incomplete Documentation:** This is a situation where the registration documents submitted to the CAC do not comply with the requirements stipulated in CAMA. This may include missing or incomplete documents such as the Memorandum of Association, Articles of Association, Statement of Share Capital, or Statutory Declaration of Compliance. Failure to provide the required documentation in accordance with CAMA's specifications may result in the refusal of registration.

ii) **Failure to Meet Statutory Requirements:** CAMA sets forth various statutory requirements that companies must meet to be eligible for registration. These requirements may relate to share capital, director qualifications, shareholder rights, or other corporate governance matters. If the proposed company fails to meet these statutory requirements as prescribed by CAMA, the registration application may be rejected.

iii) **Violation of Regulatory Standards:** CAMA mandates compliance with regulatory standards and requirements established by the CAC and other regulatory authorities. This may include requirements related to disclosure, reporting, and corporate governance practices. If the proposed company fails to adhere to these regulatory standards or comply with directives issued by the CAC, the registration application may be refused.

iv) **False or Misleading Information:** Providing false, inaccurate or misleading information in the registration documents submitted to the CAC is a violation of CAMA. If the CAC determines that the information provided is fraudulent, deceptive, or intended to conceal material facts relevant to the company's formation, the registration application may be rejected.

v) **Failure to Obtain Necessary Approvals**: CAMA may require companies to obtain approvals or licenses from regulatory authorities or government agencies before registration. If the

proposed company fails to obtain the necessary approvals or permits as required by CAMA or other applicable laws, the registration application may be refused.

Non-compliance with CAMA is a serious matter that may result in the refusal of registration and potential legal consequences for the applicant. Therefore, it is essential for companies seeking registration in Nigeria to ensure full compliance with the provisions of CAMA and to carefully adhere to all statutory requirements and regulatory standards prescribed by the law.

3.2 Illegal Business or Objects

Another ground for refusal to register a company in Nigeria is engaging in illegal business activities or having unlawful objects.[30] The CAC prohibits the registration of companies whose proposed business activities or objects contravene the laws of Nigeria or are contrary to public policy. If the proposed company's business activities or objects are deemed illegal, fraudulent, or against public interest, the registration application may be refused. This refusal may occur in any of the following circumstances;

i) **llegal Activities:** This occurs where the business activities intended to be pursued by the proposed company are prohibited by Nigerian law. This includes activities such as drug trafficking, human trafficking, money laundering, arms dealing and other criminal offenses. The CAC will refuse registration to companies intending to engage in such illegal activities to prevent them from operating unlawfully within the country. In *R. v. Registrar,*[31] the court upheld the refusal by the Registrar to register a company on the ground that its

[30] *Ibid.* s. 41(1) b.
[31] (1931) 2KB 197.

proposed object being the sale of lottery tickets which was prohibited.

ii) **Unlawful Objects**: The objects clause in the company's Memorandum of Association outlines the purposes for which the company is formed and the activities it intends to undertake. If the proposed objects are unlawful, fraudulent, or contrary to public policy, the registration application may be rejected. For example, objects that involve fraudulent schemes, deceptive practices or activities that pose a threat to public safety may warrant refusal of registration.

iii) **Contravention of Regulatory Prohibitions**: The proposed company's objects or activities may contravene specific regulatory prohibitions or restrictions imposed by government agencies or regulatory bodies. For example, certain industries may be subject to licensing requirements, regulatory approvals or compliance obligations that must be satisfied before registration can be granted. Failure to comply with these regulatory requirements may result in the refusal of registration by the CAC.

iv) **Violation of Public Policy:** The proposed company's business activities or objects may violate public policy considerations such as environmental protection, consumer rights or public health and safety. If the proposed activities or objects are deemed to be against public policy or inimical to the public interest, the registration application may be refused to prevent the establishment of companies that could harm the welfare of society.

v) **Non-compliance with Legal Standards:** The proposed company may fail to comply with legal standards and requirements prescribed by Nigerian law, including those relating to corporate governance, ethical business practices and compliance with applicable regulations. If the

company's proposed activities or objects do not meet the legal standards set forth in relevant legislation, the registration application may be rejected by the CAC.

It is essential for companies seeking registration in Nigeria to ensure that their proposed business activities and objects comply with the laws of the country and do not violate legal standards or public policy considerations. By adhering to legal requirements and conducting business in a lawful and ethical manner, companies can enhance their chances of successful registration and operate with legitimacy and credibility within the Nigerian business environment.

3.3 Incompetent or Disqualified Subscribers

Another ground for refusal to register a company in Nigeria is the involvement of incompetent or disqualified subscribers in the incorporationtion of the company.[32] Subscribers refer to the initial shareholders or members who subscribe to the shares of the proposed company during its incorporation process.[33] The CAC may refuse registration if any of the subscribers are deemed incompetent or disqualified from holding such positions under the provisions of the CAMA or other applicable laws. Such circumstances are examined below;

i) **Disqualified Directors:** This is where one or more of the proposed subscribers, who are also intended directors or officers of the company, are disqualified from holding such positions under CAMA or other relevant legislation. Disqualification may arise due to factors such as criminal convictions, bankruptcy declarations or other legal prohibitions that render individuals' ineligible to serve as

[32] (n.1). s. 41(1) c.
[33] *Ibid.* s.105 (1).

directors of a company. If any of the proposed subscribers are found to be disqualified from serving as directors under the law, the registration application may be refused by the CAC.

ii) **Shareholder Incompetence:** The proposed subscribers may lack the legal capacity or competence to act as shareholders of the company. This may occur if the proposed shareholders are minors, mentally incapacitated individuals or legally incompetent persons who are unable to enter into valid contracts or exercise their rights and obligations as shareholders. If any of the proposed subscribers are deemed incompetent under the law, the registration application may be rejected by the CAC.

iii) **Non-compliance with Shareholding Requirements:** The proposed subscribers may fail to meet the minimum shareholding requirements prescribed by CAMA or other applicable regulations. For example, CAMA may require companies to have a minimum number of shareholders or a minimum share capital contribution from each subscriber. If the proposed subscribers do not meet these shareholding requirements, the registration application may be refused by the CAC.

iv) **Submission of False Information:** Sometimes, the registration application may contain false, inaccurate or misleading information regarding the competence or eligibility of the proposed subscribers. If the CAC discovers that information provided in the registration documents is fraudulent or deceptive, or if material facts relevant to the competence or eligibility of the subscribers are concealed, the registration application may be rejected.

v) **Lack of Authorization:** This is a situation where the proposed subscribers lack the necessary authorization or

> legal capacity to act on behalf of the company and subscribe to its shares. For example, if the subscribers are acting as agents or representatives of other parties, they must have proper authorization or power of attorney to subscribe to shares on behalf of their principals. If the subscribers lack the requisite authorization, the registration application may be refused by the CAC.

It is essential for companies seeking registration in Nigeria to ensure that their proposed subscribers meet the legal requirements and standards prescribed by CAMA and other relevant laws. By verifying the competence, eligibility, and authorization of the proposed subscribers, companies can mitigate the risk of refusal and facilitate the smooth registration process with the CAC.

3.4 Non-compliance with Other Laws

Non-compliance with any other laws relating to the incorporation of a company in Nigeria can also serve as grounds for refusal to register a company in Nigeria.[34] While CAMA governs the formation and operation of companies, various other laws, regulations and legal requirements must be adhered to by companies seeking registration. Failure to comply with these laws may lead to the rejection of the registration application by the CAC. Some of these laws include Tax Laws, Labour Laws, Environmental Laws, Industry-Specific Regulations, Consumer Protection Laws, Intellectual Property Laws, Health and Safety Regulations among others. This was upheld in *Lasisi v. Registrar*[35] where the Supreme Court ordered a mandamus in favour

[34] *Ibid.* s.41(1) d.

[35] (1976) 7 SC 73. See also *Kehinde v. Registrar* (1979) 3 LRN 213 where a mandamus was ordered in favour of a company whose proposed constitution did not comply with the provisions of the Nigerian Enterprises Promotion Act 1977 which was in force at the time.

of a company whose proposed objects did not comply with the conditions imposed on the business permit issued to the company under the Immigration Act.

It is essential for companies seeking registration in Nigeria to ensure compliance with all relevant laws, regulations and legal requirements applicable to their business activities. By adhering to legal standards and fulfilling regulatory obligations, companies can enhance their chances of successful registration and operate with legitimacy and credibility within the Nigerian legal framework.

3.5 Conflicting Names

Conflicting names present another ground of refusal to register a company in Nigeria. The CAC prohibits the registration of companies with names that are identical or similar to existing company names, trademarks, or reserved names.[36] This restriction is aimed at preventing confusion among consumers, protecting the integrity of existing businesses and ensuring the uniqueness and distinctiveness of company names. If the proposed name of a company conflicts with an existing name or trademark, the registration application may be refused by the CAC. This may arise in any of the under-listed scenarios;

i) **Name Similarity:** This is where the proposed name of the company is similar to the name of an existing company or reserved name. This similarity may create confusion among consumers or lead to misrepresentation or unfair competition in the marketplace. If the CAC determines that the proposed name is too similar to an existing name, the registration application may be rejected.

ii) **Trademark Infringement:** Trademarks are protected intellectual property rights that grant exclusive use of a

[36] *Ibid.* s.41(1) e.

name, logo or symbol in connection with specific goods or services. If the proposed name of the company is found to infringe on the trademark rights of another party, the registration application may be refused to avoid trademark infringement liability.

iii) **Reserved Name Conflict:** Companies can reserve a name with the CAC for a specified period to prevent others from using it during that time. If the proposed name of the company conflicts with a reserved name, the registration application may be rejected to uphold the rights of the party that reserved the name.

iv) **Legal Action by Existing Entities**: Existing companies or trademark holders may take legal action to oppose the registration of a company with a conflicting name. If a party raises objections to the proposed name of the company and provides evidence of conflicting rights or interests, the CAC may refuse the registration application to avoid potential legal disputes or litigation.

v) **Public Interest Considerations:** The proposed name of the company may be refused if it is deemed contrary to public interest or public policy considerations. This may occur if the name is offensive, misleading or contains words or phrases that are prohibited by law or considered socially unacceptable. If the CAC determines that the proposed name is against public interest, the registration application may be rejected.

It is essential for companies seeking registration in Nigeria to carefully select a name that is unique, distinguishable and not in conflict with existing names or trademarks. Conducting a thorough name availability search and ensuring compliance with naming guidelines prescribed by

the CAC can help prevent potential conflicts and enhance the chances of successful registration.

4. ISSUES AND CHALLENGES IN THE INCORPORATION PROCEDURE

The CAMA 2020 provisions on the formalities for the incorporation of companies feature a simplified, detailed and unambiguous step-by-step process. CAMA 2020 streamlines the process of company incorporation by introducing electronic filing and registration systems, reducing bureaucratic hurdles and expediting the time required for incorporation. These incorporation reforms aim to enhance efficiency, transparency and accessibility in the company incorporation process. However, despite these lofty statutory reforms, the process remains plagued by various challenges and inefficiencies. These challenges manifest in several ways, including;

i) **Lack of Adequate Finance:** Limited access to finance is a significant barrier to the formation of companies in Nigeria, particularly for aspiring entrepreneurs and SMEs. Challenges such as imposition of high initial issued share capital, exorbitant fees for incorporation, stringent lending requirements, high interest rates and limited availability of venture capital impede the ability of businesses to secure the necessary funding for startup capital and growth.

ii) **Inadequate Infrastructure:** Poor infrastructure which include unreliable electricity supply, inadequate transportation networks and limited access to essential services, hinders the establishment and operation of companies in Nigeria. Infrastructural deficiencies increase operating costs, disrupt business activities and limit the competitiveness of Nigerian firms in domestic and global markets.

iii) **Legal and Regulatory Non-Compliance:** Nigerian companies must comply with a myriad of legal and regulatory requirements imposed by various government agencies and regulatory bodies. Navigating the complex regulatory landscape poses challenges for businesses, particularly small and medium-sized enterprises (SMEs), which may lack the resources and expertise to ensure full compliance. Ensuring compliance with regulatory requirements throughout the company incorporation process presents challenges for both promoters and regulatory authorities, leading to delays, errors and legal disputes. Weak enforcement mechanisms and regulatory oversight also contribute to non-compliance with company incorporation formalities, fostering a culture of impunity and undermining the integrity of the corporate sector.

iv) **Bribery and Corruption:** Bribery and Corruption remain pervasive in Nigeria, affecting the business environment and hindering the incorporation of companies. Entrepreneurs often encounter demands for bribes or kickbacks from government officials and intermediaries involved in the registration process, leading to delays, extortion, and unethical practices.

v) **Inadequate Skills and Training:** The lack of skilled manpower and entrepreneurship education contributes to challenges in company incorporation in Nigeria. Many aspiring entrepreneurs lack the requisite knowledge, skills and training to navigate the complexities of business establishment, management and growth. This inhibites the development of a vibrant entrepreneurial ecosystem.

5. RECOMMENDATIONS AND CONCLUDING STATEMENTS

6. To address the issues and challenges intrinsic in the incorporation of companies in Nigeria, several strategies and initiatives can be adopted:

i) Improving access to finance for startups and SMEs through innovative financing mechanisms such as venture capital funds, angel investor networks and microfinance initiatives can stimulate entrepreneurship and support company incorporation in Nigeria.

ii) Investing in infrastructural development, including power generation, transportation, telecommunications, and logistics, is essential to support business activities and enhance the competitiveness of Nigerian companies.

iii) Fines for non-compliance with procedures should be increased to encourage promoters, investors and company officials to obey the statutory provisions. Staff of the regulatory bodies should also be trained on efficient and effective discharge of their duties.

iv) Enhancing transparency, accountability and integrity in regulatory processes can promote compliance and reduce corruption risks. Implementing online portals, providing clear guidelines and establishing feedback mechanisms can enhance regulatory transparency and efficiency.

v) Promoting entrepreneurship education, vocational training, and capacity-building programs can empower aspiring entrepreneurs with the knowledge, skills and resources needed to start and grow successful businesses.

By addressing these challenges and implementing targeted interventions, Nigeria can create an enabling environment for company incorporation, entrepreneurship and economic development thereby, unlocking the full potential of its vibrant and dynamic business sector.