How to Re-Register a Private Company as Public Under CAMA 2020

Description

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Re-registering a private company as a public company is a critical transformation for businesses aiming to expand and attract investment.

The Companies and Allied Matters Act (CAMA) 2020 governs this process in Nigeria, detailing specific steps and requirements for companies seeking to make this transition.

This comprehensive guide will walk you through the re-registration process, highlighting the legal requirements, common misconceptions, and frequently asked questions.

What Does It Mean to Re-Register a Private Company as a Public Company?

Re-registering a private company as a public company involves changing its legal structure to comply with the regulatory requirements for public companies.

Public companies can offer their shares to the general public and must adhere to stricter reporting and governance standards.

Key Requirements for Re-Registration Under CAMA 2020

1. Special Resolution

The process begins with passing a special resolution by the company's shareholders. This resolution signifies the shareholders' approval for the company to re-register as a public company.

2. Conditions to Be Met

According to **CAMA 2020, Section 56**, the following conditions must be satisfied:

- **Share Capital Requirements**:
  - The company must have a share capital, and the nominal value of the allotted share capital must meet the minimum specified in **CAMA 2020, Section 27(2)**.
  - At least one-quarter of the nominal value of each allotted share must be paid up, including any premium on the shares.
- **Net Assets Requirements**:
  - The company must provide a balance sheet prepared within seven months before the application, showing that its net assets are not less than the aggregate of its called-up share capital and undistributable reserves.
- **No Previous Re-Registration**:
  - The company must not have been previously re-registered as an unlimited company.
- **Undertakings and Non-Cash Allotments**:
  - Any unpaid undertakings or non-cash considerations for shares must be performed or discharged.

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3. Documentation Required

The application to the Corporate Affairs Commission (CAC) must include:

- A copy of the special resolution.
- The amended memorandum and articles of association.
- A statement of compliance, confirming adherence to CAMA 2020 provisions.
- A balance sheet and an unqualified auditor's report.

4. Name and Articles of Association

The company must update its name and amend its articles of association to align with its status as a public company.

5. Financial Integrity

The financial position of the company must remain consistent from the date of the balance sheet to the date of application submission.

Step-by-Step Guide to Re-Registering a Private Company as Public

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Step 1: Convene a General Meeting

Organise a general meeting to pass the special resolution required under **CAMA 2020, Section 56(1)(a)**.

Step 2: Prepare Required Documents

Ensure the following documents are prepared and updated:

- Balance sheet dated within seven months.
- An unqualified report from the company's auditor.
- A written statement from the auditor affirming that the company's net assets meet the required threshold.

Step 3: Amend the Memorandum and Articles of Association

Update the memorandum and articles to reflect the company's new status.

Step 4: Submit Application to the CAC

File an application for re-registration, including all required documents and the statement of compliance.

Step 5: Approval from CAC

Upon successful review, the CAC will issue a certificate of incorporation as a public company.

Common Misconceptions About Re-Registration

1. Re-Registration Is Only for Large Companies

This is false. Any private company that meets the requirements under **CAMA 2020** can re-register as a public company, regardless of its size.

2. All Shareholders Must Agree

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While unanimity is not required, the special resolution must achieve the statutory majority outlined in **CAMA 2020**.

3. It's a Lengthy Process

Although detailed, the process is straightforward if the company complies with all requirements.

Frequently Asked Questions (FAQs)

1. What is the minimum share capital required for re-registration?

Under **CAMA 2020, Section 27(2)**, the minimum share capital is ₦ 100,000 for private companies and ₦2 million for public companies.

2. Can a company with unpaid share capital re-register as public?

No. At least one-quarter of the nominal value of each share and the entire premium must be paid up.

3. What happens if the company's financial position changes after the balance sheet is prepared?

If the financial position deteriorates and net assets fall below the required threshold, the application will be rejected.

4. Is the auditor's report mandatory?

Yes. An unqualified auditor's report is a critical requirement under **CAMA 2020, Section 58(1)(b)**.

5. Can the CAC reject an application?

Yes. The CAC can reject applications that fail to meet the statutory requirements or provide incomplete documentation.

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Conclusion

Re-registering a private company as a public company under **CAMA 2020** is a significant step for businesses aiming to attract investments and expand operations.

By meeting the statutory requirements and submitting a complete application, companies can seamlessly transition to public company status.

If you need professional guidance on re-registration, consult with a corporate legal expert to ensure compliance with all regulatory requirements.

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