


Private Placement Approval Certificate in Nigeria: What Every Company Must Know Before Raising Capital

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## Description

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If your company intends to raise money from private investors in Nigeria, this article will help you understand what a Private Placement Approval Certificate means, when regulatory approval may be required, the authorities involved, the documents to prepare, and the mistakes that can delay or frustrate your plans.

More importantly, it will help you avoid a costly mistake: approaching investors, collecting commitments, or advertising an investment opportunity before confirming the regulatory requirements that apply to your particular transaction.

In my years of legal practice and regulatory compliance work, I have seen how businesses can get carried away by the prospect of raising funds. The business plan is ready. The projections look attractive. Investors are interested. Everybody wants to move quickly.

But there is one question that should come before the excitement: **Are you legally permitted to raise the money in the manner you have proposed?**

That is where proper regulatory guidance becomes important.

# What Is a Private Placement Approval Certificate?

A Private Placement Approval Certificate is generally understood as evidence of regulatory approval for a company to offer securities privately to investors, where such approval is required.

A private placement is a method of raising capital by offering shares, bonds, or other securities to selected investors rather than making a public offer to the investing public.

For example, a company may need #500 million to expand its operations. Instead of approaching the public through a public offer, it may seek investment from a limited group of qualified investors, subject to the applicable legal and regulatory requirements.

However, there is an important distinction. **A private placement is not automatically exempt from regulatory oversight simply because the company approaches investors privately.**

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The applicable requirements depend on the nature of the securities, the company involved, the investors being approached, the structure of the transaction, and the rules in force.

Also, the expression *Private Placement Approval Certificate* should not be taken to mean that every company raising private capital must obtain a document bearing that exact title. The specific approval, filing, or authorisation required must be confirmed with the relevant regulator.

This distinction matters. You do not want to spend money pursuing an approval that does not apply to your transaction, or overlook an approval that is legally required.

## Which Authority Regulates Private Placements in Nigeria?

The Securities and Exchange Commission (SEC) is Nigeria’s principal regulator of the capital market. Its regulatory framework covers securities offerings and relevant capital-market activities.

However, the SEC is not the only authority that may matter in every transaction.

The Corporate Affairs Commission (CAC) may be relevant to the company’s corporate records, share capital, allotment of shares, and statutory filings. Where a company

operates in a specially regulated sector, additional requirements may apply.

The starting point is to establish what you intend to offer and how you intend to raise the money.

| Authority | Possible area of relevance |
|---|---|
| Securities and Exchange Commission (SEC) | Regulation of securities offerings and applicable private-placement requirements |
| Corporate Affairs Commission (CAC) | Corporate records, share allotments, share capital and statutory filings |
| Other sector regulator | Additional requirements where the company or transaction falls within a specially regulated industry |

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Do not assume that completing a CAC filing automatically satisfies SEC requirements. Equally, do not assume that every private investment transaction requires the same approval process.

The facts of the transaction determine the appropriate route.

## Does Every Company Need a Private Placement Approval Certificate?

No. This is one of the most important issues to understand before spending money on an application.

The SEC distinguishes between private placements by private companies and those by public companies. It states that private placements by private companies are generally outside the Commission’s regulatory purview. However, the SEC has also introduced rules on the issuance and allotment of securities by private companies, including specific requirements for certain debt securities.

The position must therefore be considered carefully. The word private does not automatically settle the question.

| Type of transaction | What to consider |
|---|---|

| | |
|---|---|
| Private company issuing shares to selected investors | Confirm the applicable company-law requirements and whether the proposed arrangement falls within any relevant securities regulation. |
| Public unquoted company raising capital privately | SEC approval or registration requirements may apply, depending on the securities and applicable rules. |
| Private company issuing bonds or other debt securities | Check the SEC's rules governing private-company securities, including eligibility, investor restrictions and issuance limits. |
| Company inviting the general public to invest | Do not assume that the transaction qualifies as a private placement. Public-offer requirements may apply. |

The SEC's rules on private-company securities include provisions addressing eligible debt instruments, qualified investors and issuance limits. The applicable rules should be checked before a company commits to a fundraising structure.

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My practical advice is simple: do not pay anybody to process a Private Placement Approval Certificate until the applicable approval requirement has been established.

A company raising money through a private arrangement should not be pushed into a regulatory process merely because somebody has advertised a certificate as a mandatory requirement for every business.

At the same time, do not use the exemption applicable to one type of transaction to justify a completely different transaction.

## What Documents May Be Required?

Where SEC approval or registration is applicable, the company should expect a document-intensive process.

The exact checklist depends on the transaction. However, the SEC's published checklist for securities registration identifies several important documents.

These may include:

| Document | Why it matters |
|---|---|
| Certificate of Incorporation | Establishes the company's incorporation. |

| | |
|---|---|
| Memorandum and Articles of Association | Helps establish the company's corporate structure and relevant powers. |
| Status Report or CAC Forms | Shows the company's statutory information, share capital, directors and shareholding records. |
| Board resolution | Records the board's approval of the proposed transaction, where applicable. |
| Shareholders' resolution | Documents the shareholders' authorisation for the offer, where required. |
| Audited financial statements | Provides information about the company's financial position and performance. |
| Placement memorandum or relevant offer document | Explains the transaction, investment terms, risks and proposed use of funds. |
| Applicable SEC forms and evidence of payment | Supports the regulatory filing. |

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This is a working guide, not a universal checklist. Do not assume that every item applies to every private placement or that the list is exhaustive.

For example, a company that has not maintained proper corporate records may need to resolve those issues before the application can proceed smoothly.

That is where businesses sometimes encounter difficulty.

The directors may be ready to raise #300 million, but the company's shareholding records do not reflect its current ownership. Previous share allotments may not have been properly documented. The company's financial statements may also be outdated.

These issues can create avoidable delays.

Get the company's records in order before committing to a fundraising timetable.

## How Do You Apply for the Approval?

Where SEC approval or registration is required, the process should be approached in stages.

1. Establish the correct regulatory route. Determine whether the company is private or public, what securities it intends to issue, who will receive the offer, and which rules apply.

2. Review the company's records. Examine its incorporation documents, shareholding structure, financial statements and relevant corporate resolutions.

3. Prepare the transaction documents. Ensure that the investment terms, offer documents, risks and intended use of the funds are properly presented.

4. Submit the appropriate application. Make the required filing through the applicable SEC process and provide the prescribed supporting documents.

5. Respond to regulatory queries. Where the regulator identifies deficiencies, address them promptly. Missing or inconsistent documents can affect the processing timeline.

6. Obtain the required approval or registration before proceeding as permitted by the applicable rules. Do not treat submission of an application as evidence that approval has been granted.

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The SEC's securities-registration checklist describes an electronic application process and explains that identified deficiencies may affect the processing timeline. The actual procedure and applicable timeline should be confirmed for the specific transaction.

## How Much Does a Private Placement Approval Certificate Cost in Nigeria?

There is no single fee that should be quoted for every transaction under this description.

The total cost depends on the applicable regulatory process, the amount being raised, the type of securities, the relevant filing and registration fees, and the professional work required to prepare the application.

Before accepting a quotation, ask for a breakdown.

| Cost component | What to establish |
|---|---|
| Government or regulatory fees | The prescribed filing, registration or approval fees applicable to the transaction |
| Legal and professional fees | The cost of reviewing the transaction and preparing the necessary documents |
| Financial and reporting costs | Any applicable audit, reporting accountant or other financial advisory fees |
| Other transaction expenses | Costs relating to supporting documents, professional advisers or other applicable requirements |

The SEC publishes a Registration of Securities Checklist containing information on applicable fees, documentation and processing timelines for listed services. The relevant fees should be verified against the current requirements before payment.

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One practical warning: if somebody tells you that the certificate costs a fixed amount, ask whether the quotation covers only government fees or the entire process.

Those are two different things.

Also, be careful about making full payment to an intermediary based solely on a promise that approval will be secured within a few days. Regulatory approval depends on the applicable rules, the completeness of the application and the regulator’s review.

## Common Mistakes Companies Make

Over the years, one lesson that keeps coming up in compliance work is that many regulatory problems begin before an application is submitted.

Here are mistakes I would advise any company to avoid.

1. Assuming every private investment requires the same certificate.

A private placement involving shares is not necessarily subject to the same requirements as a debt issuance. Establish the correct regulatory route first.

2. Treating a private placement as an informal arrangement.

Calling an investment a private arrangement does not automatically remove applicable legal obligations.

3. Approaching investors before reviewing the structure.

A company should establish the legal basis for its proposed offer before making representations to potential investors or accepting funds.

4. Using incomplete or inconsistent corporate records.

If the company's CAC records, shareholding information and resolutions do not agree, the discrepancy should be addressed rather than ignored.

5. Relying on unverified promises from agents.

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A person who claims to have contacts within a regulator is not a substitute for a proper application. Ask for the applicable regulatory basis, official fee schedule and a clear scope of work.

6. Confusing incorporation with authority to raise investment.

Registering a company with the CAC establishes its corporate status. It does not automatically authorise every form of securities offering or regulated financial activity.

7. Ignoring the terms offered to investors.

The company should clearly document what investors are receiving, their rights, the risks involved, how the funds will be used and any applicable repayment or exit arrangements.

A fundraising exercise is not complete simply because the money has entered the company's bank account.

# Frequently Asked Questions (FAQ)

## 1. What is a Private Placement Approval Certificate?

It is a term commonly used to describe evidence of regulatory approval for a private securities offering where approval is required. The precise document and process depend on the applicable regulatory framework.

## 2. Is a Private Placement Approval Certificate compulsory for every company in Nigeria?

No. The requirement depends on the company, the type of securities and the transaction structure. The SEC's published guidance distinguishes private-company placements from those by public companies. Relevant rules, including newer rules governing private-company securities, must also be considered.

## 3. Can a private limited liability company raise money from investors without SEC approval?

Some private-company fundraising arrangements may fall outside the SEC's regulatory purview. However, the answer depends on the transaction. Certain debt securities issued by private companies are covered by specific SEC rules. Do not assume that every arrangement is exempt.

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## 4. Can a public company undertake a private placement?

Yes, subject to the applicable requirements. The SEC's published investor FAQ states that public companies that are not quoted on a stock exchange may undertake private placements, while quoted public companies cannot use that route under the guidance cited. Confirm the current rules applicable to the proposed transaction before proceeding.

## 5. How long does it take to obtain approval?

There is no reliable universal timeline for every transaction. Processing depends on the applicable procedure, the completeness of the documents and whether the regulator raises queries. Obtain a transaction-specific estimate before setting a fundraising deadline.

## 6. Can a company raise money from friends, family members or existing business contacts without approval?

The identity of the investors alone does not settle the question. The nature of the investment, the securities involved and the applicable rules must be considered. A company should document the arrangement properly and establish whether any regulatory requirements apply.

### 7. What happens if a company proceeds without the required approval?

Depending on the circumstances and applicable law, the company and relevant persons may face regulatory action, penalties, delays or other legal consequences. The precise consequences depend on the nature of the breach. The safer approach is to establish the requirements before proceeding.

### 8. Where can I confirm the applicable requirements?

Start with the official Securities and Exchange Commission Nigeria website, particularly its Rules and Regulations and Registration of Securities Checklist. The CAC may also be relevant to the company's corporate records and statutory filings.

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## Final Advice: Confirm the Requirement Before You Spend Money

Raising capital can be the difference between a business that remains at the same level for years and one that expands into new markets.

But the process must be approached correctly.

Before you pay for a Private Placement Approval Certificate, establish whether your company actually needs that approval, which regulator is responsible, what documents are required and what the entire process will cost.

Do not allow the excitement of securing an investor to push you into a regulatory mistake. Equally, do not allow uncertainty about the rules to stop a legitimate fundraising exercise that can be properly structured.

In regulatory compliance, the most expensive mistake is not always the government fee. Sometimes, it is paying for the wrong process, submitting the wrong application or discovering a legal obstacle after making promises to investors.

As a legal practitioner with 15 years of experience and Managing Partner of a regulatory compliance consulting firm, my advice is straightforward: understand the transaction first, confirm the regulatory requirements, and only then begin the approval process.

That is how you protect the business, your investors and the money you have worked hard to raise.

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