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FOREIGN DIRECT INVESTMENT AND COMMERCIAL LAW REFORM IN NIGERIA: A CRITICAL EVALUATION

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Abstract
Foreign Direct Investment (FDI) plays a pivotal role in driving economic growth, technology transfer, and job creation in developing economies. In Nigeria, efforts to attract FDI have led to numerous commercial law reforms aimed at improving the investment climate. This article critically evaluates the effectiveness of these reforms, focusing on recent legislative changes, regulatory institutional frameworks, and the legal barriers still impeding investor confidence. It draws from both statutory developments such as the Companies and Allied Matters Act 2020 and the Finance Act series, as well as Nigeria's investment treaties and trade facilitation policies. Using doctrinal and policy analysis methods, the study finds that while legal reforms have improved transparency and corporate governance, persistent issues such as policy inconsistency, enforcement challenges, and bureaucratic inefficiencies continue to undermine Nigeria's competitiveness. The article concludes with reform proposals that aim to harmonizes commercial legislation, strengthen regulatory coordination, and balance investor protection with national development goals.

Keywords: Foreign direct investment, commercial Law, regulatory reform, investment policy, Nigeria, corporate governance

1. Introduction

Foreign Direct Investment (FDI) has long been recognized as a critical driver of economic development, particularly for developing economies seeking to integrate into the global economy.[1] For Nigeria—the largest economy in Africa with vast natural and human resources—attracting and sustaining FDI has remained both a strategic priority and a complex challenge.[2] The ability of any country to attract foreign capital is closely tied to the predictability, transparency, and efficiency of its legal and regulatory framework.[3] As such, commercial law reform has become a cornerstone of Nigeria's broader economic policy agenda, aimed at improving the business environment, enhancing investor confidence, and promoting sustainable development.[4]

The nexus between FDI and commercial law reform in Nigeria is neither new nor static.[5] Since the Structural Adjustment Programme (SAP) of the 1980s, Nigeria has pursued multiple waves of liberalization and legal restructuring to open its economy to foreign investors.[6] These efforts intensified

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[1] United Nations Conference on Trade and Development (UNCTAD), World Investment Report 2023: Investing in Sustainable Energy for All (Geneva: United Nations, 2023), 12, <https://unctad.org/publication/world-investment-report-2023.> Accessed 2 July 2025

[2] World Bank, Nigeria Development Update 2023: Seizing the Opportunity (Washington, DC: World Bank, 2023), 25, <https://www.worldbank.org/en/country/nigeria/publication/nigeria-development-update> Accessed 2 July 2025

[3] Organisation for Economic Co-operation and Development (OECD), FDI Regulatory Restrictiveness Index (Paris: OECD, 2022), 8, <https://www.oecd.org/investment/fdiindex.htm> Accessed 2 July 2025

[4] Federal Government of Nigeria, Economic Recovery and Growth Plan 2017–2020 (Abuja: Ministry of Budget and National Planning, 2017), 45, <https://www.nationalplanning.gov.ng> Accessed 2 July 2025

[5] O A Adeoye "Foreign Direct Investment and Legal Reforms in Nigeria: A Historical Perspective," Journal of African Law 65, no. 2 (2021): 189–210, <https://doi.org/10.1017/S0021855321000234> Accessed 2 July 2025

[6] International Monetary Fund (IMF), Nigeria: Selected Issues Paper (Washington, DC: IMF, 2018), 15, <https://www.imf.org/en/Publications/CR/Issues/2018/03/07/Nigeria-Selected-Issues-45729> Accessed 2 July 2025

in the wake of democratic governance from 1999, with renewed emphasis on creating investor-friendly laws and institutions.[7] However, Nigeria's FDI performance has remained erratic and underwhelming compared to its economic potential.[8] Despite being one of the top recipients of FDI in Africa, inflows have often been concentrated in extractive industries, with limited spillovers to manufacturing, infrastructure, or high-tech sectors.[9]

One of the fundamental determinants of FDI is the legal regime governing commercial activity.[10] Foreign investors are highly sensitive to the quality of legal protections offered by host countries, including protections against expropriation, the ease of doing business, corporate governance standards, dispute resolution mechanisms, and the consistency of investment policy.[11] Weak or outdated commercial laws can deter potential investors by creating uncertainty, increasing transaction costs, and exposing capital to legal and political risks.[12] Conversely, well-crafted and effectively implemented legal frameworks can serve as a catalyst for both domestic and international investment.[13]

In recognition of this, Nigeria has embarked on ambitious legal reforms in recent years.[14] The enactment of the **Companies and Allied Matters Act (CAMA) 2020**, replacing the over three-decade-old 1990 version, represents a significant milestone in aligning corporate regulation with international standards.[15] Innovations such as the introduction of single shareholder companies, electronic filing, and enhanced corporate governance mechanisms signal an intent to modernize Nigeria's commercial ecosystem.[16] Similarly, the **Finance Act series (2019 to 2023)** have introduced targeted amendments to tax and business laws aimed at simplifying compliance, incentivizing investment, and broadening the revenue base.[17]

In addition, Nigeria has entered into several Bilateral Investment Treaties (BITs), revised its Investment and Securities Act, and is a signatory to the African Continental Free Trade Agreement (AfCFTA),each of which underscores the country's openness to cross-border capital and regional economic integration.18 Notably, the creation of the Presidential Enabling Business Environment Council

[7] O Olusegun, Nigeria's Economic Reforms: Progress and Challenges (Abuja: Federal Government of Nigeria, 2000), 22, <https://www.nigerianembassy.org/economic-reforms> Accessed 2 July 2025
[8] UNCTAD, Investment Policy Review: Nigeria (Geneva: United Nations, 2020), 30, <https://unctad.org/system/files/official-document/diaepcb2019d7_en.pdf> Accessed 2 July 2025
[9] African Development Bank (AfDB), African Economic Outlook 2022: Nigeria (Abidjan: AfDB, 2022), 67, <https://www.afdb.org/en/documents/african-economic-outlook-2022> Accessed 2 July 2025
[10] World Bank, Doing Business 2020: Comparing Business Regulation in 190 Economies (Washington, DC: World Bank, 2020), 14, <https://www.doingbusiness.org/en/reports/global-reports/doing-business-2020> Accessed 2 July 2025
[11] International Finance Corporation (IFC), Investment Climate in Nigeria: Challenges and Opportunities (Washington, DC: IFC, 2021), 19, <https://www.ifc.org/en/insights-reports/2021/nigeria-investment-climate> Accessed 2 July 2025
[12] Transparency International, Corruption Perceptions Index 2022: Nigeria (Berlin: Transparency International, 2023), <https://www.transparency.org/en/cpi/2022> Accessed 2 July 2025
[13] UNCTAD, World Investment Report 2021: Investing in Sustainable Recovery (Geneva: United Nations, 2021), 88, <https://unctad.org/system/files/official-document/wir2021_en.pdf> Accessed 2 July 2025
[14] PricewaterhouseCoopers (PwC), Nigeria's Economic Reforms: A Review of Progress (Lagos: PwC Nigeria, 2023), 10, <https://www.pwc.com/ng/en/publications/nigeria-economic-reforms.html> Accessed 2 July 2025
[15] Corporate Affairs Commission (CAC), Companies and Allied Matters Act 2020: Key Highlights (Abuja: CAC, 2020), <https://www.cac.gov.ng/cama-2020/> Accessed 2 July 2025
[16] Deloitte Nigeria, CAMA 2020: Implications for Businesses (Lagos: Deloitte, 2020), 5, <https://www2.deloitte.com/ng/en/pages/tax/articles/cama-2020-implications.html> Accessed 2 July 2025
[17] Federal Inland Revenue Service (FIRS), Finance Act 2023: Key Changes and Implications (Abuja: FIRS, 2023), <https://www.firs.gov.ng/finance-act-2023/> Accessed 2 July 2025
[18] African Union, African Continental Free Trade Area: Nigeria's Commitments (Addis Ababa: African Union, 2021), <https://au.int/en/afcfta> Accessed 2 July 2025

(PEBEC) and the development of the National Action Plan (NAP) have yielded modest gains in Nigeria's Ease of Doing Business rankings, suggesting some progress in regulatory reform.19

However, the effectiveness of these commercial law reforms in attracting and sustaining FDI remains contested.[20] While statutory reforms are necessary, they are not sufficient if not matched by institutional efficiency, regulatory coherence, and a consistent political and economic climate.[21] Persistent issues such as bureaucratic red tape, arbitrary policy reversals, inconsistent enforcement of laws, and corruption continue to undermine investor trust.[22] Moreover, overlapping mandates among regulatory agencies and gaps between federal and sub-national legal systems create further complications for foreign investors navigating Nigeria's legal environment.[23]

2. Conceptual Clarification of Foreign Direct Investment and Commercial Law

A sound understanding of the relationship between Foreign Direct Investment (FDI) and commercial law requires a clear conceptualization of both terms and their interaction within a legal and economic context.[24] This section explains the legal meaning and characteristics of FDI, defines commercial law in the Nigerian context, and illustrates how the legal environment governing commerce serves as a determinant of investment flows.[25]

2.1 Foreign Direct Investment (FDI): Meaning and Characteristics

Foreign Direct Investment (FDI) refers to an investment made by a person or entity from one country into business interests located in another country, typically by acquiring a lasting interest and a degree of influence in the management of a business enterprise.[26] According to the International Monetary Fund (IMF) and the Organisation for Economic Cooperation and Development (OECD), FDI is distinguished from other forms of investment by the investor's intention to exert significant control over the enterprise.[27] A threshold of at least 10% ownership in voting shares is commonly used to establish this control.[28]

2.2 Commercial Law: Definition and Scope

Commercial law, also referred to as business law or mercantile law, encompasses the body of legal rules, statutes, and principles that govern commercial transactions and business relationships. It regulates various aspects of commerce, including contract formation, company law, agency, insurance, secured transactions, bankruptcy, and commercial dispute resolution. In Nigeria, commercial law is primarily derived from a combination of:

i. **Statutes**: such as the Companies and Allied Matters Act (CAMA), Investment and Securities Act, Finance Acts, Banks and Other Financial Institutions Act (BOFIA), and relevant sector-specific laws;
ii. **Case Law**: based on judicial interpretations and precedents;

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[19] Presidential Enabling Business Environment Council (PEBEC), National Action Plan 7.0: Progress Report (Abuja: PEBEC, 2023), <https://pebec.gov.ng/nap-7-0-report/> Accessed 2 July 2025
[20] N Okoye, Foreign Direct Investment and Legal Reforms in Nigeria: A Critical Analysis, 48 *Journal of African Law* 123 (2024).
[21] T Adebayo, Institutional Barriers to FDI in Emerging Markets: The Nigerian Experience, 15 *African Journal of Economic and Sustainable Development* 45 (2023).
[22] World Bank, Doing Business in Nigeria 2023: Challenges and Opportunities (World Bank Publications, 2023) 67.
[23] C Eze, Navigating Nigeria's Legal Landscape: Regulatory Overlaps and Investor Challenges, 12 *Nigerian Journal of Commercial Law* 89 (2022).
[24] K Ajayi, FDI and Legal Frameworks in Africa: A Conceptual Overview, 25 *Journal of International Trade Law* 15 (2023).
[25] P Nwosu, Commercial Law and Investment Flows in Nigeria, 10 *Nigerian Business Law Review* 78 (2024).
[26] International Monetary Fund, Balance of Payments and International Investment Position Manual (6th edn, IMF, 2009) 100.
[27] Organisation for Economic Co-operation and Development, OECD Benchmark Definition of Foreign Direct Investment (4th edn, OECD, 2008) 17
[28] Ibid, 48.

iii. **Regulatory Instruments**: including rules made by regulatory agencies such as the Corporate Affairs Commission (CAC), the Securities and Exchange Commission (SEC), and the Central Bank of Nigeria (CBN);
iv. **Customary and received English commercial law principles** still applicable under Nigerian jurisprudence.

2.3 Interplay Between FDI and Commercial Law

The relationship between FDI and commercial law is inherently symbiotic. A country's commercial legal regime shapes the behaviour, expectations, and security of foreign investors. Investors assess the reliability of contract enforcement, legal protections for their assets, procedural fairness, and the availability of legal remedies before committing capital. Where laws are outdated, opaque, or inconsistently applied, the risk premium on investment rises, thereby reducing inflows.

A credible and modern commercial law framework signals that a country is serious about the rule of law, corporate accountability, and ease of doing business. For example, laws that allow for the speedy registration of companies, electronic filing of documents, investor protection against arbitrary interference, and robust mechanisms for commercial dispute resolution are key legal enablers of FDI.[29]

2.4 Legal Predictability and Investment Confidence

Legal predictability is a core determinant of investor confidence. This includes not only the content of commercial laws but the reliability of institutions that implement them. Inconsistent interpretations, delayed judicial processes, and politically motivated interventions can erode the gains of legal reform.[30] As such, commercial law reform must go hand in hand with institutional strengthening, regulatory coherence, and judicial efficiency.

Commercial law is more than just a set of statutes; it is the legal architecture that determines whether Nigeria is perceived as a safe, fair, and profitable environment for foreign investment.[31] The rest of this article will examine how Nigeria's commercial legal framework has evolved to address investor concerns, the effectiveness of these reforms, and the extent to which they have translated into increased and diversified FDI.[32]

3. Legal Framework for Foreign Direct Investment in Nigeria

A robust legal framework is critical for ensuring that a host country provides a stable, transparent, and predictable environment for foreign direct investment (FDI).[33] In Nigeria, the legal infrastructure governing FDI is a composite of statutes, regulatory frameworks, investment treaties, and institutional mechanisms designed to encourage, protect, and regulate foreign capital inflow.[34] This section explores the key legal instruments and regulatory institutions that shape Nigeria's FDI regime.[35]

[29] Doing Business 2020: Comparing Business Regulation in 190 Economies (World Bank Group, 2020), 25-30, <https://openknowledge.worldbank.org/handle/10986/32436> Accessed 2 July 2025
[30] Transparency International, Corruption Perceptions Index 2022: Nigeria (2023), p. 15.
[31] C Okafor, *Commercial Law and Investment in Nigeria* (Abuja: Law Publishers, 2021), p. 23.
[32] A Adebayo, "Reforming Nigeria's Commercial Law Framework: Implications for FDI," *Journal of African Business Law,* Vol. 12, No. 3 (2022), pp. 78-95.
[33] UNCTAD, World Investment Report 2023: Investing in Sustainable Energy for All (United Nations, 2023), p. 112.
[34] Nigerian Investment Promotion Commission Act, Cap N117, Laws of the Federation of Nigeria, 2004.
[35] G Ezejiofor, *The Law of Foreign Investment in Nigeria* (Lagos: University of Lagos Press, 2020), p. 45.

3.1 Principal Statutes Governing FDI

3.1.1 Nigerian Investment Promotion Commission Act (NIPC Act) 2004

The **Nigerian Investment Promotion Commission Act** is the primary legislation governing investment in Nigeria. It established the **Nigerian Investment Promotion Commission (NIPC)** with the mandate to coordinate, promote, and facilitate investments in Nigeria.[36]

3.1.2 Companies and Allied Matters Act (CAMA) 2020

The **CAMA 2020** is Nigeria's principal statute governing corporate entities. The Act modernized the country's company law and introduced reforms relevant to foreign investors, including:

a. Permission for **single shareholder companies**, which reduces administrative burdens;
b. **Electronic filing and incorporation**;
c. Improved rules on corporate governance and shareholder rights;
d. Simplified insolvency and business rescue procedures.

CAMA has streamlined corporate entry and operation, offering more flexibility for foreign investors to establish and manage Nigerian businesses. It aligns with international best practices and enhances Nigeria's corporate legal framework.[37]

3.1.3 Foreign Exchange (Monitoring and Miscellaneous Provisions) Act 1995

This Act governs the inflow and outflow of foreign currency in Nigeria. It provides that foreign investors may import capital through authorized dealers (typically commercial banks) and mandates that capital be registered with the Central Bank of Nigeria (CBN) to qualify for capital repatriation. It also offers guarantees for **remittance of dividends, interest payments, and loan repayments.**[38]

Nevertheless, challenges persist around foreign exchange controls and market volatility, which have raised investor concerns despite the statutory guarantees.

3.1.4 Investment and Securities Act (ISA) 2007

The **ISA 2007** regulates capital market investments and is administered by the **Securities and Exchange Commission (SEC).** It provides the legal basis for foreign portfolio investments, public offers, mergers and acquisitions, and market integrity. The SEC's regulations apply to both foreign and local investors operating in the capital markets.[39]

3.2 Bilateral and Multilateral Investment Agreements

Nigeria has signed over 30 **Bilateral Investment Treaties (BITs)** and is a party to several **Multilateral Investment Agreements,** including:

i. The **Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention);**
ii. The **New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards;**
iii. The **African Continental Free Trade Agreement (AfCFTA);**
iv. Economic Community of West African States (ECOWAS) investment protocols.

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[36] Nigerian Investment Promotion Commission Act, Cap N117, Laws of the Federation of Nigeria 2004; see also PwC, "Nigeria's Investment Laws and Regulations: A Review," 2022, <https://www.pwc.com/ng/en/publications/nigeria-investment-laws.html> Accessed 2 July 2025

[37] Companies and Allied Matters Act 2020, Laws of the Federation of Nigeria; see also World Bank, "Doing Business 2020: Nigeria," <https://www.worldbank.org/en/publication/doing-business> Accessed 2 July 2025

[38] Foreign Exchange (Monitoring and Miscellaneous Provisions) Act, Cap F34, Laws of the Federation of Nigeria 2004; see also Central Bank of Nigeria, "Foreign Exchange Guidelines," 2023, <https://www.cbn.gov.ng/documents/fxguidelines.asp> Accessed 2 July 2025

[39] Investment and Securities Act, No. 29 of 2007, Laws of the Federation of Nigeria; see also Securities and Exchange Commission, "Overview of the Investment and Securities Act," 2023, <https://sec.gov.ng/investment-and-securities-act/> Accessed 2 July 2025

These treaties often contain standard clauses guaranteeing **fair and equitable treatment, national treatment,** and **most-favoured-nation treatment**, as well as access to international arbitration for dispute resolution. While Nigeria has made significant treaty commitments, enforcement and compliance remain inconsistent, and some BITs are outdated and under review.[40]

3.3 Regulatory Agencies Involved in FDI Oversight

Nigeria's FDI legal regime is administered by multiple regulatory bodies, including:

i. **Nigerian Investment Promotion Commission (NIPC)**: Investment registration, facilitation, and policy advocacy;
ii. **Corporate Affairs Commission (CAC)**: Company incorporation and corporate governance;
iii. **Central Bank of Nigeria (CBN)**: Capital importation monitoring and foreign exchange control;
iv. **Federal Inland Revenue Service (FIRS)**: Tax compliance and incentives administration;
v. **Nigerian Customs Service (NCS)** and **Nigerian Ports Authority (NPA)**: Trade facilitation and logistics;
vi. **National Office for Technology Acquisition and Promotion (NOTAP)**: Approval of technology transfer agreements.

Despite the existence of these agencies, there is often regulatory overlap, conflicting directives, and delays in administrative processing—factors that negatively impact investor confidence.

3.4 Constitutional and Subnational Dimensions

While investment regulation is largely governed at the federal level, subnational authorities (state governments) have increasing relevance in sectors such as land acquisition, taxation, infrastructure development, and environmental regulation. For instance, **land administration** falls under state control, subject to the **Land Use Act,** which can complicate project implementation and create inconsistencies across states.

The **federal structure** also creates challenges for legal harmonization. Investors may face conflicting regulatory demands, inconsistent interpretations of commercial laws, or localized barriers to entry that are not evident in federal statutes. This underscores the need for greater legal and policy coherence between federal and state governments.[41]

3.5 Dispute Resolution Mechanisms

Nigeria's legal framework provides for multiple dispute resolution mechanisms, including:

a. Access to the **national courts;**
b. Use of **domestic arbitration** under the **Arbitration and Mediation Act 2023;**
c. Resort to **international arbitration** under ICSID and UNCITRAL rules.

While these options exist, challenges such as court delays, high litigation costs, and enforcement difficulties persist. Nonetheless, the recent Arbitration and Mediation Act is a promising development aimed at modernizing Nigeria's dispute resolution regime.[42]

Nigeria's legal framework for FDI reflects a blend of statutory provisions, regulatory agencies, and treaty obligations. While it offers considerable protection and incentives for investors on paper, implementation gaps, institutional inefficiencies, and legal fragmentation continue to undermine its

[40] United Nations Conference on Trade and Development (UNCTAD), "Nigeria: Bilateral Investment Treaties," 2023, <https://investmentpolicy.unctad.org/international-investment-agreements/countries/152/nigeria; see also African Union, "AfCFTA Legal Texts," <https://au-afcfta.org/legal-texts/> Accessed 2 July 2025
[41] B T Aluko, Land Use Act and Challenges of Land Administration in Nigeria. *Journal of Property and Land Use Law*, 3(1), (2019). 45–60.
[42] Arbitration and Mediation Act, No. 28 of 2023, Federal Republic of Nigeria Official Gazette, Vol. 110, Government Notice No. 67.

effectiveness. The following sections will assess how recent commercial law reforms have attempted to address these issues and whether they have yielded measurable improvements in FDI inflows.[43]

4. Recent Commercial Law Reforms Affecting FDI in Nigeria

To enhance its global investment appeal, Nigeria has implemented a series of commercial law reforms over the past decade. These reforms aim to modernize the legal framework governing corporate regulation, taxation, dispute resolution, and ease of doing business—all of which are critical to attracting and sustaining foreign direct investment (FDI). While progress has been made, practical implementation and institutional coordination remain areas of concern.[44]

4.1 Companies and Allied Matters Act (CAMA) 2020

The **CAMA 2020** marked a significant overhaul of Nigeria's corporate law, replacing the outdated 1990 legislation. Key innovations include:

a. **Single Shareholder Companies:** Foreign investors can now incorporate wholly owned private companies, aligning Nigeria with global best practices and simplifying market entry.
b. **Electronic Incorporation and Filing:** CAMA permits digital registration and filing processes, reducing time and cost for foreign businesses.
c. **Exemption from Appointing Company Secretary:** Small companies are no longer mandated to appoint a company secretary, cutting unnecessary overhead for smaller foreign subsidiaries.
d. **Statement of Compliance by Directors:** Replacing the prior requirement for legal declarations with a director's statement has streamlined incorporation.
e. **Corporate Governance Provisions:** New disclosure requirements and the allowance for virtual AGMs strengthen transparency and accountability.

Despite these gains, gaps in awareness and uneven implementation—especially at CAC state offices—continue to limit the full impact of the Act.[45]

4.2 Finance Acts 2019–2023

Nigeria has enacted annual **Finance Acts** to modernize tax legislation and improve fiscal clarity for investors. Major highlights include:

i. **Reduced Corporate Income Tax (CIT):** Medium-sized companies pay 20% CIT, and small businesses are exempt, enhancing competitiveness.
ii. **Incentives for Agriculture and Infrastructure:** Targeted tax reliefs promote foreign capital in sectors critical to development.
iii. **Revised Withholding Tax and Dispute Resolution:** These reforms strengthen tax administration and expand access to the Tax Appeal Tribunal.

While these changes support fiscal predictability, challenges remain with enforcement consistency and complex compliance procedures at the Federal Inland Revenue Service (FIRS).[46]

4.3 Business Facilitation Act 2023

The **Business Facilitation (Miscellaneous Provisions) Act 2023** consolidates and codifies earlier executive reforms under the Presidential Enabling Business Environment Council (PEBEC). It aims to simplify government procedures and improve regulatory efficiency. Key provisions include:

i. **Mandatory Service Timelines:** Agencies must publish and adhere to timeframes for service delivery;
ii. **Deemed Approval:** Applications not addressed within deadlines are deemed approved;

[43] PricewaterhouseCoopers. (2022). Nigeria's Investment Climate: Opportunities and Challenges for Foreign Direct Investment. PwC Nigeria Economic Report.
[44] World Bank. (2023). Doing Business in Nigeria 2023: Reforming to Create Jobs. World Bank Group.
[45] Companies and Allied Matters Act, No. 3 of 2020, Federal Republic of Nigeria Official Gazette, Vol. 107, Government Notice No. 45.
[46] Federal Inland Revenue Service. (2023). Overview of Finance Acts 2019–2022: Implications for Taxation in Nigeria. FIRS Publication.

iii. **Digitalisation of Government Processes:** MDAs must integrate technology to enhance service delivery.

For foreign investors, this law enhances predictability and reduces administrative bottlenecks.

4.4 Arbitration and Mediation Act 2023

This Act modernizes Nigeria's dispute resolution framework and aligns it with the **UNCITRAL Model Law**, addressing longstanding concerns about commercial dispute resolution. Notable features include:

i. **Third-Party Funding:** Investors can seek external financing for arbitration proceedings;
ii. **Enforceable Interim Measures:** Enhances party protection during proceedings;
iii. **Statutory Backing for Mediation:** Strengthens non-judicial resolution pathways.

These reforms promote legal certainty and investor confidence in fair adjudication mechanisms.

4.5 Sector-Specific and Institutional Reforms

Several sectoral reforms also support FDI:

i. **Petroleum Industry Act (PIA) 2021:** Establishes a clearer regulatory and fiscal framework for energy-sector investors;
ii. **Nigeria Start-Up Act 2022:** Encourages innovation and technology investment, including foreign venture capital;
iii. **Digital Economy Policies:** Though policy-based, they underpin improvements in data protection and fintech regulation.

Institutionally, Nigeria has created **One-Stop Investment Centres** under the NIPC, digitised company registration portals, introduced a **Visa-on-Arrival policy**, and launched sectoral investment promotion strategies.

While these reforms mark notable progress, their effectiveness depends on uniform implementation, inter-agency cooperation, and institutional efficiency. Addressing these challenges is essential to realising Nigeria's full FDI potential.

5. Challenges Facing Foreign Direct Investment in Nigeria

5.1 Inconsistent Implementation and Weak Enforcement

One of the most significant challenges is the **gap between law and practice**. While Nigeria has made impressive strides in updating its legal frameworks, the implementation and enforcement of these laws remain inconsistent. Regulatory agencies often lack the institutional capacity, technical know-how, or resources to operationalize reforms effectively.

5.2 Multiplicity and Overlap of Regulatory Agencies

Nigeria's regulatory landscape is highly fragmented. Multiple agencies often assert overlapping jurisdiction over investment-related matters, creating **confusion, redundancy, and conflict**.[47] For instance:

a. The **Nigerian Investment Promotion Commission (NIPC), Federal Ministry of Trade and Investment**, and **Nigeria Export Processing Zones Authority (NEPZA)** all have mandates relating to investment promotion;
b. Regulatory clashes occur between the **National Office for Technology Acquisition and Promotion (NOTAP)** and the **Central Bank of Nigeria (CBN)** on technology transfer approvals;
c. States and local governments impose additional levies and permits, sometimes in contradiction to federal laws.

[47] United Nations Conference on Trade and Development (UNCTAD), Investment Policy Review: Nigeria (Geneva: UNCTAD, 2009), 22–25. This review discusses the fragmented regulatory framework in Nigeria and its impact on increasing transaction costs for investors.

This overlapping authority increases the transaction cost of doing business and discourages foreign investors who value clear regulatory pathways.

5.3 Legal Uncertainty and Policy Instability

FDI thrives in environments characterized by **legal predictability and policy coherence**. Unfortunately, Nigeria has earned a reputation for frequent and often abrupt policy changes, which create uncertainty and elevate risk perception.[48]

Examples include:

i. Sudden restrictions on foreign exchange access by the CBN;
ii. Contradictory fiscal directives issued without sufficient stakeholder consultation;
iii. Delays in implementation of key laws such as the **Petroleum Industry Act 2021**;
iv. Suspension or reversal of tax incentives previously granted to investors.

This inconsistency undermines the effect of commercial law reforms and fuels scepticism among potential investors regarding Nigeria's regulatory commitment.

5.4 Inefficiencies in Dispute Resolution and Enforcement of Judgments

Although Nigeria has made progress with the **Arbitration and Mediation Act 2023**, practical challenges persist in accessing justice and enforcing awards. Court delays, procedural technicalities, and corruption in the judiciary remain major obstacles.

Moreover, enforcement of arbitral awards-particularly those involving state agencies-often faces resistance or bureaucratic non-cooperation. Nigeria's track record in investment treaty arbitration has also drawn criticism, with cases such as ***Process & Industrial Developments Ltd (P&ID) v. Nigeria*** highlighting the high financial and reputational costs of poor dispute management.[49]

Foreign investors require not only legal protection but also the **realistic prospect of timely and impartial adjudication**, which remains a challenge in Nigeria.

5.5 Subnational Legal Disparities and Land Acquisition Bottlenecks

Nigeria's **federal structure** creates disparities between federal and state laws, particularly in areas such as **land acquisition, taxation,** and **business permits.** The **Land Use Act of 1978,** which vests land in the hands of state governors, continues to complicate land access for foreign investors due to:

i. Delayed issuance of Certificates of Occupancy (C of O);
ii. Arbitrary revocation of land rights;
iii. Lack of a centralised land registry or cadastral database.

These barriers are especially detrimental to foreign investments in real estate, agriculture, and manufacturing, where access to land is fundamental.[50]

5.6 Inadequate Protection of Intellectual Property and Technology Transfer

In the digital and knowledge economy, foreign investors increasingly seek jurisdictions with strong protection of **intellectual property rights (IPRs).** Nigeria's legal regime, however, is fragmented and outdated in this area. The legal framework is still governed by laws such as the **Copyright Act, Trademarks Act,** and **Patents and Designs Act**, many of which have not been substantially revised for decades. Enforcement is weak, and judicial understanding of IPR issues is limited.

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[48] International Monetary Fund (IMF), Nigeria: 2021 Article IV Consultation—Staff Report (Washington, DC: IMF, 2022), 15–17. The report notes Nigeria's frequent policy reversals, particularly in foreign exchange and fiscal policy, as a deterrent to investor confidence.

[49] H Smith Freehills, "The P&ID v. Nigeria Case: A Cautionary Tale for States Entering Investment Agreements," Arbitration Notes, February 10, 2020, <https://hsfnotes.com/arbitration/2020/02/10/the-pid-v-nigeria-case-a-cautionary-tale-for-states-entering-investment-agreements/> Accessed 2 July 2025

[50] World Bank, Doing Business in Nigeria 2020: Comparing Business Regulation in 4 States and FCT (Washington, DC: World Bank, 2020), <https://www.worldbank.org/en/programs/doing-business-in-nigeria, 45–50> Accessed 2 July 2025

5.7 Corruption and Bureaucratic Red Tape

Corruption remains a serious barrier to investment in Nigeria. Despite legal reforms, businesses still report having to pay unofficial fees or offer favours to obtain permits, expedite approvals, or prevent regulatory harassment. These practices erode the rule of law, distort competition, and increase the effective cost of doing business. They also create a negative perception of Nigeria's investment climate, often leading to risk aversion by multinational corporations and institutional investors.[51]

5.8 Infrastructure Deficits and Regulatory Disconnect

No legal reform can succeed in attracting FDI if **infrastructure and regulatory infrastructure** remain underdeveloped. Nigeria faces chronic deficits in:

i. Power supply;
ii. Transport networks;
iii. Digital connectivity;
iv. Port logistics.

Regulatory bottlenecks—such as import clearance delays and foreign exchange access restrictions—further worsen investor experiences. These practical barriers dilute the impact of otherwise progressive legal reforms and limit the actualization of investment inflows.[52]

5.9 Lack of Awareness and Education on Reforms

Many foreign investors remain unaware of Nigeria's recent reforms due to **limited outreach, poor dissemination, and inadequate stakeholder engagement**. Regulatory agencies often fail to translate technical legal provisions into practical guidance for investors. The result is a gap between reform **existence** and reform **impact**. Nigeria's commercial law reforms are laudable and signal a clear intention to reposition the country as a competitive investment destination. However, legal innovation must be matched by **institutional, procedural, and infrastructural transformation.** Without addressing the implementation challenges, policy instability, regulatory overlap, and corruption, Nigeria's potential to benefit from FDI will remain unrealised.

6. Opportunities for Legal Reform to Deepen FDI Impact in Nigeria

Nigeria's efforts to attract foreign direct investment (FDI) have been supported by several commendable statutory reforms. However, persistent legal and institutional challenges continue to limit their effectiveness. To deepen the impact of these reforms, targeted legal improvements must address the practical constraints faced by foreign investors.[53]

6.1 Contract Enforcement and Dispute Resolution

An efficient justice system is vital for investor confidence. Nigeria's commercial courts remain burdened by procedural delays, limited automation, and inconsistent enforcement of judgments. Though the Arbitration and Mediation Act 2023 is a positive development, its implementation must be supported by institutional capacity.[54] Reforms should focus on:

i. Establishing **fast-track commercial courts** in major investment hubs;
ii. Digitising **case filing and hearing systems;**
iii. Promoting **mandatory mediation clauses** in large investment contracts;
iv. Ensuring **prompt enforcement** of arbitral awards.

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[51] Transparency International, Corruption Perceptions Index 2024 (Berlin: Transparency International, 2024), <https://www.transparency.org/en/cpi/2024, Nigeria Country Profile> Accessed 2 July 2025

[52] African Development Bank, Nigeria Economic Outlook 2023 (Abidjan: African Development Bank, 2023), <https://www.afdb.org/en/countries/west-africa/nigeria/nigeria-economic-outlook, 12–15> Accessed 2 July 2025

[53] World Bank, Doing Business 2020: Comparing Business Regulation in 190 Economies (Washington, DC: World Bank, 2020), <https://www.worldbank.org/en/publication/doing-business> Accessed 2 July 2025

[54] International Centre for Settlement of Investment Disputes, ICSID Caseload – Statistics (Issue 2023-1), <https://icsid.worldbank.org/resources/publications/icsid-caseload-statistics> Accessed 2 July 2025

These measures will strengthen legal predictability and reduce risk perception.

6.2 Modern Investment Legislation

The proposed Foreign Investment Promotion and Protection Bill (FIPPB) aims to replace the outdated NIPC Act.[55] To be effective, the new law should:

i. Guarantee **national treatment and expropriation safeguards**;
ii. Provide for **transparent investment registration and screening**;
iii. Recognise **mediation and international arbitration**;
iv. Establish an **Investment Ombudsman** to resolve administrative disputes.

Codifying these protections into law will align Nigeria's investment regime with international best practices.

6.3 Land Use and Title Reforms

Secure land tenure is central to FDI in agriculture, manufacturing, and infrastructure. The **Land Use Act 1978**, which centralises control with state governors, remains a legal bottleneck.[56] Recommended reforms include:

i. Digitising **land registries and title verification**;
ii. Setting statutory timelines for **certificate issuance**;
iii. Creating **industrial land allocation frameworks**;
iv. Establishing specialised **land tribunals** to resolve disputes.

Such reforms will improve access, reduce litigation, and foster investor confidence.

6.4 Regulatory Clarity and Coordination

Regulatory fragmentation increases compliance costs and uncertainty. To address this, Nigeria should:

i. Define **clear agency mandates** in law;
ii. Create a **single-window approval platform** for investment;
iii. Codify timelines for permit issuance;
iv. Penalise **regulatory delays or harassment**.

Greater interagency coordination will promote transparency and reduce the legal complexity investors face.[57] With these reforms, Nigeria can convert legal progress into measurable investment outcomes and position itself as a truly competitive FDI destination.

7. Conclusion

Foreign direct investment (FDI) remains an essential driver of economic development in Nigeria, offering access to capital, technology, skills, and global markets. In recognition of this, Nigeria has taken bold steps in recent years to reform its commercial legal framework, with the aim of building a more attractive and secure investment climate. From the landmark Companies and Allied Matters Act (CAMA) 2020 to the Arbitration and Mediation Act 2023 and successive Finance Acts, Nigeria has demonstrated a strong willingness to modernise its legal infrastructure and align it with global best practices.

However, as this article has shown, the real challenge lies not in the absence of reform, but in the gap between legal innovation and actual investment outcomes**.** Despite a plethora of reforms, Nigeria's FDI inflow remains relatively volatile, inconsistent, and overly concentrated in traditional sectors like oil

[55] United Nations Conference on Trade and Development, Investment Policy Framework for Sustainable Development (UNCTAD, 2015), <https://unctad.org/publication/investment-policy-framework-sustainable-development> Accessed 2 July 2025
[56] Food and Agriculture Organization, Land Tenure and Rural Development (FAO, 2002), <http://www.fao.org/3/Y4307E/Y4307E00.htm> Accessed 2 July 2025
[57] World Bank, Doing Business 2020: Comparing Business Regulation in 190 Economies, Washington, DC: World Bank, 2020, <https://openknowledge.worldbank.org/handle/10986/32436> Accessed 2 July 2025

and gas. Legal reforms have yet to catalyse broad-based and diversified foreign investment due to persistent challenges-including poor implementation, regulatory fragmentation, policy inconsistency, legal uncertainty, and inadequate enforcement mechanisms.

Comparative insights from countries such as Rwanda, Mauritius, the United Arab Emirates, and Vietnam reinforce the point that sustained investment inflows are not solely driven by legislation, but by the credibility and predictability of the legal system, the efficiency of supporting institutions, and the government's commitment to fair and transparent governance. These examples demonstrate that simplicity, clarity, and enforcement are often more important than the sheer number of reforms enacted.

For Nigeria, the way forward must include:

a. A deliberate strategy to ensure full implementation of enacted laws;
b. A coordinated inter-agency approach to eliminate duplication and conflict;
c. Improved access to commercial justice**;**
d. Harmonisation of federal and state laws, particularly in land and taxation matters;
e. And the development of a national investment brand that inspires confidence in Nigeria's legal environment.

Ultimately, commercial law reform must not be seen as a one-off event but as part of a dynamic, evolving process of legal development. By addressing the structural and operational weaknesses in its investment legal framework, Nigeria can unlock its full potential as a leading destination for sustainable foreign direct investment in Africa.