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NIGERIA: Immigration Regulations 2017

Nigeria has issued Immigration Regulations 2017, the biggest overhaul in 50 years to the country's immigration rules. The regulations provide a legal framework for implementing the Immigration Act of 2015 and aim to bring Nigeria's immigration system up to date with current geopolitical issues that range from fostering business and investment to combatting trafficking and other crimes.

SUMMARY: NIGERIA'S IMMIGRATION REGULATIONS 2017

Business-Related Provisions

The Immigration Regulations, released March 21 with immediate effect, contain a number of provisions that affect business immigration. In addition to liberalizing certain rules, such as making all foreign nationals eligible for visas on arrival and providing for in-country renewal of temporary work permits, the regulations also impose new compliance measures on companies and foreign nationals, including mandatory registration of foreigners and stricter penalties against companies and individuals who fail to renew their expatriate quotas or report their foreign worker numbers or commit other immigration-related offenses.

Key provisions:

- **Visas on arrival.** All foreign nationals are eligible for visas on arrival, but they must obtain a pre-approval before travel. The Nigeria Immigration Service launched an online business visa-on-arrival platform on March 23 that issues pre-approval to qualifying applicants within 48 hours.
- **Temporary work permits.** Temporary work permits not subject to the expatriate quota will allow work authorization during a single entry for two to three months at the discretion of authorities. These permits may be extended in-country for an additional 30 days. Continuing to work without renewing such permits will incur penalties of three years in prison or a fine of 500,000 naira (about US \$1,500), if convicted.
- **Business permits.** A business permit must be obtained to set up a local business entity, profession or trade held by foreign investment or interests. The permit holder must obtain separate work and residence permits. Penalties will be imposed for failure to renew business permits. (As there is currently no process for renewals, guidance is expected to clarify the new process). The Minister of Interior has wide discretion to revoke or amend business permits.
- **Expatriate quotas.** An individual establishing a business in Nigeria must obtain written approval of the Minister and authorization in the form of a business permit and or expatriate quota. During renewal of an expatriate quota, a company may apply for a stay of action allowing the foreign worker to remain in Nigeria if the quota expires while the renewal and work permit extension is pending.
- **Registration of foreign nationals.** Foreign nationals will be required to register with the Nigeria Immigration Service in the State where they reside and obtain a certificate of registration which they should carry with them at all times. They must notify the Nigeria Immigration Service (NIS) of any changes within seven days; relevant changes include changes to their registration details, moving addresses within a state, moving from one state to another, or temporarily leaving one's residence for more than seven days. Hotel and property owners and managers leasing to foreign nationals will also be required to keep a register of their foreign nationals that will be subject to inspection at any time by immigration inspectors. The register must contain the foreign national's full name, last address, occupation and profession, nationality and passport number, dates of arrival and departure, destination, and the foreign national's signature.
- **Residence permits.** Residence permits may now be granted for up to two years (previously the maximum term was one year). However, the validity period is controlled by the validity period of the expatriate quota. Foreigners with pending residence permit applications may travel outside the country and re-enter within 90 days of the date of endorsement in their passport (not the date on their CERPAC receipt).
- **ECOWAS nationals.** Nationals of the Economic Community of West Africa States (ECOWAS) countries, who are eligible for 90-day entry without a visa, must register with the NIS before taking up work.

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- **Investment visa.** An investment visa will be introduced for qualified foreign nationals who import a “minimum threshold of capital” over a period of time, with the minimum sum to be set by authorities. Qualifying individuals will be issued a permanent residence permit.
- **Spousal residence permits.** Foreign nationals who are married to a Nigerian national may apply for a spousal residence permit. Such permits apply to male and female applicants, but not to same-sex marriages.
- **Penalties.** The regulations introduce a penalty regime for corporate entities and individuals who violate the regulations. Companies that fail to renew their expatriate quota or to file monthly returns of foreign workers are liable for fines of 3 million naira (about US \$9,000). Guidance is expected to clarify whether the fine will be assessed per violation. Companies with expatriate quotas that fail to employ Nigerian understudies for their foreign employees are subject to a fine of 3 million naira for each month without an understudy. Additionally, the foreign employee will be deported. Foreign individuals who fail to renew their visa or residence permit 30 days after expiration, or who fail to renew their business permit, visitor visa, temporary work permit or transit visa upon expiration, or who fail to apply to regularize their stay within three months, are liable for a fine of 500,000 naira and or three years in prison.

Next Steps

Companies should anticipate an uptick in audits and inspections of businesses by immigration and labor authorities. The registration scheme is intended to assist the government in tracking and monitoring the whereabouts of foreigners, and confers new powers on immigration officers to inspect individuals and demand their particulars, as well as authority to search, detain and arrest with or without a warrant.

Compliance will become a key focus as the regulations define certain acts as offences and impose new penalties on corporate entities and individuals. BAL can assist companies that wish to conduct an internal review of their policies and procedures to ensure that they are in compliance with all regulations.