

## CHAPTER EIGHT



# Corporate Proceedings and Dispute Resolution



## **8.1 JURISDICTION OF COURT ON CORPORATE MATTERS**

According to the provision of Section 251 (1) (a-s) of the Constitution of the Federal Republic of Nigeria 1999 (as amended), notwithstanding anything to the contrary contained in the Constitution and in addition to other jurisdiction as may be conferred upon it by an Act of the National Assembly, The Federal High Court has and can exercise jurisdiction on any matter bordering on company proceedings and administration of the Companies and Allied Matters Act (CAMA) to the exclusion of any other courts in Nigeria. Section 7(1) (c) (i) of the Federal High Court Act further reiterates this point by conferring on the Federal High Court the exclusive jurisdiction of handling civil cases arising from the operations of CAMA or any other enactments regulating the operation of companies incorporated under the CAMA. Appeals from any matter handled by the Federal High Court can be made to the Court of Appeal, with the final decision resting on the Supreme Court of Nigeria.

## **8.2 THE INVESTMENTS AND SECURITIES TRIBUNAL (IST)**

The Tribunal was established by Section 274 of the Investments and Securities Act (ISA) 2007 and is considered as a civil court which exercises jurisdiction over capital market disputes. The Tribunal is required to conclude any of its proceedings within 90 days of commencement of action, which makes the proceedings of the IST a timely and fast-tracked process. According to Section 284(1) of the Investments and Securities Act, the Tribunal has exclusive jurisdiction over the following issues:

- a. A decision or determination of the Securities and Exchange Commission (SEC) in the operation and application of this Act, and in particular, relating to any dispute:
- i. Between capital market operators
  - ii. Capital market operators and their clients
  - iii. An investor and a securities exchange or capital trade point or clearing and settlement agency
  - iv. Capital market operators and self-regulatory organisations
- b. The Commission and a self-regulatory organisation
- c. A capital market operator and the SEC
- d. An investor and the SEC
- e. An issuer of securities and the SEC
- f. Disputes arising from the administration, management and operation of collective investment schemes.

It is equally very important to note that the decision of the IST is enforced as a decision or judgment of a Federal High Court. Again, the decision of the IST based on a question of fact is final, while any decision based on the points of law can be appealed at the Court of Appeal.

### **8.3 INVESTMENT DISPUTES RESOLUTION**

The Nigerian Judiciary at this time is trying to discourage litigation and make court cases a means of last resort. In fact, according to the Rules of the various courts of first instance, no suit will be heard by the courts unless the litigants have tried Alternative Dispute Resolution (ADR) methods, and have failed to come to a reasonable ground.

Corporate and commercial dealings and relationships are generally considered as sensitive matters, and in order to protect the sensitive nature of corporate and commercial transactions, Investment Disputes Resolution mechanisms were designed into the corporate legal regime of Nigeria.

### **Regulatory Framework and Investment Disputes Resolution Mechanisms**

- Administrative Hearing Procedure through the Administrative Proceedings Committee (APC) of SEC. Under the Schedule VIII of the Securities and Exchange Commission Rules of 2013, SEC has an Administrative Proceedings Committee as a first instance panel, which is primarily designed to resolve complaints against capital market operators. Thus, before proceeding to the IST, whenever a dispute arises between a company and capital market operator, the disputing parties are advised to approach the APC of SEC first to resolve the dispute amicably.

- The Arbitration process under the Nigerian Investment Promotion Commission (NIPC) Act. The NIPC Act makes provision for both local and international domestic arbitration processes for both local and foreign investors respectively in case of any dispute. The applicable rule to adopt whenever a dispute involves local investors is the Arbitration and Conciliation Act. With regards to disputes involving foreign investors, such disputes will be settled within the framework of the international agreement between Nigeria and the country of the foreign investors.

However, before a dispute can be entertained under the NIPC Act, the dispute must involve any of the following:

- a. Any level of government in Nigeria
- b. The business enterprise and the Investment