PRIVATE EQUITY AND VENTURE CAPITAL ASSOCIATION, NIGERIA

www.pevcang.org

2025 MID-YEAR REVIEW AND STRATEGIC OUTLOOK

CEO Perspectives:
- Beyond the Cheque
- Unlocking Energy Futures
- Made in Lagos, Scaling Globally

2025:
The Nigerian Private Capital Playbook

CGT Reform:
Sledgehammers, Scalpels & Smarter Touch?

Tax Reform 2025 for PE & VC:
What You Need to Know

LP Vehicles:
Rethinking Structures That Work

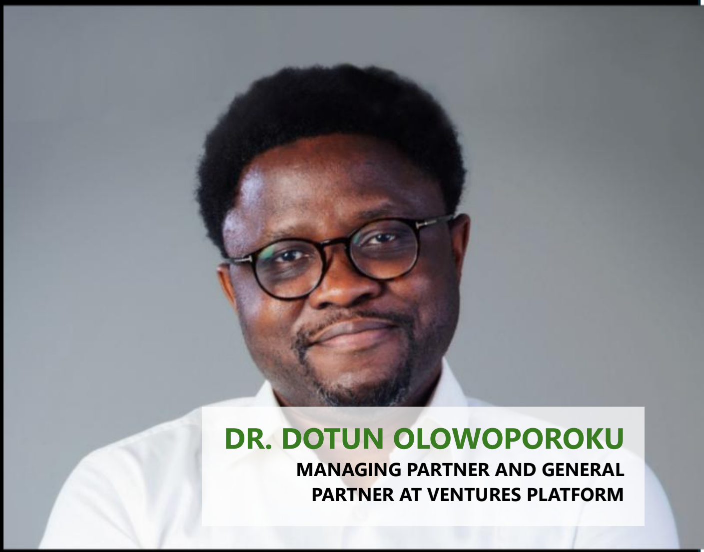
Deal Structuring:
Legal Insights for Early & Growth Stage Investments

Due Diligence Pitfalls:
An Investor's Legal Checklist

Investor Rights vs Founder Control:
Smarter Structuring for VC Deals

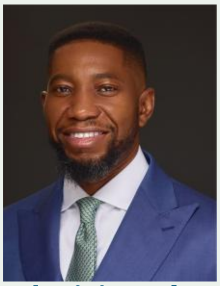
Exits & Competition Law:
Navigating Antitrust Risks

SEC Watch:
Issuances, Allotments & Enforcement

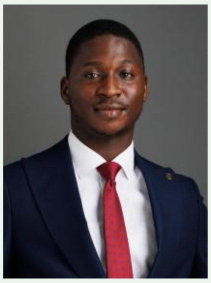


DOA | DUALE, OVIA & ALEX-ADEDIPE

DEAL STRUCTURING IN NIGERIA: LEGAL CONSIDERATIONS FOR EARLY-STAGE AND GROWTH-STAGE INVESTMENTS.


Adeniyi Duale


Mildred Eze


Musa Kalejaiye

www.doa-law.com

Introduction

Amidst the sweeping economic reforms in 2023, fuel subsidy removal and unification of the foreign exchange rates, the Nigerian investment climate remains welcoming to investors. This is no coincidence, as the International Monetary Fund remarked that the Nigerian economy has, since 2024, adjusted to the reforms and improved.1 Thus, the private equity market continues to leverage the economic situation of the country for its growth. With around 3,360 active startups as of 2024 (the highest in Africa),2 over 157 venture capital funds,3 $54 billion in venture capital investments in early-stage and growth-stage rounds in the last 5 years,4 over $400 million in startup funding in 2024,5 and Nigerian private equity deals currently projected to close at US$382.36 million in 2025,6 private equity investment opportunities in Nigeria are promising. A total of $100 million raised in disclosed funding during Q1 2025,7 including Moniepoint's $10 million for strategic investment, Raenest's $11 million Series A Extension, and LemFi's

$53 million Series B round,8 further indicates that there are more investment opportunities in Nigeria for investors to maximise. The hotspots for these investments include financial technology, the power sector, e-commerce, healthcare, clean energy, and transportation.

While the outlook is promising, adopting strategic legal standards is crucial for protecting investors' interests and ensuring significant rewards. The risk that investee entities will suffer losses or cease operations entirely further underscores the importance of adopting prudent legal strategies. A cautionary example is the recent shutdown of Okra, a leading African open banking startup and cloud services provider, after raising over $16.5 million in funding within its 6 years of existence.9 Therefore, while private equity investments can be highly attractive and profitable, the legal frameworks surrounding these investments are vital for not only safeguarding investors and mitigating losses but also for maximising potential benefits. Focusing on early-stage and growth-stage investments, this article examines best practices for structuring early-stage and growth-stage deals in Nigeria, focusing on how investors can reduce exposure, protect capital, and maximise value.

Deal Structuring

Deal structuring is central to every successful private capital transaction. It defines how capital is deployed, rights are allocated, risks are managed, and returns are realised. A well-structured deal is a key determinant of value protection, business scalability, and the viability of exit opportunities. An effective structure ensures that investor interests are aligned with the investee company's strategic goals and operational realities. It clarifies ownership, establishes governance frameworks, provides necessary investor protection, and facilitates smooth exits. Where structuring is weak, whether due to poor documentation, inadequate safeguards, or unclear expectations, even the most promising investments can be derailed by disagreements over decision-making authority, lack of financial transparency, failure to meet performance milestones, or resistance by founders to oversight or strategic input.

Importantly, deal structuring is not static. It must reflect the evolving realities of a company as it matures. A structure appropriate for a Series A round, typically marked by smaller cheque sizes, limited governance, and flexibility for founders, may prove inadequate at Series C, where institutional investors demand defined exit strategies, board rights, and investor protections tailored to larger capital inflows. As risk profiles and operational complexity shift, so must the legal and commercial arrangements structuring the deal.

Integral to this process across both stages is legal due diligence. Effective deal structuring depends heavily on the insights surfaced during due diligence, which inform both commercial negotiation and legal risk allocation. Regardless of the stage, investors must conduct thorough checks into the company's legal standing, governance structure, regulatory compliance, intellectual property ownership, contractual obligations, tax exposure, employment arrangements, and any actual or potential disputes. Due diligence helps verify that the investee company has a sound legal foundation and that there are no hidden liabilities or structural deficiencies that could impair the investment.

The results of this process often influence key structuring decisions such as the choice of investment instrument, the inclusion of protective provisions, the scope of investor rights, and the conditions to closing. Where red flags are identified, deal terms can be adjusted to mitigate risk through covenants, indemnities, or post-investment undertakings. Without comprehensive due diligence, even a well-negotiated deal can expose investors to avoidable legal and financial risks. The sections that follow outline key structuring considerations at both early and growth stages.

Structuring Considerations for Early-Stage Investments

Early-stage investments involve the strategic deployment of capital in emerging businesses with high growth potential. At this stage, the investee has progressed from ideation, developed a viable product or service, and begun to validate market fit. While these investments offer the potential for outsized returns, they also carry heightened risks, making legal structuring essential. Investor decisions are often informed by the founders' vision and the perceived scalability of the business. Accordingly, legal structuring at this stage must balance flexibility with sufficient investor protections, creating a framework that supports growth while anticipating future capital raises and exit opportunities.

Key considerations include:

1. Choice of Investment Instrument

At the early stage, investors often adopt flexible instruments such as convertible notes, SAFEs, or direct equity to simplify deal execution and defer valuation discussions. These tools enable capital injection without immediately pricing the company, while preserving the investor's right to future equity as the business grows. However, selecting the right instrument requires careful attention to terms like conversion mechanics, valuation caps, and dilution exposure, as these will influence the investor's position in subsequent funding rounds.

2. Founder Equity and Vesting

Founders are central to the early success of a business, but without structured equity arrangements, investors face the risk of premature exits. Incorporating mechanisms such as vesting schedules, reverse vesting, or clawback clauses helps ensure long-term founder commitment and alignment with investor timelines. From an investor's perspective, these tools reduce the risk of investing in a team that may not stay the course.

3. Governance Rights

While early-stage investors typically avoid exercising excessive control, it remains important to establish a governance framework that provides visibility and allows for strategic input. This can be achieved through mechanisms such as information rights, board observer seats, and consent rights over critical matters, including additional capital raises, major expenditures, and changes to the company's business direction. These rights allow investors to stay informed and participate in key decisions without undermining the autonomy of the founders. When carefully structured, they help maintain a balance between investor oversight and the need for operational agility.

4. Intellectual Property (IP) Ownership

A startup's value is often tied to its proprietary technology or processes. For investors, ensuring that all intellectual property is legally assigned to the company is a fundamental protection. Founders and key employees should be contractually required to execute IP assignment agreements, particularly where software, trademarks, or proprietary platforms are core to the business model. This minimises the risk of IP-related disputes and protects investor interests in future financing or exit scenarios.

5. Future Funding Protections

Early-stage investors risk significant dilution in later rounds if their rights are not clearly structured. Including pre-emptive rights, pro-rata participation rights, and, where applicable, anti- dilution protections, helps preserve their ownership stake as the company raises additional capital. These protections should be calibrated to reflect the size of the investment and the investor's strategic role, ensuring fairness without deterring future investors.

Structuring Considerations for Growth-Stage Investments

At the growth stage, companies have typically achieved product-market fit, demonstrated revenue traction, and are seeking larger capital injections to scale operations, enter new markets, or expand product offerings. The legal and commercial considerations at this stage differ significantly from those at the early stage. Investors, often institutional, are more risk-sensitive and require stronger governance structures, defined rights, and exit strategies. As deal size and complexity increase, the legal framework must be robust enough to protect larger capital commitments, while remaining flexible enough to accommodate operational realities and long-term scalability.

Structuring considerations include:

1. Enhanced Governance and Board Representation

Growth-stage investors typically require formal board seats rather than observer rights. These seats provide direct influence over strategic decisions and oversight on financial and operational matters. Board composition is a critical part of structuring, as it reflects the balance of control between investors and founders.

2. Exit Rights and Liquidity Mechanisms

At this stage, investors often require clear exit pathways. This may include rights such as drag- along provisions or redemption rights after a defined holding period. These terms help ensure that investors can realise returns within a defined timeframe, especially in markets where exits are less predictable.

3. Protective Provisions and Veto Rights

Larger investments call for stronger downside protections. Investors may negotiate veto rights over key decisions such as mergers and acquisitions, additional fundraising, or changes to business strategy. These provisions are essential to prevent value erosion and preserve alignment between investor and management interests.

4. Performance-Based Milestones

Investors may link additional funding tranches or rights to the achievement of specific operational or financial milestones.

These mechanisms ensure that capital is deployed efficiently and provide leverage for continued performance at scale.

5. Structuring for Future Rounds or Exits

Growth-stage investors must anticipate further rounds or eventual exits. Structuring should consider liquidation preferences, participation rights, conversion mechanics, and valuation adjustment clauses that will affect investor returns during exits, particularly in secondary sales or trade exits.

PREPARING FOR EXITS: STRUCTURING WITH THE END IN MIND

Exit readiness is a critical element of deal structuring that should be addressed at the point of investment, not postponed until an opportunity arises. For early and growth-stage investors, clearly defined exit mechanisms help mitigate illiquidity risk and create a path to recover capital within a predictable timeframe. Two essential structuring tools at this stage are liquidation preferences and redemption rights, which serve both protective and strategic purposes.

1. Liquidation Preferences

A liquidation preference sets out how proceeds from an exit event, such as a sale, merger, or winding up, will be distributed among shareholders. It ensures that investors recover their capital, and in some cases, a multiple of it, before proceeds are shared with founders or other shareholders. For instance, a 1x non-participating liquidation preference allows the investor to recover the amount invested before any other distributions. A participating preference allows the investor to receive their original investment plus a share of the remaining proceeds. These terms become particularly important in lower-than-expected exit valuations or down-round scenarios. These preferences should be clearly documented in the shareholders' agreement and, where appropriate, reflected in the company's Articles of Association to support enforceability.

2. Redemption Rights

Redemption rights provide a mechanism for investors to require the company to buy back their shares after a certain period, typically where an exit has not occurred within the expected investment horizon. While rarely exercised, these rights offer a degree of capital protection and can prompt discussions around liquidity events or third-party sales. For example, an investor may negotiate the right to require redemption of their shares at a fixed internal rate of return after five to seven years. To be effective, redemption rights should be supported by clearly defined triggers, valuation mechanisms, and agreed-upon timelines.

Recommendations and Conclusions

Whether at the early or growth stage, deal structuring plays a pivotal role in shaping investment outcomes. The key to successful structuring lies in anticipating the legal, commercial, and operational realities of the business, while aligning investor protections with long-term value creation.

At the early stage, structuring should focus on flexibility, founder alignment, and safeguards that support future growth, such as clear IP ownership, vesting arrangements, and governance visibility. At the growth stage, the legal framework should evolve to reflect increased capital exposure, institutional expectations, and more complex exit scenarios. This includes robust shareholder protections, clear exit rights, and well- defined governance structures.

To strengthen deal structuring practices in Nigeria's evolving investment landscape, investors should:

- Structure with the full investment lifecycle in mind, from entry to exit.

- Tailor investment instruments and governance frameworks to the maturity of the company.

- Build in practical rights that reflect commercial realities without stifling innovation.

- Anticipate follow-on rounds and exit scenarios when negotiating early terms.

- Ensure legal documentation is commercially coherent and future-proofed.

Ultimately, structuring is not a one-size-fits-all exercise. Each deal must be approached on its merits, with legal and commercial terms designed to balance protection, flexibility, and scalability. As Nigeria's private capital market continues to expand, the adoption of thoughtful, well-negotiated structures will remain critical to unlocking long-term value and enabling successful outcomes for both investors and founders.