

HOW TO SET UP A REAL ESTATE INVESTMENT TRUST COMPANY IN NIGERIA

Real Estate Investment Trusts (REITs) are companies that own or finance income-producing real estate across a range of property sectors. They are primarily engaged in investing in income-generating real-estate assets or related assets. Real estate investment trusts (REIT) exist to provide investors with the chance to do both—invest in real estate and reap the rewards of investment trusts. Prior to the creation of real estate investment trusts, investors could only participate in real estate by purchasing existing homes or starting from scratch. Since the creation of REITs, investors can now purchase shares of real estate on the stock market.

REITs are either open-ended or closed-end funds created exclusively for holding real properties, mortgage-related assets, or both, traded in the stock or property market. It is a form of collective investment scheme that involves the combination of the capital of investors to provide financing for real estate investments, which in turn allows individual investors to invest, own and manage portfolios such as apartment complexes, hotels, retail centers, self-storage, warehouses, and related real-estate assets. Before investing in REIT, it is

important to state that they are managed by professional fund managers who understand the stock and property market. The minimum share capital required for fund managers is N150,000,000.00.

In REITs, the investor purchases shares of the trust, giving them the right to receive periodic income distributions and take part in any property-related capital gains. By investing directly in a specific property rather than a portfolio of properties, investors are entitled to maintain control over their investment.

Types of REIT

There are three principal types of REITs:

1. **Equity REITs:** This is the most commonly used REIT. Equity REITs acquire and manage commercial and rental properties. Income is generated in the form of rent from tenants and businesses who lease the space and is eventually distributed as dividends to shareholders.

2. Mortgage REITs: invest in mortgages, mortgage-backed securities, and related assets. Mortgage REITs earn income from the interest on their investments. They do not acquire or purchase properties in the real sense.
3. Hybrid REITs: effectively a combination of equity REITs, which own properties, and mortgage REITs, which invest in mortgage loans or mortgage-backed securities. By diversifying across both types of investments, hybrid REITs intend to get the benefits of both with less risk than if it's invested in one or the other.

Key Reasons for investing in a REIT

1. Liquidity: With REIT, shares can easily be sold and bought in the market at any time.
2. Stable Dividends: It serves as a stable means of income for the investors.
3. Diversification: REITs provide room for diversification, which is key for any investment portfolio.
4. Performance: Due to the consistent long-term appreciation of commercial assets, they have been historically proven to perform well.

Title to Real Estate Investment Property

The Investment and Securities Act (ISA) 2007 and the Securities and Exchange Commission Rules 2013 regulates REIT in Nigeria. Section 154 of the Act empowers the Securities and Nigerian Exchange Commission (SEC) to approve, register, and regulate collective investment schemes in Nigeria, including those that are administered as a real estate investment trust.

By the provision of Rule 509(1) of the SEC Rules, "a Real Estate Investment Trust can and shall wholly acquire and hold legal title to property or

choose to hold equitable and beneficial title to such property vide a Trust Deed or such other structure as may be acceptable to SEC".

SEC permits the real estate investment trusts to hold or acquire assets through the use of a declaration of trust whereby the legal interests in the real estate resides in the vendor and all beneficial interest are transferred to the real estate investment trust.

To safeguard the REIT, Rule 509(2) SEC Rules provides that where a real estate investment trust property is held vide a Trust Deed or such other structure acceptable to SEC, the following safeguards shall be maintained:

- Register a caution indicating the interest of the scheme in the relevant land registry that the property is located;
- Affix plaques and other notices on the relevant property indicating the interest of the scheme;
- Deposit the original title documents and other relevant pre-signed documents with the scheme's custodian;
- Provide such indemnity to the scheme as may be necessary in the circumstance.

It must be noted that by the provision of Rule 508 of the SEC Rules, a REIT shall qualify as asset-backed security or mortgage-backed security (in the case of a mortgage and hybrid real estate investment trust).

Registration of REIT with the Securities and Exchange Commission (SEC)

REITs are required to register with SEC and the application for the registration shall be filed on the appropriate SEC Forms in compliance with the SEC Rules.

Requirements for the registration of REIT

- Application Form SEC 6A.
- Two copies of draft Prospectus.
- Two copies of the Trust Deed.
- Letter of consent from the prospective parties to the trust.
- Two copies each of Certificate of Incorporation and Memorandum and Articles of Association of Managers duly certified by the Corporate Affairs Commission (CAC).
- Two copies each of Certificate of Incorporation and Memorandum and Articles of Association of Trustee to the trust duly certified by the CAC.
- Two copies each of Certificate the particulars of the directors of the manager and trustees of the trust certified by the CAC.
- Sworn undertaking to file evidence of the maintenance of a separate trust account in a reputable bank.
- Evidence that the minimum paid-up capital of the manager and trustee complied with the requirements of SEC as stipulated in the SEC Rules and Regulations.

Requirements for the Registration of Units of REIT

- The name under which the issuer is doing business and the address of its principal office.
- The name of the proposed scheme investment objective of the scheme.
- Investment outlets.
- The number of units proposed for the issue.
- Nominal value per unit.
- The names and addresses of the Directors or persons performing similar functions, the Chief Executive Officer

and the Chief Accountant.

- The name and address of the brokers to the scheme.
- The names and addresses of all persons owning 5% and above of any class of shares of the issuer both on record and beneficial as at the date of filing the application for registration of the trust scheme.
- The amount of the proposed units of the issue to which any person has indicated an intention to buy or subscribe.
- The general nature of the business actually transacted or to be transacted by the manager.
- Sworn undertaking to file quarterly reports with SEC.
- Any other information required by SEC from time to time.

Requirements as to Form of Prospectus

The information required in the offering of sale of units of the proposed real estate investment shall follow the order below provided in Rules 528 and 530 and thereafter it needs not follow any particular order provided that the information is set forth in such a manner as not to obscure any required information from being incomplete or misleading.

Content of the Prospectus as provided in Rules 530

- The front cover shall state the name of the issuer/promoter, the fund manager, the RC number of the fund manager, the trustee, custodian, the type of units offered, amount of units being offered, the price, and amount payable in full on application. Provided that the initial public offer shall not be less than N1 Billion Naira and subsequent offers not less than N500 Million.
- A table of contents in the forepart of the prospectus showing the subject matter of the various sections or subsections of the prospectus and the page number

on which each of the sections or subsection begins.

- A corporate directory of the fund manager shall include the following details;
- Directors and principal officers;
- Names and profile of the investment committee members specifying the independent members;
- E-mails and website address (if any);
- Three to five years financial summary, where the fund manager is a new company then it shall furnish a statement of affairs.
- Corporate directory of valuers, issuing house, registrar, solicitor to the issue, reporting accountants, trustee, rating agency, and property manager where applicable.

- The offer, offer price, the times of opening and closing of the offer.
- History and prospects of the scheme.
- Management and advisory services.
- The objective of the fund, strategy for achieving the stated objective, and a statement that material changes to the investment objective would require the unit holder's approval.
- Dividends, distribution, and reinvestment options, amongst others.

Key Contacts



Olusola Akinyemi Esq.
Managing Partner
olusola@classicuslp.com



Toluwalase .M. Oliver-Jude
Senior Associate
toluwalase@classicuslp.com