

Navigating the Solo Route: The Risks of Sole Directorship and Shareholding in Modern Business

- John Ojelabi & Chinelo Obiekwe

Introduction

The Companies and Allied Matters Act, 2020 (CAMA) marks a significant shift in Nigeria's corporate governance, promoting an environment designed for greater business agility, operational flexibility, and efficiency. This legislation introduces specific provisions that allow small and private companies to be incorporated with just one director or shareholder.¹

Clarifying Key Concepts: Understanding Sole Directorship and Sole Shareholder

In corporate governance, the terms "sole directorship" and "sole shareholder" refer to scenarios where a company is either operated or owned by just one individual, respectively.

Sole Directorship: This is a situation where a single individual serves as the director of a company. This person is primarily responsible for making strategic decisions, overseeing the company's operations, and ensuring compliance with relevant laws and regulations. They also often represent the company in legal matters and interactions with stakeholders. Sole directorship is typical in small or privately held companies where the owner wishes to maintain complete control over decision-making.

Sole Shareholder: In this arrangement, one individual or entity owns all the shares of a company. Being the sole owner, this individual or entity has exclusive control over the company's affairs, such as appointing directors, approving major corporate decisions, and receiving all profits. A sole shareholder has substantial influence over the company's direction and management, holding ultimate authority over important corporate actions.

While both arrangements—sole directorship and sole shareholder—offer benefits like streamlined decision-making, greater autonomy, and efficient execution of business strategies, they also come with risks. These include potential conflicts of interest, a narrow perspective on decision-making due to the lack of diverse viewpoints and increased personal liability for the sole director or shareholder.

¹ Section 271(1) of the CAMA- Every company, not being a small, company shall have at least two directors.

Impact Assessment: Dynamics of Sole Directorship and Shareholding in Business Operations

In the modern business environment, it is increasingly common to see companies led by a single individual who takes on the dual roles of director and sole shareholder. While this setup can offer initial convenience, its broader implications significantly affect various aspects of business operations:

1. **Concentration of Decision-Making Power:** Having all decision-making power concentrated in one person can enhance agility but also introduces challenges. As a company grows, the limitations of this solitary approach can become apparent, potentially harming the company's long-term interests due to a lack of diverse perspectives and thorough evaluations.
2. **Limited Perspective and Innovation:** A sole director or shareholder may have a limited viewpoint. Without the balance of differing opinions, there is a risk of missing out on diverse ideas and strategies that are vital for sustained growth and innovation.
3. **Risk Management Concerns:** In this structure, risk management becomes critically important. With one person shouldering all responsibilities, there might be a propensity to take on excessive risks, which could expose the company to significant liabilities and financial instability. Decisions made without a range of viewpoints might fail to adequately account for potential risks like market fluctuations, regulatory changes, or operational challenges.
4. **Alignment with Personal Interests:** There is also the risk that a sole director or shareholder may prioritize personal interests, potentially at the expense of the company's best interests. This focus on short-term gains can threaten long-term sustainability, leading to financial instability and damage to the company's reputation. The lack of external accountability and oversight can exacerbate these risks.
5. **Lack of Succession Planning:** Succession planning often receives insufficient attention in companies with a single director or shareholder. The unexpected departure or incapacity of this key individual can cause significant disruptions, potentially damaging the company's operations and reputation. Poor succession planning can result in leadership gaps and a loss of critical knowledge, amplifying existing business challenges.

6. **Difficulty in Securing Financing and Investments:** Finally, securing financing and attracting investors can be more challenging for companies with a sole director/shareholder structure. Investors often view such companies as higher risk, which can hinder their ability to raise capital. The absence of diverse governance and oversight can raise concerns about the company's capacity to effectively navigate challenges, deterring investors who prioritize stability and strong governance.

Conclusion: Balancing Flexibility with Responsibility

While sole directorship and shareholding offer appealing benefits, particularly for small and medium enterprises desiring operational flexibility, diligent risk assessment is crucial. The inclusion of these arrangements in the CAMA 2020 highlights the essential roles of governance, oversight, and risk management in today's corporate framework.

Businesses must strive for a balanced approach that combines agility with accountability. This involves fostering inclusive and transparent decision-making processes that incorporate diverse perspectives and critical evaluations. By addressing these concerns, businesses can adeptly manage the intricacies of sole directorship and shareholding arrangements. Such proactive governance helps position them for long-term growth and success in the ever-evolving business environment.

At SimmonsCooper Partners, we understand the unique challenges and opportunities that come with the governance structures of sole directorship and shareholding as regulated under CAMA 2020. We offer advisory services to help businesses effectively navigate these complexities, ensuring they can leverage operational flexibility while maintaining strict compliance with the law. For further details on our services or to discuss how we can support your business's specific needs, please contact: info@scp-law.com.