



Legal Alert 法律快讯

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Draft Amendment of the Civil and Commercial Code regarding Partnerships and Companies 泰国《民商法典》关于合伙企业和公司的修正案草案

The Senate has recently approved the Draft Act on Amendment of the Civil and Commercial Code (the “CCC”), which will amend some of the key provisions regarding partnerships and companies, aiming to modernize the CCC to accommodate contemporary and flexible corporate practices.

泰国参议院最近批准了《民商法典修正案草案》，该草案中修订了有关合伙企业和公司的一些关键条款，旨在推动《泰王国民商法典》(以下简称“CCC”)顺应时代，使之适用于与时俱进且灵活的的公司实践活动。

Let us highlight the key ones for your attention as follows; 值得关注的重点:

- Formation of a Limited Company 成立有限公司
- General Meetings 股东大会
- Dividends 股息
- Causes for Dissolution of Companies 公司解散的原因
- Merger of Limited Companies 有限公司的合并

1. Formation of a Limited Company 成立有限公司

The draft amendment of the CCC seeks to amend the provisions relating to the formation of a limited company, including Section 1097, which under the existing law requires at least 3 persons to form a limited company. Under the draft amendment, the number of persons required to establish a limited company is **reduced from 3 persons to only 2 persons.**

CCC 修订草案旨在修订有关成立有限公司的条款，包括第 1097 条：根据现行法律规定，成立有限公司须至少由 3 人组成。根据修订草案，成立有限公司所需的人数由 3 人减少至 2 人。

2. General Meeting 股东大会

The procedure is less cumbersome under the draft amendment. Current Section 1175 requires a notice of a general meeting, whether it is an Annual General Meeting (“AGM”) or Extraordinary General Meeting (“EGM”), to be published at least once in a local newspaper and sent by registered mail to every shareholder whose name appears in the register of the company, the result of the draft amendment will relieve the company’s requirement to cease publishing the notice letter to the local newspaper, leaving such requirement only to the company with bearer share certificates. With this new provision, companies can reduce publication process since few companies have bearer share certificates and where publication is necessary the company can choose to publish in a local newspaper or electronically. The details of how electronic publication should be conducted will be in the ministerial regulation to be issued under the revised Section 1175.

修订案草案实施后将简化股东大会的程序。现行第 1175 条规定：关于发布股东大会的通知，无论是年度股东大会 (“AGM”) 或临时股东大会 (“EGM”) 必须至少在当地报纸上刊登一次，并以挂号信的方式发送给在公司登记册上的每一位股东。修订草案将减轻公司停止向当地报纸刊登通知信的要求，因为只有持有无记名股票的公司才有这样的要求。有了这项新修订草案，公司可以减少报刊发布的流程，鉴于很少有公司拥有无记名股票，之后公司只需在必要时选择在当地报纸或电子报刊上发布。关于如何进行电子出版的细节会发布于修订草案的第 1175 条中。

Under Section 1178 of the CCC, for any business discussion to take place in a general meeting, shareholders representing at least a quarter of the capital of the company must be present at such meeting. The draft amendment will clarify the number of shareholders that at least 2 shareholders or proxies acting on behalf of such shareholders, representing of at least a quarter of the capital of the company. This amendment clarifies the practice that a minimum of 2 shareholders is required for any general meetings, and that a sole shareholder with the qualifying shareholding will not be sufficient.

根据 CCC 第 1178 条规定，任何商业讨论要在股东大会上进行，持公司至少四分之一资本的股东必须出席该大会。修正案草案将明确股东人数，即至少有 2 名股东或代表该股东行事的代理人，代表公司至少四分之一的资本。该修正案明确规定，任何股东大会至少需要两名股东，而拥有合格股权的 1 位股东是不够的。

3. Dividends 股息

The current provision relating to the payment of dividends provides that payment of dividends shall be made within 1 month from the date of the resolution of the general meeting or of the directors, as the case may be. In which the draft amendment clarifies that such payment of dividends must be made **in full** within 1 month from the date of the resolution of the general meeting or of the directors, as the case may be.

现行有关支付股息的法律规定，股息须于股东大会或董事（视情况而定）作出决议之日起 1 个月内支付。其中修订草案明确规定，该等股息必须在股东大会或董事（视情况而定）决议之日起 1 个月内支付。

4. Causes for Dissolution of Companies 公司解散

The CCC lists out certain circumstances, where a court may order the dissolution of a limited company. The current Section 1237 provides causes for dissolution, amongst others, if number of shareholders reduced to less than 3 persons, in which the draft amendment will change to only one.

CCC 列出了法院可以下令解散有限公司的各类情况。目前的第 1237 条规定解散的原因，其中包括如果股东人数减少到 3 人以下，而修正案草案将其改为只有 1 人。

5. Merger of Limited Companies 有限公司的合并

One of the most prominent changes brought about by the draft amendment is introducing a concept of merger in addition to amalgamation of companies. This amendment was an attempt to reconcile the CCC with international corporate and merger & acquisition practices as well as to modernize the provisions contained therein.

修正案草案带来的最突出的变化之一是，除了公司合并之外，还引入了合并的概念。该修正案旨在使 CCC 与国际公司和并购实践相协调，使其包含的规定能适应当下发展。

The new provisions will allow companies to consolidate in 2 ways, namely by (i) amalgamation (where a new entity is established, and the amalgamated entities cease to exist) and (ii) merger (where a company merges with one or more companies with 1 company retaining its juristic entity and the remaining company(ies) cease to be a juristic entity). Currently the CCC recognizes only the first one: the 'amalgamation'. Under the draft amendments both cases will require a special resolution, and such special resolution must be registered within 14 days from the date the special resolution is passed.

新规定将允许公司以两种方式合并，即 (i) 合并（成立新实体，合并后的实体不复存在）和 (ii) 合并（公司与一家或多家公司合并成 1 家公司保留其法人实体，其余公司不再是法人实体）。目前，CCC 只承认第一个中“合并”方式。根据修正案草案，这两种情况都需要特别决议，该特别决议必须在特别决议通过之日起 14 天内登记。

Deloitte's observation 德勤观察

The draft amendment, once effective, will allow the CCC to align itself with contemporary corporate practices, as well as modernize the provisions of the CCC. The draft amendment will also allow companies access to tools not currently available to them under the current version of the CCC which will help companies discharge their obligation more effectively and efficiently (e.g. lessen publication in newspapers of notice to shareholders). Further, one of the key changes to the CCC under the draft amendment relates to the merger of companies, which is the first time that this concept will be introduced.

修正案草案一旦生效，将使 CCC 与当代企业实践相一致，并使 CCC 的规定能够与时俱进。修正案草案还将允许公司使用现行 CCC 版本中不能使用的方式，这将有助于公司更有效地履行其义务(例如，减少在报纸上刊登股东通知)。此外，修订草案其中一项改动是首次涉及公司合并。

The draft amendment has been approved by the Senate in its third and final session and the House of Representatives has completed consideration it on 14 September 2022 and should soon be promulgated.

该修正案草案已在参议院第三次暨最终会议上获得批准，众议院已于 2022 年 9 月 14 日完成审议，预计很快会予以公布。

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