

THE MOC'S POLICY ON CIRCULAR RESOLUTIONS AND PROXIES FOR BOARD MEETINGS

Provisions of the Civil and Commercial Code (the “CCC”) governing the formation and operation of private limited companies, where specifically stipulated, are to be strictly complied with. Any provision in the Articles of Association (the “AOA”) of a private limited company that conflicts with the CCC provisions will be rejected by the Ministry of Commerce (the “MOC”) and not permitted to be registered. However, in the past, in cases where the CCC is silent or specific actions are not prohibited, private limited companies usually add provisions to set guidelines for its internal operation.

Currently, certain guidelines set and used by private limited companies are being challenged by the MOC on the grounds of being in conflict with the law. This Newsletter contains a summary of the material policies of the MOC that should be of interest to all investors and private limited companies, and which may affect the AOA of future private limited companies.

Circular resolutions for board meetings are no longer accepted by the MOC

The CCC is silent and does not specifically prohibit circular resolutions for board meetings. However, the MOC has currently expressed its view that the CCC already sets out procedures for the board meetings with the objective that each director joins the meeting to exchange ideas in relation to the business operation of the company prior to passing resolutions. Even though the CCC allows companies to stipulate different terms in its AOA in relation to the power of the directors, it does not mean that there may be provisions stipulating that board meetings are not required. Such provision is not in compliance with the law.

Proxies for board meetings are no longer accepted by the MOC

In addition, although the CCC is silent and does not specifically prohibit authorization of proxies to attend board meetings in place of directors, the MOC is of view that an AOA provision, which stipulates that a director may authorize a proxy to vote in board meetings, is a provision which is not in compliance with the law. Attending and voting is viewed by the MOC as personal to a director and cannot be delegated.

As such provisions are not in compliance with the law, they are viewed by the MOC as invalid provisions. Please note that, even if such provisions remain in the AOA and are not canceled, circular meetings and proxies to attend and/or vote in board meetings are no longer permitted by the MOC. Thus, board meetings must be held and directors are required to attend each board meetings in person. Furthermore, for future AOA registrations, please note that such provisions will be rejected by the MOC.

For more information, please contact:

Sunpasiri Sunpa-asa, Partner
Email: sunpasiri@lshorizon.com
Tel: 662 627 3443
Fax: 662 627 3250



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Important Note and Disclaimer

The content of this Newsletter is prepared as of 8 September 2008.

This Newsletter is informational in nature and is not to be considered as legal advice. It does not exhaustively cover the subjects which it treats, and is only intended to address some of the key issues. When specific questions arise in practice, it is necessary to obtain appropriate legal advice.