

MEMORANDUM

August 24, 2009

Re: New draft Amendments to the Civil and Commercial Code (CCC)

SUMMARY OF LAW CHANGES:

Amendment no. 18 to the CCC was published in the Government Gazette on March 3, 2008. Section 2 of the Act provides that the Act has come into force since 1 July 2008 (“**2008 Amendment**”).

Among others, the 2008 Amendment provides that notices of all shareholders’ meetings must be published in the newspaper.

From August 26, 2008, the Companies Registrar of the Department of Business Development of the Ministry of Commerce has been instructed by the Director of the Department to follow new guidelines adopted at a meeting of the Legal Advisory Committee of the Department (“**New Guidelines**”) and the Notification of the companies registrar of the Department of Business Development of the Ministry of Commerce issued on September 10, 2008 (“**Notification**”) that likewise provides that any company’s articles of association which contains provisions allowing directors’ proxies or circular resolutions will be no longer be permissible regardless of whether any amendment has made to maintain such provisions.

New draft Amendments to the Civil and Commercial Code (CCC):

On 18 August 2009, the Council of Ministers (the “**Cabinet**”) approved the draft amendment to the Civil and Commercial Code (“**CCC**”) which aims to ease the administration difficulties faced by private limited companies due to the 2008 Amendment, the New Guidelines and the Notification.

In summary, the draft amendment to the CCC provides major changes as follows:

- The Presence of the directors in the board meetings will no longer be a requirement if the convocation of a board meeting is made through the current technology, e.g. telephone conference and video conference provided that those procedures must be registered in the articles of association of the company.
- No newspaper publication of a notice of shareholders' meeting will be required for a company that has shares with named certificates.

The Cabinet approved the draft bill (attached) on August 18, 2009 based on the above amendment as proposed by the Ministry of Commerce. This draft act will be forwarded for the consideration of the Office of the Council of State prior to submission to the House of Representatives for their consideration.

CHANDLER and THONG-EK

(Unofficial Translation)

Draft
Act Amending Civil and Commercial Code (No. ..)
B.E.

Whereas it is deemed expedient to amend the Civil and Commercial Code.

This Act contains certain provisions relating to restriction of rights and freedoms of persons, which, under Section 29 together with Sections 43, 45 of the Constitution of the Kingdom of Thailand, can be done by virtue of the provisions of law.

Section 1 This Act shall be called “The Act Amending Civil and Commercial Code (No. ..) B.E.

Section 2 This Act shall come into force on the date of its publication in Government Gazette.

Section 3 The provisions of Section 1016 of the Civil and Commercial Code shall be repealed and replaced by the following:

“Section 1016 Registration of establishment of a partnership or a company, alterations subsequently made in the registered particulars and other registrations required under Title 22 Partnerships and Companies shall be made with the Registrar of the Partnerships and Companies Registration Office prescribed by the competent Minister in the notification.”

Section 4 The provisions of Section 1017 of the Civil and Commercial Code shall be repealed and replaced by the following:

“Section 1017 If a fact to be registered or published happens in a foreign country, the period for its registration or publication shall be computed from the time when notice thereof arrives at the main office of the partnership or company so registered.”

Section 5 The following provisions shall be added as Section 1020/1 of the Civil and Commercial Code:

“Section 1020/1 In issuing ministerial regulations prescribing the fees under Section 1018 and Section 1020, the competent Minister shall also have the power to exempt the fees.”

Section 6 The provisions of Section 1099 of the Civil and Commercial Code shall be repealed and replaced by the following:

“Section 1099 The memorandum must be made in two original copies at least and signed by the promoters, and the signatures shall be certified by two witnesses, and one of the original copies must be registered.

The registered memorandum shall, if a limited company has not been incorporated within ten years of the date on which the Registrar accepts the memorandum for registration, cease its effect, and Section 1113 shall apply to the case where the memorandum ceases its effect, *mutatis mutandis*.”

Section 7 The following provisions shall be added as Section 1162/1 of the Civil and Commercial Code:

“Section 1162/1 At a meeting of directors, the directors must be present at the place designated in the notice calling a meeting, unless the articles of association provide that a meeting may be conducted through technological communication thereby each person attending the meeting is able to consult or exchange opinions, and the identity of the directors attending the meeting can be confirmed.”

Section 8 The provisions of Section 1175 paragraph one of the Civil and Commercial Code shall be repealed and replaced by the following:

“Section 1175 Notice calling a general meeting shall be sent by mail with return receipt requested to each person whose name appears in the company’s register at least seven days before the date fixed for the meeting. If a company has scrip shares issued to bearers, the notice shall be published at least once in a local newspaper at least seven days before the date fixed for the meeting. However, if it is a notice calling a general meeting for the adoption of a special resolution, said act shall be done at least fourteen days before the date fixed for the meeting.”

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