

ADDITIONAL PROPOSED AMENDMENTS OF THAI CORPORATE LAWS

SAITHIP MANSRI (Partner)
THANAPORN TACHATAVON (Associate)

Since early June 2020, the Thai Cabinet has approved a series of amendments on corporate requirements under the Civil and Commercial Code of Thailand (“**CCC**”) and the Act Determining Offences Relating to the Registered Partnerships, Limited Partnerships, Limited Companies, Associations and Foundations B.E. 2499 (1956) (“**Act**”) as proposed by the Ministry of Commerce (“**MOC**”) and reviewed by the Office of the Council of State. We set out the substantial aspects of the amendments as follows:

1. On 9 June 2020, Thai Cabinet approved the Bill of Amendment of CCC (No. ...) B.E. ... (“**Bill**”) with the aim to ease the registration process, create more flexibility in the operation of businesses as well as reducing relevant costs. The Bill contained the following key aspects:
 - (a) Corporate registration can be filed at any business registration office;
 - (b) Certain official fees can be reduced and exempted upon approval of the Minister;
 - (c) Validity period of the Memorandum of Association (“**MOA**”) is shortened from ten to three years;
 - (d) No corporate seal will be required to be affixed on each share certificate (if a company has not registered its seal with the MOC);
 - (e) E-Board meetings will be allowed; and
 - (f) Cancellation of requirement for publishing notice for every general meeting of shareholders in the local newspaper except bearer shares.

Further details on the Bill can be found in our newsletter dated 15 June 2020 entitled “Bill of Amendment of Thai CCC”.

2. On 23 June 2020, the Thai Cabinet approved a further amendment of the CCC and Act containing the following key aspects with the aim to become more investor friendly in terms of business establishment/investment and protection measures:
 - (a) **Reduction of number of promoters / shareholders from three to two persons**

In 2008, the minimum number of promoters/shareholders of a private limited company was reduced from seven to three persons. After a decade passed, it was approved by the Thai Cabinet to reduce such minimum number from three to two with the aim to encourage new businesses and start-ups.



As a result, the following matters were also approved to reflect the same:

- i. Setting quorum requirement of having at least two shareholders or proxies at the shareholders meeting. This is in-line with the current MOC policy that one person cannot form a quorum of any meeting; and
- ii. Empowering competent courts to order dissolution of a company when the number of shareholders has decreased to one shareholder.

(b) Setting dividend payment period to one month

This is not a new requirement. On 4 April 2017, the Order of the Head of the National Council for Peace and Order No. 21/2017 (“**NCPO Order No. 21/2017**”) already ruled that the payment of dividends shall be made within one month from the date of the board of directors’ or shareholders’ resolution, as the case maybe.

(c) Adding alternative forms of Merger

At present, there is only one type of merger in Thailand whereby two or more companies in Thailand can only be merged to form a new company (i.e. $A+B=C$). Such new company will assume all the rights and liabilities of the merged companies and those merged companies will automatically cease without going through the normal dissolution and liquidation process.

However, under the approved amendment, two or more companies in Thailand can be combined to only one company (i.e. $A+B=A$ or B) where such a company will exist and the other companies will automatically cease.

(d) Imposing offences and penalties in the Act for failure to comply with certain requirements under the CCC

The Thai Cabinet has approved the imposing of offences and penalties for failure to comply with the following CCC requirements:

- i. Making dividend payment within one month from the date of the board of directors’ or shareholders’ resolution, as the case maybe; and
- ii. Serving or publishing notice on special resolution for merger or combination of companies to the creditors.

These amendments will be proposed to the National Assembly before enactment. Although the timeframe is not known at this stage, we will keep you informed on the progress as and when updates become available.

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