JONES DAY

COMMENTARY

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Taiwan Imposes New Reporting Obligation on Information of Company Shareholders

IN SHORT

The Situation: On November 1, 2018, amendments to the Taiwan Company Act ("TCA") passed by the Taiwanese legislature on July 6, 2018, came into effect.

The Result: While certain regulations have been relaxed and business flexibility increased, the TCA amendments also impose a new reporting duty on the companies relating to information of corporate insiders in order to enhance corporate transparency and governance.

Looking Ahead: The newly implemented reporting requirement is for a Taiwan company (including private companies) to periodically submit a report on the shareholding statuses and other information of its directors, supervisors, officers, and shareholders owning more than 10 percent of its shares to the website designated by the competent authority. The first of these reports are due by January 31, 2019.

The legislature of Taiwan passed a batch of amendments to the TCA on July 6, 2018, with such amendments coming into effect on November 1, 2018. These amendments are part of a major overhaul of the TCA to enhance the competitiveness of Taiwan's business environment and are intended to: (i) increase flexibility in business operations; (ii) enhance corporate transparency; (iii) create a more friendly environment for startups and entrepreneurship; (iv) strengthen corporate governance; (v) enhance shareholder protections; and (vi) conform to international trends.

Some of the key changes applicable to companies limited by shares (i.e., corporations) are discussed below, and these changes will affect foreign investors that have investments in Taiwan.

Increasing Flexibility in Business Operation

The new TCA amendments allow a private company to have only one or two directors, instead of requiring a board of directors with at least three directors. Prior to the TCA amendments, a private company was required set up a board of directors with at least three directors. To expand enterprise autonomy, a private company may now choose not to set up a board of directors but elect one or two directors, if provided in its articles of incorporation. If a company elects only one director, this director will serve as the chairman, and all provisions relating to boards of directors are not applicable to such company.

Private companies consisting of one legal entity shareholder are permitted to not have a supervisor. Provided that there are no other shareholders to be protected in a company consisting of single corporate shareholder, the amended TCA now allows such a company not to set up a supervisor.

Under the new amendments, a private company board is allowed to pass written resolutions. As long as the company's articles of incorporation allow it, its board may unanimously resolve matters of the board in writing without actually holding a board meeting.

The new amendments also allow a private company to convene a shareholders' meeting by video conference, if its articles of incorporation expressly provides for such. In this case, a company may freely regulate matters related to the registration and confirmation of shareholders' identities in the meeting.

> To better implement antimoney laundering efforts, a company is now required to annually submit a shareholding report stating the statuses of directors, supervisors, officers, and shareholders owning more than 10 percent of its shares.

Enhancing Corporate Transparency

To better implement antimoney laundering efforts, a company is now required to annually submit a shareholding report stating the statuses of directors, supervisors, officers, and shareholders owning more than 10 percent of its shares. The first submission is to be made by January 31, 2019. In addition, if there is any change in the shareholding status of any of the foregoing persons, a company is required to report such change within 15 days.

Creating a More Friendly Environment for Startups and Entrepreneurship

Previously, a company could distribute dividends only once a year upon ratification by shareholders at the annual general meeting. In order to better incentivize shareholders to invest, the amended TCA now allows a company to distribute dividends quarterly or semi-annually, provided that the estimated taxes, estimated remuneration, and legal reserve have been set aside. For the cash dividend distributions during the first three quarters or the first half of year, a resolution adopted by the board of directors will suffice, instead of needing a shareholders' resolution.

Additionally, under the new amendments, a company may now choose to issue shares either with or without par value.

The updated TCA also allows a private company to issue multiple classes of preferred shares, each carrying variations on voting rights, veto rights, or restrictions to be elected as a director or supervisor, as well as rights of certain seats to be elected as directors or share transfer restrictions.

THREE KEY TAKEAWAYS

1. Amendments to the TCA to enhance the competitiveness of Taiwan's business environment passed by the Taiwanese legislature on July 6, 2018, came into effect on November 1, 2018.

2. Generally, the TCA amendments were intended to increase flexibility in business operations, enhance corporate transparency, create a more friendly environment for startups and entrepreneurship, strengthen corporate governance, enhance shareholder protections, and conform to international trends.

3. Among other requirements imposed by the TCA amendments, a new reporting requirement for Taiwanese companies to report on the shareholding statuses and other information of their directors, supervisors, officers, and shareholders owning more than 10 percent of its shares has its first submission due by January 31, 2019.


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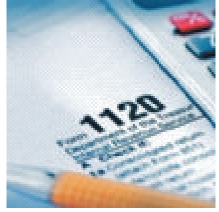

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