

# New Hong Kong Companies Ordinance – Update

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*This memorandum is intended to provide general information and guidance for the clients of Trident Trust Company (HK) Limited. It does not purport to be comprehensive or to render legal advice.*

A comprehensive new Companies Ordinance (“CO”) (Cap. 622) for Hong Kong was passed by the Legislative Council on 12 July 2012. The Government has now announced that this new CO will take effect on 3 March 2014. On this date the existing Hong Kong Companies Ordinance, the Companies Ordinance (Cap. 32), will remain but will be renamed the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) and will complement the new CO.

The new CO has been introduced to: enhance corporate governance; ensure better regulation; facilitate business operations; and be in line with modern business law.

The key features of the new CO are:

- **Streamlining types of companies.** There are only five types of companies: public or private company limited by shares; public or private unlimited company with a share capital; and company limited by guarantee.
- **Abolition of the memorandum of association and application of new model articles.** The information currently contained in the memorandum of association will be set out as a provision of the articles of association. New model articles will apply by default if no additional articles are filed.
- **Abolition of par value of shares and authorized share capital.** Local companies will no longer be able to have par value shares. The concepts of nominal value, share premium and the requirement for authorized share capital will also be abolished.
- **Restriction of corporate directorship in private companies.** Every company must have at least one director who is a natural person. Companies already registered under the existing Ordinance at the date of the implementation of the new CO will have a grace period of 6 months after the commencement of the new CO to comply with the new requirement.
- **Optional common seal.** There is a relaxation of the requirements for a company to adopt a common seal and have an official seal for use abroad. Execution of documents will be under seal (if adopted) or under hand (if not).
- **Filing of annual return of a public or guarantee company.** The filing date of the annual return will no longer be made with reference to the annual general meeting, but will follow the end of the financial year of the company.
- **Exemption from holding annual general meetings.** A single member company is allowed to dispense with the holding of an annual general meeting.
- **Holding meeting through electronic communication.** A company may hold a meeting with participants located in two or more places, using technology that enables members to listen, speak and vote.
- **Advance shareholder approval.** Shareholders’ advance approval covers directors’ employment contracts which exceed three years; and granting the right to subscribe for, or convert securities into, shares.
- **Facilitating simplified financial reporting for Small and Medium Sized Enterprises.** Financial statements of an SME will be exempted from the true and fair view requirement.

For more information on the changes, please contact the Corporate Services Division of our Hong Kong office.

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