



RESPONDEK & FAN

## LEGAL E-BULLETIN

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Dear Reader,

This is the first issue of our "Legal E-Bulletin" which will inform our clients each quarter about important legal developments and topics in our three office locations, i.e. Singapore, Thailand and Vietnam..

The emphasis of this bulletin will be less on legal theory but rather on the practical implications of selected legal issues for our clients.

If you have any comments, remarks or requests, we'd love to hear from you. Please contact me at +65-6324-0060 or by email ([respondek@rfllegal.com](mailto:respondek@rfllegal.com)).

Kind regards,  
**RESPONDEK & FAN**  
Andreas Respondek  
Managing Director

### THAILAND: AMENDMENTS TO COMPANY LAW

During a recent asset purchase, a major European company wanted to open a new bank account in Bangkok for their Thai affiliate to transfer the funds for the purchase price. This company filled in all forms provided by the bank and attached a circular board resolution for the opening of the account. After reviewing the documents, the bank rejected the circular board resolution. Being faced with interest payments for late payment, the European company's legal department then contacted us and advised that the circular resolution was in full compliance with the Thai company's Articles of Association. How could the bank reject a circular resolution? The short answer: the law has changed and the Articles were outdated.

Thailand's Civil and Commercial Code had significant amendments almost a year ago as of July 1, 2008. These changes led to various new requirements for more "formal" board and shareholder meetings and other additional legal requirements. Among these legal changes, there are 3 main items of practical relevance that usually appear in a Thai Company's Articles of Association that companies should be aware of:

#### 1. Circular board resolutions not possible

The vast majority of foreign companies in Thailand had the goal to keep formal requirements to an absolute minimum and allow the passing of written or circular board resolutions. I.e. board decisions could be taken without having an actual meeting as long as all board members affixed their signatures to a written board resolution.

Unfortunately this practice is no more permissible since last year. Actual board meetings must now be held in order to pass legally valid and binding directors resolutions.

#### 2. Directors must appear personally

Previously, directors could appoint proxies to attend board meetings and vote on their behalf. This practice is no more permissible since July 1, 2008. Board members must now always appear in person in order to be able to vote.

#### 3. Newspaper advertisements for shareholder meetings notices

Convening shareholders meeting under the new law has become more cumbersome. The new law requires that notices for shareholder meetings must be advertised in a newspaper at least seven days prior to the meeting in addition to a notification by registered mail.

#### Review of Articles of Association

Most foreign companies' Articles of Association allow circular resolutions, permit directors meetings to take place by proxy, and don't mention a requirement to have notices for shareholder meetings published in a newspaper. To avoid invalid resolutions and hefty fines, companies should carefully review their Articles of Association and ensure that their Articles of Association are in full compliance with the new rules and regulations and amend their Articles of Association accordingly.

We'd be more than happy to assist you with the review of your Articles of Association and arrange any required changes and amendments.

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