



Cayman Company Law Changes Enhance Position of Cayman Islands Companies

开曼公司法之修订 增强开曼群岛公司地位

Introduction

Company, trust, banking, insurance and related laws have made Cayman a leading offshore financial centre. The government's attitude towards, and open communication with, the private sector encourages the promotion and maintenance of Cayman's offshore business. The revisions to the Cayman Islands Companies Law are an impressive example of this cooperative approach and demonstrate not only the willingness, but the ability, of Cayman to adapt to the changing product needs of clients. The matter has now been passed by the legislative assembly and is expected to come into effect before the end of the current sitting. Following is a brief summary of the expected amendments.

Principal Amendments

Branch Registers: An exempted company may now keep branch registers of members in any country or territory.

Company Names: A company is now permitted to have a dual name in a foreign script that is actually part of the company's name and there is no longer a requirement that the dual name be a direct translation of the English name.

简介

公司、信托、银行、保险及相关法律促成开曼成为离岸金融中心。政府对私营领域的态度并与其进行开放的交流，鼓励了开曼离岸业务的发展与维系。《开曼群岛公司法》进行的修订是该合作方式的重要佐证，显示了开曼不仅愿意且能够适应客户不断变化的需求。立法会现已通过该事宜，预计在本届立法会卸任前将会生效。下文将概述预计作出的修订。

主要修订

股东名册分册: 豁免公司现可在任何国家或地区置存股东名册分册。

公司名称: 公司现允许以外文字体拥有双重名称，该双重名称可为公司名称的一部分且不再必须是英文名称的直译。

Execution of Documents: Procedures relating to the execution of documents by companies, the execution of deeds by foreign companies and the execution of documents governed by the laws of the Cayman Islands have been clarified.

Fees: Whereas fees for certain actions were previously spread throughout the Companies Law, they will now be conveniently located in a schedule at the end of the law. Also added is a schedule of approved stock exchanges.

Foreign Companies: A new definition has been added for an “overseas company”, which is essentially what was previously known as a foreign company. Certain overseas companies can be registered as foreign companies.

Merger/Consolidation: Merger or consolidation may be approved by special resolution of the members of each constituent company or such other authorisation as specified in the constituent company’s articles of association. Mergers or consolidations are permitted where the surviving company is a foreign company.

Segregated Portfolio Companies: Directors are no longer subject to personal liability in the case of misattribution of a matter to a segregated portfolio and procedures are provided for resolution of such misattribution. Directors are required to establish and maintain procedures to ensure that assets and liabilities are not transferred between segregated portfolios and general assets otherwise than at full value. Holders of segregated portfolio shares are to be included as prospective claimants on the winding up of a segregated portfolio company.

Share Redemption and Repurchase: The law relating to repurchases and redemptions has been refined and clarified. In particular, consolidation has been included as one of the ways in which an allotting company acquires controlling interest in the company whose shares it acquires or cancels, the manner of repurchase can be determined by the board if authorised by the articles, and shares may be surrendered for zero consideration.

签订文件: 公司签订文件, 外国公司签订契约及签订开曼法管辖之文件的程序得到了明确表达。

费用: 因过去就某些行为收取的费用分散于公司法的各段中, 现这些费用将集结成表, 载于公司法的末段。另也附加了获批准证券交易所列表。

外国公司: 新增添了“海外公司”这一概念, 基本是过去熟知的外国公司。某些海外公司可登记为外国公司。

并购/合并: 并购或合并可由各参与公司特别股东决议或参与公司章程细则中明确约定的其他授权形式批准。若承继公司是外国公司依然允许进行并购或合并。

独立投资组合公司: 董事不再对将事宜错误归置进投资组合一事承担个人责任, 且规定了该等错误归置的解决途径。董事需设立并维持一套程序, 确保资产与债务不会在投资组合与共同资产之间转移除全价转移以外。投资组合股份持有人将归入清盘独立投资组合公司时之未来申索人。

股份回赎及回购: 有关股份回购及回赎之法律得到了改善和明确表达。特别是涵盖了合并由发股公司收购另一公司的控制权益, 而该公司股份由发股公司收购或注销。回购之方式若得到章程细则之授权, 可由董事会决定, 且可以零对价放弃股份。

Share Transfer: A company with listed shares is entitled to maintain an electronic register in respect of its listed shares and may, if authorised by the company's articles of association and the relevant approved stock exchange, conduct paperless trades of its listed shares.

Special Resolutions: Companies may specify (subject to the two-thirds minimum) in its articles of association different thresholds for different matters.

Treasury Shares: A company may now hold shares in Treasury.

Summary

These amendments reflect the ongoing commitment of the Cayman Islands government to work in close cooperation with the private sector to improve Cayman's position as a leading corporate jurisdiction with a competitive edge.

股份转让: 上市股份公司有权置存电子版上市股份之名册, 若得到公司章程细则及相关获批准证券交易所之授权, 亦可无纸化交易其上市股份。

特别决议: 公司可在章程细则中就不同事宜规定不同的标准 (最低要求三分之二)。

库存股份: 公司现可持有库存股份。

总结

上述修订反映了开曼政府一直以来与私营领域紧密合作的承诺, 使开曼凭借竞争上的优势, 改善作为公司方面领先司法管辖区之地位。

本文并不是法律意见, 其内容并非详尽无遗, 只可作为概览及一般参考资料。感谢您的垂阅!

This article is not intended to be a substitute for legal advice or a legal opinion. It deals in broad terms only and is intended to merely provide a brief overview and give general information.

关于康德明律师事务所
About Conyers Dill & Pearman

康德明律师事务所依据百慕大、英属维尔京群岛、开曼群岛、塞浦路斯和毛里求斯的法律提供服务。康德明的律师擅长于公司业务和商事业务的法律咨询，商事诉讼以及私人客户事宜。康德明律师事务所的架构，律所文化以及精英团队，能够使本所不断践行承诺，为客户提供及时周到的服务。本所在欧洲、亚洲、中东和南美等主要世界性金融中心设立分所，从而能从全球各重要地点为客户提供最高质量的法律咨询。康德明律师事务所设立于1928年，现拥有600位员工，其中超过150位是律师。附属公司Codan，提供一系列信托、公司秘书、会计和管理服务。

Conyers Dill & Pearman advises on the laws of Bermuda, British Virgin Islands, Cayman Islands, Cyprus and Mauritius. Conyers' lawyers specialise in company and commercial law, commercial litigation and private client matters. Conyers' structure, culture and expertise enable responsive, timely and thorough service. Conyers provides clients with the highest quality legal advice from strategic global locations including offices in the world's leading financial centres in Europe, Asia, the Middle East and South America. Founded in 1928, Conyers comprises 600 staff including more than 150 lawyers. Affiliated companies (Codan) provide a range of trust, corporate secretarial, accounting and management services.

若需要更多资讯，请联络：

For further information, please contact:



Conyers Dill & Pearman

2901 One Exchange Square
8 Connaught Place, Central
Hong Kong

Tel: (852) 2524 7106

Fax: (852) 2845 9268 or (852) 2596 0418

Email: hongkong@conyersdill.com

Web: www.conyersdill.com

康德明律师事务所

香港中环康乐广场8号交易广场1期29楼2901室

电话: (852) 2524 7106

传真: (852) 2845 9268 或 (852) 2596 0418

电邮: hongkong@conyersdill.com

网址: www.conyersdill.com