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Companies Registry External Circular No. 13 / 2014

Companies (Disclosure of Company Name and Liability Status) Regulation (Cap.622B) - Disclosure of Company Name

The Companies Registry has received enquiries on the requirements relating to the disclosure of company name pursuant to sections 3(1) and 4 (“the provisions”) of the Companies (Disclosure of Company Name and Liability Status) Regulation (Cap.622B) (“the Regulation”). This External Circular clarifies the relevant requirements.

Major Changes Introduced by the Regulation

2. The Regulation sets out the requirements for disclosure of company name and liability status to provide protection for persons dealing with a company. While re-enacting the majority of requirements set out in sections 93 and 94 of the old Companies Ordinance (Cap. 32) (“the old Ordinance”), the Regulation introduces the following changes with the aims to facilitate business and lower compliance costs –

- (a) the requirement for a company to paint or affix its name on the outside of every office or place in which the company’s business is carried on in a conspicuous position in legible characters has been relaxed. Under sections 3(1) and (2) of the Regulation, a company would have complied with the disclosure requirements if the company displays continuously its registered name in legible characters at the registered office and every business venue and the company’s name is so positioned that it may be easily seen by any visitor to the premises. The new requirement provides flexibility and allows a company to display its registered name either inside or outside the registered office and business venue;

- (b) a business venue refers to an office or a place, other than the company's registered office, which is open to the public and in which the company's business is carried on. A business venue is subject to the requirement in paragraph (a) only if it is open to the public (section 2(1));
- (c) taking into account the usual practices of company service providers and liquidators, the requirement to display the registered name of the company concerned is dispensed with where –
 - (i) the company has had no accounting transaction at any time since its incorporation (section 3(4)); or
 - (ii) a liquidator, receiver or manager of the property of the company has been appointed and the registered office or any business venue of the company concerned is also the place of business of the liquidator, receiver or manager (section 3(5)); and
- (d) to facilitate electronic display of company names at a location which serves as the registered office or business venue of more than 6 companies (such as in the case of the office of a company service provider), provisions are also added to accommodate the use of electronic devices for the display of company names at such a location. Under section 3(3), the requirement for display of a company name will be complied with provided that the company's registered name can be displayed in such cases –
 - (i) for at least 15 continuous seconds at least once in every 4 minutes; or
 - (ii) within 4 minutes after a request to make the display is made through an electronic device.

3. Apart from the above changes, the Regulation clarifies that the requirement to state a company's registered name (and its liability status where applicable) in all communication documents and transaction instruments also applies to any such documents and instruments in electronic form (section 2(2)). A company is also required to display its registered name and liability status in legible characters on any website of the company (sections 4 and 5).

The Requirements

4. Section 3(1) of the Regulation provides that a company must display continuously its registered name in legible characters at its registered office and every business venue of the company. Section 4 provides that a company must state its registered name in legible characters in the company's communication documents and transaction instruments and on any website of the company. Section 2(1) defines "communication document" as meaning any business letter, notice or other official publication of the company; and "transaction instrument" as meaning –

- (a) any contract or deed purporting to be signed by or on behalf of the company;
- (b) any bill of exchange, promissory note or endorsement purporting to be signed by or on behalf of the company;
- (c) any cheque or order for money or goods purporting to be signed by or on behalf of the company; or
- (d) any consignment note, invoice, receipt or letter of credit of the company.

However, a company does not need to state its registered name and liability status on any of its unofficial publications.

5. Section 7 provides that if the company fails to comply with the requirements to display or state its name in the manner described in sections 3 and 4, the company and every responsible person of the company commit an offence and is liable to a fine up to \$10,000.

Disclosure of Registered Name

6. The expression "registered name" is defined in section 2(1) of the Regulation to mean the name by which a company is registered under the Companies Ordinance (Cap.622) ("the Ordinance"). Under the Ordinance, a company may be registered by (i) an English name only, (ii) a Chinese name only or (iii) both an English name and a Chinese name ("bilingual names").

7. The Companies Registry has received enquiries as to whether the Regulation requires a company with bilingual names to display or state both the English name and the Chinese name, or whether displaying or stating either the English name or the Chinese name is sufficient.

8. The provisions seek to re-enact section 93(1) of the old Ordinance with the major changes outlined above. In response to the above-mentioned enquiries, the Companies Registry has considered the matter further and sought legal advice. For the purposes of compliance in ensuring that a company is properly identified, in respect of a company registered by bilingual names, the Companies Registry considers that it is sufficient for the company to display or state either the English name or the Chinese name in the manner described in the provisions. For the avoidance of doubt, it is relevant to note that the provisions will also be complied with if a company with bilingual names displays or states both the English name and the Chinese name. The Companies Registry will enforce the provisions accordingly.

Enquiries

9. Enquiries concerning this circular should be directed to Miss Karen CHAN, Assistant Registry Manager (Enforcement), at (852) 2867 3407/ karenchan@cr.gov.hk.

Mrs Karen KK HO
Acting Registrar of Companies

c.c. CR HQ/8-1/6