

No Flexibility on the AGM Deadline this Year - 2022

Last year, 2021, the Department of Business Development (DBD) has granted flexibility regarding the deadline for holding the mandatory Annual General Meeting of Shareholders (AGM) in light of the disruption caused by the COVID-19 crisis. However, in this year, 2022, there is no such flexibility anymore.

According to the guidelines for filing of the financial statements of the fiscal year 2021, limited companies and public companies must hold the AGM within 4 months from the end of fiscal year. For companies which fiscal year ends on 31 December 2021, the AGM must be held by the end of April 2022.

How to hold the AGM correctly?

In order to hold the AGM, in case of the company with more than one director, the Board of Directors must approve the calling of AGM. The invitation letter must be published in a local newspaper and sent by registered mail or by hand (acknowledged by signature) to every shareholder whose name appears in the register of shareholders at least 7 days prior to the AGM date, unless specified to be otherwise in the Articles of Association of the company.

Since April 2020, the Emergency Decree on Electronic Meetings B.E. 2563 (2020) enable companies to hold virtual meetings via electronic media without the requirement for the attendees to be physically present. However, the E-Meeting must be held in compliance with the standards for maintenance of security for electronic meetings prescribed by the Ministry of Digital Economy and Society. The meeting must be properly recorded, and the minutes of meeting must be taken.

A copy of the AGM minutes is required to be submitted with the DBD for public companies along with the Annual Report when filing the audited financial statements.

For Registered Partnerships, Joint Venture and foreign entities carrying on business in Thailand (Branch Office, Representative Office) are not required to hold the AGM.

The delay in holding the AGM is subject to a fine of THB 6,000 per company and THB 6,000 per authorized director depending on the signing conditions of directors listed on the company's Affidavit.

Filing of the List of Shareholders

Following the AGM, limited companies must submit the List of Shareholders to the DBD within 14 days of the AGM date, and public limited companies must submit it within one month.

Previously, any limited company that missed the 14-day deadline for submitting the List of Shareholders had the option of submitting it along with the audited financial statements through an e-filing system. As long as it was submitted within one month of the fiscal year end, there is no penalty or fine for late submission of the List of Shareholders.

However, such flexibility no longer exists. Any limited company that fails to submit the list of shareholders within 14 days of the AGM date will be subject to a fine of THB 2,000 per authorized director. According to the signing conditions of directors, a company that two directors must jointly sign to bind the company will be subject to a fine of THB 4,000. According to the DBD, this has been in place for some time but will become more stringent this year.

Additional Report for BOI Company

For a BOI promoted company, the annual operation report must also be submitted to the Board of Investment within 31 July 2022. With the e-submission system, after the company has properly filed the financial statements and PND. 50 with the Revenue Department, the information required for the BOI annual report can be easily linked and extracted from the Revenue Department database.

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