

4. Commercial Law

Project for amendment of the Commercial Code and the Limited Liability Company Act.

On May 15, 1986, the Councillors' Office of the Civil Affairs Bureau in the Ministry of Justice sent out questionnaires to various quarters of society concerning the "Project for Amendment of the Commercial Code and the Limited Liability Company Act". This project was based on the opinions of various circles of society about "Legal Problems with Regard to the Division between Large and Small (Publicly-Held and Closely-Held) Corporations and the Merger" which had been also reported in May 1984. Here, the progressing work of amendment which has been already taken up in this bulletin (*Waseda Bulletin of Comparative Law*, vol. 5. p.33) is put in order.

This project is divided into 9 clauses and consists of 113 articles as a whole, and main amendatory points are as follows:

1. Incorporation

Generally speaking, the formalities of incorporation are simplified by, for example, permitting incorporation by one man, and making inspector's inspections unnecessary even if corporations are incorporated only by incorporators. It shall be provided in law that the capital of a stock corporation shall not be less than 20,000,000 yen and that of a limited liability company shall not be less than 5,000,000 yen.

2. Organization for management

The number of directors shall be 3 or more and that of auditors 2 or more (of which one shall be full-time) for the "large stock corporations" mentioned by Article 2 of the so-called Exception to the Commercial Code Act, 3 directors or more and 1 auditor or more for the other stock corporations which satisfy certain criteria (for example, 100,000,000 yen or more in capital or 1,000,000,000 yen or more in debt), and 2 directors or more

and an optional auditor for the other stock corporations which do not satisfy these criteria. For the limited liability companies, such requirements shall be in principle 1 director or more and an optional auditor, but 2 directors or more for the companies which satisfy the above-mentioned criteria and 1 auditor or more for the companies of which the scale is equivalent to that of the large stock corporations mentioned by Article 2 of the Exception Act. The directors who do not have representative capacity for the corporation shall have the right to inspect management.

3. Share or stock

The non-issue of share certificates (especially eternal non-issue for stock corporations which limit the transfer of shares) shall be permitted. In closely-held stock corporations and limited liability companies, if some shareholders' or members' interests are treated extremely unfairly, such shareholders or members shall be permitted to take appraisal remedies.

4. Account and disclosure

The limited liability companies as well as the stock corporations which satisfy the criteria mentioned by Article 2 of the Exception to the Commercial Code Act (at present, 500,000,000 yen or more in capital or 20,000,000,000 yen or more in debt) shall be submitted to an auditor's audit. The stock corporations of which the capital and the debt are less than certain criteria (for example, less than 100,000,000 yen in capital and less than 1,000,000,000 yen in debt) can voluntarily provide to submit themselves to an auditor's audit in their articles of incorporation. The other stock corporations which are not submitted to an auditor's audit except the stock corporations whose capital is less than 30,000,000 yen and whose debt is less than 300,000,000 yen, and the limited liability companies which are not submitted to an auditor's audit and which satisfy certain criteria (for example, 100,000,000 yen or more in capital or 1,000,000,000 yen or more in debt), shall be submitted to an account-investigator's (primarily licensed tax accountant's) investigation as a simple substitutional check-up method.

5. Reduction of capital

In the reduction of capital, the rigidity of the measures to protect creditors of the corporation shall be generally reduced.

6. Dissolution

The conditions for resolution to dissolve the stock corporation shall be more strict. In stock corporations with 50 shareholders or less, or in closely-held stock corporations or limited liability companies, the right to demand an order of dissolution by a court can be exercised by a single shareholder or member.

7. Merger

The corporate form of the constituent corporations, the consolidated corporations and the surviving corporations in mergers or consolidations shall not be limited. The formalities of mergers and consolidations shall be simplified.

8. Change of corporate form

Corporations which can not satisfy the legal minimum capital standard shall be able to change their corporate form easily.

9. Other points (to be omitted)

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5. Labor Law

1. Equal Employment Opportunity for Men and Women Act. Promulgated on June 1, 1985.

[Outline of the Act]

First of all, the Act provides that employers shall endeavor to give men and women equal opportunity with regard to recruitment and hiring, and to treat male and female workers equally with regard to assignment and promotion. And the Act provides that employers shall not make a distinction between male and