

第十三節 閉鎖性股份有限公司

第三百五十六條之一

I. 閉鎖性股份有限公司，指股東人數不超過五十人，並於章程定有股份轉讓限制之非公開發行股票公司。

II. 前項股東人數，中央主管機關得視社會經濟情況及實際需要增加之；其計算方式及認定範圍，由中央主管機關定之。

Section 13 Close Company

Article 356-1

I. A close company is a non public offering company whose shares shall be held by not more than 50 persons, and whose Articles of Incorporation shall impose restrictions on transfer of shares of a company .

II. The central competent authority shall as necessary in view of the socio-economic situation and the actual needs increase the number of shareholders referred to in the preceding Paragraph; the method of calculation and scope of qualification of the shareholders shall be prescribed by the central competent authority.

第三百五十六條之二

公司應於章程載明閉鎖性之屬性，並由中央主管機關公開於其資訊網站。

Article 356-2

A close company shall explicitly describe its nature of "closeness" in its Articles of Incorporation and the central competent authority shall make such a nature public on its information website.

第三百五十六條之三

- I. 發起人得以全體之同意，設立閉鎖性股份有限公司，並應全數認足第一次應發行之股份。
- II. 發起人之出資除現金外，得以公司事業所需之財產、技術、勞務或信用抵充之。但以勞務、信用抵充之股數，不得超過公司發行股份總數之一定比例。
- III. 前項之一定比例，由中央主管機關定之。
- IV. 非以現金出資者，應經全體股東同意，並於章程載明其種類、抵充之金額及公司核給之股數；主管機關應依該章程所載明之事項辦理登記，並公開於中央主管機關之資訊網站。
- V. 發起人選任董事及監察人之方式，除章程另有規定者外，準用第一百九十八條規定。
- VI. 公司之設立，不適用第一百三十二條至第一百四十九條及第一百五十一條至第一百五十三條規定。

Article 356-3

I. A close company shall be formed by the agreement of all promoters and the promoters shall fully subscribe in the first issue of the total number of shares.

II. Equity capital to be contributed other than cash by the promoters may be in the form of assets required in the business of a close company , technical know-how, service or goodwill, provided, however, that equity capital to be contributed by service or goodwill shall not exceed a certain percentage of the total shares issued by a close company .

III. The certain percentage set forth in the preceding Paragraph shall be prescribed by the central competent authority.

IV. Equity capital to be contributed other than cash shall be agreed by all shareholders, and the kinds, amount of such capital contribution and the number of shares allotted to the subscriber by a close company shall be explicitly described in its Articles of Incorporation; the competent authority shall register such particulars in accordance with the Articles of Incorporation and shall make such particulars public on its information website.

V. The provisions of Article 198 shall apply mutatis mutandis to the election of directors and supervisors by the promoters in a close company , unless otherwise provided for in its Articles of Incorporation.

VI. Articles of 132 through 149 and Articles 151 through 153 shall not apply to the formation of a close company .

第三百五十六條之四

I. 公司不得公開發行或募集有價證券。但經由證券主管機關許可之證券商經營股權群眾募資平臺募資者，不在此限。

II. 前項但書情形，仍受第三百五十六條之一之股東人數及公司章程所定股份轉讓之限制。

Article 356-4

I. A close company shall make no public offering of any of its securities, provided, however, that this provision shall not apply to the crowd-funding portal operated by securities businesses approved by the competent authority in charge of securities affairs.

II. The proviso to the preceding Paragraph shall still be subject to the restrictions on the number of shareholders and transfer of shares imposed by the Articles of Incorporation set forth in Article 356-1.

第三百五十六條之五

- I. 公司股份轉讓之限制，應於章程載明。
- II. 前項股份轉讓之限制，公司發行股票者，應於股票以明顯文字註記；不發行股票者，讓與人應於交付受讓人之相關書面文件中載明。
- III. 前項股份轉讓之受讓人得請求公司給與章程影本。

Article 356-5

- I. The restrictions on transfer of shares shall be explicitly described in the Articles of Incorporation of a close company .
- II. The restrictions on transfer of shares set forth in the preceding Paragraph shall be conspicuously annotated on a close company 's share certificates; if a company does not issue shares, an assignor shall state such restrictions on the relevant written documentation delivered to the assignee.
- III. The assignee referred to in the preceding Paragraph may request the company to deliver a copy of its Articles of Incorporation.

第三百五十六條之六

- I. 公司發行股份，應擇一採行票面金額股或無票面金額股。

II. 公司發行無票面金額股者，應於章程載明之；其所得之股款應全數撥充資本，不適用第二百四十一條第一項第一款規定。

Article 356-6

I. A close company shall choose either par value or no par value shares when issuing shares.

II. A close company issuing no par value shares shall explicitly describe it in its Articles of Incorporation; the payment for such no par value shares shall be fully set aside as equity capital with no application of Item 1, Paragraph 1 of Article 241.

第三百五十六條之七

公司發行特別股時，應就下列各款於章程中定之：

- 一、特別股分派股息及紅利之順序、定額或定率。
- 二、特別股分派公司賸餘財產之順序、定額或定率。
- 三、特別股之股東行使表決權之順序、限制、無表決權、複數表決權或對於特定事項之否決權。
- 四、特別股股東被選舉為董事、監察人權利之事項。
- 五、特別股轉換成普通股之轉換股數、方法或轉換公式。
- 六、特別股轉讓之限制。
- 七、特別股權利、義務之其他事項。

Article 356-7

Where a close company is to issue special shares, it shall include in its Articles of Incorporation provisions concerning:

1. Order, fixed amount or fixed ratio of allocation of dividends and bonus on special shares;
2. Order, fixed amount or fixed ratio of allocation of surplus assets of the company ;
3. Order of or restriction on, no voting right, multiple voting right, or veto power over specific matters on the exercise of voting power by special shareholders;
4. Any particulars regarding special shareholders' rights of being elected as directors and/or supervisors;
5. Number, method or formula for special shares to be converted into common shares;
6. Restrictions on transfer of special shares; and
7. Other matters concerning rights and obligations incidental to special shares.

第三百五十六條之八

- I. 公司章程得訂明股東會開會時，以視訊會議或其他經中央主管機關公告之方式為之。
- II. 股東會開會時，如以視訊會議為之，其股東以視訊參與會議者，視為親自出席。
- III. 公司章程得訂明經全體股東同意，股東就當次股東會議案以書面方式行使其表決權，而不實際集會。

IV. 前項情形，視為已召開股東會；以書面方式行使表決權之股東，視為親自出席股東會。

Article 356-8

I. A close company may explicitly provide in its Articles of Incorporation that its shareholders' meeting can be held by means of visual communication network or other methods promulgated by the central competent authority.

II. In case a shareholders' meeting is proceeded via visual communication network, then the shareholders taking part in such a visual communication meeting shall be deemed to have attended the meeting in person.

III. A close company may explicitly provide in its Articles of Incorporation that if it is agreed by all its shareholders, any action to be taken at a shareholders' meeting may be taken, without a meeting, by written consents to exercise their voting power.

IV. A shareholders' meeting held in accordance with the preceding Paragraph shall be deemed to have been convened; the shareholders who exercise their voting power by written consents shall be deemed to have attend the meeting in person.

第三百五十六條之九

- I. 股東得以書面契約約定共同行使股東表決權之方式，亦得成立股東表決權信託，由受託人依書面信託契約之約定行使其股東表決權。
- II. 前項受託人，除章程另有規定者外，以股東為限。
- III. 股東非將第一項書面信託契約、股東姓名或名稱、事務所、住所或居所與移轉股東表決權信託之股份總數、種類及數量於股東會五日前送交公司辦理登記，不得以其成立股東表決權信託對抗公司。

Article 356-9

- I. Shareholders of a close company may reach a voting agreement in writing to jointly exercise their voting rights or may form a voting trust where the voting trustee will exercise the voting power based upon the terms and conditions stated in such a written voting trust agreement.
- II. The trustee referred to in the preceding Paragraph shall be a shareholder unless otherwise provided for in its Articles of Incorporation.
- III. A voting trust cannot be set up as a defense against the close company unless the written voting trust agreement referred to in the first Paragraph, the name or title, office, residence or domicile of each shareholder, and the total number, kind and amount of shares transferred to the voting trust have been delivered to the company for registration five days prior to a shareholders' meeting.

第三百五十六條之十

- I. 公司章程得訂明盈餘分派或虧損撥補於每半會計年度終了後為之。
- II. 公司每半會計年度盈餘分派或虧損撥補之議案，應連同營業報告書及財務報表交監察人查核後，提董事會決議之。
- III. 公司依第一項規定分派盈餘時，應先預估並保留應納稅捐、彌補虧損及依法提列法定盈餘公積。但法定盈餘公積，已達實收資本額時，不在此限。
- IV. 公司違反前項規定者，股東於受盈餘分派之範圍內，對公司負返還責任。

Article 356-10

- I. A close company may explicitly provide in its Articles of Incorporation to resolve the surplus earning distribution and/or loss offsetting after the close of each semi fiscal year.
- II. The proposal of surplus earning distribution and/or loss offsetting after the close of each semi fiscal year, with the business report and financial statements audited by supervisors, shall be resolved by the meeting of board of directors.
- III. When distributing surplus earning in accordance with the first Paragraph, a close company shall estimate and reserve the tax payable, cover its losses and set aside a legal reserve in accordance with the provisions of this Act. Where such legal reserve amounts to the total paid-in capital, this provision shall not apply.

IV. When a close company has violated the provisions of the preceding Paragraph, its shareholders shall, to the extent that the surplus earning has distributed to them, be liable for the repayment of surplus earning to the company .

第三百五十六條之十一

I. 公司私募普通公司債，應由董事會以董事三分之二以上之出席，及出席董事過半數同意之決議行之。

II. 公司私募轉換公司債或附認股權公司債，應經前項董事會之決議，並經股東會決議。但章程規定無須經股東會決議者，從其規定。

III. 公司債債權人行使轉換權或認購權後，仍受第三百五十六條之一之股東人數及公司章程所定股份轉讓之限制。

IV. 第一項及第二項公司債之發行，不適用第二百四十六條、第二百四十七條、第二百四十八條第一項、第四項至第七項、第二百五十一條至第二百五十五條、第二百五十七條之一、第二百五十七條之二、第二百五十九條及第二百五十七條第一項有關簽證之規定。

Article 356-11

I. A private placement of corporate bonds by a close company shall be adopted by a majority of directors at a meeting attended by two-thirds or more of the total number of directors.

II. A private placement of convertible corporate bonds or corporate bonds with warrants by a close company shall be adopted by both the resolution of a meeting of board of directors set forth in the preceding Paragraph and the resolution of a shareholders' meeting, provided, however, if the provisions of its Articles of Incorporation require no resolution of a shareholders' meeting, such provisions shall govern.

III. The restrictions on number of shareholders and transfer of shares imposed by the Articles of Incorporation set forth in Article 356-1 shall still apply after the holders of corporate bonds exercising their conversion rights or warrants.

IV. The provisions of Article 246, Article 247, Paragraph 1 and Paragraphs 4 through 7 of Article 248, Articles 251 through 255, Article 257-1, Article 257-2, Article 259, and Paragraph 1 of Article 257 regarding certification of corporate bonds shall not apply to the issuance of corporate bonds provided in Paragraph 1 and Paragraph 2 of this Article.

第三百五十六條之十二

I. 公司發行新股，除章程另有規定者外，應由董事會以董事三分之二以上之出席，及出席董事過半數同意之決議行之。

II. 新股認購人之出資方式，除準用第三百五十六條之三第二項至第四項規定外，並得以對公司所有之貨幣債權抵充之。

III. 第一項新股之發行，不適用第二百六十七條規定。

Article 356-12

I. The issuance of new shares of a close company shall be adopted by a majority of directors at a meeting attended by two-thirds or more of the total number of directors, unless otherwise provided for in its Articles of Incorporation.

II. Paragraphs 2 through 4 of Article 356-3 shall apply mutatis mutandis to the contribution of equity capital for subscribing new shares. In addition, such contribution can also be made in the form of monetary credit extended to the close company .

III. Article 267 shall not apply to the issuance of new shares referred to in Paragraph 1 of this Article.

第三百五十六條之十三

I. 公司得經有代表已發行股份總數三分之二以上股東出席之股東會，以出席股東表決權過半數之同意，變更為非閉鎖性股份有限公司。

II. 前項出席股東股份總數及表決權數，章程有較高之規定者，從其規定。

III. 公司不符合第三百五十六條之一規定時，應變更為非閉鎖性股份有限公司，並辦理變更登記。

IV. 公司未依前項規定辦理變更登記者，主管機關得依第三百八十七條第七項規定責令限期改正並按次處罰；其情節重大者，主管機關得依職權命令解散之。

Article 356-13

I. A close company may voluntarily change its status into a non close company by a resolution adopted, at a shareholders' meeting, by a majority of the shareholders present who represent two-thirds or more of the total number of its outstanding shares.

II. Where stricter criteria for the total number of attending shareholders and for the number of votes required to adopt a resolution at a shareholders' meeting referred to in the preceding Paragraph are specified in the Articles of Incorporation of a close company, such stricter criteria shall govern.

III. In any event that a close company fails to meet the requirements set forth in Article 356-1, the company shall change its status into a non close company and shall apply for a necessary alteration registration in respect of such change accordingly.

IV. If a close company fails to apply for an alteration registration in accordance with the preceding Paragraph, the competent authority may order it to rectify such violation within a given time limit and impose successively in each case a fine based on Paragraph 7 of Article 387; where the violation is of a severe nature, the competent authority may, ex officio, order the dissolution of a company.

第三百五十六條之十四

I.非公開發行股票之股份有限公司得經全體股東同意，變更為閉鎖性股份有限公司。

II.全體股東為前項同意後，公司應即向各債權人分別通知及公告。

Article 356-14

I. A non public offering company may change its status into a close company by the unanimous consent of its shareholders.

II. After the unanimous consent of its shareholders provided in the preceding Paragraph, the company shall immediately notify each of its creditors and make a public announcement.

第四百四十九條

本法除中華民國八十六年六月二十五日修正公布之第三百七十三條、第三百八十三條、一百零四年六月十五日修正之第十三節條文之施行日期由行政院定之，及九十八年五月五日修正之條文自九十八年十一月二十三日施行外，自公布日施行。

Article 449

This Act shall take effect from the date of promulgation thereof, except for the effect date of the Article 373, Article 383 amended on June 25, 1997, Section 13 amended on June 15, 2015 to be decided by the Executive Yuan, and the articles amended on May 5, 2009 to be in force on November 23, 2009.