

Shenzhen, China Rooms 1203-06, 12/F. Di Wang Commercial Centre 5002 Shennan Road East Luohu District, Shenzhen T: +86 755 8268 4480	Shanghai, China Room 603, 6/F., Tower B Guangqi Culture Plaza 2899A Xietu Road Xuhui District, Shanghai T: +86 21 6439 4114	Beijing, China Room 303, 3/F. Interchina Commercial Bldg. 33 Dengshikou Street Dongcheng District, Beijing T: +86 10 6210 1890	Taipei, Taiwan Room 303, 3/F. 142 Section 4 Chung Hsiao East Road Daan District, Taipei T: +886 2 2711 1324	Singapore 138 Cecil Street #13-02 Cecil Court Singapore 069538 T: +65 6438 0116	New York, USA 202 Canal Street Suite 303, 3/F. New York NY 10013, USA T: +1 646 850 5888
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Hong Kong Company Incorporation Guide (4) Qualification, Rights and Obligation of Shareholders (Members)

Unless otherwise indicated, the Hong Kong company stated in this article refers to a private company limited by shares formed and incorporated in Hong Kong in accordance with the Hong Kong Companies Ordinance.

1. Minimum and Maximum Numbers of Shareholders

A private company limited by shares must have at least one shareholder and limit the number of members to 50.

A member excludes a person who is an employee of the company, and a person who was a member while being an employee of the Hong Kong company and who continues to be a member after ceasing to be such an employee.

In addition, two or more persons who hold shares in the company jointly are to be regarded as 1 member.

2. Qualification of Shareholders

A shareholder can be a nature person from any nationality, or a corporate body incorporated any place in world. A shareholder and the director can be the same one.

3. Information Disclosure

The name and residential address of the shareholders must be registered with the Companies Registry, and entered into the Register of Members, once incorporated.

Public can by way of online database search and refer to the image records of Incorporation Form, Returns of Allotment and Annual Returns (with a list of members) to obtain shareholders' information of a company limited by shares.

Perhaps considered to anonymity to achieved by the use of offshore company, which would be holding shares in and acting as director of the Hong Kong incorporated company.

4. Rights of Shareholders

- (1) They are entitled to receive dividend of the company when profits are available; and
- (2) The company undergoes winding-off, they are entitled to the company's surplus of assets after all the debts incurred have been paid off.

5. Obligations of Shareholders

The articles of association of a limited company must state that the liability of its members is limited, that is limited to any amount unpaid on the shares held by the members.

A shareholder has liability to investment as capital injection by subscribe to the shares of a company, to ensure that the company can have a capital to run the business. If the shares are fully paid, that is the end of the shareholders' obligation to the company. However, if the shares are only partly paid at the time it was subscribed, the shareholders would have the liability to pay the balance when the company calls the shareholders to pay, or when the company is wound up.

6. Relationship between Shareholders and Directors

A company's powers as given to it by law and by its Articles of Association. Subject to the Company Ordinance and the Articles of Association, the business and affairs of the company are managed by the directors, who may exercise all the powers of the company.

However, the shareholders can reserve power by special resolution, direct the directors to take, or refrain from taking, specified action. Also, can be control the exercise of the powers vested by the articles in the directors by alteration of articles, removal of directors, or refusing to re-elect the directors concerned.

For certain events, the approval of the shareholders in general meeting is required:

- (1) Alteration of the company's articles of association;
- (2) Alteration of the company's capital, e.g. increase or reduce the company's capital;
- (3) Appointment and removal of the auditors;
- (4) Removal of directors;
- (5) Payment to directors for loss of office and retirement;
- (6) Winding up.

7. Shareholders General Meeting

The general meeting is the principal opportunity and ideal venue for shareholders to meet and exchange views on the Group's business with the Directors and the management. The shareholders have right to attend the general meeting, exercise their right to speak and vote, and give an advice on improving the company operational and governance matters.

There are three kinds of resolutions:

(1) Ordinary resolution

The proposed resolution is accepted by a simple majority (i.e. more than 50%) of those members present and entitled to vote at the general meeting. A period of not less than 14 days' notice has to be given to each member before the meeting. For example, an ordinary resolution is required for the increase of capital of the company.

(2) Special resolution

The proposed resolution is accepted by not less than 75% of those members present and entitled to vote at the general meeting. A period of not less than 21 days' notice has to be given to each member before the meeting. For example, a special resolution is required for alteration of the company's Articles of Association.

(3) Written resolution

The proposed resolution is approved and signed by all the members of the company. Such a written resolution will be regarded as a resolution duly passed at a general meeting and, where appropriate, as a special resolution.

If you wish to obtain more information or assistance, please visit the official website of Kaizen CPA Limited at www.kaizencpa.com or contact us through the following and talk to our professionals:

Email: info@kaizencpa.com, enquiries@kaizencpa.com

Tel: +852 2341 1444

Mobile: +852 5616 4140, +86 152 1943 4614

WhatsApp/ Line/ Wechat: +852 5616 4140

Skype: kaizencpa

SERVICES SCOPE



CONTACT US



KAIZEN CPA LIMITED

Rooms 2101-05, 21/F., Futura Plaza
111 How Ming Street, Kwun Tong, Hong Kong.
T: +852 2341 1444
E: info@kaizencpa.com

SHENZHEN, CHINA

Rooms 1203-06, 12/F
Di Wang Commercial Centre
5002 Shennan Road East
Luohu District, Shenzhen
T: +86 755 8268 4480

SHANGHAI, CHINA

Room 603, 6/F., Tower B
Guangqi Culture Plaza
2899A Xietu Road
Xuhui District, Shanghai
T: +86 21 6439 4114

BEIJING, CHINA

Room 303, 3/F, Interchina
Commercial Building
33 Dengshikou Street,
Dongcheng District, Beijing
T: +86 10 6210 1890

TAIPEI, TAIWAN

Room 303, 3/F
142 Section 4, Chung Hsiao
East Road, Daan District
Taipei, Taiwan 10688
T: +886 2 2711 1324

SINGAPORE

138 Cecil Street, #13-02 Cecil
Court, Singapore 069538
T: +65 6438 0116

NEW YORK, USA

202 Canal Street Suite 303, 3/F
New York
NY 10013, USA
T: +1 646 850 5888

LONDON, UK

Unit 2, 2/F, 39-41 High Street,
New Malden, Surrey
KT3 4BY, UK
T: +44 20 8144 6466