

Formation and Management of Macao Corporation

A Macao corporation is a company registered under the Commercial Code of Macao which is either:-

1. An unlimited liability company
2. A mixed liability company by "Quotas"¹
3. A mixed liability company by shares
4. A limited liability company by "Quotas"
5. A limited liability company by "sole owner"
6. A limited liability company by shares

As the most common forms of corporation in Macao are types 4 and 5, this document describes mainly the procedures and requirements relating to these two types of corporations

	Number of owners	Capital	Form and participation of capital	Name ending with
Limited liability company by Quotas	2 to 30 persons	Minimum MOP25,000 (USD3,132). If the capital is over MOP 25,000, stamp duty is required.	By subscribing to the capital of the company at a minimum of MOP1,000(USD125) or in multiples of MOP100 (USD12.5)	Limitada (Lda)
Limited liability company by sole owner	1	-same as above	-sole shares held by the sole owner.	Sociedade Unipessoal Limitada

Incorporation Procedures

Being a code law jurisdiction, the incorporation procedures in Macao are not as simple as that in common law countries. In fact, attorney (notary public) is involved in the preparation of documents and notarization throughout the process. Please note that the amount of notarization fee depends on the number of shareholders and directors and in some cases, depends on the amount of registered capital involved.

There is no restriction on foreign entities or individuals setting up corporations in Macao.

The procedures begin from the selection of a trading name and application made to the Commercial Registry Office, which will issue a name reservation document. The name may be reserved for 60 days.

After the name application is approved, one or more persons of full age and capacity, of any nationality

¹ Quotas : this is the equivalent of "Stock", a concept relative to "Share".

and domicile, may sign the Memorandum and Articles of Association² (“M&A”) and various other documents required under the Commercial Code. Notarization may be done before a public notary (government official) or a private notary (attorney). These documents so executed and notarized are then registered at the Commercial Registry Office.

We recommend that the documents are to be notarized before a private notary to save time. Unless Power of Attorney is arranged, all shareholders and directors involved must appear before the notary in Macao for notarization.

The corporation acquires legal personality upon registration with the Commercial Registry Office. However, no Certificate of Incorporation will be issued, only an “official records” can be obtained from the Commercial Registry. Within 15 days after registration, the company should apply to the Finance Services for declaration of commencement of operations, by completing Form M1 and submitting other documents.

It should be noted that

- 1 Corporate shareholders are permitted. However, additional notarization of board of director’s minutes approving the setting up of the Macao Corporation at the jurisdiction where the board of directors hold their meeting is required. Arranging for translation and notarization of company documents in certain jurisdictions can be time-consuming and cumbersome.
- 2 Note that the official languages of Macao are Chinese and Portuguese. English is a working language only and is acceptable for registration, but translation is still required during the notarization process. Manivest can arrange for translation if required.
- 3 Corporate director³ is permitted under Section 234 of the Commercial Code. According to the code, if a corporate body is appointed as a director of the company, a natural person should be appointed by the said director to be its representative. However, we do not recommend the appointment of a corporate director since more documents are required to be notarized. When the representative is changed, the whole set of documents have to be notarized and re-submitted.

The time frame of the whole process is about 20 days.

Power of the Corporation

According to section 177 of the Commercial Code, a corporation may perform all lawful acts and exercise all powers pertaining to the necessary performance and attainment of its objectives as provided for in its M&A.

Macao companies are not allowed to:

- use MOP as the transaction or settlement currency
- sell products or services to Macao residents
- take Macao as target market

² We use the term “Memorandum and Articles of Association” representing its constitutional document. In fact, this document is a very simple document containing basic information such as the company name, type, nature of business, registered office, capital, term of payment, and the formation of its administration and supervisory body.

³ The governing body of a corporation named under the Commercial Code is known as “Administration Body”.

Share Capital

The minimum capital required is MOP25,000 (USD3,132). According to Section 201 to section 204 and Section 358 to Section 363 of the Commercial Code, the following restrictions apply:

- 1 “Quotas” should be denominated in MOP. The minimum value is MOP1,000 and should be denominated in multiples of MOP100.
- 2 Capital injection can be in the form of cash or non-cash contributions.
- 3 In case capital injection is in the form of non-cash contribution, a valuation report certified by a qualified auditor must be attached to the incorporation document. The report must be prepared within 60 days of the incorporation
- 4 Capital injection in respect of the first MOP25,000 must be paid immediately upon incorporation. For capital injection beyond MOP25,000, delayed payment is allowed. The delayed amount should not be more than 50% the total amount of quotas as agreed to be contributed by any one owner. The maximum delayed period is three years.
- 5 If the original owner of the quotas defaults in payment, other quotas holders are required by law to take up his quotas, in proportion to their quotas.

Quotas-holders

Minimum one owner (in case of Sociedade Unipessoal Lda) or two owners, who can either be individuals or corporations, are required for a corporation. Shareholders need not be residents but since certain documents have to be notarized by a Notary Public in Macao, unless Power of Attorney is arranged, they have to visit Macao to perform the notarization process at least once.

There are provisions in the Commercial Codes governing the increase and reduction of capital.

Since Macao is not a common law jurisdiction, it may not recognize nominee or trust ownership of equity interest in a company. Please consult your lawyer.

Directors

The Commercial Code provides for the establishment of a “Governing Body” which is similar to the Board of Directors in a common law jurisdiction. For simplicity, we refer this body as Board of Directors and its members Directors.

The minimum number of director required is one, who may or may not be a quotas-holder. Directors should be elected by quotas-holders and shall hold office indefinitely unless specified in the M&A.

There is also no residency requirement for directors. Directors may be removed by resolution of quotas-holders

Company Secretary

A company secretary should be appointed in case that:

- 1 The company has ten or more than ten quotas-holders **or**
- 2 The company has issued debentures **or**
- 3 The company is incorporated by the form of a limited liability company by shares
- 4 The capital, total assets or turnover, exceeds an amount more than a directive from the government (the Chief Executive)

There is no requirement that the company secretary must be a Macao resident, but the secretary, according to Section 237 of the Commercial Code, must be one of the members of the board of directors, or one of its staff members or a lawyer.

Supervisors

A supervisor OR a board of supervisors, comprising three members must be appointed in case that:

- 1 The company has ten or more than ten quotas-holders or
- 2 The company has issued debentures or
- 3 The company is incorporated by the form of a limited liability company by shares
- 4 The capital, total assets or turnover, exceeds an amount more than a directive from the government (the Chief Executive)

There is no requirement for the supervisor to be a Macao resident, but one of the members must be an authorised auditor in Macao. The supervisor must be a natural person.

Registered Office

Macao Corporations are required to keep a registered office in Macao.

Registration with the Financial Services

Macao Corporations, after incorporation, are required to complete an Industrial Tax Form (Form M1) for the Financial Services.

Annual Quotas-holders Meeting and Return

Macao Corporations are required to hold an annual quotas-holders meeting, within three months after its close of financial year. The function of this meeting is to consider and receive financial statements, declare dividends and to appoint auditors, supervisors and directors.

Proxy is only allowed in case the proxy is another quotas-holder, spouses or his direct relatives. Meetings should be held at the company's registered office or anywhere in Macao

Section 217 of the Commercial Code provides for method of resolutions, which include the provision of written resolution. However, written resolution is invalid if one quotas-holder doesn't attend the quotas-holders meeting.

Accountancy and Audit Requirements

Books and records are required to be kept by the company in MOP for 10 years.. Other currencies can be used but amount should be recorded in MOP at the same time. The corporation is required by law to keep adequate books. There is no statutory audit requirement under the Commercial Code but certain companies must submit audited financial statement. There is no provision for filing of accounts to the Companies Registry. The company can adopt a 12 months accounting year either ended on 31 December, 31 March, 30 June or 30 October.

How Manivest can help you

The directors and management of Manivest are professionals in the offshore industry having served the Asia market for over 27 years. Through our offices in Hong Kong, Shanghai, Hangzhou and Macao as well as our associates in other Asia cities, we offer a full range of comprehensive value-added services to professional advisors and their clients.

Manivest offers the following services:

- Incorporation of Macao and other onshore/offshore companies and structures
- Full corporate management services
- Registered office, business office, mail redirection and business centre (available in selected locations only)
- Accounting services
- Re-invoicing services
- Tax and asset planning services
- Asset protection and preservation advisory services
- Business establishment services
- Market exploration services

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