

QAU Memo No. 2, s2017



In this issue:

SEC issued an opinion whether a foreign stockholder may be elected as President of a company engaged in renewable energy. And, in a separate notice, the public is being informed about the closing of a cashier's office at SEC Ortigas Branch.

R.S. BERNALDO & ASSOCIATES

TAKING YOU FURTHER

SEC Notice: The Cashier's Office at SEC Ortigas Branch will be Closed

The Cashier's Office at SEC Ortigas Branch will be closed effective January 3, 2017 (Tuesday). In case of payments, kindly proceed to SEC PICC Head Office-CASHIER or SEC Satellite Offices.

SEC Opinion No. 16-29: Election of Foreign Stockholder as President of a Renewable Energy Company

Issue

The SEC was requested to provide an opinion on whether or not a foreign stockholder can be elected as President of a Renewable Energy Company, 60% of which is Filipino owned.

Background

Austworks Corporation:

- venturing into renewable energy, engaged in the exploration, development and utilization of natural resources, which is a **partially nationalized activity**;
- 88% currently owned by Australian stockholders.
- fully aware that Department of Energy Circular No. DC2009-07-0011 requires a Renewable Energy Company to be a Filipino corporation at least 60% being owned by Filipinos.

Austworks will restructure its capitalization to comply with the 60% Filipino-ownership requirement after that it plans to elect, as its President, one of its Australian stockholders.

Opinion

The Commission states that this intention of Austworks to elect an Australian Stockholder as its President is governed by Section 2-A of the Anti-Dummy Law which prohibits aliens from being appointed to management positions as president, vice-president, etc. of corporations engaged in wholly or partially nationalized activities.

Consequently, it cannot elect one of its Australian stockholders as its President.

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Comments and suggestions are welcome.

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