A nighttime aerial photograph of a city skyline, likely Beijing, featuring the CCTV New Building on the left and a dense cluster of illuminated skyscrapers in the center. In the foreground, a complex highway interchange with light trails from traffic is visible. The sky is a deep blue.

The Practical & Easy Guide to Setting Up a WFOE in China



LNPChina

BUSINESS IN CHINA CAN BE EASY

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Setting up a WFOE in China can be a **smooth, easy process.**

It simply requires preparation, and working with an experienced partner to guide you through. In this guide, we have distilled our years of experience helping our clients set up WFOEs. We highlight the typical obstacles, and how to overcome them.

WFOE setup has become easier over the years, but companies still often get caught out, getting badly stuck or incurring significant unplanned costs. It really pays to have a steady guiding hand to get it done painlessly.

**HERE, WE SHARE MANY OF THE TRICKS OF THE TRADE FOR EFFECTIVELY
COMPLETING THIS PROCESS WITH MINIMUM HASSLE.**

“Don’t get caught out. If you don’t plan and prepare for your WFOE set up properly, you may end up with significant delay and unexpected costs. Lean on an experienced guiding hand, it’s worth it. This guide is the perfect place to start.”



ANDY CLAYTON, CEO, LNP China

What really holds the process up and how to get prepared?



1

ESTABLISHING THE OWNERSHIP STRUCTURE FOR A WFOE IN CHINA

Consider the ownership and tax advantages of holding direct ownership against setting up a holding company in Hong Kong.

Make the decision on ownership for your WFOE early.

2

DECIDING WHERE TO SET UP A WFOE IN CHINA

Each city in China has its own distinct advantages for WFOE registration.

Consider being close to your Chinese customers, distributors or suppliers.

Moving your WFOE to another city is like starting over.

3

CHOOSING A CHINESE COMPANY NAME

You can choose a Chinese company name through meaning, phonetics or a combination of both.

However, your official Chinese company name doesn't have to be your trading name, so don't get caught up on this.

4

APPOINTING THE LEGAL REP FOR A WFOE

Choose a trusted individual within the company who is a key decision maker and has a close relationship with your company in China.

The Legal Rep will 'hold the chops' for your WFOE in China.

5

GETTING THE RIGHT DOCUMENTS PREPARED FOR WFOE SET UP

Company incorporation certificate, bank letter, passport and photos are just a few of a long list of documents required.

Allow time for notarisation of key documents for your WFOE in China.

6

WRITING COMPANY ARTICLES FOR A WFOE

Decide on a shareholders agreement or articles of association for the WFOE in China and then fit into the template required by the local MOFCOM in China.

7

DECLARING REGISTERED CAPITAL FOR A WFOE

Registered capital requirements were relaxed in 2014. You can now declare WFOE registered capital, but don't have to inject it right away.

8

DEFINING THE BUSINESS SCOPE OF A WFOE IN CHINA

When setting up a company in China, you must define your business scope. You are not permitted to operate outside of your WFOE business scope in China.



1

WFOE Registration in China: What really holds the process up?

How to ensure a smooth registration process for a Wholly Foreign Owned Enterprise (WFOE)?

LNP China is often asked how long it takes to register a WFOE in China. The answer is that it really depends upon you.

The two main factors that cause delays in registration are slow decision-making, and document preparation, on the part of the applicant company. Here are eight stages in the process and our suggestions for ensuring as swift and straightforward a way through them as possible:

PICKING A JURISDICTION

It is not possible to move the registration of a WFOE from one city to another, so the city in which you register the WFOE must be the city in which you stay. This makes the choice of jurisdiction an important one.

Companies take diverse factors into consideration when choosing a city, for example:

- Location of their customer-base
- Location of suitable staff
- Site of production
- Rent, and other key input costs
- Invitation from business or enterprise zone
- Convenient access to a port

Sometimes companies find it hard to anticipate the future growth and direction of their business and so really struggle with this decision. Fear of finding themselves lumbered with a WFOE in a city which is no longer the focus of the business means many get stuck at this point. Sometimes a number of the factors listed may be in conflict, for example the factory may be in one city, the clients in another, and staff members somewhere else again.

Bear in mind that a WFOE in one city can be used to trade and operate in other cities, and subsidiaries can always be registered for future expansion. The key point is to identify the place of business – where the office will be located – and start there.



CHOOSING A NAME

You must choose a suitable Chinese name when registering a WFOE.

Names for WFOEs follow a set sequence:

1. Company name
2. City name, in brackets
3. Type of company.

So a company called 'Lala', registered in Shanghai, working in the creative industry becomes:

Lala (Shanghai) Creative and Design Company Limited

That sounds simple enough, but this can often be where the problems begin.

The name you choose must not already be registered, and a thorough process of name checking is required. More problematic is the choosing of a Chinese name ('Lala' in this example). Some prefer a name that is phonetically close in Chinese, while others like to choose a name with the same meaning. Either way, this triggers a process of getting heavily involved in the meanings and sounds of Chinese characters. Applicant companies typically have no experience of the Chinese language, so this stage can sometimes drag out for a long time.

Remember that the name of the registered entity is less important than the branding the company will

use. Ideally, these would match, but it is common for registered entities in China to have a different name from the brands they sell, so don't lose momentum here.

SELECTING A LEGAL REP

For a small company with a clear owner this may not take too long. However, for larger companies with more complex layers of ownership, it can become a very drawn-out process to agree who is going to be the legal rep of the China company and what responsibilities that entails. Many employees are not very comfortable taking on this position as it appears to bring with it considerable legal liability, although this is usually due to a lack of clarity on the responsibilities involved and how long they may last.

The trick here is to identify the person in your organisation who will have a long term relationship with the subsidiary. Their role in the company is not that important, and the legal rep is largely a nominal role. The important thing is to ensure they will still be around if they are ever called upon.

DOCUMENT PREPARATION

A long list of company documents must be prepared including company license, accounts and tax certificate. Not only do the documents need to be prepared, but they also need to be legalised and notarised, which can involve a lengthy process of



liaison with solicitors and the Chinese embassy in your country. For some companies, getting access to these documents and finding people to visit the Chinese embassy for notarising proves significantly time-consuming. Set aside sufficient time and resource to implement this.

CHOOSING A HOLDING ENTITY

Some companies use their main trading entity as the holding company when registering. Others prefer to use the owners or the directors to directly own the WFOE. Another option is to set up holding entities in an offshore jurisdiction, such as Hong Kong or the British Virgin Islands. Making the decision between these different options often involves complex considerations of issues like tax, ownership, anonymity, and future legal planning of the business – such as future rounds of investment in the company. This can mean companies make minimal progress in the WFOE registration process for months.

COMPANY ARTICLES

When registering you must provide the shareholders' agreement or articles of the holding company. These articles may contain clauses and terms relating to the registration of subsidiaries,

such as letters from the directors, which all need to be prepared according to the articles of the holding company. Furthermore, the WFOE that is registered in China also requires articles to be prepared which must be in line with the articles of the holding company. This process can often hold up registration because it requires the involvement of shareholders, directors and lawyers.

REGISTERED CAPITAL

When registering, the WFOE has to be allocated registered capital. This used to be a very important concept for companies because different levels of registered capital allowed companies to, for example, obtain licenses for certain types of business, or enter the vendor lists for larger clients. Until about two years ago, registered capital declared when registering the WFOE had to be paid up within two years of WFOE registration.

Today these rules have changed, and registered capital only needs to be paid within the lifetime of the WFOE, typically 30 years. The consequences of choosing a higher registered capital are therefore much less onerous than they used to be. Save time here by giving careful thought to this issue and agreeing a specific number for registered capital.



BUSINESS SCOPE

One of the oddities of registering a WFOE in China is that it must have a clearly defined scope of business. Operating outside the specified scope of the WFOE is not permitted.

Some companies find themselves agonising over all the potential lines of business they may want to move into in the future. There is the additional uncertainty of whether they will be approved for all of those lines of business when the application for WFOE registration is submitted. The process involves a degree of guesswork and back and forth on behalf of the WFOE registration agents.

Be aware that it is possible to add business scope at a later date; this decision is not terminal. Work with the agents to put together a sensible list based on anticipated business scope for the first 1-2 years, including only items that are likely to be approved.

MINDSET, PREPARATION AND EXPERT ADVICE

Many people have a misconception that registering a WFOE in China takes a long time because the Chinese authorities spend time deliberating on approving an application. In fact, this is the most predictable part of the process; usually the authorities complete the approval process within the prescriptive time.

As you can see, more time is often lost by applicant companies as they try to figure out the complexities of the requirements for registering the WFOE.

In our experience, the smaller, nimbler companies with a clear decision maker such as an entrepreneur or founder get through this process the quickest, because decision-making is centralised. Companies with a more diffuse decision-making process involving committees, lawyers, and in-house and out-house experts take more time over the process. The slowest of all are those institutions with government funding, such as universities.

Mindset is key. Be prepared to make tricky decisions that may feel very long-standing. Be prepared, give time to this list of considerations and think through in advance what decisions you might take to facilitate a smooth WFOE registration for your company in China.

Remember, too, that it really pays to have experienced advisers and agents to take you expertly through the process.



2

WHAT DO YOU NEED TO PREPARE FOR REGISTERING A WFOE IN CHINA?

CHECKLIST

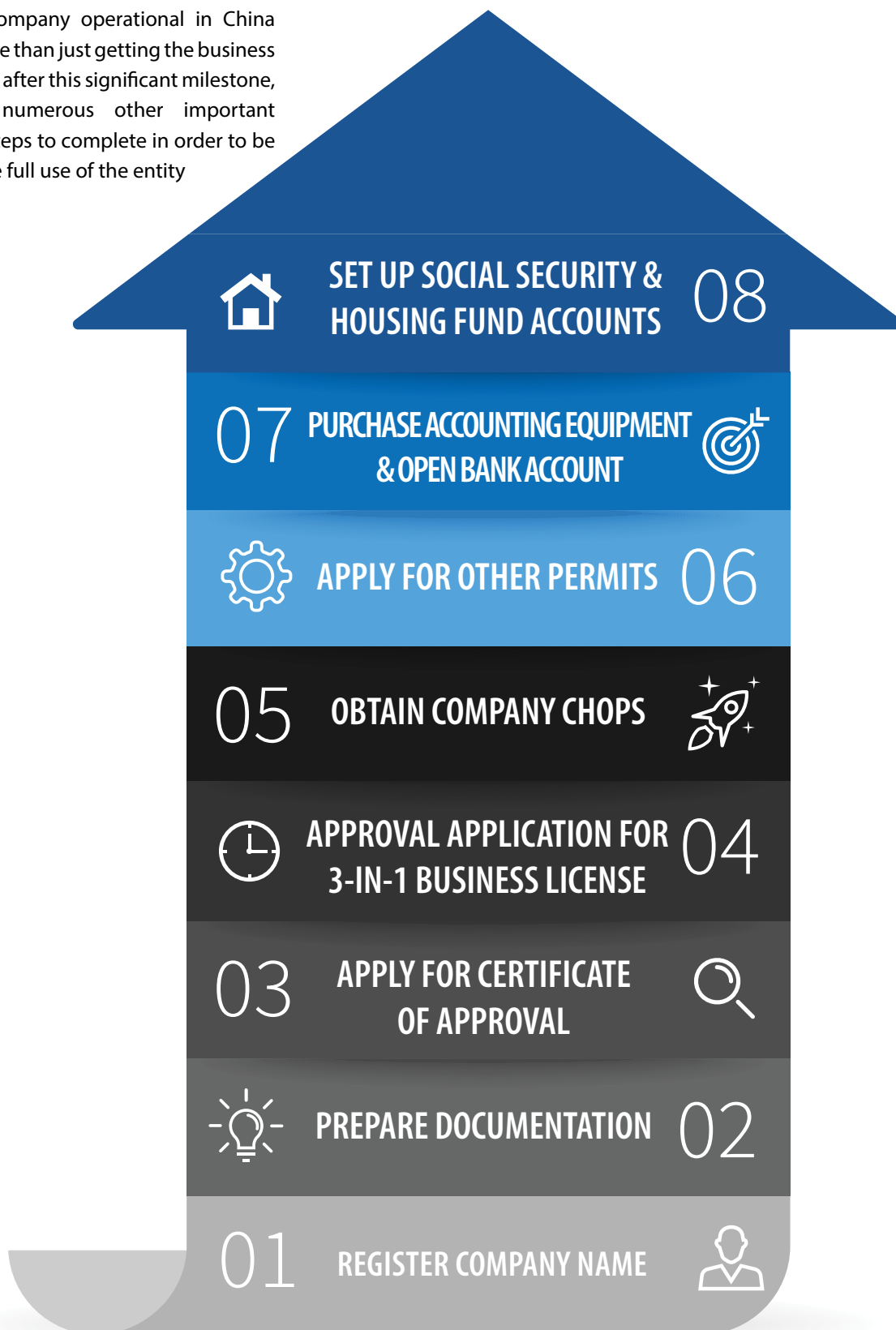
- ☐ Holding Company Certification of Incorporation together with:
 - ☐ Letter of Notarization from Consular Section of Foreign Affairs in home jurisdiction
 - ☐ Notarization from PRC Embassy in home jurisdiction
- ☐ Holding Company Financial Documents
- ☐ Certificate of Credit from Company Bank
- ☐ Company audited accounts from last business year
- ☐ Legal Representative & Director Information. This includes:
 - ☐ Photocopies of Passport Photo Page
 - ☐ X6 Passport Photos each
 - ☐ Resume / CV for Legal Rep and each Director
 - ☐ Articles of Association
 - ☐ Authorization Letter



3

WHAT IS THE PROCESS OF SETTING UP A WFOE IN CHINA?

Getting a company operational in China involves more than just getting the business license. Even after this significant milestone, there are numerous other important regulatory steps to complete in order to be able to make full use of the entity





**Please contact us today for a FREE consultation
at enquiries@lnpchina.com**

China Office: 1719, Cameo Centre, Wangjing, Beijing
UK Office: Launchpad Centre, Said Business School, Oxford, UK
www.lnpchina.com

