

BUSINESS SET UP

5 common mistakes you can easily avoid

Setting up a Wholly Foreign Owned Enterprise in China is the method of choice for most companies or individuals wishing to operate within China. However, due to various requirements, technicalities and costs the process can be difficult and time consuming if you are not adequately prepared and informed. To avoid these issues you should keep in mind the following:

1 Learn how to differentiate between Registered Capital and Total Investment

The Registered Capital of WOFE refers to the capital subscribed by the investors and registered with the relevant Chinese authority for the purpose of establishing the WOFE.

The Total Investment refers to the total amount of capital needed by the WOFE for its establishment and operation. It includes infrastructure construction and the working capital of the WOFE based on the production scale of the WOFE.

The Registered Capital subscribed by the investors will be contributed to the WOFE by the investors. The Total Investment should be equal or superior to the total amount of registered capital.

The difference between the Total Investment and the Registered Capital should be financed by investors

through loans and may be summarized as follows:.

$$\text{TOTAL INVESTMENTS} = \text{REGISTERED CAPITAL} + \text{INVESTOR LOANS}$$

Optimize your Capital / Investment financial ratio

The relationship between Total Investment and Registered Capital needs to be sufficiently balanced. An imbalance here can affect your ability to obtain further debt or other financing from both your holding company and other financial institutions, so pay attention to this as your business might require additional capitalization funding later. The required ratios between Registered Capital and Total Investment capital for an investment below 3 millions USD should not be lower than 70%.

Additional information for investment higher than 3 million USD available on request.

2

Pre-setup costs – investor(s) only & temporary account

The funds transferred for to the capitalization of the Company can only come from the investor's bank account. The remitter's name has to be exactly the same as the one given for the investor's company/individual in preamble of the articles of association.

The investor(s) will incur costs before the issuance of the business license. Without the opening of a temporary account in China, those costs will NOT be accounted as registered capital and will only be refundable in RMB; therefore not directly refundable to the mother company.

Ask your advisor for the opening of the temporary account

If the money sent to China does not come from the investor and is not pre-approved by the SAFE as a loan then those funds will be regarded as revenues and therefore taxable to up to the total amount of corporate income tax

The investor shall not pay its suppliers in China directly; ALL the costs shall be paid by the Company either from the temporary account or from the registered capital once the business license has been obtained.

3

Registered capital – 15% in 90 days/undercapitalization

The capital account is opened in the bank of your choice. This account will receive the registered capital and the balance of the temporary account. This account will not be entitled to receive more than the given registered capital.

15% of the capital must be wired to this account within 90 days from the issuance of the business license or within 6 months if the registered capital is injected in full at once.

Transfer the EXACT capital amount and ask your bank to cover ALL bank charges including recipient charges. The bank fees will be paid as soon as your company is entirely incorporated.

You need to inject sufficient funds to finance your working capital. The time needed for a capital increase (\pm 2months) may seriously handicap the completion of the set up and the day to day operation of the WOFE.

4

Investors loans – SAFE approval

Whereas Loans in foreign currencies from overseas must be approved by the SAFE to ensure their reimbursement. The approval process takes a



minimum of 20 working days.
This loan should respect the ratio capital/investment (see above in 2.)

5

Loans – NO SAFE approval

Loans granted by banks within mainland China in RMB do not require SAFE's approval and are excluded from the ratio required.

Note: Such loans are not easily obtained and high collaterals will often be required

OUR SERVICE

The most direct way to penetrate the Chinese market is to set up a local presence. There are various forms of investment vehicles available to suit different business objectives and operations.

SJGrand assists you during all the incorporation process. We help you to select the most appropriate legal vehicle for your Chinese plan. We

provide you with strategic consulting to protect its concepts and ideas. SJGrand's experience and relationship with the Chinese authorities will facilitate and accelerate your incorporation.

We provide:

- ~ Offshore business setup
- ~ Onshore business setup
- ~ Specific business setup
- ~ Sina.com like structuring
- ~ Business plans and registered capital evaluation

SJGRAND'S SERVICES OFFER:

- ~ A clear overview of the options you have
- ~ Objectivity: awareness of practice, regulation and independent practice
- ~ Strategic advice
- ~ Gain of time
- ~ Visibility
- ~ Real time update on your incorporation status

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