



How to Search Foreign Legal Practice Materials in China

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Geography of China Practice for Foreign Firms

- Over 100 foreign firms operate in China
- Dozens of the leading US, European and Australian firms
- Mainland offices concentrated in Shanghai and Beijing
- Hong Kong SAR distinct in law and practice
- Other cities (Guangzhou, etc.) still rare

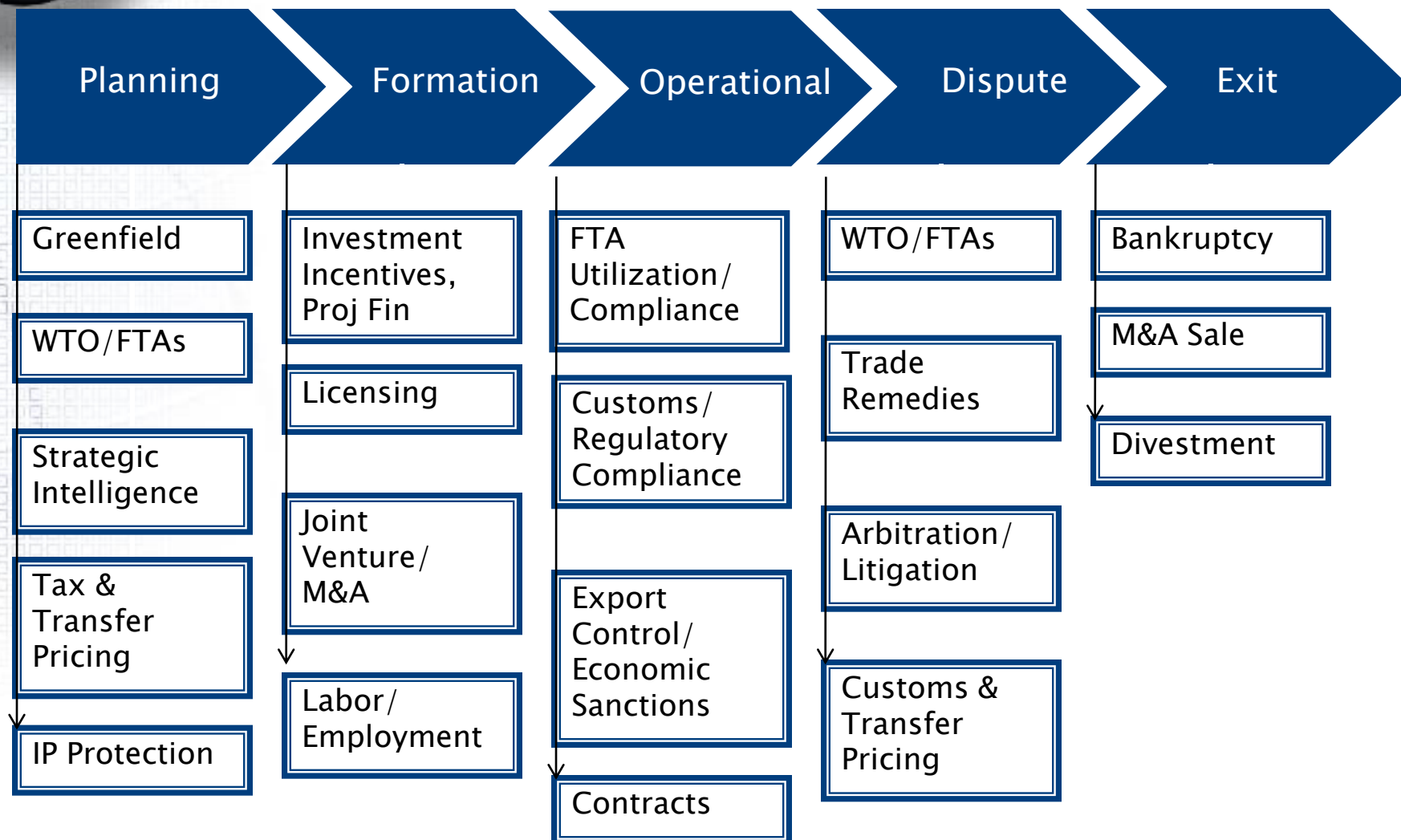


China Practice Areas

- Inbound investment
- Outbound investment
- M&A
- Restructuring & insolvency
- IPOs, Reverse IPO (increasing law suits)
- Energy & infrastructure
- International trade
- Intellectual property
- Tax planning (corporate and private client)
- Disputes
- Investigations & regulatory compliance



Foreign Firm: China Practice Overview





Searching International Legal Practicing Materials

- Print materials: Zheda
- Westlaw
- Lexis



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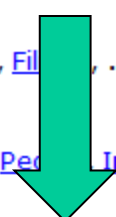
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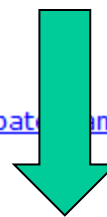
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ECK-CLAUS CLAUSE 7-1[s][i]

Clause 7-1[s][i] Confidential information (Software)

Approx. 1 page

Eckstroms Licensing Forms: Model Clauses Clause 7-1[s][i]

Eckstroms Licensing in Foreign and Domestic Operations Model Clauses
Database updated February 2011

Robert Goldscheider

Chapter 7. Model Clause 7—Confidential Information

Clause 7-1[s][i] Confidential information (Software)

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[Consent in Context: Fulfilling the Promise of International Arbitration](#) (CONSENTARB)  **New**

[Disabilities & the Law](#) (DISABLAW)  **New**

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












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[Corporate Compliance Series: Designing An Effective ERISA Compliance Program](#) (CORPC-ERISA) 
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[Corporate Compliance Series: Intellectual Property](#) (CORPC-IP) 
[Corporate Compliance Series Multibase](#) (CORPC) 
[Corporate Compliance Series: Product Liability](#) (CORPC-PL) 
[Corporate Compliance Series: Securities](#) (CORPC-SEC) 
[Corporate Counsel's Guide to Doing Business in South Korea](#) (CCGSKOREA) 
[Corporate Counsel Guidelines](#) (CORPCG) 
[Corporate Dividends and Stock Repurchases](#) (CORPDIVSR) 
[Corporate Internal Investigations](#) (CORPII) 
[Corporate Privileges and Confidential Information](#) (CPCI) 
[Corpus Juris Secundum](#) (CJS) 
[Corpus Juris Secundum: Government Contracts](#) (CJS-GOVK) 
[Criminal Law of Kentucky](#) (KY-CRIMLAW) 
[Criminal Practice Manual](#) (CRPMAN) 



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Corporate Counsel's Guide to Doing Business in South Korea (CCGSKOREA) ⓘ

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[Series on Contemporary Chinese Law](#) (CNTMPRCHIN) ⓘ

[Shareholder Agreements and Joint Ventures in China](#) (BLC-SHARE) ⓘ

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Mergers and Acquisitions in China (BLC-MA) ⓘ

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 - ☐ Chapter 5. Acquiring an Interest in an Existing FIE
 - ☐ Chapter 6. Acquiring an Interest in a Limited Liability Company
 - ☐ Chapter 7. Acquisition of Shares in Listed Companies
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 - ☐ Chapter 12. Antitrust Law Issues
 - ☐ Chapter 13. The Taxation of Mergers and Acquisitions
 - ☐ Chapter 14. Labor Law Effects on Mergers and Acquisitions

BLC-MA § 4:1

§ 4:1. Structure of transaction

Approx. 1 page

Mergers and Acquisitions in China § 4:1

Mergers and Acquisitions in China
Database updated February 2010

Tao Jingzhou, Owen Nee

Part II. Types of Acquisitions
Chapter 4. Joint Venture Method to Acquire a China Business**§ 4:1. Structure of transaction**

Most joint ventures in China are also a form of acquisition of an existing business or business assets. The contribution of capital, whether a state-owned or privately owned enterprise, frequently involves the contribution to capital of business assets. In some cases, the Chinese investor will contribute a portion of its assets and still another portion will be purchased from the foreign investor. A joint venture with cash contributed by the foreign investor. In this way, a whole business can be transferred. Where a joint venture there is normally a special annex to the Joint Venture Contract that discusses the assets to be contributed or purchased. The annex respects like a standard Asset Purchase Agreement and contain representations and warranties, covenants, and similar provisions.

Because the joint venture company is the buyer, there is always some question as to whether it will enforce its obligations against the China investor. The Board of Directors, which must contain representatives of the Chinese party, may be reluctant to do so in the annex to the Joint Venture Contract. To some extent, this problem can be overcome by drafting in the Joint Venture Contract that the foreign investor may treat the breach of the annex as a failure to contribute capital and exercise the remedies provided in the Venture Law and the Joint Venture Contract.

One other possibility is for the foreign investor to form a wholly foreign owned enterprise ("WFOE") and then either acquire an existing Chinese business for equity in the WFOE (thereby converting it to a joint venture) and for cash, or merging the Chinese business entity into a new joint venture pursuant to the terms of a merger agreement. In 2003 new regulations

	1. The Joint Venture Law: Discussion and Adoption
+	II. Principal Documents and Terms
+	III. Government Involvement in the Process
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	APPENDIX E. Provisions of the Ministry of Foreign Trade and Economic Cooperation and the State Administration for Industry and Commerce on Merger
	APPENDIX F. Partnership Law of the People's Republic of China
	APPENDIX G. Measures for the Administration of the Establishment of Partnership Enterprises in the Territory of China by Foreign Enterprises or Individ

_____ (the "Company")

DUE DILIGENCE QUESTIONNAIRE

PART I

Documents and Information to be Reviewed

For the purposes of this questionnaire:

- (i) *a "subsidiary" means any company or entity in which the Company owns the equity and/or 50% of the voting rights; and*
- (ii) *an "associated company" means (a) any company or entity in which the Company owns 50% or less of the equity and/or 50% of the voting rights; and (b) any company or entity controlling or under common control with the Company.*

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[International Capital Markets and Securities Regulation](#) (SECINTCAP) ⓘ

[International Journal of Not-for-Profit Law](#) (IJNPL) ⓘ

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- APPENDIX US-1. U.S. Document 1: SEC Securities Act Release Number 4708 (July 9, 1964): Interpretative Releases Relating to the Securities Act of 1933
- APPENDIX US-2. U.S. Document 2: Quotation of Securities of Exempt Foreign Issuers on NASDAQ and Related Matters
- APPENDIX US-3. U.S. Document 3: Listing Standards and Procedure for Foreign Corporations on the New York Stock Exchange
- APPENDIX US-4. U.S. Document 4: Sample Notice to Investors from Offshore Offering Memorandum
- APPENDIX US-5. U.S. Document 5: Sample "Plan of Distribution" from Offshore/144A Offering Memorandum
- APPENDIX US-6. U.S. Document 6: Sample Disclosure Concerning Book-Entry Procedures from Offshore Offering Memorandum (Domestic Debt)
- APPENDIX US-7. U.S. Document 7: Sample Disclosure Concerning Book-Entry Procedures from Offshore Offering Memorandum (Convertible Bonds of Foreign Issuers)
- APPENDIX US-8. U.S. Document 8: Representations to DTC Regarding Regulation S Securities
- APPENDIX US-8A. Sample Transfer Restrictions and Settlement Terms
- APPENDIX US-8B. Indenture Provisions Relating to Regulation S and Rule 144A Securities
- APPENDIX US-9. U.S. Document 9: Comments of The Toronto Stock Exchange on 1997 Proposed Amendments to Regulation S
- APPENDIX US-10. U.S. Document 10: Sample Disclosure From Offering Memorandum (Foreign Sovereign Debt)
- APPENDIX US-11. U.S. Document 11: No-Action Letter Regarding Convertible Securities (Aug. 24, 1998)
- APPENDIX US-12. U.S. Document 12: Sample Letters from Nasdaq Regarding Delistings from Nasdaq National Market System
- APPENDIX US-13. U.S. Document 13: Brief of the Securities Exchange Commission, Amicus Curiae, Europe and Overseas Commodity Traders v. Banc of America Securities
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- APPENDIX US-18. US Document 18: Designated Offshore Securities Markets
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- APPENDIX US-20. US Document 20: DOSMs Receiving Category 3 Dispensation
- APPENDIX US-21. US Document 21: Sarbanes-Oxley Act of 2002
- APPENDIX US-22. US Document 22: Sample SEC Letter Enclosing Subpoena

SECINTCAP APP US-3

APPENDIX US-3. U.S. Document 3: Listing Standards and Procedure for Foreign Corporations on the New York Stock Exchange
Approx. 1 page

10D Int'l Cap. Markets & Sec. Reg. Appendix US-3

International Capital Markets and Securities Regulation
Database updated December 2010

Harold S. Bloomenthal and Samuel Wolff


Source Material—North America

APPENDIX US-3. U.S. Document 3: Listing Standards and Procedure for Foreign Corporations on the New York Stock Exchange

Descriptive Note: A foreign corporation can be listed either under the standards for a domestic issuer (based on securities in the United States) or the more severe alternative standards which, however, take into account the corporation's worldwide. A more formidable practicable obstacle to listing is that it will require the issuer to register under the Securities Act of 1934 and subject the issuer to the reporting requirements of that Act. A non-Canadian foreign issuer can register under the Securities Act of 1934 which permits somewhat less extensive disclosure than Forms 10 and 10-K for domestic issuers and the use of accounting principles in accordance with a body of generally accepted accounting principles developed outside of the United States.

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