



Llinks Corporate and M&A Bulletin
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PBOC Accepted Application for Payment Service License from WFOE

By Xun Yang

The Shanghai Office of People's Bank of China published on its official website on 27 July 2018 an application made by World First Business Consulting (Shanghai) Limited ("WF Shanghai") for Third-party Payment Service License. WF Shanghai is a wholly foreign-owned company invested by World First Asia Limited. The acceptance of application as published does not mean that WF Shanghai has been granted with a Third-party Payment Service License. However, the publication itself indicates that the application made by WF Shanghai has formally accepted by PBOC and that the third-party payment service market has been fully open to foreign investment.

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PBOC issued a *No.7 Document* on 19 March 2018, which clarifies, in brief provisions, that third-party payment service market is open to foreign investment. Meanwhile, the document emphasizes the conditions which foreign-invested companies must particularly meet when applying for third-party payment service licenses. These conditions are, in line with the principles under the *Cyber Security Law*, (i) to deploy, within the territory of China, secured and legitimate business system and back-up system which are able to operate independently; (ii) in principle, to store, process and analyze, within the territory of China, the personal information and financial information collected in China; and (iii) to comply the computer system used for

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third-party payment services and the relevant risk management procedures with the statutory requirements in China.

From the publications issued by PBOC, it appears that PBOC pays great attention to the following aspects when examining the application made by WF Shanghai:

- I. The security of the computer system used for carrying out the payment services. The system is required to be tested and evaluated by certified institutions, to demonstrate that the system satisfies the requirements under the *Facility Technique Specifications for Non-financial Institution Payment Services*. This requirement is in line with the security certification requirements under the *Cyber Security Law*.
- II. The Ownership of intellectual property rights in the system used for carrying out payment services. PBOC will have more confidence if the relevant intellectual property is owned by the company incorporated in China, as evidenced by registrations with the China Software Copyright Protection Center. This criterion is consistent with the security and controllability requirements as well as the supply chain risk consideration under the *Security Examination Measures for network Products and Services*.
- III. The application must have a good creditability. With respect to newly incorporated WFOE, the parent company must maintain a good creditability, a sustainable operating status, and track record.

Although it is too early to expect the result of the application made by WF Shanghai, the publication of the application provides a guideline for subsequent foreign investors which are interest in seeking third-party payment service licenses.

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