

SDRC new circular aiming to rein in fake investment

Description

On July 8, 2008 the State Development and Reform Commission issued a circular, namely, Circular on Further Strengthening and Regulating Foreign Invested Project Management (â€œCircularâ€•), in a bid to rein in the flood of speculative hot money into China by means of fake joint venture, submission of false total investment amount or setting up shell companies etc.

In addition to the reiteration and emphasizing of the original provisions which may not have been strictly enforced in some places, there are a few points in the new Circular deserving particular attention.

1. It calls for stricter scrutiny of the authenticity of the foreign investment projects. SDRC and its local offices are required to review and approve the project total investment amount based on the scale and contents of the project, and if necessary, to engage a qualified consultation institution to make assessment of the project. Scrutiny of the background and credibility of the foreign investors shall be strengthened so as to prevent money of no genuine investment intention from flowing into China.
2. Projects that will seriously damage the environment, or consume power, energy or natural resources in a large volume shall be strictly restricted. SDRC and its local offices shall not verify such projects which fail to comply with rules and regulations in respect of environment protection, land zoning and energy saving etc.
3. Inspection of those verified projects shall be enhanced. For projects which did not go through the verification process, or obtain the verification certificates through inappropriate methods such as submission of false information, or fail to be carried out in compliance with requirements of the verification certificate, SDRC and its local offices may revoke the verification certificate and order a stop of the project. Further, projects with such problems will no longer be entitled to preferential policies such as tax reduction or exemption in respect of equipment procurement, and listing or issuance of debenture will not be supported.

SDRC and its local offices are in charge of the verification of foreign investment projects and only with the verification certificate being obtained shall the procedures for setting up the relevant foreign invested companies be initiated.

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