

The State Council Issued "Directory of Government Approved Investment Projects (2013 Edition)"

On December 2nd, 2013, the State Council issued the notification of "Directory of Government Approved Investment Projects (2013 Edition)" (hereafter referred to as "notification").

It is pointed out in the "notification" that in order to further deepen reforms in investment systems and administrative examination and approval systems, simplify administrative procedures and delegate powers to lower levels, earnestly transform the functions of government in investment management, allow market to play decisive roles in the allocation of resources, establish the major player position of enterprises in business investment, enable government to play better roles, strengthen and improve macro-control, the State Council issued "Directory of Government Approved Investment Projects (2013 Edition)". Related contents are summarized as follows:

1. Construction of fixed asset investment projects within the scope of the directory by enterprises shall be examined

and approved by relevant project approval authority in accordance with relevant provisions. Construction of investment projects outside the scope of the directory by enterprises should practice records management. The construction of investment projects by institution and social organizations should be managed according to the directory.

2. Laws, administrative regulations and development plans formulated by the state, industrial policies, targets of total quantity control, technical policies, admittance criterion, land use policy, environmental protection policy, credit policy and so on, are important basis for enterprises to carry out preliminary project work, and are foundations for projects approval authority and various departments including land resources, environmental protection, urban-rural planning, industry management, and financial institution to review the project.

For projects in iron and steel, electrolytic aluminum, cement, plate glass, ships and other industries with overcapacity



problem, the relevant departments of the State Council and local governments should strictly control the construction of new production capacity according to the guidance requirements of the State Council on resolving issues of severe overcapacity.

3. Project approval authorities should improve management measures, increase working efficiency, strictly perform the duties in approval, and strictly follow the requirements on power limit, procedures and time limit to carry out the review. Relevant departments should cooperate closely, improve their management measures, and strengthen the monitoring and regulation of investment activities in accordance with the laws according to their respective responsibilities. Relevant departments shall not process the applications and the financial institution shall not provide credit supports for the projects which are not conformed to the laws and regulations and are not approved or recorded in accordance with relevant regulations and procedures.

4. For projects which should be approved by the State Council according to the regulations, approval will be administrated by the State Council after reviews by National Development and Reform Commission. For projects which should be submitted to the State Council and the investment authority departments of the State Council for approval, opinions of the industry management department of the State Council should be solicited in advance. For projects which should be approved by local governments, provincial governments may specify the limits of approval power for governments at each lower levels according to practical situation within the province. For projects that must be approved by provincial governments, the power of approval shall not be delegated to lower levels.

5. For projects which are covered by specific laws, administrative regulation and national special regulations, those laws and regulations must be followed.

6. The directory should be effective immediately upon its release, and the corresponding 2004 Edition should cease to effect at the same time.

There are following provisions for foreign investment and overseas investment in the "Directory of Government Approved Investment Projects (2013 Edition)":

Foreign investment

Encouraged projects with total investment (including capital increase) of \$300 million or above and restricted projects with total investment (including capital increase) of \$50 million or above in which the Chinese side must be the controlling partner (including relative control) as required by "Industrial Guidance Directory for Foreign Investment" should be approved by relevant investment authority of the State Council. Encouraged projects with total investment (including capital increase) of less than \$300 million in which the Chinese side must be the controlling partner (including relative control) as required by "Industrial Guidance Directory for Foreign Investment" should be approved by local governments.

Overseas investment

For projects having Chinese investment of \$1 billion or above and involving sensitive countries or regions and sensitive industries, approval should be administrated by investment management department of the State Council. Projects of state-managed enterprises and local enterprises with investment of \$300 million or above and which are not within the scope of the preceding provisions should be recorded in investment management department of the State Council. Overseas investment by domestic enterprises (not including financial enterprises), if involving sensitive countries or regions and sensitive industries, should be approved by Ministry of Commerce. In other cases, investment projects by state-managed enterprises should be recorded in Ministry of Commerce and investment projects by local enterprises should be recorded in provincial governments. ▀