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**NEWSLETTER**

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(Henry Zhuang & Partners)

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**NEW RULES ON FIXED ASSETS AND PROJECT FINANCING**

To regulate the fixed assets and project financing in the PRC, on 18 July 2009, CBRC (China Banking Regulatory Commission) promulgated “**Guidance on Project Financing**” (the “Guidance”); and 5 days later, on 23 July 2009, CBRC promulgated “**Interim Administrative Measures on Fixed Assets Financing**” (the “Measures”).

After perusing the Guidance and the Measures, we found that many risk control practices generally adopted by major international banks for provision of the fixed assets and project financing have been incorporated into these two documents, and become the compulsory requirements applicable to all banks in the PRC. For example:

- the bank is required to conduct due diligence investigations on the borrower and the other parties concerned, the related securities, validity of the loan purposes, validity of the project (to find whether the project complies with PRC laws on relevant industry, land administration, environmental protection, required approval and filing procedures), etc.; the bank is also required to make the written due diligence report and to ensure the authenticity, integrity and validity of the report;
- the bank is required to supervise and control the use of the loan proceeds to prevent the same from being improperly used;
- if an advance to be made exceeds 5% of total project investment or RMB5 million, to make sure such advance is properly used, the bank is required to review the related project contracts whereby the borrower is obligated to make payment, and such advance shall only be made to the borrower by payment directly to the payees under the project contracts;

- the bank is required to supervise and control the borrower's accounts including project account, etc.;
- the bank is required to make sure that the ratio of the outstanding advances to the total facilities shall not exceed the ratio of the borrower's paid up capital to the proposed total capital; and
- the loan documents must include certain compulsorily required clauses (failing which, the lender shall face certain penalties).

Upon request, we may provide you with a copy of the Guidance (in Chinese) and/or the Measures (in Chinese).

Yours faithfully,

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