

APPOINTING THE RIGHT ADVISERS IN A COMPANY INSOLVENCY - PLUTA ABOGADOS

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Fundamental to the success of insolvency proceedings and to give a company the best chance of continued operation is the quality of the professional advisers involved, says Juan Ferré, Director of the Madrid office of specialist Spanish and German insolvency firm Pluta Abogados.

"Company insolvencies have become tremendously complex and often involve significant cross-border issues. In order to assist the Judge reach a workable agreement therefore requires a sophisticated level of understanding of the legal, financial and commercial issues involved."

In light of the wave of company restructurings and insolvencies that has engulfed Spain's Commercial Courts the ability of a company and its creditors to reach an agreement quickly, and which needs the interests of both sides, demands that the lawyers, company receivers and judges all have the requisite depth of expertise, he says.

"Perhaps increasingly significant in this regard is the role of company receivers. There are moves to

reinforce the role they play but this can only happen if there is confidence in the profession as a whole."

An issue therefore is ensuring the quality of training of those entering the profession, but also the need for better regulation particularly surrounding the issue of conflicts, and perhaps revisiting the way they are remunerated, believes Ferré.

"Receivers have to be free to operate in the best interests of the parties to which they have a primary obligation, the creditors, but unlike other jurisdictions there are no incentives in Spain for finding a rapid solution or for bringing a company successfully out of insolvency."

He nonetheless cites instances in which administration proceedings involving many thousands of creditors have been concluded in a matter of months. What enables such results is the ability of the lawyers and receivers to work with the judge to help him understand not only the legal minutiae but the major commercial issues involved.

"There is recognition from all sides that it is in everybody's best interests to gain a swift exit from the insolvency process, should it arise. Better still is the ability to avoid formal proceedings altogether and to breathe new life into a company," says Ferré.