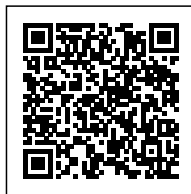


END OF CRISIS AWAKENING INVESTOR INTEREST IN SPAIN - JAUSAS

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Spanish M&A has received a boost due to the end of the crisis and a reduction in insolvencies, with some investors now considering acquiring assets for the first time in around five years, according to Nieves Briz, partner at Jausas in Barcelona.

It is in this climate that lawyers advising investors on the merits and demerits of buying a whole company are challenging the received opinion that an asset-only deal within an acquisition context attracts less risk, she adds.

"Investors always have in mind that if you buy assets, you only buy the concrete ones and you don't assume any liabilities of the seller," Briz says. "Many aspects have to be taken into account when buying a company, not least what element is to be transferred".

One such element of an asset deal in Spain, explains Briz, is the acquisition by the buyer of what is termed an 'independent business unit' from the seller. This effectively means that in a scenario where the seller has outstanding liabilities – connected to labour, tax, and social security, for example – the buyer will be liable for the labour and the tax liabilities related to the business unit.

However, that is not to say there are not scenarios where it makes more sense for an investor to acquire only the assets. "Sometimes a selective buyer will buy only the assets they require – plant, machinery and premises, for example – and will leave the seller to sort out the remaining target company," says Briz. "Furthermore, the buyer might take the view that the business for acquisition is not a big business, so the purchase of the entire company with its liabilities could be the more expensive option." But while each asset-based acquisition may differ, Briz stresses the importance of due diligence in terms of inspection of the records and seeking appropriate advice. "Warranties should be taken out for any liabilities that could arise in the future too."