FEELING THE HEAT

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Latin American investment is pouring into Spain as countries such as Mexico reverse the tide of corporate M&A deals. This leaves law firms with a crucial decision to make on how best to serve the Latin American market. Should you have an exclusive arrangement with a single firm or are looser, more informal arrangements the best way to pick up instructions?

There are signs that Spain´s relationship with Latin America is undergoing a significant change. Data published by Dealogic shows that 2013 was the first year in which the value of Latin American acquisitions of Spanish companies exceeded the value of Spanish acquisitions in Latin America. The Latin American acquisitions of Spanish companies totalled $4.2bn, completely dwarfing the $1bn worth of acquisitions made by Spanish companies in Latin America. So with the tide turning in relation to deal flows across the Atlantic, what impact will this have on the Spain´s legal market? Market insiders say this trend could mark a significant change in approach from law firms, which, until now have been focused on getting the capacity to deliver quality legal services across Latin America and not on receiving work at home. While exclusive Latin American relationships are good to advise on outbound Spanish work, catching in-bound Spanish work requires the opposite – looser relations with a wider group, says one legal sector source. There are doubts about whether opening new offices in Latin America is the best strategy, with some lawyers arguing that a network of loose partnerships with different firms is more beneficial.
First, a few statistics. While Latin American acquisitions in Spain in 2013 had a higher total value than Spanish acquisitions into Latin America, there were actually fewer deals (see box). The data showed

there were 17 Latin American acquisitions into Spain, but 50 Spanish acquisitions into Latin America. Six of the ten biggest Latin American acquisitions in Spain were made by Mexican companies. Some lawyers say Repsol YPF´s dispute with Argentina regarding the seizure of its assets in the country – a dispute that recently reached a $5bn settlement – may have deterred some Spanish companies from investing in Latin America. “There are signs that Spanish outside investment is more targeted, and there is a decrease in investment in certain countries due to political uncertainty shown by cases like the Repsol YPF issue,” says Jose Christian Bertram, Partner at Ashurst. He adds that, consequently, Spanish investors are turning their attention to project finance in Latin America. Colombia is one example. Bertram says: “Colombia has an ambitious infrastructure project and Spanish players are looking – they are more focused on concession business than M&A.”

So why is Latin American investment in Spain on the increase? “The perception of Spain has changed – people had doubts pre-2013 that the country was paying its sovereign debt, but since then there have been a number of landmark deals that have generally increased interest in Spain,” Bertram says. One of the landmark deals he highlights is Microsoft founder Bill Gates´ investment in FCC. “People are thinking, if the Bill Gates funds are investing in Spain there must be a reason – not that it justifies it per se, but it attracts interest,” says Bertram. He adds that there is a lot of interest from Latin America in Spanish real estate and blue chip companies, particularly from well-performing economies like Brazil and Chile.

Turning to greenfield

Javier Amantegui, Partner at Clifford Chance Madrid, says there is still considerable interest from Spanish investors in the Latin American market. “Spanish investors are not looking at mature assets anymore, they would rather look for new investments, they are investing in greenfield,” he says. And why is Latin American investment in Spain increasing? “Latin America is cash rich – it has been making a lot of money in the last three to five years,” says Amantegui. “But there has been a contraction of Latin American economies and they are now hedging their risk by investing in Spain – it is the mature economy that is offering the best opportunities as you can get good assets for reasonable prices.”

Fernando de las Cuevas, Head of M&A at Gómez-Acebo & Pombo, says most of the big Spanish acquisitions of Latin American companies have happened and there will not be many more. “The large Spanish companies are not in acquisition mode, most of the acquisitions concern mid-sized companies that are internationalising,” he says. Indeed, Dealogic´s data shows the average value of Spanish acquisitions in Latin America in 2013 was just $20m. Meanwhile, de las Cuevas says the Spanish government is keen to encourage more Latin American investment at both a corporate and individual level, exemplified by the Golden Visa initiative encouraging overseas investors to purchase real estate. He predicts more investment from Brazil if its internal market slows down. “Brazil may grow less and this may prompt its companies to find other markets,” he says.

According to Rafael Jiménez-Gusi, Partner at Baker & McKenzie Barcelona, the prices in Brazil are already excessive. “As per Brazil the general view is that the market is a bit too hot and consequently the prices are too high,” he says. He adds that Latin America investment in Spain is increasing because their economies are expanding at a rapid rate. “We have seen some signals of outbound investment from Latin American as a result of the sustained growth of their economies in the range of two digit growth,” Jiménez-Gusi says. However, he adds Spanish companies continue to look for Latin American investment opportunities, especially in Peru, Colombia, Mexico and Chile.

Uría Menéndez Partner Eduardo Rodríguez-Rovira, who heads the firm´s Latin America practice, says while Latin American investment in Spain was initially focused on property, it is now spreading to different parts of the economy. “It started in real estate, commercial mainly,” he says. “Now it is not focused on one sector – Latin American investors are investing in all sectors.”

Bertram believes the trend will continue. He adds: “If the signs of the economy are right and the yield is interesting and the balance between risk and yield is something people are willing to consider then why not?” Amantegui agrees: “The principles are still there, that is, the need for Latin

American companies to hedge – I don´t think there will be a significant increase in Spanish investment in Latin America until Spanish companies recover and show lower levels of indebtedness." De Las Cuevas echoes this view. "There will possibly be the same trend this year – there are many opportunities in Spain in the finance, real estate and energy sectors." However, Rodríguez-Rovira hints that the balance may shift once again in 2014. "It [the trend] may slow down as Spain´s economy improves – but Latin American investors are here to stay."

Year	LatAm Acquisitions into Spain		Spain Acquisitions into LatAm	
	Deal Value* ($m)	Number of deals	Deal Value* ($m)	No.
2009	273	6	5.468	27
2010	1.507	9	14.414	38
2011	1.813	9	5.406	31
2012	1.654	11	8.538	34
2013	4.222	17	1.019	50

* Deal value when disclosed (Source: Dealogic)

Hand-holding clients

Bertram says the trend may lead to more UK-based law firms increasing their involvement in Latin American markets, though what form this will take is open to question. "London-based firms with a presence in Spain haven´t made that step of hand-holding clients in Latin America – they may do it with a best friends policy in key areas in Latin America and Africa or they may decide to have a presence in key jurisdictions or alternatively create bespoke teams from one or more existing offices," he says.

However, Amantegui argues it may be difficult for European-based firms to bolster their presence in Latin America. "It may work if you have a good Latin American client that knows you in Spain, but you have to have credibility and depth in the market you are planning to enter," he says. He adds that the key is to have a presence in New York. "For example, if a Colombian company wants to buy a Chilean company, they go directly to New York – we have been advising Latin American countries investing elsewhere in Latin America with the assistance of our New York office."

De las Cuevas says his firm likes to work with Latin American law firms as and when necessary. "We are active in Latin America, we visit and we keep in touch – we won´t open in Latin America, we work with firms there on a case by case basis." One option for firms looking to capitalise on the increased deal flow coming from Latin America could be to replicate PLMJ´s network of looser partnerships with local firms in Brazil, which is more typical of an in-bound legal market.

Meanwhile, in contrast, Garrigues adopted a different strategy, which has involved opening offices in Brazil, Colombia and Peru. However, other lawyers argue that you have to be very deeply ingrained in Latin American markets before you can open an office there and that the best strategy is to work with local firms on a case by case basis.

Rodríguez-Rovira says that the increase in Latin American investment in Spain will mean that more Spanish firms will be looking to forge close relationships with their Latin American counterparts. Market sources point out that Uría Menéndez policy has been to have a `best friend´ relationship with the top firm in each jurisdiction. Rodríguez-Rovira adds: "It makes us more focussed on brand recognition in Latin America."

The flow of investment from Latin America could result in Latin American firms establishing operations in Spain and Portugal, with rumours that some Brazilian firms are looking to open in Lisbon. Meanwhile, Jean Michel Enriquez, a Partner at leading Mexican firm Creel, García-Cuéllar, Aiza y Enríquez, says the trend has had two implications for his firm: "First we have to recommend local counsel to our clients in Spain, and second we have focused our advice to existing clients more on the tax side to ensure efficiency for those outbound investments."

But, the question is, which is the best strategy? With dealflows reversing and now moving from Latin America into Iberia, establishing an office in Latin America could allow a firm to pick up instructions from clients looking to invest in Spain and Portugal. However, on the other hand, it may be a better option for Iberian firms to have more informal relationships with Latin American firms, in the hope of picking up referral work that may otherwise not be passed on to rival international firms with offices in domestic Latin American markets. Whichever option firms decide to choose, it could be time for a radical rethink of their Latin American strategies.