

# HOW COMMITTED ARE FUNDS TO SPAIN?

Posted on 15/04/2014



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## **More funds are investing in Spain and paying higher legal fees than banks but they may turn their attention to other markets**

Fund managers are showing an increasing interest in investing in Spain and are willing to pay bigger legal fees than banks, which are anxious to reduce their expenditure, lawyers say. However, there is disagreement in the legal sector about how committed the funds are to Spain.

According to one Madrid-based partner, funds perceive legal fees differently to banks. "The legal fees we charge are peanuts to them [funds] whereas banks are cutting costs," says one Madrid-based partner. "The distressed debt guys are better payers." Meanwhile, Juan Barona, Partner at Linklaters says funds are less concerned about fees and in some instances would prefer to pay hourly rates. He adds: "In this regard, working for funds tends to be more rewarding for law firms, although they are also more demanding."

There are signs that funds have much more confidence in Spain than they did a year ago and there is an expectation among lawyers that they may become increasingly involved in direct lending as

part of joint ventures with banks (see Banking and Finance Special Report on page 25). However, there are concerns that funds will not be focusing on Spain for the long term. One banking partner says that while funds may be filling the gap left by banks' reluctance to lend due to tighter regulations imposed by Basel III, the banks will eventually recover their position. "New funds will not be here for long, banks will find a way to work around the rules," he says. "They [the banks] will change the rules – they will lean on the regulator, Basel III will not be there forever."

### **Banks will recover**

Ángel Pérez López, Partner at Uría Menéndez, says that funds are currently benefitting from the liquidity gap and low prices, and are financing new projects, participating in restructurings and acquiring financial assets. But he adds: "The market will tend to a re-equilibration – on the one side, after completing the restructuring of the Spanish financial sector and reinforcing their core capital, banks will recover a leading role. On the other side, the funds will have regulations increasing their control and restricting their activities, as there is a view in governments and regulatory authorities that one of the problems which led to the financial crisis was the lack of regulation of some financial markets."

Despite this, some lawyers think there are funds that will retain a long term interest in Spain. Cuatrecasas, Gonçalves Pereira Partner Fernando Navarro says: "Some funds are here for the long run – partly because funds are focused on direct lending, while some pension funds and some insurance companies are sitting on huge amounts of liquidity." He adds: "Some banks are not prepared to loan to certain types of companies – there should be someone who will be willing to participate, direct lending [by funds] is here to stay."

Fernando Lillo, Of Counsel at Jones Day, says that there is still a place for funds, because of banks' lending restrictions. He says: "Given the consolidation in the banking sector, many of the banks have found the necessity to limit credit risk to certain clients, and there will be internal limitations to increasing that risk." But Barona has doubts about the level of commitment firms have to Spain. "I don't know how long funds will stay – they could turn to other continents such as Asia," he says. However, some lawyers argue that it is important to recognise that not all funds are the same. One partner says: "There is a wide spectrum of funds – they are not all opportunistic institutions, there is another type of player that is here to create value – they are concerned about more than money and have concerns about legal and reputational risk."

Given that they are willing to pay larger legal fees than the banks, law firms are sure to be hoping funds are investing in Spain for the long term.