

SIMPLIFYING RECEIVERSHIP IN SPANISH PROCEEDINGS - PLUTA ABOGADOS

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Juan Ferré

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The proposed reforms to Spain's Insolvency Law make a number of changes intended to help simplify the insolvency process.

One of the main provisions is the reduction in the number of Receivers, which should help to reduce the complexity, time scale and costs incurred, says Juan Ferré, Managing Partner of insolvency firm Pluta Abogados.

At present, the Spanish Courts tend to appoint a single Receiver in "abbreviated" insolvency cases, where a debtor is authorised to present an abridged balance and their liabilities do not exceed €10m. If these requirements are not met, the court opens an ordinary insolvency proceeding and three Receivers will be appointed.

"From January just one Receiver will be appointed except in extraordinary circumstances – notably when the debtor's liabilities exceed €100m or it owes money to more than 1,000 creditors – when a

second Receiver could be selected," says Ferré.

In abbreviated proceedings a lawyer and/or an accountant or economist may be appointed as a Receiver, whereas in ordinary proceedings the Board of Receivers must be composed of one lawyer, one accountant or auditor and one ordinary or general preferential creditor appointed by the court, he explains.

The new insolvency law will also bring in other changes, including making Receivers accountable for a debtor's tax liabilities if they do not eliminate deficiencies in tax returns, the ability of creditors to file claims in proceedings electronically, and the introduction of a pre-insolvency restructuring mechanism.

Notably, he says, some businesses are now looking outside of Spain to resolve specific restructuring issues; particularly towards the UK where the ability to impose Schemes of Arrangement has proved significant in some high profile cases.

"More of course can always be done, but the new Receiver rules are clearly a positive first step towards minimising some of the inefficiencies of Spanish Insolvency."