

SPANISH BANKS OFFER UNIQUE 'GAP FINANCING' SOLUTION TO US MARKET - HUNTON & WILLIAMS

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The US infrastructure sector is in need of funds, and Spanish institutions are poised to capitalise offering new financial structures

The Iberian influence on Latin America in infrastructure is well-documented. In North America, however, Spanish companies and financial institutions are starting to have a say in the market as well, says Fernando C. Alonso, the Miami-based Chairman of US law firm Hunton & Williams' Latin America group and practice leader in infrastructure development and finance.

Established more than a century ago, Hunton & Williams LLP currently has around 800 lawyers serving clients in 100 countries from 19 offices around the world, and provides legal services in over 100 separate practice areas. The firm represents both Spanish financial institutions and Spanish infrastructure groups, and its transportation infrastructure practice group has been actively involved in numerous PPP and other infrastructure projects and financings throughout the US.

"Unlike the situation ten years ago," notes Alonso, "today, Spain's largest financial institutions and infrastructure groups are well established in the US and are making their presence felt, particularly in the area of infrastructure development and finance".

Spanish giants Santander and BBVA by now have a significant regional presence in the US, with BBVA acting through its branch office and subsidiaries such as BBVA Compass, stretching from California through Texas and into the south-eastern United States, and Santander, through Sovereign Bank, present largely in the mid-Atlantic and north-eastern states. Smaller institutions such as Banco de Sabadell and Banco Popular have also established branch operations and subsidiary banks in the US, with a presence mainly in Florida. As for the Spanish infrastructure groups, companies such as ACS, FCC, OHL, Cintra and Acciona have become leaders in important transportation infrastructure projects throughout the US and Canada.

Spanish banks have been at the forefront of providing financing for public-private partnership (PPP) projects and other infrastructure works in the US and Canada, according to Alonso. "Spanish banks have not only supported their infrastructure clients from Spain, but also broadened relationships with other domestic and foreign infrastructure groups. Meanwhile, Spanish infrastructure groups have attracted prominence throughout the country not only by prevailing in competitive public projects for important infrastructure work, but also for their innovations in structuring and executing such projects."

Some of these projects have often been procured under traditional PPP arrangements, where a government awards a 'design, build, finance and maintain' concession. The winning contractor (usually a consortium) is responsible for obtaining financing from financial institutions or other sources with repayments tied to various performance criteria of the project. In turn, the contractor receives regular payments from the state for the use of the project, known as 'availability payments', or collects tolls directly. The length of such financings is often long-term (25-35 years).

Alonso notes that, more recently, Spanish banks and infrastructure groups have been employing a financing model imported from Europe, which is modelled as a sale of receivables (cesión de créditos) and has been used in circumstances where a government desires to advance projects for which funding is not yet available.

This type of financing, which has become known as 'gap financing' in the US, exists when banks step in and purchase from a contractor the receivables that are due from the state for work the contractor has completed. "In effect, the bank lends to the government rather than to the contractor and the repayment of the financing is not tied directly to the performance of the contractor," explains Alonso. "Likewise, the length of the debt is often shorter."

In the competitive environment for public infrastructure projects in the US, the Spanish banks and infrastructure groups have clearly made a mark. This has been accomplished not only through innovation and skill but also because of the great coordination between the Spanish financial sector and the infrastructure development groups, says Alonso. "Through novel structuring such as 'gap financing', Spanish financial institutions and infrastructure groups continue to push infrastructure development and finance in the US into new frontiers."