SPANISH IN-HOUSE LAWYERS MONITORING PORTUGUESE DEVELOPMENTS

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Category: In-house news

Spanish businesses will be among those most affected by Portugal's financial assistance package

Current events in Portugal will inevitably have a knock-on effect in Spain and specifically for those Spanish businesses already with operations in the country, participants at a recent Iberian Lawyer In-House Club debate heard.
"The country remains fundamentally stable but nonetheless faces considerable challenges around investor confidence as a result of the lack of efficiency of the State and the competitiveness of many of its businesses," said João Santos, Director of Market Risk at Barclays in Lisbon.
"There is a tradition of good corporate governance but the State needs a deeper framework of change. The Government is being forced to sell its majority and preferential holdings in many major entities in order to free up capital and encourage greater liberalisation."
The European Union (EU), European Central Bank (ECB) and International Monetary Fund (IMF) have

agreed to commit up to €78bn to Portugal, equivalent to 45 percent of GDP, to help resolve its ongoing financial troubles and to restore liquidity to the country's banks.

"Nobody would have wished for the current situation but one positive is that we finally have a recovery plan. Businesses now though need to assess what lies ahead, to adapt to the changes we are likely to see or to capitalise on any new opportunities presented," said Jorge Santiago Neves, Partner with Gómez-Acebo & Pombo in Lisbon, and who acted as co-Moderator of the debate alongside Gonzalo Fernández Atela, Chief Administration Officer at RBC Dexia Investor Services España.

"Over the next two years we are likely to see the largest fiscal restructuring Portugal has ever experienced, if executed properly the country and its major businesses should emerge in a far better shape. For those companies and investors that see Portugal as strategically important it presents an almost once in a lifetime opportunity," added fellow Lisbon-based Lawyer Guilherme Figueiredo.

The Government is to sell its holdings in companies such as Galp, EdP and REN while the national airline TAP and airports operator ANA are to be privatised along with a number of other entities, including potentially the railway operator CP and the Post Office.

Some in the country may be looking to the former Portuguese colonies of Angola and Brazil as possible sources of new investment, but it is Spain that is the country's largest trading partner. An estimated 1,400 Spanish companies are active in Portugal, accounting for nine percent of GDP, and it is these businesses that have the most to lose or gain from the reforms, say some.

"Many foreign investors can afford to stay clear of Portugal but for Spanish business the country remains strategically important, either to develop an Iberian footprint or as a conduit into the rapidly expanding markets of Brazil or Angola," says Santiago Neves.

With the planned recapitalisation of the domestic banks, the forced divestment of non-core operations, and the mandatory privatisation of the nationalised Banco Português de Negócios (without a minimum price) it may be Spanish banks that are among the major beneficiaries. "As a sector we may be particularly well positioned to capitalise on funding arbitrage opportunities," suggested Rui Mesquita, Director of Business Services at La Caixa.

Nonetheless some continue to highlight ongoing risks, including the interdependency of the major banks and listed companies, but also the willingness of many in Portugal to open up to further Spanish investment. "We are still unsure whether the foreign investment that the country needs will be welcomed or resented," said one Madrid-based Fund Manager.

Subtle legal amendments are also proposed to help increase new international investment, including the Insolvency Law to better favour secured creditors, to leasehold laws to encourage real estate investors, and amendments to the tax collection and adjudication systems, as well as a review of the Public Procurement Code and the potential renegotiation of the largest public-private partnership and concessions schemes.

The medicine being proposed by the EU, ECB and IMF may not prove palatable to all but it is required, say some.

"Previously there was a sense that the country was living from one day to the next and experiencing one crisis after another. There is no doubt that the next few years will be tough but at least we have a potential way out. We already see international investors monitoring events but no-one wants to commit until there is greater certainty ahead," concluded Santiago Neves.