

START-UPS, KEY PLAYERS IN ECONOMIC RECOVERY

Posted on 14/09/2020



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According to the report “Evolution of Investment in Spain 2019/2020”, by specialised media StartupsReal (El Referente), the first half of 2020 closed with an aggregate amount of €578 million invested in start-ups, only a €20 million drop compared to the same period last year.

Considering the pandemic, we at Iberian Lawyer wonder if it is the new investments in start-ups in the health and retail sector (eCommerce) that have readjusted the balance sheet. To learn more about this and to find out which sectors are standing out in this market, we interviewed DWF-RCD Innovation and Entrepreneurship area partners, Judith Saladrigas and Carles Ros, along with Montserrat Vendrell, partner at Alta Life Sciences



START-UPS, HEALTH AND OTHER INVESTMENT SECTORS

"As has happened with investment in other sectors, investment in start-ups has not been immune to the crisis resulting from COVID-19. However, there are signs of a certain recovery and an appetite for investment that is waiting for a more propitious scenario. Sectors such as finance and insurance, retail –with the enormous growth of eCommerce during the confinement period–, life sciences or technology, are the ones that have acted as a tractor in recent months," explains Judith Saladrigas, Innovation and Entrepreneurship area partner at DWF-RCD. The firm explains that in recent years there has also been a diversification in the range of investors in start-ups. "Each one for different motivations," says Carles Ros, partner and Judith's colleague in the Innovation and Entrepreneurship area at DWF-RCD. "It should be noted that the investment is led by Venture Capital funds, although other modalities must be taken into account (3 Fs, seed capital fund, accelerators, Business Angels, Fintech, Corporate Venture, Crowdfunding...), which have positioned or repositioned themselves in this context, defining or redefining their priorities, considering the sectors in growth, as well as their contribution of value and interests.

They explain that investors are looking for technological models, start-ups in sectors they know or which are growing exponentially, which offer a distinctive product or way of doing things, generating high value-added, covering a market demand and with competitive economic valuations, compared to other countries. "They also analyse the market: its size, the concentration index of the area in which the start-up will operate (if it is very high or not), competitive advantages, divestment alternatives... In other words, they look for opportunities. However, equally or more important than the above is the human factor, the team that forms the project and, especially, the affinity that all the parties that will make this journey together may have," Saladrigas highlights.

"Both local and international investors analyse operations in a similar way, looking for problem-solving start-ups applying technology or science. In the pharmaceutical sector, for example, some

large group investments are targeted at projects in the early stages of science, which leads to the emergence of spin-offs. It is also worth noting the high level of local investors, who lead important rounds (>€20-30 million) with the participation of international funds. Some domestic funds have been able to convince international investors to invest in local projects that they might not have entered before," says Ros. For her part, Montserrat Vendrell, partner at Alta Life Sciences, the exclusive investment advisor to Alta Life Sciences Spain I FCR (ALSS I FCR), a Venture Capital fund managed by Altamar PrivateEquity SGIC, which invests in life sciences companies, confirms that "COVID-19 has highlighted the relevant role of the health sector, with unmet needs such as new diagnostic systems, new antivirals or effective vaccines. In the health sector, innovation tends to come from start-ups, with more agile models that allow them to be more efficient in early innovation processes and, in turn, be able to assume the risk inherent in these stages. Likewise, the pandemic has imposed virtuality not only in the connections at work but particularly in the relationship with health systems. Start-ups in the digital and health sector (biotechnology, diagnostics or medical devices) have continued to grow and will continue to do so. In the case of ehealth companies, the main challenge was the adoption of new technologies by doctors, insurers and hospitals. The imperative need to gain efficiency and minimise the number of face-to-face patient visits has driven this sector, which has raised more funding in the first half of 2020 than the equivalent period last year. In the Due Diligence process, we always look for proposals that address unmet clinical needs; for top-notch disruptive science or technology and properly protected industrial property with a track record; a large enough market; a team capable of taking it forward; that the funding round allows for a potential leap in value; in general, a combination of all of the above."

FINANCING

"Start-ups are born with very limited resources, and it is common that, in the initial stages, they are the ones who go to the investors with the objective of making themselves known and arousing their interest for a potential investment," says Judith. She explains that, however, it also works the other way around. "The path is also reversed: many investors track the ecosystem looking for opportunities to invest in, at an early stage. Sometimes funds even follow up on projects they haven't invested in because they don't fit in, in terms of their level of development, amount of investment or other factors, to address an investment at a later time when the criteria match." "Start-ups know well how to access funding sources," says Montserrat. "So far, mostly through partnering events or contacts. Normally, the first stages are covered with investment by public seed funds and individual investors. Later, funding rounds are usually led by professional investors (Venture Capital funds or VCs). Depending on the size of the fund and investment strategy, they participate throughout the growth of the start-up. DWF-RCD agrees with Vendrell that start-ups are increasingly focusing their efforts.

"In this search for financing, start-ups take advantage of the different opportunities for connection with the investment ecosystem to present and defend the benefits of their projects. However, the financing strategy is increasingly cured and start-ups are becoming more informed about the target investors," says Saladrigas. But, at what point in the "life" of a start-up is it best to invest? Saladrigas answers that "projects go through different stages of maturity, and each one presents very specific risks and opportunities. There are different profiles of investors, with a lot of specialisation in investing in very specific phases of the life cycle of start-ups, but in general terms, the investment occurs at times when there is an expectation about the potential of the start-up, based on its context and the milestones achieved, or when the investment can be aligned with the strategic objectives of the investor. Usually, the phase in which an investor invests is related to the amount he wants to invest."

KEY ADVICE

"Start-ups and investors have very particular characteristics and different interests, and combining

them is not always easy," says Carles. "One of the main challenges, especially in the case of start-ups, is to become aware of how important legal issues are related to the project and to avoid making decisions without advice, or to do so without a minimum degree of specialisation. Entrepreneurs are specialists in their businesses, but they do not necessarily need to have in-depth knowledge of the legal aspects involved in setting up a business project, nor of the implications of bringing in an external investor, which is why it is advisable to be counselled by experts from the outset." "There is also a fairly widespread belief in the figure of the lawyer as a problem solver when the focus should be on a preventive vision," notes Judith. "In both venture projects and investments, strategy –in this case, legal– is much more important than tactics, not only at the outset but also throughout the project life cycle. Therefore, specialised advice with strategic vision is key to minimising eventualities that may arise. Consequently, from a legal point of view, the challenge would be to advise the start-up, with a legal-strategic approach, so that it grows solidly and invests and a balance between the interests of the parties can be achieved in the development of the investment process. At the level of investors, this is a type of investment with very peculiar characteristics, in terms of the existence of specific mechanisms to protect the risks and interests of the investor and the need to cover the concerns and risks of the VCs that are not shared with other types of investments such as Private Equity."

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