Spain – Banking

Resolution of a bank under law 11/2015: The Banco Popular case



We have experienced the first resolution of a Spanish bank under Act 11/2015, of 18 June, on the recovery and resolution of credit institutions and investment firms and Royal Decree 1012/2015, of 6 November, developing Law 11/2015. Such was the case with Banco Popular, the Spanish bank subject to resolution and subsequently sold to Banco Santander on 7 June 2017.

According to the legal resolution procedure, on 6 June 2017 the European Central Bank (ECB) carried out a 'Failing or Likely to Fail' assessment of Banco Popular and concluded that given the excessive deposit withdrawals, the speed at which liquidity was being lost from the bank and its inability to generate further liquidity, there were objective elements indicating that Banco Popular was likely to be unable to pay its debts or other liabilities.

Alfredo Lafita is a partner at Pérez-Llorca. He can be contacted at alafita@perezllorca.com

Portugal – Tax

Expanding the scope of corporate income tax



In accordance with the State Budget proposal for 2018, gains arising from the onerous transfer of shares, or similar rights, held in companies or other entities non-resident in Portugal shall be considered obtained in Portugal. This will happen when, at any time during the previous 365 days, more than 50 per cent of the value of those shares (or similar rights) is derived, directly or indirectly, from real estate located in Portugal.

The exception is when the real estate is related to an agricultural, industrial or commercial activity that does not relate to the purchase and sale of real estate. That is to say that, for Corporate Income Tax (CIT) purposes, the onerous transfer of shares in non-resident companies or entities whose asset is essentially composed of real estate located in Portugal shall be deemed a taxable event.

Frederico Velasco Amaral is an associate at CCA Ontier. He can be contacted at fva@cca-ontier.com

Spain – Employment

Monitoring fixed-term and part-time hiring fraud



Madrid's Labour Inspectorate Division has recently indicated that during the coming months, fixed-term and part-time hiring will be, once more, under close watch. The inspectorate is trying to eradicate fraud in this area once and for all and is thus determined to lead a meticulous campaign on the matter.

Statistics show that, in 2016, according to the Ministry of Employment, nearly 20 million contracts were formalised in Spain, 91.43 per cent of which were temporary (18.2 million) and the remaining 8.57 per cent indefinite (1.71 million). Of these indefinite contracts, 986,858 were entered into on a full-time basis and the rest of them, on a part-time basis.

Because the registration of part-time contracts is heavily monitored in Spain, the inspectorate will be extremely vigilant in the coming months to avoid companies underpaying social security contributions.

Eduardo Peñacoba is a partner at Simmons & Simmons. He can be contacted at eduardo.penacoba@simmons-simmons.com

Portugal – Dispute resolution

International arbitration shifting east



Market observers have highlighted how Hong Kong and Singapore are becoming increasingly popular jurisdictions for the resolution of arbitral disputes. As we close 2017, it remains clear that some of the biggest countries in Asia continue to be a popular hub for dispute resolution, particularly in international arbitration. However, much more is yet to come, notably from China, partly due to its "One Belt, One Road" (OBOR) investment programme, which includes measures that will hopefully have an impact on the economies of the countries involved, as well as on the way disputes arising from the programme will be resolved.

The OBOR programme represents China's plan for global trade. The initiative is meant to develop two major trade routes connecting Europe, Africa and the Asia-Pacific.

Pedro Sousa Uva is of counsel at PBBR. He can be reached at pedro.uva@pbbr.pt