

**FUND FOR FINANCING PAYMENTS TO SUPPLIERS  
(FONDO PARA LA FINANCIACIÓN DE PAGOS A PROVEEDORES or "FFPP")**

**Rafael Mínguez/Fernando Navarro/Jaime de la Torre**

In recent years, Spanish local authorities and autonomous regions have been accumulating significant arrears on the invoices they owe to suppliers. These arrears have caused liquidity problems for companies, with particularly significant consequences for small and medium-sized companies.

In the last few months, the Spanish government passed several pieces of legislation, aiming to provide an economically efficient mechanism to repay the amounts owed by Spanish local entities and autonomous regions to their suppliers of goods and services (mainly, Royal Decree-Law 4/2012, of February 24, Royal Decree-Law 7/2012, of March 9, and Resolution of the Fiscal and Financial Policy Council 6/2012, of March 6 [*Consejo de Política Fiscal y Financiera*]).

These measures aim to have a positive impact on the economy by providing immediate liquidity to the small and medium-sized companies that are the most common source of supplies for the local authorities and autonomous regions, and while alleviating the short-term financial stress of local authorities and regional public administrations.

To come up with a structure in which the necessary debt to finance the payments was not directly accounted on the public administration balance sheet, a public special purpose fund named *Fondo para la Financiación del Pago a Proveedores* (the "FFPP") was incorporated to centralize the cash flows relating to the transaction. The aim of the FFPP is the regularization of the arrears of Spanish local authorities and the autonomous regions. The FFPP received a €30 billion loan (which can be increased to €35 billion, the largest facility given by a syndicate of private banks in Spanish history) granted by 24 Spanish financial entities, with Banco de Santander, Bankia, BBVA, La Caixa and Instituto de Crédito Oficial (the "ICO") acting as "mandated lead arrangers" (the "Loan"). The Spanish government is guaranteeing the Loan by providing an *ex lege* direct guarantee securing the payment obligations of the FFPP *vis-à-vis* the financing entities.

The funds received under the Loan must be applied in different stages by the FFPP to finance the payment to suppliers of both local authorities and the autonomous regions. These payments can be made available to the suppliers through the relevant territorial administrations, local authorities or autonomous regions, (which previously would have received these amounts through a loan from the FFPP) or directly in their accounts as direct payment FFPP-supplier.

The main purpose of the FFPP is the financing of local authorities and autonomous regions, to enable them to pay the invoices they owe. The FFPP is dependent on the *Ministerio de Economía y Competitividad*, through the *Secretaría de Estado de Economía y Apoyo a la Empresa*. Based on the above, the FFPP is considered a public entity; therefore, it is subject to specific public rules and strict control. The FFPP was created with an initial contribution of €6 billion from the state budget, of which €1.5 billion was disbursed against the 2012 budget by means of the Spanish treasury's issue of public debt. The FFPP is also allowed to issue securities to finance its activities and those securities would benefit from an *ex lege* direct guarantee granted by the Spanish government under the same terms as the guarantee given to the financing entities. The ICO acts as a paying agent for the financing to be granted to local authorities and autonomous regions, and all the payments to be made to suppliers under the FFPP structure would be channeled through certain credit institutions that have entered into fronting arrangements with the ICO for this purpose.

Regarding the Loan that has been granted to the FFPP, the first disbursement, which was paid exclusively to local authorities, was successfully funded and used to pay the relevant payments on May 31, 2012, meeting the ambitious deadline initially set by the Spanish government. This first payment amounted to €9,313 billion; paying 1,717,426 invoices that were in arrears, relating to 3,774 local authorities.

This disbursement is based on the prior control of the local authorities by the *Ministerio de Hacienda y Administraciones Públicas*. The invoices that local authorities can pay under this structure must be (i) dated before January 1, 2012; (ii) in net amounts; (iii) due and claimable; and (iv) related to services or works performed for the local authorities. Once the local authorities have identified the invoices that can be paid under this structure, they send them to the *Ministerio de Hacienda y Administraciones Públicas* with a financial plan approved by the plenary session (*Pleno*) of the relevant local authority. The approved financial plans should enable the local authorities to make the

payments directly to their suppliers or to the FFPP. Before local authorities can benefit from the FFPP financing, their financial plans must be approved by the *Ministerio de Hacienda y Administraciones Publicas*.

The second disbursement of the Loan took place on June 25, 2012. This second disbursement was paid exclusively to autonomous regions to pay invoices they owed. Spain is divided into 17 autonomous regions (*Comunidades Autónomas*). Since the Spanish Constitution (*Constitución Española*) was approved in 1978, Spain has been arranged territorially into autonomous regions that manage their own interests with extensive autonomy and legislative, budgetary, administrative and executive powers guaranteed to them by the state through the Spanish Constitution and the corresponding Statute of Autonomy (*Estatutos de Autonomía*), which is a fundamental institutional precept for each autonomous region.

All of the autonomous regions, except Galicia, País Vasco and Navarra, benefit from this financing (Andalucía, Aragón, Principado de Asturias, Illes Balears, Canarias, Cantabria, Castilla y León, Castilla-La Mancha, Cataluña, Extremadura, Comunidad de Madrid, Región de Murcia, La Rioja and Comunidad Valenciana). This second disbursement amounted to €17,718,553,729; paying 3,794,537 invoices that were in arrears, relating to 29,108 suppliers that benefitted from this second payment.

As with the local authorities, the FFPP's payment is based on the prior control of the autonomous regions by the *Ministerio de Hacienda y Administraciones Publicas*. Also, as with local authorities, invoices that the autonomous regions can pay under this structure must be (i) dated before January 1, 2012; (ii) in net amounts; (iii) due and claimable; and (iv) related to services or works performed for the autonomous regions. Once the autonomous regions have identified the invoices that can be paid under this structure, they send them to the *Ministerio de Hacienda y Administraciones Publicas* with a financial plan. The financial plan should enable the autonomous regions to make the payments directly to the suppliers or to the FFPP (regarding the loans granted to the relevant autonomous regions). Those financial plans also must be approved by the *Ministerio de Hacienda y Administraciones Publicas* before the autonomous regions may benefit from the FFPP financing.

Regarding the conditions of the financing between the FFPP and the local authorities and autonomous regions, the maturity of the financing granted by the FFPP could be for a maximum of 10 years with a two-year interest-only

period. The financing from the FFPP could also include prior amortization clauses and the rate of interest could be the financing cost of the Spanish treasury plus 115 basis points, plus an intermediation margin of a maximum of 30 basis points.

Therefore, after the two disbursements, the amount of the Loan is €27,031,428,879, and as the initial amount of the Loan was €35 billion, €7.9 billion is still pending disbursement. The remaining amount could be used to pay additional invoices owed by local authorities or autonomous regions, but any additional disbursement from the FFPP should take place before the end of 2012.

The creation of the FFPP has established a procedure to provide liquidity to suppliers by immediately regularizing their invoices that are due from, and have not been paid by, local authorities and autonomous regions. The FFPP is a vehicle that provides financing to local authorities and autonomous regions for the regularization of their arrears, and at the same time it forces their fiscal adjustment. This procedure is voluntary for autonomous regions and only those that have decided to follow it have obtained financing from the FFPP and prior control from the *Ministerio de Hacienda y Administraciones Publicas*. The implementation of this structure started in February 2012, and in less than four months of being established, it has enabled €27 billion to flow into Spain and the economic impact that this would have.

On top of the expansive effect that this structure is having on the Spanish economy, which will be of much help in the current environment, attractive investment opportunities have been created for companies interested in acquiring portfolios of receivables from suppliers who qualify to receive payments from the FFPP. Particularly, there is significant interest in acquiring portfolios within the pharmaceutical sector in which substantial discounts have been offered to potential buyers in recent weeks, due to its liquidity needs and financing difficulties. These transfers or assignments would be straightforward under Spanish law and may represent a good investment opportunity in Spain.

Madrid, June 29, 2012

Rafael Mínguez, Fernando Navarro and Jaime de la Torre

[Rafael.minguez@cuatrecasas.com](mailto:Rafael.minguez@cuatrecasas.com)

[Fernando.navarro@cuatrecasas.com](mailto:Fernando.navarro@cuatrecasas.com)

[Jaime.delatarorre@cuatrecasas.com](mailto:Jaime.delatarorre@cuatrecasas.com)