



GUIDE TO BUSINESS IN SPAIN 2021



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This guide was researched and written by Garrigues, on behalf of ICEX, on February 2020.

This guide is correct to the best of our knowledge. It is, however, written as a general guide so it is necessary that specific professional advice be sought before any action is taken.

Madrid, June 2021

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Spain: An attractive country for investment

Spain is in an outstanding position worldwide in terms of the importance of its economy: the 15th largest economy in the world by GDP, the 11th country most attractive for foreign direct investment (FDI), the 13th largest issuer of FDI, among the sovereign countries, and the 11th largest exporter of commercial services.

Spain has a modern economy based on knowledge, in which services represent over 74% of business activity. It is an international center for innovation that benefits from a young and highly qualified population of a proactive nature, and competitive costs in the context of Western Europe, especially as regards graduate and post-graduate employees.

The country has worked hard to equip itself with state-of the art infrastructures capable of fostering the future growth of the economy. And this has been done alongside a major commitment to R&D.

There are interesting business opportunities for foreign investors in Spain in high value-added and strategic fields such as the ICT, renewable energy, biotechnology, environment, aerospace and automotive sectors, because of the attractive competitive environment.

In addition, companies that set up business in Spain can gain access not only to the Spanish national market, an attractively large market (over 47 million consumers) with a high purchasing power, but also to the markets of the EMEA region (Europe, Middle East and North Africa), and Latin America, given its privileged geostrategic position, prestige and the strong presence of Spanish companies in these regions.

The main characteristics of our country are described in this Chapter: demographics, political and territorial structure, economy and the foreign trade sector.



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1 Introduction

Spain is one of the most important economies in the world, ranking 15th in size and has an immense capacity to attract foreign investment (currently ranked 11th in terms of foreign direct investment)¹. Spain's appeal for investment lies not only in its domestic market, but also in the possibility of operating with third markets from Spain. This is because Spain has a privileged geo-strategic position within the European Union giving access to more than 2,300 million potential clients in the EMEA Region (Europe, Middle East and Africa). Its strong economic, historic and cultural ties also make Spain the perfect business gateway to Latin America.

Furthermore, Spain is a modern knowledge-based economy with services accounting for over 74%² of economic activity. The country has become a center of innovation supported by a young, highly-qualified work force and competitive costs in the context of Western Europe.

This Chapter gives a brief description of Spain's vital statistics: its population, its political and territorial structure and its economy.

¹ According to the 2020 A. T. K Kearney FDI Confidence Index.

² National Statistics Institute. Data from 2020.

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2 The country, its people and quality of life

2.1 GEOGRAPHY, CLIMATE AND LIVING CONDITIONS

The Kingdom of Spain occupies an area of 505,970 square kilometers in the southwest of Europe, and is the second largest country in the EU. The territory of Spain covers most of the Iberian Peninsula, which it shares with Portugal, and also includes the Balearic Islands in the Mediterranean Sea, the Canary Islands in the Atlantic Ocean, the North African cities of Ceuta and Melilla and several small islands.

Despite differences among the various regions of Spain, the country can be said to have a typical Mediterranean climate. The weather in the northern coastal region (looking onto the Atlantic and the Bay of Biscay) is mild and generally rainy throughout the year, with temperatures neither very low in the winter nor very high in the summer. The climate on the Mediterranean coastline, including the Balearic Islands, Ceuta and Melilla, is mild in the winter and hot and dry in the summer. The most extreme differences occur in the interior of the Peninsula, where the climate is dry, with cold winters and hot summers. The Canary Islands have a climate of their own, with temperatures constantly around 20 degrees Celsius and only minor variations in temperature between seasons or between day and night.

Spain has an excellent quality of life and is very open to foreigners. Almost 8,000 kilometers of coastline, abundant sporting facilities and events and social opportunities are crowned by the diversity of the country's cultural heritage as a crossroads of civilizations (Celts, Romans, Visigoths, Arabs, Jews, etc.).

2.2 POPULATION AND HUMAN RESOURCES

The population of Spain in 2020 was over 47 million people, with a population density of almost 94 inhabitants per square kilometer.

Spain is a markedly urban society (see Table 1), as evidenced by the fact that 32% of the population lives in provincial capitals.

Table 1

THE BIGGEST CITIES IN SPAIN*	
	POPULATION
Madrid	3,334,730
Barcelona	1,664,182
Valencia	800,215
Sevilla	691,395
Zaragoza	681,877
Málaga	578,460
Murcia	459,403
Mallorca	422,587
Las Palmas de Gran Canaria	381,223
Bilbao	350,184

* Figures refer only to the municipal districts of each city.

Source: Report on registered population of Spanish provincial capital cities at January 1, 2020. National Statistics Institute/Official State Gazette.

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Spanish is the official language of the country. There are other Spanish languages that are also official in the corresponding Autonomous Communities (regions), according to their “Statutes of Autonomy”. Education is compulsory until the age of 16 and English is the main foreign language studied at school.

Spain has a labor force of more than 23 million people according to the Labor Force Survey (released in the fourth quarter of 2020). Spain’s population is relatively young: almost 16% is under 16 years old, 65% is between 16 and 64 years old, and only 19% is 65 and over, according to 2020 figures. As highlighted in Table 2, Spain has a highly diverse multicultural and multiracial population.

Table 2

FOREIGNERS RESIDENT IN SPAIN BY CONTINENT OF ORIGIN			
	2018	2019	2020*
Europe	2,988,513	3,116,554	3,155,103
America	923,278	987,837	1,057,723
Asia	447,545	466,834	497,331
Africa	1,061,324	1,087,706	1,105,086
Oceania	2,676	2,906	3,092
Unknown	1,445	1,511	1,611
TOTAL	5,424,781	5,663,348	5,801,946

Source: Ministry of Inclusion, Social Security and Migrations³. *Data as of June 30, 2020.

Spain is particularly noted for the contribution from, and the integration of, these groups, as well as for the absence of cultural conflict.

Spain’s labor force structure by economic sector underwent significant changes sometime ago, with there was an increase in the active population in the services sector and a decrease in the number of workers employed in farming and industry. Today, the services sector is by far Spain’s main employer (Chart 1 and Table 3).

The labor force is highly qualified and capable of adapting to technological changes.

Lastly, in keeping with the commitment entered into with the European Union to promote job creation, the Spanish government has implemented significant reforms to the job market in recent years, introducing a greater degree of flexibility in employment.

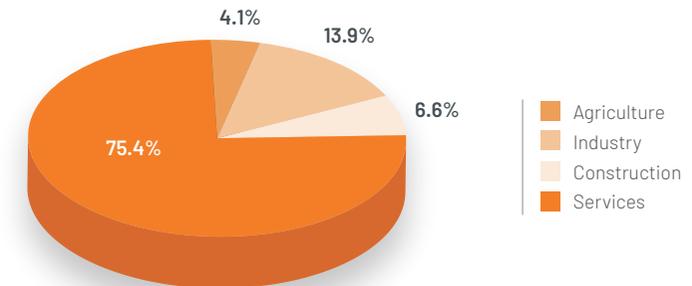
Like our neighboring countries, and as a result of the global economic crisis of past years and the changing economy, which has moved away from labor-intensive sectors towards highly technological sectors, the unemployment rate in Spain increased. In order to definitively overcome the consequences of such crisis, Spain launched an ambitious program of structural reform with a view to boosting economic growth and creating jobs.

The Spanish Government, in keeping with the commitments entered into by the European Union to promote employment, implemented major labor market reforms in line with the trends observed in neighboring countries and the proposals made by various economic agents and institutions and international economic advisers. The reforms aimed to introduce greater flexibility, reduced the dual nature of the job market and improved the employability of workers. This, among other factors, has led to the creation of 2.3 million jobs since 2014, although this positive evolution has been interrupted due to the negative impact of the COVID-19 public health crisis.

A number of procedures have also been introduced to facilitate the entry, residence and permanence in Spain, for reasons of general interest, of foreigners who plan to invest and create jobs in Spain or who are highly qualified professionals.

Chart 1

LABOR FORCE STRUCTURE BY ECONOMIC SECTOR IN 2020



Source: National Statistics Institute.

Table 3

EVOLUTION OF LABOR FORCE STRUCTURE BY ECONOMIC SECTOR (%)			
	2018	2019	2020
Agriculture	4.2	4.0	4.1
Industry	13.9	13.8	13.9
Construction	6.5	6.4	6.6
Services	75.4	75.8	75.4

Source: National Statistics Institute. 2020. Labor Force Survey.

³ https://extranjeros.inclusion.gob.es/ficheros/estadisticas/operaciones/con-certificado/202006/Residentes_Principales_Resultados_30062020.pdf

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2.3 POLITICAL INSTITUTIONS

Spain is a parliamentary monarchy. The King is the Head of State⁴ and his primary mission is to arbitrate and moderate the correct functioning of the country's institutions in accordance with the Constitution. He also formally ratifies the appointment or designation of the highest holders of public office in the legislative, executive and judicial branches⁵.

The Constitution of 1978 enshrined the fundamental civil rights and public freedoms as well as assigning legislative power to the *Cortes Generales* (Parliament)⁶, executive power to the Government of the nation, and judicial powers to independent judges and magistrates.

The responsibility for enacting laws is entrusted to the *Cortes Generales*, comprising the *Congreso de los Diputados* (Lower House of Parliament) and the *Senado* (Senate), the members of which are elected by universal suffrage every four years.

The *Cortes Generales* exercise the legislative power of the nation, approve the annual State budgets, control the actions of the Government and ratify international treaties.

The Government⁷ is headed by the *Presidente del Gobierno* (President of the Government) who is elected by the *Cortes Generales* and is, in turn, in charge of electing the members of the *Consejo de Ministros* (Council of Ministers).

The members of the Council of Ministers are appointed and removed by the President of the Government at his or her discretion.

For administrative purposes, Spain is organized into 17 Autonomous Communities (Regions) each of which generally comprises one or more provinces, plus the Autonomous Cities of Ceuta and Melilla in Northern Africa and the total number of provinces is 50.

Each Autonomous Community (Region) exercises the powers assigned to it by the Constitution as specified in its "Statute

of Autonomy". These Statutes also stipulate the institutional organization of the Community concerned, consisting generally of: a legislative assembly elected by universal suffrage, which enacts legislation applicable in the Community; a Government with executive and administrative functions, headed by a President elected by the Assembly, who is the Community's highest representative; and a Superior Court of Justice, in which judicial power in the Community's territory is vested. A Delegate appointed by the Central Government directs the Administration of the State in the Autonomous Community (Region), and co-ordinates it with the Community's administration.

The Autonomous Communities (Regions) are financially autonomous and also receive allocations from the general State budgets.

As a result of the structure described above Spain has become one of the most decentralized countries in Europe.

⁴ <https://www.casareal.es/EN/Paginas/home.aspx>

⁵ https://www.poderjudicial.es/portal/site/cgpi/?Template=default&vgnnextlocale=en&lang_chosen=en

⁶ <https://www.congreso.es/web/guest>

⁷ <http://www.lamoncloa.gob.es/lang/en/Paginas/index.aspx>

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3 Spain and the European Union

Spain became a full member of the European Economic Community in 1986. In this connection and according to figures published by the European Commission, Spain fully complies with the objectives established by the European Council.

A major impact of European Union membership for Spain, and for the other Member States, came in the mid-nineties with the advent of the European Single Market and the European Economic Area, which created a genuine barrier-free trading space.

Since then, the EU has advanced significantly in the process of unification by strengthening the political and social ties among its citizens. Spain, throughout this process, has always stood out as one of the leaders in the implementation of liberalization measures.

On July 1, 2013, with the addition of Croatia, the number of countries in the European Union was increased to 28 Member States⁸. Nonetheless, the referendum on whether the United Kingdom and Gibraltar should remain in the European Union was held on June 23, 2016, the result being in favor of their exiting the Union. Thus, on January 31, 2020 the United Kingdom left the European Union upon the entry into force of the Withdrawal Agreement, thus reducing the number of Member States to 27.

With the aim of strengthening democracy, efficiency and transparency within the EU and, in turn, its ability to meet global challenges such as climate change, security, and sustainable development, on December 13, 2007, the then 27 EU Member States signed the [Treaty of Lisbon](#), which entered into force – subject to prior ratification by each of the 27 Member States –



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on December 1, 2009. The European Parliament elections took place between June 4 and 7 of that year⁹.

Spain holds significant responsibilities within the EU, evidenced by the fact that it is, along with Poland, the fifth country in terms of voting power on the Council of Ministers. In 2010, Spain assumed the Council Presidency of the European Union for the fourth time, for the period from January to June.

The introduction of the Euro (on January 1, 2002) heralded the start of the third Spanish presidency of the European Council and represented the culmination of a long process and the creation of a veritable array of opportunities for growth for Spanish and European markets. Since January 1, 2015, with the addition of Lithuania, Eurozone membership now stands at nineteen.

The euro has led to the creation of a single currency area within the EU that makes up the world's largest business area, bringing about the integration of the financial markets and economic policies of the area's member states, strengthening ties between the member states' tax systems and bolstering the stability of the European Union.

Furthermore, the adoption of a single European currency has had a clear impact at an international level, raising the profile of the Eurozone at both international and financial gatherings (G-7 meetings) and within multilateral organizations. The economic and business stability offered by the euro have contributed to the growth of the Spanish economy, as well as its international political standing. In addition, measures are being implemented to strengthen the European economy; for example, the Euro-Plus Pact designed to consolidate the coordination of the economic policy in the Economic and Monetary Union.

⁸ https://europa.eu/european-union/about-eu/countries/member-countries_en

⁹ http://europa.eu/european-union/law/treaties_en

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In May 2020 the European Commission presented a proposal for reviewing the Multiannual Financial Framework with a view to increasing investments in 2020 in order to confront the COVID-19 public health crisis.

Subsequently, on December 17, 2020 the Council of the European Union approved the Regulation laying down the multiannual financial framework of the European Union for the years 2021 to 2027, which will be a financing instrument aimed at supporting all areas of action of the European Union, with a particular focus on ecological and digital transitions, and will also help EU Member States to deal with the consequences of the COVID-19 public health crisis, stimulating their modernization and resilience. Spain thus remains committed to structural reforms, boosting economic growth, investment and employment, based on a more competitive European Union.

Spain has traditionally benefitted from EU funding from the Structural Funds and the Cohesion Fund and is the third largest recipient of such Funds. During the 2020-2027 period, European financing under the Multiannual Financial Framework, together with the temporary recovery instrument “Next Generation EU”, is expected to entail a positive contribution of over 1.8 billion euros to help repair the damage brought about by the COVID-19 pandemic and to support the long-term priorities of the European Union in various areas of action.

European institutions are tasked with encouraging and supporting technological research and development. On December 11, 2020 the Council of the European Union reached a provisional political agreement with the European Parliament’s negotiators on the proposed Regulation establishing Horizon Europe for the years 2021 to 2027.

Horizon Europe will be supported on three pillars:

1. Excellent Science.
2. Global Challenges and European Industrial Competitiveness.
3. Innovative Europe.

In this way it will help to boost industrial leadership in Europe and strengthen the excellence of its science base, which is essential to the sustainability, prosperity and wellbeing of Europe in the long term.

In this respect, the 2011 Science Law contributed measures to the current framework (e.g., implementation in the autonomous communities, increasing European dimension, qualitative and quantitative increase in public resources, consolidation of a professionalized and competitive scientific and technical, community open to the world, and transition towards an economy based on knowledge and innovation).

The promotion and fostering of excellence and the strengthening of scientific research institutes constitutes one of the cornerstones of the actions of, and definition of scientific policy by, the Ministry of Science and Innovation.

In late 2015, the Government approved the creation of the State Research Agency in order to provide the Spanish science, technology and innovation model with a swifter, more flexible and independent management system. This body, which is responsible for financing, assessing and allocating R&D funds, acts in conjunction with the Center for Industrial and Technological Development (*CDTI*), the other major R&D&i funding body focusing specifically on business. Both entities steadily promote transnational and bilateral research and cooperation projects.

Throughout 2020, the Ministry of Science and Innovation established special employment measures to support COVID-19 research, in addition to budgetary measures, launching various lines of subsidies and special loans in the budget, targeted at R&D projects related to COVID-19. Furthermore, at the end of 2020 the Ministry of Science and Innovation presented the general outline of the General State Budget for 2021, which includes a large direct investment in R&D&i. Specifically, the budget has been increased by 59.4% with respect to 2020, i.e., up to 3,232 million euros.

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4 Infrastructure

The Government intends to continue with its program of heavy investment in this area in the future.

In this connection, the Transport and Housing Plan (*PITVI*) was approved which, based on an analysis of the current situation and a rigorous assessment of Spanish needs, establishes the priorities and action plans up to 2024.

The Plan's objectives notably include: (i) enhancing the efficiency and competitiveness of the global transport system, optimizing the existing capacity; (ii) contributing to balanced economic development; (iii) promoting sustainable mobility, combining its economic and social effects with respect for the environment; (iv) reinforcing territorial cohesion and accessibility to all State territories through the transport system; and (v) improving the functional integration of the transport system as a whole by taking an intermodal approach.

The motorway and dual carriageway network, of nearly 17,228 kilometers, has undergone constant renovation with a view to enhancing its efficiency. Today it is the leading European motorway and dual carriageway network. The improvement of the motorway and dual carriageway network and an increase in high-capacity roads, with investment of €36,439 million, is among the objectives of the plan.

As far as railway transport is concerned (where Spain has a network with 16,000 kilometers), high-speed networks have become a priority.

Madrid currently has high-speed train connections to 31 Spanish cities, following the inauguration in 2015 of new high-speed routes to Zamora, Palencia and León. The last section of the Atlantic Corridor was completed in 2015,

connecting Galicia from North to South. The Barcelona-Paris line has enabled a high-speed rail connection between the Spanish and French capitals, with a connection to the French border via Vitoria and Irún (the Basque Country) to be added shortly.

The Spanish high-speed network is constantly being expanded. The new Madrid-Granada section was inaugurated in June 2019 and is expected to be followed by the inauguration of the sections to Burgos and Murcia in 2022. In fact, in recent years, Spain has become a global high-speed rail pioneer, having multiplied the kilometers of high-speed lines in service more than six-fold, from just over 550 kilometers to more than 3,400 kilometers.

Since its inception, approximately €51,775 million has been invested in the high-speed rail network, making a commitment to ensuring that 9 out of every 10 citizens live less than 30 kilometers away from a high-speed rail station. Spain has thus become the leading country in Europe and the second worldwide, after China, in terms of the number of kilometers of high-speed lines in operation, outperforming countries such as France and Japan. Looking toward 2021, the General State Budget contemplates an increase in high-speed expenditure over preceding years, financed in part with European funding.

Also noteworthy is the important network of relations with managers of railroad infrastructure in other countries, established as a result of signing cooperation protocols. In the context of these agreements representatives from a range of countries, such as the US and Brazil, have visited Spain to learn about its high-speed model. By way of example, in 2020, administrative licenses and concessions were granted to Spanish companies for their participation in the construction of railway infrastructure and equipment in countries such as Australia, the United Kingdom, the United States (Dallas and Houston) and Mexico, among others; and in the construction of the high-speed line connecting Medina and Mecca in Saudi Arabia, which came into operation on October 11, 2018.



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Regarding the deregulation of rail passenger transport services, approval was recently given to Royal Decree-law 23/2018 of December 21, 2018, which transposes the Directive developing the single European railway area, allowing access to the railway infrastructures of all Member States and reinforcing the independence and impartiality of the administrators of such infrastructures. As a consequence of the deregulation, it was announced in 2020 that the high-speed “low cost” [railway infrastructure] known as “Avlo” would begin to operate, although its inauguration was postponed until 2021, due to the COVID-19 public health crisis.

Finally, the freight sector liberalization since 2005, has led to the creation of private enterprises that transport goods by railroad. The Spanish Government plans to approve a series of measures to promote this type of transport and to eliminate administrative and technical barriers, thus definitively making the railroad a competitive means of transport.

Air transport links the main Spanish cities via Spain’s 46 airports, which also connect Spain to the world’s leading cities. Spain is a major hub for routes linking the Americas and Africa to Europe. The most significant investments in the pipeline are aimed at the two principal international airports in Madrid and Barcelona. AENA plans to invest €1,571 million up to 2026, the main objective being to increase capacity up to 80 million passengers. In 2020, as a consequence of the COVID-19 world health crisis, Spanish airports like those in the rest of the world, have seen a temporary drop in passenger numbers with respect to the positive evolution recorded in preceding years. In this context of global paralysis of the industry, Spain has been chosen by many airlines as one of the top places for parking their fleet of aircraft, given the excellence of existing infrastructures.

The access to the high-speed rail network takes only 25 minutes from the Adolfo Suárez Madrid–Barajas International Airport; this means that travelers can easily combine both types of transport, placing Spain at the forefront of passenger transport.

The 2021 Air Navigation Operating Plan, approved in 2020, projects an investment of over 127 million euros, aimed at adapting to technological transformation and boosting the recovery of the aeronautical industry. In addition, the new 2025 Strategic Flight plan, which is to replace the 2020 Flight Plan, is currently being prepared.

Furthermore, with over 46 international ports on the Atlantic and Mediterranean coasts, Spain boasts excellent maritime transport links, becoming a port and harbor powerhouse, only behind the Asian giants, the US, Germany and the Netherlands. The reinforcement of short-distance maritime transport, both domestic and European, and the development of seaside motorways are some other key initiatives. Moreover, the Seaside Motorway between Spain and France is now operation, linking Vigo with the French port of Nantes-Saint Nazaire. At the same time, work is underway to recover the connection between Gijón and Nantes-Saint Nazaire, which would resume what was one of the first Spanish motorways of the sea and which operated until its closure in 2014. Furthermore, Spain plans to promote this type of link in the Mediterranean, through agreements with Italy and other countries, with a view to increasing the number of lines already on offer and operating with good results between the Spanish ports of Barcelona and Valencia and the Italian ports of Porto Torres, Civitavecchia, Livorno, Savona, Cagliari and Salerno.

This will allow a more sustainable alternative in some of the main flows within the EU. In addition, with a view to improving the competitiveness of ports, in 2010 the Ports Law was amended to reduce restrictions on inter- and intra-port competition and boost the competitiveness of Spanish ports in the global economy. Along the same lines, the Port Accessibility Investment Plan was approved to enhance land access to the port system, with an investment of more than €1,418 million. The 2021 budget for the port system in Spain was presented at the end of 2020, with an investment of over 1 billion euros for port terminals, enhancements in land connectivity, environmental sustainability and digitalization.

As part of its plans for internationalization, the State Port Authority is promoting alliances with the major Chinese operators, with the Barcelona Europe South Terminal (BEST) at the port of Barcelona being operated by Chinese group Hutchinson Port Holdings (HPH), the leading port terminal operator in the world. Three major Spanish ports (Bahía de Algeciras, Valencia and Barcelona) are listed among top 100 ports worldwide in terms of container traffic¹⁰, thereby confirming Spain’s strategic position in the global maritime transport industry.

Spain is well equipped in terms of technological and industrial infrastructure, having seen a boom in recent years in technological parks in the leading industrial areas, as well as around universities and R&D centers. There are currently 61 technological parks¹¹ housing 8,130 companies, mainly engaged in the telecommunications and IT industries, in which a large number of workers are employed in R&D activities.

Spain also boasts a solid telecommunications network, with an extensive conventional fiber optic cable network covering the country almost in its entirety, on top of one of the world’s largest undersea cable networks and satellite link-ups spanning the five continents. Particularly noteworthy is the significant deregulation set in place some years ago in the majority of industries, including the telecommunications industry, meeting the deadlines set for such purpose by the EU with ease. Among other advantages, this deregulation has meant a more competitive range of products on offer as reflected in costs, essential for economic development.

Also notable is Government backing for integral management of water resources, based on environmental management and recovery, more efficient use of water and planned management of risks such as droughts and flooding. As part

¹⁰ Lloyd’s List – Maritime Intelligence. One Hundred Container Ports 2020.

¹¹ Members of the Association of Science and Technology Parks in Spain. <http://www.apte.org/es>

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of these initiatives, under Royal Decree 1/2016, the Government approved the review of the Water Plans for the Western Cantabrian, Guadalquivir, Ceuta, Melilla, Segura and Júcar river basin districts, and the Spanish sections of the Eastern Cantabrian, Miño-Sil, Duero, Tajo, Guadiana and Ebro river basin districts.

Lastly, the Spanish infrastructures industry is expected to be especially favored by the “Next Generation” aid package agreed by the European Union to support the countries most affected by the pandemic.

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5 Economic structure

The structure of the Spanish economy is that of a developed country, with the services sector being the main contributor to GDP, followed by industry. In 2020, these two sectors represented, almost 91% of Spain's GDP, with agriculture's share today representing 3.44% of the total GDP, having declined sharply as a result of the country's economic growth (see Table 4).

Table 4

STRUCTURE OF GDP (% OF TOTAL, CURRENT PRICES)			
SECTOR	2018	2019	2020
Agriculture and fishery	3.05%	2.88%	3.44%
Industry	16.12%	16.15%	16.30%
Construction	6.11%	6.43%	6.16%
Services	74.72%	74.54%	74.10%

Source: National Statistics Institute.

Throughout 2020 the impact of the COVID-19 public health crisis was felt by the Spanish economy due, principally, to the implementation of measures to contain the pandemic. This entailed a change with respect to the growth trend which began in the second half of 2013. Nonetheless, during the fourth quarter of 2020, the GDP improved its projections for recovery by recording a variation of 0.4%¹² in the quarter-on-quarter rate with respect to the preceding quarter in terms of volume. Thus, although the year-on-year growth of the GDP amounted to -9.1%¹³, the projections

made by the International Monetary Fund (IMF) show a recovery of the Spanish economy in 2021 and 2022, with respect to the downturn seen in 2020, boosted by the approval of the vaccines and the backing of political recovery measures.

Moreover, inflation in Spain has been falling slowly since the end of the 1980s. Average inflation between 1987 and 1992 was 5.8%; it dropped below 5% for the first time in 1993, and it has been shrinking gradually since then. The year-on-year inflation rate at December 2020 was -0.5%, three tenths above that recorded in the preceding month, due mainly to a drop in the prices of tour packages and of food and non-alcoholic beverages. On the other hand, the positive influence on the evolution of the annual rate relates to the increase in electricity, heating oil and fuel prices, which have recovered positively in the housing and transport groups.

¹² National Institute of Statistics, Quarterly National Accounts of Spain. Principal Aggregates. Fourth Quarter of 2020.

¹³ National Institute of Statistics, Quarterly National Accounts of Spain. Principal Aggregates, Fourth Quarter of 2020.

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Table 5

GROWTH FOR OECD COUNTRIES (%)			
REAL GDP GROWTH			
	2018	2019	2020
EU countries			
Germany	1.3	0.6	-5.3
France	1.8	1.5	-8.2
Italy	0.8	0.3	-8.9
United Kingdom	1.3	1.4	-9.9
Spain	2.4	2.0	-11.0
Other countries			
United States	3.0	2.2	-3.5
Japan	0.6	0.3	-4.8
Total Euro Zone			
	1.9	1.3	-6.8
Total OECD			
	2.4	1.6	-4.9

Source: OECD Quarterly National Accounts.

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6 Domestic Market

Growth in the Spanish economy in recent times has been driven by a sharp increase in demand and a substantial expansion of production in the current context of globalization of the economy.

Today Spain has a domestic market of over 47 million people with a per capita income in 2019 of €26,426 according to data from the National Statistics Institute, with additional demand coming from the 648,669 tourists who visited Spain in 2020¹⁴, an exceptional drop in the positive evolution of previous years, due to the COVID-19 public health crisis. In this connection, restrictions on international travel had a major impact on tourism in 2020, causing arrivals of tourists to drop by 82% in the Asia-Pacific region and by 68% in Europe and America.

Table 6 reflects the growth of production and demand components in the last year. The consolidated growth rate of the Spanish economy is mainly due to the contribution of national demand, as well as to foreign demand, given the increase in exports.

Table 6

GROWTH OF PRODUCTION AND DEMAND COMPONENTS (%)		
PRODUCTION COMPONENTS	2019	2020
Agriculture and fishery	-2.3	6.3
Industry	1.7	-9.4
Construction	4.4	-15.8
Services	2.3	-11.2
DEMAND COMPONENTS		
2019	2020	
Private consumption	4.7	-12.6
Public consumption	2.4	4.5
Gross fixed capital formation	2.1	-13.5
National Demand	1.4	-9.0
Exports of goods and services	2.3	-20.8
Imports of goods and services	0.8	-16.8

¹⁴ Tourism Border Movements (*FRONTUR*) statistics. Data at December 2020. National Statistics Institute.

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7 Foreign trade and investment

Rapid growth in international trade and foreign investments in recent years has made Spain one of the most internationally-oriented countries in the world.

With regard to the trading of goods, in 2019 Spain was ranked 16th in the world as an exporter and 15th as an importer; while in the trading of services it occupies 11th place as an exporter and 18th place as an importer¹⁵.

Spanish exports and imports of goods account for 1.8% and 1.9%, respectively, of the worldwide total, while Spanish exports and imports of services represent 2.6% and 1.5% respectively.

The breakdown by industry of foreign trade is relatively diversified, as can be seen in the following table:

Table 7

DISTRIBUTION OF EXPORTS AND IMPORTS 2020 (AS A % OF TOTAL)			
EXPORTS		IMPORTS	
Capital goods	19.8%	Capital goods	22.6%
Food	19.6%	Chemical products	18.0%
Chemical products	15.5%	Consumer goods	12.6%
Automobile industry	14.8%	Food	12.4%
Semi-manufactured non-chemical products	10,1%	Automobile industry	11.1%
Consumer goods	9.5%	Energy products	9.8%
Energy products	4.8%	Semi-manufactured non-chemical products	7.0%
Raw materials	2.3%	Raw materials	3.1%
Other goods	1.8%	Durable consumer goods	2.9%
Durable consumer goods	1.7%	Other goods	0.5%

Source: Ministry of Industry, Trade and Tourism. January – December 2020 data.

¹⁵ WTO "World Trade Statistical Review 2020".

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As would be expected, the countries of the EU are Spain's main trading partners. Accordingly, during 2020¹⁶, Spanish exports to the European Union accounted for 60.5% of total exports and sales to the Eurozone represented 53.2%. Imports from the European Union accounted for 51.8% of the total and those from the Eurozone represented 43.9%.

Specifically, Spain's leading trade partners are France and Germany. Outside the EU, Asia and Africa have displaced Latin America and North America from their traditional role as Spain's main non EU trading partners.

The positive adaptation of Spanish companies to the new worldwide economic scenario, reflected mainly in the progressive diversification of the markets to which Spanish products and services are directed should also be underscored. Indeed, Spanish exports are to some extent being redirected from the EU to the rest of the world. In this regard, Spain's share of exports to the EU dropped from 70.1% in 2007 to 60.5% of total exports in 2020.

As regards investment, Spain is one of the main recipients of investment worldwide.

Specifically, Spain is the 11th largest recipient of foreign investment worldwide in terms of stock (and 6th in the EU) with USD 751,510 million. Spain is the 13th largest source of FDI in terms of stock, with a volume equal to USD 606,549 million in 2019¹⁷.

With a view to making the Spanish economy more competitive and boosting the contribution made by foreign trade to growth and job creation, the Spanish government has adopted a series of measures aimed at enabling Spanish businesses to access the financing required for their internationalization. Noteworthy among the financial instruments approved by the Spanish Government to provide official support for the internationalization of Spanish enterprise are the Foreign Investment Fund (*FIEX*), the Fund for Foreign Investment by Small and Medium-sized Enterprises (*FONPYME*) and the Enterprise Internationaliza-

tion Fund (*FIEM*), as well as financing lines for investment in the electronics, information technology, communications and infrastructure concessions sectors, not to mention the 2020 *ICO* International Facility and the 2020 *ICO*-Exporters Facility.

In the context of the economic crisis caused by COVID-19, additional funding equal to 100 million euros was approved for the *FIEX*, with a view to making it easier for Spanish SMEs to obtain financing for their internationalization. The Official Credit Institute (*ICO*) has also processed a number of resources for enterprises and independent contractors, aimed at palliating the economic impact of the crisis through the approval of *ICO*-COVID-19 lines of security to be used as liquidity and investment instruments, with a budget of up to 100 and 40 billion euros, respectively. Lastly, the Ministry of Industry, Trade and Tourism has submitted a "crash" program to combat COVID-19 with measures whose objectives are focused on mitigating the impact of COVID-19 on foreign trade, promoting an image of Spain associated with competitiveness and excellence in production and keeping the markets open, influencing the EU and multilateral forums such as the OMC, inter alia, against the risks of protectionism and preference for national consumption.

Along these lines, the Spanish Economy Internationalization Strategy 2017-2027, together with the biennial Action Plans (for 2017-2018, 2019-2020 and 2021-2022) was approved. The "Internationalization Support Action Plan 2021-2022" forms part of the Spanish Economy Internationalization Strategy 2017-2027, and its priority objectives are focused on the following three lines of action: (i) to configure the foreign sector as a pillar of growth and employment; (ii) to achieve greater resilience in the production and export fabric; and (iii) to promote a structural change in internationalized enterprises toward digitalization and sustainable development.

By way of a summary of Spanish foreign trade, the balance of payments is set out below.



Table 8

SPAIN'S BALANCE OF PAYMENTS (MILLIONS OF EUROS)		
	2019	2020
I. Current account	24,389	7,301
Goods and services	35,753	16,698
Primary and secondary income	-11,364	-9,397
II. Capital Account	2,806	3,159
III. Financial Account	24,374	10,751
Total (excluding Bank of Spain)	875	75,430
Direct investment	13,286	11,689
Portfolio investment	-51,944	34,077
Other investment	47,042	33,491
Financial derivatives	-7,509	-3,827
Bank of Spain	23,499	-64,679
Reserves	746	-482
Claims with the Eurosystem	28,860	-83,428
Other net assets	-6,107	19,231

N.B.: A positive sign in the current and capital accounts means a surplus (receipts greater than payments) and represents a net loan from Spain to the rest of the world (increase in assets or decrease in liabilities), whereas in the financial account a positive sign means a net inflow of capital and represents a net loan from the rest of the world to Spain. A negative sign in reserves means an increase.

Source: Bank of Spain. Data from January to November 2019 and 2020.

¹⁶ Annual data published by the Spanish Ministry of Industry, Trade and Tourism. January – December 2020 data.

¹⁷ According to the UNCTAD "World Investment Report 2020".

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8 Legislation on foreign investment and exchange control

Deregulation is the dominant feature in exchange control and foreign investment matters.

As a general rule, a foreign investor can invest freely in Spain without having to obtain any type of authorization or prior notification. The investor only needs to report the investment, once it has been made, within a maximum term of one month, to the Directorate-General for International Trade and Investments of the Secretary of State for Trade purely for administrative, statistical or economic purposes.

Exchange control and capital movements are fully deregulated in Spain, there being complete freedom of action in this field in all areas.

8.1 LEGISLATION ON FOREIGN INVESTMENT

Royal Decree 664/1999 deregulated practically all transactions of this kind (with the conditions and exceptions set forth below), adapting Spanish domestic law to the rules on the freedom of movement of capital contained in Articles 56 *et seq.* of the Treaty of the European Union.

The most noteworthy aspects of the regulations applicable to foreign investments are as follows:

- As a general rule, and for purely administrative, statistical or economic purposes, foreign investments must be reported afterwards to the Directorate-General for International Trade and Investments, once the investment has

been made¹⁸. The only exceptions are: (i) investments from tax havens, which in general are subject to a prior administrative notification; and (ii) foreign investments in activities directly related to national security, and real estate investments for diplomatic missions by non-EU Member States, which require prior authorization by the Spanish Council of Ministers. There is no obligation for foreign investments to be formalized in the presence of a Spanish public certifying officer (unless an express provision provides otherwise).

- The parties subject to the obligation to report investments or divestments in transferable securities are not generally the investors, but rather the investment firms, credit institutions or other resident entities engaging, as the case may be, in any of the activities specific to the first two and acting at the risk and expense of the investor, as the interposed holder of such securities. Investors must report the investment only when the securities account or deposit is held at an institution domiciled abroad, where the securities are being kept by the holder of the investment; or where they acquire a holding of 3% or more in listed companies (the last case must be reported to the National Securities Market Commission).

¹⁸ The contents and instructions to complete each declaration can be found at the following link: https://comercio.gob.es/InversionesExteriores/Declaraciones_Inversion/procedimientos/Paginas/presentacion-declaraciones.aspx.

The forms are obtained, completed and presented electronically using a help program called *AFORIX*, which can be downloaded from the electronic sub-office of the Secretary of State for Trade (at <https://sede.comercio.gob.es>), by accessing the option: *Procedimientos y servicios electrónicos->Descarga de programas de ayuda->AFORIX Programa para la cumplimentación de Formularios de Inversiones Exteriores*). It is necessary for the declarant to have an electronic signature in order to submit the declaration electronically. As an exception, in the event that the holder of the investment is an individual, he/she may also use, in addition to the forms obtained via *AFORIX*, the preprinted forms available at the General Register of the Ministry of Industry, Trade and Tourism and may choose whether to file the declaration electronically or on paper.

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- Foreign investments in the air transportation and radio industries, in industries relating to raw materials, minerals of strategic interest and mining rights, in the television, gaming, telecommunications and private security industries, in industries concerned with the manufacturing, marketing or distributing of arms and explosives and in national security-related activities (these latter activities are subject to the clearance rules), will be subject to the requirements imposed by the relevant bodies established by industry-specific legislation, although the general provisions may apply to them once those requirements are met.

8.1.1 Foreign investments - Characteristic

Table 9

FOREIGN INVESTMENTS	
Investors¹⁹	<p>Non-resident individuals (that is, Spanish or foreign nationals domiciled abroad, or who have their principal place of residence abroad).</p> <p>Legal entities domiciled abroad.</p> <p>Public entities of foreign States.</p>
Regulated investments²⁰ Reporting obligations	<p>Participation in Spanish companies, including their incorporation and subscription and acquisition of shares in joint-stock companies or in limited liability companies, and any legal transaction whereby voting rights are acquired.</p> <p>Establishment of, and increase of capital allocated to branches.</p> <p>Subscription and acquisition of marketable debt securities issued by residents (debentures, bonds, promissory notes).</p> <p>Participation in mutual funds recorded on the Registers of the Spanish National Securities Market Commission²¹.</p> <p>Acquisition by non-residents of real estate located in Spain, valued at more than €3,005,060, or where the investment originates from a tax haven, whatever its amount is.</p> <p>Incorporation, formalization or participation in joint ventures, foundations, economic interest groupings, cooperatives and joint-property entities, with the same characteristics as in the previous paragraph.</p>

FOREIGN INVESTMENTS	
Parties subject to obligation	<p>The investor.</p> <p>The Spanish public certifying officer who may have intervened in the transaction.</p> <p>However, investments in certain assets (securities, mutual funds, registered shares) may require that other individuals involved in the transaction report the investment (credit or financial institutions, deposit-taking or management companies of such assets, the Spanish company receiving the investment).</p>
Reporting rules	<p>As a general rule, all foreign investments subject to disclosure, and the liquidation thereof, must be reported after the event to the Investments Register of the Ministry of Industry, Trade and Tourism.</p> <p>Investments from tax havens must be reported before and after the event. However, the following cases shall be excluded from the prior declaration:</p> <ul style="list-style-type: none"> Investments in marketable debt securities issued or offered publicly, whether or not they are traded on an official secondary market, and units in mutual funds recorded on the Registers of the Spanish National Securities Market Commission. Where the foreign interest does not exceed 50% of the capital stock of the Spanish company in which the investment is made. Acquisitions of foreign investments in Spain as a result of <i>inter vivos</i> transfers for no consideration or <i>mortis causa</i> transmissions. <p>This prior disclosure obligation is not equivalent to a prior verification or authorization requirement and, once the investment has been disclosed, the investor may make its investment without having to wait for any reply from the authorities. In all cases, the declaration is valid for six months, so once notified, the investment must be made within that time period.</p>

¹⁹ A Spanish company in which foreign shareholders have a majority holding is not deemed to be an investor. A change of registered office of legal entities or a change of residence of individuals will be sufficient to change the classification of an investment as a Spanish investment abroad or a foreign investment in Spain.

²⁰ Foreign investments not included in the above list (such as equity loans) are totally deregulated, and no communication is required in relation to them. The foregoing, notwithstanding any industry-specific regulations that may apply to such investments, and the rules on exchange control, with respect to such investments.

²¹ <http://www.cnmv.es/porta/home.aspx?lang=en>



8.1.2 Monitoring of foreign investments

The Directorate-General for International Trade and Investments (*DGCI*)²² can generally or specifically require Spanish companies which have foreign shareholders, and Spanish branches of non-resident persons, to file an annual report with it on the status of their foreign investments. The *DGCI* may also require the holders of investments to provide the information necessary in each particular case.

8.1.3 Suspension of the deregulation rules

The Spanish Council of Ministers can suspend the application of the deregulation rules in certain cases, which will require the investments concerned to undergo a prior procedure to obtain administrative clearance from the Council of Ministers.

At present, the Council of Ministers has only suspended the deregulation rules in respect of foreign investments in Spain in activities directly related to national security, such as the production or sale of arms, munitions, explosives and other armaments (except in the case of listed companies engaged in those activities, in which case clearance will only be required for acquisitions by non-residents that reach, exceed or fall below certain ownership thresholds, starting from 3% of the capital stock, or those acquisitions that without reaching such thresholds enable such investors to directly or indirectly form part of their managing bodies).

8.2 EXCHANGE CONTROL REGULATIONS

Exchange control and capital movements are fully deregulated and in all areas there is complete freedom of action.

The basic regulation on exchange control is contained in Law 19/2003 on the legal arrangements governing the movement of capital and economic transactions abroad and in Royal Decree 1816/1991 on Economic Transactions Abroad, which uphold the principle of deregulation of capital movements.

8.2.1 The main features of the Spanish exchange control provisions currently in force can be summarized as follows:

i. Freedom of action

As a general rule, all acts, businesses, transactions and operations between residents and non-residents which involve or may involve payments abroad or receipts from abroad are completely deregulated. This includes payments or receipts (made either directly or by offset), transfers to or from abroad and changes in accounts or financial debit or credit positions abroad. It also covers the import and export of means of payment.

ii. Safeguard clauses and exceptional measures

EU rules may prohibit or restrict the performance of certain transactions, and the respective collections, payments, bank transfers or changes in accounts or financial positions, in respect of third countries.

The Spanish government may also impose prohibitions or restrictions in respect of one state or of a group of states, a certain territory or an extra-territorial center, or suspend the deregulation system for certain acts, businesses, transactions or operations. However, the application of these prohibitions and limitations is only envisaged in especially serious scenarios.

iii. Types of bank accounts

Non-resident individuals and legal entities can hold bank accounts on the same conditions as resident individuals and legal entities. The only requirement, on opening the bank account, is that they provide documentary evidence of the non-resident status of the account holder. Additionally, such status must be confirmed to the bank every two years. Other minor formalities are also stipulated.

Moreover, residents may, subject to certain reporting requirements, freely open and hold bank accounts abroad either in euros or in foreign currency (when opened, they

must be declared to the Bank of Spain), and foreign currency bank accounts in Spain at registered institutions (without being subject to any reporting requirement).

iv. Residence for exchange control purposes

For exchange control purposes, individuals are deemed to be resident in Spain if they reside habitually in Spain. Legal entities with registered offices in Spain, and the establishments and branches in Spain of individuals or legal entities resident abroad, are likewise deemed resident in Spain for exchange control purposes.

Individuals whose habitual residence is abroad, legal entities with registered offices abroad, and permanent establishments and branches abroad of Spanish resident individuals or entities are deemed non-residents for exchange control purposes.

Habitual residence is defined in accordance with tax legislation, albeit with the adaptations established by regulations (which regulations are currently pending implementation).

8.3 FOREIGN TRANSACTIONS DECLARATIONS WITH THE BANK OF SPAIN

For purely statistical and informative purposes the Circular 4/2012 of Bank of Spain, establishes that individuals or entities (public or private) resident in Spain, other than payment service providers registered on the official registers of the Bank of Spain, that carry out transactions with non-residents or hold assets or liabilities abroad, must report them to the Bank of Spain²³.

²² www.comercio.gob.es/

²³ Without prejudice to the fact that the parties subject to the obligation to report to Bank of Spain detailed here are individuals and entities resident in Spain, we considered it of interest to include this section, since what gives rise to these reporting obligations are precisely transactions with non-residents and/or assets and liabilities held abroad or which the nonresident entity holds in Spain (in other words, both the real estate held abroad by a Spanish company and the real estate held in Spain by a nonresident entity must be declared).

The frequency of the notifications will depend on the volume of transactions carried out by the subjects obliged to submit them in the immediately preceding year, and on the balance of assets and liabilities of these subjects at December 31 of the previous year, as follows:

- If the amount of the transactions during the immediately preceding year, or the balance of assets and liabilities at December 31 of the preceding year, is €300 million or more, the information shall be provided monthly, within the 20 days following the end of each calendar month.
- If the amount of the transactions during the immediately preceding year, or the balance of assets and liabilities at December 31 of the preceding year, is €100 million or more but less than €300 million, the information shall be provided quarterly, within the 20 days following the end of each calendar quarter.
- If the amount of the transactions during the immediately preceding year, or the balance of assets and liabilities at December 31 of the preceding year, is less than €100 million, the information shall be provided annually, within the first 20 days of January of the following year.
- When the aforementioned amounts do not exceed €1 million, the return will only be submitted to the Bank of Spain at the express request thereof, and in a maximum period of two months following the date of that request.

However, residents that have not reached the reporting thresholds mentioned above, but that will cross them in the current year, will be required to file the corresponding declarations within the timeframe previously established from the moment at which the limits are exceeded.

Notwithstanding, when neither the amount of the balances nor the transactions exceed €50 million, the declarations can be filed on a summarized basis, only indicating the opening and closing balances of assets and liabilities held abroad, the total sum of receipts and the total sum of payments in the period reported.

8.4 IMPORT AND EXPORT OF CERTAIN MEANS OF PAYMENT AND MOVEMENTS IN SPAIN

Incoming or outgoing cross-border movements of means of payment for an amount of €10,000 or more or its equivalent in foreign currency is subject to prior administrative disclosure. If the disclosure is not made, Spanish customs officials may confiscate these means of payment.

Likewise, movements in Spain of means of payment for amounts of €100,000 or more, or its equivalent in foreign currency must also be disclosed previously.

For the purposes of the above, “movement” shall be deemed to mean any change of place or position verified outside the domicile of the holder of the means of payment.

“Means of payment” shall mean paper money and coins (domestic or foreign); bearer cheques denominated in any currency as well as any other instrument, including the electronic ones, designed to be used as a bearer payment means. Solely for the purposes of entering or leaving Spain, “payment means” shall also be deemed to be bearer negotiable instruments, including monetary instruments such as travelers cheques, negotiable instruments, including cheques, promissory notes and payment orders, whether in bearer form, endorsed without restriction, made out to a fictitious payee or any other form in which ownership thereof is transferred on delivery, and incomplete instruments, including cheques, promissory notes and payment orders that are signed but omit the name of the payee.

8.5 EXCEPTIONAL MEASURES IN RESPONSE TO COVID-19

As a result of the appearance of the so-called “coronavirus” (COVID-19) in the international arena and the extraordinary effects it has had in all aspects, the Spanish Government has approved a series of measures that aim to respond to the pandemic.

Among the various measures adopted, stand out the ones adopted to control foreign investment established in Royal Decree-Law 8/2020, of 17 March, on urgent extraordinary measures to deal with the economic and social impact of COVID-19.

In this sense, the regime for deregulation of direct foreign investment in Spain is suspended (i.e., investments made by residents of countries outside of the European Union and of the European Free Trade Association where the investor comes to hold a stake equal to or greater than 10% of the share capital of the Spanish company, or where, as a result of the corporate transaction, act or legal transaction, they effectively participate in the management or control of that company), if:

- The investment is made in certain sectors affecting public policy, public security and public health.
- The foreign investor is directly or indirectly controlled by the government, including the public agencies or armed forces, of a third country; has made investments or participated in activities in sectors affecting security, public policy and public health in another member state; or if an administrative or judicial proceeding has been brought against the foreign investor in another member state or in the state of origin or in a third state due for carrying on criminal or illegal activities.

In order to carry out these investments, authorization must be obtained on the terms provided for in the applicable legislation (Law 19/2003, of July 4th, 2003).

In addition, Royal Decree-Law 11/2020 of 31 March, adopting additional urgent social and economic measures to address COVID-19, came to alter the above regime established by Royal Decree-Law 8/2020 in two ways:

- On the one hand, it is clarified that the suspension of the liberalization of direct foreign investments regime applies to any investments which are made by residents outside

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the European Union and the European Free Trade Association or by residents of countries of the European Union or of the European Free Trade Association the beneficial owners of which are residents of countries outside the European Union and the European Free Trade Association. Such beneficial ownership will be deemed to exist where the latter ultimately hold or control, directly or indirectly, a percentage exceeding 25% of the capital or voting rights of the investor, or when by other means they exercise direct or indirect control of the investor.

- On the other hand, a simplified authorization process is permitted for foreign investments with respect to which (i) it is proven that there is an agreement between the parties or a binding offer in which the price, fixed or determinable, was established before March 18, 2020 or (ii) their amount is equal to or greater than 1 million euros and less than 5 million euros.

Provisionally and until the minimum amount is established by regulations, investment operations the amount of which is less than 1 million euros will be deemed to be exempt from the prior authorization obligation.

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9 Obligations in relation to anti-money laundering and counter-terrorism financing

In order to perform certain transactions in Spain, the parties thereto, before performing them, must provide specific documents relating to their identity and their business or professional activity, pursuant to the legislation applicable in relation to anti-money laundering and counter-terrorist financing (“**AML/CTF**”).

The main obligations applicable in Spain in relation to AML/CTF are established in Law 10/2010, of April 28, 2010, on the prevention of money laundering and of the financing of terrorism (“**Law 10/2010**”)²⁴ and in Royal Decree 304/2014, of May 5, approving the Regulations of Law 10/2010 (“**Royal Decree 304/2014**”).

Commission Delegated Regulation (EU) 2019/758 of 31 January 2019 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council with regard to regulatory technical standards for the minimum action and the type of additional measures credit and financial institutions must take to mitigate money laundering and terrorist financing risk in certain third countries, entered into force on September 3, 2019.

Spanish AML/CTF legislation is the result of the transposition of EU legislation on the subject, in particular, of Directive 2005/60/EC of the European Parliament and Council,

of 26 October 2005, and Commission Directive 2006/70/EC of August 1, 2006, laying down the implementing provisions of the former. Current Spanish AML/CTF legislation also includes the recommendations issued by the Financial Action Task Force (“**FATF**”) on money laundering and terrorist financing.

The legislation enacted in relation to AML/CTF applies to the transactions carried out by the parties bound by it (“**relevant persons**”), such as financial institutions, notaries, lawyers or real estate developers, among others, with their customers and potential customers, regardless of whether those customers are persons resident in Spain or nonresidents. Thus, where a party seeks to carry out in Spain procedures such as opening a current account, executing a public deed or acquiring real estate, the relevant persons must perform certain formalities to identify their customers and the origin of their funds.

In particular, the relevant persons must have procedures in place for identifying and accepting customers, and classifying them according to risk. In this regard, although each relevant person has specific AML/CTF procedures tailored to the characteristics of their activity, the information generally required pursuant to AML/CTF legislation can be summarized as follows:

- i. *Legally valid documents for formal identification purposes*²⁵. Admissible identifying documents are the following:

²⁴ Amended by Royal Decree-Law 11/2018 of 31 August on the transposition of directives on the protection of pension commitments to workers, prevention of money laundering and entry and residence requirements for third-country nationals and amending Law 39/2015 of 1 October on Common Administrative Procedure for Public Administrations.

²⁵ The relevant persons shall identify and verify, through legally valid documents, the identity of all the individuals or legal entities that seek to establish business relationships or carry out occasional transactions the amount of which is €1,000 or more. The identity shall be verified in all cases of transactions for sending money and managing transfers.

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a. Individuals:

- Spanish nationals: National identity card.
- Foreign national: Residence permit, foreign identity card, passport or, in the case of citizens from the European Union or the European Economic Area, official letter or personal identity card issued by the authorities of origin.

Exceptionally, other personal identity documents issued by a governmental authority could be accepted, provided they have appropriate guarantees of authenticity and include a photograph of the holder.

b. For legal entities: The public documents proving their existence and containing their corporate name, legal form, address, the identity of their directors, their by-laws and tax identification number.

c. Authorized representatives: A copy of the legally valid document relating to the representative and to the represented person or entity, and the public document evidencing the powers conferred.

The identification documents must be in force when business relationships are established or occasional transactions are executed.

- Identification of the beneficial owner²⁶*. The identification and verification of the identity of the beneficial owner may generally be carried out through a solemn declaration by the customer or the authorized representative of the legal entity.
- Information on the purpose and nature of the business relationship*. Such information shall be gathered in order to know the nature of the customer's professional or business activity. In this regard, in order to evidence the activity, it will suffice to provide, among others, some of these valid documents:

a. Salaried employees or pensioners: Last pay slip, pension or subsidy, certificate of labor history or employment contract in force.

b. Customers with liberal professions or self-employed persons: Proof of payment of social security contributions, professional association membership card or receipt of membership dues.

c. Legal entities: Last corporate income tax return, financial statements, annual business report or annual external auditors' report.

iv. *Information and, as appropriate, evidence of the origin of the funds to be contributed.*

The relevant persons shall carry out enhanced verifications of the information provided to them in those situations in which, given the nature and characteristics of the transaction and in view of the criteria established in legislation, they consider that there is, in principle, a higher risk of money laundering or terrorist financing.

²⁶ The relevant persons shall identify the beneficial owner and adopt the appropriate measures in view of the risk in order to verify its identity before establishing business relationships, executing electronic transfers for amounts over €1,000 or executing other occasional transactions for amounts above €15,000.



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IN SPAIN
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