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This guide was researched and written by Garrigues, on behalf of ICEX, on February 2023.

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 2023

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Administración General del Estado (AGE)

<http://administracion.gob.es>

Catálogo de publicaciones de la AGE

<http://cpage.mpr.gob.es>

NIPO (PDF): 114230304

Design & Layout

Inteligencia, S.A.

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1.

Spain: An attractive country for investment

Spain is in an outstanding position worldwide in terms of the importance of its economy: the 16th largest economy in the world by GDP, the 13th country most attractive for foreign direct investment (FDI), the 15th largest issuer of FDI and the 15th largest exporter of commercial services.

Spain has a modern economy based on knowledge, in which services represent over 76% 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 16th in size and has an immense capacity to attract foreign investment (currently ranked 8th 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 2,400 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 76%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 2022 A. T. K Kearney FDI Confidence Index.

² National Statistics Institute. Data from 2022.

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The country, its people and quality of life

2.1 GEOGRAPHY, CLIMATE AND LIVING CONDITIONS

The Kingdom of Spain occupies an area of 506,030 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 2022 was over 47 million people, with a population density of 94 inhabitants per square kilometer.

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

Table 1

THE BIGGEST CITIES IN SPAIN*	
	POPULATION
Madrid	3,280,782
Barcelona	1,636,193
Valencia	792,492
Sevilla	681,998
Zaragoza	673,010
Málaga	579,076
Murcia	462,940
Palma	415,940
Las Palmas de Gran Canaria	378,797
Bilbao	344,127

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

Source: Report on registered population of Spanish provincial capital cities at January 1, 2022. 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 2022). Spain's population is relatively young: 15% is under 16 years old, 65% is between 16 and 64 years old, and only 20% is 65 and over, according to 2022 figures. As highlighted in Table 2, Spain has a highly diverse and multicultural population.

Table 2

FOREIGNERS RESIDENT IN SPAIN BY CONTINENT OF ORIGIN			
	2020	2021	2022*
Europe	3,200,493	3,315,427	3,488,252
America	1,032,621	1,080,817	1,125,113
Asia	471,539	487,463	497,054
Africa	1,091,449	1,120,090	1,130,902
Oceania	2,827	2,931	3,095
Unknown	1,531	1,423	1,714
TOTAL	5,800,460	6,008,151	6,246,130

Source: Ministry of Inclusion, Social Security and Migrations³. *Data as of June 30, 2022.

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 some time ago, with 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 recent global crisis and the effects of the COVID-19 pandemic on the economy, Spain has 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 improve the employability of workers. A new labor reform was passed in 2022 with the main objective of ensuring availability of skills in the Spanish labor market and tackling the mismatch between labor supply and demand.

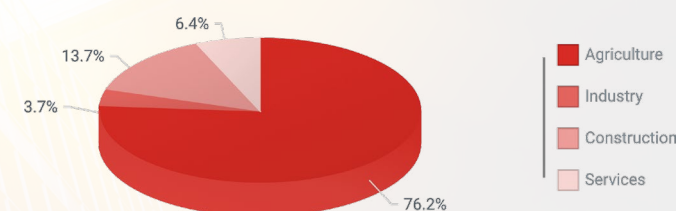
This, among other factors, has led to the creation of 3.3 million jobs since 2014. This positive evolution, which was interrupted due to the negative impact of the COVID-19 public health crisis in 2020, resumed its upwards trend in 2021 and this trend was maintained in 2022.



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 2022



Source: National Statistics Institute.

³ https://www.inclusion.gob.es/web/opi/estadisticas/catalogo/extranjeros_con_certificado#nav-ultimosdatos.

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Table 3

EVOLUTION OF LABOR FORCE STRUCTURE BY ECONOMIC SECTOR (%)			
	2020	2021	2022
Agriculture	4.1	4.2	3.7
Industry	13.9	13.7	13.7
Construction	6.6	6.4	6.4
Services	75.4	75.7	76.2

Source: National Statistics Institute. 2022. Labor Force Survey.

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/corona/Paginas/subhome_corona.aspx

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

⁶ <https://www.congreso.es/en/home>

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

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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 – 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 the fourth country in terms of voting power on the Council of Ministers. Spain will also hold the Presidency of the European Union in the second half of 2023.

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, 2023, with the addition of Croatia, Eurozone membership now stands at twenty.

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, consisting of a financing instrument aimed at supporting all areas of action of the European Union, with a particular focus on ecological and digital transitions, and helping 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 €2 trillion 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 is built around three pillars:

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

It seeks 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.

On February 18, 2022, the Council of Ministers passed the bill for reform of the 2011 Science Law, which aims to provide resources, rights and stability for R&D&I personnel, as well as ensure stable and growing public funding, with a target of 1.25% of GDP which, coupled with private investment, would meet the European Union R&D funding target of 3%.

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, and which approved a €39 million R&D&I funding package in 2022. Both entities steadily promote transnational and bilateral research and cooperation projects.

As part of the Recovery, Transformation and Resilience Plan, the Ministry of Science and Innovation has established special employment measures to encourage the

return of researchers to Spain, launching various lines of subsidies and special loans in the budget, targeted at R&D projects in the healthcare and aerospace sectors, among others. At the end of 2022, the Ministry of Science and Innovation presented the general outline of the General State Budget for 2023, which includes a large direct investment in R&D&I. Specifically, the budget has been increased by 4% with respect to 2022, i.e., up to €3,991 million.

With a view to meeting targets under the European Green Deal, on August 31, 2022, the European Commission approved the 2023-2027 Common Agricultural Policy Strategic Plan for Spain (2023-2027 CAP). The main goals of the 2023-2027 CAP are to achieve a competitive and diversified agricultural sector, ensuring food security, protecting the environment and biodiversity, and strengthening the socio-economic fabric of rural areas.

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Infrastructure

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

In this connection, the Infrastructure, 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. Additionally, the Spanish government plans to allocate €6,667 million from the Next Generation program to mobility and infrastructure policies, mainly focusing on railroads, through the activity programs drawn up by railway infrastructure managers Adif and Adif Alta Velocidad.

The objectives of the PITVI 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 17,551 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 of almost 18,000 kilometers), high-speed networks have become a priority.



Madrid currently has high-speed train connections to 35 Spanish cities, meaning that approximately two-thirds of the Spanish population live within reach of a high-speed train station.

The Spanish high-speed network is constantly being expanded. The new MadridMurcia and MadridBurgos sections were added in 2022 and the Madrid-Asturias line is expected to be inaugurated in 2023. The Spanish government estimates that construction of the entire rail corridor from Almeria to the French border will be completed by 2025-2026.

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 nine-fold, from just over 450 kilometers to around 4,000 kilometers at present.

Since its inception, over €57,000 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 to 2023, and in line with previous years, the General State Budget contemplates that railroads will receive the bulk of State and European infrastructure funding, with the majority earmarked for high-speed rail.

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, since 2020, administrative licenses and concessions have been granted to Spanish companies for their participation in the construction of railway infrastructure and equipment

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in countries such as Australia (Sydney), the United Kingdom, Slovakia, Poland and the United States (Dallas and Houston), among others. Additionally, Renfe operates the high-speed line connecting Medina and Mecca in Saudi Arabia. In this context of expansion, the Renfe Strategic Plan envisages that 10% of the company's revenue will come from international markets in 2028.

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 lowcost service known as "Avlo" would begin to operate, although its inauguration was postponed until June 2021, due to the COVID-19 public health crisis.

In addition to the entry into operation of "Avlo" trains, other high-speed low-cost operators have also entered the market, such as "Ouigo" in 2021 and "Iryo" in 2022, fostering competition in the sector.

Finally, the ongoing liberalization of the freight sector since 2005 has led to the creation of private enterprises that transport goods by railroad. Following approval of the European Recovery Plan, the European Commission has authorized a €120 million support package designed by the Spanish government, with a time frame until June 2026, channeled through subsidies aimed at companies that substitute road transport for rail transport, compensating the difference in costs between the two modes of transport. This plan aims to incentivize rail transport over road transport, as well as improve the competitiveness.

Air transport links the main Spanish cities via Spain's 48 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 Madrid airport. AENA plans to invest €2,400 million in Adolfo Suárez Madrid-Barajas Airport up to 2026, the main objective being to increase capacity up to 80 million passengers and to consolidate its position as the main global link to Latin America. Passenger numbers rose in 2021 and this upward trend was maintained in 2022 with a 60% increase compared to the previous year.

The 2025 Flight Plan approved by ENAIRE provides for investment in excess of €100 million a year, with €156.6 million allocated for 2023, of which €98.8 million are earmarked for the European ATM Master Plan within the framework of the Single European Sky. By the end of the Plan in 2025, total investment will have reached €737 million, with the aim of adapting to the liberalization of services, as well as globalization and the consolidation of air navigation managers. The 2025 Flight Plan also seeks to enhance flight path efficiency as part of a commitment to sustainable aviation.

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 Motorway of the Sea between Spain and France is now in operation, linking Vigo with the French port of Nantes-Saint Nazaire. 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 links already on offer and operating with good results between the port of Barcelona and several Italian ports. The ferry line between Santander and the Irish port of Cork has also been reopened, and services between Santander and the UK ports of Plymouth and Portsmouth were also reinforced in 2022.

This will allow a more sustainable alternative in some of the main flows within the EU. In addition, with a view to im-

proving the competitiveness of ports, the Ports Law was revised in 2021 to increase competitiveness and introduce the regulation of autonomous or unmanned ships.

In the same vein, the 2021-2025 Investment Plans for the port system were approved in 2021 to enhance port system connections, with an investment of more than €11,000 million as part of the new Strategic Framework for the General Interest Port System.

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. Competitiveness and an emphasis on renewable energies has led shipping company Maersk to pick Spain as one of the world centers for production of its green fuel. 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 64 technological parks¹¹ housing 8,145 companies, mainly engaged in the telecommunications and IT industries, in which a large number of workers are employed in R&D activities.

¹⁰ https://lloydslist.maritimeintelligence.informa.com/-/media/lloyds-list/images/top-100-ports-2022/top100ports2022_ebook.pdf?rev=bc3fa2a77e134864bcc7dde4518e07d9&hash=D54445A74F150E76C09174D21AB1ABA5.

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

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Spain also boasts a solid telecommunications network, with an extensive conventional fiber optic cable network covering the country almost in its entirety, in addition to an extensive undersea cable network, aided by its privileged geographical position.

Particularly noteworthy is the significant deregulation set in place many 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 of these initiatives, the Spanish government approved the 2022-2027 Water Plans for the Spanish River basins, which came into force in February 2023. The main objective of the new plans is to readjust water management to the effects of climate change, reducing allocations to adapt them to climatic conditions and improve the treatment of urban waste.

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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 2022, these two sectors represented more than 92% of Spain's GDP, with agriculture's share today representing 2.65% of the total GDP, having declined sharply (see Table 4).

Table 4

STRUCTURE OF GDP (% OF TOTAL, CURRENT PRICES)			
SECTOR	2020	2021	2022
Agriculture and fishery	3.15%	2.89%	2.65%
Industry	16.00%	16.94%	17.60%
Construction	6.07%	5.58%	5.22%
Services	74.79%	74.59%	74.53%

Source: National Statistics Institute.

Having withstood the effects of the Covid-19 public health crisis, GDP continued its growth trend in 2022, after picking up in 2021, although to a lesser extent due to the impact of the Russian invasion of Ukraine in February 2022 and the fall in consumption.

The variation in the quarter-on-quarter GDP growth rate for the fourth quarter of 2022 was 0.2%¹² in terms of volume. Nonetheless, year-on-year growth in GDP amounted to 2.7%¹³, reflecting a sustained recovery of the Spanish economy. The GDP growth rate is expected to remain at similar levels in 2023.



Inflation in Spain had been gradually falling 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. For reference, the year-on-year inflation rate at December 2020 was -0.5%. However, 2021 saw a change in the inflation trend, due mainly to an upsurge in demand following the restrictions introduced as a result of the pandemic, leading to mismatches between supply and demand as a result of shortages of raw materials, particularly energy products, compounded by the invasion of Ukraine in 2022.

This generalized increase in prices was reflected in a year-on-year inflation rate of 5.8% at the end of 2022, driven mainly by the rise in fuel prices. Although inflation remained relatively high with respect to 2021, the drop in electricity prices meant that 2022 ended with a year-on-year inflation rate one percentage point lower than the previous year. This slowdown in the inflation rate is expected to continue for the next few years.

¹² National Institute of Statistics, Quarterly National Accounts of Spain. Principal Aggregates. Fourth Quarter of 2022.

¹³ National Institute of Statistics, Quarterly National Accounts of Spain. Principal Aggregates, Fourth Quarter of 2022.

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Table 5

GROWTH FOR OECD COUNTRIES (%)			
REAL GDP GROWTH			
	2020	2021	2022
EU countries			
Germany	-4.1	2.8	1.9
France	-7.9	7.2	2.6
Italy	-9.1	7.0	4.0
United Kingdom	-11.0	-8.5	4.2
Spain	-11.3	6.1	5.5
Other countries			
United States	-2.8	6.1	2.1
Japan	-4.3	2.3	1.1
Total Euro Zone	-6.3	5.5	5.5
Total OECD	-4.4	5.9	2.3

Source: OECD Quarterly National Accounts.

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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 2021 of €25,498 according to data from the National Statistics Institute, with additional demand coming from the 71.6 million tourists who visited Spain in 2022¹⁴. This marked a 129.5% increase in tourist numbers with respect to 2021, an exceptional recovery following the COVID-19 public health crisis.

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	2021	2022
Agriculture and fishery	2.10	-1.13
Industry	7.73	3.00
Construction	-2.15	3.98
Services	6.53	6.58
DEMAND COMPONENTS	2021	2022
Private consumption	9.43	4.20
Public consumption	2.88	-0.95
Gross fixed capital formation	6.65	3.45
National Demand	5.70	2.90
Exports of goods and services	16.53	15.18
Imports of goods and services	15.75	7.83

Source: National Institute of Statistics.

¹⁴ Tourism Border Movements (FRONTUR) statistics. Data at December 2022. National Statistics Institute.

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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 2021 Spain was ranked 19th in the world as an exporter and 15th as an importer; while in the trading of services it occupies 15th place as an exporter and 21st place as an importer¹⁵.

Spanish exports and imports of goods account for 1.7% and 1.9%, respectively, of the worldwide total, while Spanish exports and imports of services represent 2.0% and 1.3% 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 2021 (AS A % OF TOTAL)			
EXPORTS		IMPORTS	
Chemical products	18.6%	Energy products	19.9%
Capital goods	17.5%	Capital goods	19.7%
Food	16.5%	Chemical products	16.5%
Automobile industry	11.5%	Food	11.4%
Semi-manufactured non-chemical products	11.0%	Consumer goods	10.6%
Energy products	9.8%	Automobile industry	8.5%
Consumer goods	8.8%	Semi-manufactured non-chemical products	7.6%
Raw materials	2.5%	Raw materials	3.0%
Other goods	2.2%	Durable consumer goods	2.4%
Durable consumer goods	1.6%	Other goods	0.6%

Source: Ministry of Industry, Trade and Tourism. January – December 2022 data.

As would be expected, the countries of the EU are Spain's main trading partners. Accordingly, during 2022¹⁶, Spanish exports to the European Union accounted for 62.8% of total exports and sales to the Eurozone represented 55.2%. Imports from the European Union accounted for 44.7% of the total and those from the Eurozone represented 37.7%.

¹⁵ WTO "World Trade Statistical Review 2022".

¹⁶ Annual data published by the Spanish Ministry of Industry, Trade and Tourism. January – December 2022 data.

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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 62.8% of total exports in 2022.

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

Specifically, Spain is the 13th largest sovereign country recipient of foreign investment worldwide in terms of stock (and 6th in the EU) with USD 819,725 million. Spain is the 15th largest source of FDI in terms of stock, with a volume equal to USD 600,808 million in 2021¹⁷.

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 Internationalization Fund (FIEM),) and the Fund for Co-investment with Sovereign Institutions (FOCO), within the framework of the Recovery, Transformation and Resilience Plan, which were allocated a total of €1,200 million in 2023 to channel the internationalization support and mentoring programs managed by the Spanish Chamber of Commerce. Also notable

are the credit facilities for business owners and independent contractors offered by the Official Credit Institute (ICO) and approved in 2023: the 2023 ICO International Facility and the 2022 ICO-Exporters Facility.

In order to foster internationalization and the inflow of funds from the European Recovery Plan, a new maximum amount eligible for financing under the FIEM was approved in 2022, offering funding of up to €10 million per transaction, thereby facilitating access to financing for export and investment transactions by Spanish SMEs.

The ICO has also managed funds for enterprises and independent contractors aimed at mitigating the economic impact of the war in Ukraine through the approval of the Ukraine Guarantees Facility to be used as liquidity and investment instruments open to companies and independent contractors in all production sectors, with a budget of up to €10,000 million. In the same vein, and as part of the Recovery, Transformation and Resilience Plan, the Ministry of Industry, Trade and Tourism has allocated €50 million euros to the Technology Fund for Trade, the main objective of which is the incorporation of new technologies that allow SMEs to respond to new consumer habits derived from digital transformation.

The 2017-2027 Spanish Economy Internationalization Strategy runs along the same lines. The "2021-2022 Internationalization Support Action Plan" formed part of the 2017-2027 Spanish Economy Internationalization Strategy, and its priority objectives centered 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)		
	2021	2022
I. Current account	11,403	10,074
Goods and services	19,114	21,011
Primary and secondary income	-7,711	-10,937
II. Capital Account	7,405	9,551
III. Financial Account	20,643	13,409
Total (excluding Bank of Spain)	-17,949	-53,075
Direct investment	-14,508	1,515
Portfolio investment	521	32,799
Other investment	-8,813	-91,537
Financial derivatives	4,851	4,148
Bank of Spain	38,592	66,484
Reserves	10,005	3,790
Claims with the Eurosystem	17,843	56,759
Other net assets	10,744	5,934

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 December 2021 and 2022.

¹⁷ According to the UNCTAD "World Investment Report 2022".

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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/portal/home.aspx?lang=en>

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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.

In the case of bank accounts to be opened by non-resident legal entities, and without prejudice to the fact that each credit institution may request more or less information, the following is the basic information to be requested at the time the account is opened:

1. Identification document of the sole administrator or of the persons with powers of attorney to open the current account.
2. Document accrediting the nature and address of the company. For example:
 - Public deed of incorporation.
 - Bylaws (in the event that they are not included in the deed of incorporation).
 - Certificate issued by the commercial register or equivalent body in the country of residence, certifying the nature and domicile. The content of this certificate must be at least the following:
 - Date of issue (which must be less than two months old to be valid).
 - Company name.
 - Address.

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3. Document accrediting the powers of attorney of the authorized person to operate the account (in the event that the powers of attorney do not appear in the above certificate).

4. Details of the shareholding structure of the company.

5. Document verifying the nature of the business activity. For example:

- Annual report.
- Annual accounts.

It is necessary to bear in mind that all documents issued outside Spain must be duly legalised and apostilled (Hague Convention), as well as duly translated into Spanish (sworn translation).

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.

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 STATEMENT OF TRANSACTIONS AND BALANCES IN TRANSFERABLE SECURITIES

Bank of Spain Circular 3/2013 establishes the obligation to submit to the Statistics Department of the Bank of Spain, on a monthly basis, statements of transactions and balances in marketable securities relating to, inter alia, transactions

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 nonresidents 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).

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and balances on behalf of non-resident customers (end-investors, depository institutions, central depositories or international clearing and settlement systems).

The entities that must comply with this obligation are the following:

- i. Credit institutions and branches in Spain of credit institutions registered in the official registers of the Bank of Spain which act as depositories or liquidators on regulated markets for negotiable securities, and the Bank of Spain.
- ii. Resident financial institutions registered in the official registers of the National Securities Market Commission that act as depositories or liquidators in regulated markets for negotiable securities.
- iii. Financial institutions registered in the official registers of the National Securities Market Commission acting as investment fund management companies, in respect of shares in Spanish investment funds.

8.5 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); negotiable instruments or bearer means of payment (those instruments which, on presentation, give their holders the right to claim a financial amount without the need to prove their identity or their entitlement to that amount. Included here are traveler's checks, checks, promissory notes or money orders, whether made out to bearer, signed but omitting the name of the payee, endorsed without restriction, made out to the order of a fictitious payee or otherwise by virtue of which title passes on delivery, and incomplete instruments); prepaid cards; commodities used as highly liquid stores of value, such as gold. 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 checks, negotiable instruments, including checks, 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 checks, promissory notes and payment orders that are signed but omit the name of the payee.

8.6 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 through successive Royal Decree-Laws, the latest being Royal Decree-Law 27/2021 of 23 November extending certain economic measures to support the recovery, which amended the sole transitory provision of Royal Decree-Law 34/2020 of 17 November on urgent measures to support business solvency and the energy sector, and on tax matters.

Thus, Royal Decree-Law 27/2021 has extended until 31 December 2022 the application of the mechanism for the control of foreign direct investment in Spain. Currently, with the approval of Royal Decree-Law 20/2022 of 27 December on measures to respond to the economic and social consequences of the war in Ukraine and to support the reconstruction of the island of La Palma and other situations of vulnerability, the moratorium has been extended until 31 December 2024 (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, as well as the acquisition of control over assets or branches of activity, i.e. the acquisition of all or part of a Spanish company, where 'part' means its assets or a branch of activity), 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.

Foreign direct investment shall also be deemed to be foreign direct investment made by residents of European Union or European Free Trade Association countries whose beneficial ownership is held by residents of countries outside the European Union and the European Free Trade Association. Such beneficial ownership shall be deemed to exist when the latter ultimately own or control, directly or indirectly, more than 25% of the capital or voting rights of the investor, or otherwise exercise control, directly or indirectly, over the investor.

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Foreign direct investment in the following sectors will be subject to the monitoring mechanism:

- a. Critical infrastructure, whether physical or virtual (including energy, transport, water, health, communications, media, data processing or storage, aerospace, defence, electoral or financial infrastructure, and sensitive facilities), as well as land and real estate that are key to the use of such infrastructure, understood as those referred to in Law 8/2011, of 28 April, which establishes measures for the protection of critical infrastructure.
- b. Critical and dual-use technologies, key technologies for industrial leadership and capacity building, and technologies developed under programmes and projects of particular interest to Spain, including telecommunications, artificial intelligence, robotics, semiconductors, cybersecurity, aerospace, defence, energy storage, quantum and nuclear technologies, nanotechnologies, biotechnologies, advanced materials and advanced manufacturing systems.
- c. Supply of fundamental inputs, in particular energy, understood as those regulated in Law 24/2013, of 26 December, on the Electricity Sector, and in Law 34/1998, of 7 October, on the Hydrocarbons Sector, or those referring to strategic connectivity services or raw materials, as well as food security.
- d. Sectors with access to sensitive information, in particular personal data, or with the capacity to control such information, in accordance with Organic Law 3/2018 of 5 December on the Protection of Personal Data and Guarantee of Digital Rights.
- e. Media, without prejudice to the fact that audiovisual communication services in the terms defined in Law 7/2010 of 31 March, General Law on Audiovisual Communication, shall be governed by the provisions of the aforementioned Law.

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).

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

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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, the latest transposition being Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purpose of money laundering or ter-

rorist financing and amending Directives 2009/138/EC and 2013/36/EU (the "Fifth Directive"). 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:
 - a. Individuals:
 - Spanish nationals: National identity card.
 - Foreign national: Residence permit, foreign identity card, passport or, in the case of citizens from

²⁴ Amended by Royal Decree-Law 7/2021, of 27 April, on the transposition of European Union directives in the areas of competition, prevention of money laundering, credit institutions, telecommunications, tax measures, prevention and repair of environmental damage, posting of workers in the provision of transnational services and consumer protection.

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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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.

- ii. *Identification of the beneficial owner*²⁶. 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.
- iii. *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.



June 2023 / NIPO (PDF): NIPO: 114230304