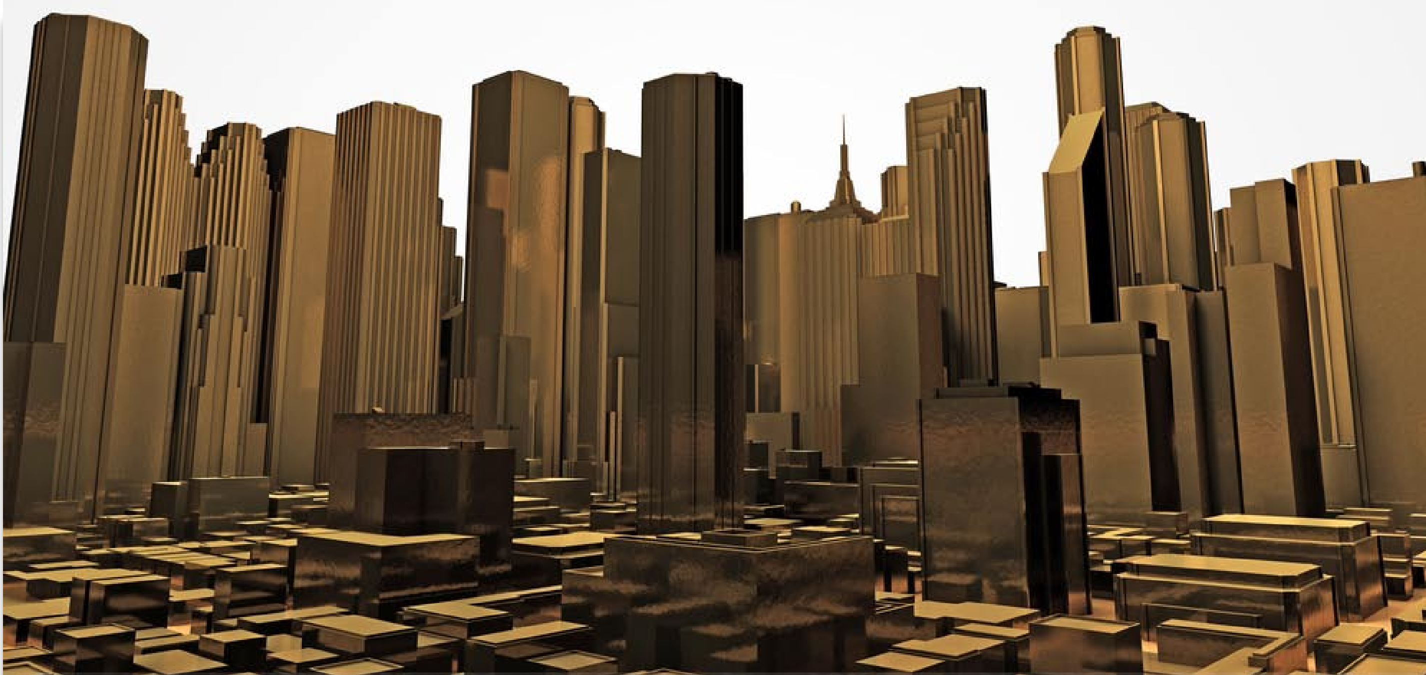

INFRASTRUCTURE & PROJECT FINANCE

SEPTEMBER 2012

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INFRASTRUCTURE & PROJECT FINANCE

SEPTEMBER 2012 • ANNUAL REVIEW

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united states

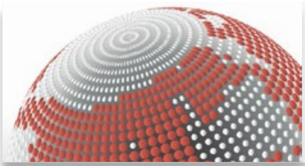
JOHN D. O'NEILL, HUNTON & WILLIAMS LLP

How has the infrastructure sector fared in the US over the last 12-18 months? What impact has continued economic uncertainty had on infrastructure investment and development?

Infrastructure development has slowed in the past 18 months due to the general malaise in the American economy and the wind-down of projects facilitated by the 2009 Stimulus Act. But, as with the American economy in general, a closer analysis shows pockets of robust activity in some regions and industry sectors. Transport projects in the Southeast are performing well, with two large projects in Virginia recently achieving commercial and financial close. North Carolina is moving towards commercial close on a large bridge project and seeking proposals on a large managed-lanes project, and Georgia and Virginia are considering port PPPs. Renewables, particularly solar, have been a bright spot, but development of traditional energy infrastructure has not progressed as utility executives and bankers had predicted a few years ago, due to depressed demand arising from the economic slowdown.

What types of infrastructure projects are proving popular at present? What opportunities exist in areas such as energy and power, transport, water supply, communications, waste management, healthcare and education?

Surface transport projects remain the most popular infrastructure projects both generally and through the use of PPPs. The size and scope of these projects are attractive to investors because they meet the criteria of public need and economic feasibility. Adding to the attractiveness of surface transport projects is the existence of the federal TIFIA loan program, a funding source I would expect to be even more valuable following the recent passage of the MAP-21 transportation legislation. Opportunities in other infrastructure sectors are proving more difficult with the exception of renewables. This is especially true of social infrastructure, which remains in a nascent state.



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JOHN D. O'NEILL, HUNTON & WILLIAMS LLP

To what extent is the government introducing policies and incentives to attract private investment to fund infrastructure development? Has there been an increased appetite for public-private partnerships (PPPs) and private finance initiatives (PFI), for example?

Nearly half of the US states have enacted some form of PPP legislation, with a meaningful number of these statutes being enacted in the past few years. At the federal level, the MAP-21 legislation enhances the flexibility of the TIFIA loan program and provides other incentives for transportation infrastructure development. Perhaps most noteworthy and beneficial about the final bill is that it does not contain previously proposed provisions that directly foreclosed the use of PPP incentives for certain transport facilities. In the energy sector, the US Department of Energy loan guarantee program represents a good effort by the federal government to foster energy development, although its effectiveness is limited by lack of continued funding.

What trends have you seen in project finance, in terms of pricing, terms, willingness to lend, and so on?

The most notable trend is the departure of European banks from the project finance arena. The impact of this development is significant, for these institutions have been the largest and among the most sophisticated of the infrastructure lenders. In their place, we have seen mid-tier US banks, Canadian banks and Japanese banks step up their project finance lending. Another notable trend is the willingness of those banks that do lend to extend the term of loans beyond intermediate lengths of 10 to 15 years, where previously terms in the 25 to 30 year period were not uncommon.

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JOHN D. O'NEILL, HUNTON & WILLIAMS LLP

When executing infrastructure deals, how important is due diligence to manage the inevitable risks and regulatory challenges?

While proper due diligence has long been a staple in infrastructure deals, there is no doubt it has become even more critical today. This is especially true in respect of environmental and regulatory due diligence. The upcoming November elections and vast amount of litigation make it difficult to predict the regulatory environment for the next year, let alone in the years to come. Thorough analysis to identify these risks early in the process will allow parties to the transaction to properly allocate risks in a manner that is cost efficient and beneficial to the project.

In your experience, what elements are essential to optimising existing projects, generating returns and creating long-term value from infrastructure investments?

The aphorism of 'there is no one size that fits all' is especially true with infrastructure projects. The nature, size, essentiality and political desirability will differ greatly between industry sectors and among projects within industry sectors. Among these factors, political desirability based on support from the public may be the most important factor. Careful project selection, clear enabling legislation, a transparent selection and negotiation process, and a strong and consistent operating performance will ensure the necessary public support, and with that support will come the desired business success.

Looking ahead, what key trends do you expect to see in infrastructure and project finance over the coming months?

For the immediate future, the upcoming US presidential election will mean subdued levels of activity on a national basis. But as noted earlier, on a regional basis there are pockets of strong growth, particularly in those regions having states with seasoned PPP experience. We are optimistic that the use of PPPs will

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JOHN D. O'NEILL, HUNTON & WILLIAMS LLP

continue to drive infrastructure development over the next few years. Whether this trend in these regions will migrate to a more national level remains a more difficult question. One would hope the continuing and unabated deterioration of the nation's infrastructure would lead political leaders of both parties to develop serious, programmatic solutions.

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John D. O'Neill, Jr. is the managing partner of the Richmond office of Hunton & Williams LLP and co-head of its public finance practice group. His practice focuses on public-private infrastructure development, public finance, capital finance and complex commercial lending. He has substantial experience with a broad range of public and private infrastructure projects, including airports, roads and highways, convention and conference centres, government administrative facilities, and water and wastewater facilities.

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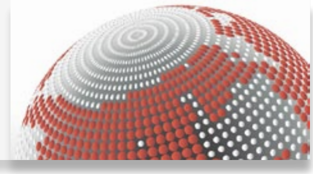

KLEBER LUIZ ZANCHIM, SABZ ADVOGADOS

How has the infrastructure sector fared in Brazil over the last 12-18 months? What impact has continued economic uncertainty had on infrastructure investment and development?

Brazil has probably one of the largest infrastructure investment programs in the world nowadays. Over the last 12 to 18 months, the federal government has announced projects in airports, ports, roads, energy and railroads. Our firm is advising clients from different economic sectors (for example, construction, real estate, agribusiness, and financial markets) in those projects, which means that the uncertainty about the global economy is not blocking investment initiatives just yet.

What types of infrastructure projects are proving popular at present? What opportunities exist in areas such as energy and power, transport, water supply, communications, waste management, healthcare and education?

It is hard to say which kinds of projects are most popular. At the federal level, transport seems to be ahead of the others. At the state level, we could point out housing, healthcare and transport projects. At the city level there are sanitation and urban mobility initiatives. In energy and power the main opportunities are in generation, highlighting so called green sources such as wind and solar. In transport there are subways, railways, ports and airports. In water supply and waste management, cities must draft a local plan in order to formalise long-term strategies on this issue, which might generate new business for the infrastructure services. In healthcare we have been working in public-private partnerships for hospital management. The education sector will probably follow the same path for schools.

brazil

KLEBER LUIZ ZANCHIM, SABZ ADVOGADOS

To what extent is the government introducing policies and incentives to attract private investment to fund infrastructure development? Has there been an increased appetite for public-private partnerships (PPPs) and private finance initiatives (PFI), for example?

The government is deeply involved in infrastructure projects through funding and tax incentives. For example, in August 2012 the Provisional Executive Order n. 575/2012 changed PPP regulation, focusing on exempting the public contributions from any federal tax charges. The measure reinforces PPPs as the contracting tool of the moment. Our firm is working in three important PPP deals and there are two others in the pipeline.

What trends have you seen in project finance, in terms of pricing, terms, willingness to lend, and so on?

We are seeing movements in the favour of long term financing. Brazilian projects still depend too much on the BNDES. However, the government is stimulating the infrastructure debentures market through tax benefits. We believe that private financing has a terrific opportunity going forward.

In your experience, what elements are essential to optimising existing projects, generating returns and creating long-term value from infrastructure investments?

We identify three issues. The first is drafting a good risk matrix; the second is putting top line companies together; the third and final issue is accountability.

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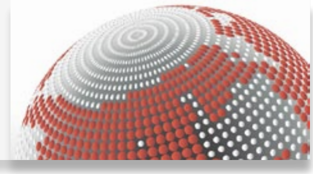

KLEBER LUIZ ZANCHIM, SABZ ADVOGADOS

Looking ahead, what key trends do you expect to see in infrastructure and project finance over the coming months?

We expect to see stronger coordination between the government and private players along with a high level discussion around public budget and funding, and tax and corporate law, as well as an improvement in the private financing of infrastructure projects.

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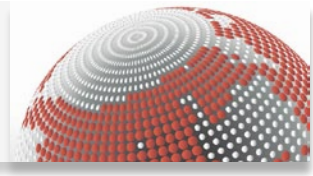

ANDREW BUISSON, NORTON ROSE LLP

How has the infrastructure sector fared in the UK over the last 12-18 months? What impact has continued economic uncertainty had on infrastructure investment and development?

The infrastructure sector has seen a notable slowdown in the last 12-18 months. The global financial crisis has taken its toll, both on UK banks and overseas banks lending into the UK. Whilst many small and some larger projects have continued to close in this more challenging environment, overall, fewer projects are coming to market, and many of those which are in procurement have had difficulties in raising finance. In addition to the general economic uncertainty, the infrastructure sector is still feeling the effects of the change in government in May 2010, which resulted in various schemes in progress being cancelled or delayed and the UK government re-formulating or reviewing its longer-term strategy in key areas relevant to the infrastructure sector, such as waste and energy.

What types of infrastructure projects are proving popular at present? What opportunities exist in areas such as energy and power, transport, water supply, communications, waste management, healthcare and education?

The UK government is aware that increased spending in infrastructure development should act as a means to kick-start economic growth. Accordingly, in November 2011, it published its updated National Infrastructure Plan, which boasted of a pipeline of 500 projects with a combined value of £250bn over the next 10-15 years. This pipeline shows clear opportunities in the green energy sector, whether based on existing technologies such as wind, solar or tidal, or on newer technologies being developed in the waste-to-energy sector. Notably, the UK government continues to provide, in-principle, support for the development of new nuclear power. The continuation of appropriate green energy incentives, as well as competitive pressure to continue to divert waste from landfill, should mean that a project pipeline continues, even in the absence of direct government procurement programmes. In the transport sector, the picture is somewhat starker. Likewise, in health and social infrastructure there is a similarly bleak picture, although a new Priority Schools Building Programme in the education sector is expected to give some opportunities in the shorter term.

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ANDREW BUISSON, NORTON ROSE LLP

To what extent is the government introducing policies and incentives to attract private investment to fund infrastructure development? Has there been an increased appetite for public-private partnerships (PPPs) and private finance initiatives (PFI), for example?

Conscious of the difficulty in attracting debt into such projects, the UK government is currently pursuing a number of initiatives. These include: the formation of the UK Green Investment Bank, to be capitalised with £3bn and specifically mandated to address the inability of the current lending market to allow green energy projects to close; a new UK government infrastructure guarantee programme, providing up to £40bn of guarantees, covering key project risks such as construction, performance or revenue risk, to enable key projects in the National Infrastructure Plan to proceed in the absence of available finance; and a temporary lending programme of up to £6bn, whereby the UK government itself will make loans available on commercial terms, alongside the existing commercial lenders and for a minority of the project debt requirement.

What trends have you seen in project finance, in terms of pricing, terms, willingness to lend, and so on?

The dominant trend that creates a problem for major infrastructure projects is the difficulty in obtaining long-term debt, with only a limited number of banks currently willing to provide such terms. This is expected to continue in the short term as regulatory requirements such as Basel III keep up the pressure on banks. Margins also remain high by historic standards. This has given rise to the need for the various government initiatives noted above to ensure that important projects can continue to be closed, although against earlier expectations a number of smaller projects – below £200m – in the waste and social infrastructure sectors have still been able to close with long-term debt tenors. In addition, following the global financial crisis, the UK government is also a significant shareholder in a number of UK banks which may give it a degree of influence over commercial lending to UK infrastructure projects. One of these banks has recently announced that it has earmarked £1bn to lend into UK infrastructure in the next 12 months.

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ANDREW BUISSON, NORTON ROSE LLP

When executing infrastructure deals, how important is due diligence to manage the inevitable risks and regulatory challenges?

From a lawyer's perspective, due diligence is clearly critical to a project's success. The ideal position is where all realistic risk events are foreseen and then clearly and comprehensively dealt with by the contractual risk allocation within a project. When the risk occurs, there should then be relatively little uncertainty and scope for dispute between the parties. This is all the more important for long-term PPP projects where the contractual counterparties do not have the option to walk away without a very complicated restructuring of debts and liabilities. Due diligence is not, of course, a panacea. Unforeseeable issues will always arise where the contractual documents do not provide a clear answer. In those projects, the strength of the relationship between the contractual parties and relevant other stakeholders becomes very important. At this point the dynamics of the individuals involved can be crucial to achieve a workable long-term solution.

In your experience, what elements are essential to optimising existing projects, generating returns and creating long-term value from infrastructure investments?

In terms of project optimisation, there is a clear tension between the desires of investors and lenders, and of government, where it is also a counterparty, as in PPP projects. In a difficult funding climate, lenders are less willing to allow their borrowers to make major changes to the project's risk structure solely to optimise a higher return they will not share, and significant waiver fees might therefore be requested to allow any changes to proceed. Similarly, government stakeholders will be reluctant, from a political standpoint, to allow revenues from a public asset to be optimised without a clear understanding as to how they share in those benefits. Recent changes issued by UK Treasury, directing that government should automatically take an increased share of any gains from project refinancings, suggest a knee-jerk response that does not necessarily stimulate the best long-term cooperation between the parties. An optimum approach would be that the initial project and financing documentation contains a regime with sufficient flexibility to permit future optimisation in a way that keeps all parties collectively incentivised. This would, however, be difficult to reconcile with some of the standard positions found in UK PPP projects.

Looking ahead, what key trends do you expect to see in infrastructure and project finance over the coming months?

The overall picture in the UK will most likely remain relatively flat in the short term. This may pick up if the new UK government initiatives, such as the infrastructure guarantees and co-lending opportunities, manage to re-stimulate the long-term debt market to respond with greater vigour to those projects which are seeking finance. Some PPP sectors are likely to see renewed interest, such as the education sector when the UK government's Priority Schools Building Programme is released shortly. This may be tempered by the UK Treasury's review of the PFI model, the results of which are also due to be announced within the coming weeks. Any fundamental change to the established PFI model will take time to be digested and this may cause some delay as the market finds its feet with the new provisions.

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spain

JOSÉ GUARDO, CLIFFORD CHANCE, S.L.

How has the infrastructure sector fared in Spain over the last 12-18 months? What impact has continued economic uncertainty had on infrastructure investment and development?

It cannot be denied that the condition of the Spanish economy has hit the infrastructure sector hard in recent months. This is true on several levels. On the one hand, the general situation of the Spanish economy and the perception of 'Spain risk' is making it very difficult to finance projects that are in progress at the present. On the other hand, the poor economic situation is also having a decisive effect on projects that were already in difficulty, jeopardising their viability even further and making it hugely difficult to come up with alternatives to refloat them.

What types of infrastructure projects are proving popular at present? What opportunities exist in areas such as energy and power, transport, water supply, communications, waste management, healthcare and education?

It is difficult to think of a 'popular' area at this moment in time, but I would highlight projects related to water management. At a time when towns and autonomous communities need liquidity, a trend has emerged that is seeing the privatisation of the services that public entities consider of greatest value to the private sector and from which public finances could benefit most by privatising. Here the water management services stand out for several reasons. On the one hand, they do not use complex technology and, as such, their long-term maintenance needs can easily be forecast. On the other hand, the essential nature of the resources they manage means that they will be less vulnerable to fluctuations in demand.

spain

JOSÉ GUARDO, CLIFFORD CHANCE, S.L.

To what extent is the government introducing policies and incentives to attract private investment to fund infrastructure development? Has there been an increased appetite for public-private partnerships (PPPs) and private finance initiatives (PFI), for example?

The answer here is no. The government is devoted to implementing a far-reaching package of reforms designed to reduce the public deficit and this effort is distracting it from the need to implement measures or rules that could encourage investment in the form of public-private collaboration. These measures should ultimately be designed to reduce the legal uncertainty that still exists as a result of the vagueness of the current rules with regard to essential elements for the creation of these kinds of schemes.

What trends have you seen in project finance, in terms of pricing, terms, willingness to lend, and so on?

The sector is facing an inevitable restructuring. With liquidity extremely scarce as a result of the financial crisis, we also have to add the impact of the implementation of Basel III on the balance sheets of financial entities. The effects of the latter appear to represent the *de facto* extinction of long-term credit as far as bank financing is concerned, which has been the defining characteristic of project financing until now. This will oblige sector professionals to find imaginative formulas to continue financing projects. The capital market is seen by all as the great white hope, but this is not going to materialise immediately and as such it will be necessary to find a way to establish imaginative structures that reconcile the limitations of the banks with the needs of a sector that will continue to require bank financing. It is necessary to build bridges to the future, until such a time as access to the capital market is a reality for the infrastructure sector in Europe. But this is an effort that the private sector cannot undertake on its own. It requires the collaboration of the legislator and the regulators.

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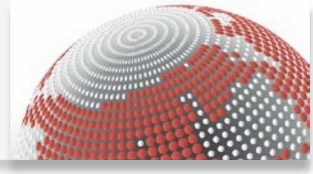

JOSÉ GUARDO, CLIFFORD CHANCE, S.L.

When executing infrastructure deals, how important is due diligence to manage the inevitable risks and regulatory challenges?

Due diligence work is undoubtedly essential and I myself consider it extraordinarily important. But I am speaking about a due diligence that is oriented and focused on the essential aspects related to the 'bankability' of projects. In this regard, it is absolutely necessary for the big law firms to generate regulatory teams that share concerns and the same way of approaching projects of finance specialists. Only via this kind of approach will it be possible to offer the high added-value services that both sponsors and financial entities need in order to perform this kind of transaction.

In your experience, what elements are essential to optimising existing projects, generating returns and creating long-term value from infrastructure investments?

At present, from a Spanish perspective, it is hard to talk about optimising when our daily struggle is concerned with more humble objectives. If I had to define one aspect that I see as essential to creating value in the long-term, I would cite the flexibility of financing structures. I believe a great effort should be made in order to prevent projects being strangled by excessively rigid financing structures that in some cases seem completely oblivious to the idiosyncrasies that these kinds of projects involve.

Looking ahead, what key trends do you expect to see in infrastructure and project finance over the coming months?

Risk premium permitting, we expect to see movement in projects related to the water sector. We believe that the adjustments in the energy sector mean that it is possible some projects will need to be restructured and this restructuring will not be easy. We will be looking for the first developments in the field of project bonds and would love to see the European Investment Bank playing a key role in all such developments because we feel that the support and leadership of multilateral institutions is vital right now.

spain

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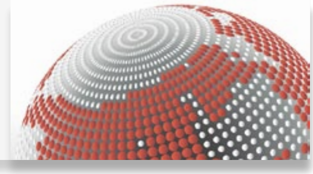
italy

SIMONE CADEDDU, BIRD & BIRD



How has the infrastructure sector fared in Italy over the last 12-18 months? What impact has continued economic uncertainty had on infrastructure investment and development?

The economic crisis had an impact on the rate of success of public concession award procedures and financial closings, due to the reduced availability of public resources and private financing, and the general slowdown of infrastructure investment. PPPs maintained a significant presence in the sector, representing more than 30 percent in value of infrastructure public works call for tenders in Italy in 2011, where public works concessions remain the most common form of infrastructure development. However, while more than 500 calls for tenders for new projects were launched in 2011, only 11 projects reached the closing phase, for a total €812m of financing on a €1.5bn total investment. The most affected sector appears to be transport infrastructure, where economic uncertainty and stifled investments have also spurred renegotiation requests for existing work and service concession contracts, with a view to realign either the duration of the concession or the tariffs in order to limit the negative impact of the downturn, such as reduced traffic on motorways or airports.

What types of infrastructure projects are proving popular at present? What opportunities exist in areas such as energy and power, transport, water supply, communications, waste management, healthcare and education?

Transport infrastructure projects are the highest value infrastructure projects across Europe and Italy is no exception. In 2011, a single motorway refurbishment PPP was closed for €620m. However, such large projects are only available in limited numbers and are usually accessible only to the biggest operators. Small utilities infrastructure projects with values up to €5m have always provided the bulk of PPPs in Italy, as a result of the greater willingness of local administrations with limited financial resources to resort to private investors. These projects typically include water supply networks, sport facilities, public parking, marinas and cemeteries. New opportunities could arise from educational facilities, correctional facilities and energy performance measures for public institutions, which were targeted by recent legislation making PPP the development mechanism of choice.

To what extent is the government introducing policies and incentives to attract private investment to fund infrastructure development? Has there been an increased appetite for public-private partnerships (PPPs) and private finance initiatives (PFI), for example?

Despite the existence of longstanding rules on PPP and PFI in the national public procurement framework, the performance has yet to yield its full potential. To foster private investment at a time in which public funding is limited, such rules have been rewritten several times during the economic crisis in a strong push to attract private investors. Law decree 83/2012, for example, which received the final parliamentary approval at the beginning of August 2012, extended existing fiscal incentives previously reserved for specific infrastructure to all infrastructure PPP, and reduced taxation on project bonds yields. Furthermore, the decree also provided that regulatory risks such as delays in the issue of authorisations and permits are normally borne by contracting entities rather than private investors.

What trends have you seen in project finance, in terms of pricing, terms, willingness to lend, and so on?

The crisis considerably reduced bank willingness to lend under the current economic framework. This has slowed the pace of financing while financial institutions waited for an improvement of capital supply conditions. A clear 'cherry picking' trend was evident, with only full-equity or quasi full-equity deals getting to the closing phase, along with some projects, such as healthcare projects, having an almost certain flow of revenues. On the other hand, the costs of long term bank financing associated with PF/PPP projects have been rising steeply and loan tenors have been significantly shortened – reaching 15-17 years – effectively constraining the development of new projects.

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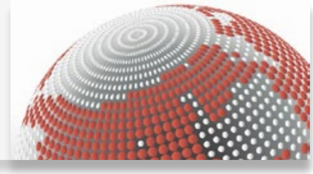

SIMONE CADEDDU, BIRD & BIRD

When executing infrastructure deals, how important is due diligence to manage the inevitable risks and regulatory challenges?

The importance of an early and thorough due diligence can never be overestimated in a regulatory environment as complex and multi-layered as Italy. Where unexpected regulatory constraints could stem even from municipal decisions, a local knowledge based approach which draws on a clear understanding of the functioning of the various administrations involved is absolutely key to a successful and sound infrastructure investment. While often regarded as a necessary evil, the due diligence phase, if performed with a problem solving approach, is not only useful as a tool to detect and avert risks, but it can also be instrumental in identifying creative solutions to generate additional value. This role of the due diligence phase is going to be enhanced in future competitive dialogue-based PPPs.

In your experience, what elements are essential to optimising existing projects, generating returns and creating long-term value from infrastructure investments?

As the high rate of published calls for tenders that remains unanswered shows, one crucial factor is a clear feasibility assessment of financial sustainability of the PPP both for the public and the private partners. Too often, poorly executed preliminary analysis overlooks details that would have made a project unsuitable for PPP, as its attractiveness in terms of returns is insufficient. The length of the award procedure is also a key factor, as the recent crisis has shown how PPP long procedures are exposed to dramatic changes in the economic environment. Finally, a more flexible approach from the public side, especially at a time of crisis, allowing either the introduction of demand risk mitigators or renegotiation clauses, appears to be a very important element in securing long term value of this kind of investment.

italy

SIMONE CADEDDU, BIRD & BIRD

Looking ahead, what key trends do you expect to see in infrastructure and project finance over the coming months?

The attitude of banks and financial institutions towards PF/PPPs will remain risk averse unless the general macroeconomic framework benefited from a return to more stable conditions. Medium-term prospects remain more promising for small utilities infrastructure, especially in the energy and water supply sectors. Large transport infrastructure projects are more prone to being affected by economic uncertainty, even though there are sizeable motorway and motorway-related projects planned for launch in 2013. Municipal public services infrastructure as a whole is also expected to attract private investment, as recent regulatory reforms had created strong incentives to privatisation. However, this trend could be hindered by a very recent decision of the Italian Constitutional court which curbed the scope of privatisation rules. Finally, it will be interesting to see whether newly regulated PPP models, such as sponsorship agreements for the renovation of cultural heritage monuments and private development of infrastructure to be leased to public administrations for the provision of public services, will play a significant role.

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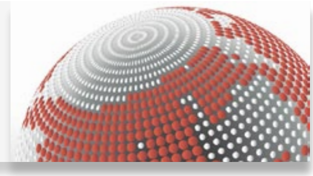

BRAD VANN, CLAYTON UTZ

How has the infrastructure sector fared in Australia over the last 12-18 months? What impact has continued economic uncertainty had on infrastructure investment and development?

The infrastructure sector in Australia has, despite the challenges of economic uncertainty, remained robust and generative of significant investment and funding opportunities over the last 18 months. For example, Sydney, Brisbane, Perth and Canberra airports have all been active, accessing a wide diversity of funding markets, and ports, particularly those servicing the minerals sector, have seen significant opportunities, such as the extension of Newcastle Coal Infrastructure Group's terminal, the refinancing of Abbot Point and its proposed expansion, and the imminent privatisation of the Port of Botany/Port Kembla. In the power sector, a number of refinancings of coal-fired generation assets have been completed in the last 12 months. In the renewable sector, there has been increased activity particularly in the wind sector. As for water, following the Victorian desalination project that closed in 2010, the Sydney Desalination Plant was privatised in 2012, by a consortium comprising Australian and Canadian pension funds. The health sector has seen several landmark deals – the New Royal Adelaide Hospital Project, the Victorian Comprehensive Cancer Centre and the Sunshine Coast University Hospital PPP. Finally, in rail, in addition to the restructuring proposals for the Reliance Rail project, the past year has been dominated by the NSW Government proposals to sponsor the new North West Rail Link in Sydney. In Queensland, the Gold Coast light rail project recently closed.

What types of infrastructure projects are proving popular at present? What opportunities exist in areas such as energy and power, transport, water supply, communications, waste management, healthcare and education?

Whilst current bids involve prisons such as Eastern Goldfields in Western Australia, healthcare, including Bendigo in Victoria, and a convention centre in Sydney, the most significant opportunities in Australia are currently in the transport sector. Brisbane, Melbourne and Sydney are each currently planning or investigating multi-billion dollar projects in rail and road to cope with population growth, and

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much needed improvements to enhance the productivity of the economy. Whilst over the last few years there has been a significant PPP pipeline in health and water, this is now tailing off. Victoria is also planning a new prison.

To what extent is the government introducing policies and incentives to attract private investment to fund infrastructure development? Has there been an increased appetite for public-private partnerships (PPPs) and private finance initiatives (PFI), for example?

Recently Infrastructure Australia, through its Infrastructure Finance Working Group, published a detailed report on infrastructure financing. The release accompanying the report, which was prepared by leaders in the finance sector and government after extensive industry consultation, noted that it "argues the private sector is a willing infrastructure partner but a lack of projects is impeding greater private sector involvement in infrastructure investment. It points to the need for a sustained period of reform by all levels of government, to encourage the spend on infrastructure that this country needs in order to meet future challenges. The report calls for a three-pronged approach: major reform of infrastructure funding, improved infrastructure planning to provide a deep pipeline of projects that give industry certainty, and steps to encourage more flexible and efficient markets that attract private investment." Whilst there has been extensive coverage of the debate, it is yet to be seen what impact the report will have as governments plan the next round of significant transport infrastructure projects.

What trends have you seen in project finance, in terms of pricing, terms, willingness to lend, and so on?

The appetite to lend in the social infrastructure PPP market remains healthy. Exposure to government revenue streams backed by strong and experienced contractors compare favourably to some other market risk-based projects. Many projects now also include a significant government contribution that reduces the debt amount substantially, leading to most sponsors having an excess of lenders/funding options. Recent difficulties with one project in Victoria – Ararat prison

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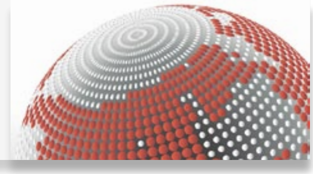

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– have caused financiers to more closely interrogate the technical and financial standing of contractors, but at this stage we have not seen significant increases in pricing or other covenant tightening.

When executing infrastructure deals, how important is due diligence to manage the inevitable risks and regulatory challenges?

Due diligence remains a critical part of the analysis undertaken by financiers and equity providers on infrastructure deals. Due diligence reports are invariably obtained in the key areas of technical, tax and accounting, legal and insurance. Reliance terms continue to be a matter of interest and concern for financiers where experts are engaged by project sponsors rather than by the financiers themselves. In the social infrastructure PPP market we have seen some relaxation in that some reports, such as legal, will only be required as a condition to financial close, but necessarily required for the initial bid. This is generally where a project is a 'standard' type of facility on a greenfields site.

In your experience, what elements are essential to optimising existing projects, generating returns and creating long-term value from infrastructure investments?

This is more of a commercial issue for clients to address. Projects need to reflect the fact that they are usually complex, and of a long-term nature, so the commercial mechanisms need to be flexible to sensibly deal with the unexpected over time.

Looking ahead, what key trends do you expect to see in infrastructure and project finance over the coming months?

A pipeline of privatisation and PPP proposals is looking more secure in New South Wales. Examples include the Port of Botany/Port Kembla privatisation, the Sydney Convention Centre, the Northern Suburbs Hospital and the North West Rail projects. The increasing reliance on pension funds as active equity – and in

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some cases debt – participants will continue, with the expectation that more offshore pension funds will become active. The growing importance of longer-tenor and fixed-rate ECA loans will become more pronounced as mega deals such as the US$8.5bn Australia-Pacific LNG project are closed with significant ECA funding. The dominance of Australian banks in domestic projects will not wane, but we still expect well structured deals to benefit from participation by increasingly selective offshore financial institutions. The attractiveness of Australian infrastructure assets to offshore investment – non-pension – funds will continue to be an issue: the balance between the stability of Australia as an investment destination versus the need to overcome the investment return hurdles of such funds will continue to test those funds' appetite for Australian infrastructure investment. The strength of the Australian dollar and the increasing capital costs for Australian projects will also remain a critical factor for the attractiveness of Australian deals.

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Brad Vann is a partner in the Melbourne office of Clayton Utz. He is an industry leading lawyer in the delivery of infrastructure, energy and technology projects, having advised governments, sponsors and banks on many of Australia's largest and most complex projects for over 30 years. Mr Vann has also been involved in a range of projects in the Asia-Pacific, often working with local lawyers, in China, Japan, Laos, Malaysia, Nepal, the Solomon Islands, Sri Lanka and Vietnam.

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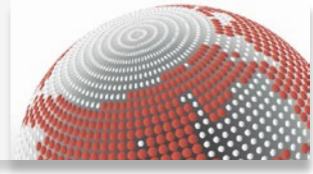

How has the infrastructure sector fared in Korea over the last 12-18 months? What impact has continued economic uncertainty had on infrastructure investment and development?

For the last 12-18 months, the Korean infrastructure market has experienced sluggish growth. Development of large-scale projects is becoming more challenging as major engineering and construction companies, which have traditionally assumed the role of developer in the Korean infrastructure market, have come under financial pressure. In addition to this a number of issues stemming from the financial crisis remain unresolved. In particular, market uncertainty has amplified as the Minimum Revenue Guarantee (MRG), one of the advantages of the Korean private investment sector, has been abolished.

What types of infrastructure projects are proving popular at present? What opportunities exist in areas such as energy and power, transport, water supply, communications, waste management, healthcare and education?

Market liquidity is currently focused on energy and power infrastructure projects due to concerns related to instability in power supply over the last two years. Large-scale private energy and power projects initiated as public enterprises, such as the Korea Electric Power Corporation, have seemingly been unable to meet increasing demand in energy over the last decade. Although the government does not provide a direct guarantee for retail electricity prices, historically increasing trends in retail electricity and fuel prices – including coal, oil and LNG – have lowered the risk acceptance level of financiers for energy and power infrastructure projects. While the transportation sector – BTO projects – has experienced difficulty, the water and environment sectors have fared relatively well. Encouragingly, it is evident that the sector has great potential in the future. New healthcare and education projects developed via BTL (PPP) schemes have also been regularly announced.

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To what extent is the government introducing policies and incentives to attract private investment to fund infrastructure development? Has there been an increased appetite for public-private partnerships (PPPs) and private finance initiatives (PFI), for example?

While the Korean government's stance in supporting medium to long-term infrastructure investment has not changed, the budget dedicated to infrastructure development has reduced compared to last year's. As government-led infrastructure projects have decreased in number, private infrastructure investment was theoretically anticipated to support continued investment in infrastructure. However, in practical terms, private-led infrastructure investment has also reduced due to the reduction in, and abolition of incentives. Encouragingly, in recent times, the government has been seeking means to promote private infrastructure investment. For example, the government increased the maximum support amount from Korea Infrastructure Credit Guarantee Fund (KICFG), in which the government has an equity stake, to achieve a multiplier effect in facilitating infrastructure development initiated by the private sector.

What trends have you seen in project finance, in terms of pricing, terms, willingness to lend, and so on?

Although the infrastructure sector is faced with a downturn, medium to long term market liquidity is abundant. In particular, there is enhanced appetite for investment in stable, medium-long term assets from institutional investors such as pension funds and life insurance companies given increased risk exposure to private sector in the infrastructure market and the downturn of the Korean real estate market. Recently, commercial lenders have been fiercely competing against each other to provide loans to energy and power or BTL projects despite very low interest rates of around Five-Year Korean Bond +100bps. On the other hand, the polarisation of preferred infrastructure investment has become more prevalent regardless of the recent decrease in the cost of medium-long term borrowing. Lack of government subsidies and an abnormally low rate of return resulting from political pressures have rendered financing of BTO projects practically impossible without guarantees from shareholders.

When executing infrastructure deals, how important is due diligence to manage the inevitable risks and regulatory challenges?

The due diligence processes for project financing, such as those relating to traffic, technical issues and insurance, are vital. Furthermore, the government plans to adopt regulations which will not only require major due diligence but also force due diligence institutions and project sponsors to be increasingly liable for the result of due diligence assessments.

In your experience, what elements are essential to optimising existing projects, generating returns and creating long-term value from infrastructure investments?

Externally, the reasonable management of infrastructure projects by government, or other competent authorities who are the counterparties of these concession agreements, will be important. Internally, it is important to maintain reasonable analyses of project risk and expected returns via detailed due diligence. It is also vital to promote infrastructure projects as a means to utilise enhanced market liquidity post-GFC in materialising infrastructure investment. On the other hand, supporting growth in secondary markets via securitisation is another key to promoting infrastructure investment.

Looking ahead, what key trends do you expect to see in infrastructure and project finance over the coming months?

Over the coming months, privately-led energy and utility projects are expected to be most active. Market liquidity will be concentrated on the energy and utility sectors at least until early 2013 when the government's new Power Supply and Demand Plan is expected to be announced following the election in December. In

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addition, renewable energy projects developed by generation and utility companies with high credit ratings, will likely receive significant attention. Transportation infrastructure projects developed via BTO schemes will face considerable hardship in the medium to long-term. However, active adoption of hybrid development schemes such as Rehabilitation Transfer Lease or a combination of BTO and BTL is expected to provide a breakthrough. Medium to long-term investors who are faced with a growing challenge in finding adequate, domestic assets for investment will actively seek investment opportunities in emerging markets such as Southeast Asia and Latin America. Investors will also seek opportunities to purchase blue-chip European assets available for sale at a relatively discounted price following the European debt crisis. We are confident that infrastructure opportunities both within Korea and, more broadly, across the region will continue to be very strong.

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John Walker is an executive director at Macquarie Group Limited and Chairman of Macquarie Group of Companies, Korea. In June 2011 Mr Walker was appointed as head of Infrastructure, Utilities and Renewables Asia for Macquarie Capital. Prior to working in Korea, Mr Walker was based in Australia as global head of government business for Macquarie's Investment Banking Group. Previously he was executive vice president at Bankers Trust, after making the transition from the public sector where he held a number of chief executive positions in Australia, including the Department of Transportation and the Australian Capital Territory Government.

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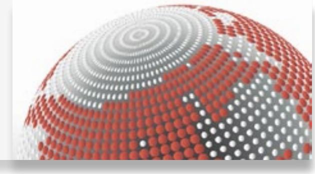
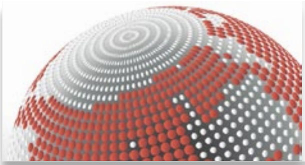


How has the infrastructure sector fared in your region over the last 12-18 months? What impact has continued economic uncertainty had on infrastructure investment and development?

Infrastructure transactions in the UAE have picked up since the lows of 2009 and early 2010, however, not in all sectors. Those sectors where government is able to fund projects directly – as opposed to project finance – have generally had better success. Examples include industrial projects, transport projects including Abu Dhabi International Airport and Abu Dhabi's Ports, and some 'essential services' projects such as power, water, waste treatment, district energy and LNG. We are seeing some project financed opportunities that would have easily closed pre-2008, but which cannot get off the ground now due to lending restrictions. The key exceptions are IWPPs and IPPs, which have had a traditionally successful track record in attracting debt, particularly from Japanese lenders. Another exception is the smaller deals in the district energy sector, where local banks are providing project financing.

What types of infrastructure projects are proving popular at present? What opportunities exist in areas such as energy and power, transport, water supply, communications, waste management, healthcare and education?

Based on our experience, the popular deals fall into two categories: brand projects and essential services projects. Brand projects are those where the government's brand drives the commitment to delivering infrastructure. Examples include high profile tourism deals in Abu Dhabi through to the massive Abu Dhabi International Airport. Essential services projects include energy and utilities – power, water, waste treatment and district energy – but also one off major projects such as the UAE's proposed LNG project in Fujairah. Several healthcare and education PPP schemes took off between 2007 and 2010, but have either closed or been restructured into government funded deals. In the last 12 months alone, our Middle East projects team has advised on 10 major infrastructure projects: eight of these have been UAE deals and six of those deals have been in the utilities sector.



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To what extent is the government introducing policies and incentives to attract private investment to fund infrastructure development? Has there been an increased appetite for public-private partnerships (PPPs) and private finance initiatives (PFI), for example?

The UAE government has a strong track record of involving the private sector in infrastructure development. Examples go back to the first oil and gas concessions through to the UAE's successful IWPP and IPP program. In more recent times, the UAE has entered into bilateral government arrangements to further promote private investment in infrastructure. One example is between the South Korean and UAE governments for the UAE's proposed civil nuclear power development programme. On the PPP side, Dubai passed a 'PPP law' in 2011, but Abu Dhabi has not yet enacted a specific PPP law. Abu Dhabi has, however, implemented a form of PPP in the education (secondary) sector for several years. These deals are not PPPs in the PFI sense, but rather management style contracts between the public and private sectors for education services. Abu Dhabi has also been successful in developing education (tertiary) projects, all of which have sought to follow PPP/PFI principles. In addition, there has been an increase in 'PFI style' deals in Abu Dhabi in the last 12-18 months. These have taken the form of 'private concessions' that are modelled on PFI contractual schemes, between government-owned entities and the private sector. These types of infrastructure deals, many of which have been and are being project financed, have been successful in the utilities and social infrastructure sectors, and look set to continue based on our pipeline of work.

When executing infrastructure deals, how important is due diligence to manage the inevitable risks and regulatory challenges?

Due diligence is essential. We have been working with a transaction adviser on three separate infrastructure deals in Abu Dhabi, all modelled on PFI schemes. In each case there has been rigorous due diligence on all aspects of each deal. This means appointment of technical, insurance, legal and financial advisers. Many of

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these projects are 'first of kind' and have required additional due diligence with government authorities to vet proposed schemes and legal opinions on transaction structures. Infrastructure deals can take more than 12 months to complete, so it is critical to have experienced advisers engaged as early as possible.

Looking ahead, what key trends do you expect to see in infrastructure and project finance over the coming months?

Governments have set budgets that will come into effect for some government owned companies in 2013, so perhaps we might see some new deals start, or existing deals revived, in Q1 2013. Based on our pipeline of work in 2013, I would say that essential services projects will continue in the UAE, as will work on industrials, ports and transport related projects.

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