

AUSTRIA



OPENING OF TRADITIONAL CHRISTMAS TRADE NEAR OLD TOWN HALL, VIENNA

SPECIAL ADVERTISING SECTION

Reflecting the tentative signs of recovery in the Austrian economy, the project finance market has begun too to show signs of growth. Camilla Sutton reports.

MARKET RECOVERY

ALTHOUGH hardly soaring, the project finance market across Austria, and therefore Central and Eastern Europe (CEE) and South Eastern Europe (SEE) is showing signs of recovery. 'We have seen a slight increase of projects during the last months or respectively since 2010,' says Wolfgang Freund, a partner at DLA Piper Weiss-Tessbach in Vienna. 'However, the finance sector has not fully recovered yet.'

'In the recent months the market has picked up again,' says Robin L. Lumsden, a partner at Fiebinger, Polak, Leon & Partners (Fiebinger). 'Obviously this is a result of cheap money being currently available. Although the lenders conduct more in-depth analyses of their borrowers, monies are made available to them on opportune terms. Lenders are happy to finance acquisitions of targets which are currently rather cheap and still provide for solid collateral.'

'We have seen an increase of project finance volume throughout 2010 and expect a modest increase in

2011,' agrees Thomas Zivny, a partner at CHSH Cerha Hempel Spiegelfeld Hlawati. 'The reasons for this are the refinancing requirements of borrowers, and the lenders' perception that the worst part of the recession has already passed. In addition, we also see an increased appetite of lenders to finance projects. The market has, however, changed and we hardly see any greenfield projects. In most instances standing projects are being refinanced.'

The same can be said across the region. 'Project finance requirements relate in particular to the Central European countries where the need to develop and upgrade the existing infrastructure both as to energy supply but also highways and telecoms is urgent,' says Christian Herbst a partner at Schönherr. 'On large projects, like nuclear power plants and other developments, EBRD/EC supported funding has been and will continue to be available.'

'We have seen an increase in most of the CEE countries,' says Günther Hanslik, partner at CMS Reich-

AUSTRIA

Rohrwig Hainz. 'We believe that this has been caused by a number of factors, including the fact that various deals have been "on-hold" since the onset of the credit crunch, and they are finally starting to get under way and certain cash-constrained sponsors are looking to move as much of their debts off-balance sheet and into non-recourse vehicles ahead of the 2011-2012 "wall" of deals that need refinancing. With a number of high-profile PPPs having been terminated prior to financial close, project finance seems the most obvious and viable alternative. In addition, liquidity appears to be returning to the market, with many banks looking to be doing "new money" deals. There is also an overriding need for energy security and high speed rail and road connections – we see a growing head of steam to access bank markets to finance much needed infrastructure.'

'Interestingly we have seen some particularities from country to country in the CEE region,' continues Günther Hanslik. 'In the Czech Republic, for instance, in 2010, solar power plants projects have been one of the most important parts of project finance transactions.'

Due to state subsidies and a favorable statutory framework, many investors have been financing solar energy projects. On the other hand, we saw little movement in Hungary, where the elections and the change in government caused some uncertainty.'

International markets beyond the CEE are affecting Austrian project finance practices too. 'Brazil is currently an important generator of transactions,' says Tibor Varga, a partner at Dorda Brugger Jordis. 'We believe such increase has been due to the high activity in offshore drilling in Brazil. Due to a favorable double tax treaty many assets such as drilling platforms and drilling ships are owned by Austrian vehicles which therefore form part of project finance transactions – both in terms of project lending as well as project bonds.'

GOVERNMENT INTERVENTION

Some governments in the region have taken measures to invigorate the market. 'In some CEE countries, new PPP laws are being implemented. CMS has been mandated to devise a new PPP law for Serbia,' says Günther Hanslik.

Amongst all of our problem-solving strategies
and techniques, the one we use most often:
intensive effort

We always strive to find the best possible options for our clients' goals, until we have found the optimal solution. Experience tells us that only intensive effort gets results.

More information about us can be found at www.chsh.com

CHSH Vienna Belgrade* Bratislava Brussels Bucharest Budapest Minsk Sofia Timisoara
* in cooperation with JPM Janković, Popović & Mitić

CHSH

Cerha Hempel Spiegelfeld Hlawati
Partnerschaft von Rechtsanwälten

AUSTRIA

'We see a continuous and increasing deal flow in particular in the Balkan countries (Romania, Bulgaria, Serbia, Macedonia) on energy and infrastructure projects,' comments Christian Herbst. 'This includes nuclear, but also hydro and in particular windpark projects, since alternative energies like wind power have been and continue to be subsidized heavily by governmental programs.' Schönherr is currently advising the Government of Romania/Romanian National Nuclear Company on the financing of the Nuclear Power Plants Cernavoda 3+4 by way of a public-private partnership with six international utilities companies and the following restructuring.

'Infrastructure and energy projects, such as, for example, renewable energy in the Czech Republic and Slovakia, have increased substantially which is the result of governmental stimulation programs as well as favorable tax treatments,' comments Thomas Zivny. 'It remains to be seen whether the CEE region can continue along these lines.' CHSH Cerha Hempel Spiegelfeld Hlawati has advised Erste Group on several project

finance transactions in 2010. Highlights include advising on a €105m restructuring in Austria, the Ukraine, the Czech Republic and Cyprus and assisting on a €67m refinancing in Croatia and acting for UniCredit Bank Austria on a €150m project finance in Slovenia which was one of the most substantial transactions in Slovenia in 2010.

'The countries of Central and Eastern Europe and Southeastern Europe have begun to focus again on infrastructure and energy projects as a counter-cyclical measure to boost their local economies,' says Dubravka Grujić from Wolf Theiss. 'The process is moving slowly, though. The focus varies from country to country and from sector to sector, not least because of the varying political and economic climates, strategic priorities and budgetary constraints. In some countries – in Bulgaria, Romania, Slovakia, and Montenegro, we've seen a number of activities being undertaken with mixed results. Other countries are either rather quiet such as Austria, Ukraine, and Croatia. There have also been examples of government infrastructure projects that



home advantage in central europe

home advantage in central europe. schoenherr is a leading corporate law firm with unmatched coverage in Central Europe. More than 300 lawyers in 12 offices contribute their experience, knowledge, talent and know-how to bring clients innovative legal solutions. Providing a mix of high-quality advice and effective, business-oriented solutions is at the heart of schoenherr's philosophy. www.schoenherr.eu

schoenherr

AUSTRIA | BULGARIA | CROATIA | CZECH REPUBLIC | EUROPEAN UNION | HUNGARY | POLAND | ROMANIA | SERBIA | SLOVAKIA | SLOVENIA | UKRAINE

AUSTRIA

were terminated as they approached the implementation phase – for example in Romania and Slovakia. In Hungary, the government of Prime Minister Orbán announced in October that it would not launch any new PPP projects and would renegotiate those that are currently underway. Our view is that the preferred sectors for investment in the region are renewable energy, for example, wind farms in Romania and Bulgaria; hydropower plants on the Balkans; road construction for example in Slovakia, Bulgaria, Romania, and Macedonia; railway rehabilitation, for example in Bulgaria and Serbia; and social infrastructure, for example schools and hospitals, throughout the region.'

'As far as energy investments are concerned, Austria upheld the subsidy-scheme for renewable energy installed before the crisis,' adds Thomas Starlinger, a partner at Fiebinger. 'In addition electricity companies in the ownership of the federal state and of the provinces (at least 51%) have announced plans to invest in new hydro electric power plants in addition to an ongoing program to enhance the capacities of exit-

ing hydro-power generation facilities. In gas the Austrian government is strongly supporting the Nabucco and the South stream projects for the import of additional gas volumes to Central Eastern Europe. Most of these projects will be financed on a project finance basis.'

'To encourage the economic development the Austrian government implemented extensive projects especially in the field of the construction industry and traffic infrastructure, aimed at the improvement of the traffic system and the creation of new job opportunities,' says Otto Wächter, a partner of Graf & Pitkowitz. 'The Austrian government also introduced several projects for achieving high energy efficiency, such as the extension of hydroelectric power stations.'

TRENDS IN PROJECT FINANCE

So where are the funds for projects coming from and where are they being invested?

'As to hydropower projects both in Austria and CEE, we see the leading utilities companies such as Verbund



Heldenplatz in the Hofburg complex in Vienna

AUSTRIA

partly relying on their equity capital base and internal financing to drive projects,' comments Christian Herbst. 'As to alternative power, like wind energy projects, we see government sponsored programs, as to larger infrastructure projects throughout CEE/Balkans we see partly EBRD and IFC sponsored projects.'

'Project finance funds are coming from Austrian banks but on a different level than what we had seen prior to the financial crisis,' says Thomas Zivny. 'Investments are increasingly concentrated on the developed CEE jurisdictions such as Poland, the Czech Republic and Croatia. We have seen a substantial decline in Romania and in the Ukraine.'

'After a massive reduction of investments in the CEE region due to the financial crisis in 2009 we again see a long-term positive trend with respect to investments carried out in the CEE region,' says Otto Wächter. 'This is of essential importance in particular for a country like Austria, whose economy is based on the import and export of goods and services. In this respect the CEE region remains the key market for Austria and its investors.'

'We have noticed that Austrian banks are still active in financing projects in CEE countries,' says Robin L. Lumsden. 'Of course they conduct more in-depth analyses of their borrowers and the collateral provided but still see CEE as potential developing market. We have seen a number of investments in Romania and Russia in the last months where the monies were coming primarily from European banks. Further we anticipate strong investments of local Austrian banks in Turkey starting in 2012.'

'There is not one single geographic trend over the region,' says Günther Hanslik. 'While in SEE, Austrian, German, British but also Hungarian investors play an important role, we see more French and Greek financiers and contractors in Romania, for instance.'

'The majority of investors come from Western Europe,' says Dubravka Grujić. 'However, in times like these, investors are more focused on opportunities in their own countries/region. Nevertheless, money goes where there are reasonable opportunities for a return on investment – if there are lucrative projects, investors will pursue them. Often in the CEE/SEE region, especially in smaller countries, such as Macedonia and Montenegro, the projects are poorly structured and documented, or simply too large for the financing institutions to fund it or sponsors/investors to undertake it. Refinancing through the use of EU structural funds seems to be one of the preferred financing options for a variety of

Governments. In addition, European Investment Bank financing has played a significant role. Investment funds – particularly those that were previously focused on infrastructure – are currently less active. Financing from the commercial banks is limited and only for top quality projects.'

FUTURE OF THE MARKET

Project finance lawyers are cautious about the short term prospects for the market. 'We expect to see a modest rise in project finance but do not expect the markets to return to pre-financial crisis levels,' says Thomas Zivny. 'Legal work will continue to be complex and demanding due to raising legal requirements in the CEE jurisdictions.'

'It will develop, but there will not be a boom in projects in the region,' says Dubravka Grujić. 'Smaller, well structured projects will probably have more chance for success.'

'We are expecting further transactions in energy generation, particularly hydro-power with some roads and rail projects emerging in 2011,' says Günther Hanslik. 'Renewables in the Czech Republic are expected to slow-down, while in Hungary, more activity is expected.'

'Based on the positive prognosis regarding the global economic development over coming years, we are confident, that the Austrian market will also benefit from this global recovery and will continue in the positive trend as indicated in 2010,' says Otto Wächter. 'Due to important legislative amendments (e.g. a new Insolvency Code) and state investments we expect a further recovery of the Austrian market and the realisation of many new projects.'

There is only a glimpse of greater confidence in the market.

'Of course project finance will not be as aggressive as prior to the crisis and more conservative structures will build the standard form in 2012. Further we anticipate a strong growth in restructuring deals,' says Robin L. Lumsden.

'The future is very difficult to predict given the volatility of the financial markets (ie. relating to the need by the EU to bail out Greece, Ireland and potentially Portugal and Spain),' concludes Christian Herbst. 'Despite the financial crisis and the ongoing EC bailouts, infrastructure developments and financing in particular as to energy projects have provided a steady deal flow in Central and Eastern Europe and, given the requirement, are expected to continue.' ■