



# Reclassification risk in the renewables sector

An investor in the renewable energy sector in Southern Europe was in the process of an M&A transaction to acquire two solar plants which had been classified as separate plants for the purpose of the regional regulatory law. This impacted the level of income they could be expected to generate.

The investor's due diligence identified the risk that the solar plants could be reclassified as a single plant by the competent regulatory body because, whilst separate installations, they were in close proximity to each other.

Such a reclassification would have resulted in a potential liability to repay the historic Specific Regulated Remuneration (SRR) and/or the refusal of future SRR payments.

There were good technical and legal grounds to support the position that the solar plants should not be classified as of a group of facilities as defined by the regional regulatory law. Nonetheless, the potential severity of the risk in terms of quantum created an intolerable level of uncertainty for the investor and so it was considering abandoning the project.

The investor took out a Contingent Legal Risk Insurance policy to cover the loss that it could have suffered in the event of a reclassification of the two solar plants. This took the risk off the table and enabled the parties to unlock the negotiations and proceed with the signing of the transaction within the timeline initially agreed.

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