EMN

Legislative Mapping Report

ROMANIA

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EUROPEAN MICROFINANCE NETWORK

This series of national factsheets provides a snapshot of the various legislative frameworks concerning the provision of microcredit in Europe by non-bank financial intermediaries.

The national factsheets cover the following thematic areas:
1 Regulation of lending activity
2 Supervisory framework for non-bank lending
3 Products
4 Incentives and support
5 Development of existing framework for non-bank microcredit provision
6 Inclusive entrepreneurship and microenterprise development

1

Regulation of Lending Activity

Since 2005, the Romanian legal scheme allows non-bank lenders to directly disburse loans to the public. As the non-bank financial sector has evolved and grown, the National Bank of Romania (NBR) unified the various legal frameworks regulating non-bank lenders, which includes MFIs, leasing companies, mortgages companies, credit unions (CUs), consumer lenders etc., under a unique law (Law on Non-Bank Financial Institutions no. 93/2009).[1] This law regulates all non-bank financial activities and established a department within the NBR for the specific regulation, supervision and registration of all NBFIs. Under the law, NBFIs are not allowed to collect savings from their clients. In addition, although microcredit is explicitly mentioned in the law, MFIs do not have any distinct status compared to the other financial institutions.[2] CUs are regulated by laws 93/2009 and 122/1996, which determine the legal framework and functioning of employees and self-employed CUs as a self-financing mutual association that may also be certified as a social enterprise.

2

Supervisory Framework for Non-Bank Lending

NBFIs are supervised by the NBR. In the case of CUs, supervision is also provided by the National Association of Credit Unions (UNCAR).
Law 93,122/1996 and 122/2004[3] represent primary legislations; the NBR is entitled to issue secondary legislation related to the operations of NBFIs (e.g. provisioning policy, capital adequacy, risk policies etc.) through the Non-Bank Supervisory Department.
The minimum capital requirement for NBFI registration can range between EUR 200.000 and EUR 3.000.000 (in case the NBFI issues mortgages). CUs are exempted from this rule. For the registration of NBFIs, the NBR has opened two registries:

1. The general registry for all NBFIs, with specific sub-registries based on the type of financial product(s) provided (e.g. microcredit, leasing, factoring, consumer lending, etc.).
2. The special registry, for large NBFIs. NBFIs with capital exceeding EUR 5 million and a portfolio exceeding EUR 10 million are transferred from the general registry to the special registry where most of the secondary regulations, supervision and control are applied.
3. Entry Register for CUs, pawnshops and entities without patrimonial purpose (non-profit organisations). In accordance with Art. 35 of the Law no.93 / 2009, NBFIs registered in the Entry Register are not subject to the prudential monitoring or supervision of the NBR (chapter. III of the Law 93/2009).

Furthermore, the NBR operates the credit bureau for defaulted loans and banking incidents of loans exceeding EUR 5.000, which is compulsory for banks and large NBFIs. In addition, the Romanian Bank

1. Law 93/2009 along with regulation No. 5/2012 represents the legal basis for NBFI to operate.
2. Contemporary Legal and Economic Issues V, Editors: Ivana Barković Bojanić and Mira Lulić.
3. Republication of the Law 93, 122/1996.

Association operates another credit bureau for overdue loans and other financial products extended to individuals and legally registered companies. Access to this database is restricted to banks that report to this credit bureau. CUs and small NBFIs are not required to report to either credit bureau, and thus, they have no access them.
UNCAR supervises CUs sector, and they have established an internal credit bureau on the regional and national levels. All CUs report and share client data with overdue loans to the CUs credit bureau. Moreover, all annual financial reports are audited and centralised at the county/regional and national level and submitted by UNCAR to the Romanian Ministry of Finance.

3

Products

All NBFIs are allowed to disburse business and personal microloans, as well as other financial products such as factoring, leasing and mortgages. CUs are only allowed to disburse personal loans to their members.
According to the legal framework for NBFIs, there is no limit for business or personal microloans. The framework does not impose any interest rate cap on business or personal microloans.

4

Incentives and Support

In Romania, there are national/regional level funds dedicated to microcredit in the form of guarantees. Furthermore, CUs are operating an internal on-lending fund, also known as a liquidity fund, which is administered by UNCAR. However, the current context has no incentive support in the form of tax deductions for organisations that provide financial support for microcredit providers in the country.

5

Development of the Existing Framework for Non-Bank Microcredit Provision

In 2016, the Social Enterprise legal framework allowed CUs to register as social enterprises. Nonetheless, some current challenges include the restrictive legal framework for CUs related to the provision of business microcredits, secondary legislation related to provisioning procedures for large NBFIs and the lack of access to the national credit bureaus. Suggestions to help improve the situation include the revision of the CU legal framework and enabling access for all financial institutions to the centralised national credit bureaus.

6

Inclusive Entrepreneurship and Microenterprise Development

In the Romanian context, there are simplified administrative procedures in place for entrepreneurs, such as business and self-employed registration processes and registration costs. There currently are three legal registration types for the self-employed: Authorized Individual Person (PFA), Business Family Association (AF), and Individual Enterprise (II). There is a legal registration of agricultural producers at the commune level that issues a farmer certificate.
The legal registration for micro-enterprises was also simplified, especially for young entrepreneurs who may register for free as 'debutante micro-enterprise' (SRL-D); however, after three years, the company transitions from an SRL D into an SRL, which means higher costs than those normally paid to establish a business.
There is a mandatory welfare bridge in the country for self-employment out of unemployment, although once one registers as self-employed and reports income that exceeds the minimum income of EUR 400 per month, the welfare benefits are cut.
Finally, the Government is not running any educational campaign for inclusive entrepreneurship and microenterprise development or entrepreneurial education as part of school curricula. The Employment Agencies (national and county offices) are providing subsidies and reduced costs for entrepreneurship training programs for the unemployed, support to SMEs employing unemployed people and grant schemes for SMEs located in the under-developed regions or communities. Credit subsidies from the national and European Structural Funds for investment are also available.

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