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**COMPARATIVE ANALYSIS  
OF STATUTORY FRAMEWORKS  
GOVERNING  
NON-DEPOSIT-TAKING FINANCIAL INSTITUTIONS  
IN FRANCE, ROMANIA AND BULGARIA**

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## I. INTRODUCTION

This report has been prepared by the Maria Doiciu, Consultant for USAID Business Enabling Project based on a request by the Working Group for Legal Framework for Non-Deposit Tacking Financial Institutions (NDTFI)/ Non-Bank Financial Institutions (NBFI) organized by the National Bank of Serbia (WG-NBS).

The purpose of this study is to provide a starting reference for the WG-NBS's policymakers as they make decisions on the institutional structure and overall framework for regulation of NDTFIs. In addition, the analysis and information provided on the legal and regulatory framework for NDTFIs in France, Romania and Bulgaria will assist the WG-NBS in drafting an enabling legal framework for sustainable development of the non-banking financial sector.

The main elements of the comparative analysis are:

- Type of NBFI regulation: Non-prudential regulation<sup>1</sup> versus prudential regulation.
- Purpose/mission assumed by NBFIs: social versus business role.
- Targeted NBFI beneficiaries/clients: Promotion of self-employment and tackling poverty versus promotion of economic development and micro/small business.
- Support and assistance for the NBF sector: Support and assistance from the banking sector and government investment; technical assistance from EU financial and non-financial support programs versus no assistance; investment and support.
- **Impact of the legal framework on the financial sector and targeted beneficiaries:**
  - Development of the NBFI sector: Increase versus decrease in the number of NBFIs.
  - Reach of targeted beneficiaries: increase versus decrease in number of services/loans; increase versus decrease in number of financial services' beneficiaries (as changes to banking regulations such as Basel III have led to a decrease in the volume of financial services provided to some categories of beneficiaries)

Information contained in this report was collected primarily through desktop and web-based research on the legal framework of regulation and supervision utilized by financial regulators in three EU Countries, namely France, Romania and Bulgaria, that all have developed and well-regulated non-bank financial sectors.

These three countries' legal frameworks governing these financial activities have evolved within the last ten years and have allowed the development of dynamic non-bank financial sectors, initially serving social purposes. In France the initial goal was the economic and social integration of immigrants; in Romania and Bulgaria the focus was on minorities and population under the poverty line and at risk. The sector subsequently reoriented itself towards greater commercialization, serving the increased demand for business loans by start-ups, sole traders, farmers, micro-enterprises, and SMEs (in Romania and Bulgaria). The form of incorporation of NBFIs also changed in the two Eastern European countries: they went from being not-for-profit entities/NGOs to commercial joint-stock companies.

There are two main reasons the three EU member states were selected for analysis:

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<sup>1</sup> Non-prudential/prudential NBFI regulation refers to standards and procedures for NBFI registration and licensing; risk management standards such as provisioning, client screening, etc.; and portfolio quality standards, reporting requirements, and supervisory oversight.

- All three have diverse financial sectors consisting of banks and NBFIs regulated by specific legal frameworks and supervised by central banks or supervisory institutions. The establishment of legal frameworks for non-bank financial institutions was initiated five to 15 years ago (2005 in Romania; 2009 in Bulgaria; and 2001 in France); these frameworks were subsequently amended so as to comply with market requirements and EU financial markets legislation. Financial services provided by NDTFI/NBFIs to customers in each of the three countries have had a notable impact.
- Two of them, Romania and Bulgaria, have prudential regulation in place that aims to ensure client protection and prevent clients' over-indebtedness, as well to maintain the stability of the financial sector and ensure its performance. France employs non-prudential regulation that aims to increase access to credit for underserved sole traders, and immigrants, allowing financial institutions to develop their own risk management procedures and ensuring compliance with the European Code of Good Conduct for Microcredit Provision.

The study is divided into two sections: a comparative analysis of the regulatory framework for NDTFIs/NBFIs by country, with more detailed information related to microfinance sectors (MFIs), and a detailed analysis of regulatory bodies by country, with links to specific legislation and agencies responsible for supervision and regulation.

## II. COMPARATIVE ANALYSIS OF THE REGULATORY FRAMEWORK FOR NON-DEPOSIT TAKING FINANCIAL INSTITUTIONS/NON-BANK FINANCIAL INSTITUTIONS

The following tables summarize the types of regulation and supervision of NDTFIs and the specific characteristics of these sectors, as well as the impact the legal framework has had on each sector's development.

The main characteristics analyzed are:

- **Type of NBFi regulation:** Non-prudential regulation<sup>2</sup> versus prudential regulation.
- **Purpose/mission assumed by NBFIs:** social versus business role.
- **Targeted NBFi beneficiaries/clients:** Promotion of self-employment and tackling poverty versus promotion of economic development and micro/small business.
- **Support and assistance for the NBF sector:** Support and assistance from the banking sector and government investment; technical assistance from EU financial and non-financial support programs versus no assistance; investment and support.
- **Impact of the legal framework on the financial sector and targeted beneficiaries:**
  - Development of the NBFi sector: Increase versus decrease in the number of NBFIs.
  - Reach of targeted beneficiaries: increase versus decrease in number of services/loans; increase versus decrease in number of financial services' beneficiaries (as changes to banking regulations such as Basel III have led to a decrease in the volume of financial services provided to some categories of beneficiaries)

Descriptions of the key features of the legal framework for NDTFIs/NBFIs and the specific features of the regulatory process in each country have been added to provide explanation for the summary tables.

The detailed description of the French NDTFI/NBFi sector refers specifically to the regulation of microfinance associations and the microfinance sector.

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<sup>2</sup> Non-prudential/prudential NBFi regulation refers to standards and procedures for NBFi registration and licensing; risk management standards such as provisioning, client screening, etc.; and portfolio quality standards, reporting requirements, and supervisory oversight.

## **BULGARIA**

### **Evolution of NBFi regulation in Bulgaria**

The legal prudential framework for Bulgaria's financial institutions (NDTFIs/NBFIs), was initially created by amendments to the Credit Institutions Act, the country's banking law, adopted in 2006.

During 2013 and 2014, as part of Bulgaria's efforts to align its legal framework with EU regulations, amendments were made to consumer lending legislation and the Credit Institutions Act. These have had an overall positive impact on the Bulgarian non-bank financial sector, leading to improvements in governance and risk management, as well as greater transparency.

Under the Credit Institutions Act, an official license from the National Bank of Bulgaria is required for any type of lending, including microfinance. Microfinance is specifically regulated by the Cooperative Act and Ordinance 26/2009. More restrictive regulation was enacted for commercial consumer lenders due to the increasing number of defaults on personal loans.

As of 2016, there are a total of 192 companies that hold licenses as financial institutions (NDTFIs/NBFIs) in Bulgaria; 44 firms have been certified to provide only leasing services; and another 148 are registered as factoring firms, consumer lenders, and microfinance institutions.

### **Services and Activities**

The legal framework has contributed to the commercialization of the microfinance sector. Most MFIs have amended their initial social missions, adding development-oriented and business components; these institutions now no longer target only indigent individuals and minorities excluded from financial services, but are primarily oriented towards under-served start-ups, sole traders, and micro-enterprises. These changes have allowed the MFIs to become sustainable.

Many NDTFIs/NBFIs (listed in the central bank's statistics as "corporations specialized in lending") have a broader license, allowing them to engage simultaneously in business credit, consumer lending, leasing, factoring, and other financial services.

Bulgarian NDTFIs (excepting credit cooperatives) are not allowed to take deposits, so their credit portfolios are financed from donations, loans, and investments provided by specialized social investors and International development programs and agencies (such as UNDP and USAID), and EU-funded microfinance programs and SME development programs (e.g. CIP, Progress, JASMINE, and EaSI).

In Bulgaria, credit cooperatives are NBFIs; they provide financial services, mainly in the form of microcredits and savings deposits, only to their members – who are individuals and not businesses – and cannot borrow funds. Their members' deposits are guaranteed.

There is no interest cap on micro-lending for business development, but, in 2014, due to an increase in consumer lending, amendments were made to consumer credit legislation that limit amounts of personal loans and interest on loans extended to individuals. The aim of this legislation was to prevent over-indebtedness of members of the public.

Under Ordinance 22/2009, amended in 2012, NDTFIs and MFIs are required to provide portfolio data to the Credit Bureau.

Country/ characteristics of NDTFIs /NBFIs	Regulation type	Purpose of NDTFIs/NBFIs	Target beneficiaries <sup>3</sup>	Support to NDTFI/NBFI Sectors	Impact of NDTFI/NBFI legislation
<p><b>Bulgaria</b></p>	<p><b>Prudential legislation</b></p> <p>Specific legislation for each type of NDTFI, initially developed as amendments to the banking law.</p> <p>Supervision, registration and reporting to the Bulgarian National Bank.</p> <p>Prudential regulation regarding NDTFI licensing requirements, portfolio quality reporting requirements quality, sources for finance, operations.</p> <p>Restrictive consumer credit regulation governing amount of credit and interest rates.</p>	<p><b>Commercial purpose:</b> NDTFIs are registered as commercial for-profit entities providing mainly business loans.</p> <p><b>Except</b> commercial consumer credit providers that serve individual members of the public.</p> <p><b>Social purpose:</b> MFIs and credit cooperatives have social missions to serve mainly under-served individuals and start-ups.</p>	<p>Start-ups, sole entrepreneurs, micro-enterprises and SMEs, to promote economic development.</p> <p>Except credit cooperatives and consumer credit companies that exclusively finance individuals.</p>	<p>No financial assistance and support from the banking sector.</p> <p>MFIs receive financial and technical assistance from international aid programs / agencies in partnership with Bulgarian Government, such as UNDP, USAID, and other donors.</p> <p>TA and financial assistance (credit lines and guarantees) from EU Progress, Jasmine Program, CIP.</p>	<p>Development of the NDTFI sector, diversification of services, greater reach: in March 2016, portfolio value of NDTFIs reached 5.9% of GDP.</p> <p>Re-orientation of NDTFIs (mainly MFIs) from social lending to entrepreneurship and economic development.</p>

<sup>3</sup> Some types of institutions are commercial-oriented, while others are social-oriented.

## Credit Volume

As reported by the Bulgarian National Bank, the volume of loans extended by non-deposit-taking financial institutions as of March 2016 amounted to 5.9% of Bulgaria's GDP. Leasing services provided by leasing firms account for 3.4% of GDP, more than one-half of the reported figure.

## Microfinance in Bulgaria

According to an overview survey on microfinance in Europe (EMN/Evers & Jung, 2014<sup>4</sup>), MFIs in Bulgaria have been enjoying constantly growing demand for their products.

The microcredit sector in Bulgaria provides the following services:

- Loans provided mainly to finance working capital and investment loans (with short maturity) for machinery and inventory; The average business loan increased in 2012 and 2013, reaching 260% of GDP per capita, or EUR 9,600.
- Small consumer/social inclusion loans to meet personal financial needs, amounting in 2013 to on average 26% of GDP per capita, or EUR 950.
- MFIs also provide micro-leasing and micro-factoring and associated business development support services.

In 2012-13, 18% of the total value of all loans was disbursed to beneficiaries excluded from mainstream finance. A total of 40% of the loans were disbursed to female clients and 40% to rural clients. As little as 7.6% reached young people.

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<sup>4</sup> [http://www.european-microfinance.org/docs/emn\\_publications/emn\\_overview/Overview2012-2013\\_Nov2014.pdf](http://www.european-microfinance.org/docs/emn_publications/emn_overview/Overview2012-2013_Nov2014.pdf)

## FRANCE

### Evolution of NBF/MFI regulation in France

In EU countries with developed market economies the diversification of financial products and services, as well as of the financial services providers themselves, began at a much earlier date than in Eastern European economies. Thus, the appearance and development of microfinance institutions has been the most important non-banking innovation in France over the past 30 years: this was triggered in the early 1990s by economic migration from new EU member states and former colonies, as well as increased poverty and polarization of the economy.

Central and local government institutions, together with the central bank and the financial sector, have contributed to the development of the microfinance sector in France. Registration, supervision, and reporting requirements applicable to this sector are non-prudential and less complicated than in other countries, as well as than those in force for other NDTFIs/NBFIs registered in France.

The ACPR (*Autorité de contrôle prudentiel et de résolution*) is the supervisory authority for MFIs and NDTFIs/NBFIs registered in France. MFIs are registered and operate as associations/not-for-profit entities and are monitored mainly with regard to their use of public funds and the social impact of their interventions. All French MFIs have undertaken to comply with the requirements of the EU Code of Good Conduct for the microcredit provision, receiving technical assistance from the EaSI<sup>5</sup> program.

The first organization to provide microcredit in France was ADIE (established in 1989). At that time, bank regulations were strict and prohibited any non-bank borrowing entity from entering the refinancing market. For that reason, ADIE made loans using its own funds, which posed significant limitations to its capacity for action.

Since the establishment of ADIE, banking laws have undergone four rounds of significant change that have helped to gradually adapt the traditional financial system to new forms of microfinance and support the entrepreneurship development.

Amendments made to banking laws in 2001 allowed microcredit associations (NGOs – NDTFIs/MFIs) to raise financing from banks. Banks are now not the only entities able to deliver financial services and microcredit to underserved entrepreneurs and individuals.

The Social Cohesion Fund (FCS) was created in 2005 with assistance and funding from the Government. The FCS established a guarantee mechanism for micro-loans (up to 50%). In 2011, EUR 96.7m in FCS guarantees helped secure over 200m EUR in loans from banks for small and micro-business projects<sup>6</sup>. The guarantee offered by the FCS has played a major role in the expansion of the microcredit market in France.

In 2009, the state created the NACRE initiative (*Nouvel Accompagnement à la Création et la*

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<sup>5</sup> EU Programme for Employment and Social Innovation.

<sup>6</sup> *Banque de France* data, 2011 Microcredit Report 2011.

*Reprise d'Entreprise*, or New Support for Company Creation and Buyout) that allows banks to provide interest-free loans to associations (NGOs – NDTFIs/MFIs). French banks are currently encouraged to extend credit lines to MFIs, as well as to refer any applicants for business development support services and finance whose credit applications are rejected to MFIs. Microfinance providers are also encouraged to refer to banks any clients that became bankable and that apply for loans in excess of EUR 25,000.

In 2010 a law was passed governing consumer credit and stipulating the legal framework for microfinance. This law allows associations (NGOs established to provide financial and business development support services to entrepreneurs and micro enterprises) to receive interest-free loans from individuals: they can now participate in project financing through crowdfunding platforms such as Babyloan or Xetic.

It is not only NDTFI/ MFIs, but banks as well, that are required to provide annual reports on micro-loans to the *Banque de France*. This reporting requirement allows the authorities to better understand and measure the activity of the microcredit sector and its impact.

Country/ characteristics of NDTFIs /NBFIs	Regulation type	Purpose of NDTFIs/NBFIs	Target beneficiaries	Support to NDTFI/NBFI sectors	Impact of NDTFI/NBFI legislation
<p><b>France</b></p>	<p><b>Non-prudential regulation</b></p> <p>Legal framework of MFIs evolved from amendments to the banking law to a specific legal framework for access to finance for indigent individuals, immigrants, underserved entrepreneurs, and start-ups.</p> <p>The <i>Autorité de contrôle prudentiel et de résolution</i> (ACPR) is responsible for supervision of the financial sector.</p> <p>Reporting requirements for micro-credit associations serve only statistical purposes and evaluation of social impact.</p>	<p><b>Social purpose:</b></p> <p>Not-for-profit micro-finance entities serving a social integration purpose.</p> <p><b>Commercial purpose:</b></p> <p>Commercial entities for the rest of NBFIs.</p>	<p>Micro-finance institutions promote social inclusion and entrepreneurship development.</p> <p>Other NBFIs serve micro- and small business and/or individuals by extending a large variety of financial products and services.</p>	<p>Financial and technical assistance from the banking sector, central and local government, EU financial programs (CIP, Jasmine, Progress, EaSI).</p> <p>Micro-credit associations are allowed to finance their portfolios through crowd funding.</p>	<p>Development of the MF and NDTF sectors, increased number of financial service providers, increased number of beneficiaries.</p> <p>In 2013, NDTFIs/MFIs extended a total of 46,879 micro-loans, whilst the total value of disbursed loans stood at EUR 276mn (data covers only MFIs required to submit reports).</p>

## Services and Activities

The microfinance sector in France has traditionally distinguished between two types of microloans:

- “Personal microcredit” or “Consumption loans” under the definition as outlined in Article 23 of the Law of 1 July 2010 on the reform of consumer credit): to finance social and professional integration projects.
- “Professional microcredit” or “Professional loans”: to support the creation, improvement or consolidation of small businesses and allow self-employment by entrepreneurs.

The main associations that extend “professional microcredit” are oriented towards different segments of the population:

- Adie ([www.adie.org](http://www.adie.org)) serves minimum wage earners and the unemployed
- France Active ([www.franceactive.org](http://www.franceactive.org)) serves the unemployed and social entrepreneurs

## Credit Volume

In 2013, NDTFIs/MFIs extended a total of 46,879 micro-loans, whilst the total value of disbursed loans stood at EUR 276mn<sup>7</sup>. An average loan amount of EUR 5,900, representing 20% of GDP per capita<sup>8</sup>, a significant portion, slightly over 82% of loans were “professional microloans” with a total value of EUR 257 million and 12 % with a total value of EUR 19 million were extended as “personal microloans”.

The figures presented are relevant for the achievement of the social and economic inclusion mission of the MF sector in France.

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<sup>7</sup> EMN Overview 2012-2013, 8 MFIs reporting 2013 microcredit indicators.

<sup>8</sup> A loan amounting to on average less than 150% of per capita GDP is considered a microcredit with the purpose of ensuring social and financial inclusion. The EU MFIs applying for EU financial and TA assistance are selected based on this eligibility criteria.

## ROMANIA

### Evolution of NBFi regulation in Romania

The legal framework for microfinance in Romania was initially created in 2000 to allow the Ministry of Labor and Ministry of Economy to channel public funds from the World Bank through microfinance institutions with the aim of promoting entrepreneurship development and microfinance programmes intended for the unemployed and potential entrepreneurs from former mining and single-industry towns as part of an effort to restructure industrial regions.

The initial legal framework was considered necessary to draw a distinction between microfinance activities/microcredit and business development projects implemented by international MFIs, and to raise awareness amongst policy makers about the MF sector and its impact and contribution to the country's economic development.

The legal and regulatory framework was redefined in 2004 and 2005. The Micro-Credit Company Law, No. 240, was adopted by the Romanian Parliament in June 2005, with the main aim of supporting diversification of financial sources for MFI portfolios; protecting clients; and introducing clear governance, risk control, and transparency mechanisms; as well as to take steps towards sustainability and development of the sector.

During the same period, pawn shops, factoring, mortgage and leasing financial services providers, credit unions, guarantee funds for SMEs, were all drafting and promoting their own legal framework and pursuing the same goals of sustainability and development.

Government Ordinance 28/2006, transformed in 2009 into Law No. 93 on Non-Bank Financial Institutions (NBFIs), unified in a single piece of legislation the legal and regulatory framework for all NBFIs, regulated registration and minimum capital requirements, lending conditions, customer protection, reporting requirements, governance and management, etc., with the aim of ensuring and maintaining stability of the Romanian financial sector.

Law 93/2009 defines NBFIs as financial institutions that lend within the provisions of the NBFi Law, are not banks, and cannot receive deposits from their customers. The main lending activities that NBFIs are allowed to engage in are: (i) loan origination, including but not limited to consumer loans, mortgages, loans against collateral, micro-lending, transaction financing, factoring; (ii) leasing; (iii) guarantee issuance, agreements to undertake guarantees and to provide financing; (iv) other financing instruments.

The regulator – National Bank of Romania (NBR) – is also the supervisory authority for all NBFIs, including leasing firms, mortgage providers, credit unions, guarantee/counter-guarantee funds, and pawn shops, as well as microfinance companies. According to rules of the NBR (such as Regulation No. 20/2009), all NBFIs must be registered with the General Registry and licensed by the NBR. Large NBFIs are required to be registered with the NBR's Special Registry if the volume of their outstanding loans exceeds RON 25mn (EUR 5mn) and their own capital and borrowed funds amount to at least RON 50mn (EUR 10mn).

The following summarizes the regulatory structure for Romanian NBFIs and provides links to websites of the Central Bank, as registration and supervisory authority for the banking and non-bank financial institutions regulated by the law 93/2009, and to Financial Supervisory Authority, as supervisory authority for the insurance companies and investment funds.

Country/ Characteristics of NDTFIs/NBFIs	Regulation type	Purpose of NDTFIs/NBFIs	Target beneficiaries	Support to NDTFI/NBFI sectors	Impact of NDTFI/NBFI legislation
<b>Romania</b>	<p><b>Prudential legislation</b></p> <p>Single piece of legislation applicable to all NDTFIs that provide financial services, including microcredits. Registration, supervision and control, licensing and reporting to the Romanian National Bank.</p> <p>Restrictive and more prudential regulation for large NDTFIs (portfolio &gt;EUR 5mn).</p> <p>Financial Supervision Authority (FSA) is the registering, licensing, and control authority for NDTFIs operating as insurance companies and investment and pension funds.</p>	<p><b>Commercial purpose:</b> NDTFIs/NBFIs are registered as commercial for-profit entities providing mainly business loans.</p> <p><b>Except</b> credit unions registered as associations/ social enterprises that provide financial services to their members, who may be employees, pensioners, and sole traders.</p> <p><b>Social purpose:</b> MFIs and Credit Unions have social missions to serve mainly underserved individuals, start-ups, and sole traders.</p>	<p>Start-ups, sole traders, micro-enterprises and SMEs, for the purpose of promoting economic development.</p> <p>Except credit unions and consumer credit companies that exclusively finance individuals.</p>	<p>Recently, partnership initiatives have been launched between MFIs and SME banks, but to date MFIs have not received any financial assistance or support from the banking sector.</p> <p>MFIs have received financial and technical assistance from international aid programs / agencies in partnership with the Romanian Government, such as UNDP, USAID, and other donors/ investors (including the Romanian-American Investment Fund, Erste bank Foundation, Opportunity International, etc.).</p> <p>Technical and financial assistance (credit lines and guarantee) have been provided by EU Progress Jasmine, and CIP programs.</p>	<p>Development of the NDTFI sector, diversification of services, increased reach: at the end of 2014, Romanian NBFIs reported an active portfolio of EUR 8,064.6mn (5% of GDP), serving 1.6 million customers.</p> <p>Re-orientation of NDTFIs (mainly MFIs) from social lending to entrepreneurship and economic development.</p>

## Registration and Activities

As of May 2016, 174 active NBFIs were registered in the NBR's General Registry ([bnro.ro/files/d/RegistreBNR/ifn/RegistrulGeneral/registrul\\_general\\_ifn\\_active\\_tot.htm](http://bnro.ro/files/d/RegistreBNR/ifn/RegistrulGeneral/registrul_general_ifn_active_tot.htm)); of these, 41 were large NBFIs registered with the NBR's Special Registry, ([bnro.ro/files/d/RegistreBNR/ifn/RegistrulSpecial/registrul\\_special\\_ifn\\_active\\_tot.htm](http://bnro.ro/files/d/RegistreBNR/ifn/RegistrulSpecial/registrul_special_ifn_active_tot.htm)).

A total of 136 NBFIs perform multiple lending activities, including provision of microcredit, as well as other financial services such as factoring, guarantees, consumer loans, etc. In addition, 26 NBFIs are registered in Section H as providers of financial leasing.

The main eight NBFIs active in the Romanian microcredit market are members of the two EU Microfinance Networks, subscribed to the EU Code of Good Conduct for Microcredit providers, and report their financial and social impact indicators to MixMarket and for purposes of the EC/EMN's biennial report, the *Overview of the Microcredit Sector in the European Union*.

There have recently been a number of partnership initiatives between banks and MFIs aimed at better serving the market. Here banks have been offering the services of their extensive networks of branches to increase the penetration of MFIs, and have been referring non-bankable clients to MFIs for business development support services and micro-loans. On the other hand, MFIs have been referring to banks their newly-bankable clients with credit applications larger than EUR 25,000. MFIs have also been using banks' payment infrastructures to extend and collect micro-credits.

The credit union (CU) system in Romania is made up of more than a thousand CUs with 1.5 million members. Credit unions are regulated, registered as NBFIs in the General Registry, and licensed by the Romanian National Bank. Credit unions operate as non-profit social financial institutions, extending microcredits to individuals, employees, pensioners, and sole traders; their loans are financed from their own sources and from equity deposited by CU members.

### **Capital and Credit Volume**

At the end of 2014, NBFIs in Romania reported total equity of EUR 679.2mn and an active portfolio of EUR 8,064.6mn, serving 1.6 million customers (1.5 million are sole traders and micro-companies, whilst 100,000 are private individuals). See [bnro.ro/files/d/Pubs\\_ro/Anuale/RA2014.pdf](http://bnro.ro/files/d/Pubs_ro/Anuale/RA2014.pdf) (CUs are not included in these statistics).

The average active loan amount was EUR 5,040, or 108% of GDP per capita.

The largest Romanian MFI, Patria Credit, transformed/merged with an SME bank (Nexte Bank), transferring the bankable portfolio of credits to the bank and maintaining an NBFi entity to continue managing the non-bankable portfolio.

### III. DETAILED COMPARATIVE ANALYSIS OF NDTFI/NBFI REGULATORY FRAMEWORKS BY COUNTRY AND LINKS TO SPECIFIC LEGISLATION AND INSTITUTIONS RESPONSIBLE FOR SUPERVISION AND REGULATION

#### BULGARIA

##### Regulation and Supervision of Non-Bank Financial Institutions in Bulgaria

The **Bulgarian National (Central) Bank (BNB)** regulates and supervises the entire financial sector to ensure stability and protect depositors' interests.

It regulates and supervises activities of payment system operators, payment institutions and electronic money institutions, and, through a specific legal framework, registers and licenses financial institutions (non-deposit-taking financial institutions) operating in Bulgaria that are allowed to directly provide credit and credit-related financial services to individuals and businesses.

The **Financial Supervision Commission** regulates and supervises investment intermediaries/investment funds operating as non-deposit-taking financial institutions and regulated markets in financial instruments,<sup>9</sup> according to the Law on Markets in Financial Instruments.

The **Consumer Protection Commission**, under the Minister of Economy, oversees consumer credit providers and credit institutions and/or investment intermediaries, as provided for under the Consumer Protection Act.

The following table summarizes the regulatory structure for NBFIs in Bulgaria and provides links to websites of the Central Bank, Supervision Commission, and main laws and regulations applicable to NDTIs/NBFIs in Bulgaria.

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<sup>9</sup> 1. Securities; 2. instruments other than securities: a) instruments of the money market; b) shares in collective investment undertakings; c) options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivative instruments, financial indices or financial measures which may be settled physically or in cash.

## BULGARIA

Type of business	Does the country regulate?	Which agency regulates?	Relationship to Central Bank	Investigative Powers			Sanctions										Sources of capital
				Power to compel production of documents	Power to compel testimony	Power to compel written explanation	Regulator adjudicates whether a violation occurred	Sanctions may be imposed by regulators	Sanctions may be imposed by courts	Can the adjudicator impose fines	Suspension or termination of license	Limitation on business activity	Obligation to require certain actions to remedy violation	Officer or director bars	Loss of voting rights	Loss of dividend rights	
<b>Credit cooperatives</b>	√	Bulgarian National Bank specific legal framework	Registration, supervision and control	√	√	√	√	√	√	√	√	√	√	√	NA	NA	No
<b>Financial institution (NBFIs): leasing companies, micro-credit companies, mortgage companies, consumer credit companies, pawn shops</b>	√	Bulgarian National Bank and financial Supervision Commission and Consumer protection Commission for consumer credit	Registration, supervision and control	√	√	√	√	√	√	√	√	√	√	√	NA	NA	√
<b>Insurance companies</b>	√	Bulgarian National Bank specific legal framework	Registration, supervision and control	√	√	√	√	√	√	√	√	√	√	√	NA	NA	NA
<b>Investment and pension funds</b>	√	Bulgarian National Bank specific legal framework	Registration, supervision and control	√	√	√	√	√	√	√	√	√	√	√	NA	NA	NA

## **Bulgarian National Bank**

- Mission and legal framework of the National Bank of Bulgaria:
  - [www.bnb.bg/bnbweb/groups/public/documents/bnb\\_law/laws\\_bnb\\_en.pdf](http://www.bnb.bg/bnbweb/groups/public/documents/bnb_law/laws_bnb_en.pdf)
- National Bank of Bulgaria's governance and organization chart
  - [www.bnb.bg/AboutUs/AUAboutBNB/AUBNBGovernment/AUSGoverningCouncil/index.htm](http://www.bnb.bg/AboutUs/AUAboutBNB/AUBNBGovernment/AUSGoverningCouncil/index.htm)
  - [www.bnb.bg/AboutUs/AUAboutBNB/AUOrganizationalStructure/index.htm](http://www.bnb.bg/AboutUs/AUAboutBNB/AUOrganizationalStructure/index.htm)
- Integrated supervision, licensing and registers for non-bank financial institutions, Credit Register and Payment Incident Register:
  - [www.bnb.bg/BankSupervision/BSFinansInstitution/BSFIRegistrers/BSFIReg\\_Introduction/index.htm](http://www.bnb.bg/BankSupervision/BSFinansInstitution/BSFIRegistrers/BSFIReg_Introduction/index.htm)
  - [www.bnb.bg/FinancialMarkets/FMCreditRegister/index.htm](http://www.bnb.bg/FinancialMarkets/FMCreditRegister/index.htm)

## **Laws and Regulations:**

- Specific regulations for non-deposit-taking financial institutions:  
Ordinance 26: Law on Financial Institutions  
[www.bnb.bg/bnbweb/groups/public/documents/bnb\\_law/regulations\\_financial\\_inst\\_en.pdf](http://www.bnb.bg/bnbweb/groups/public/documents/bnb_law/regulations_financial_inst_en.pdf)
- Law on Supplementary Supervision of Financial Conglomerates<sup>10</sup>  
[www.bnb.bg/bnbweb/groups/public/documents/bnb\\_law/laws\\_finconglomer\\_en.pdf](http://www.bnb.bg/bnbweb/groups/public/documents/bnb_law/laws_finconglomer_en.pdf)
- Law on Consumer Credit  
[www.bnb.bg/bnbweb/groups/public/documents/bnb\\_law/laws\\_consumer\\_credit\\_en.pdf](http://www.bnb.bg/bnbweb/groups/public/documents/bnb_law/laws_consumer_credit_en.pdf)
- Law on Credit Register  
[www.bnb.bg/bnbweb/groups/public/documents/bnb\\_law/regulations\\_centralcreditre\\_en.pdf](http://www.bnb.bg/bnbweb/groups/public/documents/bnb_law/regulations_centralcreditre_en.pdf)

## **Bulgarian NDTFI lending volume statistics:**

- [www.bnb.bg/bnbweb/groups/public/documents/bnb\\_download/201603\\_s\\_lend\\_co\\_press\\_a1\\_en.pdf](http://www.bnb.bg/bnbweb/groups/public/documents/bnb_download/201603_s_lend_co_press_a1_en.pdf)
- [www.bnb.bg/PressOffice/POStatisticalPressReleases/POPRSLeasingCompanies/index.htm](http://www.bnb.bg/PressOffice/POStatisticalPressReleases/POPRSLeasingCompanies/index.htm)

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<sup>10</sup> Financial conglomerate is a group, at the head of which is a regulated entity or where at least one of the subsidiaries is a regulated entity, and: 1. at least one of the entities in the group is of the insurance sector and at least one of them is of the bank sector or of the sector of the investment services; 2. as the consolidated and/or aggregated activities of the entities in the group of the insurance sector, and the consolidated and/or aggregated activities of the entities of the bank sector and of the sector for investment services are significant.

## FRANCE

### Regulation and Supervision of Non-Bank Financial Institutions in France

The ***Autorité de contrôle prudentiel et de résolution (ACPR)*** is responsible for the supervision of the banking, non-banking and insurance sectors in France. ACPR is an independent administrative authority charged with preserving the stability of the financial system and protecting customers, insurance policyholders, members, and beneficiaries that it supervises.

To perform its duties, the ACPR is able to supervise the entities under its jurisdiction, and impose administrative enforcement measures and disciplinary sanctions.

The ACPR is an independent administrative authority attached to the *Banque de France*. Its chairman is Christian Noyer, governor of the *Banque de France*.

The ACPR consists of three decision-making bodies: the Supervisory College; the Resolution College, and the Sanctions Committee, and two consultative bodies, the Audit Committee and the Scientific Consultative Committee.

The following table summarizes the regulatory structure for NBFIs in France and provides links to the websites of the *Banque de France* and ACPR, as well as the key laws and regulations applicable to NDTIs/NBFIs in France.

FRANCE

Type of business	Does the country regulate?	Which agency regulates?	Relationship to Central Bank	Investigative Powers			Sanctions										Sources of capital	
				Power to compel production of documents	Power to compel testimony	Power to compel written explanation	Regulator adjudicates whether a violation occurred	Sanctions may be imposed by regulators	Sanctions may be imposed by courts	Can the adjudicator impose fines	Suspension or termination of license	Limitation on business activity	Obligation to require certain actions to remedy violation	Officer or director bars	Loss of voting rights	Loss of dividend rights	Can the institution borrow?	
Credit institutions <sup>11</sup>	√	ACPR	Independent authority attached to the <i>Banque de France</i>	√	√	√	√	√	√	√	√	√	√	√	√	NA	NA	√
Insurance <sup>12</sup>	√	ACPR	Independent authority	√	√	√	√	√	√	√	√	√	√	√	√	NA	NA	√
Crowd-funding platforms	√	ACPR	Independent authority	√	√	√	√	√	√	√	√	√	√	√	√	NA	NA	√

<sup>11</sup> **Credit institutions:** Investment firms other than asset management firms, market undertakings, clearing house members and entities authorised to act as custodians or administrators of financial instruments (referred to in points 4 and 5 of Article L. 542-1 of the Monetary and Financial Code) ; Payment institutions ; Financial holding companies and mixed financial holding companies, mixed holding companies only for those provisions that apply to them by virtue of Article L. 517-10 of the Monetary and Financial Code ; Money changers ( exchange office) ; Micro-credit providers ; Microcredit associations and foundations (organisations referred to in point 5 of Article L. 511-6 of the Monetary and Financial Code) ; Companies selected to help create activities or develop employment under a government contract (legal entities referred to in Article L. 313-21-1 of the Monetary and Financial Code) ; Electronic money institutions ; Financing companies ; Parent undertakings of financing companies ; Mixed parent undertakings of financing companies only for those provisions that apply to them by virtue of Article L. 517-10 of the Monetary and Financial Code.

<sup>12</sup> **Insurance:** Insurance firms providing the direct insurance services referred to in Article L. 310-1 of the Insurance Code and firms referred to in the final paragraph of that same article ; Companies with their head offices located in France that engage in the reinsurance business; Mutual insurance companies and unions governed by Book II of the Mutual Insurance Code and unions managing the federal guarantee systems referred to in Article L. 111-6 of the Mutual Insurance Code, as well as mutual insurance holding companies referred to in Article L. 111-4-2 of that same code; Mutual insurance companies and unions referred to in Book I that manage mutual insurance payments and contracts on behalf of mutual insurance companies and unions referred to in Book II, solely for the purposes of Title VI of Book V of the Monetary and Financial Code; Provident institutions, unions and groups governed by Title III of Book IX of the Social Security Code 6) Group insurance companies and mixed group insurance companies referred to in Article L. 322-1-2 of the Insurance Code; The universal guarantee fund for rental risks referred to in Article L. 313-20 of the Construction and Housing Code; Securitisation vehicles referred to in Article L. 310-1-2 of the Insurance Code.

## **Banque de France (French central bank)**

- [www.banque-france.fr/en/banque-de-france/organisation/organisation-chart.html](http://www.banque-france.fr/en/banque-de-france/organisation/organisation-chart.html)

Mission and legal framework of the *Banque de France* – Monetary and Financial Code:

- [www.banque-france.fr/en/financial-stability/payment-systems-and-market-infrastructure/oversight-tasks.html](http://www.banque-france.fr/en/financial-stability/payment-systems-and-market-infrastructure/oversight-tasks.html)
- [www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006072026&dateTexte=20160511](http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006072026&dateTexte=20160511)

Statute and organizational chart of the *Banque de France*:

- [www.banque-france.fr/en/banque-de-france/organisation/organisation-chart.html](http://www.banque-france.fr/en/banque-de-france/organisation/organisation-chart.html)
- [www.banque-france.fr/fileadmin/user\\_upload/banque\\_de\\_france/Politique\\_Monetaire/Statutes-of-banque-de-france.pdf](http://www.banque-france.fr/fileadmin/user_upload/banque_de_france/Politique_Monetaire/Statutes-of-banque-de-france.pdf)

The ***Autorité de contrôle prudentiel et de résolution (ACPR)***:

- [acpr.banque-france.fr/en/acpr.html](http://acpr.banque-france.fr/en/acpr.html)

History, organization and legal framework for the ACPR – Article L. 612-1 of the Monetary and Financial Code:

- [acpr.banque-france.fr/uploads/media/201605-organigramme-acpr-en.pdf](http://acpr.banque-france.fr/uploads/media/201605-organigramme-acpr-en.pdf)
- [acpr.banque-france.fr/en/acpr/history.html](http://acpr.banque-france.fr/en/acpr/history.html)
- [acpr.banque-france.fr/en/acpr/organisation.html](http://acpr.banque-france.fr/en/acpr/organisation.html)
- [www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006072026&idArticle=LEGIARTI000006659429&dateTexte=&categorieLien=cid](http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006072026&idArticle=LEGIARTI000006659429&dateTexte=&categorieLien=cid)

Registries and lists of banks and credit providers and insurance institutions:

- [acpr.banque-france.fr/en/licences-and-authorisations/registers-and-lists.html](http://acpr.banque-france.fr/en/licences-and-authorisations/registers-and-lists.html)

### **Laws and regulations:**

Specific regulations for non-bank financial institutions supervised by the *Autorité de contrôle prudentiel et de résolution (ACPR)*:

Licensing and authorization of NBFIs

- [acpr.banque-france.fr/en/acpr/tasks.html](http://acpr.banque-france.fr/en/acpr/tasks.html)

Crowd-funding institutions

- [www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000029008408&categorieLien=id](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000029008408&categorieLien=id)

Legal framework and procedures of the banking industry:

- [acpr.banque-france.fr/en/licences-and-authorisations/banking-industry-procedures.html](http://acpr.banque-france.fr/en/licences-and-authorisations/banking-industry-procedures.html)

Legal framework and procedures of the insurance sector:

- [acpr.banque-france.fr/en/licences-and-authorisations/insurance-sector-procedures.html](http://acpr.banque-france.fr/en/licences-and-authorisations/insurance-sector-procedures.html)

## ROMANIA

### Regulation and Supervision of Non-Bank Financial Institutions in Romania

The Romanian National (Central) Bank (RNB) and the Financial Supervision Authority (FSA) are the statutory supervisory bodies directly responsible for banking, non-banking, insurance and re-insurance, investment funds, pension funds, securities and stock exchange supervision.

The Romanian National Bank is the statutory supervisory authority for banks and non-bank financial institutions (NBFIs): credit unions, credit cooperatives, micro credit, leasing companies, mortgage companies, consumer credit companies, pawn shops, and credit guarantee institutions (funds). Under the legal framework, NBFIs are allowed to lend and provide financial services including business development support services directly to their clients. Deposits of the general public may not be used to finance the credit portfolio of the NBFIs.

Credit unions and credit cooperatives operate under specific regulation. They are allowed to collect social funds and to use them for microcredits provision alongside with CU's own funds.

The National Bank works in conjunction with the Financial Supervision Authority (FSA) to supervise and regulate insurance and re-insurance firms, investment funds, pension funds, securities, and stock exchanges.

The following table summarizes the regulatory structure for NBFIs in Bulgaria and provides links to websites of the Central Bank, supervision commissions, and key laws and regulations applicable to NDTIs/NBFIs in Bulgaria.

## Romania

Type of business	Does the country regulate?	Which agency regulates?	Relationship to Central Bank	Investigative Powers			Sanctions										Sources of capital
				Power to compel production of documents	Power to compel testimony	Power to compel written explanation	Regulator adjudicates whether a violation occurred	Sanctions may be imposed by regulators	Sanctions may be imposed by courts	Can the adjudicator impose fines	Suspension or termination of license	Limitation on business activity	Obligation to require certain actions to remedy violation	Officer or director bars	Loss of voting rights	Loss of dividend rights	Can the institution borrow?
Credit unions	√	Romanian National Bank	Registration, supervision and control	√	√	√	√	√	√	√	√	√	√	√	NA	NA	NO
Credit cooperatives	√	Romanian National Bank	Registration, supervision and control	√	√	√	√	√	√	√	√	√	√	√	NA	NA	NO
NBFIs: leasing companies, micro-credit co., mortgage. co, consumer credit co, pawn shops, credit guarantee funds	√	Romanian National Bank	Registration, supervision and control	√	√	√	√	√	√	√	√	√	√	√	NA	NA	√
Insurance companies	√	Financial Supervision Authority (FSA)	Registration, supervision and control	√	√	√	√	√	√	√	√	√	√	√	NA	NA	√
Investment and pension funds	√	Financial Supervision Authority	Registration, supervision and control	√	√	√	√	√	√	√	√	√	√	√	NA	NA	NA

## Romanian National Bank

- History and National Bank of Romania Act – Law No. 321/2004:
  - [www.bnr.ro/The-National-Bank-of-Romania-Act-3384.aspx](http://www.bnr.ro/The-National-Bank-of-Romania-Act-3384.aspx)
  - [www.bnr.ro/Brief-History-of-the-NBR-2730.aspx](http://www.bnr.ro/Brief-History-of-the-NBR-2730.aspx)
- National Bank of Romania's organization and organization chart:
  - [www.bnr.ro/The-decision-making-bodies-and-organisation-of-the-National-Bank-of-Romania-1944.aspx](http://www.bnr.ro/The-decision-making-bodies-and-organisation-of-the-National-Bank-of-Romania-1944.aspx)
  - [www.bnr.ro/Organisation-Chart-3988.aspx](http://www.bnr.ro/Organisation-Chart-3988.aspx)
- Relationship with other domestic and international institutions:
  - [www.bnr.ro/International-Relations-1575.aspx](http://www.bnr.ro/International-Relations-1575.aspx)

## Financial Supervisory Authority

- Mission, organization chart, and legal framework for the FSA:
  - [asfromania.ro/en/about-asf/our-mission](http://asfromania.ro/en/about-asf/our-mission)
  - [asfromania.ro/en/about-asf/about-us](http://asfromania.ro/en/about-asf/about-us)
  - [asfromania.ro/en/about-asf/board-and-organization](http://asfromania.ro/en/about-asf/board-and-organization)
  - [asfromania.ro/en/legislation/asf-legislation/4167-law-no-148-2015](http://asfromania.ro/en/legislation/asf-legislation/4167-law-no-148-2015)
- Integrated supervision and registers for NBFIs, Credit Bureau Registry and Payment Incident Registry:
  - [asfromania.ro/en/supervision/integrated-supervision/about-integrated-supervision](http://asfromania.ro/en/supervision/integrated-supervision/about-integrated-supervision)
  - [asfromania.ro/en/supervision/registries/financial-instruments-and-investments](http://asfromania.ro/en/supervision/registries/financial-instruments-and-investments)
  - [www.bnr.ro/files/d/RegistreBNR/ifn/RegistrulGeneral/registrul\\_general\\_ifn\\_active\\_tot.htm#c](http://www.bnr.ro/files/d/RegistreBNR/ifn/RegistrulGeneral/registrul_general_ifn_active_tot.htm#c)
  - [www.bnr.ro/Registrela-BNR-717.aspx#IFN\\_Lista](http://www.bnr.ro/Registrela-BNR-717.aspx#IFN_Lista)
  - [www.bnr.ro/Central-Credit-Register-2786.aspx](http://www.bnr.ro/Central-Credit-Register-2786.aspx)
  - [www.bnr.ro/Payment-Incidents-Register-2805.aspx](http://www.bnr.ro/Payment-Incidents-Register-2805.aspx)

## Laws and Regulations:

Specific regulations for NBFIs supervised by the Romanian National Bank: credit unions, microfinance companies, leasing companies, mortgage companies, consumer credit companies, guarantee funds, pawn shops, factoring companies:

- [www.bnr.ro/Banking-Financial-Legislation-3179.aspx](http://www.bnr.ro/Banking-Financial-Legislation-3179.aspx)<sup>13</sup>
- [www.bnr.ro/Instituti-financiare-nebancare-2065.aspx](http://www.bnr.ro/Instituti-financiare-nebancare-2065.aspx)

Legal framework for NBFIs – Law No. 93/2009, specific standards and regulations issued by the RNB:

- [www.alb-leasing.ro/en/documents/legislation/f81%20Legea%20%20nr.%2093%20din%208%20aprilie%202009%20-%20legea%20IFN\\_en.pdf](http://www.alb-leasing.ro/en/documents/legislation/f81%20Legea%20%20nr.%2093%20din%208%20aprilie%202009%20-%20legea%20IFN_en.pdf)
- [www.alb-leasing.ro/legislatie.php](http://www.alb-leasing.ro/legislatie.php)

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<sup>13</sup> Law 90/2009 on non-banking financial institutions and regulations related to the non-bank sector are not available in English on the BNR web site. We have therefore provided links to English versions translated by the NBFi Association.

Specific regulations for non-bank financial institutions supervised by the **Financial Supervisory Authority**: insurance and re-insurance companies, investment funds, and the capital market:

- Insurance and re-insurance market, primary and secondary legislation:
  - [asfromania.ro/en/legislation/sectorial-legislation/insurance-reinsurance-market/primary-legislation-csa](https://asfromania.ro/en/legislation/sectorial-legislation/insurance-reinsurance-market/primary-legislation-csa)
  - [asfromania.ro/en/legislation/sectorial-legislation/private-pensions-market/secondary-legislation-csspp/rules-csspp](https://asfromania.ro/en/legislation/sectorial-legislation/private-pensions-market/secondary-legislation-csspp/rules-csspp)
- Investment funds and the capital market, primary and secondary legislation:
  - [asfromania.ro/en/legislation/sectorial-legislation/capital-market/primary-legislation-cnvm](https://asfromania.ro/en/legislation/sectorial-legislation/capital-market/primary-legislation-cnvm)
  - [asfromania.ro/en/legislation/sectorial-legislation/insurance-reinsurance-market/secondary-legislation-csa/regulations-csa](https://asfromania.ro/en/legislation/sectorial-legislation/insurance-reinsurance-market/secondary-legislation-csa/regulations-csa)
- Pension funds, primary and secondary legislation:
  - [asfromania.ro/en/legislation/sectorial-legislation/private-pensions-market/primary-legislation-csspp](https://asfromania.ro/en/legislation/sectorial-legislation/private-pensions-market/primary-legislation-csspp)
  - [asfromania.ro/en/legislation/sectorial-legislation/insurance-reinsurance-market/secondary-legislation-csa/rules-csa](https://asfromania.ro/en/legislation/sectorial-legislation/insurance-reinsurance-market/secondary-legislation-csa/rules-csa)
- Registry of financial instruments and investments
  - [asfromania.ro/en/supervision/registries/financial-instruments-and-investments](https://asfromania.ro/en/supervision/registries/financial-instruments-and-investments)

## CONCLUSIONS AND RECOMMENDATIONS

The report summarizes the main characteristics of the legal framework for NDTFIs/NBFIs in three EU Countries: Bulgaria, France and Romania, as well as the description of the process of regulating the non-banking financial sector with the aim of improving access to finance by under-served micro-, small, and medium enterprises.

In France, the legislation is non-restrictive for entities that provide microcredits and business development services and/or financial education to beneficiaries. The NBFIs receive financial assistance from the Government and EU financial programs, allowing the NBFIs to establish internal governance and risk management procedures aligned with the EU code of Good Conduct, and to extend finance using various sources of funding, including crowd-funding platforms. The legal framework for NBFIs in the two Eastern European countries has in recent years become more prudential and restrictive for consumer credit companies (Bulgaria) and large NBFIs (Romania).

In all three countries banks have a monopoly on savings products, maintaining control over deposits. The legal framework allows direct lending but forbids NDTFIs/NBFIs from accessing this inexpensive source of funds, so the cost of finance of their portfolio increases. However, in France, associations are allowed to receive donations and interest-free loans from banks and individuals using crowd-funding platforms. The main sources of finance for NDTFIs/NBFIs are credit lines and investment from specialized social investors and EU financial programs, such as Progress, CIP, EaSI, Jasmine, etc. A number of partnership initiatives between banks and MFIs have recently been launched and are aimed at better serving the market. Here banks have been offering the services of their extensive networks of branches to increase the penetration of MFIs, and have been referring non-bankable clients to MFIs for business development support services and micro-loans. On the other hand, the MFIs have been referring to banks their newly-bankable clients with credit applications larger than EUR 25,000. The MFIs have also been using banks' payment infrastructures to extend and collect micro-credits.

Enabling legal frameworks for NDTFIs/NBFIs have had an important impact in each country. They have enabled access to finance by under-served sole traders, farmers, individuals, and vulnerable groups (migrants and minorities). The NBFIs sectors has evolved and diversified, increased its reach, accessed funds from various sources, increased the number of financial services, and increased the number of beneficiaries of financial products and business development support services.

The new legal framework has contributed to the commercialization of the MF sector. The MFIs' operational costs have also increased due to licensing requirements (with regard to governance, risk procedures, external audit, reporting requirements, etc.), as well as owing to changes in the form of incorporation from not-for profit entities to commercial and taxpaying entities. Most MFIs amended their social mission, adding a development-oriented and business component. Some of them ceased operating, handing over their portfolio to other MFIs (in Romania). As a result, MFIs now target not only indigent individuals and minorities excluded from financial services, but are mainly oriented towards underserved start-ups and sole traders and micro-enterprises. Changes to their client structures have allowed them to become sustainable.

Partnerships between NDTFI/NBFI with the banking sector (as in Romania and France) have proven beneficial for both sectors, as well as for clients.

In developing a legal framework for NDTFI/NBFIs in Serbia, the drafters and stakeholders should pay attention to the following lessons learned from the experience of the three EU countries covered by this report.

The objective of the legal framework should be to strike a sound balance between ensuring the safety of the financial sector and allowing greater access by under-served micro-, small, and medium-sized enterprises.

Therefore:

- Prudential regulation and supervision of NDTFIs/NBFIs should be the responsibility of the National Bank of Serbia and/or a specialized NBS department for NDTFIs/NBFIs, and /or a supervisory authority working with the relevant government ministries, in the area of NDTFI/NBFI registration, licensing, risk management, transparency of operations, and customer protection. Requirements of the EU Code of Good Conduct should be observed in establishing prudential regulation, especially insofar as risk management and customer protection clauses are concerned.
  - Prudential regulation and supervision should be more restrictive for large NDTFIs/NBFIs and consumer credit providers. The definition of large NDTFIs/NBFIs should be established by the supervisory authority based on characteristics of Serbia's financial sector and the economic environment.
  - Regulation should focus on NDTFIs/NBFIs and not the type of financial product offered, so allowing a financial institution to provide a range of financial products, e.g. microcredits, financial leasing, consumer credits, factoring, etc. ,except for mortgage financing, which should require greater initial capital at registration.
  - The sources of capital/investments that NDTFIs/NBFIs may access to finance their portfolio should be diverse: equity investments from social funds, credit lines, guarantees, etc. This will allow them to achieve lower capital costs and fulfill their social goal. Finance from banks and crowd-funding platforms should be allowed at a later stage of NDTFI/NBFI development, based on specific economic conditions and the stage of development of the Serbian financial sector.
  - There should be regular reporting (ideally at the quarterly and annual basis) of main operating indicators, including portfolio quality indicators. These should be summarized and published by the supervisory authority of the sector. Performance indicators as envisaged under the EU Code of Good Conduct – both financial and social – should be included in NDTFI/NBFI reporting to the supervisory authority.
- The minimum capital requirement for NDTFIs/NBFIs should be based on the type of primary financial products offered (i.e. those that make up >30% of the portfolio), e.g. microcredit, leasing, consumer credit, etc. A review of the NDTFI/NBFI's sustainability should be undertaken before the minimum capital requirement is established to ensure that their break-even point can be achieved in a maximum time-frame of two years.
  - A period of at least six months should be granted to existing operators to comply with the minimum capital requirement and registration/licensing requirements.
  - Based on the development of the NBF sector and market requirements, the supervisory authority should be prepared to issue new regulations as NBS ordinances or amendments/adjustments to the legal framework, to maintain the balance between safety and greater access to financial services.