



CREATING JOBS IN EUROPE
LEGAL AND REGULATORY
FRAMEWORKS OF
MICROENTERPRISES AND
MICROCREDIT IN EUROPE

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Creating Jobs in Europe:
Legal and Regulatory Frameworks of
Microenterprises and Microcredit in Europe

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Foreword

The Thomson Reuters Foundation launched TrustLaw in July 2010. Our goal: to spread the practice of pro bono worldwide and empower people with trusted information. At the centre of TrustLaw is TrustLaw Connect, a global marketplace connecting NGOs and social enterprises with lawyers willing to work at no cost.

I was therefore greatly excited when Adie approached us about a project to understand the existing legislative regimes regarding micro-credit and self-employment across all member states of the Europe Union. Adie needed an authoritative paper to do advocacy throughout the European Union and in Brussels on micro-credit and to give legal status to “self-entrepreneurs”. The potential for large-scale impact on unemployment in Europe, at such critical economic times, was tremendous.

Through our network, we were able to provide Adie with pan-European legal support, bringing together global firms Latham & Watkins and Orrick, in a leading role, to work with 18 other firms and in-house counsel teams across the European Union.

Adie has had such a remarkable impact in France since they began working over 20 years ago. We are very proud at the Foundation to support them to expand these efforts across all of the European Union.

A handwritten signature in cursive script that reads "M. Villa". The signature is written in dark ink and is positioned above a thin horizontal line.

Monique Villa,
CEO, Thomson Reuters Foundation

1. Introduction

i. Microcredit and the Social Market Economy

The new strategy, Europe 2020, and the Single Market Act, adopted by the European Commission, represent an opportunity to integrate microcredit and self-employment into the Union's priorities. Europe 2020 counts among its objectives reducing the number of people threatened by poverty to 20 million, and enabling 75% of the population aged 20 to 64 years to have a job. The decade 2010 - 2020 will focus on smart, sustainable and inclusive growth. Under this new strategy, the Single Market Act is designed to re-launch the internal market on the basis of a new vision of a social market economy.

Among the 12 levers of the Single Market Act, three relate directly to major obstacles to development of microenterprises:

- Lever 1: access to finance for small business is especially important for start-ups, most of which are launched as sole proprietorships, not eligible for venture capital;
- Lever 8: improvement of the institutional environment for social business, especially via legislation creating a social investment fund that would also cover the needs of microfinance institutions.
- Lever 11: a more favourable regulatory environment for small business, reducing regulatory and administrative burdens, is all the more important the smaller and less affluent the enterprise.

Following the Single Market Act, the Social Business Initiative (SBI) integrates microcredit amongst its flagship programs

We firmly believe that a social market economy should take into account the needs of the “base of the pyramid”, namely the 92% of European businesses that are micro-enterprises of less than 10 employees, along with the informal sector that employs, at least part-time, some of the 80 million people living below the poverty line in Europe. As such, at the same time as this legislation being prepared, Adie International, together with TrustLaw, the global service for free legal assistance run by the Thomson Reuters Foundation, decided to conduct a pro bono survey on the regulatory environment and existing barriers to development of microcredit, micro-enterprises and self-employment in all 27 Member States of the European Union.

The research and analysis were conducted, on a pro-bono basis, by the law firms Latham & Watkins¹ and Orrick and reviewed, with the support of the Microfinance Centre (MFC) and the European Microfinance Network (EMN), by microcredit institutions located in the Member States. We want to express our sincere gratitude to all our partners for their work and commitment to the project.

¹ Latham and Watkins has already conducted, in 2008, a study of this type together with Adie and EMN.

ii. The purpose of the survey

The purpose of this 'mapping study' is to identify, in each Member Country, areas in which this regulatory framework can be improved, and to provide a contribution for the social business and social economy conference organized by the EC on November 18, 2011, as well as to lay groundwork for a more specialized seminar that would bring together representatives of the Member States' financial authorities to identify the barriers and discuss the best ways of overcoming them.

This survey is only an initial exploration of a complex and varied environment. It does not pretend to be an in-depth study, nor to bring regulatory solutions to the 27 member countries. At most, it may throw some light on the main barriers to development of microcredit and good practices for removing them.

Given the specific goal of microcredit, information about its regulatory framework is preceded by a succinct presentation of the legal environment for self-employment and microenterprises in the same countries.

iii. The European Initiative for the Development of Microcredit

The survey falls under the extension of the European Initiative for the Development of Microcredit in Favour of Growth and Employment, published by the European Commission in October 2007. The Initiative recognizes the role of microcredit in the economic and social domain, which has only grown since the crisis.

The Initiative comprises four strands:

- Improvement of the institutional framework of microcredit
- Improvement of the legal framework of microenterprises
- Financing of European microfinance institutions
- Technical assistance to these institutions.

If the last two strands are already in place, through the European Progress Microfinance Facility for financing of MFIs and through Jasmine for technical assistance, little has been done by way of improving the legal framework of microcredit and microenterprises.

iv. The major axes of reform

The primary regulatory obstacles to development of microcredit already figure in the 2007 European Initiative for Development of Microcredit, although, at the level of the Member States, they are addressed by a great variety of laws, codified in a likewise diversified manner. Microcredit was introduced in France at the end of 1988. Where an industrial economy functions in conjunction with the support of the welfare state, such as in France, the legal and regulatory framework is often poorly adapted to an economy undergoing rapid change. In such economies, deindustrialisation, the growth of services and young people's desire for greater autonomy favour the creation of small productive units, which the traditional regulatory frameworks do not take into account, and increasing unemployment demands a more actively

managed employment policy. One of the financial instruments of this new phase is microcredit.

Adaptation of the legal framework to this new economy, involving a greater degree of self-employment, microenterprises and microcredit, is less easy, insofar as it requires lifting a large number of obstacles, different from one Member State to another, the most important being:

- the monopoly of banks, which does not allow associations and foundations to borrow for the purpose of on-lending,²
- the usury laws or caps on interest rates, limiting interest rates on small loans to a level that is too low in relation to real costs, and forestalls any possibility of cost recovery in the medium or long run,
- the lack of credit bureaus and databases, particularly important for borrowers, who don't have collateral and have to replace it by a credit history,
- the lack of favourable tax schemes that allow the MFIs to reduce operating costs, etc.

Experience shows that regulation and supervision must be well adapted to the specificity of microcredit, prudential regulation being required only for deposit-taking MFIs. It shows also that over-regulation may have just as negative an impact as absence of regulation.

In regard to self-employment and creation of microenterprises, the main obstacles are:

- the shortage of equity for enterprises registered as sole proprietorships and not incorporated as companies. It might be interesting to re-develop the system of silent partnerships that existed in most European countries in the first half of the 20th century, but is no longer applied. For persons emerging from unemployment, a start-up grant or subordinated loan at 0% may be a good solution,
- the complexity and weight of the administrative system and the unequal treatment of self employment versus wage-earning,
- the difficulty of moving from a situation of unemployment or welfare payments to one of entrepreneurship, particularly as regards coverage of social security benefits and the corresponding charges, and
- the additional cost of training, coaching and business advisory services, especially for those who create their own enterprise after years of unemployment.

As in all periods of change, adjusting the legal framework requires evolution of public opinion via concrete demonstration of the new realities. However these realities are difficult to implement as long as the legal framework hasn't changed. Even if microcredit programs remain very limited in most countries, the European Commission's recognition of the role that microcredit can play in the EU economy constitutes a big step forward.

² In several European countries, starting with Germany, only banks have the right to lend. The title "institutions of microcredit," used by different institutions that act as agents but do not have the right to lend on their own account, introduces sometimes an element of confusion.

v. Limits of the survey and its necessary extension

Notwithstanding considerable efforts by all participants, the survey cannot be viewed as responding to all questions that face the development of microenterprises and microcredit in Europe. Actually:

- the definition of microcredit is vague and varies from one country to another. At an international level, the term 'microcredit' is applied to small loans designed to enable low-income persons without access to banks to create or develop an income-generating activity. This definition is more difficult to apply in Europe, where economic activity is regulated and bank services are more advanced than in developing countries. In most European countries, existing and new microenterprises are financed by the banks. If in some countries this is not yet the case, we can assume that the situation will be harmonized progressively. Moreover, following the European Initiative for the Development of Microcredit, the survey focuses primarily on the non-bankable segment: the creation of enterprises by vulnerable persons who, in order to have access to banks in the absence of guarantees, must have start-up capital and a history of microcredit.
- in the European Union itself, there are significant differences between the old and new member countries. These differences are linked to their history and to the density of the bank network, which is greater in Western than in Eastern Europe. For example, MFIs in Romania work essentially with existing micro and small enterprises, while in France Adie works mainly with unemployed persons creating enterprises. In the former case, financial profitability is the primary goal, while in the latter case; it is the economic and social objective that plays the main role.
- in the absence of a satisfactory definition, the present study is following the definition adopted by the European Initiative on Microcredit, which establishes a ceiling of 25,000 Euros on loans, including among distributors of microcredit both banks that generally lend amounts above 10,000 Euros, and microcredit institutions that mainly provide loans below 10,000 Euros. In both cases, microcredit requires an interest rate, even if financial sustainability is more difficult to attain in industrial than in developing countries.
- the survey does not deal with microfinance, which is a broader term including other financial services such as consumer credit, saving, micro insurance, transfers, etc. This also holds with the European Initiative, which is concerned with microcredit for the creation and development of self-employment and microenterprises.
- moreover, the survey does not cover credit unions, which play a major role in many countries, such as Ireland, the United Kingdom, Poland, Romania, Bulgaria, etc. In many cases, it is not possible to distinguish consumer loans from business credit provided in the form of personal loans.
- the legal viewpoint adopted for the survey does not allow for evaluating the situation of microcredit as a whole, nor does it cover all the factors and conditions of its development. It is clear that this is tied directly to the general conditions of access to financial services, such as, particularly, bank infrastructure and financial education, as much as to the products and methods practised. Moreover, it should be noted that microcredit is not the

only factor in the development of microenterprises and that microenterprises are only one facet of the entrepreneurial fabric.

- given that the analysis has been conducted by different teams in different circumstances, the results may be unequal from one country to another. It has been more difficult to carry out in member countries where microcredit as defined above is little, or not at all, developed. Being carried out as pro bono, it is clear that the means employed cannot have been as substantial as surveys carried out by specialized consulting firms.

Notwithstanding these limits inherent in any study, we hope that the survey, carried out under the extension of the European Initiative for the Development of Microcredit, will cast further light on a subject that remains little known and whose importance is greatly underestimated, if not wholly ignored, while the regulatory framework plays a major role in shaping economic activity. Given that the study must be deepened in each country, we hope that, in accordance with the MFC's proposal, the seminar bringing together representatives of Member Countries' financial authorities may be followed by an annual report entitled 'Doing microfinance in Europe'³, and by the honing of information tools and training needed to extend good practices and enhance skills that will facilitate building of more effective institutions.



Maria Nowak
President of Adie International⁴

³ Similar to "Doing business" published by the World Bank.

⁴ Maria Nowak is founder of the Association pour le Droit à l'Initiative Economique (Adie), a private initiative launched in France in 1988 to finance and assist unemployed persons creating enterprises, and also responsible for the first microcredit projects undertaken by the World Bank in Eastern Europe, starting in 1992. She is also co-founder of the two microfinance networks, the Microfinance Centre, focusing on Eastern Europe, and the European Microfinance Network, covering in priority Western Europe.

2. Executive Summary

i. Types of vehicles available and limitation of responsibility

In most of the jurisdictions surveyed, the entrepreneur has a choice between operating a micro-enterprise as a self-employed individual or setting up one of several available types of corporate vehicles. Thus, an individual may start a small business either as a sole trader, through a company or a partnership (a partnership being an association of two or more persons engaged in a business enterprise in which the profits and losses are shared proportionally. The legal definition of a partnership is generally stated as “an association of two or more persons to carry on as co-owners a business for profit”). In particular, an entrepreneur may create a small business under the form of a sole proprietorship obeying a simplified and specific process of registration with lower costs. This is the case in countries such as Bulgaria, Denmark, Estonia, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Malta, the Netherlands, Portugal and the United Kingdom.

Partnerships could be silent such as the “société en participation” in France, the “stille Gesellschaft” in Germany, the “associazione in partecipazione” in Italy and the ‘silent partnership’ in the United Kingdom.

A special reference should be made to the “auto-entrepreneur” regime in France. The entrepreneurs opting for this regime follow a simplified procedure of registration to the Enterprise Centre of Formalities and moreover, as of recently, the social security fees they contribute are calculated according to the sales achieved, thus reducing the risk borne by the entrepreneur.

Generally, entrepreneurs who wish to run a small business through a limited liability company cannot be held personally liable for the company’s debts. Such restriction of liability may apply differently depending on the jurisdiction and the type of vehicle created to start up a small business. In principle, the liabilities incurred by the members of a partnership in their business activity, on the other hand, may be satisfied from the personal assets of each partner (as is the case in Bulgaria, Hungary or Denmark, for instance). Some countries, however, provide for specific types of vehicles to protect the entrepreneur’s personal assets. This is the case in France, for example, with the creation of the “EIRL”, a new regime which entered into force in January 2011. This law provides for the limitation of the liability of the entrepreneur by attributing his/her professional assets to his/her professional activity and therefore limiting his/her professional liability to these assets.

ii. Costs and procedures related to the creation of a micro-enterprise

- *Procedure:*

The creation of a micro-enterprise requires, in principle, filing a request with the authority in charge of all registration and incorporation formalities. In some Member States, the process to register a micro-enterprise is simplified and may be done through the internet (as is the case in France and Denmark, for instance).

- *Costs:*

Generally costs of incorporation of a company include registration, publication and notary fees whose amount varies according to the jurisdiction and the type of vehicle the entrepreneur aims to create. Under certain legislation a minimum share capital is required (from €10,000 up to €61,500). It is worth noting that registration of a sole proprietorship requires lower costs than incorporation of a company and is easier for the less educated. For these reasons, sole proprietorship is used not only by the self-employed, but also by a large proportion of start-ups, especially those coming from unemployment or welfare.

iii. Financial support during start-up period

- *Income support:*

Regarding income support during the start-up period, i.e. the period ranging from the moment the individual becomes unemployed to the moment he/she begins running his/her own business, there are several comments to be made.

- (i) The concept of the 'start-up period' is not clearly defined in national legislation and the duration of welfare allowances may vary depending on the jurisdiction. For instance, in Belgium and the Czech Republic the new entrepreneur can benefit from unemployment allowances during a period of five or six months while in Finland the new entrepreneur may qualify for unemployment allowances for a longer period of 18 months. The definition of 'start-up period' is extremely important for micro-entrepreneurs who are on welfare, as an enterprise needs at least 18 months to find its place in the market.
- (ii) The majority of the 27 EU jurisdictions provide that new entrepreneurs may qualify for unemployment allowances during the 'start-up period' provided that they meet certain requirements. This possibility is provided for either through national legislation or European programs, as is the case in Greece. These conditions are in general that an individual must be unemployed and be below a certain age and a certain level of financial resources. It is worth noting that accumulation between earned income and social allowances is possible in some Member States (e.g. Belgium, Bulgaria, Estonia, Finland, France, Germany, the Czech Republic, Italy, Latvia, Lithuania and the United Kingdom).

- *Loans and grant programs:*

Most of the EU jurisdictions (Austria, Bulgaria, the Czech Republic, Denmark, Estonia, Germany, Ireland, Italy, Lithuania, Luxembourg, the Netherlands, Poland, Portugal, Slovakia, Slovenia and Sweden) have launched programs that aim to help new entrepreneurs set up a micro-enterprise, generally through public loan programs (which is the case in Austria, where national and regional programs have been launched that aim to provide small loans to new entrepreneurs, and in Bulgaria, which has a government-run program for setting up micro-businesses), financial institutions or by associations (which is the case in France and Portugal, for

instance). Thus, financial support programs may either be run directly by state agencies or through banks and financial institutions, which is the case in Germany. Generally, such programs consist of the provision of microcredit, start-up grants, quasi-equity loans, or guarantees to access bank loans or loans by microfinance institutions. It should be pointed out that microcredit delivered to new entrepreneurs involves, in some countries an interest rate which is lower than the market interest rate for standard loans (although there are also situations in which the interest rate charged is higher than that on the market).

Because of the predominance of micro-enterprises registered as sole proprietorships, a major problem as regards financing of micro-entrepreneurs is equity or quasi-equity. A large part of self-employed or micro-enterprise start-ups, particularly those coming from unemployment or welfare, lack personal funds. Revising so-called 'silent partnership' laws, which still exist in many countries, could be a possible solution to the problem, which is currently dealt with on a very limited basis by public grants or subordinated loans without interest. Using a 'silent partnership' (which is not a registered legal entity) could be an appropriate way to solve the funding issues of self-employed people or micro-enterprises. The silent partners would provide funds to entrepreneurs for the development of their business, but would not participate in their management. The silent partners and the manager of the 'silent partnership' would share profits and losses according to agreements entered into between them.

iv. Availability of business development services

Business development services may be provided jointly by governmental agencies or specific authorities such as unemployment agencies, as is the case for instance in Latvia where the State Employment Agency (Nodarbinātības Valsts Aģentūra) is responsible for providing business development services to new entrepreneurs during the start-up period. In other jurisdictions such services are provided by associations, such as the ANDC in Portugal, which is a non-profit association recognized as rendering a service to the public (de utilidade pública), which supports micro-enterprises and self-employed persons in accessing microcredit.

These organizations provide development training and assistance to new entrepreneurs in the course of the 'start-up period'. In particular, new entrepreneurs may benefit from training, coaching, assistance, support and advice in various field of business management such as administrative formalities, marketing and legal advice. Business development services aim at helping individuals to set up their small businesses and are in principle free of charge.

Furthermore, it is worth mentioning that the European Union has recognized the importance of high quality business development services for micro-enterprise by launching the "Best Procedure Project on Business Support Services" under its "Multi-Annual Program for Enterprise and Entrepreneurship", in particular for SMEs. It could be interesting to extend the project to micro-enterprises.

v. Existence of specific laws and regulations applicable to micro-enterprises, self-employment and microcredit

- *Specific laws applicable to micro-enterprises:*

Save a few countries (such as Romania, France, Hungary, Italy, Latvia, Lithuania and Slovenia) most EU jurisdictions do not have specific laws and regulations applicable to micro-enterprises. In the Member States where legislation regarding micro-enterprises has been enacted, specific rules apply only in pre-determined fields such as tax law (for example French, Italian and Latvian legislation provide for a specific tax regime for micro-enterprises) and the conditions and procedures to start up a micro-enterprise (for example in Estonia, there are specific rules related to the procedures applicable to register a micro-enterprise).

- *Specific laws applicable to microcredit:*

The specific nature of microcredit is not generally taken into account in national or EU legislation. Indeed, in most jurisdictions, the provision of microcredit is considered a financial activity and falls in the scope of general applicable laws on financing and providing loans. For instance in Belgium, Finland and Luxembourg there are no specific rules related to microcredit. More rarely, certain jurisdictions provide specific regulations regarding non-banking institutions and microcredit (for example Romanian and French legislation contains specific rules relating to microcredit and non-banking institutions).

Some Member States (Italy and Portugal) have passed recently a law on microfinance. Others are in the process of launching a specific framework for microcredit activity, as is the case in Malta where the provisions of a Small Business Act are being debated in Parliament following the adoption of the Small Business Act for Europe by the European Commission in June 2008.

vi. Existence of a banking monopoly and type of institutions delivering microcredit

- *Existence of a banking monopoly:*

Many Member States have a banking monopoly, such as Austria, Cyprus, France, Germany, Hungary, Luxembourg and Slovenia. However, there are exceptions and certain jurisdictions offer the possibility for non-banking institutions to grant microcredit (as is the case in France). Notably, for non-bank institutions, EU law only prohibits deposit-taking, but not lending activities per se. However, some Member States restrict almost all lending activities to banks, such as Germany where microfinance institutions act as agents, while only banks or specific financial institutions can grant loans.

- *Type of institutions delivering microcredit:*

Microcredit in all Member States is predominantly provided by commercial banks and credit unions, although it may also be provided by associations (which is the case in France through the association Adie, and in Italy where non-profit organizations have

recently been allowed to provide microcredit), governmental agencies (as is the case in Sweden where microcredit may be granted by a state-owned corporation ALMI, which grants loans at a higher interest rate so as not to compete with private investors) or other non-bank institutions.

vii. Sources of funding for microfinance institutions

Microfinance institutions predominantly receive their funding from public sources at national or regional level and various European sources (such as the European Social Fund, European Regional Development Fund, European Investment Fund, Joint European Resources for Micro to Medium Enterprises (JEREMIE) and Joint Action to Support Micro-Finance Institutions in Europe (JASMINE)). International aid has also been utilized by microfinance institutions in Eastern Europe (e.g. USAID in Slovakia and the UNDP in Bulgaria), although such funding is likely to disappear with the integration of these countries into the EU.

Additionally, funding in most Member States is provided through equity investments, member contributions to savings and credit cooperatives as well as lines of credit provided by banks. Of particular note is the joint body set up by the banking community in Ireland in order to extend credit to microfinance institutions.

Venture capital funds are singled out as private sources of funding for SMEs in certain jurisdictions such as Bulgaria, Denmark and Greece. In Denmark, it is also possible to invest as a so-called 'business angel' through the Danish Venture Capital and Private Equity Association.

viii. Operational and financial autonomy of microfinance institutions

Where microfinance institutions are commercial or private banks or enterprises, they tend to be both operationally and financially independent from the state in which they operate, subject to any national or European regulation of credit institutions. This is the case in Bulgaria, the Czech Republic, Denmark, Finland, Ireland, Italy, Latvia, Lithuania, Malta, Romania, Slovakia, Spain and the UK.

Certain microfinance institutions which receive extensive state support nevertheless maintain full operational autonomy. In France, for instance, Adie receives funding from the state and is controlled by the Authority of Prudential Control (which also supervises banks) but operates independently.

Other microfinance institutions which are state-owned or which rely extensively on government funding are subject to some state control, although the exact degree is often difficult to ascertain. Countries where the microfinance sector is predominantly under state control include Austria, Belgium, Denmark, Estonia and Slovenia. Operational control can be exercised either at the level of setting the interest rates on the financing being provided to the end user (which the Irish government does with credit unions, for example) or by the microfinance institution's operations being completely controlled by the state (which is the case with the Austria Wirtschaftsservice, for example).

ix. Existence of usury rule (interest caps)

Of the 27 Member States, 10 have a usury rule (namely Austria, Denmark, Finland, Germany, Hungary, Italy, Poland, Romania, Spain and Sweden), while such provisions are not applicable in the remainder of the EU jurisdictions. Of the 10 countries prohibiting usury, only Germany, Italy and Poland have defined the term, with reference to a specific figure, usually a percentage uplift or multiple of the market interest rate or a rate fixed by public authorities. In addition, interest rate caps in the context of microcredit are operated in Poland, where microcredit is considered to be a personal credit, and in Romania.

In addition to civil law prohibitions on usury or interest rate caps, the protection of borrowers against disproportionate interest rates can be ensured either by provisions of criminal law against usury (e.g. in Denmark, Finland and Sweden), by general rules governing the fairness of contract rules (e.g. in Slovenia) or, in certain limited instances, by consumer law (e.g. in Austria and Luxembourg).

From the point of view of microcredit it is, however, also important that caps on interest rates do not prevent the financial sustainability of microfinance institutions, even if this sustainability is more difficult to reach in Europe than in the emerging countries.

x. Existence of tax incentives

Micro-enterprises and microfinance institutions in very few Member States benefit from exemptions from or reductions in income or corporation tax. Notably, lower tax rates are available to Romanian micro-enterprises as well as legal entities and the self-employed in Latvia who have been designated 'micro-enterprise taxpayers'. Additionally, Finnvera, the state-owned Finnish microfinance institution, has been granted an income tax exemption and First Step in Ireland benefits from special tax measures. On the whole, however, there is no discernible European-wide trend for tax incentives aimed specifically at microcredit, which is unsurprising given that microcredit is not yet fully recognized by many Member State governments.

Both micro-enterprises and microfinance institutions may be eligible for beneficial tax treatment under general tax legislation. For instance:

- start-ups and/or SMEs benefit from special tax rules in several Member States including the Czech Republic, Estonia, Germany, Italy, Spain, Romania and the United Kingdom;
- tax deductions are available to the self-employed in e.g. Denmark and Italy;
- companies or sole traders whose turnover falls below a certain threshold can opt out of being subject to VAT in e.g. Estonia, Finland and Ireland;
- investments in start-ups benefit from certain tax benefits in e.g. Germany, and
- special tax regimes apply to non-profit organizations in e.g. Spain and Portugal.

Only a few Member States (Belgium, France, Ireland) provide tax credits to individuals or corporations for donations made to microfinance institutions.

Additionally, a 2009 Luxembourg law exempts investment funds whose main objective is to invest in MFIs from the otherwise mandatory subscription tax.

xi. Access to guarantee schemes for banks and non bank institutions providing microcredit

Guarantee schemes aim to secure at least a part of the risk borne by institutions providing credit. In parallel to the general corporate law instruments several Member States, such as Bulgaria, Cyprus, the Czech Republic, Greece, Hungary, Lithuania, Romania, Slovakia and Slovenia, have introduced special schemes and adopted specific legislation in view of providing guarantees for loans granted to SMEs. These guarantees do not always apply to microcredit provided by non-bank microfinance institutions, for example in France where “le Fonds de Garantie pour l’Insertion par l’Economique” guarantees microcredit operations.

The guarantee schemes may be public, private or mutual and may operate on a national/ federal or regional/federate level. In Member States where microfinance institutions operate, loans provided by such institutions may be guaranteed through State-sponsored schemes, schemes promoted by local authorities, mutual arrangements among microfinance entities or bank-supported institutions. Occasionally, multiple levels of guarantee schemes operate, as for instance in Slovenia, where the Slovenian Enterprise Fund, the national guarantee fund, also issues re-guarantees for regional guarantee schemes.

The guarantee schemes generally set a maximum amount that can be guaranteed, both in absolute terms and/or as a percentage of the borrowed amount (generally from 60% to up to 80% of the loan).

A common vehicle in several Member States is a National Guarantee Fund, occasionally operated by the National Development Bank of the state (see for instance Bulgaria, the Czech Republic and Slovakia).

Guarantee schemes are either built into the loan programs as inherent exemptions to the liability of the borrower, or become relevant upon request of the lender. For instance in Denmark, Danish lenders apply for a state guarantee operated by the national guarantee fund (Vækstfonden).

A range of products or services is offered by these schemes: from the provision of guarantees, counter-guarantees, subsidies of interest rates, missing or additional collateral to acting as an intermediary for funds and facilitating SMEs’ access to credit. In certain countries, as for instance in Slovakia, institutions serving as guarantee providers for loans obtained by other institutions also directly provide microcredit to entrepreneurs.

Bank deposits are often separately secured by a kind of deposit fund (see e.g. the Czech Republic, Finland and Malta), while credit provided by credit unions may be secured by specific credit unions’ funds (for instance in the Czech Republic).

In some Member States, schemes providing services in specific sectors have been set up. For instance, in Cyprus, the Government Guarantee Scheme covers loans in the manufacturing sector that are used for restructuring and expanding existing

enterprises and establishing new manufacturing units engaged in the production of new products or high technology.

In parallel to the national guarantee schemes, similar schemes are available through various EU programs. In particular, the Competitiveness and Innovation Framework Programme 2007-2013 (CIP) offers loan guarantees to commercial banks for crediting small businesses. CIP has, for the past few years, extended its guarantee to non-bank

microfinance institutions. Guarantees to microfinance institutions are also possible under the European Microfinance Progress Facility.

xii. Existence of a database recording borrowers history

As regards data protection, in most Member States there are no specific rules affecting microcredit. National legislation implementing EU Directive 95/46/EC will apply. In several cases, pursuant to consumer protection legislation, if credit history information is made available to databases, the relevant credit contracts contain a clause informing the borrower about the notification of the information to the relevant databases.

In most Member States there is a form of registry or database offering information on borrowing history. These tools may be either public, kept in principle by the State's national bank or by other specifically set up credit bureaus, sometimes run by private companies. It is the contributing parties' responsibility to provide accurate information to these registries/databases and to update it regularly.

In several countries, non-bank microcredit institutions do not have automatic direct access to databases recording borrowers' credit history. This is because: (a) they are either required to be members of the database subject to a fee (in the case of a private credit database), where membership grants them the benefit of accessing the credit history of prospective borrowers and in turn the requirement to also provide such information to the database, as is the case in Austria, Cyprus, Denmark, Lithuania and Spain; or (b) access to the database is restricted to banking institutions only, as is the case in Estonia, Finland, Greece, Slovakia, Slovenia and Spain. Consequently, non-banking microcredit institutions are not necessarily under an obligation to provide these databases with information about the borrowers they finance.

Microcredit institutions may have access to databases and/or be under the obligation to report to databases if they are recognized as participant institutions or if the value of their portfolio exceeds a certain amount. This is the case for countries such as Bulgaria, Belgium, France, Germany, Hungary, Ireland, Italy, Portugal, Romania and Sweden.

There are, however, countries, as for instance Finland and Slovakia, where microfinance institutions have their own databases recording their borrowers' credit history. In principle, no direct access is available for non-bank microcredit institutions to such databases, but applicants for loans may in any case be required to communicate their credit history to prospective borrowers under the law.

Finally, in certain Member States, such as in Estonia and Romania, individuals have the right to consult databases recording their credit history in order to verify which information is included.

xiii. Significant initiatives taken to develop microcredit

Between 2008 and 2010 a significant number of Member States passed enabling legislation and/or developed specific institutions and policies that have had the effect of enhancing and fostering support and further development of microcredit and microenterprise in the respective Member States.

Countries of note are Italy and Portugal which have passed legislation for the creation of non-bank microfinance institutions (both in 2010). In Italy, on the basis of designated criteria, a special list of entities allowed to grant loans of up to a maximum of €25,000 for the purpose of creating and developing entrepreneurial initiatives will be put together. In Portugal, the new legislation introduced the framework for the function of Microcredit Financial Corporations, able to grant loans of up to €25,000 to SMEs, microenterprises or individuals facing difficulties in obtaining credit in the traditional way.

A number of significant initiatives were also accomplished in Germany: in 2008, legislation was passed for the creation of the Entrepreneurial Company with Limited Liability, a corporate vehicle for use by start-ups. This new form can be set up with a minimum nominal capital of only €1. In parallel, the Microcredit Fund Germany with a volume of €100,000,000 was established in 2010 as a successor of the Microfinance Fund Germany established in 2006. This fund, among other activities, acquires and manages venture capital while provides guarantees and assuming credit risk.

In Ireland, a joint body set up by the banking community and by Enterprise Ireland, a state body assisting in start-ups and development of business, provides funding to microfinance institutions via loans.

Moreover, in Malta, in the context of the 2010 budget presentation speech, the government launched a scheme called 'microinvest'. The government is planning to provide microcredit not exceeding €25,000 to SMEs and SFEs with the aim of providing the necessary liquidity for investment.

It is also worth mentioning that the number of microfinance institutions has multiplied in countries such as Romania and Poland. Coincidentally, these two countries operate interest rate caps in the context of microcredit.

Nevertheless, there is still a large margin for initiatives that could be taken by EU Member States to establish legal frameworks encouraging and supporting self-employment and micro-enterprises through the development of microfinance institutions and microcredit.

3. Legal and Regulatory Framework: detailed analysis per jurisdiction

JURISDICTION SUMMARY: AUSTRIA	
Authors: Eisenberger & Herzog – based on information by www.gruenderservice.at ; www.awsg.at ; www.bmask.at , ec.europa.eu ; rereading of Erste Bank Group	
1. Regulatory Framework for Microenterprises	
Public loan programs	<ul style="list-style-type: none"> - ERP – minor loans (erp-Kleinkredite) for volumes of between EUR 10,000 and EUR 100,000. - ERP – SME program as well as regional program loans and guarantees (volume of EUR 100.000 – 7.5m) - Specific ERP internationalisation (i.e. export), tourism and traffic programs provide subsidies, loans and guarantees as well
Business Development Services (incl. Financial support for Business development)	<p>Besides such tax and fee incentives, the Federal Government offers a variety of financial support programs through AWS (Austria Wirtschaftsservice) for new entrepreneurs:</p> <ul style="list-style-type: none"> - Guarantee for up to 80% of the amount of a “Mikrokredit” (see below) of up to EUR 30,000. - Young Entrepreneur’s subsidies (Jungunternehmerförderung) of up to EUR 30,000. - Young Entrepreneur’s subsidies – guarantee (Jungunternehmerförderung- Haftung) – i.e. a guarantee for up to 80% of the project volume (up to EUR 600,000) - Equity-Double-Programs - Equity Guarantees (guarantee for up to 50% of the new issued equity of up to EUR 1.5m) - Founding Bonus (Gründungsbonus): 14% bonus on the entrepreneur’s equity contribution (to the amount of EUR 60,000 of equity) - Guarantees for Internationalisation efforts and investments in Austria in general (provided both by AWS and OeKB – Austrian Control Bank) - Various subsidies and services for high-tech entrepreneurs
2. Regulatory Framework for Microcredit and Microfinance Institutions	
Types of institutions providing MC	<p>There are no specific vehicles or private corporations providing microfinance. Government Agencies and related entities (AWS, AMS, BMASK) provide micro-credits in the course of programs as described above.</p> <p>Financial institutions with Austrian banking license provide low volume credits in course of their regular lending business. Additionally, they participate in the aforementioned guarantee schemes of AWS and ERP-Guarantee programs as lenders.</p>
Specific laws & regulations applicable to MFIs	<p>There is no specific law exempting the microcredit business from either general corporate law or banking law in particular.</p> <p>As the provision of microcredit is considered lending activity pursuant to the Austrian Banking Act and due to a lack of a minimum monetary threshold for it, in our opinion conducting microfinance activities in Austria constitutes traditional banking business and therefore requires an Austrian banking license or alternatively under a corresponding license by another member state of the European Economic Area (EEA) when conduction such activities in reliance on the freedom to provide services or the freedom of establishment.</p>
Sources of funding for MFIs	<p>Banks providing microcredit use traditional refinancing methods (e.g. refinancing with other banks, central banks, capital markets).</p>

	<p>Government agencies are funded by either federal, province (Bundesländer) or EU funds (e.g. ESF and ERDF). AWS' credits are still partly funded by ERP funds, based on the Marshall Plan following WW II.</p> <p>In Austria, AWS acts as a one-stop-shop for both national and funds/subsidies based on the European Regional Development Fund – ERDF – (Kofinanzierung).</p> <p>It shall be mentioned that the European Union has established its microfinance programs (loans under €25 000) for self-employed people and businesses with fewer than 10 employees, providing guarantees, loans and equity to intermediaries who can then lend to small businesses or make available equity finance.</p> <p>These are available for both traditional banking institutions (Competitiveness and Innovation Framework Programme, European Progress Microfinance Facility, Joint European Resources to Micro to medium-sized Enterprises- JEREMIE) and non-banking institutions (Joint Action to Support Microfinance Institutions in Europe – JASMINE). The abovementioned programs by AWS, AMS and regional organisations are partly funded through such means.</p>
Operational and financial autonomy of MFIs	<p>AWS is 100% state-owned and controlled jointly by the Ministry of Economy and the Ministry of Transportation. Regional providers of subsidies and credits are province-owned.</p> <p>Service providing entities are either state-controlled (like AMS) or private (like ÖSB Consulting).</p> <p>Banks providing microfinance are (mostly) autonomous private institutions.</p>
Existence of usury rule (interest caps)	<p>No static interest caps exist.</p> <p>The usury rule (Wucher) under General Civil Law pursuant to section 879 para 2 item 4 of the Austrian General Civil Code (ABGB), however, applies.</p> <p>Additionally, there is a provision in section 1335 ABGB for consumer credits banning the amount of interest payable to a loan from being higher than the original principal amount. That provision will not pose an obstacle for microfinance activities in practice.</p>
Tax incentives, i.e. tax exemption for MFIs or reductions in taxes for individuals or enterprises that invest in their activities or intervene by way of grants	<p>There are no special tax incentives for micro financing activities.</p>
Access to guarantee schemes for banks and non bank institutions providing MC	<p>AWS guarantees secure the financing banks' (so called Treuhandbanken) claims against the respective entrepreneur (e.g. ERP guarantee).</p> <p>Furthermore, there are programs providing for a liability of AWS for bank's claims (e.g. Jungunternehmerförderung - Haftung) of subsidized investments.</p> <p>Similar guarantees are provided in the course of the EU microfinance programs.</p>

Database recording borrowers history Ability of non bank MFIs to access such databases	<p>There are private companies (e.g. KSV 1870) offering borrower history information against payment of a fee that are available to both banks and non-banks.</p>
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	<p>Such obligations do not exist under law. Some of the private companies as mentioned above, however, may require their customers to share their borrower history information on the basis of private contracts.</p>
Significant initiatives taken to develop MC	<p>The "Mikrokredit" initiative by the AWS in cooperation with the Austrian Ministry for Labour, Social Affairs and Consumer Protection (BMASK) has been put in place starting May 2010.</p> <p>AMS offers services to entrepreneurs within its start up program (Unternehmens-gründungsprogramm UGP) Erste Bank Group founded "Zweite Bank", providing basic banking services to a populace traditionally left out of the banking industry.</p>
Main obstacles and barriers to development of MC and MFIs	<ul style="list-style-type: none"> - Microcredits are mostly granted by banks in the course of their regular lending business, that is associated with complicated procedures and risk profiling based on security or on the basis of government/EU – backed guarantees and grants that require special applications and administrative effort as well. - Due to the provisions of the Austrian Banking Act, true private MFIs that are not influenced by the government do not exist. - Private (individual – non-banking) investment in small entrepreneurs is unattractive from a tax point of view.
Suggested measures to improve existing framework/create a new framework for MC	<ul style="list-style-type: none"> - Enable the establishment of MFIs by exempting microcredits from the requirement of a banking license (or better, create a special MFI license). - Incentivize private investment in the form of microcredits (by either tax advantages or other benefits). - Enhance cooperation between banks, national authorities and EU authorities.

JURISDICTION SUMMARY: BELGIUM	
Authors: UGGC & Associés Brussels, rereading of MicroStart SCRL	
1. Regulatory Framework for Microenterprises	
Types of corporate vehicles available for MCEs and SFE	<p>Any natural person may start a business in Belgium either as a self-employed person or through a company</p> <p>Main types of corporate vehicles which can be used by MCEs and SFEs: <i>Société Anonyme, SPRL and SCRL</i></p>
Costs and procedures related to the creation of a MCE	<p>Cost of incorporation of a company includes registration duties, publication in Official Gazette of company's articles of incorporation and notary fees. In total, cost amounts to approximately €1,000 for "SPRL" and €1,500 for "SA"</p> <p>Incorporation of a company in Belgium requires formalities such as enactment of articles of incorporation before a Belgian notary, registration with National Office for Social Security in case staff is employed in Belgium and, eventually administrative authorization to access a regulated profession and registration with VAT. Initial capital is required to set up a company. For Société Anonyme, minimum capital required is €61,500 to be fully subscribed. For SPRL and SCRL, law requires a minimum capital of €18,600 of which at least €6,200 must be paid up upon constitution (€12,400 in case of incorporation of a SPRL by one shareholder only)</p> <p>Self-employed persons and companies are required to register with a central corporate database: "Crossroads Bank for Enterprises"</p>
Income support during transition period	<p>An unemployed person ceases to benefit from allowances as soon as he/she starts running a business either as self-employed or through a company. The unemployment allowances can, however, be maintained for a period up to six months if, during that period, the person does not have yet any revenues from the commercial activities but is merely taking all administrative steps required to launch the business (registration with VAT, conclusion of agreements with suppliers, etc). Furthermore, potential financial advantages received during training are not considered as wages and may be as such cumulated with unemployment benefits</p>
Business development services (incl. Financial support for Business development)	<ul style="list-style-type: none"> - Business development training for unemployed people (beneficiaries can continue to receive unemployment allowances during such training period) - Various programs offered by MFIs: Fonds de participation has developed a "Plan for young self-employed" which provides accompanying measures under 30's and Crédal offers a series of business development services, including a program focused on women entrepreneurship - Dexia Foundation launched an initiative according to which some Dexia's employees put their technical and social expertise at the disposal of MCEs and SFEs

JURISDICTION SUMMARY: BELGIUM	
Authors: UGGC & Associés Brussels, rereading of MicroStart SCRL	
Specific laws & regulations applicable to MCEs and SFE	General corporate rules apply for the incorporation and launch of a business by MCE and SFE
Main barriers for development of MCEs and SFE	In principle, unemployed people cease to be entitled to unemployment allowances as soon as they launch their business
2. Regulatory Framework for Microcredit and Microfinance Institutions	
Types of institutions providing MC	Commercial banks do not offer their own MC products, they only act through partnerships with MFIs ¹ MFIs: <ul style="list-style-type: none"> - Fonds de participation (Federal public body under supervision of Ministry of Economy, Ministry of Finance and Ministry of Employment operating on the entire Belgian territory) - Crédal (private MFI operating only in Wallonia and Brussels Region) - Brusoc (public and private MFI operating in "Objective 2" part of Brussels Region) - Hefboom (private MFI operating in Flanders and in the Brussels Region) - MicroStart (non bank IMF founded in September 2010 by BNP Paribas and Adie).
Specific laws & regulations applicable to MC and MFIs	No specific rules apply to MC Belgian law does not prevent non banking institutions from borrowing money with a view of subsequently lending that money No specific legislation capping the interest rates is applicable to MC (Belgian law regulates only consumer loans)
Sources of funding for MFIs	MFIs receive financing mainly from public sources either at national, regional or European (European Social Fund, European Investment Fund and European Regional Development Fund) level Public MFIs (Fonds de participation and Brusoc) are financed mainly by public authorities: Federal Government and Brussels Region Crédal and Hefboom are financed by public and private sources: as cooperatives, they receive financial support from their members. They also receive funding from the Dexia foundation.
Do non-bank MFIs achieve operational / financial autonomy ?	Financial autonomy of public MFIs (ie. Fonds de participation and Brusoc) is difficult to assess since they are financed mainly through public resources Crédal is not yet fully financially autonomous: only 5% of its operational costs are covered by payment of interest rates.

¹ For example, partnership with the Fonds de participation whereby people can request through a single formality both a microcredit financing and a (commercial) loan from a bank.

JURISDICTION SUMMARY: BELGIUM	
Authors: UGGC & Associés Brussels, rereading of MicroStart SCRL	
Interest caps	No; apply only to consumer loans
Tax incentives	Private MFIs operating as authorized cooperatives ² , such as Crédal, may deduct dividends paid to their members up to €160/annum. However, there is no reduction of corporate tax Tax deduction to natural persons upon donation to MFIs if the MFI has been certified by the Ministry (SPF) of Finance, if the donation is above € 30 and if the deducted amount is below 10% of the taxable net income and/or below € 250,000 for the same taxable year.
Access to guarantee schemes for banks and non bank institutions providing MC	Regional government of Wallonia has set up a guarantee scheme for people who are granted a commercial bank loan < €25,000 from a traditional commercial bank. None of the MFI requires guarantee scheme for its clients, but interest rates may be reduced for people whose loan is guaranteed by a relative (see, for instance, Credal).
Data protection rules Ability of non bank MFIs to access such databases	Databases administrated by National Bank of Belgium re. mortgage and consumer loans, but no information on investment loans MFIs are required to enquire about the credit history of the borrower (i) if the MFI is recognised by the Ministry (SPF) of Economy and (ii) only to the extent that the loan is a consumer loan or a mortgage loan.
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	With respect to the "Central database for loans to private individuals", MFIs are under the obligation both to report a loan to the database and to enquire about the credit history of the borrower (i) if the MFI is recognised by the Ministry (SPF) of Economy and (ii) only to the extent that the loan is a consumer loan or a mortgage loan. Currently, banks have to report granting of loans to MCEs > €25,000 to "Central database for loans to enterprises". However, under a Bill likely to be adopted this year, the €25,000 threshold could no longer apply. Accordingly, any loans by banks to MCEs will have to be reported to the "Central database for loans to enterprises"
Significant initiatives taken to develop MC	Creation of MFIs
Main obstacles and barriers to development of MC and MFIs	<ul style="list-style-type: none"> - Absence of specific regulations applicable to MFIs - Lack of tax incentives for investment into MFIs
Suggested measures to improve existing framework/create a new framework for MC	<ul style="list-style-type: none"> - Widen scope of sources of funding available to MFIs. - Create a system of quasi-equity for microentrepreneurs starting as sole traders - Develop funding for business development services by municipalities and regions - Maintaining of unemployment allowances during the start up period of a business - Simplify the social security contributions system

² Such authorization must be granted by the National Cooperation Council (Conseil National de la Coopération)

JURISDICTION SUMMARY: BULGARIA

Authors: Djingov, Gouginski, Kyutchukov & Velichkov with input from Nachala

1. Regulatory framework for Microenterprises

Types of vehicles available for Microenterprises and self-employment	<p>Microenterprises (MCE) are defined as enterprises with an average number of personnel of less than 10 employees per annum and annual turnover, and/ or asset value, not exceeding BGN 3,900,000. MCE may be established in various organization forms:</p> <ul style="list-style-type: none">- sole trader;- civil partnership;³- general partnership;- limited partnership- limited liability company;- joint-stock company; or- company limited by shares. <p>The two most common types of commercial companies under Bulgarian legislation are the limited liability company (OOD) and the joint-stock company (AD). The former is suitable for micro-, small- or medium-sized enterprises, whereas the latter - for larger businesses. However Over 90% of the registered microentreprises are sole traders. However, any of the above organization mediums may be defined as an MCE, provided that it meets the specified criteria. Most frequently, the smallest businesses operate as sole traders since it used to be the easiest legal structure to operate micro companies.</p>
Costs and Procedures	<p>The easiest way to establish an MCE is to register as a sole trader in the Commercial Register with the Registry Agency, Ministry of Justice. The Registry Agency is a one-stop-shop for setting up all types of trading enterprises: sole trader; general partnership; limited partnership; limited liability company; joint-stock company; and company limited by shares. Civil partnerships shall be registered with the BULSTAT Register also kept by the Registry Agency.</p> <p>The cost aspect of registration greatly varies depending on the type of vehicle selected. Certainly, it will be cheapest to register as a sole trader. Registration related fees amount approximately to BGN 85.00. At the other end of the cost spectrum is the joint-stock company - approximately BGN 500.00 in registration related fees. Please note that there are minimum capital requirements for the limited liability company (BGN 2.00) and the joint-stock company (BGN 50,000.00). Bank and notary fees are not included in these figures. Any charges additional to the state fees may substantially increase the costs, depending on specific circumstances to the registration.</p> <p>As far as timing is concerned, the registration in the Commercial Register takes up to a month in practical terms.</p>

3

Civil partnerships may only meet economic/ business targets of their partners. They may not carry out commerce / trading activity as defined in the Commerce Act.

JURISDICTION SUMMARY: BULGARIA	
Authors: Djingov, Gouginski, Kyutchukov & Velichkov with input from Nachala	
Financial support programs during transition period	<p>The transition from unemployment to establishing a micro enterprise is supported by:</p> <ul style="list-style-type: none"> - Unemployment compensation available for a specified duration depending on the work experience; - Governmental programs for setting up micro-businesses, operated by the Ministry of Labour and Social Policy (encouragement of agricultural producers; change of profession for workers from tobacco manufacturing and processing industries, etc.); - Crediting for newly established enterprises from commercial banks participating in the 'National Guarantee Fund', administered by the Bulgarian Bank for Development; - Grants to unemployed for starting up a micro enterprise. Such grants are disbursed by the Employment Agency upon approved business plan; - Employers, who are MCE, may receive grants for a period of up to 12 months for the first 5 work places, which have been created. These grants are also provided by the Employment Agency.
Business development services	<p>Business development advice and other services are provided, first and foremost, by the Executive Agency for Encouragement of Small and Medium Enterprises with the Minister of the Economy, Energy and Tourism. The Employment Agency may also organize training of workers / employees in MCE.</p> <p>Small businesses can be further assisted by non-governmental or industry organizations, such as Foundation for Development of Entrepreneurship, Union of Bulgarian Businesses, Bulgarian Chamber of Trade and Commerce, Bulgarian Craftsman's Chamber, etc.</p>
Specific laws & regulations applicable to micro-enterprises, self-employment and micro-credit	<p>An overarching legislative act specifically addressing micro-, small- and medium-sized enterprises is the Small- and Medium-sized Enterprises Act. The act is aimed at implementing the state policy on promotion and development of such enterprises.</p> <p>However, the bulk of statutory provisions is contained in other legislative sources not directly concerned with micro-enterprises, but specifically addressing certain aspects thereof. For instance, the Public Procurement Act, Export Insurance Act, Employment Encouragement Act and Bulgarian Bank for Development Act provide for preferential treatment or encouragement of small businesses among other regulatory objectives.</p>
2. Regulatory framework for Microcredit and Microfinance Institutions	
Types of institutions delivering micro-credit	<ul style="list-style-type: none"> - Transformed Microfinance institutions established by large international donors as well as local cooperatives, all reporting to the MIX market - Commercial banks; - EU-backed loans or equity financing for small businesses through the Competitiveness and Innovation Framework Program 2007-2013 (CIP). Its objectives include innovation, integration of communication and information technologies, renewable energy and energy efficiency. Participating bank under the Program is the Bulgarian Development Bank; - Venture Capital Funds for small enterprises Small Enterprise Assistance Funds; SEAF Trans Balkan Fund Bulgaria, etc.);

JURISDICTION SUMMARY: BULGARIA	
Authors: Djingov, Gouginski, Kyutchukov & Velichkov with input from Nachala	
Sources of funding for microfinance institutions	<ul style="list-style-type: none"> - Public funds, such as the National Guarantee Fund; - Private venture capital funds; - JASMINE Program of the EU; - Progress program of the EU commission; - Commercial funds; - European/ International sources, such as JEREMIE (Joint European Resources for Micro to Medium Enterprises); and the Scheme for Financial Leasing under JOBS 'Employment through Support to Business' - a co-initiative of the Ministry of Labor and Social Policy and the United Nations Development Program (UNDP).
Operational and financial autonomy of microfinance institutions	Micro-financing is mainly by financial institutions (Nachala, Mikrofond, Ustoi, JOBS, etc) and through commercial banks, which are financially and operationally autonomous. The autonomy of governmental institutions / agencies giving micro-crediting is difficult to ascertain.
Usury rule (interest caps)	There is no usury rule. Interest caps are not prescribed under Bulgarian law.
Tax incentives	No specific tax incentives are available for MCE.
Guarantee schemes for banks and non-bank institutions	<ul style="list-style-type: none"> - National Guarantee Fund, operated by the Bulgarian Bank for Development. The guarantee fund improves the access of small businesses to financing mainly through providing additional collateral. It also provides other support and improves the quality of the exposure of the enterprises to commercial banks; - Competitiveness and Innovation Framework Programme 2007-2013 (CIP) offers loan guarantees to commercial banks for crediting small businesses. The CIP comprises three operational programs (Entrepreneurship and Innovation Programme; Information Communication Technologies Policy Support Programme; and Intelligent Energy Europe Programme). It also includes certain financial measures.

JURISDICTION SUMMARY: BULGARIA

Authors: Djingov, Gouginski, Kyutchukov & Velichkov with input from Nachala

<p>Database recording borrowers history. Access to such database. Provision of credit history.</p>	<p>The Central Credit Register on credit indebtedness contains information on borrowers' history: both individuals and legal entities. The register is kept by the Bulgarian National Bank. However, the national bank itself is not responsible for the accuracy of the information contained therein. Participating banks and financial institutions, which are obliged to provide their borrowers' credit history, are responsible for the truthfulness of the information, which is updated on a monthly basis.</p> <p>Any person (individual / legal entity) may request information on its own credit indebtedness. Applications for access to the credit records of another person may only be filed by the person itself or a duly authorized representative. Banks and credit institutions can request information from the register in their own right. They shall keep strictly confidential any information thereby disclosed.</p>
<p>Significant initiatives taken to develop micro-credit</p>	<ul style="list-style-type: none"> - The National Strategy for Encouragement of Small- and Medium-sized Enterprises has laid the ground for favorable treatment and encouragement of small and medium enterprises (including MCE). These objectives are implemented through enhancing access to financing, provision of loan guarantees, management training, etc; - Adoption of the Bulgarian Bank for Development Act, promulgated in State Gazette № 43/ 2008. The Act has establishes the Bulgarian Bank for Development and its subordinate funds: Capital Investment Fund and National Guarantee Fund; - Competitiveness and Innovation Framework Programme 2007-2013 (CIP), facilitating access to equity finance and bank loans, including micro-credit and mezzanine finance; - JEREMIE (<i>Joint European Resources for Micro to Medium Enterprises</i>). Under JEREMIE, part of the EU structural funds can be used as loans or guarantees to finance MCE. - PROGRESS mechanism of the EU commission which is targeting the non-bank microfinance institutions and is already funding bulgarian micro enterprises through selected partners; - TA from Jasmine program; - Co-initiative of the Ministry of Labor and Social Policy and the United Nations Development Program (UNDP) to establish a Scheme for Financial Leasing; - There are numerous other minor initiatives under the auspices of the Ministry of Labor and Social Policy.

JURISDICTION SUMMARY: CYPRUS	
Authors: Ioannides Demetriou LLC Cyprus	
1. Regulatory framework for Microenterprises	
Types of corporate vehicles available for MCEs and SFE	<p>The following corporate vehicles are available in Cyprus:</p> <ul style="list-style-type: none"> - Limited liability company (limited by shares or by guarantee): <ul style="list-style-type: none"> o Private company (minimum one member and maximum fifty) o Public company (minimum seven members) - Societas Europaea (SE); - Partnership; - International Collective Investment Scheme (ICIS); - Open-Ended Undertaking for Collective Investments in Transferable Securities (UCITS); - Cypriot Investment Firm (CIF).
Costs and procedures	<p>The cost for setting up a company is €102,52 plus 0.6% tax fee on initial share capital exceeding €1000 (plus service-fees of the lawyers setting up the company). There is an optional fee of 85,43EUR for expedient registration.</p> <p>Firstly, the proposed name of the company must be approved by the Registrar of Companies. Once approval of the name is obtained then, the documents required to be submitted for registration at the Registrar of Companies are the Memorandum and Articles of Association of the company with two certified true copies, along with a statutory form containing the list of directors and secretary of the company, a form stating the registered office and an affidavit of a Cypriot Lawyer certifying that the company fulfils any obligations imposed by the Companies Law, CAP 113</p>
Income support during transition period	<p>A public grant is offered to any person legally residing in Cyprus whose income and other financial resources are insufficient for his basic and/or special needs.</p>
Business development services (incl. Financial support for business development)	<p>Public programmes supporting the promotion and development of entrepreneurship among young people by providing training seminars and funding for setting up SMEs.</p> <p>Public programmes enhancing entrepreneurship for women wishing to engage in commercial and tourism activities.</p> <p>The Human Resources Development Authority provides funding to support in-company staff training for developing and upgrading the skills required to carry out business effectively. Training is also provided by private training organizations in various fields.</p> <p>The Government also provides funding in what is known as the de minimis schemes for small and medium-sized enterprises in the manufacturing sector. Such funding is reviewed every three years and it is limited to €200,000 per venture, granted over a period of three years.</p>

JURISDICTION SUMMARY: CYPRUS	
Authors: Ioannides Demetriou LLC Cyprus	
	<p>The Ministry of Commerce, Industry and Tourism provides various programmes and grants as well as business support schemes.</p> <p>In addition, many banks provide financial support for setting up a business in Cyprus.</p> <p>As a result of being part of a wide Double Tax Treaty network, Cyprus merits from reduced taxes.</p>
Other measures	The Code of Conduct between commercial banks and SMEs has been elaborated and implemented since 2005. Its objective is to define and regulate the rules and boundaries of professional conduct of banks towards SMEs.
Tax incentives	<ul style="list-style-type: none"> - Part of a wide Double Tax Treaty network; - Cyprus imposes taxes on all resident companies at 10% (lowest rate in EU); - Major tax exemptions: no tax on dividend income, no withholding taxes, no taxation on profits from sale of securities, no taxation on profits of foreign permanent establishments, no taxation on the liquidation of a Cypriot company, no inheritance, estate or wealth taxes for investors; - Adoption of EU Directives - Lowest VAT rates across the EU
Main barriers for development of MCEs and SFE	<p>SMEs face problems in finding the necessary collateral requested by banks to secure a loan. As far as micro-lending is concerned, banks do not normally require collateral for loans up to €25,000.</p> <p>Access to finance (venture capital – loan guarantee facilities) is generally limited but this has improved since 2009 through a new financing facility between the European Investment Fund and the Bank of Cyprus to support SMEs with loans up to €100,000. This new facility is aimed at the advancement of projects in the renewable energy sector, R&D, information technology and communication sectors and offers longer repayment and grace periods but most importantly reduced interest rates.</p>
2. Regulatory framework for Microcredit and Microfinance Institutions	
Types of institutions providing MC	<ul style="list-style-type: none"> - Domestic commercial banks; - Co-operative Credit Institutions (CCIs); - The former International Banking Units (IBUs) (offshore banking services offered to non-resident Cypriots); - The Research Promotion Foundation; - The new facility initiative between the EIF and the Bank of Cyprus.
Sources of funding for MFIs	Bank loans, subsidies, donations, Government funding, equity investments, European sources, International aids.

JURISDICTION SUMMARY: CYPRUS	
Authors: Ioannides Demetriou LLC Cyprus	
Do non-bank MFIs achieve operational / financial autonomy ?	Most MCIs in Cyprus are generally banks and financial institutions. Other MCIs such as the Research Promotion Foundation and the Human Resources Development Authority have financial and operational autonomy. The Ministry of Commerce, Industry and Tourism is also autonomous in operating the de minimis funding schemes and other grants.
Interest caps	N/A
Access to guarantee schemes for banks and non bank institutions providing MC	<p>Guarantee products are offered not just for missing collateral but also for micro loans, leasing, factoring, risk capital, projects, etc. Both public guarantee schemes initiated by Public Authorities and private guarantee schemes offered by companies and banks are available.</p> <p>The Government Guarantee Scheme aims to assist SMEs which do not have adequate collateral to obtain loans in the manufacturing sector. Guarantees under this scheme are granted for loans given by any commercial bank or financial institution and are utilised for restructuring and expanding existing enterprises and establishing new manufacturing units preferably engaged in the production of new products or high technology.</p> <p>Also, as explained above, the new initiative between the EIF and the Bank of Cyprus offers attractive guarantee packages and financial assistance to SMEs under which the EU shares some of the risk of lending to SMEs in return for a commitment from financial institutions to increase lending or take on more risk.</p>
Data protection rules Ability of non bank MFIs to access such databases	<p>Access to information of all companies is available at the Registrar of Companies, subject to a fee. The information available includes inter alia the existence, amount and beneficiary of charges and mortgages.</p> <p>Also, financial databases are available to provide information on credit behaviour of businesses.</p>
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	No. Such information is subject to The Processing of Personal Data (Protection of Individuals) Law 138(I)/2004 aligned with the EU Directive 95/46/EC and therefore consent of any public or private corporate body, whether or not it has legal personality, is required for the release of such information.
Significant initiatives taken to develop MC	The implementation of the National Strategic Sustainable Development Plan 2007-2013 in line with the EU Competitiveness and Innovation Framework Programme 2007-2013(CIP), co-funded by European structural funds. The main objective of this plan is the maximisation and the development of productivity, the advancement of services offered by the State to its citizens, the improvement of R&D and Innovation, the enhancement of competitiveness, as well as the full integration of the local economy in the global picture.
Main obstacles and barriers to development of MC	Due to the current global economic crisis, there are increasing obstacles to having access to finance. Credit institutions are more reluctant to provide loan finance, especially short-term, and have higher demands in collateralisation and guarantees. Undertaking increased risk premiums and being subject to higher interest rates acts as a further deterrent for SMEs in particular.

JURISDICTION SUMMARY: CYPRUS Authors: Ioannides Demetriou LLC Cyprus	
Suggested measures to improve existing framework/create a new framework for MC	<ul style="list-style-type: none"> - Facilitating access to finance for economically sound projects by introducing lower thresholds for collateralisation and guarantee schemes; - Extending the level of public funding for SMEs in sectors other than just manufacturing.

JURISDICTION SUMMARY: CZECH REPUBLIC Authors: Balcar Polansky Eversheds, rereading of Erste Bank Group	
1. Regulatory framework for Microenterprises	
Types of vehicles available for MCEs and SFE	<p>Any natural person who meets the statutory requirements may start a business in the Czech Republic as:</p> <ul style="list-style-type: none"> - a self-employed person. A self employed person can be engaged: <ul style="list-style-type: none"> - in a business activity on the basis of an authorization to practice a certain trade (in accordance with the Trade Licensing Act); - in a business activity on the basis of an authorization issued under a particular Act or regulations different from the provisions governing the issue of a trade authorization. - a company (the most common corporate form for small business activities is a limited liability company);
Costs and procedures related to the creation of a micro-enterprise	<p>Trade licenses:</p> <ul style="list-style-type: none"> - registration by the Trade License Authority (administrative fees amounting to CZK 1,000); - consent of the site owner (certified by a notary public); - specific training must be undergone in order to obtain some types of trade license authorizations. <p>Other types of authorizations:</p> <ul style="list-style-type: none"> - the cost and procedures related to the creation of such enterprises depends on the particular activity; - authorization is granted by a respective body authorised by the state (eg occupational chambers); - eg a lawyer must undergo certain training, ie university education obtained at the faculty of law, three-year mandatory practice as a trainee in a law office, passing the bar exam + mandatory fees amounting to CZK 8,500. <p>Limited Liability Company:</p> <ul style="list-style-type: none"> - establishing a company » notarial deed of incorporation, by-laws (optional for this form of company, but provided that such document is drawn up, it must be certified by a notary public); - minimum registered capital is required (amounting to CZK 200,000); - obtaining the respective trade licenses; - registration in the Commercial Register in order to obtain the trade name (administrative fees amounting CZK 5,000).

JURISDICTION SUMMARY: CZECH REPUBLIC	
Authors: Balcar Polansky Eversheds, rereading of Erste Bank Group	
	<p>In all the above-mentioned cases, the entrepreneur must be registered with the following authorities:</p> <ul style="list-style-type: none"> - financial authority (for tax purposes); - social security administration (for mandatory social security contributions); - health insurance (for mandatory health insurance contributions); - labour office (for notification of job vacancies and their nature).
Income support during transition period	<p>Unemployment benefits are available to individuals seeking work actively on condition that they also meet other statutory requirements.</p> <p>People who decide to solve their unemployment by starting their own business may be entitled to special support provided for up to 5 months and amounting to the average wage.</p> <p>The following requirements must be fulfilled in order to get this type of support:</p> <ul style="list-style-type: none"> - the candidate must be registered by the Labour Office as unemployed for at least five months; and - carry out the business activity for at least two years. <p>If the above-mentioned requirements are not met, a candidate is obliged to return the money.</p>
Business development Services (incl. Financial support for business development)	<ul style="list-style-type: none"> - The Ministry of Industry and Trade prepared the Operational Programme Enterprise and Innovation (OPEI) for drawing financial support from the Structural Funds of the European Union. The OPEI support for programs that aim to support small and medium-sized enterprises are as follows: START, PROGRESS (provides microcredit for micro-enterprises and people who become unemployed), GUARANTEE (provides guaranteed operating loans), DEVELOPMENT, TRAINING CENTRES, COOPERATION, etc. - Job seekers who attend a retraining course offered by the Labour Office are entitled to a retraining allowance. Such allowance is provided during the entire period of the retraining course. - The Ministry of Industry and Trade's agency CzechInvest (the Investment and Business Development Agency) advises and supports existing and new entrepreneurs and foreign investors in the Czech Republic. The agency contributes to attracting foreign investment and developing domestic companies through its services and development programmes. CzechInvest also promotes the Czech Republic abroad and acts as an intermediary between the EU and small and medium sized enterprises in implementing structural funds in the Czech Republic. All CzechInvest services are provided free of charge and include eg full information assistance, aftercare services, business infrastructure development, access to structural funds, etc. - Regional Development Agencies support the business activities of small and medium sized enterprises in their regions. These agencies provide services such as strategic and project consultancy as well as mediation of contracts within their regions for involvement in European and international projects. <p>The Association of Small and Medium Sized Enterprises and Crafts CZ brings together small and medium sized enterprises and craftspeople and their organizations from around the whole country on an open, nonpolitical platform. The association cooperates with the government, individual ministries, and over recent years has initiated a host of statutory measures which are helping to create the business environment in our country. This association provides its members with</p>

JURISDICTION SUMMARY: CZECH REPUBLIC	
Authors: Balcar Polansky Eversheds, rereading of Erste Bank Group	
	<p>information services aimed at the segment of small and medium sized companies (eg news on banking products, marketing, education), discounted packages of products and services (in cooperation with the major companies) as well as the opportunity to participate in free educational events.</p> <p>Pursuant to the Employment Act, a job seeker can establish upon agreement with the Labour Office for the purpose of performing a self-employed activity a socially beneficial job. The Labour Office can make a contribution to such a job if the job seeker meets the following requirements:</p> <ul style="list-style-type: none"> - at the time of application the job seeker must be registered by the relevant Labour Office as unemployed; - the job seeker must submit the written application on the prescribed form to the appropriate Labour office; - a business plan including presumed expenses (associated with the commencement of the business) and presumed economic balance must be submitted with the application; - a document authorizing the job seeker to do a business in the required industry must be provided; - the job seeker must provide confirmation that he/she has no tax arrears as well as arrears on premiums; - the job seeker must provide a document proving the establishment of a bank account. <p>Such contribution can be provided as a returnable support, a contribution to the payment of interest on the loan or another purpose-built supply. These funds are earmarked for the acquisition of the property intended for the business activities of the job seekers. The contribution is intended only for job seekers whose jobs can not be secured in another manner (due to their health, age, childcare or other serious reasons). If the job seeker wishes to obtain the contribution, individual gainful activity must be carried out over the specified period of time.</p>
Specific laws & regulations applicable to MCEs and SFE	<ul style="list-style-type: none"> - There are no specific laws relating only to microcredit. - Self-employment is regulated by Act no. 455/1991 Coll., the Trade Licensing Act as well as many other acts regulating the exercise of specific professions (eg Legal Profession Act). - Support provided to micro-enterprises is regulated by Act no. 47/2002 Coll., on Support for Small and Medium-Sized Enterprises. - General corporate rules which also apply to micro-enterprises are included in Act no. 513/1991 Coll., the Commercial Code.
Main obstacles and barriers to development of MCE and SFE	<p>MCE</p> <ul style="list-style-type: none"> - absence of simplified status to set up MCEs <p>MCE, SFE</p> <ul style="list-style-type: none"> - absence of favorable treatment for companies financed by MC - no specific barriers applicable to the MCE and SFE, requirement of compliance with general corporate laws and regulations applicable on setting up businesses

JURISDICTION SUMMARY: CZECH REPUBLIC	
Authors: Balcar Polansky Eversheds, rereading of Erste Bank Group	
2. Regulatory framework for Microcredit and Microfinance Institutions	
Types of institutions providing MC	<ul style="list-style-type: none"> - Commercial Banks - Specialized Banking Institutions (eg Czech Export Bank which provides government support for export) - Development Banks (eg the Czech-Moravian Guarantee and Development Bank which assists small and medium-sized businesses by providing bank guarantees and preferential loans. A special kind of support is provided within the Ministry of Industry and Trade's PROGRESS support program in the form of subordinate loans strengthening the capital assets of the entrepreneur for a period of up to six years.) - Savings and Credit cooperatives - European Union funds
Specific laws & regulations applicable to MC	<ul style="list-style-type: none"> - There are no specific laws relating only to microcredit.
Sources of funding for MFIs	<ul style="list-style-type: none"> - Commercial loans - Equity investment - Soft loans - Member's deposits (in the case of savings and credit cooperatives) - Funds provided by the European Union
Operational and financial autonomy of MFIs	<p>Microfinance institutions in the Czech Republic are usually of a private nature. In the majority of cases such institutions are financially independent. However, specific rules apply to the activities of some of them, such as:</p> <ul style="list-style-type: none"> - banks are regulated by Act no. 21/1992 Coll., on Banks; - savings and credit cooperatives are regulated by the Act no. 87/1995 Coll., on Savings and Credit Cooperatives. <p>The activities of banks and savings and credit cooperatives are also supervised by the Czech National Bank.</p>
Existence of usury rule (interest caps)	No

JURISDICTION SUMMARY: CZECH REPUBLIC	
Authors: Balcar Polansky Eversheds, rereading of Erste Bank Group	
Tax incentives, i.e. tax exemption for MFIs or reductions in taxes for individuals or enterprises that invest in their activities or intervene by way of grants	No
Access to guarantee schemes for banks and non bank institutions providing MC	<ul style="list-style-type: none"> - The Ministry of Industry and Trade launched a support programme for small and medium-sized enterprises called GUARANTEE. Within this programme the Czech-Moravian Guarantee and Development Bank provides subsidized guarantees for loans granted to small and medium-sized businesses. - Credit given by credit unions is secured by the Credit union's securing fund. - Bank deposits are secured by the Deposit Insurance Fund established by Act no. 156/1994 Coll.
Database recording borrowers history Ability of non bank MFIs to access such databases	<p>Information relating to natural persons is included mainly in the following registers:</p> <ul style="list-style-type: none"> - CBCB – the Czech Banking Credit Bureau, a.s. operates a bank register of client information (BRKI) through which the banks can inform each other about matters concerning their clients' payment prospects and creditworthiness. The Personal Data Protection Act imposes a duty on the provider (in the case of the credit register this is the bank) to inform data subjects (the banks' clients) before processing his/her personal data. The Banks participation in this register is optional, but a majority of Czech commercial banks take part in it. - LLCB – the Leasing and Loan Credit Bureau operates a non-bank register of client information (NRKI) which enables creditors to keep informed about matters concerning their clients' payment prospects and creditworthiness. The consent of the person affected is required prior to the processing of his/her personal data. The participation of non bank subjects in this register is optional, which means that no creditor is obliged to provide its borrowers' credit history to the database.
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	<p>Since 2006, there has been a mutual exchange of information between BRKI and NRKI.</p> <p>Information on the credit commitments of individual entrepreneurs and legal entities is included in the Central Credit Register (CCR) maintained by the Czech National Bank. CCR participants are all the banks and branches of foreign banks carrying out business in the Czech Republic. CCR participants are required to update the CCR database on a monthly basis. Under the Act on Banks, any client about whom relevant information is held in the CCR has the right to demand an extract from the register. The CCR does not share data with the other registers.</p>

JURISDICTION SUMMARY: CZECH REPUBLIC	
Authors: Balcar Polansky Eversheds, rereading of Erste Bank Group	
Significant initiatives taken to develop MC	<ul style="list-style-type: none"> - The Activities of the Ministry of Industry and Trade, namely support programs within the Operational Programme Enterprise and Innovation (OPEI), such as GUARANTEE and PROGRESS (both mentioned above). - Participation of the Czech-Moravian Guarantee and Development Bank (provides subsidized guarantees for loans + subordinate loans) in the above-mentioned programs. - Activities of the agencies and associations providing support: mainly the Association of Small and Medium Sized Enterprises and Crafts CZ, Regional Developments Agencies as well as CzechInvest.
Main obstacles and barriers to development of MC	<ul style="list-style-type: none"> - Absence of consolidated legal framework - Absence of tax exemptions/incentives
Suggested measures to improve existing framework / create a new framework for MC	<ul style="list-style-type: none"> - Raise awareness regarding MC - Use of European as well as international sources (such as JEREMIE) to provide local funding for micro and medium sized enterprises - Enactment of a consolidated legal and regulatory framework for MC - Implement tax incentives

JURISDICTION SUMMARY: DENMARK

Authors: Gorrissen Federspiel, Copenhagen, Denmark

1. Regulatory framework for Microenterprises

<p>Types of corporate vehicles available for MCEs and SFE</p>	<p>Danish law recognises the principle of contractual freedom in company law in that the participants of a joint business enterprise are free to decide the organisation form they find best suited for their needs. The most common types of vehicle used for micro-enterprises and self-employment are:</p> <ul style="list-style-type: none"> - Sole proprietorship (one man business); and - Public limited liability companies, private limited liability companies, partnerships, limited partnerships and cooperative societies.
<p>Costs and Procedures</p>	<p>(a) Sole proprietorship: no minimum capital requirements exist for setting up a business as a sole proprietorship. Instead sole proprietorships shall register for VAT payments with the Danish Commerce and Companies Agency if the business has a turn over of more than DKK 50,000 per year. The registration is voluntary if the turn over is less than DKK 50,000 per year.</p> <p>Establishment of a sole proprietorship can be completed through a business internet portal (www.virk.dk). The objective is to relieve Danish companies from administrative burdens and to provide a single entrance to the public sector.</p> <p>There are no direct costs with respect to establishment of a sole proprietorship.</p> <p>(b) Other forms: The minimum capital requirement for a private limited company is DKK 80,000; the minimum capital requirement for a public limited company is DKK 500,000. Either type of company may have one or more shareholders.</p> <p>The subscription of shares is made in the memorandum of association. Both categories of companies must be registered with the Danish Commerce and Companies Agency. Registration is subject to minimum 25 % of the share capital being paid-up, however always minimum DKK 80,000.</p> <p>Registration may be effected online via the Danish Commerce and Companies online registration system or by forwarding the required documentation to the Agency via ordinary mail.</p> <p>The approximate costs for legal assistance to set up a standard private limited company are DKK 10,000 excl. VAT.</p>
<p>Business development services (incl. Financial support for Business development)</p>	<p>The Danish Enterprise and Construction Authority has set up the portal “Startvækst” (www.startvaekst.dk) in cooperation with a number of public and private partners. Startvækst offers a number of tools for use by entrepreneurs and the business owners, inter alia templates for use in preparing budgets and contracts and in designing business plans. Regional Business Link centres, which are operated in interaction among local authorities, regional growth fora and the Danish Enterprise and Construction Authority, are integrated into the portal, each with their own regional homepage. The Business Links cooperate with and provide contact to private advisers such as banks, accountants and lawyers and to a large number of public actors.</p> <p>There are three types of information available in the portal:</p>

JURISDICTION SUMMARY: DENMARK	
Authors: Gorrissen Federspiel, Copenhagen, Denmark	
	<ul style="list-style-type: none"> - Entrepreneur - for entrepreneurs considering starting up a business. - Business - for business owners who want good advice to meet daily challenges. - Growth business - for business owners who need assistance with growth and develop. <p>In addition there are several private local, regional and national networks for founders of SMEs.</p> <p>“Vækstfonden” is an investment fund backed by the Danish State, which aims to create new growth companies by providing venture capital and competence. Vækstfonden co-finance, in cooperation with private investors, growth in more than 4,200 Danish companies with a total commitment of more than DKK 8.1 billion.</p> <p>Vækstfonden invests equity or provides loans and guarantees to small enterprises in collaboration with private partners, business angels, other venture capital investors and Danish financial institutions.</p> <p>In addition, several private and public investment funds exist; inter alia the regional venture funds.</p>
Other measures	None
Tax incentives	No general tax incentives exist. However, under Danish tax law (Virksomhedsskatteloven) a self-employed trader (sole proprietorship) has access to certain advantageous deductions- and periodiing possibilities on the taxable income provided that the taxpayer runs a business.
Specific laws & regulations applicable to MCEs and SFE	Danish law recognises the principle of contractual freedom in company law. No specific law or regulations exist applicable solely to micro-enterprises, self-employment and micro-credit except for the possibility to be exempt from audit in accordance with section 135 of the Danish Financial Statements Act. The provision exempt audit if 2 of the following limits are not reached: A balance sum of DKK 4 million; a net turn over of DKK 8 million; and an average of full-time employees of 12 during the financial year.
<p>2. Regulatory framework for Microcredit and Microfinance Institutions.</p> <p><i>(According to the European Mincrofinance Network, there is no MFI in Denmark. The informations below are focused on credit for innovation. We publish them however since this information could be useful to define a framework for microcredit.)</i></p>	
Types of institutions providing MC	<p>Six regional innovation consortiums and incubators exist (CAT Innovation, DTU-Symbion Innovation, InnovationMidtVest, NOVI Innovation A/S, Syddansk Teknologisk Innovation A/S and Østjysk Innovation A/S. These innovation consortiums is often a combination of government-backed pre-seed capital, science park and venture company and co-funded by the Danish Agency for Science Technology and Innovation. The objective is to invest in innovating companies as part of a national system commercialising scientific research.</p> <p>Vækstfonden offers equity investments in innovative, start-up companies (Vækstkapital); state guarantees (Vækstkaution) in the meaning that bank and mortgage providers need to set less money aside to cover each loan and “Get started loans” (Kom-i-gang lån) where banks evaluate and grant loans without involvement from Vækstfonden.</p>

JURISDICTION SUMMARY: DENMARK	
Authors: Gorrissen Federspiel, Copenhagen, Denmark	
Sources of funding for MFIs	<p>MFIs receive funding mainly from public sources both at national and European level (European Social Fund, European Investment Fund and European Regional Development Fund).</p> <p>Private investors can invest as business angels (in Denmark business angels are organised through Danish Venture Capital and Private Equity Association (DVCA)) in corporation with e.g. Vækstfonden or the regional innovation consortiums. In addition, several private venture funds exist.</p>
Do non-bank MFIs achieve operational / financial autonomy?	<p>In addition to MFIs receiving subsidies from the Danish state, which are regulated by law, several MFIs exist which have operational and financial autonomy from the State.</p>
Interest caps	<p>Section 282 of the Danish Penal Code prohibits usury in the case of consciously gross exploitation of another person's significant financial weakness, significant personal weakness, lack of knowledge, improvidence or existing dependency to the lender. The exploitation must occur in a contractual relationship to gain a certain benefit, which either is significant disproportional quid pro quo or cost-free. Usury is committed when the benefit is received and the subjective conditions of knowledge of the perpetrator are fulfilled.</p> <p>In addition section 31 of the Danish Contracts Act regulates exploitation (including usury) outside the area of Danish criminal law. Exploitation occurs in the case of benefits are unreasonable drawn from another person's significant financial or personal weaknesses, lack of knowledge, improvidence or existing dependency to the lender. The provision requires inter alia disproportion between the two benefits and an assessment of the risk taken when entering into the financial relationship.</p> <p>No specific interest cap exists.</p>
Access to guarantee schemes for banks and non bank institutions providing MC	<p>All Danish banks and mortgage providers can apply for a state guarantee for new loans or credits (called "Vækstkaution") operated by Vækstfonden. Vækstkaution is a guarantee scheme that covers 75% of the loss suffered by the bank, if the debtor cannot pay back its loan (defaulting). The state guarantee means that banks and mortgage providers need to set less money aside to cover each loan. Specific EU regulations prescribe certain conditions of Vækstkaution for certain industries, including fishery, agriculture, processing of fishery products, aquaculture, and road transport.</p>
Data protection rules Ability of non bank MFIs to access such databases	<p>Private and public companies may report borrowers' credit history to credit information companies, such as Ribers Kredit Information (RKI) or Debitorregisteret, who register unreliable payers in their database.</p> <p>The companies are obliged to inform the borrower within four weeks after the registration in the database in order for the borrower to object to the registration. Incorrect registrations are deleted – also in case of disputed claims, which have not been settled in court at the time.</p> <p>Credit information companies may register small amounts of debt – however only information about borrowers with debt larger than DKK 1000 may be forwarded to private and public companies. No consent of the borrower is required prior to communicating information about credit records concerning larger amounts.</p> <p>Access to the databases described above is only granted to costumers of those databases, who pay a yearly fee to access the information.</p>

JURISDICTION SUMMARY: DENMARK

Authors: Gorrissen Federspiel, Copenhagen, Denmark

Obligation for non bank MFIs to provide their borrowers' credit history to such databases	Non-bank microcredit institutions are not obliged to provide borrowers' history to the databases described above.
Significant initiatives taken to develop MC	<ul style="list-style-type: none">- The Danish innovation consortiums- Vækstfonden (www.vf.dk)
Main obstacles and barriers to development of MC and MFIs	No specific legal structure developed for MC and MFI's; insufficient tax incentives for MC generally.
Suggested measures to improve existing framework/create a new framework for MC	Remove barriers identified above.

JURISDICTION SUMMARY: ESTONIA Authors: Advokātu birojs VARUL	
1. Regulatory framework for Microenterprises	
Types of corporate vehicles available for MCEs and SFE	<p>A natural person may start a business in Estonia either as a self-employed person, i.e. through sole proprietorship (<i>füüsilisest isikust ettevõtja – “FIE”</i>) or through a company.</p> <p>The main type of corporate vehicle which is used for microenterprises is private limited liability company (<i>osaühing – “OÜ”</i>; minimum share capital is EUR 2 500, possibility to establish without making any monetary contributions to the share capital).</p> <p>Other possible corporate vehicles include public limited liability company (<i>aktsiaselts – “AS”</i>; minimum share capital is EUR 25 000), general partnership (<i>täisühing – “TÜ”</i>), limited partnership (<i>usaldusühing – “UÜ”</i>) and commercial association (<i>tulundusühistu – “TuÜ”</i>).</p>
Costs and Procedures	<p>All types of corporate vehicles need to register with the central database called the Commercial Register (<i>äriregister</i>). There are two ways of doing so:</p> <p>(1) Registration via the electronic Company Registration Portal (<i>ettevõtjaportaal</i>):</p> <p>It is possible to register a company electronically in the electronic Company Registration Portal only if:</p> <ul style="list-style-type: none"> - the founder of the company possesses an ID card or mobile ID and digital signature software; - the contribution of share capital is monetary and the share capital as well as the state fee is paid electronically via the Company Registration Portal; - all of the persons involved in the foundation of the company are able to digitally sign the incorporation documents; - the Company Registration Portal can be used to register FIE, OÜ, TÜ, UÜ; - it is not possible to establish AS or TuÜ by electronic means. <p>The cost (state fee) for registration of FIE, TÜ, UÜ is EUR 12,78 and for OÜ the cost (state fee) is EUR 140,60 (registration made within 5 business days) or EUR 185,34 (registration made within 1 business day).</p>

JURISDICTION SUMMARY: ESTONIA

Authors: Advokātu birojs VARUL

(2) Registering a company through a notary:

The registration through a notary is obligatory if:

- the contribution of the company's share capital is non-monetary;
- the founders of the company cannot digitally sign documents.

First the contribution of share capital has to be made and the state fee has to be paid. Then, with the assistance of a notary, the necessary documents (e.g. articles of association, application etc.) will have to be prepared and filed with the Commercial Register. Registering a company through a notary will usually take 2-3 days. The cost of incorporation through a notary is the following: notary fees: state fee for TÜ, UÜ = EUR 12,78. Notary fees depend on the transaction value (which depends on the share capital), the minimum transaction value is EUR 127 and maximum EUR 639; state fee for OÜ, AS, TuÜ = EUR 140,60. Notary fees depend on the transaction value (which depends on the share capital), the minimum transaction value is EUR 127, maximum for OÜ is in the amount of EUR 639 116 and for AS in the amount of EUR 6 390 000.

Other registrations:

- Obligation to register for VAT with the Tax and Customs Board if the revenue exceeds EUR 16 000;

Obligation to register in the Register of Economic Activities for companies operating in areas of activity subject to special requirements (construction, energetics, education, environment etc). For these activities an activity licence is required.

Business development services (incl. Financial Support for business development)

The Estonian Employment Agency (*Töötukassa*) makes available business development trainings for the unemployed people and supports the trainings in the amount of up to EUR 959.

The Enterprise Estonia (*Ettevõtluse Arendamise Sihtasutus – "EAS"*):

- makes available consultants who deal with the topics of starting entrepreneurs;
- makes available free assistance from county development centres in the matters related to the starting of the company and preparation of the business plan;
- makes available a personal mentor from business mentoring programme;
- makes available the business incubator for innovative entrepreneurs focusing on growth;
- organises the basic training programmes for the people who have no or limited experience in entrepreneurship. The fee for the trainings ranges from EUR 35 up to EUR 45.

Start-up and development (*Stardi- ja kasvutoetus*) grant are provided by the Enterprise Estonia (*Ettevõtluse Arendamise Sihtasutus – "EAS"*) for the starting entrepreneur for the investments related to the starting and developing of the company.

Business start-up subsidy (*ettevõtluse alustamise toetus*) is provided by the Estonian Employment Agency (*Töötukassa*) in the amount of up to EUR 4 474.

Start-up loans (*stardilaen*) are granted by commercial banks with the help of the Credit and Export Guarantee Fund's (*Krediidi ja Ekspordi Garanteerimise Sihtasutus – „KredEx“*) guarantee. *KredEx*'s operations regarding guaranteeing the start-up and microloans is being financed during the years 2008-2013 from the European Social Fund in the amount of EUR 6 012 807,81.

JURISDICTION SUMMARY: ESTONIA	
Authors: Advokātu birojs VARUL	
Other measures	None
Tax incentives	<p>A sole proprietor may additionally deduct up to EUR 2 877 during a period of taxation from his or her income derived from the sale of unprocessed self-produced agricultural products or timber received from an immovable belonging to him or her after the deductions prescribed the Estonian Income Tax Act.</p> <p>Entrepreneurs whose turnover does not exceed EUR 16 000 per business year can opt not being subject to VAT.</p>
2. Regulatory framework for Microcredit and Microfinance Institutions	
Types of institutions providing MC	<p>Microcredit, usually in the form of a start-up loan (<i>stardilaen</i>), is granted by licensed credit institutions, namely commercial banks (e.g. <i>Swedbank</i>; <i>Krediidipank</i>; <i>SEB Pank</i>; <i>Marfin Pank</i>) with the help of the Credit and Export Guarantee Fund's (<i>Krediidi ja Ekspordi Garantseerimise Sihtasutus – „KredEx“</i>) guarantee. <i>KredEx</i>'s operations regarding guaranteeing the start-up and microloans is being financed during the years 2008-2013 from the European Social Fund in the amount of EUR 6 012 807,81.</p> <p>The Estonian Employment Agency (<i>Töötukassa</i>) and the Enterprise Estonia (<i>Ettevõtluse Arendamise Sihtasutus – “EAS”</i>) are not licensed provide loans, these institutions only provide support grants and training services.</p>
Sources of funding for MFIs	<p>Microfinance institutions (such as “EAS”, “KredEx”, “Töötukassa”) mainly receive funding from public sources either at national (financing co-ordinated by the Ministry of Economic Affairs and Communications) or European level (European Social Fund, European Regional Development Fund, and European Investment Fund).</p>
Specific laws & regulations applicable to MC	<p>General commercial law (<i>Commercial Code – “äriseadustik”</i>) rules and general tax law (<i>Taxation Act – “maksukorralduse seadus”, Income Tax Act – “tulumaksuseadus”; Value Added Tax Act – “käibemaksuseadus”</i>) rules apply.</p> <p>Microcredit/support grants is also regulated by:</p> <ul style="list-style-type: none"> - the 28.01.2008 regulation No.10 of the Minister of Economic Affairs and Communication “<i>Alustava ettevõtja stardi-ja kasvutoetuse tingimused ja kord</i>” (Conditions and procedures for start-up and growth support for starting enterprises); - the 14.02.2003 regulation No. 341 of the President “<i>Ettevõtluse toetamise ja laenude riikliku tagamise seadus</i>” (Support of Entrepreneurship and State Guarantee of Loans Act); - 03.08.2006 regulation No. 74 of the Minister of Economic Affairs and Communication “<i>Ettevõtluse riikliku toetamise ja ettevõtluslaenude andmise tingimused ning mittesihipäraselt kasutatud toetuste tagastamise kord</i>” (State support of entrepreneurship and conditions for granting loans and procedures for returning falsely used grants); - 13.04.2004 regulation No. 75 of the Minister of Economic Affairs and Communication “<i>Eesti riikliku arengukava Euroopa Liidu struktuurifondide kasutuselevõtuks – ühtne programmdokument aastateks 2004–2006 meetme nr 2.1 „Ettevõtete arengu toetamine“ osa „Alustavate ettevõtjate starditoetus“ tingimused</i>” (Estonian National Development Plan for the Use of European Union Structural Funds - Single Programming Document for 2004-2006 measure no 2.1 “Support for the Business development” part “Start-up aid for starting enterprises” conditions).

JURISDICTION SUMMARY: ESTONIA	
Authors: Advokātu birojs VARUL	
Do non-bank MFIs achieve operational / financial autonomy?	The Estonian Employment Agency (<i>Töötukassa</i>), the Enterprise Estonia (<i>Ettevõtluse Arendamise Sihtasutus – “EAS”</i>) and the Credit and Export Guarantee Fund (<i>Krediidi ja Ekspordi Garanteerimise Sihtasutus – „KredEx”</i>) are not financially/operationally autonomous since they are mainly financed through public resources.
Interest caps	No, interest caps only apply to consumer loans. The Supreme Court of Estonia has stressed that there are no usury rules with regards to interest rates (relying <u>only</u> on disproportionately high interest rate the loan agreement generally cannot be considered void for being in contradiction with the principle of good faith). The Supreme Court has also stressed that since the parties to the agreement are free to agree on the interest rate, the court does not have the right to intervene into the free economic activity of the parties and designate the interest rate.
Access to guarantee schemes for banks and non bank institutions providing MC	Access to guarantee schemes only for the recipients (i.e. credit institutions who have been issued a licence by the national financial supervision agency of the member state of the European Economic Area = usually banks) of the state guarantees - compensation for the damages incurred to the recipient up to 75% of the remaining balance of the loan (business loan or housing loan) at the moment of the termination of the loan agreement.
Data protection rules Ability of non bank MFIs to access such databases	<p>No specific rules affecting microcredit exist, the general rules on data protection apply. This means that all data and assessments which are known to a credit institution concerning of the clients of the credit institution or other credit institutions are deemed to be information subject to banking secrecy (except for the information relating to the correctness of the performance of a client's obligations to a credit institution – the delay in payments shall be recorded in the Estonian Credit Register).</p> <p>Details and data of a client which are subject to banking secrecy may be disclosed by a credit institution to third persons only with the written consent of the client, unless the obligation or right to disclose information subject to banking secrecy arises from the legislative acts.</p> <p>There is no universal database regarding the borrower's history (in the meaning of recording the fact of granting loans to companies or natural persons). The Bank of Estonia only collects consolidated data regarding the amount of loans granted to companies or natural persons (without any reference to the companies' or natural persons' identity) from the banks for statistical purposes. The banks, however, usually require the applicant to give them correct information about the loans they have been granted by other credit institutions and keep their own databases with access available only to the bank itself.</p> <p>However, the borrowers' credit history (in the meaning of defaults in the payments) is contained in the Estonian Credit Register (<i>Maksehäireregister</i>) which was established by Estonian banks in 2001 and it is administered by Krediidiinfo AS (a public limited company). The register does not contain the granted loans to the borrowers but only the delayed payments for companies and private persons. Information about payment defaults comes from members of the payment defaults register or other creditors forwarding the data to the register (e.g. all the Estonian banks are members of the payment defaults register).</p> <p>The register reflects information about the date the debts were incurred and settled, the calibre of the sum and the origin. Data regarding payment defaults is kept and they are visible in the database for as long as 7 years since the debt was settled.</p>

JURISDICTION SUMMARY: ESTONIA	
Authors: Advokātu birojs VARUL	
	<p>Each individual may access information recorded on itself free of charge, third persons can access information regarding companies and/or private persons for a certain fee.</p> <p>If there were any non-bank microcredit institutions, they would have access to the Estonian Credit Register.</p>
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	There are no non bank microcredit institutions in Estonia.
Significant initiatives taken to develop MC	To our knowledge no significant initiatives have been taken so far.
Other measure in favour of MC	None
Main obstacles and barriers to development of MC and MFIs	<ul style="list-style-type: none"> - Absence of consolidated framework and specific rules on MC; - Lack of non-bank MCIs who could provide MC; - No significant obstacles for the development of MCE and SFE
Suggested measures to improve existing framework/create a new framework for MC	<ul style="list-style-type: none"> - Raising the over-all awareness and know-how regarding MC (including the introduction of the definition of MC, the providers of MC and their rights, obligations and financing principles in relevant legal acts); - Implementing tax incentives; - Creation of non-bank MCIs who could provide MC; - Encouraging collaboration between banks, non-bank MCIs, governmental and non-governmental agencies (including universities and other scientific research establishments) to support the development of MC; - Supporting the creation of new businesses and their development through shaping the “entrepreneurial mindset” and disseminating knowledge and skills necessary to start a business.

JURISDICTION SUMMARY: FINLAND

Authors: Latham & Watkins London and Dittmar & Indrenius with input from Finnvera

1. Regulatory framework for Microenterprises

Types of corporate vehicles available for MCE and SFE	<p>A natural person resident in the European Economic Area can operate as a private trader (<i>toiminimi/ firma</i>).</p> <p>Other forms of enterprise available for micro-enterprise are:</p> <ul style="list-style-type: none"> - general partnership (<i>avoin yhtiö/ öppet bolag</i>); - limited partnership (<i>kommandiittiyhtiö/ kommanditbolag</i>); and - private limited liability company (<i>yksityinen osakeyhtiö/ privat aktiebolag</i>). <p>Those not resident or domiciled in the EEA may, in certain circumstances, need a permit from the National Board of Patents and Registration in order to set up one of the above forms of business.</p>
Costs and procedures	<p><i>Private trader.</i> Registration with the Trade Register and the tax administration if the trader operates in a licensed trade, operates from permanent premises or employs people other than his/her immediate family members (registration cost: EUR 75). No requirement for constitutional documents or to have a minimum share capital.</p> <p><i>Partnerships.</i> Registration with the Trade Register and the tax administration (registration cost: EUR 180). Written partnership agreement must be filed with the Trade Register on registration. No minimum share capital.</p> <p><i>Private limited liability company.</i> Registration with the Trade Register and the tax administration (registration cost: EUR 350). Memorandum and articles of association must be filed with the Trade Register on registration. Minimum share capital requirement of EUR 2,500.</p>
Income support during transition period	<p>Unemployed persons starting up a new business, or those transferring from paid work, study or home work to self-employment, can benefit from start-up allowances (<i>starttiraha/ startpeng</i>) from employment offices, in an amount up to EUR 670/month for a maximum of 18 months.</p>
Business development services (incl. Financial support for Business development)	<p>Finnvera, a specialized financing company owned by the State of Finland, provides various forms of funding, including:</p> <ul style="list-style-type: none"> - start-up capital for new, innovative SMEs, particularly those with potential in international markets (<i>Aloitusrashtra Vera Oy</i>); - microloans for SMEs with up to five employees (<i>pienilaina/ minilån</i>); - guarantees for SMEs for working capital or investment purposes (<i>Finnveratakaus. Finveragaranti</i>); and - company loans for SMEs owned and run by women (<i>naisyrittäjälaina/ företagarlån för kvinnor</i>). <p>Centers for Economic Development, Transport and the Environment (ELY-centers) provide financial support, including financing for new enterprises, particularly in rural areas, and information regarding external sources of funding.</p> <p>Other organizations provide more specialized financing, such as the Foundation for Finnish Inventions, which covers costs such as patenting, technical and commercial testing and product development.</p>

JURISDICTION SUMMARY: FINLAND	
Authors: Latham & Watkins London and Dittmar & Indrenius with input from Finnvera	
	<p><i>ELY-centers.</i> Operate Business Services which support the establishment, growth and development of micro-enterprises by offering advisory, education and development services. Also a source of information on business-related training aimed at entrepreneurs.</p> <p><i>Employment and Economic Development Office.</i> The Business Departments of the Employment and Economic Development Centers run entrepreneurship training.</p> <p><i>The Women's Enterprise Agency.</i> Provides start-up counselling, information sessions on entrepreneurship, financing, business operations etc. as well as networking events directed at female entrepreneurs.</p> <p><i>The Foundation for Finnish Inventions.</i> Provides advice and assistance to individuals and start-ups wishing to develop inventions and innovations into businesses.</p>
Tax incentives	Unless a company has been registered as a person liable to VAT at its own request, it is not considered to be liable to VAT if its turnover during a calendar year is not more than EUR 8,500.
Specific laws & regulations applicable to MCEs and SFE	No specific laws and regulations exist, general corporate and trade law rules apply.
2. Regulatory framework for Microcredit and Microfinance Institutions	
Types of institutions providing MC	Private financial institutions such as commercial banks and cooperative banks. Governmental financial institutions such as Finnvera.
Sources of funding for MFIs	Finnvera receives its funding directly from the capital markets. In addition, the government of Finland participates by way of interest rate subsidies and partial compensation for credit losses. The European Regional Development Fund also takes on part of the cost of the interest rate subsidy in eligible regional areas.
Do non-bank MFIs achieve operational / financial autonomy ?	<p>The private financial institutions are operationally and financially independent institutions.</p> <p>Finnvera is an operationally and financially independent company which is, however, owned, controlled and supervised by the State of Finland</p>
Interest caps	Usury is prohibited and may constitute a criminal offence.
Tax incentives	Finnvera has been granted an income tax exemption. No tax incentives exist for private microfinance institutions or individuals or companies that invest in microfinance institutions.

JURISDICTION SUMMARY: FINLAND

Authors: Latham & Watkins London and Dittmar & Indrenius with input from Finnvera

<p>Access to guarantee schemes for banks and non bank institutions providing MC</p>	<p>Yes, all deposit banks must be part of the guarantee scheme for banks, the Deposit Guarantee Fund. The branches of foreign banks established in Finland are subject to the cover scheme of their home state.</p> <p>No special guarantee schemes exist for non-bank institutions providing microcredit.</p>
<p>Data protection rules Ability of non bank MFIs to access such databases</p>	<p>A database recording payment defaults and other credit data entries exists. Anyone with a legal basis (such as making credit decisions) can access the database.</p> <p>Various financial institutions have their own databases recording borrowers' credit history. No direct access is available for non-bank microcredit institutions to such databases, but such institutions can require that applicants for microloans communicate their credit history.</p>
<p>Obligation for non bank MFIs to provide their borrowers' credit history to such databases</p>	<p>Microcredit institutions may have an obligation based on law or contract to provide their borrowers' credit histories to the database.</p> <p>No direct access is available for non-bank microcredit institutions to databases of financial institutions, but such institutions can require that applicants for microloans communicate their credit history.</p>
<p>Significant initiatives taken to develop MC</p>	<p>Since 2007, the Finnish government's Policy Programme for Employment, Entrepreneurship and Worklife has aimed to increase the appeal of entrepreneurship and enterprise growth and to encourage individuals to start new enterprises and expand existing ones. This is envisaged to be achieved through, for example, education programmes in secondary schools, amendments to the rules regarding taxation and start-up grants, encouragement of female entrepreneurship, establishment of SMEs in creative sectors and the development of a National Innovation Strategy.</p> <p>In 2010 the Confederation of Finnish Industries EK compiled a new set of Innovation Policy Guidelines, which extend to the year 2015. The Guidelines recommend, among others, that research, development and innovation (RDI) funding be directed at projects which promote risk taking, that RDI tax incentives be introduced and increased cooperation between public funding agencies and private equity.</p> <p>Finland is also a member of Global Entrepreneurship Monitor, a non-profit academic research consortium, which aims to conduct high quality international research on entrepreneurial activity.</p>

JURISDICTION SUMMARY: FRANCE

Authors: Orrick Rambaud Martel with input from Adie

1.Regulatory framework for Microenterprises

Types of corporate vehicles available for micro-enterprises and self-employment.

The term of MCE is used under French law from a tax perspective. MCEs are subject to a specific income tax regime (regime fiscal de la micro-entreprise). To qualify for the MCE regime, the annual turnover must not exceed €81,500 for retail business and €32,600 for service delivery.

- Under French law MCE and SFE are not organized under the form of a company but as individual natural persons. The activities of MCE and SFE can be carried out under the following legal form: "Entreprise individuelle" (EI): Sole proprietorship enterprise;
- « Entreprise unipersonnelle à responsabilité limitée » : personal company with limited liability ;
- "Entreprise individuelle à responsabilité limitée"(EIRL)⁴: Sole proprietorship limited liability enterprise; These legal statutes are however not always adapted to the performance of small economic activities. The social contributions system for sole entrepreneurs is complex : for example, they have to pay their social contribution by anticipation, even when they do not make sales.
- **"Auto-entrepreneur": self-enterprise (SE).**

This status has been set up in 2008. It is opened to activities generating an annual turnover inferior to €81,500 for retail business and €32,600 for service delivery. Auto-entrepreneurs benefit of simplified formalities for the creation of their enterprise. AE are exempted of the formalities of registration to legal registers and can create their activity by a simple declaration on the Internet.

Above all, auto-entrepreneurs benefit of a simplified system of social contributions : they pay their social security contributions on the basis of their actual sales. The AE is liable to social contribution at a rate of 12% (for retail business), 21,3% (for commercial service delivery) or 18,3% (for liberal profession). AE is also liable to income tax at a rate of 1% for retail business, 1,7% for commercial service delivery supply and 2,2% for liberal profession. In addition, AE (like entrepreneurs under the MCE regime) are exempted from delivering a balance sheet ("bilan") and an income statement ("compte de résultat").

Since 2009, about 700 000 people created their activities under the auto-entrepreneur régime.

4

EIRL is a new regime entered into force in January 2011 (Law n° 2010-658, June 15, 2010). The major changes of EIRL compared to EI are (i) the limitation of the liability of the entrepreneur by affecting his/her professional assets to his/her professional activity and thus limiting his/her professional liability to this affected assets and (ii) option available for corporate tax regime. Existing EI may opt for EIRL by registering an affected asset declaration.

JURISDICTION SUMMARY: FRANCE

Authors: Orrick Rambaud Martel with input from Adie

Costs and procedures	<p>Costs of incorporation and procedures depend on the entity the entrepreneur aims to create.</p> <p>No minimum capital requirement.</p> <p><u>Auto-entrepreneurs (AE)</u>: Entrepreneurs who opted to carry out their activities as auto-entrepreneurs (AE) must file a simplified application to the CFE or through the CFE website. The CFE completes registration formalities to various governmental institutions such as National Institute for Statistics and Economic Studies, the Health Insurance Fund ("caisse d'assurance maladie"), etc. AEs are exempted from registering to the Trade and Companies Registry. No fees are required for setting up a AE.</p> <p><u>Sole proprietorship enterprise (EI)</u>: The registration of a sole proprietorship enterprise (EI) requires filing a request to the Enterprises Center of Formalities <i>centre de formalité des entreprises</i> (CFE), eventually through the CFE website. The CFE completes the registration formalities to the Trade and Companies Registry, to the Tax authorities and other relevant governmental institutions. The amount of registration fees depends on the activity (i.e. from € 62 to € 71 for business activities, €125 for handicraft activity, etc.).</p> <p><u>Sole proprietorship limited liability enterprise (EIRL)</u>: At the registration of the EIRL, the affected asset declaration which is made simultaneously is free of charge for craftsmen ("artisans"), traders ("commerçants") and commercial officers ("agents commerciaux"). Only charges for the creation of the enterprise will have to be paid. The registration of the declaration will be charged at €55.97 for self-entrepreneurs exempted from registration and liberal professions. For existing EI, the declaration of affected assets will be charged at €42 for craftsmen ("artisans"), €55.65 for merchants ("commerçants") and €55.97 for self-entrepreneurs and liberal professions.</p>
Income support programs during transition period	<p>i) Temporary exemption of social charges . ACCRE is a national scheme that offers preferential social treatment. The scheme has the acronym <i>ACCRE</i>, which stands for <i>aide aux chômeurs créateurs ou repreneurs d'entreprise</i> (Support to job-seekers creating or taking over an enterprise). Individuals who qualify for ACCRE are exempted from social security contributions.</p> <p><u>Eligible persons to ACCRE are notably:</u></p> <ul style="list-style-type: none">- Job-seekers registered with Pole Emploi (governmental unemployment agency);- Former employee of a liquidated or bankrupt company who decides to start his/her own business;- Individuals who qualify for welfare allowances;- Individuals who are beyond 26 years old and under 30 years and who are not eligible for unemployment allowances. <p>ii) Continuation of benefit of unemployment allowances during a certain period</p> <p>iii) Cumulation between earned income and social allowances (Revenu de Solidarité Active)</p>

JURISDICTION SUMMARY: FRANCE	
Authors: Orrick Rambaud Martel with input from Adie	
Financial support programs during transition period	<p>Association France Initiative : provides an interest free loan, called a “loan on trust” (means that France Initiative does not carry an interest rate nor require personal guarantees). Their loan correspond to quasi equity for individual enterprises facilitating access to microcrédit from the banking sector.</p> <p>Association France Active: offers guarantees for accessing bank loans.</p> <p>NACRE is a governmental program created in 2009. It provides business management support and interest free loans to unemployed or people with minimum incomes who want to start a business. But NACRE is not suitable for the projects inferior to 8000€ which represent 54% of the enterprises created in France. According to available statistics, the financing plan project of NACRE beneficiaries is an average of 67 000 €.</p> <p>These two associations and NACRE provide services in the field of social lending but are not recognised as microcredit institutions (<i>cf. Infra, types of institutions providing microcredit</i>).</p>
Business development services	<p>Business support is of the highest importance in France due to the complexity of the legal environment for new enterprises. This is even truer for the target population of non-bank microcredit which is often not familiar with administrative procedures or management techniques.</p> <p>Several organisations provide advice, training or mentoring services :</p> <ul style="list-style-type: none"> - organisations that are financing microenterprises and providing their business services in addition to financial products : Adie, France Initiative, France Active - organisations that are specialised in training but do not provide financial services : Chambres de commerce, Chambres des métiers, Boutiques de gestion.
Main barriers for development of MCE and SFE	<ul style="list-style-type: none"> - Access to self employment is limited due to a number of barriers related to persons, businesses and types of enterprise. For exemple, exercise of artisanal activity requires a specific qualification or professional experience of 3 years. The professional qualifications required for some of these activities are disproportionate to their complexity and the risks they present to human safety or health. - The transition between the employee status and MCE/SFE status is disincentive as a result of social and legal impediments : complexity of social security system and segmentation of the status of employees and of independents. - Preferential tax and social treatment apply only for MCE/ SFE that does not reach legal thresholds (thresholds of the AE status) and for a limited period of time. - Preparatory, accompanying and support measures are <i>deficient</i>. According to the Annual Microfinance Observatory Report "<i>le Rapport Annuel de l'Observatoire de la Microfinance</i>" the main barrier for development of MCE and SFE is the lack of human and institutional capacity due to the lack of funding for business training and advice programs.

JURISDICTION SUMMARY: FRANCE	
Authors: Orrick Rambaud Martel with input from Adie	
	<ul style="list-style-type: none"> - Other obstacle is the difficulty for micro enterprises in regards to their ability to access funding especially as regards the entrepreneurs coming from unemployment who represent more than 40% of existing enterprises.
Specific laws & regulations applicable to SFE and MCE	<ul style="list-style-type: none"> - As mentioned above :Law of Modernization of the Economy (LME) dated 4 August 2008 (creation of the auto-enterprise (AE) status) - Tax regulations relating to “régime fiscal de la micro-entreprise”
2. Regulatory framework for Microcredit and Microfinance Institutions.	
Types of institutions providing MC	<ul style="list-style-type: none"> - Cooperative and commercial banks for loans of less than 25 000€. - Associations authorized under the Monetary and Financial Code (ADIE, <i>Caisse sociale de Bordeaux</i>, Creasol); Adie has national coverage while Creasol and Caisse sociale de Bordeaux have local coverage. In 2008, about 13 000 microloans have been distributed in France and 12 500 have been granted by Adie.
Specific laws and regulations applicable to MC and MFI	<p>Non-bank institutions are allowed to borrow in order to lend to unemployed persons and recipients of social welfare since the NRE law (dated 15 May 2001). The Law of Modernization of the Economy (LME) extended the scope of that authorization to allow non-bank institutions to provide business loans to businesses with up to 3 employees, up to 5 years following the year of their creation. The associations can also grant loans to individuals for integration projects (eg, to finance the purchase of a driving license or a vehicle, needed to find a job)</p> <p>The recent law on consumer credit (1 July 2007) has broadened the funding sources of microcredit associations. Individuals can now refinance microcredit associations by granting them interest free loans of a duration superior to 2 years.</p>
Sources of funding for Non bank MCI	<p>Adie finances its credit resources through banks that make available credit lines, through solidarity-based savings, own funds and loan funds from public authorities and since July 2010, through interest free loans of a duration superior to 2 years granted by individuals.</p> <p>Operational costs are covered by different sources such as EU structural Funds, the State and local governments, private enterprises (Corporate Social Responsibility) and some donations from individuals. Adie clients contribute through the solidarity contribution and the interest rate applied to each microcredit.</p>
Do non-bank MCI achieve operational /financial autonomy ?	None of the three non-bank MCI quoted above has reached financial autonomy.

JURISDICTION SUMMARY: FRANCE	
Authors: Orrick Rambaud Martel with input from Adie	
Interest caps	As a general rule, usury is prohibited under French law. Since 2005, there is no more interest caps on loans granted to individual enterprises.
Tax incentives	<p>Donations made to "<i>associations d'utilité publique</i>" (non profit organizations for general interest) qualify for income tax reductions (fiscal deduction of 66% for donations to individuals realized in a limit of 20% of imposable revenue and of 60% for enterprises for donations up to 0,5% of business volume)</p> <p>Since December 2010, this favourable fiscal regime now concerns donations made by richest taxpayers, who are in France subject to a specific tax called "impôt de solidarité sur la fortune" (75% of the amount of donation - limited to €50,000 for the purpose of the tax deduction- are deductible from the wealth tax).</p>
Access to guarantee schemes for banks and non bank institutions providing MC	Risk coverage is assured by the Fonds de Garantie de l'Insertion par l'Economique, the European Investment Fund and in some cases, partner banks, own funds and the borrowers.
Data protection rules Ability of non bank MFIs to access such databases	There is a banks' database: the FCC (fichier central des chèques impayés) and the FICP (fichier des incidents des crédits aux particuliers) of the Banque de France. Since the Law for economic modernization, microcredit associations are authorized to access to these databases.
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	Non-bank microcredit institutions authorized under the Monetary and Financial Code are now subject to the obligation to provide information on their borrowers' credit defaults to these databases.
Significant initiatives taken to develop MC	<p>Besides purely legal aspects, the main initiatives taken to develop microcredit in recent years are :</p> <ul style="list-style-type: none"> - the publication of the report of the General Inspectorate of Finance. The report recognizes the role of microcredit as an important tool for professional integration and against financial exclusion. The report gives a definition of microcredit: it is a credit with interest rates (which excludes loans on trust) for publics in difficulty (social welfare recipients or unemployed) or whose purpose is the creation of very small businesses with fewer than three employees. Microcredit has an amount lower to 25 000 euros, and includes necessarily business development services. This definition applies to all financial actors : banks operating on the intermediate segment of the financing of small enterprises (between 10 000 and 25 000 euros), and associations granting loans inferior to 10 000 euros. - Introduction of microcredit in the bank statistics.

JURISDICTION SUMMARY: FRANCE	
Authors: Orrick Rambaud Martel with input from Adie	
Main obstacles and barriers to development of MC	<p>The remaining obstacles to the development of microcredit are:</p> <ul style="list-style-type: none"> - The lack of funding for coaching and business development services. - The lack of start up grants and quasi equity loans for job seekers creating their enterprise.
Suggested measures to improve existing framework/create a new framework for MC	<ul style="list-style-type: none"> - According to the Annual Microfinance Observatory Report, public funds shall give more assistance and guarantees in order to develop MC. - Help collaboration between banks, MFIs, government agencies to develop MC - Encourage studies and information sharing about MC to improve know-how

JURISDICTION SUMMARY: GERMANY	
Authors: Orrick Hölter & Elsing (Frankfurt) with input from Evers & Jung	
1. Regulatory framework for Microenterprises	
Types of vehicles available for micro-enterprises and self-employment	<p>Apart from working as a freelancer, micro-enterprises can be established by individuals becoming self-employed and setting up their own business as a sole proprietor or by forming a company or a partnership with others. German corporate law does not differentiate between the establishment of a micro-enterprise or a general company or partnership.</p> <ul style="list-style-type: none"> - Sole Proprietorship (<i>Einzelkaufmännisches Unternehmen</i>) - Limited Liability Company (<i>Gesellschaft mit beschränkter Haftung, GmbH</i>) and the Entrepreneurial Company with Limited Liability (<i>Unternehmergesellschaft (haftungsbeschränkt)</i>), a subspecies of the <i>GmbH</i> especially created for small start-ups, which can be set up with a minimum nominal capital of €1 but, nevertheless offering limitation of liability. - Partnerships (<i>Personengesellschaften</i>): General Partnership (<i>Offen Handelsgesellschaft - OHG</i>), Limited Partnership (<i>Kommanditgesellschaft - KG</i>), Private Partnership (<i>Gesellschaft bürgerlichen Recht, GbR</i>).
Costs and procedures related to the creation of a micro-enterprise	<p>Depending on the sector of business, various prior formalities are required: registration with the tax authorities, Trade Surveillance Office (<i>Gewerbeaufsichtsamt</i>), Health Office (<i>Gesundheitsamt</i>), Construction Office (<i>Bauamt</i>), registration with the commercial register (<i>Handelsregister</i>) with a moderate notarial fee payable for notarization of the deed of incorporation and application for registration (applicable to all companies save very small businesses and partnerships)</p>

JURISDICTION SUMMARY: GERMANY	
Authors: Orrick Hölters & Elsing (Frankfurt) with input from Evers & Jung	
Income support during transition period	<p>The Employment Agency (<i>Agentur für Arbeit</i>) grants a start-up grant (<i>Gründungszuschuss</i>) to recipients of unemployment benefits (<i>Arbeitslosengeld I</i>).</p> <p>Within the first nine months it is equal to the unemployment benefit the entrepreneur would have received had he remained jobless plus an additional sum of €300 per month. During the following six months, the payment is reduced to monthly payments of €300.</p> <p>Recipients of social benefits (<i>Arbeitslosengeld II</i>) can apply for a start-up grant (<i>Einstiegsgeld</i>). Founders can receive <i>Einstiegsgeld</i> for a maximum of 48 months. It will be paid in addition to the social welfare grant (about €347) and amounts to 50 % of the normal social welfare grant (about €173.50).</p>
Public loan programs	<p>The Federal Government offers support loans managed by the <i>KfW Bankengruppe</i>, which is one of the largest public banks in Germany and describes itself as the major supplier of start-up finance to small and micro-enterprises. However <i>KfW</i> does not, in general, directly grant MC loans, but it gives funds to house banks which arrange credits and pass on the funds to the borrowers. The entrepreneurs have to apply for loans via their house bank. The loan programs are as follows:</p> <ul style="list-style-type: none"> - Launch money (<i>StartGeld</i>), is a loan scheme that supplies SMEs with loans of up to €50,000.00 for a term of five/ten years and one/two repayment-free years. In case the borrower defaults, the house bank bears 20% of the losses, while <i>KfW</i> bears the bulk, i.e. 80%. This scheme ended on 31 March 2011. The successor product called <i>KfW Gründerkredit-StartGeld</i> has been launched on 1 April 2011 and its conditions are based on the <i>KfW StartGeld</i>. It differs, <i>inter alia</i>, in the way that the maximum loan amount will be increased to €100,000. - Capital for new start-ups (<i>ERP-Unternehmerkapital für Gründung</i>) can be offered up to €500,000. <p>On regional level the 15 regional promotional banks also offer several microloan schemes (e.g. <i>ESF-Mikrodarlehen</i> in Saxony).</p> <p>Furthermore, Microcredit Fund Germany and <i>GLS Gemeinschaftsbank eG (GLS Bank)</i> together offer substantial support (as described in more detail below) via local and regional start-up initiatives for various target groups.</p>
Business development services (incl. Financial support for business development)	<ul style="list-style-type: none"> - Sponsorship for advisory services (<i>Beratungsförderung</i>) in the prior-start-up phase by the States (<i>Länder</i>), for example: <ul style="list-style-type: none"> - One-stop-agencies (<i>Starter Center</i>) - Centers for Founders of a Business (<i>Gründerzentren</i>), supporting technology oriented companies and/or innovative businesses by offering broad information, qualification, personal advice and coaching as well as contacts to capital investors and customers. - Start-up coaching (<i>Gründercoaching Deutschland (GCD)</i>) in the post-start-up phase is financed by the European Social Fund (ESF) and supported by <i>KfW</i>. A qualified management consultant accompanies and advises the business founder and applicants starting a new business from unemployment are eligible for a grant of 90% of the adviser's fee in the first year after starting the business, provided it does not exceed the sum of €4000.

JURISDICTION SUMMARY: GERMANY	
Authors: Orrick Hölters & Elsing (Frankfurt) with input from Evers & Jung	
	<ul style="list-style-type: none"> - Assistance provided by German MFIs (business consultants, business development corporations, cooperatives, associations), which were reviewed and accredited by the German Microfinance Institution (<i>Deutsches Mikrofinanzinstitut, DMI</i>), as described below.
Specific laws & regulations applicable Microenterprises and self-employment	<p>General corporate and trade law rules (such as German Limited Liability Company Act (<i>GmbH-Gesetz</i>) and German Trade Code (<i>Handelsgesetzbuch</i>) and general tax laws (in particular, German Trade Tax Act (<i>Gewerbesteuer-gesetz</i>), Corporate Income Tax Act (<i>Körperschaftsteuergesetz</i>) and Income Tax Act (<i>Einkommensteuergesetz</i>), and Valued Added Tax Act (<i>Umsatzsteuergesetz</i>) apply also to microenterprises and self-employment.</p>
Tax incentives	<ul style="list-style-type: none"> - For trade tax purposes a tax allowance in the amount of €24,500 applies to individuals and partnerships - Under certain circumstances small and mid-sized enterprises can be subject to special depreciation rules: taxable profit may be decreased in certain years to a large extent - Entrepreneurs with a turnover, which did not exceed €17,500 in the preceding business year, and with expected turnovers of the current year of up to €50,000, can opt for being not subject to value added tax ("VAT"). For start-ups the aforementioned option is available if they accept not to exceed the €17,500 turnover threshold in the current fiscal year. However, in the event the entrepreneurs are not subject to VAT, there is no possibility of input-VAT-refund for services rendered to them or goods supplied to them. - Equity investments in start-up companies as well as the activity of Business-Angels have certain tax benefits under restrictive conditions. The compliance with these conditions is monitored by the Federal Financial Supervisory Authority (<i>Bundesanstalt für Finanzdienstleistungs Aufsicht or BaFin</i>) for tax purposes (whereby a banking license as such is not required.).
Main obstacles and barriers to development of microenterprises and self-employment	<ul style="list-style-type: none"> - Relatively complex administrative procedures to set up a microenterprise - High monthly social security costs (health insurance etc.) apply right after business start-up, relatively high fixed amount to pay right from the start

JURISDICTION SUMMARY: GERMANY

Authors: Orrick Hölters & Elsing (Frankfurt) with input from Evers & Jung

2. Regulatory framework for Microcredit and Microfinance Institutions

Types of institutions providing MC

a. Banks

b. Non-bank MFIs

a. Banks

- State-owned or Promotional Banks (*Förderbanken*), for example: *Investitionsbank Brandenburg*, *LfA Förderbank Bayern* and, first and foremost, *KfW Bankengruppe*. To reduce the high risk associated with MF, the *KfW*, for example, assumes 80 % of the default risk and it also pays the administrative fees charged by the house bank. Every bank in Germany is entitled to pass on loans from *KfW* to the borrower. The bank passing on the funds receives a margin in addition to a fixed commission.
- Savings banks (*Sparkassen*) and Credit unions (*Genossenschaftsbanken*): Usually, they just pass on microcredits from Promotional Banks. They get a margin for doing so and the main part of the default risk is assumed by the Promotional Banks.

b. Non-bank MFIs

- The German Microfinance Institute (*Deutsches Mikrofinanzinstitut (DMI)*) is an umbrella organisation of MFIs with the objective to establish an overall availability of micro lending services in Germany. DMI was founded on 7 April 2004 and it is a registered association, which members are mainly local NGOs. DMI
 - reviews and accredits MFIs
 - supports the establishment of MFIs with training and workshops, accreditation and consecutive guidance services, methodology development, benchmarking and tools for loan management and recommends the Fund (as defined below) to cooperate with an MFI
- Microfinance Fund Germany (*Mikrofinanzfonds Deutschland*) was initially created in 2006 as a pilot project by the Federal Ministry of Economy and Technology, Federal Ministry of Labor and Social Affairs, European Social Fund, *KfW Bankengruppe*, and *GLS Bank* to provide capital for micro-lending and acquire and manage capital used for lending. Until the end of the pilot project in 2009/2010 the fund had a volume of up to € 3,000,000. Within this pilot project the accredited MFIs had to inspect the credit application and supervise the cases. In case of a positive assessment they gave recommendation to the house bank to grant MC loans.
- Microcredit Fund Germany (*Mikrokreditfonds Deutschland or the Fund*), the successor of *Microfinance Fund Germany*, was founded in 2010 and is financed by the Federal Republic of Germany with a volume of €100,000,000. The loans recommended by an MFI are granted by *GLS Bank*. *GLS Bank* grants the loans based on the recommendation of MFIs on its own account. However, *GLS Bank* does not advise the customer with regard to the loan (and the financial circumstances) and there is no intensive contact between *GLS Bank* and the borrower. Instead, regional and national MFIs assist the borrower from application to repayment. MFIs can be described as consulting firms or other organizations, which have been tested and approved by DMI. The interest rate for loans granted by *GLS Bank* currently amounts to 7.5 % per annum. The maximum term of a loan is three years. After successful repayment an increase to €20,000 is possible. MFIs decide for themselves which guarantees they accept. Bank guarantees are generally not required.

JURISDICTION SUMMARY: GERMANY	
Authors: Orrick Hölters & Elsing (Frankfurt) with input from Evers & Jung	
	<p>The repayment is done in monthly installments or at maturity. Microcredit Funds Germany</p> <ul style="list-style-type: none"> - acquires and manages venture capital - guarantees requirements of financiers - offers capital for the credit lending - assumes credit risk - carries out crisis intervention if the risk portfolio of one MFI exceeds 10% - pays profit-based bonuses to MFIs <p>- Apart from these major initiatives, there exist some other regional/local initiatives.</p>
Products and Clients	<p>In Germany MFIs only provide microcredits for business purposes. Other microfinance products like deposits/savings are not offered.</p> <p>The clients mainly have been people starting a business out of unemployment, but increasingly also microcredits are provided to existing microenterprises.</p>
Impact of general laws & regulations on MC and MFI	<p>If granted to a start-up entrepreneur at the beginning of its business, microloans are subject to certain general consumer-protective standards that also have to be fulfilled by MFIs cooperating with banks.</p>
Specific laws & regulations applicable to MC and MFI	<p>General corporate and trade law rules (such as German Limited Liability Company Act (<i>GmbH-Gesetz</i>) and German Trade Code (<i>Handelsgesetzbuch</i>) and general tax laws (in particular, German Trade Tax Act (<i>Gewerbesteuer-gesetz</i>), Corporate Income Tax Act (<i>Körperschaftsteuergesetz</i>) and Income Tax Act (<i>Einkommensteuergesetz</i>), and Valued Added Tax Act (<i>Umsatzsteuergesetz</i>) apply to MC, SFE and MFI sector.</p> <p>On the regulatory level, the German Banking Act does not differentiate between microcredit and credit. Thus, the professional or regular granting of loans requires a banking license. However, MFIs in Germany neither grant nor administer loans and hence, they do not carry out regulated activities. MCs are always granted by banks, such as <i>GLS-Bank</i>, <i>KfW</i> or house banks of the borrower, which are duly licensed.</p>
Sources of funding for MCI	<ul style="list-style-type: none"> - Federal Republic of Germany, States (<i>Länder</i>), European Union (ESF/ERDF) - Promotional Banks - Local Authorities - Chambers and Guilds
Operational and financial autonomy of microfinance institutions	<p>MFIs using the <i>Mikrokreditfonds Deutschland</i> are typically management consultants that specialize in advising start-ups for the unemployed. They operate as a Private Partnership (<i>Gesellschaft bürgerlichen Rechts, GbR</i>) or a Limited Liability Company (<i>Gesellschaft mit beschränkter Haftung, GmbH</i>). MFIs are financially still dependent on subsidies from the Fund. Further, they receive €800 per credit they have arranged and advised upon by the DMI (as of 2012 to be reduced to €650). Besides that, they also receive a profit-based bonus payment of 10% of the repaid loan amount minus the annual loan losses. In three to four years MFIs are supposed to be financed only by the profit-based bonus payments.</p>

JURISDICTION SUMMARY: GERMANY	
Authors: Orrick Hölters & Elsing (Frankfurt) with input from Evers & Jung	
	Companies or organizations that are planning to establish advice on microcredit as an essential component of their services or in addition to their consulting services can be apply for registration with the <i>DMI</i> as a MFIs under certain conditions.
Existence of usury rule (interest caps)	The German system limits maximum interest rates by a usury rule: Section 138 of the German Civil Code bans immoral transactions. German case law has defined as usury an interest rate being twice as much as the market interest rate.
Access to guarantee schemes for banks and non bank institutions providing MC	<p>Guarantee schemes are a way of sharing the risk between either a public, private or mutual guarantee scheme and a bank.</p> <ul style="list-style-type: none"> - German banks operating as house banks for the applicants have access to guarantee schemes. The guarantee-schemes are either built into the loan programs as “<i>Haftungsfreistellungen</i>” (default guarantees/indemnities/exemptions from liability) or there are separate guarantees granted by separate guarantee banks (<i>Bürgschaftsbanken</i>) which exist in each of the States (<i>Länder</i>). - <i>KfW</i> Bank program <i>KfW-Startgeld</i> provides default guarantees (<i>Haftungsfreistellung</i>) of 80% of the loans to the house banks. The remaining risk share of 20 % stays with the on-lending house bank. - Microcredit Fund Germany exempts house bank <i>GLS Bank</i> from 100% of liability - Regional promotional programs: similar guarantees are available and generally assume around 70-80% of the default risk. - Regional Guarantee banks offer loan guarantees of up to 80%
Database recording borrowers history Ability of non bank MFIs to access such databases	<p>MFIs can get information about the personal details of their borrowers from the <i>Schufa</i> or the <i>Creditreform Consumer GmbH (CEG)</i>, provided that the MFI is contracting party of the <i>Schufa</i> or <i>CEG</i>. Otherwise the MFIs can oblige their customers to present an excerpt from the German General Credit Protection Agency, an <i>Eigenschufa-Auskunft</i>, thus providing information about themselves and their credit-worthiness or to request and provide information from their house bank.</p> <p>MFIs delivering loans under the <i>Mikrokreditfonds Deutschland</i> enter the contract data and personal details of borrowers on a protected internet platform provided by <i>GLS Bank</i>, which they also use for the ongoing credit support.</p>
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	There is no such statutory obligation. However, the borrower under the <i>Mikrokreditfonds</i> is contractually obliged to provide the bank not only with its credit history but also with information concerning its current financial situation as a condition to receive the monies.
Significant initiatives taken to develop MC	<p><i>KfW</i>, the national Promotional Bank, has coordinated several dialogues and initiatives on microfinance in Germany which have increased public awareness of this issue.</p> <p>Most of the regional Promotional Banks of the <i>Länder</i> have established microcredit programs in the last 10 years. At the beginning, they only used the traditional on-lending process through house banks, but increasingly they now provide loans through simplified procedures directly to microenterprises (e.g. <i>NRW Bank</i>, <i>Sächsische Aufbaubank</i>, <i>Investitionsbank Berlin</i>).</p>

JURISDICTION SUMMARY: GERMANY

Authors: Orrick Hölters & Elsing (Frankfurt) with input from Evers & Jung

	<p>The establishment of Microcredit Fund Germany (<i>Mikrokreditfonds Deutschland</i>) with a volume of €100,000,000 in 2010 can be regarded as a substantial initiative to develop MC in Germany.</p> <p>Further, the creation of a new corporate form in 2008 was a significant step taken in the field of company law. The Entrepreneurial Company with Limited Liability (<i>Unternehmergesellschaft (haftungsbeschränkt)</i>) is a subspecies of the popular corporate form of the <i>GmbH</i> and it is preferably used by small start-ups as the new form can be set up with a minimum nominal capital of €1 only with, nevertheless, offering limitation of liability.</p>
Main obstacles and barriers to development of Microcredit and MFIs	<ul style="list-style-type: none">- High processing costs of MCs- Reluctance of commercial banks to on-lend the existing microcredit programs- Inability of MFIs to grant loans directly- High start-up costs of MFIs
Suggested measures to improve existing framework/create a new framework for MC	<p>The European Commission should invite the member states to set tax incentives to include the private sector in the microcredit affairs.</p>

JURISDICTION SUMMARY: GREECE	
Authors: Latham & Watkins Brussels	
1. Regulatory framework for Microenterprises	
Types of corporate vehicles available for MCEs and SFE	<p>There are no specific corporate vehicles available for the MCE and SFE in Greece. Any natural person may start a business in Greece either as a self-employed person or through an enterprise.</p> <p>In Greece enterprises can be either Individual (i.e. a sole trader) or Corporate. There are four types of corporate enterprise. They are:</p> <ul style="list-style-type: none"> -General Partnership, -Limited Partnership, -Public Limited Company and -Limited Liability Company. <p>The main vehicles used are the common corporate vehicles and in particular: Registration as a Self-employed individual, Sole trader, General Partnership and Limited Liability Company.</p>
Costs and procedures	<p>Self-employed person</p> <p>This is simple and flexible because there is no requirement to have a minimum share capital as it is not a corporate vehicle. The individual has to register with the competent tax authorities and have his accounting books and records stamped and authenticated by the tax authorities. In order works as a self-employed person and commence business activity, the individual is required to have a license to practice the relevant profession (where required). The cost for starting up the business is around EUR 500. It takes around 15 days for the procedure to be completed.</p> <p>Enterprise</p> <p>In Greece the creation of a company is a long, complex and costly procedure, which tends to discourage entrepreneurial activity. There have been steps taken to reduce this bureaucracy. The factors taken into consideration are: the time needed for the procedure to be completed, the amount of documents to be submitted, the incorporation cost and the minimum capital required.</p> <p>Individual Enterprise (i.e. Sole trader)</p> <p>There is no requirement to have a minimum share capital as it is not a corporate vehicle.</p> <p>The creation steps are as follows:</p> <ul style="list-style-type: none"> (i) Submitting an application for permission to use of the chosen enterprise name to the competent Commercial Chamber. (ii) Registration by the individual(s) involved with the competent social security authorities. (iii) Registration with the competent tax authorities and commencing of business activity after submitting the relevant documentation. (iv) Registration with the competent Commercial Chamber (v) Authentication of its accounting books and records by the tax authorities.

JURISDICTION SUMMARY: GREECE

Authors: Latham & Watkins Brussels

General Partnership -OE

The requirement is that there should be at least two partners pursuing a common aim (according to Article 741 of the Greek Civil Code). The founding members may be natural or legal persons. The partners are liable with all their assets for all liabilities of the company with joint responsibility. The partnership does not require a notary deed; a private agreement is sufficient. there is no requirement to have a minimum share capital. Tax registration with the competent tax authorities and authentication by such authorities of its accounting books and records will be required.

Limited Liability Company (LLC) - (EPE)

A minimum share capital of EUR 4,500 is required.

An EPE may be founded by one single person, or an already established limited liability company can be converted into an "one-founder" company. However, the "one-founder" EPE is invalid if the founder (natural or legal person) is the unique founder of another "one-founder" EPE, or if the sole shareholder of the "one founder" EPE is itself another "one-founder" EPE.

The procedure to be followed for the incorporation of an EPE is as follows:

- (i) Reserve the company's name with the competent Commercial Chamber.
- (ii) Preparation and conclusion of a notary deed for the EPE's Articles of Association before a notary public and in the presence of a lawyer.
- (iii) The notary deed has to be authenticated by the local tax authorities, the Commercial Chamber and the Lawyers' Fund.
- (iv) Registration of the EPE with the local Court of First Instance and publication of a summary of the Articles of Association in the Government Gazette.
- (v) Registration of the new company with the competent Commercial Chamber
- (vi) Tax registration with the competent tax authorities and authentication of its accounting books and records.
- (vii) Registration with the competent social security and labour authorities in order to be able to hire personnel.

In addition to professional fees payable to lawyers, an amount of approximately EUR 1,300 must be paid for notary fees, contributions to certain funds/committees, capital concentration tax, publication costs and Commercial chamber fees for the establishment of an EPE. The incorporation process may theoretically be completed in a week, but in reality it takes from 2 weeks to 8 weeks.

Income support during transition period

An unemployed person is not entitled to receipt of unemployment benefits after he/she has started a new business.

JURISDICTION SUMMARY: GREECE	
Authors: Latham & Watkins Brussels	
Business development services (incl. Financial support for business development)	<p>No organized structure for business development exists. However, various fora providing such services have been created on an ad-hoc basis and in particular through the implementation of EU programs. The main provider of such services is EOMMEX (Hellenic Organization of Small and Medium Enterprises and Handicraft) (http://www.eommex.gr/).</p> <p>On the basis of existing European programmes, it is possible that occasionally certain individuals may apply for and receive a start-up grant for their business. This is via OAED (Organization for the Employment of Working Personnel)) (http://www.oaed.gr/).</p>
Other measures	<p>In November 2010, the creation of a new Fund, the National Fund for the Entrepreneurship and Development was approved as the evolution of TEMPME. It is proposed that the new fund will manage various funding tools such as the Fund "Save at home", the Fund of Agricultural Entrepreneurship, the Fund of Fisheries and any new tools to be created. Moreover it will manage the funds from the European JEREMIE and JESSICA programmes. ETEAN is not a banking institution and will not deal directly with enterprises. Its role will be to intervene in the market through the existing banks or other funding institutions co-investing capitals through recycling loans, offering guarantees and co-investing or participating in funding. ETEAN aspires to offer alternative funding solutions that do not yet exist in Greece, such as mezzanine finance, early-stage funding and business angels funding. Moreover, it promises a more simplified and less burdensome procedure to be followed. It is not known when ETEAN will become fully operational.</p>
Main barriers for development of MCEs and SFE	<ul style="list-style-type: none"> - Absence of specific regulations to set up an MCE - Absence of specific institutions providing funding with favorable terms for MCE - Lack of knowledge of the available assistance.
Specific laws & regulations applicable to MCE and SFE	<p>None. Generally, there is no special regime applicable for small businesses</p>
2. Regulatory framework for Microcredit and Microfinance Institutions.	
Types of institutions providing MC	<p>There is no specifically designated institution providing credit to microenterprises in Greece. Sources of funding are:</p> <p>1. The 3rd Community Support Framework</p> <p>There are 25 programmes that operate within this framework - 11 focus on sector-focused entrepreneurial programmes, 13 on regional programmes corresponding to the regions of the Greek state and one programme focusing on technical support. The institutions that manage the funds available through the 3rd Support Framework are primarily:</p> <ul style="list-style-type: none"> -OAED (Organization for the Employment of Working Personnel)) (http://www.oaed.gr/) -EOMMEX (Hellenic Organization of Small and Medium Enterprises and Handicraft)) (http://www.eommex.gr/) -Other co-funded European programmes.

JURISDICTION SUMMARY: GREECE Authors: Latham & Watkins Brussels	
	<p>2. The banking sector</p> <p>Funding through banks remains an important but not easily accessible source of funding in Greece especially for microenterprises. The main difficulties currently facing enterprises are the requirement to provide personal guarantees and the high interest rate. Therefore a special fund was established:</p> <ul style="list-style-type: none"> - Guarantee Fund for Small and Very Small Enterprises (http://www.tempme.gr/) . This Fund has operated in the Greek market since 2004 under the supervision of the Bank of Greece. The mission of the fund is to facilitate the access in bank funding for small and very small enterprises. It distributes risks between private and public sector (enterprises, credit institutions and itself) providing guarantees and counter-guarantees in favour of the enterprises and covering part of their economic and financial risks. <p>3. Other funding institutions</p> <p>Under this category the following types of support to enterprises are grouped:</p> <ul style="list-style-type: none"> - Venture capital - Business Angels <p>Venture capital is available primarily through TANEO (New Economy Development Fund)) (http://www.taneo.gr/Home.aspx?C=2).</p> <p>TANEO aims at a more efficient and effective support of capital purchase.</p> <p>Business Angels, are supported in Greece only through EOMMEX in cooperation with the Centres of Entrepreneurial and Technological Development of Attica (KETA).</p>
Sources of funding for MC	<ul style="list-style-type: none"> - Commercial loans - Consumer loans - Equity investments - Subsidies
Specific laws & regulations applicable to MC and MFIs	None. As regards microcredit there is no institutional framework or a concrete product offered by financial institutions and other institutions.
Do non-bank MFIs achieve operational / financial autonomy ?	N/A
Interest caps	N/A
Tax incentives	N/A
Access to guarantee schemes for banks and non bank institutions providing MC	The main institution offering guarantee and counter-guarantee schemes is the Guarantee Fund for Small and Very Small Enterprises (TEMPME). TEMPME facilitates the access of micro enterprises in financial market, serving as a link between them and the banks. As mentioned above, TEMPME will be replaced by ETEAN offering much more comprehensive support to enterprises. Although the timing of this replacement is as yet uncertain.

JURISDICTION SUMMARY: GREECE Authors: Latham & Watkins Brussels	
Data protection rules Ability of non bank MFIs to access such databases	<p>There is an interbanking company called Tiresias (http://www.tiresias.gr/), which processes data reflecting the economic behaviour of individuals and companies as well as data contributing in the prevention of fraud in financial transactions. The distributed data contribute to the protection of credit and the improvement of financial transactions overall, while it allow banks to reduce credit risk while it con. However, there are still considerable limitations to the availability of information regarding the financial behaviour of individuals and legal entities.</p> <p>Tiresias is a strictly interbanking company.</p>
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	<p>Tiresias is a strictly interbanking company.</p>
Significant initiatives taken to develop MC	<p>Enactment of legislation in November 2010 for the creation of the National Fund for the Entrepreneurship and Development was approved as the evolution of TEMPME. (See above)</p>
Main obstacles and barriers to development of MC	<p>Greece has no institutional framework for microcredit, which is therefore, not an available product. Before the onset of the financial crisis which effectively led to restricted access of enterprises to bank loans, a kind of “microcredit” could be found in “consumer loans”. This was used by many self-employed and small entrepreneurs who could not otherwise have received an actual business loan.</p> <p>As regards funding from existing institutions, the major obstacles facing microenterprises are the following :</p> <ul style="list-style-type: none"> - absence of an institution specialized in providing funding with favourable terms in microenterprises - lack of knowledge of the institutions’ existence; insufficient information available regarding their activity - burdensome and not always transparent procedures of application and of approval of funding. - lack of advisory bodies/consultants helping to utilize in the best possible way the available opportunities. - inability of the existing institutions to grant loans directly <p>As regards funding from banks, the major obstacles facing microenterprises are the following:</p> <ul style="list-style-type: none"> - high interest rates - excessive bureaucracy - absence of attractive bank programs destined to MCEs - the time elapsing between the approval and the actual granting of the loan

JURISDICTION SUMMARY: GREECE

Authors: Latham & Watkins Brussels

Suggested measures to improve existing framework/create a new framework for MC

In particular, the following measures should be considered:

- Creation of a new institution focused exclusively on microcredit products serving the needs of microenterprises. Within this framework the bureaucratic procedure should be simplified and the approval process would become more transparent.
- The evolution of TEMPME (once replaced by ETEAN) into a bank institution destined exclusively to create financial products serving the needs of microenterprises.
- Adoption of measures aiming to support microenterprise investment through self-funding. Such as the re-introduction of a tax-free capital reserve aimed for investment.
- Development of programmes created exclusively for the aid of microenterprises.
- Launching of a consistent campaign allowing for better and more comprehensive information updates about the programmes available. It could be more useful if the various MFIs were to approach the enterprises and explain the opportunities they offer.
- Support of funding institutions through external self-funding, *i.e.*, through venture capital, business angels etc.
- Introduction of successful practices followed in other Member States of the EU adapted in Greek standards.

JURISDICTION SUMMARY: HUNGARY

Authors: Szecskay Attorneys at Law, Budapest; rereading of Erste Bank Group

1. Regulatory framework for Microenterprises

Types of vehicles available for MCEs and SFE

In accordance with Section 3 of the Act XXXIV of 2004 on Small and Medium-sized Enterprises and the Support Provided to Such Enterprises (hereinafter “**Act on SMEs**”) those companies qualify as an MCE which meet the following requirements.

A company shall be considered as an **SME** if,

- it employs fewer than 250 employees and
- it's annual turnover does not exceed the HUF equivalent of EUR 50 million, and/or its annual balance sheet total does not exceed the HUF equivalent of EUR 43 million.

Within the SME category, a **small enterprise** is defined as follows:

- it employs fewer than 50 employees and
- its annual turnovers and/or annual balance sheet total does not exceed the HUF equivalent of EUR 10 million.

Within the SME category, a **micro enterprise** is defined as follows:

- it employs fewer than 10 employees and
- whose annual turnover and/or annual balance sheet total does not exceed the HUF equivalent of EUR 2 million.

In accordance with the above, please note that – as a main rule – any company in which the state or any local self-government holds, either directly or indirectly and either solely or jointly 25 per cent or more of the capital or voting rights, shall not qualify as an SME.

There is no statutory limitation regarding the corporate structure of SMEs, therefore such an enterprise may be established in all kind of corporate form

According to the Act IV of 2006 on Business Associations (hereinafter “**Company Act**”) the available corporate forms under the Hungarian law are the followings:

Unlimited Partnership - In Hungarian Közkereseti társaság (Kkt.)

The members of the partnership jointly carry on business operations with the unlimited liability of at least one member (unlimited partner) for the obligations, being not covered by the assets of the partnership and with the limited liability of at least one other member (limited partner), who is obligated to make available the capital contribution. A minimum amount of the initial capital is not defined. As a general rule an unlimited partner shall exercise the management rights, a limited partner is not entitled for it, but the deed of foundation may provide even the limited partner with this right. The regulations regarding the Unlimited Partnership are also applicable for Limited Partnership as a governing rule.

Limited Liability Company - In Hungarian Korlátolt felelősségű társaság (Kft.)

A Limited Liability Company is a business corporate founded with an initial capital (which consists of the members' contributions), in which the liability of the members is only to provide their contribution. A member shall not be liable for the liabilities of the company. The initial capital of the company shall be at least 500.000 HUF.

Company Limited by Shares (Private or Public) - In Hungarian Részvénytársaság (Zrt. or Nyrt.)

A Public limited company is a business corporate founded with a share capital, consisting of shares of a predetermined number and face value, in the case of which

JURISDICTION SUMMARY: HUNGARY

Authors: Szecskay Attorneys at Law, Budapest; rereading of Erste Bank Group

	<p>the obligation of shareholders is to provide the face value or the issue price of shares. Shareholders shall not bear liability for the obligations of the company.</p> <p>A Company Limited by Shares may be established via a private offering (the shares are offered only to the founders) or via public offering (the shares are offered to the public). The difference must be indicated in the company's name as "Zrt." (private) or "Nyrt." (public). The minimum amount of the initial capital shall be 5.000.000 HUF in case of a Private and 20.000.000 HUF in case of a Public Company Limited by Shares.</p> <p>The Act CXV of 2009 on Private Entrepreneurs and Sole Proprietorships sets forth the detailed regulations regarding SFEs.</p>
<p>Costs and procedures related to the creation of a micro-enterprise</p>	<p>The simplified procedure of creating a company takes one day, while the costs of such procedure consists of the following three elements:</p> <ul style="list-style-type: none"> - Costs of the attorney - Costs of the duty - 15.000 HUF - Costs of the publication – free of charge (due to the fact that the company is established in the course of a simplified proceeding) <p>In connection with the above, please note that the Hungarian Corporate law does not differentiate between the establishment of a micro enterprise or a 'general' company. Companies in all kind of corporate forms –except private companies limited by shares – may be established in the course of a simplified proceeding, therefore MCEs can also be established by such a cost saving and accelerated way.</p>
<p>Income support during transition period</p>	<p>Hungarian financial law is unfamiliar with the expression of 'transition period' with respect to financial support of companies. However, the provisions in connection with the availability of the members' cash contribution should be taken into consideration.</p>
<p>Business development services (incl. financial support for business development)</p>	<p>In Hungary the development of MCEs is a preferred governmental policy. This aim materializes through such institutions like the National Development Agency, which provides tenders for companies. The National Development Agency is mainly responsible for the distribution of the support received from the EU. The Hungarian Foundation for Enterprise Promotion (hereinafter "HFEP") is a foundation, which declares the assistance of MCEs as its main aim. It was established in 1990 by the Government, the National Bank of Hungary, and several other institutions. Its main function is to provide assistance and training to the Hungarian MCEs or SFEs.</p> <p>HFEP helps the newly established MCEs in the course of their start-up proceeding as well. The HFEP has regional centers and many sub-offices all over Hungary. HFEP consequently aims to provide its services locally.</p> <p>In accordance with Section 12 of the Act IV of 2006 on Business Associations (hereinafter the "Company Act"), the members are obliged to provide only 50 % of their cash contribution when registering the company into the corporate registry. The above provision in connection with the start-up period is mainly in favor of the MCEs.</p> <p>Furthermore Section 22/A of the Act LXXXI of 1996 on Corporate Tax and Dividend Tax provides tax allowance for SMEs in connection with loan provided for tangible assets of the SME.</p> <p>MCEs, SMEs are entitled for tax allowances in connection with the interest of the loan provided for the purchase or creation of a tangible asset.</p>

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	<p>The tax allowance for the relevant loan shall be 40 per cent of the interest paid during the tax year. However the amount of tax allowance shall not exceed six million forints per tax year.</p> <p>In line with the above, it is important to highlight that the taxpayer SME shall repay the tax allowance, with penalty added, if the tangible asset to which it pertains:</p> <ul style="list-style-type: none"> - is not put into operation within four years following the year of the loan contract, (unless unavoidable external reasons have occurred) - is alienated in the year in which it is placed into operation or in the following three years. <p>The Act CXXXIV of 2004 on research and development and innovation expressly sets forth the following favorable provisions for SME's. Pursuant to the Act innovation programs may contain favorable conditions for SMEs.</p> <p>Furthermore the SMEs may be provided with interest subsidy in connection with the loan they were granted for innovation.</p>
Specific laws & regulations applicable to MCE and SFE	<p>SFE:</p> <p>The Act CXV of 2009 on Private Entrepreneurs and Sole Proprietorships sets forth the applicable rules in connection with self employment, which does not necessarily require a corporate form for economic operation. In connection with SFEs, the Act CXVII of 1995 on Personal Income Tax and the Act XLIII of 2002 on Simplified Entrepreneurial Taxation sets forth special – mainly more favorable – provisions.</p>
2. Regulatory framework for Microcredit and Microfinance Institutions.	
Types of institutions providing MC	<p>In accordance with the Bank Act, the institutions providing MC should qualify as a credit institution or financial enterprise. The only exemption from the above rules are payment institutions, however there are several statutory limitations in connection with their services. The variety of corporate forms available for credit institutions or financial enterprises is restricted. In accordance with Section 8 of the Bank Act (i) banks and specialized credit institutions may operate as a company limited by shares or as a branch office; (ii) cooperative credit institutions may only be set up by cooperatives, while (iii) financial enterprises may operate in the form of company limited by shares, cooperatives, foundation or branch office.</p>
Specific laws & regulations applicable to MC and MFIs	<p>MC:</p> <p>There is no specific regulation for microcredits. These kinds of credits fall under the general applicable rules on financing and providing loans, or as the case may be state aid rules which are in line with EU regulations. From a legal point of view, Hungarian law does not differentiate between microcredit and credit.</p> <p>MFI:</p> <p>According to Section 4 of the Act CXII of 1996 on Credit Institutions and Financial Enterprises (hereinafter "Bank Act") financial services may only be provided by financial institutions. This expression includes credit institutions and financial enterprises.</p> <p>Pursuant to Section 3 of the Bank Act credit and loan operations qualify as financial services.</p>

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	In general, it can be established that an institution, which does not qualify as a credit institution or financial enterprise, shall not provide credit or MC to SMEs.
Sources of funding for MCI	<p>Public sector funds on national and European level.</p> <p>The Hungarian Government launched a program especially for SMEs called New Hungary Microcredit. In the course of this new program SMEs who are unable to receive credit from the credit institutions may apply for microcredit. The microcredit is provided by the Hungarian Corporate Financing private company limited by shares operating as a financial enterprise. The maximum amount of the credit is HUF 10 million (approx.: EUR 37.000) provided for investment purposes and HUF 6 million (approx.: EUR 22.000) for assets. The homepage of the program is http://www.ummikrohittel.hu.</p> <p>The Hungarian Government also plans to launch the New Széchenyi Scheme, a financial supporting system prepared mainly for micro, small and medium-sized enterprises. The main difference between the Széchenyi Scheme and the New Hungary Microcredit program is that the Széchenyi Scheme mainly provides non-refundable state support. The scheme starts in 2011 and provides 1100 billion forint support to MCEs. Please find detailed information about it via this link: http://ujszecshenyiterv.gov.hu/.</p>
Operational and financial autonomy of MFIs	<p>The Bank Act sets forth the main operational and financial regulation in connection with credit institutions and financial enterprises. Section 8 to 13/D of the Bank Act strictly regulate the initial, capital, personnel, infrastructure requirements together with operational and organizational requirements of financial institutions. The above statutory provisions strictly provides the framework of the operational and financial autonomy of the credit institutions and financial enterprises.</p> <p>The supervisory authority of credit institutions and financial enterprises is the Hungarian Financial Supervisory Authority (hereinafter "HFSA").</p>
Existence of usury rule (interest caps)	<p>The Hungarian Civil Code sets forth a general penalty interest rule applicable between corporate entities.</p> <p>Pursuant to Section 301/A of the Civil Code the applicable interest for late payment shall be calculated in accordance with the central bank base rate in effect (now 6% otherwise see www.mnb.hu) on the last day preceding the calendar half-year to which it pertains, plus seven per cent.</p> <p>However in order to maximize the interest rate certain provisions on grossly unfair interest rates were implemented. Section 201 of the Civil Code sets forth that if at the time of the conclusion of the contract the difference between the value of a service and the consideration due, without either party having the intention of bestowing a gift, is grossly unfair the injured party shall be allowed to contest the contract. This governing rule is also applicable in the case of any credit contract.</p> <p>Furthermore Section 202 of Civil Code regulates usurious contracts as well. Pursuant to Section 202 if a contracting party has gained excessive benefit or unfair advantage at the conclusion of the contract by exploiting the other party's situation, the contract shall be null and void. Therefore although there is no specific percentage cap for interest rates, the Civil Code renders the highly disproportional clauses and agreements null and void.</p>
Tax incentives, i.e. tax exemption	There are no specific tax exemptions or allowances subjected to MFIs or MC providing activity. For this reason the general rules of the Corporate Tax Act (LXXXI of 1996) or as the case may be the Personal Income Tax Act (CXVII of 1995) shall be applicable.

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<p>for MFIs or reductions in taxes for individuals or enterprises that invest in their activities or intervene by way of grants</p>	
<p>Access to guarantee schemes for banks and non bank institutions providing MC</p>	<p>Venture Finance Hungary Zrt. (Private Limited Company) and Garantiqa Hitelgarancia Zrt. are financial enterprises operating with state interest and the involvement of commercial banks (see e.g. http://www.mvzrt.hu/content.php?id=ic2b0f6c6d03852c1148a0f650feb225) which offer guarantees to improve the chances of small- and medium-sized enterprises of being granted credit. The registered capital of the Venture Finance Hungary Zrt. is HUF 1 billion. Its scope of activities ranges from providing guarantees / collateral to acting as intermediary for assistance funds. Garantiqa Creditguarantee Zrt. was founded with the aim of undertaking absolute guarantees for the benefit of SMEs and SFE. The aim of such guarantee program is to develop micro-, small- and medium-sized enterprises with seat in Hungary by improving their credit options. Within the portfolio guarantee program, the above mentioned institutions provide direct guarantees for the financial claims (backing SME credits) of the financial intermediaries (mostly commercial banks) based on pre-determined risk sharing, thus improving the SMEs' bank finance options. For a given credit, the amount of collateral to be secured by e.g. Venture Finance Hungary Zrt. is a maximum of 80% of the bank claim – the rest constitutes the bank's own risk.</p>
<p>Database recording borrower's history Ability of non bank MFIs to access such databases</p>	<p>The Bank Act sets forth the legal framework of the database called as the Central Credit Information System. Section 130/A declares that the central credit information system (hereinafter referred to as 'CIS') is a closed database designed to provide facilities for better and more reliable credit information, and hence to expand the spectrum of lending, and to help to reduce the credit risk of reference data providers with a view to guaranteeing their prudent and safe operation.</p> <p>According to the provisions of Section 130/A, the financial enterprise operating the CIS shall be allowed to receive reference data only from reference data providers, and shall be allowed to convey reference data to reference data providers. Section 130/A sets forth that operators shall provide access to the CIS to institutions engaged in commercial loan operations in a non-discriminatory manner, as well as to any lender established in another Member State of the European Union, that is engaged in providing cross-border services in Hungary.</p> <p>Pursuant to the 2nd Schedule of the Act, a reference data provider shall mean a financial institution that is engaged in at least one of the activities listed below:</p>

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	<ul style="list-style-type: none"> - credit and loan operations - financial leasing - issuing electronic money, and issuing paper-based cash-substitute payment instruments (for example travelers' checks and bills printed on paper) and the provision of the services related thereto, which are not recognized as payment services - providing surety facilities and bank guarantees, as well as other banker's obligations; <p>Furthermore the following companies shall also qualify as data providers:</p> <ul style="list-style-type: none"> - payment institution; - the Student Loan Center; - legal persons engaged exclusively in underwriting guarantees and providing surety facilities; - the credit institutions and investment firms providing investment credit; - the credit institutions, investment firms, investment funds, investment fund management companies, bodies providing clearing or settlement services, voluntary mutual insurance funds, private pension funds, financial institutions, and the central depository and insurance companies engaged in securities lending and securities borrowing operations in accordance with the Act CXX of 2001 on the Capital Market. - Lenders providing commercial loans and lenders established in other Member States engaged in providing cross-border services, provided that they have joined the CIS.
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	<p>Please note, that only credit institutions and financial enterprises may provide MCs business like, therefore other business entities may not have access to such database. Please note that the credit history of a borrower is deleted after 5 years calculated from the payment of the outstanding loan or credit.</p> <p>The Bank Act sets forth a general obligation for the reference data providers to provide data. Pursuant to Section 130/A, the reference data providers shall disclose the reference data they process to the financial enterprise operating the CIS. The CIS is currently operated by BISZ Central Credit Information PLC.</p> <p>Please find detailed information about the CIS on the homepage of the operator company of the system at: www.bisz.hu.</p>
Significant initiatives taken to develop MC	<p>Please refer to the question called Sources of funding for MFI</p>
Main obstacles and barriers to	<p>In accordance with the data published by the government 80 % of the Hungarian SMEs operates without any credit, while the same figure is 15-20 % in the Western European countries. The main reason for this is that the financial institutions operating on the market only provide credit for a high interest rate and only if the SME has</p>

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development of MC.	significant own funds as well. Contrary to the above the credit provided by the above detailed state programs usually only have a 5 % interest rate and 10 to 20 % of own funds is enough to apply for the said credit.
Suggested measures to improve existing framework / create a new framework	- Raise awareness about microcredit for self employment and microenterprises
Other measures than the recommendations of the European Commission (Nov. 2007) to improve legal framework for MC and MCE	N/A

JURISDICTION SUMMARY: IRELAND Authors: A&L Goodbody, rereading of First step microfinance	
1. Regulatory framework for Microenterprises	
Types of corporate vehicles available for MCEs and SFE	<p>MCE or SFE business can be established through a variety of different vehicles:</p> <ul style="list-style-type: none"> - sole trader - partnership - limited liability partnership - limited liability company or - company limited by guarantee <p>For smaller businesses, it is more usual to operate as a sole trader or in partnership with a business partner.</p>
Costs and Procedures	<p>Most simple way to establish a small business through SFE is to set up as a sole trader. There are no registration fees while control and confidentiality are maintained in this structure. However, the sole trader has unlimited liability for the debts of the business and any attempt to dispose of the business will incur a stamp duty charge of 9%.</p> <p>Another option is to set up a partnership, which is also relatively simple with no registration fees payable or requirement to disclose accounts. However, every partner is jointly and severally liable for the debts of the business.</p> <p>Alternatively, a limited company may be set up. This requires the payment of a registration fee, the loss of confidentiality and a requirement to publish accounts. These are significant disadvantages for someone setting up a MCE. However, liability of shareholders is limited and any transfer of the business will normally only attract stamp duty at 1%.</p>
Business development services (incl. Financial support for business development)	<ul style="list-style-type: none"> - Irish government provides “back to work” schemes and assists new MCEs or SFEs with financing;. The “back to work” programme provides for a flexible arrangement of decreasing social charges. Individuals can return to welfare should business fail. - First Step (MFI) provides access to funding. - Seed Capital Scheme: An employee who leaves employment and invests by means of shares in a company, which carries on a new business, may claim a refund of income tax paid in previous years. An unemployed person may also avail of this facility. - Enterprise Ireland assists with advice and finance. <p>State Funded Agencies:</p> <ul style="list-style-type: none"> - City Enterprise Boards - County Enterprise Boards - Area Partnership companies - Enterprise Ireland

JURISDICTION SUMMARY: IRELAND Authors: A&L Goodbody, rereading of First step microfinance	
	<p>Non-State Agencies:</p> <ul style="list-style-type: none"> - First Step Microfinance
Tax incentives	Thresholds for VAT returns and year end reporting exist in relation to setting up of a business.
Specific laws & regulations applicable to MCE and SFE	No
2. Regulatory framework for Microcredit and Microfinance Institutions.	
Types of institutions providing MC	<ul style="list-style-type: none"> - Commercial banks: Bank of Ireland, AIB Bank, Ulster Bank (RBS). - One MFI operating nationally in Ireland: First Step Microfinance. - Approximately 500 independent local credit unions, however such entities are only authorised to lend to consumers (not for business purposes). - Enterprise Ireland provides initial grants and equity investment.
Sources of funding for MFIs	<p>Loans from a joint body set up by banking community, and from Enterprise Ireland (State body which assists start up and development of businesses).</p> <p>First Step is a beneficiary of the SME Guarantee Facility. This guarantee is operated by the European Investment Fund and enables First Step to provide enhanced access to finance.</p> <p>International aid: JEREMIE (<i>Joint European Resources for Micro to Medium Enterprises</i>) and JESSICA (<i>Joint European Support for Sustainable Investment in City Areas</i>) programmes.</p>
Specific laws & regulations applicable to MC and MFIs	No
Do non-bank MCI achieve operational / financial autonomy ?	<p>First Step operates autonomously: rates set on loans allow sustainability and other revenue streams are developed to ensure sustainability.</p> <p>Credit Unions are independent local bodies. However, they must consult on certain matters with the Central Bank- such as interest rates.</p>

JURISDICTION SUMMARY: IRELAND Authors: A&L Goodbody, rereading of First step microfinance	
Interest caps	<p>No interest caps: interest rates are set by financial institutions in consultation with the Central Bank.</p> <p>First Step sets its rate below this benchmark.</p>
Tax incentives	<ul style="list-style-type: none"> – First Step has a specific “chaitable status” and benefits from particular tax measures. – Individuals and corporations which donate funds to First Step can benefit to extent of 20% relief on amounts donated up to €100,000 per year. <p>Business Expansion Scheme allows an individual investor to obtain income tax relief on investments up to a maximum of €150,000 per annum. Investments must be made in companies engaged in certain manufacturing; service; tourism; R&D; plant cultivation activities; in the construction and leasing of advance factories; or, in certain music recording activities. The investee companies must be unquoted.</p>
Access to guarantee schemes for banks and non bank institutions providing MC	<p>First Step has access to guarantees provided by banking community fund (please see Section “Sources of funding”) and by European Investment Fund.</p> <p>There is no general loan guarantee scheme in operation- the current scheme covers only deposits and debt securities.</p>
Data protection rules Ability of non bank MFIs to access such databases	<p>Irish Credit Bureau is the biggest credit referencing agency in Ireland. It is an electronic library or database that contains information on the performance of credit agreements between financial institutions (e.g. banks and building societies) and borrowers. It is not a State body and is owned and financed by its members.</p> <p>MFIs can access such information if they are members of Irish Credit Bureau.</p>
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	<p>Only if MFI is member of Irish Credit Bureau.</p>
Significant initiatives taken to develop MC	<p>Initiatives of Financial Regulator to regulate MC, SFE and generally MF sector.</p> <p>Creation of Enterprise Ireland in 1994. It provides financial support and advice to Irish companies and helps them in promotion to foreign markets. It provides funding and support to companies from entrepreneurs with plans for a high potential start-up through to large companies expanding their activities, improving efficiency and growing export sales. The Irish software sector is one area that Enterprise Ireland supports companies that are termed 'High Potential Starts Ups' such as firms that are seen to have specific niche in the market with a service or product that Enterprise Ireland believe has a lot of potential for success.</p> <p>City Enterprise Boards, County Enterprise Boards and Area Partnership companies- provide subsidies, credit and support services.</p> <p>Various tax incentives.</p>

JURISDICTION SUMMARY: ITALY

Authors: Latham & Watkins Milan with input from PerMicro

1. Regulatory framework for Microenterprises

Types of corporate vehicles available for MCEs and SFE

Three categories of corporate vehicles available:

- "*società di persone*" (similar to partnership), which encompasses: "*società semplice*", "*società in nome collettivo*" and "*società in accomandita semplice*";
- "*società di capitali*" (similar to business corporation), which includes: "*società per azioni*", "*società in accomandita per azioni*" and "*società a responsabilità limitata*"; and
- "*società cooperativa*" (co-operative society with a mutual assistance purpose).

Existence of instruments that specifically relate to assistance and promotion of SFE and MCE:

1. Legislative Decree No. 185 of 21 April 2000 ("**Decree 185/2000**") introduced incentives to facilitate the creation and development of businesses and SFE in certain geographical areas and with regard to specific groups of people.

MCE

In order to benefit from the MCE incentives introduced by Decree 185/2000, a microenterprise:

- must be a newly set up "*società di persone*" (which excludes one-man businesses, unregistered companies, companies with a sole partner, joint stock corporations and limited liability companies) which has a business purpose;
- shall have its registered office located within a 'disadvantaged economic area' as identified by the European Union;
- shall be composed mainly of unemployed adults resident in disadvantaged economic areas; and
- has to undertake a project related to the manufacturing and/or service sectors.

SFE

In order to benefit from the SFE incentives introduced by Decree 185/2000, the following requirements must be met:

- the persons involved must be adults who have been unemployed for the previous six months;
- they must reside in a 'disadvantaged economic area' as identified by the European Union;
- the project must relate to the manufacturing, services or business sectors; and
- the project must be carried out by a one-man business.

Decree 185/2000 also allows for SFE to occur by way of franchise, provided that:

- the beneficiary of the SFE incentives operates as a one-man business or a newly formed company (note that the beneficiary could also operate as a sole partner but not by way of an unregistered company or a company with a mutual assistance purpose);

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- the beneficiary shall be the franchisee;
- the beneficiary shall have their registered office located within a ‘disadvantaged economic area’ as identified by the European Union; and
- the entrepreneur or the majority of the partners in the company shall be adults who have been unemployed for the previous six months and who reside in a ‘disadvantaged economic area’ as identified by the European Union.

In addition, there are different kinds of measures relating to the creation of new enterprises, such as:

- incentives granted to new enterprises operating in the manufacturing and/or services sectors. To qualify for such incentives, the beneficiary must be a company (other than a one-man business, unregistered company or company with a sole partner) which is resident in a ‘disadvantaged economic area’ as identified by the European Union and its partners shall be between 18 and 35 years old (or mainly between 18 and 29 years old), also residing in a ‘disadvantaged economic area’;
- incentives granted to new enterprises operating in the agriculture sector. To qualify for such incentives, the beneficiary must be a farmer aged between 18 and 35, who is succeeding a family member in the management of the farm. The farm must be located, and the beneficiary must reside, in a ‘disadvantaged economic area’ as identified by the European Union.

Decree 185/2000 also states that the total amount of investment required by each project must not be more than the amount set out in such Decree for that type of project.

2. Legislative Decree No. 141 of 13 August 2010 introduced, *inter alia*, the first MC rules in the Legislative Decree No. 385, dated 1st September 1993 (the “**Italian Banking Act**”). Pursuant to the new Article 111 of the Italian Banking Act, a special list shall be created and shall include the entities which are allowed to grant loans to individuals (i.e. “*società di persone*” o “*società cooperativa*”) for the purpose of creating or developing SFE or MCE. Such Article requires the loans to be:
 - up to a maximum of EUR 25,000 and unsecured;
 - for the purpose of creating or developing entrepreneurial initiatives or entering into the labour market; and
 - provided together with the supply of ancillary services of assistance and monitoring of the beneficiaries.

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	<p>In order to be included in the above mentioned list, the Article 111 identifies some specific requirements:</p> <ul style="list-style-type: none"> - the entity shall be a “<i>società di capitali</i>”; - the minimum capital requirements, as specified by the Italian Ministry of Economy and Finance, have to be satisfied; - the requirements relating to the reliability and professionalism of the partners and representatives of the entity (as specified by the Italian Ministry of Economy and Finance) shall be met; - the objects of the entity have to include merely the activity of granting loans and any other activity which can be considered ancillary to the making of loans; and - it must submit a business plan. <p>Article 111 of the Italian Banking Act also allows non-profit entities to grant such loans, provided that they satisfy the above requirements.</p>
Costs and procedures	<p>Required procedures:</p> <ul style="list-style-type: none"> - execution of the “<i>contratto sociale</i>” with reference to the “<i>società semplice</i>”; - execution of the “<i>patti sociali</i>” with reference to the “<i>società in accomandita semplice</i>”; - execution of a deed of incorporation and by-laws with reference to the “<i>società in nome collettivo</i>”, the “<i>società a responsabilità limitata</i>”, the “<i>società per azioni</i>” and the “<i>società cooperativa</i>”. <p>The cost of a public notary to set up a one-man business is approximately EUR 1,500.</p> <p>The approximate cost of a public notary to set up a company ranges between EUR 3,000 and 5,000.</p> <p>Minimum capital requirements are prescribed only with regard to the “<i>società per azioni</i>” (EUR 120,000) and the “<i>società a responsabilità limitata</i>” (EUR 10,000).</p>
Income support during transition period	<p>Unemployment benefits are granted to those who carry out SFE activities provided that such activities are not only performed on an occasional basis and/or are limited to periods of time when the beneficiary is unemployed.</p>

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Business development services (incl. Financial support for Business development)	<p>Regional and local public institutions, often jointly with private sector (Business Associations, Chambers of Commerce, local banks) provide business development services.</p> <p>If all criteria set out in Decree 185/2000 (please see Section "Types of corporate vehicles available for MCE and SFE") are met, MCE and SFE can benefit from technical assistance in investment realization. Private companies, universities, National Agency for Investments and Business Development (<i>Agenzia nazionale per l'attrazione d'investimenti e lo sviluppo d'impresa S.p.A.</i>) and some Italian local public entities provide "business incubators" to assist new businesses in their start-up phase (services provided against remuneration or free of charge depending on provider).</p> <p>The Italian National Agency for Investments and Business Development (<i>Agenzia nazionale per l'attrazione d'investimenti e lo sviluppo d'impresa S.p.A.</i>) wholly owned by, and under control and surveillance of, the Italian Ministry of Economy, is in charge of the applications' review process, the granting of credit facilities and the subsequent monitoring phase. The National Agency is also a financial intermediary (please see Section "Types of institutions providing MC").</p> <p>If all criteria set out in Decree 185/2000 (please see Section "Types of corporate vehicles available for MCE and SFE") are met, MCE and SFE can be eligible beneficiaries of non-repayable grants, subsidized loans for investments and grants for operating expenses.</p> <p>Pursuant to Article 111 of the Italian Banking Law, the entities registered in the above mentioned special list are allowed not only to grant loans for the purpose of creating or developing SFE or MCE, but also to grant loans to individuals who are vulnerable, either economically or socially (it being understood that making loans to such individuals is not the primary activity of SFE or MCE). Such loans shall satisfy the following requirements:</p> <ul style="list-style-type: none"> - they must each be for EUR 10,000 maximum and they must be unsecured; - they must be provided with ancillary assistance to the recipient's family; - they must promote the social and financial inclusion of the beneficiary; and <p>their terms and conditions shall be more favorable to the beneficiary than the market standard.</p>
Other measures	<p>Employees who are made redundant, who intend to start an SFE type activity, or to develop on a full-time basis SFE activity, can obtain an advance payment on special unemployment indemnity by presenting a special request to National Social Security Institute.</p>
Tax incentives	<ul style="list-style-type: none"> - "<i>Tutoraggio</i>" ("Favorable tax regime for new business activity and self-employment"): in fiscal year during which business activity begins and for two following years, net profit carried out by a natural person is subject to a flat 10% rate of a "substitutive tax". Same applies for start-ups whose revenues do not exceed an amount approximately equal to EUR 30,987 per year. Simplified accountancy rules may apply during this transition period. - "<i>Regime dei minimi</i>" ("Tax regime for lowest taxpayers"): applicable to self-employed natural persons provided that (i) annual revenues do not exceed EUR 30,000 per year, (ii) there are no employees and (iii) instrumental material assets purchased in previous three years do not exceed EUR 15,000.
Main barriers for development of MCEs and SFE	<ul style="list-style-type: none"> - Absence of simplified status to set up MCEs. - Difficulties in finding reliable and complete information about MCE and SFE incentives. - Lack of coordination between the different players in this sector.

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Authors: Latham & Watkins Milan with input from PerMicro	
Specific laws & regulations applicable to MCE and SFE	<ul style="list-style-type: none"> - Tax incentives to support MCE and SFE (please see Section "Tax Incentives"). - Article 111 and 113 of the Italian Banking Act and Decree 185/2000 (please see Section "Types of corporate vehicles available for MCE and SFE").
2. Regulatory framework for Microcredit and Microfinance Institutions.	
Types of institutions providing MC	<ul style="list-style-type: none"> - Commercial banks (according to the information provided by Permico, although allowed to provide MC, usually commercial banks do not carry out such activities). - Financial intermediaries: as an example, Microcredito di Solidarietà S.p.A., Mag2 Finance s.c.a.r.l., Mag6 Società Cooperativa, Agenzia nazionale per l'attrazione d'investimenti e lo sviluppo d'impresa S.p.A. - Banks specialized in providing credit to third sector (NGOs, cooperatives, associations but not to individuals): as an example, Banca Popolare Etica S.c.p.a. and Banca Prossima S.p.A.. - Cooperative banks (mainly for purposes of CSR policies): as an example, Banca di Credito Cooperativo di Roma, Credito Cooperativo Ravennate e Imolese. - Non-profit organizations: pursuant to Article 111 of the Italian Banking Law, non-profit organizations are allowed to provide MC (according to the information provided by Permico, also LTDS can be authorized to provide MC. However, the relevant mechanism is not active yet and the abovementioned rule has still to be implemented). - Foundations (generally providing guarantees for MC loans): as an example, Microcredito sociale della Fondazione di Venezia, Microcredito Fondazione San Carlo, Microcredito Sociale della Compagnia di San Paolo, Ente Cassa di Risparmio di Firenze, Fondazione Toscana Prevenzione Usura.
Sources of funding for MFIs	<ul style="list-style-type: none"> - Government, regional sources of funding; - Private sources (foundations); - European sources. <p>According to the information provided by Permico, the abovementioned sources of funding are generally not implemented.</p>
Do non-bank MFIs achieve operational / financial autonomy?	<p>Operational and financial autonomy seems to have been achieved by the "<i>società mutua per l'autogestione</i>" or "MAG", which is aimed at sustainability and pursues mainly:</p> <ul style="list-style-type: none"> (i) funding financial projects with ethical and fair purposes, to be managed by the MAG itself; (ii) MF and MC loans to legal entities which are partners of the MAG itself; and (iii) on a limited basis, MC loans to persons who have recently become impoverished and self-employed individuals. <p>The MAG enters into a co-operation agreement with banks to effect the loans. The loans are granted upon terms and conditions more favorable than those available in the market and, once the principal is repaid, the money is immediately used for funding other projects.</p> <p>Permico is an example of an LTD aiming at sustainability.</p>

JURISDICTION SUMMARY: ITALY	
Authors: Latham & Watkins Milan with input from PerMicro	
Interest caps	The Italian Usury Law delegates to the Italian Ministry of Economy and Finance the duty to survey quarterly the average annual rate (the " Average Rate ") of the interests applied by banks and financial intermediaries in the previous quarter in relation to specific credit transaction categories having the same nature (the " Transaction Categories "), indicated by the law. Pursuant to the Italian Usury Law, the maximum permitted interest rate is 125% of the Average Rate applicable to each Transaction Category plus an additional 4%, provided that the difference between the maximum permitted interest rate and the Average Rate can not ever be higher than 8%. Furthermore, under the Italian Usury Law the term "rate" includes the applied interest rate and any fees or costs aggregated with the specific credit transaction.
Access to guarantee schemes for banks and non bank institutions providing MC	Central Guarantee Fund managed by <i>Mediocredito Centrale S.p.A.</i>
Data protection rules	<p>Existence of databases managed by Bank of Italy ("<i>Centrale dei Rischi</i>"), operating mainly with banks, and by credit bureaux ("<i>Sistemi di Informazione Creditizia</i>"), which private entities accessible to members only.</p> <p>Following entities must provide information to public databases:</p> <ul style="list-style-type: none"> - banks; - companies belonging to a banking group; - banking, financial and instrumental companies at least 20% of whose capital is held by companies belonging to a banking group or by an individual bank; and - financial intermediaries.
Ability of non bank MFIs to access such databases	MFIs may access such databases provided that it can be qualified as "Information Provider" or "Participant" under Italian law.
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	An MFI that qualifies as an "Information Provider" or "Participant" under Italian law must provide their borrowers' credit history.
Significant initiatives taken to develop MC	<ul style="list-style-type: none"> - Legislative Decree No. 185 of 21 April 2000. - Italian Ministry of Interior and Bank of Italy, Italian Banking Association, National Association of Italian Municipalities and Confederation of Italian Industry entered into a framework agreement in which they undertake to, <i>inter alia</i>, increase MC use. - Law No. 244 of 24 December 2007 (article 2, paragraph 185) which created the "<i>Comitato Nazionale Italiano Permanente per il Microcredito</i>", a national committee with the aim of developing a widespread knowledge with reference to MC. - Legislative Decree 141 of 13 August 2010, which introduced Articles 111 and 113 in the Italian Banking Act (still to be implemented by approval of relevant operating rules).

JURISDICTION SUMMARY: ITALY

Authors: Latham & Watkins Milan with input from PerMicro

Main obstacles and barriers to development of MC and MFIs	<ul style="list-style-type: none"> - First rules on MC have been adopted recently and some regulations, to be introduced by the Ministry of Economy and Finance, are still missing (e.g., the operating rules of Legislative Decree 141 of 13 August 2010 referred to above). - Inability of Financial Intermediaries to receive deposits and, on other hand, obligation to comply with strict patrimonial requirements (in order to collect funds to be granted in form of loans, Financial Intermediaries must engage in fund raising, and address both individual and institutional donors). - Interest rate caps (interest rates in foreign MC's experiences are usually higher than the rates approved in Italy and cultural barriers to high interest rates). - Confusion between MC loans and social grants. - No advantages acknowledging social mission.
Suggested measures to improve existing framework/create a new framework for MC	<ul style="list-style-type: none"> - Tax incentives for individuals/corporations that invest in MFIs. - Simplification of formalities which are necessary in order to create MFIs, MCIs and MCEs and grant MF economic instruments. - Resolve "Main obstacles" as described in previous section. <p>In addition, Permico, according to its experience, suggests the following measures:</p> <ul style="list-style-type: none"> - allow collecting peer to peer systems in order to boost MC capacity; - de-taxation (including IRAP and IRES taxations for non distributed profits); - introduce separate and higher interest cap for usury rates; - access to solidarity fund for usury victims managed by Ministry of Economy and Finance; and - ensure fully deductible donations for the donors.

JURISDICTION SUMMARY: LATVIA

Authors: Advokātu birojs VARUL

1. Regulatory framework for Microenterprises

Types of corporate vehicles available for MCEs and SFE

There are several types of corporate vehicles available for MCE and SFE and the most common types are as follows:

1. Single entrepreneur - any natural person who performs economic activities can register with the Company Register as an individual entrepreneur. If specific requirements are met, then the person has a duty to register with the Company Register. The requirements are:

- the yearly turnover from economic activities exceeds LVL 200 000 (ca EUR 285 000), or
- the yearly turnover from these activities exceeds LVL 20 000; and the person provides employment simultaneously to more than five employees, or
- the person performs the economic activity as a commercial agent (a person who has been authorised to independently conclude transactions with third persons in the name and to the benefit of another person (principal) or authorised to prepare transactions for signing) or a broker (person who is engaged in intermediation for concluding transactions for the benefit of another person, not being permanently associated with such person through contractual relations).

2. Limited liability company (“SIA” or in Latvian “*sabiedrība ar ierobežotu atbildību*”).

3. Low-capital limited liability company (in Latvian “*mazkapitāla SIA*”) – company with share capital less than LVL 2 000 (ca EUR 2 900). There are several requirements that must be met in order to found and register a low-capital SIA and those are as follows:

- the founders and shareholders of the company must be natural persons and the maximum amount of founders and shareholders is 5;
- the management board of the company consists of one or several members which also are the shareholders of the company;
- a person can only be a shareholder in one low-capital SIA.

4. Partnerships – general partnership (in Latvian “*pilnsabiedrība*”) or **limited partnership** (in Latvian “*komandītsabiedrība*”).

Costs and Procedures

Costs. The minimum share capital for an SIA is LVL 2 000 (ca EUR 2 850). Prior to the submission of the registration application of an SIA, the founders must subscribe for all the share capital and pay up at least 50% of the share capital. The remaining part of the share capital must be paid up within a period of one year from the date when the SIA is registered with the Company Register.

The minimum share capital for the low-capital SIA is LVL 1 (ca EUR 1,50). Prior to the submission of the registration application of such an SIA, the founders must subscribe for and pay up all the share capital, the consideration for which must be cash.

There are no minimum share capital requirements for individual entrepreneurs and partnerships.

Registration costs are nominal and fixed, and include state duty, publication in the official gazette and notary fees.

JURISDICTION SUMMARY: LATVIA

Authors: Advokātu birojs VARUL

	<p>Registration costs for an individual entrepreneur are ca EUR 50. Registration costs for partnerships and SIAs are ca EUR 180. Registration costs for low-capital SIAs are ca EUR 40.</p> <p>Procedures. All legal entities are registered with the Commercial Register (www.ur.gov.lv).</p> <p>In order to be registered with the Commercial Register, a number of formalities should be fulfilled. The simplest registration procedure is for individual entrepreneurs and partnerships – they must submit an application (in the form approved by the Company Register) and pay the state duty. No additional documents have to be presented.</p> <p>The registration of SIAs and low-capital SIAs require more formalities – a number of corporate documents must be prepared (foundation agreement or decision, articles of association, notice on the legal address, etc.), share capital must be paid up in cash or by way of property contribution, board members should be appointed, etc.</p> <p>After the registration, the legal entities should register with the tax authorities (i.e. State Revenue Service, in Latvian “<i>Valsts ieņēmumu dienests</i>”). In addition there are separate types of commercial activities, for the performance of which a permit (license) is necessary. The general information can be found on the home page of the Company Register (www.ur.gov.lv) with links to competent authorities for particular business activities.</p>
<p>Income support during transition period</p>	<p>The State Employment Agency (<i>Nodarbinātības Valsts aģentūra</i>) is responsible for providing governmental support during a person’s transition from being unemployed to setting up a business or becoming self-employed.</p> <p>Consultations and monetary assistance are only available for those with business knowledge – eligible persons must have acquired either professional, secondary or a higher education in business administration. Those who have had informal education or training in the relevant subject, as well as those who have participated in retraining or promotion of qualification programme, also qualify.</p> <p>The number of persons who can be supported simultaneously is limited. Currently the maximum start-up grant is ca EUR 2 900. In the first 6 months of the business starting, the State Employment Agency will provide each person with a monthly subsidy of EUR 290.</p> <p>As a general rule, an unemployed person ceases to benefit from allowances as soon as he/she starts running a business either as a self-employed person or through a company. However, potential financial advantages received during training are not considered to be wages and therefore they can be received at the same time as unemployment benefits.</p>
<p>Business development services (incl. Financial support for business development)</p>	<ul style="list-style-type: none"> – Advisory services by the Investment and Development Agency of Latvia (<i>Latvijas Investīciju Attīstības Aģentūra</i>); Within the framework of the programme run by the Agency training is conducted and limited financial support awarded with a view to stimulating the start-up of new businesses – Information and advice by the Enterprise Europe Network; – Support by the State Employment Agency (<i>Nodarbinātības Valsts aģentūra</i>); – Networking services within the framework of the Fund for Support of the Rural Women in Latvia (<i>Latvijas Lauku sievietiņu uzņēmējdarbības atbalsta fonds</i>); – Business incubators; – Business idea contests.

JURISDICTION SUMMARY: LATVIA Authors: Advokātu birojs VARUL	
Tax incentives	<p>The legal entities and self-employed can apply for the status of microenterprise tax payer, if the following requirements are met:</p> <ul style="list-style-type: none"> – All shareholders are natural persons (for SIA and low-capital SIA); – All shareholders are also the members of the management board (for SIA and low-capital SIA); – The yearly turnover does not exceed LVL 70 000 (ca EUR 100 000); – The number of employees does not exceed 5 persons and no employee (including the shareholders) receives monthly remuneration, exceeding LVL 500. <p>The microenterprise tax amounts to 9% and the tax is paid four times a year for the turnover of each quarter. This tax rate includes the personal income tax for the owner and for the employees of the company and the corporate income tax.</p>
Specific laws & regulations applicable to MCEs and SFE	<p>General corporate law rules (contained in Commercial Law, in Latvian: <i>Komerclikums</i>) apply to MCE and SFE. In relation to tax general tax law applies and also Law on microenterprise tax (<i>Mikrouzņēmumu nodokļa likums</i>) applies.</p> <p>There is no special regulation for microcredit. However, there are certain regulations, which can be also used by microenterprises and self-employed.</p>
Main barriers for development of MCE and SFE	<ul style="list-style-type: none"> - Preparatory, accompanying and support measures are limited; - The transition between the employee status and MCE/SFE status – only a limited number of persons can be supported simultaneously. Person no longer has the protection and guarantees provided by employment law.
2. Regulatory framework for Microcredit and Microfinance Institutions.	
Types of institutions providing MC	<p>Microcredit is mainly delivered by the Mortgage Bank (<i>Hipotēku banka</i>).</p> <p>Also an NGO – the Fund for Support of the Rural Women in Latvia (<i>Latvijas Lauku sieviešu uzņēmējdarbības atbalsta fonds</i>), delivers micro-credits to business initiatives for groups of women in rural areas. However it is only an intermediary between the Mortgage Bank and the recipients within the framework activities of the INTERREG IIIB Project „FEM”.</p> <p>Furthermore, certain funds are available through a programme, managed by the Investment and Development Agency of Latvia (<i>Latvijas Investīciju Attīstības Aģentūra</i>).</p> <p>Lastly, a private equity investor „BaltCap” manages Jeremie funds in Latvia.</p>
Specific laws & regulations applicable to MC and MFIs	<p>There is no special regulation for microcredit. However, there are certain regulations, which can be also used by microenterprises and self-employed.</p> <p>Microcredit/support grants are also regulated by:</p> <ul style="list-style-type: none"> – the 31.03.2009 Regulations of the Cabinet of Ministers No. 293 on the additions to point 1.2.1.2. of the “Aid for the inception of the new business and employment” within the framework programme activity “Human resources and employment” (<i>Noteikumi par darbības programmas “Cilvēkresursi un nodarbinātība” papildinājuma 1.3.1.2. aktivitāti “Atbalsts pašnodarbinātības un uzņēmējdarbības uzsākšana”</i>),

JURISDICTION SUMMARY: LATVIA	
Authors: Advokātu birojs VARUL	
	<ul style="list-style-type: none"> – the 07.10.2008 Regulations of the Cabinet of Ministers No. 835 on the additions to point 1.3.2.1. of the “Aid for the inception of the new business and employment” within the framework programme activity “Business incubators” (<i>Noteikumi par darbības programmas “Cilvēkresursi un nodarbinātība” papildinājuma 1.3.2.1. aktivitāti “Biznesa inkubatorī”</i>), – the 02.12.2008 Regulations of the Cabinet of Ministers No. 752 “On the microcredit programme for Latvian small and medium enterprises” (<i>Par Latvijas mazo un vidējo komersantu mikrokreditēšanas programmu</i>).
Sources of funding for MCI	The Mortgage Bank (<i>Hipotēku banka</i>) delivers micro-credits that it finances itself. One private bank (Privat bank) also provides micro-credit on its own; its loans can be up to EUR 14 000 with interest rates from 12% (if the loan is secured) or 20% (if the loan is unsecured).
Do non-bank MFIs achieve operational / financial autonomy?	The public institutions, involved in the microfinance programmes are not financially/operationally autonomous since they are mainly financed through public resources. However no special operational /financial limitations apply to private banks. There is, however, a general rule obliging the entities involved in the distribution of public funds to separate the accounting and management of such funds, as opposed to using their own finances.
Interest caps	There are no mandatory rules on interest caps.
Access to guarantee schemes for banks and non bank institutions providing MC	None (in 2009 the draft scheme was developed, but never passed by the Cabinet of Ministers).
Data protection rules Ability of non bank MFIs to access such databases	No specific rules affecting microcredit exist, the general rules on data protection apply. This means that all data and assessments which are known to a credit institution concerning of the clients of the credit institution or other credit institutions are deemed to be information subject to banking secrecy (except for the information relating to the correctness of the performance of a client's obligations to a credit institution – the delay in payments shall be recorded in the Credit Register of the Bank of Latvia). Details and data of a client which are subject to banking secrecy may be disclosed by a credit institution to third persons only with the written consent of the client, unless the obligation or right to disclose information subject to banking secrecy arises from the legislative acts.

JURISDICTION SUMMARY: LATVIA Authors: Advokātu birojs VARUL	
	<p>On 1 January 2008, the Credit Register of the Bank of Latvia was launched. The Credit Register is an information system of the Bank of Latvia ensuring the collection, centralised collation and storage of data relating to borrowers and borrower guarantors, their obligations and performance thereof, aimed at providing information to the Credit Register participants, the Financial and Capital Market Commission, the Bank of Latvia and borrowers themselves (natural and legal persons) in compliance with the procedure stipulated by laws and regulations. The information of the register is available to any participant of the register, including non bank microcredit institutions. These participants have the right to access credit data when a person has requested a MC.</p> <p>It must be noted that the system is currently undergoing significant reform to make the information flow more transparent and for the register to include more up-to-date and complete information.</p> <p>In addition to the official database, the information on the borrowers' credit history is also kept by few private companies such as "Creditreform" and "BaltRisk". Third persons can access such databases through purchasing a membership.</p>
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	<p>The Credit Register participants are banks registered in the Republic of Latvia and providing financial services associated with credit risks (including branches of foreign banks), companies having close links with the bank and providing financial services associated with credit risks, insurance corporations and credit unions registered in the Republic of Latvia. On 22 October 2010, there were 95 participants in the Credit Register.</p> <p>Natural and legal persons (which are not registered as Credit Register participants) are entitled to receive data existing in the Credit Register only if pertaining to themselves, as well as Credit Register participants' data requests pertaining to them.</p>
Significant initiatives taken to develop MC	<p>The Regulations of the Cabinet of Ministers No. 748, dated 30 September 2009, on approval of the concept on support measures for micro – enterprises.</p> <p>There are, however, no recent initiatives or developments in this area.</p>
Other measures in favour of MC	None
Main barriers for development of MC and MFIs	<ul style="list-style-type: none"> - Potential borrowers lack the knowledge and skills to submit a business proposal necessary to receive MC; - Negative credit history of the borrowers; - Credit unions (<i>krājaizdevu sabiedrība</i>) cannot lend MCs to its members who are legal persons; - In fact there are now non-bank MC institutions which would supply MCs at an 8% interest rate; - Insufficient sources of funding and thus one should undertake major obligations towards credit institutions and others;

JURISDICTION SUMMARY: LATVIA Authors: Advokātu birojs VARUL	
Suggested measures to improve existing framework/create a new framework for MC	<ul style="list-style-type: none"> - Implement a guarantee scheme for non-bank MC institutions to develop the sector; - Allow credit unions to lend MCs to members, who want to create or develop a micro business - Provide for one-stop agency for information on MCs, training and other related activities.

JURISDICTION SUMMARY: LITHUANIA Authors: Advokātu birojs VARUL	
1. Regulatory framework for Microenterprises	
Types of corporate vehicles available for MCEs and SFE	<p>Any natural person may start a business in Lithuania either as a self-employed person or through a company/joint venture with the following legal structures:</p> <ul style="list-style-type: none"> - Limited liability company (<i>Uždaroji akcinė bendrovė – „UAB“</i>); - Sole proprietorship (<i>Individuali įmonė – „IĮ“</i>); - Commercial partnership (<i>Ūkinė bendrija</i>). <p>For individuals becoming self-employed, legislation allows them to conduct:</p> <ul style="list-style-type: none"> - independent activities without a business certificate provided that they register such activities with the State Tax Inspectorate; or - independent activities under a business certificate issued by the State Tax Inspectorate.
Costs and procedures	<p>Self employment is the simplest way to establish a small business. There are no registration fees but a self-employed person must be registered with the State Tax Inspectorate as a self-employed person, either with a business certificate or without it (as mentioned above).</p> <p>Costs of the incorporation of a company mainly include registration duties and fixed notary fees.</p> <p>The most common form of entity for small business is the limited liability company. The registration process for a limited liability company is as follows (NB the registration procedure is similar for the other legal structures too):</p> <ul style="list-style-type: none"> - Open bank account with minimum capital and obtain a bank certificate proving the availability of funds; pay the registration fee and obtain the document evidencing payment (LTL 20, ca EUR 5); - Notarize the agreement /memorandum of incorporation and bylaws; notarize the application for the registration of the private limited liability company (LTL 250-500, ca EUR 70-145); - Register at the Company Register, including registration with the State Tax Inspectorate (the Lithuanian Revenue Authority) for corporate tax, VAT, and State Social Insurance Fund Board (SODRA) (LTL 198, ca EUR 60); - Complete VAT registration (no charge); - Open a settlement bank account (to handle normal commercial transactions) (no charge); - Obtain the official seal of the company (LTL 30-90, ca EUR 10-25). <p>When establishing Sole proprietorship (<i>“IĮ”</i>) the cost of registration duties is approximately 107 LTL (ca EUR 30), and when establishing commercial partnership (<i>“ŪB”</i>) – approximately 143 LTL (ca EUR 40).</p>

JURISDICTION SUMMARY: LITHUANIA

Authors: Advokātu birojs VARUL

Income support during transition period	As a general rule, an unemployed person ceases to benefit from allowances as soon as he or she starts running a business either as a self-employed person or through a company.
Business development services (incl. Financial support for business development)	<p>Business information centres and business incubators: these are types of business support infrastructure developed by the state to promote the setting-up and development of SMEs as well as to ensure accessibility of high-quality business services on preferential terms to business people from all regions in Lithuania. At present, 42 business information centres and six business incubators are operational in Lithuania. These establishments are public enterprises and the state is one of the stakeholders. The rights and obligations of the state are carried out by the Lithuania's Ministry of the Economy. In 2007, business information centres and business incubators provided over 20 000 hours of consultation and training, provided responses to more than 49 000 inquiries and organised 748 business information dissemination events with more than 16 000 participants.</p> <p>Business development services are also provided by Invest Lithuania, the Lithuanian Business Support Agency, and the Lithuanian Innovation Centre.</p> <p>There are a few support programs during the transition period:</p> <p><u>Subsidies</u>: certain measures have been taken to encourage a self-employed person to deal with unemployment issues independently. Subsidies for self-employed persons were introduced for covering the costs of the business licence and the social insurance contributions. The amount of the subsidy is 0,25 per cent. of the minimal monthly wage set by the Government (currently it amounts to LTL 200, ca EUR 60) for each business licence per month.</p> <p><u>Financial engineering</u>: to enhance the competitiveness of Lithuanian business, special attention is given to improving financial engineering instruments (guarantees, micro-crediting, venture capital, etc). This is of special relevance to start-ups as well as to businesses that have good potential for growth but are a more risky investment.</p> <p>The EU Structural Support for 2007–2013 priorities the improvement of access to seed, and early stage venture, capital in the programming period. In addition, the EU Structural Support for 2007-2013 promotes issuance of micro-credits (which is relevant to start-ups and micro-businesses) as well as guarantees, which are becoming increasingly popular.</p> <p><u>Micro-crediting</u>: in 2006, the micro-crediting system was launched in Lithuania. Three banks were selected to grant micro-credits (i.e. loans up to EUR 25 000 or its equivalent in another currency). In 2007, the banks granting micro-credits disbursed all the funds allocated for micro-crediting (almost LTL 29 million, ca EUR 8,3 million). Further micro-crediting is executed from micro-credits that have been repaid.</p> <p><u>UAB "Investicijų ir verslo garantijos" (hereinafter – INVEGA)</u>: the guarantee institution INVEGA founded in 2001 guarantees the repayment to a credit institution of the first instalment under a loan to an SME entity in an amount up to 80% of principal. It can also be called upon to pay up to 50% of the interest on a guaranteed loan. This reduces enterprise crediting risk and allows a larger number of businesses to use bank financing..</p>

JURISDICTION SUMMARY: LITHUANIA	
Authors: Advokātu birojs VARUL	
Specific laws & regulations applicable to MCE and SFE	<p>General corporate and trade law rules and tax law are applicable. There are also specific rules applicable to micro-enterprises, self-employment and microcredit:</p> <ul style="list-style-type: none"> – <i>Law on Small and Medium size business development</i>: This law defines small and medium-sized entities in compliance with European Commission recommendations. It also defines the types of state support that are possible for these entities. “SMB” entities comprise medium-sized enterprises, small enterprises (including micro-enterprises) and natural persons who, in the manner prescribed by law, enjoy the right to engage in independent commercial, production, professional or other similar activities, including the activities which require a business certificate. – <i>The Lithuanian government’s ruling on small and medium size business development</i>; – <i>Rules on microcredit administration and delivery</i>; and – <i>Other rulings and decrees related to micro-enterprises, self-employment and microcredit</i>.
Tax incentives	<p>5% tax rate is applied to income derived from individuals’ business activities such as manufacture, agriculture, trade and the supply of most services. A 15% rate is applied to profits derived from the professions e.g. lawyers’, notaries’ and consultants’ profits, and also to real estate sales and leases, as well as to revenues from the transfer of securities.</p> <p>Where a self-employed person is conducting an individual activity under a business certificate, a fixed amount of income tax applies and such tax is paid upfront when the individual acquires a business certificate. Where a self-employed person is conducting an individual activity without a business certificate, income tax is paid following the end of the fiscal period and submission of the annual income tax declaration.</p> <p>The standard corporate income tax rate was reduced from 20% to 15% on 1 January 2010. Small businesses (i.e. entities whose average number of listed employees does not exceed 10 and whose income in the tax period does not exceed LTL 500 000 (ca EUR 145 000)) must pay corporate income tax at 5%, with certain exceptions.</p>
Main barriers for development of MCE and SFE	<p>The main obstacles that can be faced with when developing MCE or SFE can be the following:</p> <ul style="list-style-type: none"> – It is difficult to withstand the pressure of major competitors. These problems can occur in several ways: <ul style="list-style-type: none"> ○ Small companies cannot afford expensive marketing; ○ Large Companies have the financial capacity to temporally dump prices in the local market (i.e. selling goods at a price equal to cost). This is not a form of dumping legislation and is a very effective way to get rid of smaller competitors who can not stand up in a “price war”; ○ Low capital does not allow to compete in research, new technologies and promotional campaigns in their field; ○ Small companies have less access to credit suppliers and customers, thus reducing the attractiveness of the business and competitiveness advantage. – Dependence on common economic situation – Lack of political will to support small business.

JURISDICTION SUMMARY: LITHUANIA

Authors: Advokātu birojs VARUL

2. Regulatory framework for Microcredit and Microfinance Institutions.

Types of institutions providing MC	<p>As mentioned above, in 2006, the micro-crediting system was launched in Lithuania. Three banks were selected to grant micro-credits (i.e. loans up to EUR 25 000 or its equivalent in another currency). In 2007, the banks granting micro-credits disbursed all the funds allocated for micro-crediting (almost LTL 29 million, ca EUR 8,3 million). Further micro-crediting is executed from micro-credits that have been repaid. From August 2006 (when micro-crediting began) to 31 December 2007, 453 business (of which 90% were micro-businesses, 9% small enterprises and 1% medium-sized enterprises) made use of micro-credits.</p> <p>Since December 2009, small companies that have been operating for less than one year, social enterprises, entrepreneurships and natural persons willing to start up and/or develop their own business are eligible for microcredits from the Entrepreneurship Promotion Fund (<i>EPF</i>). UAB Investicijų ir Verslo Garantijos (<i>INVEGA</i>), which performs the functions of the EPF manager, and the consortium of 57 credit unions selected by the tendering procedure, represented by the Lithuanian Central Credit Union (<i>LCCU</i>), signed a cooperation agreement establishing the main terms and conditions for the granting of microcredits.</p>
Sources of funding for MFIs	<p>Generally, public sector funds (whether their origin is the Lithuanian government or a European institution) are sources of funding for microfinance institutions. The Entrepreneurship Promotion Fund was established under the tripartite agreement signed between the Ministry of Social Security and Labour, the Ministry of Finance and UAB Investicijų ir Verslo Garantijos at the end of December 2009. Funds are allocated through the Operation Programme's "Entrepreneurship Promotion" for the Development of Human Resources administered by the Ministry of Social Security and Labour. It is financed by the European Social Fund. The purpose of the Fund is to promote entrepreneurship, self-employment and create new jobs.</p>
Do non-bank MFIs achieve operational / financial autonomy?	<p>Yes.</p>
Interest caps	<p>Yes, the borrower will have to pay annual interest at a rate of 3-month VILIBOR +0.1%, provided that such rate is not less than 2% and not more than 6%, plus the credit union margin (which is a fixed portion of interest that may not exceed 3.49%).</p>
Access to guarantee schemes for banks and non bank institutions providing MC	<p>INVEGA guarantees the repayment to credit institutions of up to 80% of the principal amount of the first loan instalment. Repayment of the remaining unguaranteed amount is guaranteed through collateral offered by a debtor mortgaging property acquired from loan funds.</p> <p>"Small and Medium-sized Business Entity" as defined in the Republic of Lithuania Law on Medium-sized Business Development, can apply to a bank or any other credit institution (e.g., a credit union), which agrees to credit its business project with INVEGA guarantee and negotiates on loan conditions (amount of principal, currency, maturity, repayment schedule, interest rate, etc.). When deciding whether to grant credit, a bank would assess the adequacy of security provided in respect of a loan. If the security is insufficient, the bank would apply to INVEGA for a guarantee.</p>

JURISDICTION SUMMARY: LITHUANIA

Authors: Advokātu birojs VARUL

<p>Data protection rules</p> <p>Ability of non bank MFIs to access such databases</p>	<p>Under the Lithuanian Law on Legal Protection of Personal Data, Article 21, part 1, the data controller has the right to process and disclose to third parties, having legitimate interests, the data on those persons who have failed to fulfil, in a timely and proper manner, their financial and (or) property obligations for the purpose of evaluating their solvency and managing their debt. The data controller has the right to disclose debtors' data, including personal identification number, to other data controllers who process consolidated debtor files. The data controller may only disclose debtors' data on condition that he has sent a written reminder to the data subject about his default and where, within thirty calendar days of the sending (submitting) date of the reminder:</p> <ul style="list-style-type: none"> – the debt is not settled and (or) the deadline for the repayment is not extended; or – the data subject does not contest the debt on compelling grounds. <p>No other personal data which have been compiled and are processed for purposes other than evaluation of solvency and debt management should be disclosed.</p> <p>There are databases recording the borrowers' history reporting to National Bank of Lithuania. MC providers are authorized to exchange and share information on the credit history of borrowers. Credit information relating to the borrowers is also kept by a few private companies such as UAB "Creditinfo Lietuva". Third persons can access such databases by purchasing a membership.</p>
<p>Obligation for non bank MFIs to provide their borrowers' credit history to such databases</p>	<ul style="list-style-type: none"> – The Government of the Republic of Lithuania approved the Strategic Guidelines for Small and Medium-sized Business; – Establishment of Entrepreneurship Promotion Fund (EPF); – A Cooperation Agreement establishing the main terms and conditions for the granting of microcredits which was signed by the UAB Investicijų ir Verslo Garantijos (INVEGA), which performs the functions of the EPF manager, and the consortium of 57 credit unions selected by the tendering procedure, represented by the Lithuanian Central Credit Union (LCCU); – Guarantees issued by INVEGA; and <p>Recently, the Ministry of Economy has proposed to allow a new form of organization – micro enterprises. Such form of enterprise should change the sole proprietorship and business licenses.</p>
<p>Other measures in favour of MC</p>	<p>None.</p>
<p>Suggested measure to improve existing framework/create a new framework for MC</p>	<ul style="list-style-type: none"> – Encouraging the studies and information sharing about Micro Credit to improve know-how; – Clarity and transparency of the procedures; – Existence of control of providing MC; – Accessibility of the information; – Improving the consultation on MC.

JURISDICTION SUMMARY: LUXEMBOURG

Authors: Kleyr Grasso Associés

1. Regulatory framework for Microenterprises

Types of corporate vehicles available for MCEs and SFE	<p>In Luxembourg, any natural person may start a business either as a self-employed person (“<i>commerçant personne physique</i>”) or through a commercial company. Main types of corporate entities which are used are the <i>société à responsabilité limitée</i> (S.à.r.l), the <i>société anonyme</i> (S.A.) and the <i>société en commandite par actions</i> (S.C.A.).</p> <p>However, it is worth to note that no specific legal framework exists regarding MF.</p>
Costs and procedures	<p>For companies:</p> <ul style="list-style-type: none"> – Incorporation (costs: between 1000 € and 1500 €) (These costs include notary fees, registration, costs with the Luxembourg register of commerce and companies, publication in the <i>Mémorial C</i>, the Luxembourg gazette); – Depending on the corporate form of the company, a minimum capital contribution will be required at incorporation (for example, 12.500 € for an S.à r.l. and 31.000 € for an S.A.). <p>For companies and self-employed persons:</p> <ul style="list-style-type: none"> – Before setting up any business, obtaining, if necessary, of an “<i>autorisation d’établissement</i>” (trade permit) and any other specific permit in relation to the company’s activity (costs: approx. 24 €); – Registration with the Luxembourg register of commerce and companies as a company or as a “<i>commerçant personne physique</i>”(costs: depending on corporate form, approx. between 18 and 135 €); – Registration with the <i>Centre Commun de la Sécurité Sociale</i>; – Obtain of a VAT number.
Income support during transition period	<p>As soon as an unemployed person starts running a business either as self-employed or through a company he/she ceases to benefit from allowances (<i>Art. L.521-12 Code du Travail</i>).</p>
Business development services (incl. Financial support for Business development)	<p>The <i>Chambre de Commerce</i> (through the Luxembourg School of Commerce) and the <i>Chambre des salariés Luxembourg</i> (through the Luxembourg Lifelong Learning Center), the <i>Chambre des Métiers</i>, amongst others, offer professional trainings to individuals in the framework of creating and running businesses.</p> <p>In addition, the <i>Chambre de Commerce de Luxembourg</i>, through its <i>Espace entreprises</i> provides advice as well as technical assistance in relation with the creation of a business or in the framework of the running of a business.</p> <p>Nevertheless, the Luxembourg regulation (“<i>Règlement Grand-Ducal</i>”) dated 17 June 1994, as amended from time to time, provides the possibility of financial assistance for the creation of a business by unemployed people. If the conditions set forth by said regulation are met, it is possible to benefit from a financial assistance (in one payment) by the “<i>Administration de l’Emploi</i>” covering the expenses in relation with the creation or the purchase of a business, which however cannot exceed the capitalized amount of the unemployment benefits, the person would have been entitled to receive during the six months following the start of the activity.</p>

JURISDICTION SUMMARY: LUXEMBOURG	
Authors: Kleyr Grasso Associés	
	<p>Furthermore, in the framework of the creation of a business, it is possible (under certain conditions) to obtain financial assistance from (amongst others):</p> <ul style="list-style-type: none"> – the middle class ministry (“<i>Ministère des classes moyennes</i>”) (subventions); – the Société Nationale du Crédit et de l’investissement (SNCI) (co-financing); – the Chambre de Commerce de Luxembourg (provision of guaranties through the « <i>Mutualité de Cautionnement et d’Aide aux Commerçants</i> »); <p>These financial assistances are not limited to micro-entrepreneurs or self-employed and can benefit to any body wanting to create or purchase a business.</p>
Other measures	<p>Several ideas with purpose to make business development easier are currently raising and/or in discussion :</p> <ul style="list-style-type: none"> – introduction of a status of “<i>auto-entrepreneur</i>” (likewise to France) in Luxembourg; – introduction of a <i>société à responsabilité limitée simplifiée</i> (with the possibility to start with a share capital of one euro under certain conditions); – simplification of the obtaining of an “<i>autorisation d’établissement</i>”. <p>(See also “significant initiatives to develop MC”).</p>
Main barriers for development of MCEs and SFE	<ul style="list-style-type: none"> – The absence of any legal framework dedicated to MCE and SFE; – No benefit from allowances as soon as an unemployed person starts running a business; – The funding of the project and, if applicable, the ability to raise the minimum share capital. Indeed, the financial assistance programs do only benefit to people fulfilling the conditions and are not tailor-made for MCE and SPE; – The conditions to obtain an “<i>autorisation d’établissement</i>”, remain strict (honourability, professional skills, etc).
Specific laws & regulations applicable to MCE and SFE	<p>There are no specific rules with respect to MCE and SFE. General corporate rules apply.</p>
2. Regulatory framework for Microcredit and Microfinance Institutions.	
Types of institutions providing MC	<p>No MFI dedicated to MF in Luxembourg exist in Luxembourg.</p> <p>Commercial Banks operating in Luxembourg may provide loans within their normal business activity.</p>

JURISDICTION SUMMARY: LUXEMBOURG	
Authors: Kleyr Grasso Associés	
Specific laws & regulations applicable to MC and MFI	Currently, no MFI dedicated to MF in Luxembourg exist.
Sources of funding for MFIs	<p>Although no MFI do exist in Luxembourg, the Grand-Duchy of Luxembourg appears to be well positioned with respect to the developing market of microfinance investment funds. Today, significant numbers of investment funds providing supplementary funding to MFIs are located in Luxembourg.</p> <p>The more recent fund is the Luxembourg Microfinance and Development Fund (LMDF), which has been launched in March 2010. This fund benefits from both public and private investments.</p> <p>In July 2006, the labeling agency LuxFLAG (Luxembourg Fund Labelling Agency), an independent and non-profit making association, was created in Luxembourg. LuxFLAG grants a label to eligible microfinance investment vehicles. Its objective is to promote the raising of capital for MF by reassuring investors that MIVs, which benefit from its label, are actually investing in the MF sector.</p> <p>Securitisation transactions also play an important role with respect to the financing of MFIs.</p> <p>MFIs may also benefit from the European Progress Microfinance Facility (EPMF), an EU MF initiative established in March 2010 with funding from the European Commission and the European Investment Bank, which aims to support MCE and SFE via eligible intermediaries. In Luxembourg, the intermediaries have not been selected yet.</p>
Do non-bank MFIs achieve operational / financial autonomy?	N/A
Interest caps	No specific rules apart from consumer protection rules.
Tax incentives	<p>The Luxembourg law dated 18 December 2009 concerning the budget of the State for 2010 amended the UCI legislation so as to exempt investment funds, whose main objective is to invest in MIF, from subscription tax (“<i>taxe d’abonnement</i>”).</p> <p>Investment funds in general benefit from a favorable tax framework in Luxembourg.</p> <p>In addition, Luxembourg law provides for tax deductions in case of donations in favor of non profit making associations recognized as having a public utility (<i>associations sans but lucratif reconnues d’utilité publique</i>), foundations or the NGOs listed by the Luxembourg tax administration.</p>
Access to guarantee schemes for banks and non bank institutions providing MC	N/A

JURISDICTION SUMMARY: LUXEMBOURG

Authors: Kleyr Grasso Associés

Data protection rules Ability of non bank MFIs to access such databases	<p>No specific rules with respect to MF exist.</p> <p>In general, the Luxembourg law dated 2 August 2002, as amended, protects individuals against publication of personal information and the law dated 5 April 1993 on the financial sector, as amended, provides the obligation of secrecy for the professionals of the financial sector.</p> <p>Nevertheless some information is publicly available. Indeed, it is possible to obtain copies of the published annual accounts of a company at the register of commerce and companies. Information on mortgages is publicly available, upon request, at the <i>Administration de l'enregistrement et des domaines</i>.</p>
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	N/A
Significant initiatives taken to develop MC	<p>The interest for developing MC in Luxembourg has been first questioned approx. 5 years ago. Currently, there are initiatives to assess what the concrete needs in terms of MC/MF/ "social business" are in Luxembourg and to propose solutions.</p> <p>However, the discussions and proposals with respect to developing micro-credit / social business in Luxembourg are still at an early stage, so that no concrete proposals exist so far.</p>
Main obstacles and barriers to development of MC	<ul style="list-style-type: none">– The absence of any specific legal framework dedicated to MC in Luxembourg;– Specialists will have to question on the form MC should take in Luxembourg or another form of financial assistance then push for getting a legal framework dealing with MC, MCE/SFE and MFI.
Suggested measures to improve existing framework/create a new framework for MC	See "significant initiatives to develop MC".

Jurisdiction Summary: MALTA
Authors: Zammit & Associates, Law Firm, Malta

1. Regulatory framework for Microenterprises

Types of corporate vehicles available for MCE and SFE	<p>Vehicles available and typically used for micro-enterprises include the following:</p> <ul style="list-style-type: none"> – Self-employed business (sole trader set-up); – Private limited liability company (availability of single member companies); – Commercial partnerships (that is, partnerships <i>en nom collectif</i> (general partnerships) or partnerships <i>en commandite</i> (limited partnerships)); – Contractual/ civil partnership / joint venture; or – Co-operative society.
Costs and procedures	<ul style="list-style-type: none"> – A self-employed person would be required to register at no cost with both the Employment and Training Corporation (ETC) and the local tax authorities (including the Inland Revenue Department and, typically, the VAT Department). Furthermore, self employed individuals would be required to make social security contributions. – A private limited liability company would be created by the execution of a memorandum and articles of association whilst a commercial partnership would be created by the execution of a deed of partnership. The said memorandum and articles or partnership deed must be delivered to the Malta Registrar of Companies for registration. – Prescribed fees are payable to the Malta Registrar of Companies upon first registration of a private limited liability company or commercial partnership. Such fees range from a minimum of €245 to a maximum of €2,250 and are chargeable by reference to the extent of the authorised capital of a company or the total contributions made to a commercial partnership. A private limited liability company must have a minimum issued share capital of €1165 of which at least 20% is to be paid-up. No minimum contribution is prescribed in respect of commercial partnerships. – A contractual partnership or joint venture would be created by contract and with no prescribed formality. – A co-operative society would be formed by the execution of a statute and the submission thereof (together with the prescribed application for registration of a co-operative society and a feasibility study) to the Malta Co-operative Board for registration. A registration fee of €58.23 is payable upon registration of the said documents.
Income support programs during transition period	<p>Under Maltese law an unemployed person registered as such with the Employment and Training Corporation receives social assistance. This assistance ceases as soon as the person becomes employed or self-employed.</p>

Jurisdiction Summary: MALTA Authors: Zammit & Associates, Law Firm, Malta	
Business development services (incl. Financial support for business development)	<p>Business development schemes managed by Government or quasi-Government include:</p> <ul style="list-style-type: none"> – The ETC Training Subsidy Scheme intended to support self-employed individuals and employees of micro-enterprises (having 10 or less employees) to develop their skills by participating in further vocational education and training. Any self-employed person or individual who has been in employment with a micro-enterprise for at least three months may access this scheme. This scheme offers recipients a grant of 75% of the costs related to their training, up to a maximum of €1,000. – Malta Enterprise introduced the scheme called <u>microinvest</u>.⁵ <p>In addition, the Government has announced (in the course of the budget speech for 2010) that self employed persons and enterprises that employ a maximum of 10 persons will be allowed a tax credit of 40%, up to a maximum of €25,000, on qualifying investments. The tax credit is increased to 60% of qualifying expenditure in favour of self employed persons and small enterprises investing in Gozo.⁶ It is, however, understood that this scheme has not yet been implemented.</p>
Specific laws & regulations applicable to MCE and SFE	<p>The Business Promotion Act (Chapter 325 of the laws of Malta), the Business Promotion Regulations (S.L. 325.06) and the Assistance for Research and Development and Innovation Regulations (S.L.463.05) apply to provide assistance to, <i>inter alia</i>, micro-enterprises and small and medium enterprises.</p> <p>In addition, various instruments regulate the different aspects of self-employment – such as the Social Security Act (Chapter 318 of the laws of Malta), the Equal Treatment in Occupational Social Security Schemes Regulations (S.L. 318.20) and the Equality for Men and Women Act (Chapter 456 of the laws of Malta).</p> <p>Our laws seldom refers specifically to micro enterprises⁷ but generally provides for SMEs⁸ which, of course, include small, medium and micro enterprises as defined by Commission Recommendation 2003/361/EC.</p> <p>Having said this, the provisions of a Small Business Act are currently being debated in Parliament (Parliamentary Bill numbered 76 of 2011). This Bill currently reflects the Small Business Act for Europe adopted at EU level in June 2008.</p>
2. Regulatory framework for Microcredit and Microfinance Institutions.	
Types of institutions providing MC	<p>It is understood that a subsidiary of a local mid-sized bank (APS Bank Limited) plans to commence such operations imminently.</p>

⁵ Further detail in question 13.

⁶ Further detail in question 13.

⁷ “Small and Medium Enterprises”. For the purpose of this study an enterprise must have less than 10 employees.

⁸ Small and medium enterprises.

Jurisdiction Summary: MALTA Authors: Zammit & Associates, Law Firm, Malta	
Sources of funding for MFIs	It is understood that the said subsidiary shall be financed by its parent bank, at least initially.
Do non-bank MFIs achieve operational / financial autonomy?	The extent of the subsidiary's operational and financial autonomy (from its parent) is unknown.
Interest caps	Maltese law caps the rate of interest at 8% <i>per annum</i> . Any higher interest agreed upon would, accordingly, be reduced to the said rate. Furthermore, if a higher interest than that fixed by law has been paid, the excess shall be deducted from the capital. Domestic rules which restrict the charging of interest and the compounding of interest are, however, excluded in respect of a number of financial transactions in terms of the Interest Rate (Exemption) Regulations, S.L. 16.06.
Tax incentives	Not specific to microfinance institutions
Access to guarantee schemes for banks and non bank institutions providing MC	The Malta Financial Services Authority (MFSA) offers a Depositor Compensation Scheme, which is a rescue fund for depositors of failed banks which are licensed by the MFSA. This Scheme is based on the EU Directive 94/19 on deposit-guarantee schemes.
Data protection rules Ability of non bank MFIs to access such databases	It is understood that there is no such database in Malta.
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	N/A
Significant initiatives taken to develop MC	During the budget speech of 2010 the Government launched a scheme called <u>microinvest</u> . By means of this scheme the Government will give microcredit not exceeding EUR 25,000 to small and medium-sized enterprises ⁹ and the self employed, with the aim of providing them with the necessary liquidity for investment. This credit would not require the same collateral as requested by banks, and shall have advantageous interest rates. Furthermore, it was stated that the European Investment Bank would be ready to provide a further EUR 10 million if the demand justifies this investment.

⁹ Micro enterprises are included for the purpose of this study.

Jurisdiction Summary: MALTA
Authors: Zammit & Associates, Law Firm, Malta

The Government also launched a number of fiscal benefits to motivate those enterprises to invest, expand and increase their efficiency. Amongst these:

- a 40 percent tax credit, up to a maximum of EUR 25,000, to those self-employed persons and enterprises who employ up to a maximum of 10 persons, and sole traders, who shall make an investment in the coming two years, and who shall:
 - arrange their shop or facility;
 - invest in machinery, technology, apparatus or instruments which enhance their operations, including systems which help them save energy or to produce alternative energy;
 - make an investment in order to become compliant with health, safety, environment and physical access regulations; and
 - create new jobs or recruit apprentices after the 10th November 2009.
- increase the tax credit to 60 percent for those who carry out these investments in Gozo; and
- provide an incentive to those who incur expenses to increase workplace accessibility to new employees suffering from a disability.

In July 2009 the European Commission proposed to set up a new microfinance facility providing microcredit to small businesses and to people who have lost their jobs and want to start their own small businesses. It was stated to have an initial budget of €100 million, which could leverage more than €500 million in a joint initiative with international financial institutions, in particular the European Investment Bank (EIB) Group.

JURISDICTION SUMMARY: THE NETHERLANDS	
Authors: Holland Van Gijzen Attorneys at Law And Civil Law Notaries	
1. Regulatory framework for Microenterprises	
Types of corporate vehicles available for MCEs and SFE	<p>Micro-enterprises may either be established by individuals becoming self-employed or forming a joint-venture:</p> <ul style="list-style-type: none"> – Sole proprietorship [<i>eenmanszaak</i>]; – Limited liability company [<i>besloten vennootschap</i>]; – Business partnership [<i>maatschap</i>]; – General partnership [<i>vennootschap onder firma</i>]; – Limited partnership [<i>commanditaire vennootschap</i>].
Costs and procedures	<p>In order to start a limited liability company, several formalities are required.</p> <ol style="list-style-type: none"> 1. The minimum capital required is 18.000 euro; 2. The company needs to be set up by notarial deed; 3. The company needs to be registered in the Trade Register; 4. Finally a certificate is needed of Our Minister of Justice that no objections have been raised. <p><i>Note that these requirements might be abolished when the legislative proposal of the 'Flex BV' will be approved.</i></p> <p>Starting up a sole proprietorship, a business partnership, a general partnership or a limited partnership is easier. The only formality required is a registration in the Trade Register.</p>
Income support programs during transition period	<p>The government supports people who receive an unemployment benefit or people dealing with a handicap, by exempting them from the obligation to seek work during the period they start their own business (with a maximum of 26 weeks). During this period they can still receive an unemployment benefit as a advance payment.</p>
Business development services (incl. Financial support for business development)	<p>Starters applying for microcredit from Qredits, the Dutch nationwide MFI, can get BDS support from a nonprofit organization set up by the government. This organization, named <i>Stichting Microfinanciering en ondernemerschap Nederland</i>, is specialized in coaching microentrepreneur in the Netherlands. The organization offers coaching for people starting up their own business, before starting their company and after starting it. This coaching mostly includes guidance in practical things like starting up the administration and assistance in writing a business plan.</p> <ul style="list-style-type: none"> – Microfinance loans are offered by a nonprofit MFI named Qredits. Qredits provides loans to all entrepreneurs start up and existing who have no access to regular Qredit facilities. Entpreneurs can apply directly themselves or be referred by banks, accountants etc, or the stichting microfinanciering en ondernemerschap Nederland. Qredits has received some start up support trough a public interest-free loan and a relatively small endowment by some participating banks. Further funding has been provided by commercial banks. The maximum loan a small company (with five employees or less) can apply at Qredits is 35.000 euro and this loan needs to be paid back within 10 years.

JURISDICTION SUMMARY: THE NETHERLANDS

Authors : EMN , Inholland Centre for Microfinance and studies by TriodosFacet; and SEON Foundation

2. Regulatory framework for Microcredit and Microfinance Institutions.

Specific laws & regulations applicable to microcredit, microenterprises and self-employment

The Centre of Microfinance of the University of Applied Sciences Inholland conducted a special study on the legal framework that governs the Micro finance market in the Netherlands (2008)¹⁰ . The major findings were presented to the Council for Microfinance:

The present legal framework in the Netherlands does not create any real barriers for organisations that wish to offer micro lending services provided this is not taking place with funds raised publicly.

As soon as a private organisation wants to take savings or deposits it has to adhere to all laws and regulations in this field and needs an operating license either from the Dutch National Bank (DNB) or the Authority of Financial Markets (AFM).

There are no impediments for any person to register as micro entrepreneur or self-employed.

A generally accepted definition for microcredit does not exist in the Netherlands; however some organisations have set the upper limit for micro loans at € 35.000.

Types of institutions providing microloans

See the national database system MICCRODATA (Inholland Centre for Microfinance).

- A private foundation, operating under the name Qredits¹¹, set up by public and private parties (Ministry of Economic Affairs, Agriculture and Innovation, Rabobank, INGBank, ABN Bank) is ten major provider of micro loans nationwide.
- Commercial (general) banks such as ABNAMRO, ING, Rabobank¹²: the most common form of credit is the overdraft facility (but such is not registered directly as microloans):
- Some of the Gemeentelijke Krediet Banken (Municipal Credit Banks) started in 2007 to develop special facilities for micro borrowers (amounts not yet known, but limited in numbers);
- Government sponsored BBZ programme (see above) is the major source of funding for starting entrepreneurs (depending lending on social welfare): lending is arranged and administered by Municipalities
- Few private organisations still exist that are specialised in and dedicated to providing microloans.; they mainly operate locally (Start Smart; HandsOn,) as local project funds (Starters funds) or with a special target group (Kunst en Ondernemen for creatives)

¹⁰ Engelbertink, A. & Kowalec, R. (2009). Wet- en regelgeving Microfinanciering voor aanbieders. Microfinanciering geen business voor banken. Den Haag: Inholland Centre for Microfinance

¹¹ Upper limit € 35.000- average €19.000 (2011)

¹² Rabobank is a cooperative bank that operates de facto as a general bank

	<ul style="list-style-type: none"> Upcoming but not yet visible are small savings/ credit groups set up by migrant groups; no regulation yet for this. The Centre for Microfinance Inholland carries out a nation-wide research¹³.
Sources of funding for non bank microcredit institutions	<ul style="list-style-type: none"> Qredits obtained funding for lending operations from: <ul style="list-style-type: none"> Government (Ministry of Economic Affairs, Agriculture and Innovation and Ministry of Social Affairs and Employment) Europe (EIF) Public parties (Municipality Bank) <p>The participating founding banks (ABNAMRO, ING, Rabo) only provided funds to cover part of the operational costs.</p> Commercial (general) banks from own resources BBZ (Soft loans) mainly with funds from the Ministry of Social Affairs and Employment Local projects <ul style="list-style-type: none"> Subsidies and donations from Europe, local parties Private institution - various donor organisations such as <i>VSB Fonds, Start Foundation, DOEN Foundation</i>
Operational financial autonomy	/ Most organisations adhere to Rhineland philosophy seeking support from various stakeholders to support the programmes
Interest rates	<p>There is an open, competitive market; the general public is rather sceptical about high interest rates.</p> <p>There is no limit on loans for commercial (enterprise related) purpose.</p> <p>Since January 2006 there is a law on financial services for consumer loans. As per 2011 the maximum rate to be charged on top of the discount rate is 12%.</p> <p>There has been a serious debate about the level of the interest rates that could be charged on consumer credit especially by mail order firms. It is felt socially unacceptable to leave this rate free.</p>

¹³Kappers, S. & Lehmann, J. (2010). Informele Spaar-, Leen en Verzekerings Arrangementen in Nederland. Den Haag: Inholland Centre for Microfinance

Tax incentives	<p>There is no specific tax exoneration for microcredit but several for small enterprises: i.e.:</p> <ul style="list-style-type: none"> • exemption from paying VAT if the amount to be paid is limited (less than Euro 1345); • extra tax reduction in the first year of operation of the business; • tax incentive for individuals lending to relatives of friends up to € 40.000 (Tante Agaath facility); <p>There are three tax facilities for individuals investing in risk capital either directly or through certain registered organisations.</p>
Access to guarantee schemes for banks and non bank institutions providing microcredit	<ul style="list-style-type: none"> • There are no special guarantee schemes in support of microfinance (institutions/ lending programmes). • Banks have access to a national Guarantee facility in support of lending to SME: <i>BBMKB</i>, an unfunded scheme, with ex-post evaluations, offering 50% coverage on a supplementary basis, mainly above €25.000. Most beneficiaries are SMEs already in existence for several years and guaranteed loans amounts are often beyond €100.000. Although it has often been argued that the scheme could also be used for micro borrowers its present procedures are not yet adequate to do so. The Council for Microfinance therefore proposed the Government to amend procedure and/or introduce an adjusted guarantee scheme for micro credit. • A pilot programme has been undertaken in five regions under guidance of the Ministry for Social Affairs and Employment whereby the <i>BBMKB</i> facility is opened up to banks who would lend to persons depending on social welfare and wished to start a new business with external funds (loans from those banks) – guarantees for loans up to €31.000 with average of €22.000. Since the launching of <i>Qredits</i> banks have indicated not to participate in such scheme anymore. • Private guarantee funds such as the <i>SEON</i> fund for minorities and women (guarantees up to € 16.000) have ceased to operate. • The deposit guarantee scheme of <i>De Nederlandsche Bank (DNB)</i> to protect private individuals and small businesses having deposits (up to €100.000) with a bank that is under the supervision of DNB.
Database recording borrowers' history Access for non bank microcredit institutions to such databases	<p>The Bureau Krediet Registratie BKR in Tiel is a credit reference bureau accessible to all banks.</p> <p>Only members (banks but also a number of other institutions) have access to the information of <i>BKR</i>; individuals have to request the personal data of <i>BKR</i> through their own bank.</p>

<p>Obligation for non bank microcredit institutions to provide their borrowers' credit history to such databases</p>	<p>No obligation</p>
<p>Significant initiatives taken to develop microcredit</p>	<p><u>National level:</u></p> <p>In 2007 the National Advisory Council on Microfinance in the Netherlands presented its first policy recommendation to the Netherlands Government. This advice was taken over by the Government and is now being implemented.</p> <p>In this advice, the Council presented an approach for the Dutch situation based on relevant experience gained inside as well as outside the Netherlands.</p> <p>Since then two major organisations have been created:</p> <p>A foundation (Qredits) operating as a Non-bank financial institution offering micro loans with an upper limit of €35.000</p> <p>A foundation (Eigen Baas) to organise the supporting BDS systems and the promotion of micro finance in general.</p> <p>The basic approach adheres to the following principles:</p> <ul style="list-style-type: none"> • Micro lending offered in combination with coaching and mentoring • Centralised , uniform lending facility (Qredits) • Nationwide, diversified BDS services • Creating of single window system for clients seeking support (Micro finance Referral points – MFOs) • Nationwide promoting campaigns • Micro finance to be offered as tool to promote entrepreneurship and social participation <p>Parties in The Netherlands are very active in participating in EU sponsored programmes (JASMINE, Progress).</p>

<p>Suggested measures to improve existing framework /create a framework for microcredit and microenterprises</p>	<p><u>For microenterprises/self-employment:</u></p> <ol style="list-style-type: none"> 1) Stimulate the development of cost effect IT based (blended models) Business Development Services 2) Extend the outreach of public programmes; do not only focus on persons receiving social welfare benefits 3) Better inform potential entrepreneurs about the possibilities of microfinance for self-employment and entrepreneurship <p><u>For micro financing:</u></p> <ol style="list-style-type: none"> 1) Increase the scope and outreach of micro-lending: deepening the outreach designing and developing mechanism to assist the hybrid entrepreneurs and those enterprising people who wish to initiate economic activities that (only) supplement present incomes. 2) Incite more banks to be active in the sector 3) Continuously assess the actual demand for micro- finance (including other financial services for self-employed) 4) Stimulate innovative credit delivery mechanisms operating on the internet with extremely low costs and short processing times.
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JURISDICTION SUMMARY: POLAND

Authors: General Electric, Legal Department, Microfinance Market Study in Poland by Microfinance Center

1. Regulatory framework for Microenterprises

Types of corporate vehicles available for MCEs and SFE

Any natural person may run a business in Poland either as a self-employed person or as a company.

Different types of commercial companies are listed in the Code of commercial companies – they are divided into two categories:

- a) partnerships – i.e. registered partnership, professional partnership, limited partnership, limited joint-stock partnership
- b) companies – limited liability company, joint –stock company

Additionally the Civil Code enables to set up a civil partnership – a kind of formalized cooperation between two or more self-employed persons, without legal personality (it is understood as a kind of civil agreement addressed mainly to small business).

Costs and Procedures

Costs and procedures depends on a kind of chosen legal form.

The procedure regards self-employed persons are less formalized, they are obliged to enter into register of entrepreneurs run by respective counties (gminy). The cost of the registration of business activities in the registry is 100 PLN and the cost of registering for VAT purposes is 170 PLN, in total 270 PLN (about 70 Euro). The entrepreneur may start business as from the day of entry into register. It is an obligation of respective county to inform Central Statistical Office, Social Insurance Institution and Tax Revenue Office about the fact.

Commercial companies as listed in the Code of commercial companies shall be registered in the National Court Register. Alongside with the application to the National Court Register, also application for REGON identification number, Tax Identification Number and Social Insurance Institution shall be submitted. The court fee for the registration of limited liability company and joint-stock company is 1 000 PLN (circa 250 euro) and 500 PLN (circa 125 euro) for the publication of Monitor Sadowy i Gospodarczy, whereas for registered partnership, professional partnership, limited partnership, limited joint-stock partnership respectively 1 000 PLN and 500 PLN.

In practice it takes around one month, depending on a court, for a company to be registered in the National Court Register in Poland. The registration of economic activities by 'gmina' cannot take longer than 14 days according to the law on economic activities (1999).

Application for REGON, Tax Identification Number, and application to Social Insurance Institution is free of charge, with exception of the cost of application for tax number for Vat purposes amounts to 170 PLN (circa 42 euro). The total cost of registering a commercial company is about 2700 PLN (about 675 Euro) for a company with a minimum capital.

Since March 2009 there is a new process for registering business activities by individuals, the single window approach which was supposed to cut the red tape and shorten the registration hassle and time. As of now, the system does not seem to be working very well and in fact has lengthened the registration process mostly because people have difficulty in filling in the required documentation which is more complex than before, and very few people are willing or able to use the appropriate legal advisory services.

JURISDICTION SUMMARY: POLAND	
Authors: General Electric, Legal Department, Microfinance Market Study in Poland by Microfinance Center	
Financial support programs during transition period	<ul style="list-style-type: none"> - Polish Agency for Enterprise Development - governmental agency under authority of Ministry of Economy which allocates grants and local (regional) Agencies - Regional Financing Institutions which act as partners of Polish Agency for Enterprise Development - Financial support for new start-ups for the unemployed by the local employment offices - Limited financial support from local micro-credit funds and NGOs as well as local guarantee funds. Generally, availability of such programs is lower due to crisis, some programs were suspended or cancelled or amount of money limited – this may be true in general, for example local labor employment offices will have much less money for self-employment this year (1/3 of the last year), but at the same time a lot of EU funds for entrepreneurship were not utilized by Poland (almost 90%) and returned to Brussels, therefore it is difficult to make a general statement about the availability of financial support (or lack of thereof). It seems that at present entrepreneurs may be challenged by the reduced market opportunities more than the availability of capital.
Business development services	<p>There are several institutions that support SME, including MCE and SFE:</p> <ol style="list-style-type: none"> 1) the National SME Services Network (KSU) - a network of approximately 200 non-commercial organisations cooperating with each other, which provide advisory, information, training and financial services for micro, small and medium-sized entrepreneurs and entities undertaking business activity. This network consists primarily of regional and local development agencies, business support centers, chambers of industry and commerce, and local non-profit foundations and associations, which render various services directly to small business sector. System operates in all provinces throughout the country. It is a network of institutions providing services for entrepreneurs and start-ups. Services are provided to anyone who wants to expand his business. One may benefit from the services offered by a network. Most of them are free, which further encourages the use of a wide range of services: information, advisory and financial services. Information services of the Network are preceded by a diagnosis of customer needs or problems associated with setting up and running a business and rely on the transfer of his knowledge in this field. These are carried out by Consulting Points. In 111 of such points all interested parties can learn how to register a company, what responsibilities does an employer, how to acquire funding, including European funding. In addition, CP has a database of trainings or institutions associating companies in one's industry. Thus, companies may find the offer of training for their employees or to attract new business partners or other practical information from these institutions. Since 2008, the services of CP were provided to over 110,000 people. 2) Polish Agency for Economic Development (governmental organization) aims at supporting entrepreneurship through implementation of actions aimed at using innovative solutions by entrepreneurs, development of human resources, expansion on international markets, regional development. One of projects that are provided by the Academy is an educational portal for small and medium-sized enterprises, which

JURISDICTION SUMMARY: POLAND

Authors: General Electric, Legal Department, Microfinance Market Study in Poland by Microfinance Center

	<p>enables access to free internet trainings. Its objective is to popularise access to e-learning among micro, small and medium-sized enterprises and persons intending to conduct their own business activity</p> <p>3) Consultation Centres maintained by entities registered in the National SME Services Network comprise a nationwide network of 111 Consultation Centres, providing free information services for entrepreneurs and persons planning to start business activity in the scope of widely understood enterprise development and available forms of support for entrepreneurs. Consultation Centres activities are financed within the PARP system project financed from Submeasure 2.2.1 of the Operational Programme Human Capital.</p> <p>4) Regional Financing Institutions (RFIs), which act as the Agency's partners in the process of implementation of policies towards SMEs (like commerce chambers, foundations). The RFIs are for the most part regional development agencies or other institutions that have an established record in the field of SME development. Every RFI runs a Consulting and Advisory Centres.</p> <p>5) Regional Contact Points that provide information and advice about the UE Framework Programms as well as other EU structural programmes and organize trainings and information meetings as well as search partners willing to cooperate internationally and to help people in the first steps - these points are especially aimed at supporting SMEs</p> <p>Another type of services are advisory services. Every entrepreneur wants to lead a modern company that uses the full available solutions. These services implement the National Network of Centres of Innovation (KSI), which, within the Network cooperate with the client in conducting an audit to evaluate the technological potential and technological needs of its business. This allows the trader can get complete information, along with the recommendation, on the possibilities of implementing new technologies in the company. The recommendations does not end there, because KSI Network offers a possibility to find suppliers of specified technologies, full technology transfer service and monitoring and any other expert assistance during the implementation process. With highly specialized services, KSI has so far benefited over 780 customers. The offer also includes Network's financial services, including providing loans and giving guarantees. Thanks to micro, small and medium businesses have the opportunity to find financing for the development of the company. Loan funds from the Network provide measures which could not be obtained from the bank. Only in the first half of 2010, the funds granted 623 loans for an amount exceeding 54 million PLN. Guarantee funds from the Network secure a loan, loans, deposits and even tender, so that entrepreneurs can further secure the repayment of the resulting obligations.</p>
Other measures	No such measures known.

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Tax incentives	<p>There are no special tax incentives for MCE or SFE. However, there are social security incentives for MCE and SFE. However, there are social security incentives for MCE and SFE. According to the Act on social security scheme, there is a possibility for a newly registered entrepreneurs to pay preferential old-age and pension contributions for first 24 months. This preferential rate is almost 60% lower than general rate. However, not every entrepreneur is entitled to benefit from this exemption. Following entrepreneurs are excluded:</p> <ol style="list-style-type: none"> 1) those who run or ran any business within calendar 60 months preceding the date of re-opening business activity 2) those who as entrepreneurs provide services for their previous employers if these services are within a scope of their previous duties as employers within preceding current and previous calendar year
Main barriers for development of MCEs and SFE	Please refer to Section "Main obstacles and barriers to development of MC"
Specific laws & regulations applicable to MC, SFE and MFI	Generally, there are no specific laws and regulations - micro-enterprises, self-employment and microcredit function on general basis. However, there are social security incentives for MCE and SFE.
2. Regulatory framework Microcredit and Microfinance Institutions.	
Types of institutions providing MC	<ul style="list-style-type: none"> - Commercial banks - Cooperative banks - Specialized MC banks - Credit Unions - Foundations - NGOs - Non banking finance institutions - social lending companies - Local guarantee schemes
Sources of funding for MFIs	<ul style="list-style-type: none"> - Government sources, <i>inter alia</i>, regional government - Private funds - International and European sources

JURISDICTION SUMMARY: POLAND	
Authors: General Electric, Legal Department, Microfinance Market Study in Poland by Microfinance Center	
Do non-bank MFIs achieve operational / financial autonomy?	No
Interest caps	In 2006 the so called Anti-usury regulation entered into force. The regulation amended Polish civil code and introduced anti-usury regulations. Currently, the maximum amount of interest resulting from an act in law shall not exceed annually the amount of lombard loan rate of the National Bank of Poland multiplied by four. If the amount of interest resulting from an act in law exceeds the maximum interest, the maximum interest shall be paid. The contractual provisions shall neither exclude nor limit the provisions on maximum interest, even in the case of choosing a foreign law jurisdiction. In such event, provisions of civil code shall apply. Effectively, the interest rate is capped at around 20% which in essence does not harm microfinance operations.
Access to guarantee schemes for banks and non bank institutions providing MC	<p>As of April 2011 in Poland there functioned 51 credit guarantee funds, which had a total capital of nearly 589 million zł, (twice more than two years earlier). From the very beginning guarantee funds granted over 24 000 guarantees worth more than 1.6 billion zł, of which in 2007 alone, 5 393 bail was granted with a value of almost 600 mln zł.</p> <p>Local and regional credit guarantee funds with BGK as shareholder (21) provided by 30.06.2008, 12 606 sureties in the amount of 1 099 mln zł.</p> <p>Part of the credit guarantee system in Poland is the National Credit Guarantee Fund operating in BGK. It operates throughout the country and collaborates with 25 banks. Until 30/06/2008, the Fund has granted 7 512 economic guarantees, amounting to 1 754 mln zł, including working capital loans 5 363 sureties for the amount of 1 098 zł million, while investment loans 2 149 guarantees amounting to 656 million zł.</p> <p>Within the structure of the BGK also operates EU Guarantee Fund (FPU), which primary objective is to increase the possibilities of using EU funds by increasing the availability of credit and the ability to raise funds from bond issues for the implementation of projects financed from EU funds. The Fund also provides a guarantee of good performance bonds, guarantees and counter-guarantee for the project. Until 30.06.2008, 440 FPU gave guarantees for the amount of 278 million zł.</p> <p>No new report exists so far, data is mainly pre-crisis. As it has been pointed out in 5 and 6 above, some programs were suspended or cancelled or amount of money limited.</p>
Data protection rules Ability of non bank MFIs to access such databases	<p>General rules apply on the basis of Data Protection Act</p> <p>Ability to access some databases on grounds of contract with the entity (BIG and others)</p>

JURISDICTION SUMMARY: POLAND

Authors: General Electric, Legal Department, Microfinance Market Study in Poland by Microfinance Center

Obligation for non bank MFIs to provide their borrowers' credit history to such databases	Contractual
Significant initiatives taken to develop MC	<ul style="list-style-type: none"> – All initiatives within the National SME Services Network – Associations of loan funds, guarantee as described above – Expanding the network of National SME Services Network and governmental and regional agencies
Main obstacles and barriers to development of MC	<p>These barriers are common for both groups and are rather stable throughout recent years. Obstacles are as following:</p> <ul style="list-style-type: none"> – high labour costs for employees – lack of transparency of VAT and income tax rules – high level of taxes – protective and strict labour law, restriction in choosing forms of employment – lack of highly qualified employees – significant scope of black economy – cumbersome, money and time consuming administrative procedures. – lack or small amount of financial support possibilities to set up own business. It seems that there is a mismatch between supply and demand not an absolute lack of resources, 2010 was a record year for starting businesses in Poland with the start-up rate the highest since the peak in 2003, and 77,000 new enterprises started by the unemployed with the grant support from labor offices. – delays in payments among contractors together with time-consuming judicial procedures aiming at recovery of those payments
Suggested measures to improve existing framework/create a new framework for MC	<ul style="list-style-type: none"> – Continue to ensure better geographic coverage of MC providers, in particular in those areas where demand is highest – Promote cooperation between banks, non-bank MFIs, government agencies and support institutions to ensure maximum leverage – Stimulate innovation in product development and delivery channels to provide MC to unserved segments – Encourage studies and information sharing about MC to improve know-how – reduce the labour costs for employees – simplify tax rules and procedures – lower taxes – enabling different forms of employment – promote knowledge, educate highly qualified employees – reduce grey area in the market – reduce costs and simplify administrative proceedings – increase the amount of financial support possibilities to start business – simplify and accelerate court proceedings

JURISDICTION SUMMARY: PORTUGAL

Authors: Morais Leitão, Galvão Teles, Soares da Silva & Associados, Lisbon

1. Regulatory framework for Microenterprises

Types of corporate vehicles available for MCEs and SFE	<p>Corporate vehicles available under general Portuguese corporate law are the following:</p> <p>Limited liability companies:</p> <ul style="list-style-type: none">– Limited liability company by quotas (<i>sociedade por quotas</i>). Minimum share capital of Euro 5,000;– Limited liability company by shares (<i>sociedade anónima</i>). Minimum share capital of Euro 50,000. <p>Unlimited liability companies (rarely used, and no minimum capital required):</p> <ul style="list-style-type: none">– General partnership (<i>sociedade em nome colectivo</i>).– Simple commandite/Limited liability partnership (<i>sociedade em comandita simples</i>)– Stock commandite/partnership limited by shares (<i>sociedade em comandita por acções</i>). <p>Sole Proprietorships – someone who individually carries out business without a corporate structure (“<i>Empresário em Nome Individual</i>”).</p>
Costs and procedures	<p>Application for approval of company’s propose name and granting of provisional tax identification number with the National Registry for Corporate Entities (<i>Registo Nacional de Pessoas Colectivas</i>).</p> <p>Incorporation by private written document, subsequently to the deposit of the required share capital in a Portuguese bank; registry of the incorporation before the Commercial Registry Office.</p> <p>Procedures may take up to 30 days. If the name and articles of association are chosen from an available list, a streamlined procedure (“<i>Empresa na Hora</i>”) may apply, and procedures could be complete within 1 day and 2 weeks.</p> <p>Total costs involved in the incorporation of a Portuguese company are about Euro 750 plus 0.4% stamp tax on nominal value of the company’s capital.</p> <p>Sole proprietorships are subject to a simpler regime. There is no need for an application for approval of company’s proposed name unless the sole proprietorship is to have a different designation from its owner’s civil name (with an associated cost of approx. Euro 30). The formalities needed are: declaration of the start of activity, registry of the start of activity before the Commercial Registry Office, information to the Portuguese Institute for the Development and Inspection of Working Conditions and communication of information on the enterprise (as a contributor) and its owner (as a potential beneficiary) to Social Security. The costs which should be considered are only administrative costs related to the register and other costs related to the required acts.</p>

JURISDICTION SUMMARY: PORTUGAL	
Authors: Morais Leitão, Galvão Teles, Soares da Silva & Associados, Lisbon	
Income support during transition period	Among others, (i) a lump sum payment of the total amount of unemployment allowance may be awarded, where the person presents a project to create self-employment, as well as (ii) the suspension of the payment of unemployment allowance during the attendance of paid professional training.
Business development services (incl. Financial support for business development)	<p>Among others, the Institute for Employment and Professional Training (<i>Instituto de Emprego e Formação Profissional</i>), of the public sector, grants support, also financial through other entities, to projects to create self-employment, which are plainly seen as measures to support micro-credit.</p> <p><i>Associação Nacional de Direito ao Crédito</i> (ANDC)¹⁴ is a non-profit association recognized as rendering a service to the public (<i>de utilidade pública</i>) which supports MCE and self-employed persons in accessing microcredit. ANDC supports the submission of microfinance proposals to commercial banks (under private agreements to promote microcredit) and monitors the development of the business. ANDC works with several non-profit charitable institutions, and is funded from private donations and through a grant given by IEF¹⁵.</p> <p>MCE and self-employed persons also can apply to the incentives programs of the National Framework for the use of EU Structural Funds, one of which is specifically dedicated to the development and competitiveness of micro, small, and medium-sized enterprises.</p>
Main barriers for development of MCEs and SFE	Difficulties generally faced by Micro, small, and medium-sized enterprises, as well as sole proprietorships, include, for instance, difficulties in obtaining credit (the conditions under which Banks grant credit are especially thought to apply to the largest corporations and are a real obstacle to the financing of enterprises with minor dimensions), excessive bureaucracy, lack of measures adapted to these enterprises' business, and excessive tax and social duties (the amounts and the moment in which taxes are to be paid, and the lack of tax benefits reduce the funds companies are able to work with).
2. Regulatory framework for Microcredit and Microfinance Institutions.	
Types of institutions providing MC	<p>At present microcredit is only provided by commercial banks, partly within their social responsibility policies. Three banks in particular have a standing agreement (<i>protocolo</i>) with ANDC for the promotion of microcredit: <i>Millennium BCP</i>, <i>Caixa Geral de Depósitos</i> e <i>Banco Espírito Santo</i> (see site ANDC and¹⁶).</p> <p>The specific purpose of Microcredit financial institutions (MCI) is the granting of microcredit, but up to date we have no knowledge of a MCI starting operations.</p>

¹⁴ See ANDC's website at www.microcredito.com.pt (accessed 21 February 2011).

¹⁵ http://www.mtss.gov.pt/preview_documento.asp?r=747&m=PDF (accessed 21 February 2011).

¹⁶ See the banks' websites at <http://www.millenniumbcp.pt/site/conteudos/30/article.jhtml?articleID=333935>, <http://www.bes.pt/sitebes/cms.aspx?plg=B6EB5463-E8EE-498D-988B-08ED185D119C>, and <http://www.cgd.pt/institucional/banco-social/Microcredito/Pages/Microcredito-ANDC.aspx> (accessed on 16 February 2011).

JURISDICTION SUMMARY: PORTUGAL

Authors: Morais Leitão, Galvão Teles, Soares da Silva & Associados, Lisbon

Specific laws & regulations applicable to MCand MFIs	<p>General corporate and trade law rules apply to microcredit.</p> <p>Specifically for MFI, Decree-Law 12/2010, of 19 February 2010 created the legal framework for Microcredit financial corporations (<i>sociedades financeiras de microcrédito</i>) ("MCI"). These are non-bank financial institutions, which are able to grant financing up to Euro 25,000, to small business or professional projects capable of maintaining sustainable jobs (in particular self-employment), proposed by borrowers facing difficulties in obtaining traditional credit to its risk profile. Minimum share capital for MCIs is Euro 1 million, and regulatory rules of banks and other financial institutions apply on a subsidiary basis. Decree-law 12/2010 was recently implemented by Orders (<i>Portarias</i>) 1315/2010, of 28 December 2010, and 59/2011, of 31 January 2011. Probably because the legal framework is very recent, to our knowledge no MCI has yet registered with the National Registry for Corporate Activities.</p>
Sources of funding for MFIs	<p>Portuguese Government, in particular through IEFPP, may assist MCIs.</p> <p>MCIs will also benefit from EU initiatives, such as Joint Action To Support Micro-Finance Institutions In Europe (JASMINE) and European Progress Microfinance Facility.</p>
Do non-bank MFIs achieve operational / financial autonomy ?	<p>Up to date, we have no knowledge of a MCI starting operations.</p>
Interest caps	<p>No. The relevant interest caps applicable to personal credit, pursuant to national legislation implementing Directive 2008/48/EC on consumer credit, are not applicable to microcredit, as contracts entered into by individuals in their professional or commercial capacity are excluded..</p>
Tax incentives	<p>At present MCIs do not benefit from a specific tax regime, and hence there are no particular tax exemptions applicable to such institutions. The same can be said for individuals or enterprises that invest in micro-credit activities or intervene by the way of grants.</p> <p>Individuals and enterprises may benefit from general tax exemptions if they meet the criteria of the Tax Benefits Statute. For instance, donations for certain publicly-recognized non-profit associations (such as ANDC) may be tax-deductible.</p>

JURISDICTION SUMMARY: PORTUGAL

Authors: Morais Leitão, Galvão Teles, Soares da Silva & Associados, Lisbon

Access to guarantee schemes for banks and non bank institutions providing MC	<p>General corporate law instruments such as Mutual Guarantee Companies (“<i>Sociedades de Garantia Mútua</i>”) and Investment Companies (“<i>Sociedades de Investimento</i>”).</p> <p>“<i>Progress</i>” and “<i>Jasmine</i>” (European initiatives).</p> <p>Personal guarantees by means of promissory note (“<i>livrança</i>”) or through guarantors (“<i>fiadores</i>”) are generally required by the banks to MCE and SFE (Banks working with ANDC demand guarantors for a minimum of 20% of the credit).</p>
Data protection rules Ability of non bank MFIs to access such databases	<p>There is a data base managed by the Portuguese Central Bank (<i>Banco de Portugal</i>) (“<i>Central de Responsabilidades de Crédito do Banco de Portugal</i>”). Participant Institutions (all institutions providing credit) must provide information to the database concerning credit granted to individuals and organisations and potential credit liabilities representing irrevocable commitments.</p> <p>The main purpose of the “<i>Central de Responsabilidades de Crédito do Banco de Portugal</i>” is to provide information to support the participants in their assessment of the risks related to the granting of the credit. To this end, participants can access to the aggregate information on the relevant credit liabilities of each client <i>vis-à-vis</i> the financial system. As participants, MCIs can access the database.</p>
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	<p>Non-bank MFIs qualified as “Participant Institutions” under Portuguese Law are obliged to provide do the relevant department of Bank of Portugal (i.e., “<i>Central de Responsabilidades de Crédito do Banco de Portugal</i>”) the borrower’s credit history.</p>
Significant initiatives taken to develop MC	<p>Until recently, the main initiatives in Portugal regarding microcredit were taken by ANDC, working together with commercial banks and charitable institutions.</p> <p>Recently, a new legal framework was put in place to promote the creation of non-bank microcredit financial institutions (MCIs), which it is hoped will improve access to microcredit.</p>
Main obstacles and barriers to development of MC	<p>In the present economic and financial context, the main obstacle to the development of a strong microcredit policy appears to be the scarcity of available State funds, and the continuing reduction of public spending in all areas (including social support).</p>

JURISDICTION SUMMARY: ROMANIA

Authors: DLA Piper Dinu SCA, rereading of Erste Bank Group

1. Regulatory framework for Microenterprises

Types of vehicles available for MCEs and SFE	Microenterprises (enterprises having maximum 9 employees) can be legally constituted in any of the forms permitted by Romanian Companies Law No. 31/1990, such as limited liability companies or joint stock companies. A self-employed individual may also be authorised to perform commercial activities. However, pursuant to GO 40/2000 microcredits may be granted from public funds to legal entities having under 50 employees (i.e. microenterprises and small enterprises), individuals and domestic associations performing economic activities independently, authorized in accordance with the law as well as by any other individual submitting a business plan for developing or starting up a business.
Costs and procedures related to the creation of a micro-enterprise	As a general rule, the establishment of a company in Romania in one of the forms mentioned under Section 3.1 above involves several formalities with the Trade Registry. Following the submission of all the required documents, in general, the Trade Registry shall approve the establishment of the respective company within 5 working days. The incorporation of the company shall be registered with the Trade Registry in the following 24 hours. The cost related to the incorporation generally amounts to EUR 300.
Income support during transition period	<p>Pursuant to Law No. 76/2002 regarding the unemployment fund and the stimulation of employment, an unemployed individual may be granted by the state an unemployment allowance for a period ranging between 6-12 months provided several conditions are complied with. In addition to this, employers hiring unemployed individuals for at least 6 months are offered a discount in relation to the tax due for the state unemployment fund. Students or unemployed individuals starting up or developing a small or medium enterprise or starting to run a business as self-employed, may be granted a credit in relaxed conditions (e.g with an interest amounting to 50% of the legal interest established by the National Bank of Romania ("NBR").</p> <p>As a general rule, an unemployed individual ceases to benefit from the unemployment allowance once he/she starts running a business either as self-employed or by setting up a company.</p>
Business development services (incl. Financial support for business development)	According to the Government Ordinance No. 6/2011 stimulating the setting up and development of microenterprises for young entrepreneurs, the territorial office of the Agency for Project and Programme Implementation for Small and Medium Enterprises shall provide counseling, training and support for young entrepreneurs setting up a microenterprise.

JURISDICTION SUMMARY: ROMANIA	
Authors: DLA Piper Dinu SCA, rereading of Erste Bank Group	
Tax incentives	<p>Romanian legislation provides for a reduced corporate tax rate of 3% in case of ME, as compared to the standard 16% profit tax rate applicable to regular companies. Please note however that such 3% rate is applicable to the turnover of the microenterprise.</p> <p>As regards self-employed individuals, please note that the Romanian tax legislation provides for an incentive for the computation of the income tax. More specifically, self-employed individuals who carry out specific activities (i.e. an exhaustive list is provided by the Romanian tax authorities), are allowed to pay the 16% income tax applied to a threshold value. Such threshold is determined as a median based on the value of the revenues obtained by all self-employed individuals carrying out the same activities within a jurisdiction.</p> <p>In addition, please note that the Romanian VAT legislation allows small enterprises (i.e. both micros and self-employed individuals) not to register for VAT purposes and hence charge and pay VAT, provided that their annual turnover does not exceed EUR 35,000.</p>
Specific laws & regulations applicable to MCEs and SFE	<ul style="list-style-type: none"> - Law No. 346/2004 for stimulation of setting up and development of small and medium enterprises; - Law No. 76/2002 regarding the unemployment fund and the stimulation of employment; - Government Ordinance No. 6/2011 stimulating the set up and development of microenterprises for young entrepreneurs ("GO 6/2011"); <p>Applicable tax legislation:</p> <ul style="list-style-type: none"> - Law No. 571/2003 regarding the Fiscal Code; - Government Decision No. 44/2004 regarding the Methodology Provisions for the application of the Fiscal Code; - Government Emergency Ordinance No. 44/2008 regarding individuals and familial associations carrying out economic activities independently; - Government Emergency Ordinance No. 58/2010 for the amendment of Law 571/2003 regarding the Fiscal Code and other financial - fiscal measures; - Government Emergency Ordinance No. 82/2010 for the amendment of art. (7) para. (1) section 2 subsection 2.1 of Law No. 571/2003 regarding the Fiscal Code, as well as for the amendment of art. III of Government Emergency Ordinance No. 58/2010 for the amendment of Law no. 571/2003 regarding the Fiscal Code and other financial - fiscal measures.
Main obstacles and barriers to development of MCEs and SFE	<ul style="list-style-type: none"> - Greater access to capital - Less regulation to allow for incentives to promote MC, MCE and SFE - Implementation of tax incentives
2. Regulatory framework for Microcredit and Microfinance Institutions.	
Types of institutions providing MC	<ul style="list-style-type: none"> - Credit agencies - GO 40/2000; - Non-banking microfinance institutions: e.g. Opportunity Romania, CAPA Finance, Express Finance, LAM; ROMCOM; the Center for Economic Development - manages microcredit lines from World Bank through Romanian Ministries. - Commercial banks: e.g. Romanian Bank for Development (BRD), Romanian Commercial Bank (BCR); - Specialized banks: EximBank.

JURISDICTION SUMMARY: ROMANIA	
Authors: DLA Piper Dinu SCA, rereading of Erste Bank Group	
Specific laws & regulations applicable to MC and MFI	<ul style="list-style-type: none"> - Government Ordinance No. 40/2000 regarding the approval of credit agencies in view of their managing funds for granting micro-credits, as subsequently amended ("GO 40/2000"); - Law No. 93/2009 regarding non-banking financial institutions ("Law 93/2009"); - Regulation No. 20/2009 regarding non-banking financial institutions; - Regulation No. 4/2004 of the National Bank of Romania on the organisation and functioning of the Banking Risks Office; - Government Decision No. 167/2010 approving the Norms regarding the financing of enterprises by subsidized interest ("Decision 167/2010"); - Decision No. 69/2010 approving the Procedure for implementing the Program for developing the entrepreneurial abilities young people and facilitating their access to financing – START ("Decision 69/2010"); - Decision No. 105/2007 on personal data processing within credit bureau type of entities.
Sources of funding for MFIs	<ul style="list-style-type: none"> - Commercial loans; - Equity investments; - EBRD funds; - Romanian Government; - State Fund for development of international trade, financing and refinancing of development programs, infrastructure, public interest utilities, regional development, support for research and development activities, environmental protection, employment and training, support and development of small and medium enterprises; - Soros Economic Development Fund - CDE Rural microfinance Program and CDE Roma Microcredit Program.
Operational and financial autonomy of MFIs	<p>Notwithstanding the legal requirements for registration of the respective microfinance institution and the rules of corporate governance, a microfinance institution has operational and financial autonomy.</p> <p>Nonetheless, as concerns the granting of microcredits from public funds, credit agencies and nonbanking financial institutions have a limited autonomy since they are only allowed to use the interest collected from the borrowers for the exclusive purpose of recreating the public funds for microcredit.</p> <p>In Romania the National Bank of Romania is the supervisory authority of all non-banking financial institutions. Irrespective of the microfinance institutions' degree of autonomy, the NBR monitors their activity, and is empowered to inspect their headquarters, registers, accounts and credit operations. In addition to this, non-banking microfinance institutions must provide the NBR with their financial statements and any other information the NBR considers necessary. Failure to comply with these obligations may result the NBR to impose a fine or to suspend permanently or temporarily the activity of the non-compliant institution.</p>

JURISDICTION SUMMARY: ROMANIA	
Authors: DLA Piper Dinu SCA, rereading of Erste Bank Group	
Existence of usury rule (interest caps)	<p>As a general rule deriving from freedom in contractual relations, parties may establish in their contract the interest rate applicable to any granted loan. However, pursuant to consumer protection legislation, the entire amount of the interest rate has to be indicated to the borrower in a transparent manner.</p> <p>In relation to microcredit granted from public funds, GO no. 40/2000 sets up a special interest cap. As such, the interest perceived from the borrower cannot exceed the amount of the commission the credit institution perceives from the borrower.</p> <p>Further, pursuant to Decision 167/2010, under certain conditions, EximBank may subsidize the interest for microcredits in the amount ranging between minimum EUR 10,000 and maximum EUR 35,000 contracted for a maximum period of 5 years for investment projects.</p>
Access to guarantee schemes for banks and non bank institutions providing MC	<p>The National Guarantee Fund for Small and Medium Enterprises ("FNGCIMM") may provide a guarantee for credits contracted by small and medium enterprises up to 80% of its value but no more than EUR 80,000 (standard guarantee) or within a certain limit pursuant to the agreement concluded by FNGCIMM with the entity granting the credit (limited guarantee). Among the nonbanking institutions for which the FNGCIMM grants a guarantee are Small Finance IFN SA, Next Capital Factoring IFN, Patria Credit Institutie Financiara Nebancara SA, Access Financial Services IFN SA.</p>
Database recording borrowers history Ability of non bank MFIs to access such databases	<p>There are two main credit databases in Romania. The NBR Banking Risks Office database contains borrowers' (both individuals and legal entities) identification data, debts in the amount higher than 20,000 RON (approximately EUR 4,600) and credit card frauds. Information is stored for 7 years. Additionally, the Credit Bureau database contains information about individuals having contracted credits and having failed to pay their outstanding due rates for more than 30 days. Information is stored for 4 years. Information contained in the database is generally taken into account, among other criteria, by microfinance or credit institutions when granting a loan.</p> <p>The Credit Bureau database may be consulted on a reciprocity basis by financial and credit institutions having entered into an agreement with the Credit Bureau in this respect. NBR's Banking Risk Database may be consulted by the entities entitled to provide information to the NBR (i.e. credit institutions and non-banking institutions whose portfolio is larger than EUR 12 billion which have been registered in NBR's Special Register). Usually, these entities consult the databases prior to granting a credit or when monitoring the activity of their own debtors.</p> <p>Individuals also have the right to consult these databases in order to verify which information about their credit history is included herein.</p> <p>Please note that according to Law No. 677/2001 on data protection, microfinance institutions have to notify the Romanian Data Protection Authority that they are processing personal data, indicating the type of data that is being processed, the category of individuals whose data is being processed as well as the purpose of processing. To the best of our knowledge, consultation of these databases by the participants of the Credit Bureau or by the entities reporting credit information to the NBR Banking Risk Database is free of charge. The Credit Bureau only requires a fee in the amount of RON 6 (approximately EUR 1,5) for the second time an individual consults the database.</p>

JURISDICTION SUMMARY: ROMANIA

Authors: DLA Piper Dinu SCA, rereading of Erste Bank Group

Obligation for non bank MFIs to provide their borrowers' credit history to such databases	<p>The non-banking financial institutions registered in NBR's Special Register (i.e. non-banking institutions whose portfolio is larger than EUR 12 billion) have an obligation to provide the NBR Banking Risk Office with all the necessary information about borrowers' credit history.</p> <p>Transmitting information to the NBR Banking Risks Office is not deemed as breach of the microfinance institutions' obligation of confidentiality and non-disclosure of banking secrets.</p> <p>Although we have not identified a legal obligation to transmit information about borrowers' history of all institutions able to grant microcredits, please note that in practice, the majority of credit institutions and non-banking financial institutions provide this type of information for databases such as the NBR Banking Risk Office Database and the Credit Bureau database.</p> <p>However please note that pursuant to consumer protection legislation all credit contracts must contain a clause informing the borrower about the notification at the Credit Bureau or at the NBR Banking Risk Office. No notification can be made unless a 15 days notice has been given to the borrower.</p>
Significant initiatives taken to develop MC	<p>Due to the new legal framework provided by Law 93/2009 which lowered the barriers for registration and licensing, over fifty new microfinance institutions registered over the past two years. In addition to this, on 9 February 2011 the GO 6/2011 stimulating the setting up and development of microenterprises for young entrepreneurs has entered into force. GO 6/2011 facilitates the obtaining of the FNGCIMM guarantee for microcredits contracted by young entrepreneurs of maximum 35 years of age setting up for the first time a limited liability company.</p> <p>Moreover, microenterprises created on the basis of GO 6/2001 are exempt from registration costs with the Trade Registry.</p>
Suggested measure to improve existing framework / create a new framework for MC.	See above

JURISDICTION SUMMARY: SLOVAKIA	
Authors: Balcar Polansky Eversheds, rereading of Erste Bank Group	
1. Regulatory framework for Microenterprises	
Types of vehicles available for MCEs and SFE	<ul style="list-style-type: none"> - a limited liability company; - an undertaking on the basis of a trade licence granted by a state authority, whereby the establishment of a legal entity is not required; - an undertaking on the basis of a special license, such as physicians, attorneys, dentists etc, also known as "freelance occupation".
Costs and procedures related to the creation of a MCE	<p>If a limited liability company is established, the procedure requires dealing with formalities needed for: founding such company, obtaining the respective trade licences, registering the company with the Commercial Register of the respective District Court, registering the company with the tax office, and should the company employ employees, registering these with the relevant social security and health institutions. The procedure is subject to administrative and court fees amounting to approximately EUR 500, dependent on factors such as how many and what type of trade licences will be operated.</p> <p>Should no legal entity be founded and the entrepreneur will do business on the basis of one or more trade licences, the procedure is significantly simpler, comprising receiving a trade licence from the state authority and registration at the tax office. The cost of such procedure is only an administrative fee for issuing the trade licence, which varies from EUR 5 per free trade licence to EUR 15 per qualified trade licence.</p> <p>Freelance occupation does not require acquiring a trade licence since the entitlement for undertaking is the licence granted by a respective body authorised by the state, such as occupational chambers (the chamber of attorneys, physicians, auditors, architects, etc). The chamber itself states the fees which the person is obliged to pay.</p>
Income support during transition period	Unemployment benefits are available to unemployed individuals seeking work provided they prove that they are actively seeking work.
Business development services (incl. Financial support for business development)	<p>The Office of Labour, Social Affairs and Family of the Slovak Republic provides training and education programmes for unemployed persons who wish to start a business.</p> <p>The Office may grant a so called contribution for independent gainful activity ("<i>príspevok na samostatnú zárobkovú činnosť</i>") to an entrepreneur, who fulfils statutory conditions for such contribution. The contribution may be granted repeatedly. The contribution is regulated by Act no. 5/2004 Coll., on Employment Services.</p> <p>The main requirements for obtaining such a contribution are:</p> <ul style="list-style-type: none"> - the petitioner must be registered as unemployed for at least 3 months; - the petitioner must complete a preparation programme for the commencement of carrying out an independent gainful activity; the programme is provided by the Labour Office; - the petitioner must provide the Office with a business plan including presumed expenses connected with the starting of the business; the Labour Office may provide some assistance with creating the business plan. <p>In case the petitioner is successful, the Office will conclude an agreement with him/her, in which the petitioner undertakes to run the business for at least 2 years in compliance with the business plan.</p>

JURISDICTION SUMMARY: SLOVAKIA

Authors: Balcar Polansky Eversheds, rereading of Erste Bank Group

The purpose of the contribution is to cover the costs relating to the independent gainful activity. The amount of the contribution depends on the price of work, region and the unemployment rate recorded in the respective region (the numbers vary from approximately EUR 1,000 to EUR 4,000).

The **National Agency for Development of Small and Medium Enterprises** ("NADSME"), through provides assistance to small and medium entrepreneurs to overcome problems encountered when doing business by means of information and counseling services and training with the focus on eg: management, marketing, financial management, taxes, accounting, public procurement, protection of know how, e-commerce, law, undertaking in the EU and other areas. It provides non-recurring financial contributions in the form of education for small and medium entrepreneurs within the state program "Scheme of consulting and education for SMEs".

Also, the the Ministry of Economy of the Slovak Republic grants thorough the National Agency for Development of Small and Medium Enterprises micro-credits in the amount of a minimum EUR 2,500 up to EUR 50,000. Receivers of such support are natural and legal persons, residing in Slovakia and fulfilling the definition of micro and small businesses as defined in the Commission Regulation (EC) no. 800/2008 of 8 August 2008 declaring certain categories of aid compatible with the common market. The interest rate of the micro-credit is at the level of a reference rate pursuant to the Communication from the Commission on the revision of the method for setting the reference and discount rates (2008/C 14/02). Please note that provision of these loans has been temporarily suspended until further notice.

Funding can also be provided through:

-Regional financing institutions cooperating with NADSME.

-NGOs (eg VEKA).

Social Implementation Agency – support of creation of new employment positions.

Slovak Entrepreneur Union (Slovenský živnostenský zväz) – provides education for managers in building crafts.

Other legal persons (eg National Association for Development of Business, Fund Integra, Association of Slovak Entrepreneurs, various sector organizations).

JURISDICTION SUMMARY: SLOVAKIA

Authors: Balcar Polansky Eversheds, rereading of Erste Bank Group

Specific laws & regulations applicable to MCEs and SFE	<p>There are no specific rules and general laws apply. Rights and obligations related to these institutes may be found eg in the following acts:</p> <p>Act no. 513/1991 Coll., the Commercial Code Act no. 530/2003 Coll., on the Commercial Register Act no. 455/1991 Coll., the Trade Licence Act Act no. 431/2002 Coll., the Accounting Act Act no. 5/2004 Coll., on Employment Services Act no. 250/2007 Coll., on Consumer Protection Act no. 595/2003 Coll., on Income Tax Act no. 222/2004 Coll., on Value Added Tax Act no. 461/2003 Coll., on Social Insurance Act no. 580/2004 Coll., on Health Insurance Act no. 395/2002 Coll., on Archives and Registries Act no. 314/2001 Coll., on Fire Protection Act no. 561/2007 Coll., on Investment Aid</p>
Main obstacles and barriers to development of MCE and SFE	<ul style="list-style-type: none"> - Insufficient legal certainty, uncertain enforcement of law - Instability and ambiguity of laws - Tax/payment/fee burden - Significant administrative barriers regarding application for financial support, bureaucracy
2. Regulatory framework Microcredit and Microfinance Institutions.	
Types of institutions providing MC	<ul style="list-style-type: none"> - Governmental: Ministry of Economy through the National Agency for Development of Small and Medium Enterprises; - Banks: Slovak Guarantee and Development Bank founded by the Ministry of Finance, commercial banks; - Civic Associations: eg VOKA (Rural Organization for Community Activities) – microcredit program aimed at assistance to small rural entrepreneurs, micro-regions and villages; - Other legal entities such as the Regional Counseling and Information Centre – a public – private institution of a non-profit nature; regional organizations cooperating with NADSME.
Sources of funding for MFIs	State budget, funds provided by eg USAID, supporting banks, Open Society Foundation, TRUST Program.
Operational and financial autonomy of MFIs	These institutions enjoy a relatively large range of autonomy. Although institutions such as the Slovak Guarantee and Development Bank or NADSME are established by the government, they operate independently pursuant to stated criteria of allocating finance, and review the criteria met in the applications.
Existence of usury rule (interest caps)	No

JURISDICTION SUMMARY: SLOVAKIA

Authors: Balcar Polansky Eversheds, rereading of Erste Bank Group

<p>Tax incentives, i.e. tax exemption for MFIs or reductions in taxes for individuals or enterprises that invest in their activities or intervene by way of grants</p>	<p>Yes, although limited: Provided that the entrepreneur is subject to investment aid in the form of tax relief pursuant to a special act in connection with the creation of new employment positions, income tax relief is granted.</p>
<p>Access to guarantee schemes for banks and non bank institutions providing MC</p>	<p>SMEs have the possibility to obtain a bank guarantee provided by the Slovak Guarantee and Development Bank (“SGDB”). SGDB, as well as providing microcredit, also provides bank guarantees to entrepreneurs who obtain a credit at another bank. Of course, the SGDB requires security (eg a pledge on real estate).</p>
<p>Database recording borrowers history Ability of non bank MFIs to access such databases</p>	<p>The Slovak Banking Credit Bureau owned by 3 Slovak commercial banks maintains credit histories of natural persons who have or had a credit at a bank or own a credit card. Only banks have access to this database, including the particular clients themselves, provided they want to check the entries in the database.</p> <p>As to credits of legal persons, their credit history is maintained by the Slovak National Bank in the Register of Bank Credits and Guarantees.</p>
<p>Obligation for non bank MFIs to provide their borrowers' credit history to such databases</p>	<p>Nonbank institutions also have a database of borrowers maintained by the Non Banking Credit Bureau. It maintains a database of natural persons, natural persons who are entrepreneurs and legal persons who had or have credit or leasing via any of the associated non bank institutions. Non banking institutions are not obliged to contribute to databases lead either by the SBCB or NBCB. Only the associated non bank institutions and respective persons themselves have access to the information.</p>

JURISDICTION SUMMARY: SLOVAKIA

Authors: Balcar Polansky Eversheds, rereading of Erste Bank Group

Significant initiatives taken to develop MC	<ul style="list-style-type: none">- NADSME- Ministry of Economy- Ministry of Labour, Social Affairs and Family- Slovak Guarantee and Development Bank- VEKA
Main obstacles and barriers to development of MC	<ul style="list-style-type: none">- Insufficient legal certainty, uncertain enforcement of law- Instability and ambiguity of laws- Tax/payment/fee burden- Non-transparency regarding distribution of funds
Other measures than the recommendations of the European Commission (Nov. 2007) to improve legal framework for MC and MCE	<ul style="list-style-type: none">- Stabilisation of laws, enhancement of enforcement of law- Ensuring transparent and fair procedures before all relevant authorities- Implementation of tax/payment/fee incentives as well as other means of motivation that might be attractive for relevant persons- Creating more chances for persons interested to obtain guarantees for loans- Improvement of the process of informing on possibilities for both the entities providing loans as well as the micro-entrepreneurs

JURISDICTION SUMMARY: SLOVENIA	
Authors: Wolf Theiss	
1. Regulatory framework for Microenterprises	
Types of vehicles available for MCEs and SFE	<p>The Companies Act (<i>Zakon o gospodarskih družbah</i>, Official Gazette of the Republic of Slovenia No 42/2006 as amended) provides for different forms of entrepreneurship appropriate for MCE and SFE. These forms are:</p> <ul style="list-style-type: none"> - <u>for MCE</u>: (aa) general partnership (d.n.o.), which has to be established by at least 2 persons, who are liable for the obligations with their entire assets; (bb) limited partnership (k.d.) where at least one partner's liability is limited by its share; and/or (cc) limited liability company (d.o.o.) with a minimum share capital of EUR 7,500, whereby the limited liability company (d.o.o.), and not its shareholders, is liable for its obligations; and - <u>for SFE</u>: independent entrepreneur (<i>samostojni podjetnik - s.p.</i>), who is liable for the obligations with his/her entire assets.
Costs and procedures related to the creation of a MCE	<p>The registration procedure into the Court/Business Register of an independent entrepreneur is free of charge.</p> <p>The registration procedure into the Court/Business Register in case of a general partnership (d.n.o.), limited partnership (k.d.) or limited liability company (d.o.o.) including preparation of the required documentation by a Notary Public amount to approximately EUR 250, and, in the case of a d.o.o., also the initial capital in the amount of minimum EUR 7,500.</p> <p>In case of an independent entrepreneur the registration procedure can be conducted entirely through the official administrative web page http://e-uprava.gov.si. The limited liability company (d.o.o.) and the partnerships (d.n.o. / k.d.) must be established through a Notary Public.</p>
Business development services (incl. financial support for business development)	<p>The Public Agency of the Republic of Slovenia for Entrepreneurship and Foreign Investments (<i>Javna agencija Republike Slovenije za podjetništvo in tuje investicije</i>; http://www.japti.si/) engages in the following activities:</p> <ul style="list-style-type: none"> - for the promotion of entrepreneurship and the creation of a favourable climate for the development and growth of entrepreneurship, - aimed at influencing legislation to remove unnecessary administrative obstacles that stand in the way of setting up businesses and their development, and - the field of education for an entrepreneurial society competitiveness, and training. <ul style="list-style-type: none"> - The various activities carried out by the Agency include improving the visibility of all-round support services for companies and prospective entrepreneurs and the co-ordination of activities and surveying the implementation of tasks carried out by the prominent members of the business community at the local and the regional levels in accordance with the Act regulating the Supportive Environment for Entrepreneurship. - The Agency participates also in programmes of the European Union and other international linkages in the field of fostering entrepreneurship and competitiveness conceived as tools for facilitating the transfer of knowledge and good practice. <p>Slovenian Employment Agency (<i>Zavod RS za zaposlovanje</i>) offers trainings to the unemployed persons, planning to self-employ itself as either s.p. (independent entrepreneur) or as a director, who is employed, of a newly founded limited liability company (d.o.o.) or unlimited company (d.n.o.) and aiming to obtain the subsidy of the Agency for the start-up of business (see below for more details).</p>

JURISDICTION SUMMARY: SLOVENIA	
Authors: Wolf Theiss	
	<p>The Slovenian Enterprise Fund (<i>Slovenski podjetniški sklad</i>) provides for subsidies for founding and start-up of the companies.</p> <p>Once an enterprise has existed for some time, the Slovenian Enterprise Fund provides for subsidies for interest rates, costs of guarantees, subsidies for development projects of micro-, small- and middle-sized enterprises, and also direct and indirect loans to micro-, small- and middle-sized enterprises.</p>
Tax incentives	Different incentives are available occasionally and such incentives have to be verified at the time the enterprise is being established.
Specific laws & regulations applicable to MCE and SFE	<ul style="list-style-type: none"> - Supportive Environment for Entrepreneurship Act (<i>Zakon o podpornem okolju za podjetništvo</i>) (Official Gazette of the Republic of Slovenia No 102/2007 as amended) - Companies Act (<i>Zakon o gospodarskih družbah</i>) (Official Gazette of the Republic of Slovenia No 42/2006 as amended) - Labour Market Regulation Act (<i>Zakon o urejanju trga dela</i>) (Official Gazette of the Republic of Slovenia No 80/2010)
Main obstacles and barriers to development of MCE and SFE	<p>Since the unemployment rate has increased in the past couple of years during the recession, there were, especially, many applicants for the subsidies for independent entrepreneurs (<i>s.p.</i>) at the Employment Agency. Many applications were approved. The question, however, remains how many of such approved independent entrepreneurs will remain self-employed on the long run and how many have applied just in order to obtain the funds and will become again unemployed after 12 months (the minimum for which the <i>s.p.</i> has to exist in order for the subsidy to remain non-refundable). This data is not yet available.</p>
2. Regulatory framework for Microcredit and Microfinance Institutions.	
Types of institutions providing MC	<ul style="list-style-type: none"> - Slovenian Enterprise Fund (<i>Slovenski podjetniški sklad</i>; /www.podjetniskisklad.si), a public financial institution of the Republic of Slovenia, founded with the purpose of improving access to financial means for different development business projects of micro-, small- and middle-sized enterprises including financial means for start-up of enterprises and micro-financing in Slovenia; - Slovenian Employment Agency (<i>Zavod RS za zaposlovanje</i>), which offers as one of the programmes for the self-employment as either <i>s.p.</i> (independent entrepreneur) or as a director, who is employed, of a newly founded limited liability company (<i>d.o.o.</i>) or unlimited company (<i>d.n.o.</i>) one-time non-refundable subsidy in the amount of EUR 4,500 for the start-up of business; - Commercial banks (e.g. NLB d.d.).

JURISDICTION SUMMARY: SLOVENIA	
Authors: Wolf Theiss	
Sources of funding for MFIs	<ul style="list-style-type: none"> - Republic of Slovenia provides funds for the Slovenian Enterprise Fund (<i>Slovenski podjetniški sklad</i>). In 2011, the funds for the four intended tenders amount to EUR 189.95 million; there are also some funds transferred from 2010; thus, the total amount in 2011 amounts to 220 mio EUR. - Republic of Slovenia provides funds for the Slovenian Employment Agency (<i>Zavod RS za zaposlovanje</i>)'s project of subsidies for either newly founded s.p. (independent entrepreneur) or persons employed as a director of a newly founded limited liability company (d.o.o.) or unlimited company (d.n.o.) in the amount of EUR 4,500 a one-time non-refundable subsidy for the start-up of business. - Commercial banks (e.g. NLB d.d.) obtain their funds from their business. However, in case of NLB d.d. the bank is partially state-owned, which is probably one of the reasons to offer commercial micro-credits.
Operational and financial autonomy of MFIs	<p>Business plan of the Slovenian Enterprise Fund (<i>Slovenski podjetniški sklad</i>) is adopted by its Supervisory Board with the consent of the founder, i.e. Republic of Slovenia (the Government). The funds are awarded based on the fulfilment of criteria, determined in the specific tenders. The tender procedure is set out in the Supportive Environment for Entrepreneurship Act.</p> <p>The Slovenian Employment Agency (<i>Zavod RS za zaposlovanje</i>) has the authority to decide which projects will be supported with the one-time subsidy. The amount of annual funds intended for these subsidies are determined by the Republic of Slovenia.</p>
Existence of usury rule (interest caps)	<p>There is no interest cap for the interest rates in case of contracts between companies. However, it could be claimed that the contractual interest rates are not in proportion to the loan that has been facilitated and that, thus, such provision is against the principle of fairness and good faith.</p> <p>With regard to interest rates, the Slovenian Enterprise Fund provides subsidies for interest rests, meaning that the interest rates are therefore lower.</p>
Tax incentives, i.e. tax exemption for MFIs or reductions in taxes for individuals or enterprises that invest in their activities or intervene by way of grants	<p>Different incentives are available occasionally and such incentives have to be verified when the micro financial instruments are sought.</p>
Access to guarantee schemes for banks and non bank institutions providing MC	<p>The Slovenian Enterprise Fund (<i>Slovenski podjetniški sklad</i>) provides, among others, guarantees to micro-, small- and middle-sized companies, and subsidies of interest rates and of costs of guarantees.</p> <p>The Slovenian Enterprise Fund publishes tenders, to which the enterprises can apply in order to obtain the guarantee. The guarantee for the loans is issued to the participating banks. The guarantees are guarantees for new enterprises, micro-guarantees, development guarantees and guarantees for technological projects.</p> <p>The Slovenian Enterprise Fund also issues re-guarantees for regional guarantee schemes.</p>

JURISDICTION SUMMARY: SLOVENIA

Authors: Wolf Theiss

Database recording borrowers history Ability of non bank MFIs to access such databases	According to the Banking Act, all banks have the obligation to organize and manage system of information flow with regard to credit rating, however only for natural persons. This measure has been taken in order to prevent excessive credit borrowing by individuals. However, no such system exists for the enterprises. N/A; in case of natural persons the non-bank financial institutions may access to the above-mentioned system of rating.
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	N/A
Significant initiatives taken to develop MC	See above.
Other measures than the recommendations of the European Commission (Nov. 2007) to improve legal framework for MC and MCE	N/A

JURISDICTION SUMMARY: SPAIN

Authors: Latham & Watkins Madrid and Barcelona with input from CP'AC

1. Regulatory framework for Microenterprises

Types of corporate vehicles available for MCEs and SFE

- The most common corporate form is the Limited Liability Company (*Sociedad de Responsabilidad Limitada*).

- In 2003, an alternative corporate form, the New Entrepreneurship Limited Liability Company (*Sociedad Limitada Nueva Empresa*), was created as a simplified version of the Limited Liability Company. The New Entrepreneurship Limited Liability Company is aimed at small and medium-sized enterprises, so entrepreneurs can adopt a simpler corporate form and legal regime to carry out their entrepreneurial activities separately from (i.e. without recourse to) their personal assets.

The main features of the New Entrepreneurship Limited Liability Company when compared to a Limited Liability Company are the following: (i) its corporate purpose has to refer to agricultural, livestock farming, forest, fishing, industrial, construction, commercial, tourism, transportation, communication, intermediation and/or professional services in general; (ii) the share capital amount ranges from €3,012 to €120,202; (iii) there is a maximum of five (5) shareholders who can incorporate the company; (iv) only shareholders may participate in the management body; and (v) the management body cannot be a board of directors (*consejo de administración*).

- Previously, the form of Labor Company (*Sociedad Laboral*) was created in 1997 in order to promote participation of employees in company management and to encourage employment. Generally speaking, Labor Companies are limited liability companies whose share capital is controlled by its employees. In practice, Labor Companies have proved as a successful form for small starting-up family businesses.

A Labor Company must meet the following general requirements: (i) the employees of the company shall own a percentage of the share capital exceeding 50%; (ii) the employees who are not shareholders shall not work a number of hours per annum exceeding: (a) 15% of the hours annually worked by the employees-shareholders, if there are 25 shareholders or more, or (b) 25% of the hours annually worked by the employees-shareholders, if there are less than 25 shareholders; (iii) no shareholder may individually own a shareholding in the company exceeding 33% of the share capital; and (iv) public administration shall issue a certificate stating that the company is qualified as a Labor Company in order for the company to be registered in the Labor Companies' Registry.

JURISDICTION SUMMARY: SPAIN

Authors: Latham & Watkins Madrid and Barcelona with input from CP'AC

	<ul style="list-style-type: none"> - Other alternative is the Cooperative Association (<i>Sociedad Cooperativa</i>). A Cooperative Association is a company whose main goal is to satisfy the economic and social needs of its partners. <p>There may be four types of partners in a Cooperative Association: (i) common partners (<i>socio común</i>), who may be individuals, legal entities, communities of assets or other cooperative associations; (ii) working partners (<i>socio de trabajo</i>), working for the Cooperative Association; (iii) collaborating partners (<i>socio colaborador</i>), who contribute to the association but are not fully involved in its activities; and (iv) temporary partners (<i>socio de duración determinada</i>), who are part of the association for a limited period of time. All the partners have limited liability, except otherwise provided in the association's by-laws.</p> <p>The main characteristics of Cooperative Associations are the following: (i) anyone who is able to use the association's services and accept the responsibilities of being a partner may join the association as a partner; (ii) the partners are actively involved in the management of the Cooperative Association and in the decision-making processes; (iii) the partners equitably contribute to the share capital of the association; and (iv) Cooperative Associations provide education and training to the partners or to other entities who may contribute to the Cooperative Association's development.</p> <ul style="list-style-type: none"> - Finally, individuals may also carry out their entrepreneurial activities as a self-employee without any corporate vehicle. Please note that such option entails that the self-employee shall personally bear all the potential liabilities arising for his activities.
Costs and procedures	<ul style="list-style-type: none"> - Central Commercial Registry (<i>Registro Mercantil Central</i>): obtaining corporate name (€ 16 approx.). - Notary Public: granting the public deed of incorporation, which contains by-laws and evidence of deposit of share capital in a financial entity. Notarial fees amount to €300 approx. where minimum share capital is subscribed for (€3,000 for a Limited Liability Company). Please note this estimate may be higher depending on the Notary Public, share capital amount subscribed, number of shareholders, number of pages of the by-laws, etc. - Capital Duty (<i>Impuesto sobre Operaciones Societarias</i>) no longer levied on the contribution of capital into a Spanish company. - Commercial Registry: registration of company, publication of the incorporation in the Official Gazette of the Commercial Registry (<i>BORME</i>) and legalization of the mandatory corporate books (€ 180 approx.). - Other expenses related to municipal installation and operating licenses, trademarks and commercial names registration, legal services, data protection, etc. may be considered. <p>Certain by-laws templates have been approved by the Spanish authorities as a measure to accelerate the incorporation process. Other measures have also been recently approved to reduce administrative burdens (e.g. free electronic communications amongst the Commercial Registries and the Official Gazette of the Commercial Registry, publishing the minutes of shareholders meetings on the company's website, etc.).</p>

JURISDICTION SUMMARY: SPAIN	
Authors: Latham & Watkins Madrid and Barcelona with input from CP'AC	
	<p>In addition to the standard procedure described above, the entrepreneur may incorporate a Limited Liability Company, a New Entrepreneurship Limited Liability Company or even his individual business activity electronically. The entrepreneur has to attend a Point of Advice and Initial Handling (<i>Puntos de Asesoramiento e Inicio de Tramitación</i>) ("PAIT"). The PAIT starts the electronic incorporation process for the entity through the Single Electronic Document (<i>Documento Único Electrónico</i>) ("DUE") and indicates further steps as applicable (e.g. arranging an appointment with a Notary Public; filling the necessary documents and forms in order to obtain corporate name; delivery of DUE to Commercial Registries).</p> <p>Finally, the Spanish Government has recently approved a package of measures to improve the economy. Such measures include an exceptional new process for the incorporation of Limited Liability Companies. Such process applies only for the electronic incorporation of a Limited Liability Company using the by-laws templates approved by the Spanish authorities whose share capital does not exceed € 3,100. In this circumstance, (i) the Notary Public shall grant the deed of incorporation on the same day when he receives the relevant documentation; (ii) the Commercial Register shall register the company within seven business hours as from the delivery of the deed of incorporation. The fees to be paid to the Notary Public and the Commercial Register shall be limited to € 60 and €40, respectively.</p>
Financial support programs during transition period	<p>No.</p> <p>However, Spanish labour authorities allow total or partial capitalization of unemployment subsidies as a job creation subsidy to which an individual is entitled in a sole installment provided that certain requirements are fulfilled. One of such requirements is that the sole capitalized payment is used to the registration of the unemployed individual as a self-employee or as a contribution to a Labor Company or Cooperative Association (i.e. this option is excluded for contributions to Limited Liability Companies or New Entrepreneurship Limited Liability Companies).</p>
Business development services	<p>In addition to the support for the electronic administrative process of incorporation of entities, PAITs also play an additional role informing and advising entrepreneurs in the definition and processing of their entrepreneurial initiatives and assisting them during their first years of activity.</p> <p>Various public and private training programs for unemployed people: Public Institute of Employment (<i>Instituto Público de Empleo</i>) promotes different courses for unemployed people which allow them to acquire and/or develop specific skills that may help them to set up a business as entrepreneurs.</p>

JURISDICTION SUMMARY: SPAIN

Authors: Latham & Watkins Madrid and Barcelona with input from CP'AC

Other measures	<p>Spanish legal framework to set up MCEs has been structured in two different systems:</p> <ul style="list-style-type: none"> - a system which is composed by two different entities: (a) an entity which is in charge of selecting projects and following up on them (e.g. Chamber of Commerce); and (b) an entity which is responsible for the loan and any financial issues arising from it; and - a system in which one entity is in charge of both the selection of the project (usually through a feasibility committee) and the financing (usually through a financing committee) (COOP 57 and CP'AC). <p>We have also identified differences in the internal allocation of microfinance departments in savings banks: in addition to the incorporation of specialized microfinance banks, other savings banks grant MC through their financing branch and others as a component of their social work branch.</p>
Tax incentives for MCEs and investors in MCEs	<ul style="list-style-type: none"> - If the MCE is incorporated as a New Entrepreneurship Limited Liability Company, it may postpone (a) actual payment of Personal Income Tax ("PIT") withholdings accrued during its first year of existence (late interest will accrue on such amounts, though); (b) actual payment of Corporate Income Tax ("CIT") related to the MCE's first two tax years of existence (although late interest will accrue on such amounts). In addition, a New Entrepreneurship Limited Liability Company will not be required to make CIT prepayments prior to filing its annual tax return (which should be filed within the 25 days following 6 months after the closing date of such entity's tax year). - The MCE may also benefit from certain incentives available to small and medium-size enterprises ("SMEs") under a special regime provided by the Spanish CIT rules, to the extent the MCE has an annual net turnover lower than € 8 million in the year preceding the applicability of the special tax regime (or in the first year of activities, if it is a newly-incorporated entity).¹⁸ SMEs benefit from the following advantages: (i) a reduced 25% CIT rate on their first € 120,202.41 of taxable base¹⁹; (ii) a more advantageous regime in connection with tax amortization of assets (in some cases, conditioned upon hiring of new employees). - Spanish-resident individuals willing to set up a New Entrepreneurship Limited Liability Company in the future may benefit, to the extent they save amounts in a separate and individualized bank account, from a PIT credit equivalent to 15% of the amounts deposited in such account (limited, however, to 15% of € 9,000), provided certain requirements are met (e.g. these amounts must be used to incorporate such an entity within a 4-year period, and the entity must make certain investments).
Main barriers for development of MCEs and SFE	<ul style="list-style-type: none"> - Absence of specific regulations and a legal framework to set up and operate MCE - Absence of favorable treatment for companies financed by MC - Lack of evaluation processes regarding feasibility of MCE projects - Measures to develop MCE and SFE may be focused on narrow targets

¹⁸ Special rules may apply if the MCE belongs to a Group of companies. Lower CIT rates are available (only until 2011) for entities that have an annual net turnover lower than Euro 5 million and less than 25 employees.

¹⁹ The remainder of the SME's taxable base will be subject to CIT at the ordinary CIT rate (30%).

JURISDICTION SUMMARY: SPAIN	
Authors: Latham & Watkins Madrid and Barcelona with input from CP'AC	
Specific laws & regulations applicable to MCEs and SFE	No specific rules; general corporate rules apply.
2. Regulatory framework for Microcredit and Microfinance Institutions.	
Types of institutions providing MC	<ul style="list-style-type: none"> - Specialized MC banks - Saving banks (CAI, Caixa de Catalunya, BBK, Caja Granada) - Foundations (Fundación BBVA para las Microfinanzas) - Associations (Federación Española de Entidades de Empresas de Inserción) a - Public entities (Instituto de Crédito Oficial (the "ICO")) <p>Please note that certain institutions (e.g. ICO, Fundación BBVA para las Microfinanzas) only provide MC in South American countries, not in Spain. In Spain there are few social entities disbursing microcredit and providing technical assistance.</p>
Specific laws & regulations applicable to MC and MFI	No specific rules; general corporate rules apply. Fundación Nantik Lum and some social entities are developing different work groups in order to propose a regulation for MFI in Spain.
Sources of funding for MFIs	<ul style="list-style-type: none"> - Commercial loans - Equity investments - Soft loans - Subsidies and donations from: national persons; private institutions; and public entities - European aid.
Do non-bank MFIs achieve operational / financial autonomy ?	<p>Depending on particular structure of non-bank MCIs, it is possible for them to achieve financial and operational autonomy.</p> <p>Some non-bank MCIs can be considered financially autonomous, since they obtain financing through contributions of their own partners or through their investments and their MC projects. From an operational perspective non-bank MCIs are mostly autonomous; however it is necessary to point out an increasing trend towards collaboration with banking institutions</p>
Interest caps	<p>Spanish law sets out that any loan with a disproportionate interest rate notably exceeding the legal interest rate shall be void. The interpretation depends on the courts' and tribunals' criteria, as a fixed interest cap is not explicitly specified.</p> <p>Please not that such rule does not apply to default interest, which is not affected by any legal or judicial cap.</p>

JURISDICTION SUMMARY: SPAIN

Authors: Latham & Watkins Madrid and Barcelona with input from CP'AC

Tax incentives for MFIs and donors

No specific incentives for microcredit activity; certain incentives for non-profit entities may apply.

- Provided that MCI is a non-profit entity, it might be subject to tax either under (a) a special tax regime applicable under Law 49/2002, which applies to certain non-profit entities that meet certain specific substantial requirement (e.g. a general interest purpose, as defined by the law) and formal requirements (e.g. registration before the Spanish foundations registry); or (b) a special CIT regime applicable to the so-called “partially exempt entities”.
- If MCI is a non-profit entity that qualifies for the special tax regime applicable under Law 49/2002, certain items of income obtained by MCI could be tax-exempt (e.g. income derived from gifts and donations, income derived from certain listed activities). The literal wording of the law does not specify if a microcredit entity would qualify for the regime set forth under Law 49/2002 (although it can be argued that its activity is of general interest and is in line with the activities described as such under the law), and there are no precedents in which the Spanish Tax Authorities or Courts have expressly acknowledged that a microcredit entity should qualify for this regime. In addition, it should be noted that even if a microcredit entity could qualify for this special regime, it is not beyond doubt that interest accruing on a MC could benefit from the CIT exemption or whether it should be subject to CIT at a 10% rate. While it can be argued that interest income related to a MC is aimed at fostering a social purposes covered in the law, there are no precedents in which the Spanish Tax Authorities or Courts have ruled in this respect. Therefore, both aspects (qualification for purposes of Law 49/2002 and applicability of tax exemption in connection with interest income) should be carefully analyzed by any microcredit entity willing to apply for the benefits of the mentioned law. In addition, other tax advantages are available for entities that qualify for the regime under Law 49/2002, such as an exemption from certain local taxes, transfer tax and stamp duty.
- On the other hand, if MCI is a non-profit entity that does not qualify for the special tax regime provided by Law 49/2002, it would be subject to the “partially exempt entities” regime, which grants CIT exemption in connection with certain limited income items. Income derived from an economic activity (such as the granting of a MC) should be subject to CIT, though, at a 25% rate.
- Spanish tax law provides for advantages in respect of gifts or donations made to an MCI that benefits from the special tax regime applicable under Law 49/2002. Individuals may be entitled to a tax credit amounting to 25% of the amount of the gift or donation, whereas corporations may be entitled to a CIT tax credit amounting to 35% of the gift or donation²⁰. Such CIT is limited to 10% of the CIT taxable base of the donor for the year in which the donation took place. Any CIT tax credit not fully used may be carried forward for a 10-year period. Donors may also benefit from exemption in respect of capital gains taxes derived from in-kind gifts or donations.

²⁰

Donations and gifts made to other foundations and public interest associations that do not benefit from the regime of Law 49/2002 may be entitled to a 10% tax credit for PIT purposes.

JURISDICTION SUMMARY: SPAIN	
Authors: Latham & Watkins Madrid and Barcelona with input from CP'AC	
Access to guarantee schemes for banks and non bank institutions providing MC	<p>There are no guarantee schemes in Spain; risks arising out of MC are generally assumed by the institution providing MC. Only the European Investment Fund (EIF) provides to selected intermediaries capped guarantees partially covering their portfolios of micro-loans or guarantees on micro-loans granted to micro-enterprises.</p> <p>Certain MCIs have set up together with entities providing guarantees (<i>sociedades de garantía recíproca</i>) a procedure by means of which the latter provides guarantees on behalf of borrowers receiving MC.</p>
Data protection rules	<p>The Risks Information Center (<i>Central de Información de Riesgos</i>) of Bank of Spain (<i>Banco de España</i>) ("CIRBE") collects the credit history of natural and legal entities to provide financial institutions with credit risk analysis.</p> <p>All financial institutions must report to the CIRBE direct risks with residents in Spain regarding amounts exceeding € 6,000 in relation to their aggregate business in Spain or € 60,000 abroad.</p> <p>Access to financial data is only allowed when a third party needs such information in order to be able to assess the financial soundness of an individual, whether each third party is already in a relationship with an individual, or it is about to enter into such a relationship.</p> <p>In addition, various private databases record this type of information including, <i>inter alia</i>, Defaults Register administered by Interbank Cooperation Center; EQUIFAX database (ASNEF) administered by National Association of Financial Entities.</p>
Ability of non bank MFIs to access such databases	<p>Bank of Spain has orally confirmed that non bank MFIs do not have access to CIRBE.</p> <p>Private databases may be accessed by non bank MFIs.</p>
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	<p>Bank of Spain has orally confirmed that non bank MFIs are not considered financial institutions and therefore they do not have to provide their borrowers' credit history to CIRBE.</p>
Significant initiatives taken to develop MC	<p>Creation of an entity which is responsible for loan and financial issues arising from it.</p> <p>Spanish Government and certain financial institutions are focused on MC initiatives to support the development of certain depressed areas of South America.</p>

JURISDICTION SUMMARY: SPAIN

Authors: Latham & Watkins Madrid and Barcelona with input from CP'AC

Main obstacles and barriers to development of MC	<ul style="list-style-type: none">- Obsolete legal framework and absence of consolidated regulation.- Barrier for funding of certain non-bank institutions.- Some of these institutions, created and sponsored by private individuals or initiatives, have a very limited purpose or are intended to provide MC to specific social groups.- Lack of coordination between public and private initiatives.- Decentralization of competences to regional authorities (<i>comunidades autónomas</i>) produces a lack of global strategy at the state level.- There is a subsidy culture instead of a microfinance culture.
Suggested measures to improve existing framework/create a new framework for MC	<ul style="list-style-type: none">- Improvement of evaluation systems of feasibility of projects and consequently of their selection by MCI.- Public support for establishment of post-graduate courses on MC in public universities in order to increase both number of experts in the field and social awareness.- Enactment of consolidated legal and regulatory framework.- Use of new technologies for higher diffusion of MC.- Diversify products and offer micro-insurance, micro-leasing, etc.

JURISDICTION SUMMARY: SWEDEN Authors: Orrick Hölters & Elsing Berlin	
1. Regulatory framework for Microenterprises	
Types of vehicles available for MCEs and SFE	Self-employed (Enskild näringsidkare) Business Partnership (Handelsbolag) Corporation (Aktiebolag)
Costs and procedures related to the creation of a MCE	<p>Each of the above mentioned corporate vehicles has to file a tax application with the Swedish Tax Agency. Furthermore there are also sector specific regulations applicable to new start-ups, including licensing and registration with different officials, such as the County Board (Länsstyrelsen) as well as other State and/or Municipality agencies. Below is the registration procedure with the Swedish Companies Registration Office described for each of the corporate vehicles.</p> <p>Self-employed (Enskild näringsidkare) Registration with the Swedish Companies Registration Office is mandatory when two of the following three conditions have been met for two years in a row:</p> <ul style="list-style-type: none"> - more than 50 employees - a balance sheet total of more than 25 million SEK - a total turnover of more than 50 million SEK <p>In other cases registration with the Swedish Companies Registration Office is optional. Costs: 900 SEK (electronic registration)/1200 SEK (paper registration).</p> <p>Handelsbolag (Business Partnership) Registration with the Swedish Companies Registration Office is mandatory. No documents other than the registration form needed. Costs: 900 SEK (electronic registration)/1200 SEK (paper registration).</p> <p>Corporation (Aktiebolag) Registration with the Swedish Companies Registration Office is mandatory. The following documents have to be provided with the registration: Memorandum of association (original or certified copy), the adopted articles of association (one original), Bank certificate (bankintyg) either from a Swedish bank or a bank within the European Economic Area (EEA), (translated into Swedish) and a Share subscription list (original or certified copy). Costs: 1900 SEK (electronic registration)/2200 SEK (paper registration).</p>
Income support during transition period	The Swedish Public Employment Service (Arbetsförmedlingen) offers subsidies (Aktivitetsstöd) to those employees who are already, or are in risk of becoming, unemployed. The decision of granting the subsidy is taken by the Swedish Public Employment Service and the money is distributed by the Swedish Social Insurance Agency (Försäkringskassan).
Business development services (incl. Financial support for business development)	<p>ALMI Företagspartner AB is a state-owned corporation, which has 17 regional subsidiaries. The subsidiaries are owned 51 % by ALMI, the other 49 % are owned by the Counties and local authorities where the subsidiary is active. ALMI offers:</p> <ul style="list-style-type: none"> - Micro-credit (Mikrolån) to start-ups of up to 250.000 SEK and up to 100% of the financing needed. <p>Business loan (Företagslån), a loan granted to new, small and middle sized companies. The loan is granted for all kinds of company purposes, there is no maximum amount.</p>

JURISDICTION SUMMARY: SWEDEN Authors: Orrick Hölters &elsing Berlin	
	<p>ALMI Företagspartner AB and Nyföretagarcentrum (center for new business) offers certain free advisory services for new start-ups.</p> <p>There are multiple regional Nyföretagarcentrums which also offer a wide range of advisory services. The Nyföretagarcentrums are run by an independent foundation and the activities of the foundation and the local centers are financed jointly by business and state agencies.</p> <p>A number of private networks offer also help and advice to new start-ups, including for example the Chamber of Commerce.</p>
Specific laws & regulations applicable to MCEs and SFE	<p>General corporate and trade law rules apply to MCE and SFE such as the Swedish Companies Act (Aktiebolagslagen), the Swedish Partnership and Non-registered Partnership Act (Lag om handelsbolag och enkla bolag) and the Swedish Commercial Code (Handelsbalken). Furthermore the general tax laws are also applicable, such as Value Added Tax Act (Mervärdesskattelagen) and Income Tax Act (Inkomstskattelagen).</p>
2. Regulatory framework for Microcredit and Microfinance Institutions.	
Types of institutions providing MC	<p>ALMI Företagspartner is, as mentioned above, a state-owned corporation. ALMI is supposed to be a supplement to the market and should not compete with private investors/banks. In order to assure that ALMI does not compete with private investors, ALMI is obliged to charge higher interest on its loan and in addition to grant loans which private banks would not grant due to the high risk of loss. The loan fund is owned and managed by the parent company ALMI Företagspartner AB, but the loans are granted by the local subsidiaries. ALMI:s loan fund is covered by a guarantee issued by the European investment fund, within the framework of the European Union's program for small and mid sized companies.</p> <p>Mikrofinansinstitutet is a pilot project which started on January 1, 2008. The project is so far active in four counties (Södermanland, Östergötland, Västra Götaland and Stockholm). The institute functions as an facilitator between the start-ups and the banks. Mikrofinansinstitutet provides a training program coaching the entrepreneurs, developing their ideas, drafting business plans and counseling their innovation. After having successfully passed the program, Mikrofinansinstitutet will recommend these entrepreneurs to their partner banks. Mikrofinansinstitutet has also helped its partner banks to develop microfinance products. For the time being there are three banks acting as partners to Mikrofinansinstitutet, namely; Sörmlands Sparbank, JAK Medlemsbank and Ekobanken. The interest and other terms of the loans are determined by the partner banks. The Mikrofinansinstitutet is financed by public funds from the Swedish state, the four Counties and the European Union.</p> <p>Commercial banks do also grant small loans to start-ups but they request collaterals, which start-ups usually do not have.</p>
Specific laws & regulations applicable to MC and MFI	<p>For MFIs Mandatory Registration for certain financial Activity Act (lagen om anmälningsplikt avseende viss finansiell verksamhet) as well as the Bank and Financing Operations Act (Lag om bank- och finansieringsrörelse) are required. General corporate and trade law rules apply the MFI sector, such as the Swedish Companies Act (Aktiebolagslagen), the Swedish Partnership and Non-registered Partnership Act (Lag om handelsbolag och enkla bolag) and the Swedish Commercial Code (Handelsbalken). Furthermore the general tax laws are also applicable, such as Value Added Tax Act (Mervärdesskattelagen) and Income Tax Act (Inkomstskattelagen).</p>

JURISDICTION SUMMARY: SWEDEN	
Authors: Orrick Hölters & Elsing Berlin	
Sources of funding for MFIs	The Swedish state, European Sources (European Investment Fund, European Regional Development fund) and private sources, mainly commercial banks. The funds provided by the state are mainly funded by the Ministry of Enterprise, Energy and Communications and by the local authorities.
Operational and financial autonomy of MFIs	<p>ALMI Företagspartner AB is a corporation owned by the state, which makes the level of operational autonomy more difficult to assess. The Owner Instruction from the Ministry of Enterprise, Energy and Communications contains provisions regarding interest rates (must exceed those of the private market, in order to avoid competition with the private market) and instructions regarding to whom the loans are to be given (immigrants and women have priority). There is however a degree of operational autonomy, no exact interest rates are set by the state and no specific quotas for the percentage of immigrants and women are determined. In conclusion, the operational autonomy is limited in some aspects, especially regarding larger strategic decisions, but a certain amount of operational autonomy is also given through the lack of very detailed and specific instructions.</p> <p>Currently ALMI receives yearly fundings from the Ministry of Enterprise, Energy and Communication, as ALMI is incurring losses. According to the Owner Instructions from the ministry of Enterprise, Energy and Communication, ALMI has to conduct its loan operations in such a manner that the nominal capital is maintained intact and depending on the success of the funded entrepreneurs it is in principle possible that ALMI will become financially independent.</p>
Existence of usury rule (interest caps)	In Sweden there are no specific rules defining an interest cap on loans. Usury, in this case interest usury, is prohibited in the Swedish Criminal Code chapter 9 § 5 section 2.
Tax incentives, i.e. tax exemption for MFIs or reductions in taxes for individuals or enterprises that invest in their activities or intervene by way of grants	<p>In Sweden there are no reductions in taxes available for individuals or companies which donate money to charitable organizations or invest in start-ups. However, a Swedish Government Official Report has been presented proposing to implement tax incentives for donations to charitable organizations (SOU 2009:59). In addition, a Swedish Government Official Report has been presented recommending to implement tax incentives for individuals to further their investment in small businesses (SOU 2009:33).</p> <p>There are also no tax reductions for individuals or companies that invest in their activities.</p> <p>MFIs are not exempted from tax.</p>
Access to guarantee schemes for banks and non bank institutions providing MC	No guarantee programs exist.

JURISDICTION SUMMARY: SWEDEN	
Authors: Orrick Hölters &elsing Berlin	
Database recording borrowers history Ability of non bank MFIs to access such databases	<p>There are several private debt information services, which have records of credit history of individuals and legal entities. The largest has a record of every individual in Sweden above the age of 15. The information is gathered from different state agencies, primarily from the following: Swedish Personal Addressregister (Statens personadressregister), the Swedish Tax Agency (Skatteverket) and the Swedish Enforcement Authority (Kronofogdemyndigheten).</p> <p>According to the Credit Information Act (Kreditupplysningslag) credit information referring to individuals can be given to entities fulfilling the requirements of legitimate interest as set down in the Act. A legitimate interest is at hand, when the party requesting the credit information is about to conclude a credit agreement or if he/she has another reason to conduct an economic risk assessment of the person in question. The consent of the person, whose credit information is requested is not needed. For credit information referring to a legal entity there is no requirement of a legitimate interest of obtaining the credit information. Therefore, also non-bank MFIs have access to such data bases.</p>
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	No such obligation exists.
Significant initiatives taken to develop MC	The main initiatives taken towards developing MC in Sweden is the founding of the Mikrofinansinstitutet, mentioned above, as well as the continued activities of ALMI.
Main obstacles and barriers to development of MC	The main obstacle is the low number of MC available to small start-ups in Sweden.
Other measures than the recommendations of the European Commission (Nov. 2007) to improve legal framework for MC and MCE	No

JURISDICTION SUMMARY: UNITED KINGDOM

Authors : Latham & Watkins London, with assistance of the Community Development Finance Association

1. Regulatory Framework for Microenterprises

Types of corporate vehicles available for MCEs and SFE	<p>MCE (defined as an enterprise with less than 9 employees) or SFE business can be established through a variety of different vehicles:</p> <ul style="list-style-type: none"> - sole trader - partnership - limited liability partnership - limited liability company or - company limited by guarantee <p>For smallest businesses, it is more usual to operate as a sole trader or in partnership with a business partner.</p>
Costs and Procedures	<p>Most simple ways to establish a small business through SFE is to set up as a sole trader. There are no registration fees but a sole trader must be registered with HM Revenue & Customs as self-employed. Similarly, if a business is operated by two or more partners, each partner must register as being self employed</p> <p>Private companies and limited liability partnerships are required to be registered at Companies House which also requires payment of certain fees (currently £20 for incorporation and £30 annual fee)</p> <p>There are certain regulatory exemptions available to small to medium enterprises (which have an annual profit of less than £250,000) such as less onerous obligations for lodging company accounts</p> <p>UK does not have a one-stop-shop. However, UK government has established the Enterprise Directorate, a UK government agency, whose aim is to help small businesses in a variety of ways, including providing: front office and registration assistance; local advisory centres (Business Link offices); and advice through a website.</p>
Income support during transition period	<p>Governmental income support programmes to support transition from unemployed to setting up a business:</p> <ul style="list-style-type: none"> - unemployment benefits are available to individuals seeking work on condition that individual can show they are seeking work - unemployment benefits (Job Seeker Allowance) can continue to be provided during a transition period as a SFE business is set up, tapered according to level of income that is being derived from SFE. Where allowance is tapered, a test-trading period of six months is put in place to allow for a period of transition until business is self-sufficient
Business development services (incl. Financial support for Business development)	<ul style="list-style-type: none"> - The Enterprise Directorate including Business Link - Advice is provided by: non-governmental bodies, Enterprise Agencies, and more specific business support agencies such as the Leonard Cheshire Foundation for disabled people and PROWESS, for women. - Advice as well as financing for businesses is provided through Community Development Finance Institutions which are 'not for profit' third sector organisations.

JURISDICTION SUMMARY: UNITED KINGDOM

Authors : Latham & Watkins London, with assistance of the Community Development Finance Association

Other measures	<p>Social entities can establish themselves through a Community Interest Company ("CIC") which has been set up specifically for socially established enterprises. A CIC can be established as any one of a private company limited by shares, a private company limited by guarantee or a public limited company. To set up a CIC, a "community interest test" and "asset lock" test are applied, which ensure that CIC is set up for a community purpose and assets and profits are dedicated to these purposes</p> <p>A trade association has been set up in UK to support Community Development Finance Institutions: Community Development Finance Association whose mission is to support development of finance sector that provides finance for disadvantaged and underserved communities and contributes to increasing prosperity of such communities</p>
Main barriers for development of MCEs and SFE	<p>Individuals going into business have to opt between being a sole trader (which has unlimited liability) or setting up a company (as shareholder they may be subject to double taxation, as company will be liable to pay tax on profits on top of personal tax liability that individual liable will incur on any distribution from company)</p>
2. Regulatory framework for Microcredit and Microfinance Institutions.	
Types of institutions providing MC	<ul style="list-style-type: none"> - Commercial banks - Community Development Finance Institutions: Community Development Finance Institutions, in the most part, with the exception of two larger deposit takers, are not banks, they are encouraged to lend in markets less serviced by normal banks. Community Development Finance Institutions are independent organizations whose primary purpose is to provide finance, and related support, to enterprises and individuals in disadvantaged communities. They operate in a more complex policy environment, with a plurality of activities, products and missions that go beyond just microfinance. Community Development Finance Institutions are generally formed as either Industrial and Provident Society or a company limited by guarantee. If registered as an Industrial and Provident Society under Industrial & Provident Societies Act 1965, an alternative corporate form is created which benefits from certain exemptions under Financial Services and Markets Act 2000 including being able to raise capital through issue of redeemable shares (known as withdrawable share capital). Redeemable share capital is known as risk capital, so Community Development Finance Institutions are not regarded as credit institutions or as carrying out business of banking. Examples of Community Development Finance Institutions are: Street UK, Aston Reinvestment Trust (ART), Bristol Enterprise Development Fund (BEDF) and Fredericks Foundation. - Credit Unions, which are limited in interest rates that they can charge, with loans being capped at 2% a month (or 26.8% per annum). In practice this is not a restriction, with credit union loans typically being offered at interest rates well below that cap

JURISDICTION SUMMARY: UNITED KINGDOM

Authors : Latham & Watkins London, with assistance of the Community Development Finance Association

Specific laws & regulations applicable to MC, MFIs	<p>No specific legislation that only relates to MC. However, there are various acts and regulations which apply to microfinance:</p> <ul style="list-style-type: none"> - laws relating to Community Development Finance Institutions - Government Supported Lending (Enterprise Finance Guarantee (“EFG”)) operates through government with banks and accredited lenders, with the UK Government’s Department for Business, Innovations and Skills (“BIS”) providing 75% of security for a particular loan while the lender takes 25% of risk. This is subject, however to an overall EFG portfolio claim cap of 13% from the government. It enables banks and accredited Community Development Finance Institutions to lend more freely to those who are a lender credit risk or are less able to provide collateral
Sources of funding for MFIs	<p>Commercial loans: corporate social responsibility programs that lead to corporate investors investing in micro-finance, via Community Development Finance Institutions. Through the Community Investment Tax Relief scheme (“CITR”) (see below), such investors may receive a 5% annual tax relief over 5 years for investing in accredited Community Development Finance Institutions. Unity Trust bank in the UK has a CDFI specific CITR linked loan scheme, which has been utilised by several CDFIs since its inception.</p> <p>Equity investments: for example, by buying shares in one of Community Development Finance Institutions that are registered as Industrial and Provident Societies. Investments are structured through issue of redeemable shares and may also qualify for CITR scheme (please see below)</p> <p>Soft loans: often provided on a fairly <i>ad hoc</i> basis</p> <p>Subsidies and donations from:</p> <ul style="list-style-type: none"> - Government agencies, Regional Development Agencies, and Housing Associations - Private institutions - Funds can also be raised through bonds. For example, on a regular basis Shared Interest (finance provider for fair trade producers) raises funds to on-lend to Oikocredit through a five year bond issuance. <p>International aid: JEREMIE (<i>Joint European Resources for Micro to Medium Enterprises</i>) and JESSICA (<i>Joint European Support for Sustainable Investment in City Areas</i>) programmes. European Regional Development Funding (ERDF) is often channelled through UK, Regional Development Agencies as a source of both operational and capital funding for CDFIs.</p> <p>National level: Between 2000 and 2008 the government nationally funded the MCIs through the Phoenix Fund. The fund was designed to stimulate enterprise in deprived communities through the creation and support of Community Development Finance Institutions. At the time of writing this jurisdiction summary, no similar national funding was in place.</p> <p>The Department of Work and Pension Financial Inclusion Growth Fund provided funding for Community Development Finance Institutions and Credit Unions to address personal financial exclusion funded through small loans. The scheme ran from 2006 and is due to expire in March 2011.</p>

JURISDICTION SUMMARY: UNITED KINGDOM

Authors : Latham & Watkins London, with assistance of the Community Development Finance Association

Do non-bank MCI achieve operational / financial autonomy ?	<p>Even though most Community Development Finance Institutions are partially dependant on subsidies from public and private sources, Community Development Finance Institutions have operational independence allowing them to allocate those funds as they determine, subject to investments they make falling within specified limits and criteria under relevant legislation</p> <p>Moreover, certain deposit taking Community Development Finance Institutions, such as Charity Bank and Triodos Bank have achieved operational self sustainability, so do not rely on public or private subsidies. Other Community Development Finance Institutions, with assistance from the Community Development Finance Association have benchmarks which they are attempting to meet to establish operational self sustainability within certain time frames.</p>
Interest caps	Only in relation to credit unions (please see above)
Tax incentives	Community Investment Tax Relief is a scheme which provides tax relief for investors investing in Community Development Finance Institutions. This tax incentive is available to individuals and companies. It comes in form of a tax relief, which reduces investor's income tax (or corporation tax) liability. Investors can (over a period of time) get tax relief of up to 25% (5% per year over 5 years) of amount they have invested in a CDFI on their income or corporation tax liabilities.
Access to guarantee schemes for banks and non bank institutions providing MC	The Enterprise Finance Guarantee operates through the UK Government, banks and accredited lenders, with BIS providing 75% of security for a particular loan while the lender takes 25% of risk. This is subject, however, to an overall EFG portfolio claim cap of 13% from the UK Government.
Data protection rules	Financial databases, Experian and Equifax provide credit information, borrower history and defaults for lenders to assess credit rating of borrowers
Ability of non bank MFIs to access such databases	Community Development Finance Institutions can access these databases through purchasing a membership
Obligation for non bank MFIs to provide their borrowers' credit history to such databases	No
Significant initiatives taken to develop MC	<ul style="list-style-type: none"> - Creation of Community Interest Companies - Community Investment Tax Relief - Small Firms Loan Guarantee Scheme / Enterprise Finance Guarantee - Encouragement of Basic Bank Accounts - Small Business Service / Enterprise Directorate - Phoenix Fund - Department of Work and Pensions Financial Inclusion Growth Fund

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Main obstacles and barriers to development of MC	<ul style="list-style-type: none">- Commercial banks have generally found it unprofitable to finance small amounts involved in micro-lending- lack of available funds for operational costs for both start up and existing MC ventures. Especially following the end of the Phoenix Fund.
Suggested measures to improve existing framework/create a new framework for MC	<ul style="list-style-type: none">- support with appropriate finance to enable Community Development Finance Institutions to grow their operations and portfolio. European Union can support future development of sector via appropriate funding schemes which provide capital for both on-lending to micro-enterprises and to cover operational costs of running CDFI- assistance to develop Community Development Finance Institutions' capital strategies, which would guide their long-term sourcing of appropriate private and social investment to grow their organisation at a sustainable level

4. Conclusion

Diversity of situations in Member Countries

The survey shows the extreme diversity of situations in Member Countries, which is explained by the historical roots of microfinance, public and private modes of intervention, the models chosen and measures taken in recent years.

Informal microcredit has existed in Europe for centuries. The first official institutions concerned with credit to the poor were the Monte di Pieta in Italy in the 15th century. They were followed in the 19th century by savings and credit cooperatives aimed at combating usury that oppressed the peasantry, initiated by Raiffeisen in Germany. The former helped to develop pawn broking, accessible to low-income clients; the latter were the forerunners of mutualist banks, having all the functions of banks, as well as of credit unions oriented primarily towards savings and small personal credit.

Formal and informal microcredit, for persons without steady income or collateral, largely disappeared with the development of bank finance, based on the application of statistical methods, and the establishment of financial regulation.

While Community Finance developed in the United Kingdom, microcredit, coming from the Third World, implanted itself in Western Europe, to respond to the needs of an industrial economy evolving towards an economy of services. Several years later it was extended to Eastern Europe, not yet part of the European Union, to facilitate the transition from a centralised economy towards a market economy. These initiatives, taken by governments, international aid or private citizens, are all part of the social economy, also called the Third Sector.

Microcredit, inspired by the experience of the Grameen Bank and introduced in France in 1988 by Adie, is only in its early stages of development in many European countries. At this point, its development requires further adaptation of the institutional and regulatory framework of an economy based on large enterprises, wage-paid labour and the welfare state, to an economy consisting increasingly of small production units, including self employment.

Evolution of the legal and regulatory framework since 2007

Since the end of 2007, when the European Initiative for Development of Microcredit in favour of Growth and Employment was published, the evolution of the regulatory framework has accelerated, even while following very different paths in Member Countries.

The survey shows highly differentiated situations and evolutions:

- countries such as Sweden and Finland where microcredit was already practised by public financial institutions;
- countries such as Poland where the regulatory framework was already quite open to this type of activity;

- countries such as the Czech Republic where the idea is little known and the regulatory framework has not evolved;
- countries such as Hungary, Latvia or Denmark where microcredit is part of credit to SMEs, which does not facilitate its recognition as a specific sector;
- countries such as Germany which recognize the importance of microcredit but, not wanting to undermine the monopoly of the banks, establish a heavily subsidized system based on partnership between banks and microcredit associations;
- countries such as France, Italy, Portugal and Romania which have adopted new laws regarding microfinance.

The growing recognition of microcredit's economic and social role is linked to the crisis and the increase in unemployment, but also undoubtedly to the publication of the European Initiative for Development of Microcredit, marking its recognition by the European Commission.

Irresistible development of microcredit

If one accepts that microenterprises, which already represent 92% of the total number of European enterprises, are called upon to develop further, with the rise of services, the expansion of new technologies and the inevitable reform of social policy towards more active forms of intervention, microcredit has every possibility of becoming an important financial instrument of the new economy.

In this perspective and that of the Single Market Act and Social Business Initiative, it is essential to help the EU Member Countries construct a legal framework supporting the initiative of all their citizens, including those who today are excluded from economic activity, or fall into the trap of informal labour.

Over the past 20 years, European public opinion, strongly attached to the economic model of the Industrial Revolution, has evolved markedly. Today it seems ready to recognize – which seemed unthinkable previously - the unexploited pool of economic initiative and the need to renovate the entrepreneurial fabric at the base of the pyramid.

Legal framework influences economic organisation

The survey summarized above shows the extent of the legal evolution required to support the simultaneous development of microenterprises and microcredit. For self-employment and microenterprises this evolution involves recognizing fundamental differences in regard to responsibility, risk, a level of income not related directly to work performed, and social protection, as well as the type of training and advice required. Similarly, as regards microcredit, long considered impossible by the banks in view of the lack of collateral from the borrowers, the problem is to open the field of intervention to nonbank microfinance institutions by allowing them sufficient freedom to get underway and develop methods adapted to their clientele, respecting the three

rules of microcredit, which are: protection of the client, social objective, and financial sustainability. In Western Europe this latter can only be attained in the long run.

The primary concern from a regulatory viewpoint is to build in the EU an inclusive financial sector, which requires recognition of the right of entrepreneurship, access for all economic actors to financial services, and removal of numerous regulatory barriers to development of an infant industry. At this stage of its development, which remains largely experimental, control and supervision of microcredit must be relatively loose and proportional to the risk.

5. Acronym list

- MC - microcredit
- MCE - micro-enterprises
- SFE - self employment
- MFI - microfinance institution
- MCI - microcredit institution

6. Bibliography

- Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions of 13 November 2007, “*A European initiative for the development of microcrédit in support of growth and employment*”, Com(2007)708 final
- European Investment Fund, “*Microfinance in Europe : a market overview*”, by Helmut Kraemer-Eis and Alessio Conforti. Working Paper 2009/001, EIF Research and Market Analysis
- EMN Working Paper no.6, 2008-2009, “*Overview of the Microcredit Sector in the European Union*”, by Bárbara Jayo, Anabel González and Casey Konzett
- Legal Survey by the European Microfinance Network and Latham & Watkins, *Microfinance and micro-entrepreneurs in Europe*, 2008
- DG Entreprises and Industry, Expert Group Report, “*The regulation of microcredit in Europe*”, April 2007
- World Bank, International Finance Corporation, “*Doing Business 2011. Making a difference for entrepreneurs*”, November 2010
- CGAP, “*Microfinance guidelines – principles on regulation and supervision of microfinance*”, 2003

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Thomson Reuters Foundation
30 South Colonnade
London E14 5EP
United Kingdom