# Market analysis on student financing

## Analysis of the regulatory requirements and tax implications

April 2024

European Investment Bank

INVESTEU ADVISORY HUB

European Investment Fund

# Contents


Abbreviations ..... 2

Definitions ..... 4

1 Introduction ..... 8

1.1 Objectives of the analysis ..... 8

1.2 Methodological approach ..... 9

2 Analysis of the regulatory requirements of student financing in the 15 EU Member States selected ..... 12

3 Tax analysis of student financing in the 15 EU Member States selected ..... 17

4 Conclusions ..... 23

Annex A – Local analysis of the regulatory requirements ..... 25

1. Belgium ..... 25

2. Bulgaria ..... 27

3. Croatia ..... 30

4. Czech Republic ..... 33

5. France ..... 35

6. Germany ..... 38

7. Greece ..... 41

8. Hungary ..... 43

9. Ireland ..... 46

10. Italy ..... 48

11. Lithuania ..... 51

12. Netherlands ..... 53

13. Portugal ..... 56

14. Romania ..... 58

15. Spain ..... 61

Annex B – Local Tax Analysis ..... 65

1. Belgium ..... 65

2. Bulgaria ..... 68

3. Croatia ..... 70

4. Czech Republic ..... 72

5. France ..... 74

6. Germany ..... 76
7. Greece ..... 78
8. Hungary ..... 80
9. Ireland ..... 82
10. Italy ..... 84
11. Lithuania ..... 86
12. Netherlands ..... 88
13. Portugal ..... 90
14. Romania ..... 94
15. Spain ..... 96
**Annex C – Applicable law (analysis of the regulatory requirements) ..... 99**
**Annex D – Applicable tax law (tax analysis) ..... 101**
**Annex E – FX rates ..... 103**

# List of tables

Table 1: Methodological approach ........................................................................................................ 9
Table 2: Overview of regulatory requirements in the 15 EU Member States analysed ........................ 14
Table 3: Overview of applicable tax regimes in the analysed 15 EU Member States........................... 20

# Abbreviations

| Abbreviation | Description |
|---|---|
| **BaFin** | Bundesanstalt für Finanzdienstleistungsaufsicht ('German Federal Financial Supervisory Authority') |
| **BgA** | Betriebe gewerblicher Art ('business units') |
| **BGN** | Bulgarian lev |
| **CIT** | Corporate income tax |
| **CITA** | Corporate income tax act |
| **COGS** | Costs of goods and services |
| **CTA** | Croatian tax authorities |
| **CZK** | Czech crown |
| **EIB** | European Investment Bank |
| **EIF** | European Investment Fund |
| **EU/DTA** | European union / Double tax agreement |
| **EUR** | Euro |
| **FX** | Foreign exchange |
| **GAAP** | Generally accepted accounting principles |
| **GAS** | Greek accounting standard |
| **GITC** | Greek income tax code |
| **GST** | Goods and services tax |
| **GTA** | Greek tax authorities |
| **HUF** | Hungarian forint |
| **IAS** | International Accounting Standards |
| **IES** | Simplified business information |
| **IFR** | International financial reporting |
| **IFRS** | International financial reporting standards |
| **IRAP** | Irish regional tax on productive activities |
| **jPöR** | juristischen Personen des öffentlichen Rechts ('legal persons under public law') |
| **LBT** | Local business tax |

| | |
|---|---|
| **N/A** | Not applicable |
| **NGO** | Non-governmental organisation |
| **P&L** | Profit&loss statement |
| **PE** | Permanent establishment |
| **PTA** | Portuguese tax authorities |
| **RON** | Romanian Leu |
| **SD** | Stamp duty |
| **SME** | Small and medium-sized enterprises |
| **TBE** | Telecommunications, broadcasting and electronic services |
| **TIN** | Tax identification number |
| **TP** | Transfer pricing |
| **VAT** | Value added tax |
| **wGb** | wirtschaftlichen Geschäftsbetrieben (‘economic business operations’) |

# Definitions

| Financial products | Definition |
| --- | --- |
| **Counter-guarantee** | A guarantee provided to a guarantor. For example, the EIF may act as a counter-guarantor offering risk protection to guarantee institutions that are in turn offering guarantees to sub-intermediaries originating debt financing.[1] |
| **Deferral of payment** | A type of financing product allowing students/learners to defer the payment of their education/training expenses (e.g. tuition fees, student housing, etc.) deferred to a later period in time and over a certain period of time, typically in the form of instalments. |
| **Directive 2008/48/EC** | Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008, on credit agreements for consumers and repealing Council Directive 87/102/EEC. |
| **Guarantee support scheme** | A guaranteed coverage provided by the government / other institution to cover, under certain conditions, part of the risk of student loan / debt financing portfolios generated by banks or other financial institutions with the view to facilitate students' access to finance (e.g. the InvestEU Skills & Education Guarantee Scheme).[2] |
| **Income share agreement** | An income share agreement is a type of financing product, providing for an income linked payment scheme. There is no pre-defined payment plan as payments are linked to the student's/learner's future income. Individuals pay a pre-determined percentage of income over a pre-defined period of time. The total amount to be paid depends on the student's career progress and respective salary path. |
| **Loan** | Agreement which obliges the lender to make available to the borrower an agreed amount of money for an agreed period and under which the borrower is obliged to repay that amount within the agreed period.[3] |
| **Non-traditional intermediaries** | Non-traditional intermediaries of education-related financing, such as public universities and other public education providers, private (privately owned) universities, vocational training centres, non-profit non-governmental organisations (e.g. foundations), aggregators providing directly or indirectly education, and other privately or publicly owned education providers. |

[1] https://www.eif.org/InvestEU/guarantee_products_calls/annex-iii-counter-guarantee-termsheet.pdf.

[2] https://www.cedefop.europa.eu/en/tools/financing-adult-learning-db/search/student-loan-guaranteed-state.

[3] https://op.europa.eu/fr/publication-detail/-/publication/25153ebc-2b06-11ec-bd8e-01aa75ed71a1.

# Executive summary

Acquiring a higher education degree or vocation training certificate entails substantial financial investment from students or adult learners. Although public support is provided to cover financial needs, they may often need to bear at least part of the costs. These costs do not only entail tuition fees, but also include administrative costs, as well as accommodation, transport and day-to-day living expenses.

Study-related and living expenses differ across countries and fields of studies, and tuition fees often reflect the different fee policies adopted in the European Union ('EU') Member States. Financial support mechanisms are in place to address a portion of the financial needs of students and adult learners, but do not completely free them from all the study-related costs they may need to incur. Therefore, there remains a funding gap to cover tuition fees, living costs and mobility expenses. This is especially true for socio-economically disadvantaged students and adult learners.

With the scarcity of grant support and/or parental financial aid, an increasing number of people need to finance their higher education or training by themselves, however, their own resources are often limited, as are the options for external financing. To broaden the type of beneficiaries as well as the type of institutions serving this area and help to bridge the funding gap for students and adult learners, the European Investment Bank ('EIB') and the European Investment Fund ('EIF') launched an analysis of regulatory requirements and tax implications that non-traditional intermediaries may face when implementing the alternative schemes of student financing, specifically in the form of deferral of payment and income share agreement.

**Analysis of the regulatory requirements**

The area of student financing is only partially harmonised on the EU level by Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008, on credit agreements for consumers and repealing Council Directive 87/102/EEC, which deals with the consumer credit in general. Directive 2008/48/EC has been implemented by the 15 EU Member States selected[4] for the purposes of this analysis into their national jurisdictions.

Based on the analysis of the regulatory requirements, the provision of alternative schemes of student financing in the form of deferral of payment or income share agreement falls within the scope of consumer credit regulation in the majority of 15 EU Member States analysed. Although this area is partially harmonised, the national regulation of the provision of alternative schemes of student financing by non-traditional intermediaries, such as public universities and other public education providers, private (privately owned) universities, vocational training centres, non-profit non-governmental organisations (e.g. foundations), aggregators providing directly or indirectly education, and other privately or publicly owned education providers varies among the 15 EU Member States analysed. This mainly relates to the differences in requirements for providers, licensing regimes, ongoing obligations or applicable cases of exemption from regulation, etc. A good example is the provision of consumer credit in the public interest granted to a restricted public (i.e. specific group of individuals such as students, low-income earners, etc.) under a statutory provision and under more favourable conditions than those prevailing on the market. According to Article 2(2)(l) of Directive 2008/48/EC, this provision of consumer credit constitutes a case of complete exemption from the regulation. In the group of 15 Member States

[4] Belgium, Bulgaria, Croatia, Czech Republic, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Netherlands, Portugal, Romania, Spain.

analysed, only three have not implemented this exemption into their national legislation[5]. Of those that have implemented the exemption, the majority have implemented it word-for-word[6] and one Member State[7] has implemented the exemption without the condition of a specific statutory provision. From the Member States that have implemented the exemption without any changes, the majority have implemented it as a case of complete exemption from the regulation[8], but one[9] has implemented it as a case of partial exemption to which the regulation partially applies. Only four Member States that have implemented the exemption without any changes have also enacted specific legislation on the provision of consumer credit in the public interest in the area of student financing, as required by Directive 2008/48/EC[10]. Different regimes may prevent non-traditional intermediaries from becoming providers of alternative schemes of student financing.

In five of the 15 EU Member States analysed[11], the provision of consumer credit is reserved only for specific types of entities (e.g. banks), and non-traditional intermediaries are not allowed to provide consumer credit. In these jurisdictions, the options for non-traditional intermediaries are either to establish a subsidiary for the purpose of serving as a provider of consumer credit or to act as an intermediary for the existing credit providers.

In some of the 15 EU Member States analysed[12], non-traditional intermediaries are generally allowed to provide consumer credit, however they must meet the prescribed regulatory requirements to do so. They must obtain a license and meet ongoing compliance obligations, such as obligations regarding provision of information or creditworthiness assessment, etc. In order to obtain a license, the non-traditional intermediaries are required to comply with the following obligations, such as legal form, registered capital, personnel requirements, internal systems, etc. Although these requirements and obligations vary across the 15 EU Member States analysed, they may in general represent an obstacle for non-traditional intermediaries who may find them challenging to meet in the absence of the required operational set up. In these jurisdictions, the options for non-traditional intermediaries to provide alternative schemes of student financing are to meet the prescribed requirements and obligations, obtain the license and provide consumer credit themselves, or to establish a subsidiary for the purpose of serving as a consumer credit provider, or to act as an intermediary for existing providers.

In the rest of the 15 EU Member States analysed[13] not falling into any of the above-mentioned categories, non-traditional intermediaries are generally allowed to provide consumer credit without obtaining the license and without meeting the requirements for obtaining the license. However, non-traditional intermediaries shall still meet the ongoing regulatory obligations in order to be able to provide consumer credit, such as obligations regarding provision of information or creditworthiness assessment,

[5] France, Croatia, Spain.

[6] Bulgaria, Czech Republic, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Netherlands, Portugal, Romania.

[7] Belgium.

[8] Bulgaria, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Netherlands, Portugal, Romania.

[9] Czech Republic.

[10] Bulgaria, Hungary, Netherlands, Romania.

[11] France, Italy, Lithuania, Portugal, Romania.

[12] Belgium, Croatia, Czech Republic, Greece, Hungary, Ireland, Netherlands.

[13] Bulgaria, Germany, Spain.

etc. Although these ongoing obligations vary across the rest of the 15 EU Member States analysed, such obligations may represent an obstacle for the non-traditional intermediaries who may find them challenging to meet in the absence of the required operational set up. In these jurisdictions, the options for non-traditional intermediaries to provide alternative schemes of student financing are to provide consumer credit themselves while following the regulatory obligations, or to establish a subsidiary for the purpose of serving as a consumer credit provider, or to act as an intermediary for existing providers.

**Tax analysis**

Based on the tax analysis, the corporate income tax ('CIT') regime applicable across the EU for the non-traditional intermediaries is generally dependent on the status of the local entity providing the student financing – e.g. whether it is a profit or non-profit entity/institution. In most of the 15 EU Member States[14] studied for the purposes of this analysis, there is a special CIT regime granting certain tax benefits (usually in the form of the exemption of certain income) to the non-profit institutions/organisations which meet the criteria. In general, it is therefore essential to determine the activities performed by the intermediaries of student financing to assess the resulting local tax position of the entity. No special regime is generally connected to student financing in the form of deferral of payment or income share agreement schemes.

The second major tax area which is potentially of high importance for the non-traditional intermediaries is value added tax ('VAT'). Although the EU VAT system is to a great extent harmonised on the level of each EU Member State's law (transposed the EU Council Directive 2006/112/ES), there are often specific local provisions which may also have an impact on student financing. As such, we have analysed the VAT rules applicable in the selected EU jurisdictions with respect to the contemplated financing alternatives and summarised the VAT implications. As a result of the analysis, provision of student financing is considered to be a financial service for VAT purposes in all of the 15 EU Member States analysed and represents a supply exempt from local VAT without the possibility (or limited in some jurisdictions – e.g. in Spain) of claiming input VAT. Similarly to CIT, there is no special VAT regime applicable to student financing in the 15 EU Member States analysed.

[14] Belgium, Bulgaria, Croatia, Czech Republic, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Netherlands, Portugal, Romania, Spain.

# 1 Introduction

## 1.1 Objectives of the analysis

The potential regulatory requirements and tax implications of student financing may generally restrain the non-traditional intermediaries (such as universities, education providers, foundations, non-governmental organisations, etc.)[15] from providing student financing such as student loans, income share agreements or deferrals of tuition payments. Providing clarification with respect to the potential legal implications, taxation, and related compliance obligations for non-financial institutions willing to provide alternative student financing solutions within the EU would on the one hand help such institutions make informed decisions on whether and how student financing would be provided, while on the other hand it may drive the regulatory changes that would help stimulate the student financing market.

The objective of the analysis of the regulatory requirements is to provide a summary of the regulatory requirements and a guidance for the non-traditional intermediaries (starting with universities and education providers) on any compliance steps/actions they need to undertake in order to comply with the relevant legal requirements if they were to implement and operate deferral of payment scheme or income share agreement scheme, including under the InvestEU Skills & Education Guarantee[16] (e.g. compliance with banking regulation and licensing requirements, legal form requirements, subsidiary set-up requirements, etc.).

The objective of the tax analysis is to provide a summary of tax implications and a guidance for the non-traditional intermediaries on any compliance steps/actions they need to undertake in order to comply with relevant tax regulations if they were to implement and operate deferral of payment scheme or income share agreement scheme, including under the InvestEU Skills & Education Guarantee (e.g. tax registrations/notifications, tax liabilities, tax optimization, etc.).

Within the analysis of the regulatory requirements and tax implications, we have performed an analysis which focused primarily on a description of potential regulatory requirements that a non-traditional intermediary may face when implementing alternative schemes of student financing, specifically in the form of (i) deferral of payment scheme and (ii) income share agreement scheme. This analysis was conducted for the 15 EU Member States[17] selected.

---

[15] These include public universities and other public education providers, private (privately owned) universities, vocational training centers, non-profit non-governmental organisations (e.g. foundations), aggregators directly or indirectly education, and other privately or publicly owned education providers.

[16] The InvestEU Skills & Education Guarantee is one of six portfolio guarantee products implemented under InvestEU by the EIF to improve access to debt finance in specific policy areas. The InvestEU Skills & Education Guarantee, the successor of the EFSI Skills & Education Guarantee Pilot, aims to enhance access to finance for students and learners, enterprises providing training to their employees, organisations active in the skills, education and training sectors as well as organisations providing services ancillary to skills, education and training in order to develop a nascent market for education finance. For more information: Guarantee products – calls for expression of interest (eif.org).

[17] Belgium, Bulgaria, Croatia, Czech Republic, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Netherlands, Portugal, Romania, Spain.

The paper is structured as follows: the first section provides an analysis of the regulatory requirements of student financing in the 15 EU Member States selected; the second section provides a tax analysis of student financing in the 15 EU Member States selected.

The results of the analysis together with information about the applicable laws and related compliance obligations are summarised in the next chapters of the report.

## 1.2 Methodological approach

In order to comprehend and analyse the regulatory requirements and tax implications, we've employed a comprehensive approach and methodology. The details of this strategic procedure, the specific steps, and the consequent findings are elaborated below and appended to this research document:

- Detailed **legal questionnaire** in MS Excel – for the purpose of gathering the relevant regulatory information from local country experts. The questionnaire covers the areas which should be essential for the regulatory analysis of student financing by non-traditional intermediaries in the EU in general and other specific areas relevant from the local perspective. The questionnaire and its structure have been consulted with the EIB and the EIF.
- Detailed **tax questionnaire** in MS Excel – for the purpose of gathering the relevant tax information from local country experts. The questionnaire covers tax areas which should be essential for the tax analysis of student financing by non-traditional intermediaries in the EU in general and other specific areas relevant from the local perspective. The questionnaire and its structure were consulted with the EIB and the EIF.
- **Legal country factsheets** that consolidate the data from the legal questionnaire, providing a summary of regulatory implications and guidance.
- **Tax country factsheets** that consolidate the data from the tax questionnaire, providing a summary of tax implications and guidance.
- The **final report** which consists of comments for every relevant jurisdiction in relation to the key regulatory and tax implications connected to the provision of student financing by non-traditional intermediaries from the 15 EU Member States selected and a summary of the related compliance obligations in line with national regulations.

Table 1: Methodological approach

| Task | Objectives/Activities | Outputs | Deliverables |
|---|---|---|---|
| **Analysis of the regulatory requirements** | Analysis of the regulatory requirements in the 15 EU Member States selected including a summary of regulatory implications and guidance for non-traditional intermediaries on how to comply with the existing regulatory framework (e.g. compliance with banking regulation and licensing requirements, legal form requirements, subsidiary set-up requirements, etc.)<br>- Preparation of a questionnaire in MS Excel and related guidelines<br>- Distribution of the questionnaire to the local EY legal experts | Legal questionnaires for the 15 EU Member States selected<br><br>and<br><br>Country Factsheets | **Final report – Analysis of the regulatory requirements and tax implications of student financing** |

| Task | Objectives/Activities | Outputs | Deliverables |
|---|---|---|---|
| | - Coordination conference calls with EY legal experts<br>- Gathering the information<br>- Clarification of the provided information<br>- Country Fiches<br>- Drafting of the contribution of the analysis of the regulatory requirements to the analysis of the regulatory requirements and tax implications deliverable – information synthesis and analytical work | | |
| **Tax analysis** | Analysis of the tax implications in the 15 EU Member States selected including a summary of tax implications and guidance for non-traditional intermediaries on how to comply with existing tax regulations (e.g. tax registrations / notifications, tax liabilities, tax optimisation, etc.)<br>- Preparation of a questionnaire in MS Excel<br>- Distribution of the questionnaire to local EY tax experts<br>- Contribution conference calls with EY tax experts<br>- Gathering the information<br>- Clarification of the provided information<br>- Country Fiches<br>- Drafting of the contribution of the tax analysis to the analysis of the regulatory requirements and tax implications deliverable – information synthesis and analytical work | Tax questionnaires for the 15 EU Member States selected<br><br>and<br><br>Country Factsheets | |

An analysis of the regulatory requirements and tax implications of student financing from the perspective of the non-traditional intermediaries in their national jurisdictions have been performed in the 15 EU Member States selected.

The main focus of the regulatory analysis was to describe the potential regulatory implications that a non-traditional intermediary may face when implementing alternative schemes of student financing in the 15 EU Member States selected, specifically in the form of income share agreement or deferral of payment schemes. The main focus of the tax analysis was to describe the tax consequences in terms of the standard/special tax regime for non-profit making taxpayers and profit-making taxpayers in the 15 EU Member States selected, tax consequences in terms of transfer pricing (e.g. interest rate determination and consequences for applicability of special regime of non-profit taxpayers), tax consequences in terms of VAT (e.g. potentially exempted financial services provision), and other local tax specifics associated with student financing. The analysis of the regulatory requirements and tax implications was performed from the perspective of non-traditional intermediaries of education-related financing, such as public universities and other public education providers, private (privately owned) universities, vocational training centres, non-profit non-governmental organisations (e.g. foundations), aggregators providing directly or indirectly education, and other privately or publicly owned education providers.

The main objective of this report was to provide a comprehensive analysis of the regulatory requirements and tax implications of alternative schemes of student financing provided by the non-

traditional intermediaries across the 15 EU Member States selected. The analysis was performed based on information and data on the gathered national regulatory requirements and on the local tax rules. Finally, a summary of the related compliance was also provided. This highlights the similarities, differences, prevailing features, and inspiring elements, as well as the challenges, issues, and blockages caused by the regulation and/or tax rules.

**Assumptions for the analysis of the regulatory requirements**

- The analysis of the regulatory requirements is based on law applicable as of 31 December 2022.

**Assumptions for the tax analysis**

- The analysis of the tax implications is based on tax rules applicable as of 31 December 2022.
- The provider of the student financing and the recipient of the funds are not related parties for tax purposes.
- The provider of the student financing is a tax resident in the respective jurisdiction (i.e. the state of its incorporation).
- In the analysis, we consider two scenarios:
    - The provider of the student financing is a profit-making entity;
    - The provider of the student financing is a non-profit entity/organisation.
- The scope of the work does not cover an analysis of tax considerations associated with the source of the student financing (i.e. how the provider obtains financial funds for student financing).
- The scope of the work does not cover an analysis of tax considerations associated with the receipt of the student financing by the individuals (i.e. students).
- The tax analysis for individual jurisdictions was based on the respective analysis of the regulatory requirements.

# 2 Analysis of the regulatory requirements of student financing in the 15 EU Member States selected

The main regulatory requirements of the student financing schemes together with a simplified guidance for the non-traditional intermediaries on the relevant compliance steps/actions they need to undertake in order to comply with the respective regulations if they were to implement and operate income share agreement or deferral of payment schemes in the selected jurisdictions (e.g. compliance with banking regulation and licensing requirements, legal form requirements, subsidiary set-up requirements, etc.), including those under the InvestEU Skills & Education Guarantee are summarised in Annex A.

**General overview**

Based on the analysis of the local regulatory requirements, all of the 15 EU Member States selected have implemented Directive 2008/48/EC into their national legislation. As such, it is harmonised to a certain extent and contains the further described similarities and differences. Neither the provision of deferral of payment nor the conclusion of income share agreements are subject to the specific regulatory frameworks in the 15 EU Member States selected. These alternative forms of student financing are typically considered as the provision of consumer credit and are subject to general consumer credit regulation (this is not the case in France or Germany, where the deferral of payment is not considered a consumer credit under certain circumstances – please refer to Annex A for more details).

**Providers**

In the majority of the 15 EU Member States selected, the provision of consumer credit is not a reserved activity, i.e. both financial entities and non-financial entities may become the providers of consumer credit. This is not the case in some of the 15 EU Member States selected, where there is a specific regulation allowing only specific type of entities to provide consumer credit (France, Italy, Lithuania, Portugal, Romania). These include licensed financing providers such as banks, financial institutions, financing companies, financial intermediaries, payment service providers, electronic money institutions, peer-to-peer lending platforms, e-money institutions, both local and foreign depending on each national regulation. Under this regulation, the non-traditional intermediaries are not considered as such entities and therefore, are not allowed to become the providers of consumer credit. In addition, some of the 15 EU Member States selected also exclude certain types of non-traditional intermediaries from becoming the providers (Greece, Lithuania). In Greece, universities are exclusively public under Greek law and together with other public sector entities, such as other public education providers, are not eligible for a financial institution license. Furthermore, in Lithuania, non-profit entities are not authorised to engage in the business of providing consumer credit.

**Regulatory requirements**

In countries where the non-traditional intermediaries are allowed to become the providers of consumer credit, they must comply with various regulatory requirements prescribed by national law. In general, the providers of consumer credit are required to obtain a special license. However, in some jurisdictions a license is not required for the provision of consumer credit (Bulgaria, Germany, Spain). In order to obtain the license, the providers shall meet the prescribed requirements regarding their legal form, registered capital, personnel requirements, internal systems, etc. In addition, in order to provide

consumer credit, the providers shall meet ongoing compliance obligations, such as the obligations regarding provision of information or creditworthiness assessment, etc. Although these requirements and obligations vary across the 15 EU Member States selected, they may present an obstacle to the non-traditional intermediaries which they find challenging to overcome.

**Cases of exemption**

All of the 15 EU Member States selected have implemented the cases of partial and complete exemption from the scope of application of the consumer credit regulation. Although the scope of application varies from one jurisdiction to another, it generally corresponds to the cases of exemption listed in Directive 2008/48/EC.

Even though the implementation into national legislation is often different (e.g. the cases of exemption have been implemented with some changes to their wording or without any changes to the wording at all, sometimes the cases of partial exemption have been implemented as cases of complete exemption and the other way around, etc.), the commonly implemented cases across the selected countries and applicable to the provision of alternative schemes of student financing are the (i) provision of consumer credit with the total amount exceeding EUR 75,000 (Article 2(2)(b) of Directive 2008/48/EC)[18], (ii) provision of consumer credit free of interest (Article 2(2)(f) of Directive 2008/48/EC), and (iii) provision of consumer credit in the public interest granted to a restricted public under a statutory provision and under more favourable conditions than those prevailing on the market (Article 2(2)(l) of Directive 2008/48/EC).

For example, the provision of consumer credit in the public interest granted to a restricted public under a statutory provision and under more favourable conditions than those prevailing on the market (Article 2(2)(l) of Directive 2008/48/EC) is either (i) implemented into national legislation unchanged and as a case of complete exemption (Bulgaria, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Netherlands, Portugal, Romania), (ii) implemented into national legislation unchanged and as a case of partial exemption (Czech Republic), (iii) amended and implemented without the condition that a specific statutory provision be enacted to implement the exemption (Belgium), or (iv) not implemented into national legislation (France, Croatia, Spain).

Of those countries that have implemented this exemption unchanged, only a few have also adopted the specific statutory provision required for the exemption to apply (Bulgaria, Hungary, Netherlands, Romania). But only specific types of entities may provide consumer credit under such regulation. Such entities are the banks in Bulgaria and Romania, Diákhitel Központ Zrt. (a state-owned entity) in Hungary, and the Dutch government in the Netherlands.

**Summary**

In order to implement and operate alternative schemes of student financing, specifically in the form of deferral of payment or income share agreement scheme, the non-traditional intermediaries are recommended to familiarise themselves and comply with the applicable national consumer credit legislation stemming from Directive 2008/48/EC.

While the legislation of most of the 15 EU Member States selected allows the consumer credit to be provided by various entities (Belgium, Bulgaria, Croatia, Czech Republic, Germany, Greece, Hungary,

[18] In Bulgaria and Croatia, this threshold is increased to EUR 132,722.81 (Croatia) and EUR 75,160 (Bulgaria).

Ireland, Netherlands, Spain), several of the countries restrict the provision to specific entities only (France, Italy, Lithuania, Portugal, Romania).

In places where non-traditional intermediaries are allowed to provide credit, substantial requirements need to be fulfilled, e.g. including, among others, the need to obtain a special license. The regulatory regime of consumer credit may be difficult to comply with and may represent an obstacle for non-traditional intermediaries to provide student relating financing.

Providers should also familiarise themselves with potential exemption cases from the application of consumer credit regulation. Such exemptions may allow them to provide consumer credit to students with limited application of the generally rather broad regulatory restrictions.

Providing consumer credit to students is usually not the core business for non-traditional intermediaries themselves. Since providing consumer credit is a highly regulated area of business, providing consumer credit may be a relatively complicated activity for the non-traditional intermediaries themselves (e.g. the requirement to meet all the regulatory criteria for provides of the consumer credit) and, thus, establishing a subsidiary for the provision of consumer credit might be the easier method for providing the consumer credit.

In conclusion, subject to the specific circumstances in each of 15 Member States analysed and to be reviewed on an ad-hoc basis, the recommended way of addressing the above-mentioned obstacles that the non-traditional intermediaries may face when implementing and operating alternative schemes of student financing, specifically in the form of deferral of payment or income share agreement, could be through a subsidiary established for the purpose of serving as a non-bank provider of consumer credit or by acting as an intermediary for the existing providers. Where applicable, the non-traditional intermediaries could also provide consumer credit to students or act as an intermediary for the existing providers themselves (e.g. if they could benefit from the limited application of the regulatory restrictions of the exemption cases).[19]

Non-traditional intermediaries considering implementation of alternative schemes of student financing should carefully verify whether the specific conditions for the specific national regime were met on an individual basis. Once the conditions are met, the entity should also monitor all the obligations associated with the regime.

See below Table 2 summarising the conclusions of the regulatory analysis on the local level in the 15 EU Member States selected.

Table 2: Overview of regulatory requirements in the 15 EU Member States analysed

| Country | Deferral of payment or income share agreement are considered consumer credit | Non-financial entities are allowed to provide consumer credit (incl. deferral of payment or income share agreement) | License is required for non-traditional intermediaries in order to provide consumer credit | Specific legislation on the provision of consumer credit in the public interest in the area of student financing |
|---|---|---|---|---|
| **Belgium** | Yes | Yes | Yes | No |
| **Bulgaria** | Yes | Yes | No (***) | Yes (****) |

[19] For example, in Bulgaria, Germany, or Spain, the non-traditional intermediaries could provide consumer credit themselves (subject to specific circumstances) as the legal framework does not require them to obtain a license.

| Country | Deferral of payment or income share agreement are considered consumer credit | Non-financial entities are allowed to provide consumer credit (incl. deferral of payment or income share agreement) | License is required for non-traditional intermediaries in order to provide consumer credit | Specific legislation on the provision of consumer credit in the public interest in the area of student financing |
|---|---|---|---|---|
| **Croatia** | Yes | Yes | Yes | No |
| **Czech Republic** | Yes | Yes | Yes | No |
| **France** | Yes (*) | No (**) | N/A (***) | No |
| **Germany** | Yes | Yes | No (*) | No |
| **Greece** | Yes | Yes (**) | Yes (****) | No |
| **Hungary** | Yes | Yes | Yes | Yes (****) |
| **Ireland** | Yes | Yes | Yes | No |
| **Italy** | Yes | No (**) | N/A (***) | No |
| **Lithuania** | Yes | No (**) | N/A (***) | No |
| **Netherlands** | Yes | Yes | Yes | Yes (****) |
| **Portugal** | Yes | No (**) | N/A (***) | No |
| **Romania** | Yes | No (**) | N/A (***) | Yes (****) |
| **Spain** | Yes | Yes | No (***) | No |

*Source: Desk research*

(*) In Germany, the provision of deferral of payment is not considered to be the provision of consumer credit unless the interest fee is agreed upon. The same applies to education funds and income share agreements. Furthermore, in France, there is no objection to a non-traditional intermediary granting deferral of payment to students but, unless an exemption or exception applies, such operations would have to comply with the rules governing the consumer credit under consumer law, such as obligations under the AML regulation, risk management obligations, etc.

(**) In general, only specific types of entity can provide consumer credit. As the non-traditional intermediaries in scope are not considered to be such entities, licensing requirements are not applicable to them. In addition, public sector entities (e.g. public universities and other public education providers) in Greece are not eligible for a financial institution license. In Lithuania, non-profit entities are not authorised to engage in the business of providing consumer credit.

(***) In general, the provider of consumer credit is not required to obtain a license. However, in Bulgaria, if the lending activity exceeds 30% of the total activity (calculated based on revenue or total asset value attributable to the lending activity compared to the total revenue or total asset value, as applicable as per the financial statements of the entity), the entity is considered to be a financial institution which triggers licensing and other additional requirements. Furthermore, in Germany, commercially provided (consumer) credits are considered a credit business requiring a license. This does not apply to the financing of students through education funds, which should normally be an internal company or a

participatory loan with a debtor warrant, but not a credit business and therefore not subject to a licensing obligation.

(****) Regulation of credit agreements in the public interest has been implemented by:

- Students and PhD Students Credit Act (in Bulgaria). Only banks may provide consumer credit to students under this regulation;
- Government Decree 1/2012 (I. 20.) on the student credit scheme (in Hungary). Only Diákhitel Központ Zrt. (state-owned entity) may provide consumer credit to students under this regulation;
- Student Financing Act 2000 (in Netherlands). Only the Dutch government provides consumer credit to students under this regulation;
- Government Emergency Ordinance no. 95/2022 regarding the approval of the governmental lending programmes 'StudentInvest' and 'FamilyStart' (in Romania). Only banks may provide consumer credit to students under this regulation.

# 3 Tax analysis of student financing in the 15 EU Member States selected

The main tax implications of the student financing schemes and presents a simplified guidance for the non-traditional intermediaries on relevant compliance steps/actions they need to undertake in order to comply with the respective tax regulations if they were to implement and operate deferral of payment scheme or income share agreement scheme, including under the InvestEU Skills & Education Guarantee (e.g. tax registrations/notifications, tax liabilities, tax optimisation, etc.) in all of the jurisdictions analysed are summarised in Annex B.

**Special corporate income tax ('CIT') regimes**

Based on the analysis of the local tax rules, none of the 15 EU jurisdictions examined have any special tax regime for the provision of student financing in the form of either deferral of payment or income share agreement. However, the non-traditional intermediaries may, in most jurisdictions, benefit from a special corporate tax regime dedicated to non-profit organisations/institutions (if they meet certain conditions as per local tax legislation). Further, beyond the non-profit special tax regimes, there is a special tax regime for universities / educational institutions in selected countries such as in Bulgaria, France, Hungary, Netherlands, and Romania.

As such, the CIT regime applicable across the EU for the non-traditional intermediaries is generally dependent on the status of the local entity providing the student financing – e.g. whether it is a profit or non-profit entity/institution, or a university / education institution. In most of the 15 EU Member States which were subject to the analysis, the special CIT regime grants certain tax benefits, usually in the form of the exemption of certain income. These entities must meet the prescribed criteria in line with the local tax law.

The most common criteria for applying the special CIT regime are that the company must carry out activities which do not generate profit. Usually, income from such non-profit activities is exempt from taxation or is not subject to CIT. On the other hand, income from profit-making activities will be taxable in most cases even if it is generated by a company which was established as a non-profit organisation. Therefore, the legal form of the company is not decisive on whether the exemption (special CIT regime) applies or not. Entities considering application of the special CIT regime should carefully verify whether the specific conditions for the regime were met on an individual basis. Once the conditions are met, the entity should also monitor all the obligations associated with the regime.

The only exception where no special CIT regime for non-profit making entities applies is Ireland, however, according to the tax analysis Irish tax non-residents may ask for an exemption for loans issued under the authority of Irish Minister of Finance (please refer to Annex B.9. for more details).

Nevertheless, as none of the 15 EU Member States analysed provides a special corporate tax regime specifically for student financing providers, it is difficult to conclude which country has the most favourable or the most restrictive CIT environment for student financing providers in general. Based on the tax analysis, the mere fact that a company provides student financing in the form of either deferral of payment or income share agreement should not, under certain conditions, have a negative impact on its eligibility for the special CIT regime for non-profit making organisations.

**CIT compliance obligations**

In the 15 EU Member States analysed, taxpayers are generally obliged to register for CIT with the tax authorities if they start an activity generating taxable profit. The student financing providers should register for CIT even if they carry out non-profit activities and intend to apply the local special CIT regime. It is necessary to monitor the obligations in the individual countries (please refer to Annex B).

Taxpayers are also required to file CIT returns for each tax period (mostly on a yearly basis) – e.g. in Bulgaria, Ireland, Lithuania, Portugal or Spain. In some countries, the obligation to file a CIT return shall not apply to taxpayers who record only income that is not subject to tax / is exempt from tax – e.g. in the Czech Republic, France, Italy or the Netherlands. In Hungary, non-profit making organisations that do not generate income from business activities in a given tax year can file a declaration in lieu of a tax return by the standard deadline indicating the absence of income. A similar special rule regarding CIT returns applies in Lithuania, where exemption to file a CIT return applies for both profit and non-profit making entities when such entities do not carry out any activities.

Further, in the Czech Republic and Italy, the non-profit making organisations are obliged to keep separate accounts for their profit and non-profit making activities in order to benefit from the local special CIT regimes. This may represent a significant additional administrative burden for the non-traditional intermediaries of student financing if they consider applying the special tax regime in these countries.

However, the current tax legislation in the 15 EU Member States selected does not provide any rule or obligation which would specifically cover the provision (or providers) of student financing.

The repayment of the principal (the nominal value of the student finance) would in general not represent a taxable income. The extent and moment at which a profit element should be included in the CIT base should be subject to further analysis regarding the agreement between the provider and the recipient (including general terms and conditions). In line with the local tax rules in each of the 15 EU Member States selected, a provision for bad debt (i.e. in case of defaulted student financing transaction) may be formed or a write off may be carried out in the case of the principal not being repaid by the debtor (subject to further conditions as per the local legislation).

In the Netherlands, in the case of a defaulted student financing transaction, if part of the loss is covered by the InvestEU Skills & Education Guarantee, this will have to be taken into account when determining a provision for bad debt or a write off for tax purposes (reducing the possibility of claiming a tax deduction). In Portugal, a risk exists that risk sharing instrument that will cover part of the amounts that may not be reimbursed by the student in the event of default, the credits covered by guarantee are not considered bad or doubtful debts, except the amount corresponding to the exact amount of the compulsory overdraft. In Spain, the taxpayer is allowed to create tax deductible provisions to bad debt which are not covered by the Invest EU Skills & Education Guarantee.

**VAT implications**

Similarly to corporate taxation, there is no special VAT regime applicable on the provision of student financing by the non-traditional intermediaries. In all of the 15 EU Member States analysed, the provision of student financing is qualified as a financial service which is treated as a supply exempt from local VAT without the right to input a VAT deduction claim (with a specific exception in the Netherlands and Romania). As such, there should be no additional VAT expense for the non-traditional intermediaries if they decide to start providing student financing. This fact should be taken into account when considering adoption of the student financing schemes. For example, in Romania, the local VAT rules may allow the student financing providers to claim input VAT where the student financing is merely

an ancillary activity to the educational activity. The availability of an input VAT claim should, however, be assessed on a case-by-case basis.

Further, there is generally no specific VAT obligation associated with providing student financing in the 15 EU Member States selected. Except for Greece, Hungary, Portugal and Spain (there is no general VAT registration threshold), economic subjects are obliged to register for VAT after exceeding a certain amount of turnover (local specific VAT registration rules may apply). Thereafter, a VAT tax return must be filed regularly, normally on a monthly/quarterly basis. The obligation to register for local VAT usually does not arise if the taxpayer only provides exempt supplies without an input VAT deduction claim, which is typically the case for student financing. However, the VAT registration obligation may theoretically arise under the local rules and thus it is necessary to monitor the student financing providers' situation on an individual basis.

Table 3 below summarises the conclusions of the tax analysis on the local level in the 15 EU Member States selected.

Table 3: Overview of applicable tax regimes in the 15 EU Member States analysed

| Country | Special tax regime for student financing (*) | Special tax regime for non-traditional intermediaries | VAT regime | VAT registration | VAT returns filing | Other taxes |
|---|---|---|---|---|---|---|
| **Belgium** | N/A | Corporate taxation or tax on legal entities (withholding tax) depending on the entity-type (**) | Financial services exempt from local VAT without input VAT claim | No VAT registration obligation derives from the supply of VAT exempt services w/o right for input VAT recovery | N/A | N/A |
| **Bulgaria** | N/A | Corporate taxation - higher education institutions and non-profit entities (**) | Financial services exempt from local VAT without input VAT claim | No VAT registration obligation, if an entity exclusively provides exempt supplies w/o right for input VAT recovery. Where part of the exempt supplies consists of exempt financial services related to the entity's main activity a VAT registration may be needed, if these services exceed the VAT registration threshold. | If a VAT registration is in place, VAT returns need to be filed on a monthly basis, no later than the 14th day following the respective month. | N/A |
| **Croatia** | N/A | Corporate taxation - non-profit entities (**) | Financial services exempt from local VAT without input VAT claim | VAT registration requirement above the VAT threshold (unless activities are ancillary) | N/A if no VAT registration needed | N/A |
| **Czech Republic** | N/A | Corporate taxation - publicly beneficial taxpayers (**) | Financial services exempt from local VAT without input VAT claim | No VAT registration obligation derives from the supply of VAT exempt services w/o right for input VAT recovery | N/A | N/A |
| **France** | N/A | Corporate taxation - public universities and other public education providers and non-profit entities (**) | Financial services exempt from local VAT without input VAT claim | No VAT registration obligation derives from the supply of VAT exempt services as such w/o right for input VAT recovery.<br><br>However VAT registration obligations can derive from the place where the services are provided (i.e. taxpayer established in France versus not established in France). | N/A if no VAT registration needed | The question on VAT registration (see left column) and the question on corporate tax registration (permanent establishment) are technically separate but should be addressed in parallel and in a consistent manner. |
| **Germany** | N/A | Corporate taxation - legal entities under public law or non-profit entities (**) | Financial services exempt from local VAT without input VAT claim | VAT registration usually required (if entrepreneurial status is fulfilled) | Filing of advance sales tax returns, annual sales tax returns and a so-called recapitulative statement usually required, unless an exemption for legal entities under public law applies | N/A |
| **Greece** | N/A | Corporate taxation - non-profit entities (**) | Financial services exempt from local VAT without input VAT claim | VAT registration may be required | VAT returns may be required | Stamp duty |

| | | | | | | |
|---|---|---|---|---|---|---|
| **Hungary** | N/A | Corporate taxation<br>- public universities, universities operated as or maintained by trust foundations, or non-profit entities (**) | Financial services exempt from local VAT without input VAT claim | VAT registration may be required | VAT returns may need to be filed | N/A |
| **Ireland** | N/A | Corporate taxation<br>- possible exemption for Irish tax non-residents for loans issued under the Irish Minister's authority (**) | Financial services exempt from local VAT without input VAT claim | No VAT registration obligation derives from the supply of VAT exempt financial services. However, there is a requirement to register and account for Irish VAT on the receipt of goods or services from non-Irish persons that would have been VAT taxable if supplied by an Irish business. | N/A if only supplying VAT exempt services, and not in receipt of goods or services from non-Irish persons, which would have been VAT taxable if purchased from an Irish supplier.<br><br>If registration is required then bi-monthly VAT returns must be filed to record the VAT arising. | Stamp duty should not apply provided the agreements are considered loan capital or are executed outside the state. |
| **Italy** | N/A | Corporate taxation | Financial services exempt from local VAT without input VAT claim | VAT registration obligation may be required | Filing of VAT returns may be required. | IRAP |
| **Lithuania** | N/A | Corporate taxation<br>- non-profit entities (**) | Financial services exempt from local VAT without input VAT claim | No VAT registration obligation derives from the supply of VAT exempt services w/o right for input VAT recovery | N/A | N/A |
| **Netherlands** | N/A | Corporate taxation – exemption for educational institutions and foundations (**) | Financial services exempt from local VAT without input VAT claim, unless recipient/borrower is not an EU resident or not established in the EU | VAT registration may be required | Taxpayers are obliged to file VAT returns on a quarterly basis. However, if they do not need to report any transactions (e.g. no reportable purchases for which the VAT is reverse charged) a fully exempt taxpayer can request to be relieved from Dutch VAT filing obligations. A taxable person can also be relieved from VAT filing obligations if their (qualifying) revenue does not exceed EUR 20,000 per year and they apply for the Dutch VAT scheme for SMEs. | N/A |
| **Portugal** | N/A | Corporate taxation<br>- non-profit entities (**) | Financial services exempt from local VAT without input VAT claim | VAT registration may be required | Filing of VAT returns may be required | Surtaxes<br><br>Stamp duty |
| **Romania** | N/A | Corporate taxation<br>- pre-university education units and universities (both public and private) which are accredited and authorised (**) | Financial services exempt from local VAT without input VAT claim, or ancillary to education activity which may be VAT exempt or taxable depending on the case | No VAT registration derives from the supply of VAT exempt services w/o right for input VAT recovery.<br><br>If student financing is considered as ancillary to taxable educational activities, a VAT registration obligation arises if the overall turnover exceeds EUR 88,500 (RON 300,000) | If no VAT registration obligation arises at the level of the entity performing supplies of VAT exempt services, in principle, no VAT returns should be submitted in Romania.<br>However, to the extent that the entity also performs particular acquisitions (e.g. intra-community acquisitions of goods/services, intra-community acquisitions of new means of transport etc.), a special VAT return should be submitted (D301 Form), together with D390 for the intra-community transactions, if the case. | N/A |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | | | If the entity is VAT registered in Romania, the following VAT statements should be submitted:<br>- VAT return D300<br>- The Recapitulative Statement (D390 Form) for intra-community transactions<br>- The Informative Statement (D394 Form) for local operations<br>- Intrastat statements on Dispatches/Arrivals if a specific threshold is exceeded.<br>Moreover, the Standard Audit File for Tax (SAF-T) should be submitted, containing detailed accounting and tax information. | |
| **Spain** | N/A | Corporate taxation<br>- non-profit entities and institutions (**) | Financial services exempt from local VAT without input VAT claim | VAT registration may be required | VAT returns must be submitted on a quarterly basis (within 20 days from the end of each calendar quarter, except the return relating to the last quarter, which must be filed during the first 30 days of January).<br>Annual VAT summary returns must be submitted within the first 30 days of January of the following year to which the return relates. This form does not need to be filed if during the previous calendar year the turnover of the taxpayer was in excess of EUR 6 million.<br>Returns must be filed on a monthly basis (within 20 days from the end of each calendar month except in the case of the July VAT return, when the return may be filed at any time in August or the first 20 days of September and the return relating to December, which must be filed during the first 30 days of January) if during the previous calendar year the turnover of the taxpayer was in excess of EUR 6 million. Additionally, those taxpayers who are required to file the VAT returns monthly must file electronically the information related to all invoices issued, received, customs documents and accountancy document through the immediate supply of information system (SII in Spanish). | N/A |

*Source: Desk research*

N/A – Not applicable in relevant jurisdiction

(*) in the form of deferral of payment or income share agreement

(**) subject to certain condition

# 4 Conclusions

The analysis of the regulatory requirements and tax implications of the national regulations and local tax rules applicable to the non-traditional intermediaries may in general help these entities/organisations to decide whether to participate in the EU supported financing schemes and familiarise them with the regulatory requirements connected to this.

**Analysis of the regulatory requirements**

The analysis shows that the regulatory requirements vary across the 15 EU Member States selected. Depending on the applicable jurisdiction, the non-traditional intermediaries may need to comply with different regulatory regimes in order to become the providers of alternative student financing schemes.

Based on the applicable regime, the non-traditional intermediaries may either be able to provide student financing in the form of deferral of payment and income share agreement either (i) without any restrictions, only with ongoing compliance obligations (Bulgaria, Germany, Spain), (ii) only subject to licensing and other regulatory requirements (Belgium, Croatia, Czech Republic, Ireland, Greece, Hungary, Netherlands), or (iii) they are prohibited from providing student financing (France, Italy, Lithuania, Portugal, Romania).

All of the 15 EU Member States analysed have also implemented the cases of partial and complete exemption from the scope of application of the consumer credit regulation. The regulatory restrictions are applicable only in a limited scope where the cases of exemption apply. On an individual basis, the non-traditional intermediaries could make use of the potential exemption cases and benefit from the limited application of regulatory restrictions.

The recommended method of addressing the obstacles that non-traditional intermediaries may face when implementing and operating alternative schemes of student financing, specifically in the form of deferral of payment or income share agreement, could be through a subsidiary established for the purpose of serving as a non-bank provider of consumer credit or as an intermediary for the existing providers. Where applicable, the non-traditional intermediaries could also provide consumer credit to students or act as an intermediary for the existing providers themselves (e.g. if they could benefit from the limited application of the regulatory restrictions of the exemption cases[20]).

**Tax analysis**

In most of the 15 EU Member States selected, there is a special corporate taxation regime applicable for entities/organisations which are to a certain decree non-profit. Public universities and education providers should usually fall into this category; however, the availability of such a regime is further subject to certain conditions stipulated by the local tax laws. The only exception is Ireland, where no such special CIT regime is available.

From the perspective of VAT, the rules are to a great extent harmonised at the EU level, and this also applies to VAT rules applicable to student financing. There is no special VAT regime applicable specifically on student financing in the 15 EU Member States analysed. Financing schemes such as deferral of payment and income share agreements are generally considered to be financial services,

[20] For example, in Bulgaria, Germany, or Spain, the non-traditional intermediaries could provide consumer credit themselves (subject to specific circumstances) as the legal framework does not require them to obtain a license.

which in all of the 15 EU Member States selected are generally exempt from VAT without input VAT claim (with the exception of Hungary and Ireland where input VAT claim may be achieved if the student financing is provided to non-EU persons (subject to further conditions); local specific rules may further apply).

Based on the tax analysis, it can be concluded that the tax implications of providing student financing in the form of deferral of payment and income share agreement does not differ much from providing a regular consumer credit in the 15 EU Member States analysed. The non-traditional intermediaries may usually benefit from their non-profit status (if the conditions for special CIT regime are met), but no special tax treatment is incorporated specifically for student financing, or in certain countries from a special tax regime for universities / educational institutions (in France, Hungary, the Netherlands and Romania).

Although the regulatory requirements and tax implications and obligations as summarised in this report may in some cases represent an unbearable burden for the non-traditional intermediaries, we believe that this report provides transparency and guidance for those which would consider implementing alternative student financing schemes.

# Annex A – Local analysis of the regulatory requirements

## 1. Belgium

**Overview**

In Belgium, implementing alternative schemes of student financing, specifically in the form of deferral of payment schemes and income share agreement schemes, would generally be considered a provision of consumer credit and as such regulated. However, deferral of payment or income share agreements are not regulated separately under Belgian law.

Provision of consumer credit is mainly regulated by Book VII, Title 4, Chapter 1 of the Belgian Code of Economic Law ('Code') that implements Directive 2008/48/EC into national jurisdiction.

All providers of consumer credit, regardless of their type (including non-traditional intermediaries) must comply with the regulatory requirements prescribed mainly by the Code. In addition, providers that are financial institutions (e.g. banks, payment institutions) shall also comply with their sector-specific regulations.

In general, providers of consumer credit should obtain a license and meet the criteria for legal form, registered capital, management and shareholder requirements, personal requirements, internal systems and further ongoing compliance obligations to be able to provide consumer credit according to Belgian law.

Nevertheless, the Code also includes several cases of complete or partial exemption that exclude or limit the application of the rules on consumer credit. The following cases of complete exemption may be applicable to some types of deferral of payment and/or income share agreement: (i) consumer credit agreements which provide for free deferral of an existing debt, (ii) consumer credit agreements without interest where the credit taken up is repaid within a period of two months and the creditor charges less than EUR 4.17 (but indexed) on a monthly basis or (iii) consumer credit agreements granted, with a public interest objective, to a restricted public at a lower interest rate than that prevailing in the market, or interest-free, or on other terms more favourable to the consumer than those prevailing in the market and at interest rates no higher than those prevailing in the market, and which take the form of a study grant and are awarded by an educational establishment recognised as such by the competent Community.

The exemption case regulated in Article 2(2)(l) of Directive 2008/48/EC, i.e. credit agreements which relate to loans granted to a restricted public under a statutory provision with a general interest purpose, and at lower interest rates than those prevailing on the market or free of interest or on other terms which are more favourable to the consumer than those prevailing on the market and at interest rates not higher than those prevailing on the market, is implemented into Belgian law as the exemption case (iii). Contrary to the regulation in Directive 2008/48/EC, this exemption case is implemented without the requirement to enact a specific statutory provision and is therefore directly applicable to consumer credit under the prescribed conditions.

Apart from the above, no comprehensive regulation of the consumer credit / credit agreements in the public interest has been enacted in the area of student financing in Belgium as of 31 December 2022.

**Deferral of payment**

Deferral of payment falls under the general definition of consumer credit contained in the Code. There is no specific regulation regarding deferral of payment or any other definition of it. The Code applies to the provision of deferral of payment in full scope, i.e. the providers of deferral of payment are considered to be providers of consumer credit and, thus, they shall obtain a license and comply with all regulatory requirements prescribed by the Code mentioned above irrespective of their legal form.

However, if a credit provider provides consumer credit agreements which provide for free deferral of an existing debt, those credit agreements fall within the scope of complete exemption. The same goes for a consumer credit agreement granted, with a public interest objective, to a restricted public at a lower interest rate than the prevailing in the market, or interest-free, or on other terms more favourable to the consumer than those prevailing in the market and at interest rates no higher than those prevailing in the market normally, and which take the form of a study grant and are awarded by an educational establishment recognised as such by the competent Community. A deferral agreement where the time value of money and administration is taken into account would likely not fit the exemption of free deferral of an existing debt, in particular where the amount to be returned exceeds the tuition amount.

**Income share agreement**

Income share agreements fall under the general definition of consumer credit contained in the Code as a similar financial service. There is no specific regulation regarding income share agreements or any other definition of it. The Code applies to the implementation of income share agreement schemes in their full scope, i.e. providers of funds on the basis of income share agreement are considered to be providers of consumer credit and shall therefore obtain a license and comply with all other regulatory requirements prescribed by the above-mentioned Code, irrespective of their legal form.

However, if a credit provider provides consumer credit agreements which provide for free deferral of an existing debt, those credit agreements fall within the scope of complete exemption.

Please note that Belgian consumer credit regulation contains some rules that are difficult to match with the principles of an income share agreement, for example, before the consumer is bound by the contract, such a consumer has to receive an overview of the instalments; advertising has to mention the annual percentage rate of the charge, which is not the same as the interest rate and is called 'JKP' (Jaarlijks KostenPercentage) in Dutch. There is not an explicit prohibition, but it would be extremely difficult (if not impossible) to fit income share agreements into the obliged requirements of consumer credit agreements under Belgian law.

**General guidance for providers**

The main legal regulation concerning alternative schemes of student financing is Book VII, Title 4, Chapter 1 of the Code. The Code covers definitions, the product itself, providers, intermediaries, administrative sanctions etc. The supervision under the Code is conducted by the Financial Services and Markets Authority ('FSMA') for non-bank credit providers and by the National Bank of Belgium ('NBB') for banks.

In addition to a financial institution that is providing consumer credit, there is a category of so-called non-bank providers of consumer credit. There is a specific license for non-bank providers, and it would be required for all of the discussed education providers should they wish to implement alternative schemes of student financing unless a case of complete exemption, as mentioned above, is met.

In order to obtain a non-financial license and provide consumer credit in accordance with Belgian law, an education provider generally needs to meet the following criteria: legal form (i.e. cooperative society, public limited company, European company or European cooperative society, or as a legal entity for European economic partnerships), main management and administration must be based in Belgium, registered capital (i.e. minimal of EUR 250,000 per type of consumer credit), personal requirements (i.e. at least two people in the effective management; these can only be natural persons and they have to be considered fit and proper), internal systems (i.e. an appropriate management structure based on a clear distinction of the company's effective management at the highest level, on the one hand, and the supervision of that management, on the other, and which provides for an appropriate segregation of duties within the company and for a clearly defined, transparent and coherent arrangement for the allocation of responsibilities; appropriate administrative and accounting organisation and internal controls; etc.), other ongoing compliance obligations etc.

In conclusion, subject to the specific circumstances and to be reviewed on an ad-hoc basis, the viable option for universities and other education providers to implement alternative schemes of student financing, specifically in the form of deferral payment schemes and income share agreement schemes, is generally through a subsidiary serving as consumer credit provider. If this option would suit non-traditional intermediaries in the specific circumstances, the most efficient way for them would be to incorporate this subsidiary as a public liability company. The reason for this is that only the subsidiary should comply with all specific regulations on consumer credit providers and solely the subsidiary will be subject to the supervision of the FSMA (the competent Belgian authority). By creating a subsidiary, the non-traditional intermediaries also isolate the (potentially) high risk activities from the core business of the university / higher education entity. Relating to this: a university (or other higher education entity) is a sui generis entity under Belgian law, with its own specific regulations. When creating a subsidiary, as a public limited liability company for example, it is clear (and well known) which rules are applicable, such as a limited liability. There is also a possibility for non-traditional intermediaries to provide consumer credit as a consumer credit intermediary either for their subsidiary, or other consumer credit providers. Nevertheless, the obligations outlined earlier still apply.

## 2. Bulgaria

**Overview**

In Bulgaria, implementing alternative schemes of student financing, specifically in the form of deferral payment schemes and income share agreement schemes, would generally be considered a provision of consumer credit and as such regulated. However, deferral of payment or income share agreements are not regulated separately under Bulgarian law.

Provision of consumer credit is mainly regulated by the Bulgarian Consumer Credit Act (the 'Consumer Credit Act') which implements Directive 2008/48/EC into national jurisdiction.

All providers of consumer credit irrespective of their identity (incl. non-traditional intermediaries) shall comply with requirements prescribed mainly by the Consumer Credit Act. In addition, providers that are financial institutions (e.g. banks, payment institutions) shall also comply with their sector-specific regulation (such as regular reporting). In respect of the providers, which qualify as banks, the Students Credit Act sets out a number of additional requirements to the loan regulated thereby.

Pursuant to the Consumer Credit Act, there are no limitations regarding the creditor under a consumer credit agreement - a creditor is any natural person or legal entity who grants or promises to grant

consumer credit in the course of their professional or commercial activity. However, where the lending activity of the lender exceeds 30% of its total activity (calculated based on revenue or total asset value attributable to the lending activity compared to the total revenue or total asset value, as applicable as per the financial statements of the entity), the lender shall register as a financial institution with the respective Bulgarian National Bank register and comply with all other requirements regulating financial institutions (e.g. capital, fit and proper requirements to management, qualified shareholders, internal systems etc.). It should be noted that the creditors, regardless of their type, are subject to many ongoing compliance obligations (such as obligations regarding the provision of information or creditworthiness assessment), as well as regular reporting obligations to the Bulgarian National Bank (applicable to financial institutions and banks only), to be able to provide consumer credit according to Bulgarian law.

The Art. 4 of the Consumer Credit Act also provides a list of cases of complete or partial exemption that exclude or limit its application. For example, the following cases qualify for complete exemption under the Consumer Credit Act: (i) provision of consumer credit for a total amount (principal) exceeding BGN 147,000 (approximately EUR 75,160) or its equivalent in another currency, (ii) provision of consumer credit under which no interest or any other expenses are charged, (iii) credit agreements related to the deferred payment of an existing debt with no expenses due by the consumer or (iv) credit agreements related to loans granted to a restricted public under a statutory provision with a general interest purpose, and at lower interest than those prevailing in the market or free of interest or at interest rates not higher than those prevailing in the market or on other terms which are more favourable to the consumer than those prevailing in the market, etc.

Regulation of the consumer credit/credit agreements in the public interest has been enacted in the area of student financing in Bulgaria as of 31 December 2022 with the adoption of the Bulgarian Students and PhD Students Credit Act (the 'Students Credit Act'). However, it is important to note that only banks that have concluded with the Minister of Education and Science a pre-defined standard-form agreement and have been entered in a special register can be creditors to a student credit under the Students Credit Act.

**Deferral of payment**

Bulgarian legislation does not provide a definition for 'deferral of payment', although 'deferred payments' and 'deferral of payments' are mentioned in many provisions in different legal acts, including in the definition of a consumer credit agreement under the Consumer Credit Act. Thus, in some cases a deferred payment may meet the requirements for a credit and in such case the Consumer Credit Act will apply.

However, the following cases of deferral of payment constitute cases of exemption pursuant to the Consumer Credit Act: credit agreements related to the deferred payment of an existing debt with no expenses due by the consumer; credit agreements for a total amount of more than BGN 147,000 (approximately EUR 75,160) or their equivalent in another currency; credit agreements under which the consumer is not charged with any interest or any other expenses; credit agreements related to loans granted to a restricted public under a statutory provision with a general interest purpose, and at a lower interest than those prevailing in the market or free of interest or at interest rates not higher than those prevailing in the market or on other terms which are more favourable to the consumer than those prevailing in the market. A deferral agreement where time value of money and administration is taken into account would likely not fit the exemptions of a credit agreement under which the consumer is not charged with any interest or any other expenses or credit agreements related to the deferred payment

of an existing debt with no expenses due by the consumer, in particular where the amount to be returned exceeds the tuition amount.

**Income share agreement**

Depending on the exact arrangements under the agreement, income share agreements may qualify as consumer credit.

However, if a non-traditional intermediary of education related financing (e.g. an education provider) provides financial funds to its students on the basis of an income share agreement without any interest or fee agreed, such a provider may be able to benefit from the cases of exemption under the Consumer Credit Act (e.g. exemption 5 - credit agreements under which the consumer is not charged with any interest or any other expenses; exemption 10 - credit agreements related to the deferred payment of an existing debt with no expenses due by the consumer; exemption 12 - credit agreements related to loans granted to a restricted public under a statutory provision with a general interest purpose, and at a lower interest than those prevailing in the market or free of interest or at interest rates not higher than those prevailing in the market or on other terms which are more favourable to the consumer than those prevailing in the market).

In addition, no binding case law concerning arrangements similar to income share agreement in Bulgarian regulatory framework has been identified. Therefore, it depends on the courts' judgment in cases where the amounts to be repaid by the borrower differ considerably from the borrowed amounts. In some cases, there may be different, especially tax, consequences. In other instances where, for example, the repaid amount considerably exceeds the borrowed amount this may be considered to contradict good morals and the respective provision may thus be rendered invalid.

**General guidance for providers**

Student loans will generally either be regulated by the general regulation of loans under the Obligations and Contracts Act or the Consumer Credit Act. The Consumer Credit Act covers definitions, the product itself, providers, intermediaries, form and requisites of the consumer credit agreement, assessment of the creditworthiness of the consumer, administrative sanctions etc. The supervision of the implementation of the Consumer Credit Act is exercised by the Bulgarian Consumer Protection Commission.

Furthermore, the Students Credit Act is applicable to student credit agreements provided with state financial support and it sets out all requirements and the whole procedure of providing credits in accordance with this regulation. However, only banks can be creditors to a student credit under the Students Credit Act, and the State provides financial support to the student credits and guarantees the principal and the interest (interest agreed and interest for delay) on the amount payable under the credit.

Where the lending activity of the lender exceeds 30% of the lender's total activity (calculated based on revenue or total asset value attributable to the lending activity compared to the total revenue or total asset value, as applicable as per the financial statements of the entity), the lender must register as a financial institution with the respective Bulgarian National Bank register. In respect of the providers, financial institutions, a large number of requirements concerning internal systems are applicable, including: quarterly and annual reporting to the Bulgarian National Bank, internal rules for managing its activities, which include: 1) transparent organisational structure and distribution of responsibilities; 2) effective procedures for organisation and management by types of activity; 3) appropriate internal control mechanisms, including reliable and efficient administrative and accounting procedures; proper administrative and accounting procedures; rules and procedures for assessing consumer's

creditworthiness; as well as all rules and procedures in accordance with the provisions of the Consumer Credit Act, the Ordinance concerning the financial institutions, Credit Institutions Act, Personal Data Protection Act, Measures Against Money Laundering Act, Measures Against the Financing of Terrorism Act, etc.

In conclusion, the most efficient way for non-traditional intermediaries to implement alternative schemes of student financing, specifically in the form of deferral payment schemes and income share agreement schemes, is to act as intermediaries in the student credit granting. The agreement for intermediation in consumer credit granting is regulated in the Consumer Credit Act and is defined in the latter as an agreement on the basis of which a natural person or a legal entity, acting within their professional or business activities, offers or undertakes to arrange the conclusion of a consumer credit agreement or to indicate a possibility for its conclusion. Acting as credit provider would not be an option for non-traditional intermediaries and incorporation of a subsidiary cannot be recommended as an efficient method when considering the above.

## 3. Croatia

**Overview**

In Croatia, implementing alternative schemes of student financing, specifically in the form of deferral payment schemes and income share agreement schemes, would generally be considered a provision of consumer credit and as such regulated. However, deferral of payment or income share agreements are not regulated separately under Croatian law.

Provision of consumer credit is mainly regulated by the Consumer Credit Act ('Official Gazette' No. 75/2009 - 128/2022; 'the CCA'), that implements Directive 2008/48/EC into national jurisdiction.

Both financial institutions and non-financial institutions can provide consumer credit provided that they comply with the sector specific regulations or with the CCA. Non-traditional intermediaries would fall under the category of entities that are not pre-approved to provide consumer credit services. They must meet the definition of the creditor as stipulated by the CCA and obtain a license issued by the Ministry of Finance in order to be able to provide consumer credit.

In general, consumer credit providers must meet the criteria for personal requirements, internal systems and further ongoing compliance obligations, such as obligations regarding provision of information or a creditworthiness assessment, to be able to provide consumer credit according to Croatian law.

The CCA also includes several cases of complete or partial exemption that exclude or limit its application to some credit agreements. In general, Directive 2008/48/EC features wider range of the cases of complete exemption than does the CCA. Deferral of payment and income share agreements can represent some cases of complete exemption under the CCA, as indicated in the sections below, i.e. (i) credit agreements involving a total amount of credit of more than EUR 132,722.81, (ii) credit agreements where the credit is granted free of interest and without any other charges and credit agreements under the terms of which the credit has to be repaid within three months and only charges in the amount of up to EUR 3.98 are payable or (iii) credit agreements which relate to the deferred payment, free of charge, of an existing debt. In certain cases, deferral of payment or income share agreement could fall under the case of complete exemption applicable to certain credit agreements

under the CCA but would still meet the definition of consumer credit[21]. In such cases, the exact scope of the application of the CCA or other regulations should be confirmed with the competent authority.

Changes in the recipient may result in the recipient no longer falling into the category of a consumer, for example, because of being a legal person. In these cases, neither a deferral of payment or income share agreement would fall under the scope of the CCA. In this regard, general regulations such as the Civil Obligations Act and sector specific relevant regulations should apply. Also, banking and other relevant regulations allowing certain services to be provided only by regulated entities should be observed to exclude their application.

The exemption case regulated by Article 2(2)(l) of Directive 2008/48/EC, i.e. credit agreements which relate to loans granted to a restricted public under a statutory provision with a general interest purpose, and at lower interest rates than those prevailing on the market or free of interest or on other terms which are more favourable to the consumer than those prevailing on the market and at interest rates not higher than those prevailing on the market, has not been implemented into Croatian law in the area of student financing.

Apart from the above, no comprehensive regulation of the consumer credit/credit agreements in the public interest has been enacted in the area of student financing in Croatia as of 31 December 2022.

**Deferral of payment**

Deferral of payment falls under the general definition of a consumer credit agreement contained in the CCA. There is no specific regulation regarding deferral of payment or any other definition of it. The CCA applies to the provision of deferral of payment in full scope, i.e. the providers of deferral of payment are considered to be providers of consumer credit and, thus, they shall obtain a license and comply with all regulatory requirements prescribed by the CCA (excl. entities that are pre-approved to provide consumer credit services).

However, deferral of payment could fall under the case of complete exemption under the CCA in the following cases: (i) credit agreements involving a total amount of credit of more than EUR 132,722.81, (ii) credit agreements where the credit is granted free of interest and without any other charges and credit agreements under the terms of which the credit has to be repaid within three months and only charges in the amount of up to EUR 3.98 are payable, (iii) and credit agreements which relate to the deferred payment, free of charge, of an existing debt. In certain cases, deferral of payment could fall under the case of complete exemption under the CCA but would still meet the definition of consumer credit (when considered as credit agreement involving a total amount of credit of more than EUR 132,722.81). In such cases, the exact scope of the application of the CCA or other regulations should be confirmed with the competent authority. A deferral agreement where the time value of money and administration is taken into account would likely not fit the exemptions of credit agreements where the credit is granted free of interest and without any other charges or credit agreements which relate to

---

[21] According to the CCA, 'consumer credit' means a legal business whereby one contracting party is obliged to make available to the other contracting party a certain amount of funds, for a determined or undetermined period of time, for a purpose or without a defined purpose, and the other contracting party is obliged to pay the contracted interest or the contracted fees and to return the used amount of funds within the period and in a manner agreed, and any other legal business which is equal to this legal business in its economic essence, whereas 'credit agreement' is an agreement whereby a creditor grants or promises to grant to a consumer credit in the form of a deferred payment, loan or similar financial accommodation, except for agreements for the provision on a continuing basis of services or for the supply of goods of the same kind, where the consumer pays for such services or goods for the duration of their provision by means of instalments.

the deferred payment, free of charge, of an existing debt, in particular where the amount to be returned exceeds the tuition amount. However, this conclusion should be confirmed with the competent authority.

**Income share agreement**

An income share agreement falls under the general definition of a consumer credit agreement contained in the CCA as a similar financial service. There is no specific regulation regarding an income share agreement or any other definition of it. The CCA applies on the implementation of an income share agreement in its full scope, i.e. the providers of funds on the basis of an income share agreement are considered to be providers of consumer credit and, thus, they must obtain a license and comply with all other regulatory requirements prescribed by the CCA irrespective of their legal form.

However, an income share agreement could fall under the case of a complete exemption under the CCA in the following cases: (i) credit agreements involving a total amount of credit of more than EUR 132,722.81; and (ii) credit agreements where the credit is granted free of interest and without any other charges and credit agreements under the terms of which the credit has to be repaid within three months and only charges in the amount of up to EUR 3.98 are payable. In certain cases, an income share agreement could fall under the case of complete exemption under the CCA but would still meet the definition of consumer credit (when considered as a credit agreement involving a total amount of credit of more than EUR 132,722.81). In such cases, the exact scope of the application of the CCA or other regulations should be confirmed with the competent authority. In cases where the receiver has the potential of overpaying the provided principle, this may be deemed a consumer credit on which the CCA applies in full scope. However, this conclusion should be confirmed with the competent authority.

**General guidance for providers**

The main legal regulation concerning alternative schemes of student financing is the CCA. The CCA governs consumer credit agreements, information and rights concerning credit agreements, access to databases, supervision and protection of the rights of consumers, whereby the consumer assumes the role of a credit user who uses the credit under the terms and for the purposes laid down in the CCA. The supervision under the CCA is conducted by the State Inspectorate, as a general rule.

In addition to entities that are pre-approved to provide consumer credit services such as commercial banks, there is a category of entities that are not pre-approved to provide consumer credit services. There is a special license for such providers, and it would be required of all of the discussed education providers should they wish to implement alternative schemes of student financing unless a case of exemption as mentioned above is met.

In order to obtain a license and provide consumer credit in accordance with Croatian law, an education provider needs to meet the definition of the creditor under the CCA and mainly the following criteria: personnel requirements (e.g. at least one employee with appropriate professional qualifications and work experience), technical requirements (e.g. proper IT equipment), organisational requirements (e.g. relevant internal procedures/systems), other requirements (e.g. business plan, relevant certificates on non-existence of a tax debt, no criminal proceedings, etc.) and other ongoing compliance obligations such as obligations regarding creditworthiness assessment, etc.

According to the CCA, a creditor is a natural or legal person who within the territory of the Republic of Croatia grants or promises to grant credits in the course of its business activities or activities of its profession, and particularly, among other listed entities, legal entity operating under laws governing the operations of entrepreneurs.

In conclusion, to be sure that they fall under the definition of creditor under the CCA and to be sure that they are initially eligible to obtain a license from the Ministry of Finance, education service providers should fall under the listed category of legal entities operating under laws governing the operations of entrepreneurs (i.e. Accounting Act) or, alternatively, be able to establish a subsidiary that would fall under this category. Separate analysis is warranted in this regard, especially from a sector specific and (corporate income) tax perspective. However, it should be noted that the CCA itself does not automatically disqualify entities not falling under particularly listed categories as eligible to be considered as creditors under the CCA. Additionally, there is also a possibility for non-traditional intermediaries to provide consumer credit as a consumer credit intermediary either for their subsidiaries or for other consumer credit providers. When performing the activities of credit intermediaries, education providers should be considered as credit intermediaries in an ancillary capacity. Namely, credit intermediaries in an ancillary capacity are defined as suppliers of goods or service providers if their activity as credit intermediaries is not the main purpose of their activity or profession. In this regard, the scope of application of the CCA and regulations based on the CCA should be observed, as well as sector specific regulations.

## 4. Czech Republic

**Overview**

In the Czech Republic, implementing alternative schemes of student financing, specifically in the form of deferral payment schemes and income share agreement schemes, would generally be considered a provision of consumer credit and as such regulated. However, deferral of payment or income share agreements are not regulated separately under Czech law.

Provision of consumer credit is mainly regulated by Act No. 257/2016 Coll., on Consumer Credit (the 'Act') that implements Directive 2008/48/EC into national jurisdiction.

All providers of consumer credit despite their type (incl. non-traditional intermediaries) shall comply with regulatory requirements prescribed mainly by the Act. In addition, providers that are financial institutions (e.g. banks, payment institutions) shall also comply with their sector-specific regulation.

In general, the providers of consumer credit must obtain a license and meet the criteria for the legal form, registered capital, personal requirements, internal systems, and further ongoing compliance obligations, such as obligations regarding provision of information or a creditworthiness assessment, to be able to provide consumer credit according to Czech law.

Nevertheless, the Act also includes several cases of complete or partial exemption that exclude or limit its application. Most notably, (i) provision of consumer credit without interest and without any remuneration other than the reimbursement of purposefully incurred costs directly related to the securing of such consumer credit, (ii) provision of consumer credit in the form of a free deferral of payment of an existing debt, with the exception of consumer credit for housing purposes secured by immovable property or by right in rem or (iii) provision of consumer credit, other than for housing purposes, granted in the public interest to a restricted group of persons under another statutory provision without interest or with a borrowing rate below the usual market rate represent the cases of partial exemption on which the Act applies to only a limited extent. Providers of such consumer credit do not need to obtain a license or meet most of the above-mentioned criteria.

No regulation of the consumer credit/credit agreements in the public interest has been enacted in the area of student financing in the Czech Republic as of 31 December 2022, so the exemption case (iii) is not applicable.

**Deferral of payment**

Deferral of payment falls under the general definition of consumer credit contained in the Act. There is no specific regulation regarding deferral of payment or any other definition of it. The Act applies to the provision of deferral of payment in full scope, i.e. the providers of deferral of payment are considered to be providers of consumer credit and, thus, they must obtain a license and comply with all regulatory requirements prescribed by the Act mentioned above, irrespective of their legal form.

However, if an education provider provides its students with deferral of payment for its services without any interest or fee or only with the reimbursement of purposefully incurred costs directly related to the securing of such consumer credit, such a provider could fall under the cases of partial exemption under the Act mentioned above. Thus, such an education provider would not need to obtain a license or meet most of the above-mentioned criteria for providers of consumer credit under the Act. A deferral agreement where the time value of money and administration is taken into account would likely not fit the exemptions of consumer credit without interest and without any remuneration other than the reimbursement of purposefully incurred costs directly related to the securing of such consumer credit or consumer credit in the form of a free deferral of payment of an existing debt, with the exception of consumer credit for housing purposes secured by immovable property or by right in rem, in particular where the amount to be returned exceeds the tuition amount.

Unlike income share agreements, the providers of deferral of payment shall also comply with several additional mainly informational obligations regarding deferrals (e.g. information on the price of the goods or services purchased included in advertisement, precontractual information and in the contract itself).

**Income share agreement**

Income share agreement falls under the general definition of consumer credit contained in the Act as a similar financial service. There is no specific regulation regarding income share agreement or any other definition of it. The Act applies on the implementation of income share agreement schemes in full scope, i.e. as the providers of funds on the basis of an income share agreement are considered to be providers of consumer credit and, thus, they must obtain a license and comply with all other regulatory requirements prescribed by the Act mentioned above irrespective their legal form.

However, if an education provider provides financial funds to its students on the basis of an income share agreement without any interest or fee, such a provider could fall under the case of partial exemption under the Act mentioned above. Thus, such education providers would not need to obtain a license or meet most of the above-mentioned criteria for providers of consumer credit under the Act.

**General guidance for providers**

The main legal regulation concerning alternative schemes of student financing is the Act No. 257/2016 Coll., on Consumer Credit. The Act covers definitions, the product itself, providers, intermediaries, administrative sanctions, etc. The supervision under the Act is conducted by the Czech National Bank.

In addition to standard bank that is providing consumer credit, there is a category of so-called non-bank providers of consumer credit. There is a special license for non-bank providers, and it would be required from all of the discussed education providers should they wish to implement alternative schemes of student financing unless a case of partial exemption mentioned above is met.

In order to obtain a non-banking license and provide consumer credit in accordance with Czech law, an education provider needs to meet mainly the following criteria: legal form (i.e. joint-stock company, European company ('SE') or limited liability company), registered seat and headquarters in the Czech Republic, registered capital (i.e. a minimum of CZK 20,000,000 / EUR 853,000), personal requirements (i.e. professional competence and credibility of its staff members, tied agents and their workers, and of intermediaries of tied consumer credit and their staff members), internal systems (i.e. proper administrative and accounting procedures, remuneration rules, rules on compliance with the obligations relating to combating the legalization of criminal proceeds and the financing of terrorism, etc.), and other ongoing compliance obligations, such as obligations regarding provision of information or a creditworthiness assessment, etc. In conclusion, the most efficient way for non-traditional intermediaries to implement alternative schemes of student financing, specifically in the form of deferral payment schemes and income share agreement schemes, is either to obtain a non-banking license (this applies to the education providers that complies or could comply with the above mentioned criteria) or generally through a subsidiary established for the purpose of serving as a non-bank provider of consumer credit in the legal form of limited liability company (in Czech: *společnost s ručením omezeným, s.r.o.*). The reason for preferring a subsidiary rather than obtaining a non-banking license may be the simple and cost effective process of establishing a limited liability company and limited liability of its shareholders (only to the amount of their unpaid contribution to the registered capital). Only the subsidiary should comply with all specific regulations on consumer credit providers and solely the subsidiary will be subject to supervision of the Czech National Bank. Additionally, there is also a possibility for non-traditional intermediaries to provide consumer credit as a consumer credit intermediary either for their subsidiaries or for other consumer credit providers. Nevertheless, the non-traditional intermediaries must obtain an authorisation and comply with the regulatory requirements (including registered seat in the Czech Republic, professional qualification and credibility).

## 5. France

**Overview**

In France, implementing alternative schemes of student financing, specifically in the form of deferral payment schemes and income share agreement schemes, would generally be considered a provision of consumer credit and as such regulated. However, deferral of payment or income share agreements are not regulated separately under French law.

Directive 2008/48/EC has been implemented into French law by Law no. 2010-737 of 1 July 2010. The French legal framework dedicated to consumer credit is set by the French Consumer Code ('FCC') (Art.L.312-1 and seq. of the FCC). The French Civil Code provides general rules governing the conclusion and the performance of any contracts, e.g. general conditions of validity (consent and capacity of the parties, rules governing the content of contracts – without prejudice to specific/additional criteria depending on the type of contract), obligation to perform the contract in good faith, principles for the termination of contracts, etc.

According to Article L.511-5 of the French Monetary and Financial Code ('MFC'), no person or legal entity other than a financial institution or a financing company can carry out credit transactions on a regular and a remunerated basis on the French territory, nor receive repayable funds from the public on a regular basis, nor provide banking payment services (i.e. French banking monopoly). Thus, only entities licensed as financial institutions or financing companies can, in principle, carry out credit transactions on a regular and a remunerated basis. Article L. 313-1 of the MFC defines a 'credit

transaction' as, notably, 'any act by which a person acting for valuable consideration makes funds available or promises to make funds available to another person (…)'.

Additionally, other entities are allowed to provide credit services on a residual and exceptional basis, however it is only in very specific circumstances that do not seem to be relevant in this case. Article L.511-7 of the MFC authorises a company, whatever its nature and in the exercise of its professional activity, to grant its contractors payment deferrals or advance payments. While excluded from the scope of French banking monopoly, payment deferrals may be considered as consumer credits and as such be subject to the specific rules set for in the FCC.

Pursuant to Article L.312-4 of the FCC, some operations are excluded from the scope of consumer credit regulation, among which the following could be applicable to deferral of payment: (i) transactions for which the total amount of credit is less than EUR 200 or more than EUR 75,000, (ii) credit transactions with a repayment period of no more than three months that are subject to any interest or charges or only to negligible interest and charges or (iii) agreements relating to payment periods granted for the amicable settlement of an existing debt, provided that no additional costs to those stipulated in the contract are charged to the consumer.

The exemption case regulated in Article 2(2)(l) of Directive 2008/48/EC, i.e. credit agreements which relate to loans granted to a restricted public under a statutory provision with a general interest purpose, and at lower interest rates than those prevailing on the market or free of interest or on other terms which are more favourable to the consumer than those prevailing on the market and at interest rates not higher than those prevailing on the market, has not been implemented into French law in the area of student financing.

Apart from the above, no comprehensive regulation of the consumer credit/credit agreements in the public interest has been enacted in the area of student financing in France as of 31 December 2022.

**Deferral of payment**

There is no legal definition of deferral of payment under French law. Article L.511-7 1° of the MFC states that 'a company, whatever its nature, may, in the exercise of its professional activity, grant deferrals or advance payments to its counterparty'. This means that, under French law, deferral of payment granted under the conditions set out by this provision does not fall within the scope of the banking monopoly and would not be subject to licencing or notifications requirements (i.e. such deferrals of payment may be granted by any entities other than credit institutions or financing companies).

However, 'deferral of payment' granted to a consumer may qualify as a consumer credit within the meaning of the FCC. Indeed, Article L. 311-1 of the Consumer Code defines the credit agreement as a contract by which a creditor grants or promises to grant credit to a borrower in the form of deferral of payment, a loan or any other similar financial assistance, and the borrower undertakes to repay the amount borrowed, plus interest or other charges, within a specified period.

More precisely, deferral of payment (whether concluded in return for payment or free of charge) is considered to be a credit agreement within the meaning of the FCC (i.e. a consumer credit) provided that the amount concerned is equal to, or greater, than EUR 200 and less than, or equal to, EUR 75,000. By exception, credits which do not exceed three months and do not provide interest or charges (or provide negligible interest or charges) do not fall under the scope of the consumer credit regulation.

In addition, article 8 of the Decree[22] on registration fees in public higher education institutions provides that: 'If the user so requests at the time of enrolment, the institution may authorise the payment of the enrolment fees in instalments. The first instalment is paid at the time of registration'. For all cases of exemption specific to deferral of payment please refer to the Overview.

In conclusion, under French law, there is no objection to a university granting payment delays to students. However, unless where an exemption or exception as per the FCC applies to deferral of payment concerned (i.e. less than EUR 200, or higher than EUR 75,000, or a duration of less than three months and with no or negligible interests or charges), it must comply with the rules governing the consumer credit under consumer law (pre-contractual information requirements, withdrawal period, requirements relating to the credit rate, etc.).

Pursuant to Art. L.312-4, 5° of the FCC, credit transaction (deferral of payment included) with a repayment term not exceeding 3 months and with no or negligible interests or charges don't fall within the scope of the consumer credit regulation. This means that this case of exemption encompasses deferral of payment of less than 3 months and without any interest of fee or negligible interests or fee. Thus, where deferral related interest or fees are 'negligible', then the 3 month deferral of payment may remain unregulated. However, as this exemption is strictly limited to 3 months, then this exemption could not be applicable to long term student financing.

**Income share agreement**

There is no specific legal definition of an income share agreement under French law. An income share agreement is not recognised as a specific typology of contract under French law (legal doctrine is of the view that such agreements could be qualified as loans or, potentially, as partnership agreements depending on the case), and therefore is not subject to any dedicated legal framework[23].

Funds granted on the basis of an income share agreement to a consumer in France would therefore be likely to be qualified as a credit agreement within the meaning of the MFC (i.e. subject to the banking monopoly if concluded on a regular and a remunerated basis) and, more especially, as a consumer credit agreement within the meaning of the FCC.

Should it be the case, concluding an income share agreement with a consumer in France would, in practice, probably raise multiple legal issues with respect to the French banking regulation and contract law, irrespective of the banking monopoly issue (for example, the amount and terms of a credit likely to be granted to a consumer should be assessed on their current financial capabilities).

**General guidance for providers**

There is no legal regulation specific to alternative schemes of student financing.

---

[22] 19 April 2019 Decree related to registration fees in public higher education institutions and universities (*in French : Arrêté du 19 avril 2019 relatif aux droits d'inscription dans les établissements publics d'enseignement supérieur relevant du ministre chargé de l'enseignement supérieur)*

[23] This phrase applies for all situations. Under French law, there is no specific legal framework for an income share agreement (i.e. no legal framework dedicated to this kind of contract, as income share agreements are not a specific typology of contracts). Depending on the legal qualification to which income share agreement would be tied (i.e. loan, partnership, etc.), the corresponding legal framework would apply (i.e. a legal framework governing credits if income share agreement is qualified as a loan, a legal framework governing partnerships if income share agreement is qualified as a partnership, etc.).

There is no objection to a university granting deferral of payment to students but, unless where an exemption or exception apply, such operations would have to comply with the rules governing the consumer credit under consumer law such as obligations under the AML regulation, risk management obligations, etc. In practice, and to our knowledge, only financial institutions provide student financing operations on a regular basis.

An income share agreement is not recognised as a specific contract typology under French law, which therefore does not provide any dedicated legal framework for such contracts. In practice, concluding an income share agreement with a consumer in France that would comply with the credit agreement regulation would appear hardly feasible.

In conclusion, there is no efficient way for non-traditional intermediaries to implement alternative schemes of student financing. At the same time, deferral of payment granted under the conditions set out by MFC does not fall within the scope of the banking monopoly, and the non-traditional intermediary providing such deferral of payment would not be subject to licencing or notifications requirements. However, unless where an exemption or exception apply, such operations would have to comply with the rules governing the consumer credit under consumer law (i.e. pre-contractual information requirements, withdrawal period, requirements relating to the credit rate, etc.).

In practice, and to the best of our knowledge, only financial institutions provide student financing operations on a regular basis. Moreover, French law does not introduce any provision for non-traditional intermediaries to act as consumer credit intermediaries to implement alternative schemes of student financing.

## 6. Germany

**Overview**

In Germany, implementing alternative schemes of student financing, specifically in the form of deferral payment schemes and income share agreement schemes, would generally be subject to a wide range of regulations for general consumer loan agreements. However, deferral of payment or income share agreement are not regulated separately under German law.

Directive 2008/48/EC has been implemented into national law by the Act on the Implementation of the Consumer Credit Directive, the Civil Law Part of the Payment Services Directive and in the Reorganisation of the provisions on the Right of Withdrawal and the Right of Return (in German, Gesetzes zur Umsetzung der Verbraucherkreditrichtlinie, des zivilrechtlichen Teils der Zahlungsdiensterichtlinie sowie zur Neuordnung der Vorschriften über das Widerrufs- und Rückgaberecht) (the 'Act'). The definition of a consumer credit agreement in Germany is similar to the definition provided in the Directive 2008/48/EC.

All providers of consumer credits, regardless of their type, must comply with the regulatory requirements implemented by the Act. In addition, providers that are financial institutions (e.g. banks, payment institutions) must comply with their sector-specific regulation.

In general, commercially providing (consumer) credits (called 'Credit Business' which is a banking business subject to a license under the German Banking Act; in German, Kreditwesengesetz, 'KWG') requires a license granted by the German Federal Financial Supervisory Authority (in German, Bundesanstalt für Finanzdienstleistungsaufsicht, 'BaFin'). However, the financing of students through so-called education funds should normally be an internal company or a participatory loan with a debtor

warrant, but not a Credit Business and therefore not subject to a license. Education funds are aimed at both students looking for a way to finance their studies and private and institutional investors who provide the fund with equity (limited partnership shares) or debt capital (bonds) with the aim of generating a return. Students can apply to the education fund. The operator of the education fund makes a contract offer to selected applicants. The difference to a normal (consumer) credit is that the amount to be repaid at the end of the course depends on the student's income. At the end of their studies, the 'beneficiaries' repay a percentage of their income – up to a 'maximum assessment basis' – to the education fund for an agreed period. The amount to be repaid is usually higher than the amount paid out. If the income is lower, it will be lower. In individual cases, the amount to be repaid may be less than the amount paid out; in extreme cases of permanent unemployment or total loss of earning capacity, there may be no repayment at all. Non-traditional intermediaries could benefit from the education funds but only to the extent that they do not provide consumer loans on a regular basis.

Nevertheless, there is generally the licensing requirement for the Credit Business, but there are also cases of exemption. Most notably, (i) student finance agreements in which the provider significantly shares the risk of the sponsored student's professional success are not to be qualified as loans, (ii) contracts in which the net loan amount is less than EUR 200, (iii) contracts according to which the borrower is to repay the loan within three months and only low costs are agreed or (iv) agreements which are only concluded with a limited group of individuals on the basis of legal provisions in the public interest if conditions are agreed in the contract for the borrower that are more favourable to the borrower than the going market rates and a maximum of the going borrowing rate on the market is agreed. Therefore, providers of such finance agreements do not need to obtain a license if they meet the above mentioned criteria. Further, based on a case-by-case decision, BaFin may facilitate the legal requirements, e.g. for providers of interest-free loans to students on behalf of a charitable foundation.

No regulation of consumer credit/credit agreements in the public interest has been enacted in the area of student financing in Germany as of 31 December 2022, so the exemption case (iv) is not applicable.

**Deferral of payment**

The German Civil Code (in German, Bürgerliches Gesetzbuch) refers to deferral of payment as a contract by which a trader grants a consumer a non-gratuitous deferment of payment. Although deferral of payment does not fall under the definition of a credit agreement, various provisions on general consumer loan agreements are to be applied, irrespective of their legal form.

There are no specific requirements for offering deferral of payment to students. However, if an interest rate is agreed by an education provider offering deferral of payment for its services to its students, the consumer protection regulations on credit agreements apply. Furthermore, if the provider is operating the Credit Business within the meaning of the KWG commercially licensing requirements may apply.

Providing deferral of payment to students interest free does not trigger any licensing requirements. That is also the case for a deferral agreement where the time value of money and administration is taken into account.

If the regulations for consumer credits are applicable, key provisions, implemented by the Act, include requirements for pre-contractual information, responsible lending, and the right of withdrawal, as well as the obligation of credit institutions to perform a credit check on the consumer when granting consumer loans. These provisions mostly aim to ensure that consumers are provided with clear and transparent information about the terms of credit agreements, and that they are protected from unfair practices by creditors.

**Income share agreement**

An income share agreement falls under the general definition of credit agreement contained in the Act. There is no specific regulation regarding an income share agreement or any other definition of it.

However, if there is no interest rate agreed (interest-free loans), there are no licensing requirements under the KWG. In any case, since there is no specific definition or regulation of income share agreement, the same principles must be applied when evaluating these agreements as for other methods of student financing, such as education funds (please see above). It is therefore always necessary to consider the individual, particularly regarding licensing requirements.

**General guidance for providers**

There are no specific laws governing student financing by non-traditional intermediaries. Generally, student financing is governed by general credit agreement regulations irrespective of the legal form of the providers. This includes providing consumers with clear and transparent information about the terms and conditions of credit agreements, assessing the creditworthiness of consumers, and ensuring that consumers are not subject to unfair or abusive practices.

A license may be required for the provision of credit unless an exemption applies as described above. As mentioned, the provision of student financing is unlikely to be subject to licensing requirements.

There are also no specific regulations for providing deferral of payment to students as type of student financing. However, regulations for consumer loans may be applied accordingly. As long as no interest rate for the deferral is agreed on, licensing requirements under regulatory law will not be triggered. The same applies on education funds and income share agreements.

Also, even if no license is required and no specific regulations for student financing is in place (as at present in Germany), for providers it is recommended to set up in particular proper administrative and accounting procedures, creditworthiness assessment procedures as well as compliance and risk management systems to ensure proper business operations.

In conclusion, it could be economically viable for non-traditional intermediaries to implement alternative schemes of student financing, specifically in the form of deferral payment schemes and income share agreement schemes, through a subsidiary established for the purpose of serving as a non-bank provider of consumer credit. Therefore, the legal form of a German Limited Liability Company ('Gesellschaft mit beschränkter Haftung, GmbH') would be an efficient way, because a GmbH can be established without major hurdles. The GmbH formation requires a minimum capital of EUR 25,000, at least half of which must be paid in at the time of formation. The liability of a GmbH is generally limited to its share capital. However, establishing a subsidiary is not mandatory and may be seen as one option. Providers of student financing should carefully consider their specific situation and evaluate aspects such as economic and tax implications. Subsidiaries are often used if the parent company wishes to expand its business and assumes that the new line of business no longer fits in with the core business or the purpose of the company. This type of outsourcing can, as an example, also facilitate a future sale of the new business segment. However, from a regulatory perspective, it makes no difference whether the parent company offers student financing directly or through an intermediary subsidiary, as a subsidiary is subject to the same legal requirements in relation to student financing as the parent company if it grants student financing itself.

## 7. Greece

**Overview**

In Greece, implementing alternative schemes of student financing, specifically in the form of deferral of payment schemes and income share agreement schemes, would generally be considered a provision of consumer credit and as such regulated. However, deferral of payment or income share agreements are not regulated separately under Greek law.

The provision of consumer credit is mainly regulated by Ministerial Decision Z1-699/2010 as amended and currently in force (the 'Consumer Credit MD'), that implements Directive 2008/48/EC into national jurisdictions. The regulatory framework for consumer credit is supplemented by various additional acts, mainly issued by the Bank of Greece.

Any entity engaging in systematic provision of credit must be duly licensed and closely supervised by the Bank of Greece. It must meet the criteria for legal form, registered capital, personal requirements, internal systems and further ongoing compliance obligations, such as obligations regarding provision of information or creditworthiness assessment, in order to be able to provide consumer credit according to Greek law.

Nevertheless, the Consumer Credit MD also includes cases of exemption that exclude its application. Most notably, (i) credit agreements where the credit is granted free of interest and without any other charges (ii) credit agreements under the terms of which the credit has to be repaid within three months and only insignificant charges are payable, (iii) credit agreements involving a total amount of credit less than EUR 200 or more than EUR 75,000, (iv) credit agreements which relate to the deferred payment, free of charge, of an existing debt or (v) credit agreements which relate to loans granted to a restricted public under a statutory provision with a general interest purpose, and at lower interest rates than those prevailing on the market or free of interest or on other terms which are more favourable to the consumer than those prevailing on the market and at interest rates not higher than those prevailing on the market constitute cases of full exemption under the Consumer Credit MD.

No regulation of the consumer credit/credit agreements has been adopted in the area of student financing in Greece as of 31 December 2022, so the exemption case (v) is not applicable.

**Deferral of payment**

Deferral of payment falls in principle under the general definition of consumer credit contained in the Consumer Credit MD; however it ultimately falls outside this scope because an exemption applies. More specifically, if the payment deferral does not burden the consumer with any fee (either direct or indirect) or interest, it falls within an exemption and it is, thus, not considered as 'consumer credit' in the context of the Consumer Credit MD. It should be noted that the provision of any fee or interest would lead to a different conclusion.

There is no specific regulation regarding deferral of payment schemes as a type of financing product for students/learners. However, such a scheme could fall under the general (provided under the Greek Civil Code) concept of 'price credit' for the sale and purchase of goods or for the provision of services. Assuming that deferral of the payment does not burden the receiver with a fee or interest or other above mentioned exemption case is concerned, it is not subject to the Consumer Credit MD. In that regard, private education agencies, or public universities at postgraduate level, can provide deferrals for the payment of tuition – however, this kind of deferral is not considered in any case to be consumer credit.

Consequently, the providers of deferral of payment (without any interest or fee), would not need to obtain a license or meet the strict criteria set for providers of consumer credits. A deferral agreement where the time value of money and administration is taken into account would likely not fit the exemptions of credit agreements where the credit is granted free of interest and without any other charges or credit agreements which relate to the deferred payment, free of charge, of an existing debt, in particular where the amount to be returned exceeds the tuition amount.

**Income share agreement**

An income share agreement falls under the general definition of consumer credit contained in the Consumer Credit MD. There is no specific regulation regarding income share agreement or any other definition of it, and it is currently not provided in Greece. The Consumer Credit MD applies on the implementation of income share agreement in its full scope, i.e. the providers of funds on the basis of an income share agreement would be considered to be providers of consumer credit and, thus, they should obtain a license and comply with all other regulatory requirements prescribed by the said act irrespective of their legal form.

However, if the financial funds are provided to students on the basis of an income share agreement without any interest or fee or other above mentioned exemption case is concerned, such agreements would be exempt from the scope of the Consumer Credit MD. The education provider would not need to obtain a license or meet the strict criteria set for providers of consumer credits.

As an income share agreement is a type of agreement currently not provided in Greece, relevant consultation with public authorities (and most importantly the Bank of Greece) would be necessary before the introduction and implementation of income share agreements in Greece, since the lending activity is strictly regulated, and transparency issues are thoroughly examined.

**General guidance for providers**

The main regulation concerning alternative schemes of student financing in Greece is the Consumer Credit MD. The provisions of this act can be grouped into the following categories: (a) obligations with respect to the provision of information to consumers (b) the rights of the consumers (c) the assessment of the consumers' creditworthiness (d) provisions relating to credit intermediaries. The regulatory framework for consumer financing is supplemented by various additional acts, mainly issued by the Bank of Greece.

Any entity engaging in systematic provision of credit must be duly licensed and closely supervised by the Bank of Greece. Providers of financing should obtain a credit institution license under the legal form of a Greek Société Anonyme. However, public sector entities (e.g. public universities and other public education providers) are not eligible for a credit institution license.

Providers of deferral of payment or income share agreements (without any interest or fee) would not need to obtain a license or meet the strict criteria set for providers of consumer credits.

As the regulatory setting currently stands, public sector entities (e.g. public universities and other public education providers) are not eligible for a credit institution license. It should be noted that constitutional provisions stipulate that 'universities' are exclusively public in Greece. Nevertheless, deferral of payment schemes may indeed be feasible, to the extent that they do not qualify as credit (e.g. public universities usually break down in instalments the cost of postgraduate studies, whereas this approach does not qualify as 'provision of credit').

In conclusion, even though deferral of payment may be provided by Greek public universities to the extent they do not qualify as credit and taking into consideration the strict legal framework governing the lending activity, a practically feasible approach for non-traditional intermediaries to provide alternative financing schemes would be through collaboration with established credit institutions. In particular, the credit institution would enter into a contract with the consumer and grant the credit to the latter, whereas the education provider would provide their (education) services. Non-traditional intermediaries, instead of functioning as consumer credit providers, may channel funds to students as consumer credit intermediaries. Therefore, the simplest way for education providers to grant credits is to act as an intermediary of an existing consumer credit provider or a credit entity, such as a bank. The Consumer Credit MD includes provisions specific to credit intermediaries, including Art. 22 par. 1 providing that individuals/entities offering to conclude or mediate in the conclusion of a credit agreement shall be duly registered in the competent business registry. The credit intermediation also requires that the intermediary acts in the course of their trade, business or profession. Thus, as per this analysis, this option could be explored for a private education institution, as public education institutions in Greece (e.g. State Universities) may not act in such a capacity.

## 8. Hungary

**Overview**

In Hungary, implementing alternative schemes of student financing, specifically in the form of deferral payment schemes and income share agreement schemes, would generally be considered a provision of consumer credit and as such regulated. However, deferral of payment or income share agreement are not regulated separately under Hungarian law.

The provision of consumer credit is mainly regulated by Act CLXII of 2009 on Consumer Credit that implements Directive 2008/48/EC into national jurisdiction (the 'Act on Consumer Credit'). The Act on Consumer Credit covers the key aspects of consumer lending, including e.g. definitions, rules for assessing creditworthiness, credit overrunning, etc. However, in addition to the Act on Consumer Credit, several other pieces of legislation apply to consumer credit, including, among others, Act CCXXXVII of 2013 on credit institutions and financial enterprises ('Hpt.'), Decree No 56/2014 (XII. 31.) NGM on certain information arrangements in respect of credit for consumers and Government Decree 83/2010 (III. 25.) on the determination, calculation and publication of the total lending rate index and Act CXXXIX of 2013 on the Hungarian National Bank ('MNB') (in terms of supervisory authority procedures, out-of-court dispute resolution).

Hungarian law sets out various possibilities for provision of credit or loans to consumers. Apart from specific forms of financing provided by special purpose entities, e.g. the State Student Credit (as defined below), as a general rule, only entities operating in a specific form and having a license from the MNB can provide credit or a loan in a 'business-like manner' (in Hungarian, üzletszerűen). These entities are predominantly credit institutions and financial enterprises.

Nevertheless, credits or loans provided in a 'non-business-like manner' are a general exemption from the licensing obligations and any entity or private individual may provide such credits or loans if there is no specific prohibition, and subject to analysis on a case-by-case basis to determine whether the actual activity is conducted in a 'business-like' manner).

Hpt. also sets out specific cases of exemption from the licensing obligation (as it does not consider these transactions as 'loans' in the meaning of the Hpt), with the most notable being: (i) a deferred

payment or advance payment under contract for the supply of goods and/or services (‘commercial loan’), except where such transactions are concluded by financial institutions, (ii) any loan where no credit interest and other form of remuneration is charged to the consumer and (iii) credit agreements which relate to loans granted to a restricted public under an act or other legislation adopted by authorisation of an act with a general interest purpose, at lower interest rates than those prevailing on the market or free of interest, or on other terms which are more favourable to the consumer than those prevailing on the market and at interest rates not higher than those prevailing on the market. The latter exemption covers among others the State Student Credit (as defined below).

As indicated above, one of the specific exemptions is the ‘commercial loan’ exemption. Based on this exemption, each non-traditional intermediary may provide ‘commercial loans’ to consumers if there is no entity-specific prohibition or restriction. Although there is no specific rule explicitly stating that universities can in fact provide commercial loans, in certain cases it may be possible due to the following rules: (i) the state-owned universities are entitled to manage their own finances (in Hungarian, önálló gazdálkodás) with respect to their income from higher education research and development commercial activity and (ii) private universities are entitled to manage their own finances in line with their deed of foundation (and if they have state funds, in line with the rules applicable to national finances). It, therefore, needs to be examined on a case-by-case basis based on the specific laws applicable to the respective non-traditional intermediaries and the foundation documentation, internal rules, etc. of the non-traditional intermediary to determine whether they can provide a ‘commercial loan’.

Regulation of the consumer credit / credit agreements in the public interest has been enacted in the area of student financing in Hungary as of 31 December 2022 in form of a Government Decree 1/2012 which is applicable to student financing with specific types of student financing products, namely ‘student credits’ and ‘educational credits’ (the ‘State Student Credit’), depending on whether the recipient is a student at a university or institution of adult education.

Although these credit products are freely disposable or restricted consumer loans (depending on the sub-categories thereof), the Act on Consumer Credit does not apply to them. These products have a very specific legal framework (Government Decree 1/2012) and only a special-purpose state-owned institution, Diákhitel Központ Zrt., may provide them and conclude the underlying agreement with students. The State Student Credit became a widespread loan product due to its favourable conditions.

**Deferral of payment**

Deferral of payment falls under the general definition of consumer credit contained in the Act on Consumer Credit. There is no specific regulation regarding deferral of payment or any other definition of it. Hungarian law uses such a term in the context of providing commercial loans as indicated in the foregoing section of this analysis. In addition to this, the Act on Consumer Credit also indicates that if credit is provided in the form of deferred payment for specific goods or services (by a financial institution, as otherwise the credit would fall under the commercial loan exemption), the credit agreement shall indicate in a clear and concise way the name and cash price of those goods or services.

Government Decree 1/2012 does not set out any specific rules regarding deferral of payment in the case of the State Student Credit.

There is no explicit regulation that would enable non-traditional intermediaries to provide credits or loans to legal entities or private individuals. Higher education institutions may grant exemptions, instalment reductions or deferrals for the fulfilment of payment obligations on a social basis, but only in respect of

costs (not tuition fees) and dormitory fees as defined in the higher education institution's own regulations on fees and allowances.

**Income share agreement**

Income share agreement falls under the general definition of consumer credit contained in the Act on Consumer Credit. There is no specific regulation regarding income share agreement or any other definition of it. It is not considered a specifically contemplated contract under Hungarian law and there are no specific rules governing this financing product.

There is no explicit regulation that would enable non-traditional intermediaries to provide credits or loans to legal entities or private individuals. Higher education institutions may grant exemptions, instalment reductions or deferrals for the fulfilment of payment obligations on a social basis, but only in respect of costs (not tuition fees) and dormitory fees as defined in the higher education institution's own regulations on fees and allowances.

**General guidance for providers**

Apart from laws specifically applicable to the aforementioned special purpose entities, there is no explicit regulation that would generally enable non-traditional intermediaries to provide credits or loans to legal entities or private individuals.

As indicated above, only entities operating in a specific form and having a license can provide credit or loans in a 'business-like manner' (these entities are predominantly credit institutions and financial enterprises). For example, universities (being established and operated in a specific legal form) may not be licensed as credit institutions and financial enterprises.

In conclusion, the potential alternative ways for non-traditional intermediaries to implement alternative schemes of student financing are (i) provision of loan on a 'non-business-like manner' directly by the non-traditional intermediaries, (ii) provision of a commercial loan directly by the non-traditional intermediaries or (iii) establishment of a financial enterprise subsidiary.

The provision of loans in a 'non-business-like manner' is a general exemption from the licensing obligation. There is no specific rule enabling or prohibiting non-traditional intermediaries to provide loans in a 'non-business-like manner', therefore, it needs to be analysed on a case-by-case basis whether the actual non-traditional intermediary can provide loans on a 'non-business-like manner'. However, the 'non-business-like manner' exemption is usually used for occasional and one-off transactions and may not be suitable to rely on if the non-traditional intermediary would provide financing to multiple students and on an ongoing basis.

As detailed above, a specific exemption from the licensing obligation is the provision of 'commercial loan'. There is no specific rule that would enable or prohibit non-traditional intermediaries to provide 'commercial loans', therefore, it needs to be analysed on a case-by-case basis whether the actual non-traditional intermediary can provide 'commercial loans' (i.e. whether there is any entity-specific restriction or prohibition) and also whether the contemplated specific student financing product can be considered as a 'commercial loan' (whether the actual product satisfy the respective criteria).

Regarding the establishment of a financial enterprise subsidiary, it is important, however, that it needs to be assessed on a case-by-case basis whether the actual non-traditional intermediary may establish a financial enterprise based on the specific laws applicable to the respective non-traditional intermediary and the foundation documentation, internal rules, etc. of the non-traditional intermediary. In this case the established financial enterprise would provide the financing directly to students. Non-traditional

intermediaries may then be identified as consumer credit intermediaries as defined under the Hpt. Based on the type of intermediary, this activity may be subject to licensing or notification obligations. Government Decree 1/2012 does not set out any rules regarding intermediaries. Depending on the contemplated student financing structure and product, it would also need to be assessed on a case-by-case basis whether the non-traditional intermediary would (need to) be an agent/financial intermediary of the financial enterprise and if so, whether that is permitted.

## 9. Ireland

**Overview**

In Ireland, implementing alternative schemes of student financing, specifically in the form of deferral payment schemes and income share agreement schemes, would generally be considered a provision of consumer credit and as such regulated. However, deferral of payment or income share agreement are not regulated separately under Irish law.

The provision of consumer credit is mainly regulated by the European Communities (Consumer Credit Agreements) Regulations 2010 (the 2010 Regulations) that implements Directive 2008/48/EC into national jurisdictions. The 2010 Regulations regulate credit provided to consumers and standardises pre-contractual information and information to be contained in a credit agreement. The 2010 Regulations are complemented by guidance issued by the Central Bank, being the competent supervisor of retail financial services, and by the Consumer Protection Code 2012, as amended, which has statutory force and applies to the 2010 Regulations and all other consumer related financial products and services.

However, this is a fragmented area of law and there are several other pieces of legislation that govern consumer credit agreements, for example the Consumer Credit Act 1995 relating to credit provided to consumers for amounts below EUR 200 and above EUR 75,000 (other than loans secured on residential property) and several pieces of legislation relating to the marketing and supply of consumer finance and provisions contained in such credit agreements, e.g. (i) credit granted or made available without payment of interest or any other charge, other than where such credit is granted or made available by a person who has invited, by way of advertisement, consumers to avail of such credit, (ii) a credit agreement other than a credit agreement operated by means of a credit card under which no interest is charged provided the consumer agrees to repay the credit in a single payment.

The following types of entities, typically established as a limited liability company or a designated activity company, can provide credit to consumers (including students) in Ireland: credit institutions, such as regulated Irish and European Economic Area banks, being EEA banks operating on a branch or cross-border basis in Ireland, and non-financial institutions, such as retail credit firms (being non-deposit taking credit institutions); credit unions; and high-cost credit providers. Each of these are subject to sector specific regulation by the Central Bank.

In general, the providers of consumer credit shall obtain a license and meet the relevant Central Bank criteria. For example, authorisation as a retail credit firm requires a firm to make an application to the Central Bank setting out details such as financial information including total assets and total liabilities for first 12 months, cash flow details, financial projections, client projections, structure of governance and staffing, details of proposed directors and holders of pre-approval controlled functions, anti-money laundering and compliance controls and procedures, risk management procedures, details on qualifying shareholders and close links, details on outsourcing and service-level agreements, continuity planning

and any regulatory background. The Central Bank will review this submission and issue comments that must be addressed before it will grant a license.

Nevertheless, the 2010 Regulations also includes several cases of complete or partial exemption that broadly mirror the exceptions set out in Parts 2 - 7 of the Directive 2008/48/EC, notably including interest free credit agreements and certain credit agreements between employers and employees. The cases of exemption under the 2010 Regulations are as follows: (i) credit agreements where the credit is granted free of interest and without any other charges, (ii) credit agreements under the terms of which the credit has to be repaid within three months and only insignificant charges are payable, (iii) credit agreements which relate to the deferred payment, free of charge, of an existing debtor, (iv) credit agreements involving a total amount of credit less than EUR 200 or more than EUR 75,000 or (v) credit agreements which relate to loans granted to a restricted public under a statutory provision with a general interest purpose, and either at lower interest rates than those prevailing on the market or free of interest or on other terms which are more favourable to the consumer than those prevailing on the market and at interest rates not higher than those prevailing on the market.

No regulation of the consumer credit/credit agreements in the public interest has been enacted in the area of student financing in Ireland as of 31 December 2022, so the exemption case (v) is not applicable.

**Deferral of payment**

Deferral of payment falls under the general definition of consumer credit contained in the 2010 Regulations. There is no specific regulation regarding deferral of payment or any other definition of it. The 2010 Regulations would apply to the provision of deferral of payment in full scope, i.e. the providers of deferral of payment would be considered to be providers of consumer credit and would require authorisation by the Central Bank as a credit firm and would need to comply with related regulatory requirements.

Deferral of payment does not readily represent any of the cases of exemption under the 2010 Regulations. However, please note that there is an exemption in respect of ‘credit agreements where the credit is granted free of interest and without any other charges and credit agreements under the terms of which the credit has to be repaid within three months and only insignificant charges are payable’. A deferral agreement where the time value of money and administration is taken into account would likely not fit the exemptions of credit agreements where the credit is granted free of interest and without any other charges or credit agreements which relate to the deferred payment, free of charge, of an existing debt, in particular where the amount to be returned exceeds the tuition amount..

**Income share agreement**

An income share agreement falls under the general definition of consumer credit contained in the 2010 Regulations as a similar financial service. There is no specific regulation regarding an income share agreement or any other definition of it. The 2010 Regulations would apply to the implementation of income share agreements in full scope, i.e. the providers of funds on the basis of income share agreements would be considered to be providers of consumer credit, would require authorisation by the Central Bank as a credit firm and would need to comply with all regulatory requirements.

An income share agreement does not readily represent any of the cases of exemption under the 2010 Regulations. However, please note that there is an exemption in respect of ‘credit agreements where the credit is granted free of interest and without any other charges and credit agreements under the terms of which the credit has to be repaid within three months and only insignificant charges are payable’.

**General guidance for providers**

The main legal regulation concerning these alternative schemes of student financing are the 2010 Regulations and the Central Bank Act 1997 which relates to the licencing requirements for retail credit firms and credit servicing firms. However, as noted above, this is a fragmented area of law and there are several relevant pieces of legislation concerning consumer credit agreements that providers should consult.

In addition to standard banks, other entities that provide credit to consumers (including students) are subject to sector specific regulation by the Central Bank. In order to provide credit to students in Ireland, an education provider would have to obtain authorisation from the Central Bank under one of these sectors and comply with the relevant regulatory requirements mentioned above as well as with other ongoing compliance obligations such as periodic reporting to the Central Bank, the filing of annual financial statements and reports, attendance at and engagement with review meetings and on-site inspections, etc.

In conclusion, the most efficient way for non-traditional intermediaries to provide alternative schemes of student financing, specifically in the form of deferral of payment schemes and income share agreement schemes, would be through a subsidiary established in Ireland and authorised by the Central Bank to provide consumer credit, which subsidiary would typically be created in the form of a limited liability company or designated activity company. Non-traditional intermediaries would then operate as credit intermediaries under the 2010 Regulations where they would not act as lender and would not be considered as a 'regulated credit entity'. As intermediary, regulation of the education provider would not be as extensive as for a credit originator. There would still be advertising and documentation requirements and fees would need to be disclosed to and agreed with the consumer before the agreement is concluded, and any fee payable by the consumer must be disclosed to the lender. Licences for credit intermediaries are granted by the Competition and Consumer Protection Commission and must be renewed annually.

## 10. Italy

**Overview**

In Italy, implementing alternative schemes of student financing, specifically in the form of deferral payment schemes and income share agreement schemes, would be generally considered a provision of consumer credit and as such regulated. However, deferral of payment or income share agreements are not regulated separately under Italian law.

Provision of consumer credit is mainly regulated by Legislative Decree No. 141 dated 13th August 2010 that have amended Title VI of the Legislative Decree No. 385/1993 containing the Consolidated Banking Act (in Italian, Testo Unico Bancario, the 'TUB') on banking provisions that implements Directive 2008/48/EC into national jurisdiction. In particular, the implementation of Directive 2008/48/EC amended Chapter II of Title VI of the TUB containing the provisions on consumer credit.

In Italy, only the following entities are allowed to provide financing agreements, including consumer credit contracts: banks and foreign banks, financial intermediaries and foreign financial intermediaries, payment service providers and foreign payment service providers under specific circumstances, or electronic money institutions and foreign electronic money institutions under specific circumstances. Non-traditional intermediaries not qualifying as one of the above shall not provide financing agreements.

In general, according to Article 14 and Article 107 of the TUB, the providers of consumer credit shall obtain an authorisation by the Bank of Italy and meet the criteria of legal form, registered capital, registered office, personal requirements, business plan requirements, registration in special registers, internal systems and further ongoing compliance obligations, such as rules and procedures for assessing consumer's creditworthiness, rules on compliance with the obligations relating to contrasting the legalisation of criminal proceeds and the financing of terrorism, etc., to be able to provide consumer credit under Italian law.

Nevertheless, the TUB also provides for several cases of complete or partial exemption that exclude or limit the application of the requirements listed above. Most notably, (i) credit agreements involving a total amount of credit less than EUR 200 or more than EUR 75,000, (ii) credit agreements where the credit is granted free of interest and without any other charges, (iii) credit agreements which relate to the deferred payment, free of charge, of an existing debt or (iv) credit agreements which relate to loans granted to a restricted public under a statutory provision with a general interest purpose, and at lower interest rates than those prevailing on the market or free of interest or on other terms which are more favourable to the consumer than those prevailing on the market and at interest rates not higher than those prevailing on the market shall integrate cases of exemption, and then in such cases the TUB applies only in limited scope.

No regulation of the consumer credit/credit agreements in the public interest has been enacted in the area of student financing in Italy as of 31 December 2022, so the exemption case (iv) is not applicable.

**Deferral of payment**

Deferral of payment provided to a consumer falls under the definition of credit agreements and is therefore subject to the regulatory framework applicable to the same. There is no specific regulation regarding deferral of payment or any other definition of it. In particular, according to Article 121, point 1, letter c), of the TUB: 'A credit agreement means an agreement whereby a creditor grants or promises to grant to a consumer credit in the form of a deferred payment, loan or other similar financial accommodation'. Non-traditional intermediaries shall not directly provide credit agreements, including deferral of payment, unless established and licensed as per the above and acting in compliance with the relevant applicable requirements.

However, deferral of payment provided to a consumer may only represent a case of complete exemption from the application of the credit agreements regulatory framework, as provided under Article 122, letter i), of the TUB: 'The provisions of this Chapter shall apply to credit agreements however denominated, with the exception of the following cases: 'i) credit agreements which relate to the deferred payment, free of charge, of an existing debt'. A deferral agreement where the time value of money and administration is taken into account would likely not fit the exemptions of credit agreements where the credit is granted free of interest and without any other charges or credit agreements which relate to the deferred payment, free of charge, of an existing debt case, in particular where the amount to be returned exceeds the tuition amount..

In addition, should the receiver entity of the deferred payment qualify as a legal entity, it shall no longer be qualified as a consumer as provided for in Article 3, letter a), of the Legislative Decree No. 206/2005 (hereinafter, the 'Consumer Code') 'Consumer: the natural person acting for purposes unrelated to the entrepreneurial, commercial, craft or professional activity, which he or she may carry on'. Therefore, the Italian regulatory framework concerning consumer credit would not be applied.

**Income share agreement**

An income share agreement concluded with a consumer may fall under the definition of a credit agreement and is therefore subject to the regulatory framework applicable to the same. There is no specific regulation regarding income share agreement or any other definition of it. As a matter of fact, although an income share agreement is an innominate contract, according to the Italian regulatory framework, such an agreement may meet the definition of consumer credit agreements according to Article 121, point 1, letter c), of the TUB: 'A credit agreement means an agreement whereby a creditor grants or promises to grant to a consumer credit in the form of a deferred payment, loan or other similar financial accommodation'.

However, an income share agreement concluded with a consumer shall be considered as a complete exemption from the consumer credit regulatory framework, whenever the credit is granted free of interests and without any other charges, according to Article 122, letter c), of the TUB.

Furthermore, when the consumer is required to pay only fees in an insignificant amount and the repayment of the credit shall be made within three months of the use of the financed amount, income share agreement shall not qualify as a consumer credit agreement and, therefore, the Italian regulatory framework on consumer credit shall not apply.

**General guidance for providers**

The main legal regulation concerning alternative schemes of student financing granted to a consumer customer is Legislative Decree No. 141 dated 13$^{th}$ August 2010 that amended Title VI of the TUB. The TUB covers definitions, the product itself, providers, intermediaries, administrative sanctions, etc. The supervision to such entities according to the TUB is conducted by the Bank of Italy.

Only the entities such as banks and foreign banks, financial intermediaries and foreign financial intermediaries, payment service providers and foreign payment service providers (under specific circumstances) and electronic money institutions and foreign electronic money institutions (under specific circumstances) can provide financing contracts (included consumer credit) in the Italian jurisdiction. Non-traditional intermediaries, in order to directly provide such credit agreements, must establish one of the legal entities listed above and shall comply with the main requirements for providers of consumer credit: (a) obtainment of an authorisation by the Bank of Italy; (b) specific legal form; (c) minimum capital requirement fulfilled as defined by the Bank of Italy; (d) registered office, as well as headquarters in Italy; (e) business plan and a plan concerning the organisational structure, together with the articles of incorporation and bylaws; (f) registration in a special register maintained by the Bank of Italy, and other ongoing compliance obligations, such as obligations regarding the system of internal controls shall set rules, functions, structures, resources and procedures that ensure a sound and prudent management and shall take into consideration the management of risks to which the provider could be exposed and for the control of the level of risks taken, etc.

In conclusion, the most efficient way for non-traditional intermediaries to implement alternative schemes of student financing, specifically in the form of deferral of payment schemes and income share agreement schemes, is to enter into commercial partnership with one of the entities listed above that are authorised to carry out the financing services, or through a subsidiary established in one of the legal forms listed above for the purpose of serving as a provider of credit agreements. As such, the non-traditional intermediaries could act as a consumer credit intermediary. This operational method is specifically allowed in Italy for goods and services suppliers without the necessary registration mentioned above, on the basis of a specific exemption provided by Article 12, paragraph 1, letter a) of

the legislative decree No. 141 dated 13 August 2010. This mentioned operational method implies that the educational services providers become technically intermediaries of financing products, but exempted and not subject to the regulatory regime applicable to the so called 'agents in financial activity'; thus, the educational services providers which choose to sign a commercial partnership with banks and/or financial intermediaries are only subject to the contractual duties included in the agreement signed with such supervised entities (in this respect there are some regulatory boundaries to be taken into account in the drafting of such partnership agreements).

## 11. Lithuania

**Overview**

In Lithuania, implementing alternative schemes of student financing, specifically in the form of deferral of payment schemes and income share agreement schemes, would generally be considered a provision of consumer credit and as such regulated. However, deferral of payment or income share agreements are not regulated separately under Lithuanian law.

The provision of consumer credit is mainly regulated by the Law on Consumer Credit No. XI-1253 (the 'Act') that implements Directive 2008/48/EC into national jurisdiction.

Consumer credit may only be provided by legal entities, who, for business purposes, grant or undertake to grant consumer credit. Such entities shall be entitled to engage in the business of granting consumer credit only if the supervisory authority has entered them into the Public List of Consumer Credit Providers. Natural persons and non-profit organisations are not entitled to engage in the business of providing consumer credit. All providers of consumer credit despite their type shall comply with regulatory requirements prescribed mainly by the Act. In addition, providers that are financial institutions (e.g. banks, payment institutions) shall also comply with their sector-specific regulation.

Assuming that credit agreements for study-related goods and services are provided to consumers only, the following legal entities/institutions can become providers: banks, foreign banks, credit unions, peer-to-peer lending platforms, or other financial institutions on the Public List of Consumer Credit Providers.

In general, the providers of consumer credit must be included in the Public List of Consumer Credit Providers and meet the criteria for legal form, registered capital, personal requirements, internal systems and further ongoing compliance obligations, such as obligations regarding provision of information or creditworthiness assessment, to be able to provide consumer credit according to Lithuanian law.

Nevertheless, the Act also includes several cases of complete or partial exemption that exclude or limit its application. Most notably, the Act shall not be applied for (i) credit agreements that are related to free deferred payment of an existing debt, (ii) credit agreements involving a total amount of credit more that EUR 75,000 or (iii) credit agreements which relate to loans granted to a restricted public under a statutory provision with a general interest purpose, and at lower interest rates than those prevailing on the market or free of interest or on other terms which are more favourable to the consumer than those prevailing on the market and at interest rates not higher than those prevailing on the market. The Act contains practically the same cases of exemption as those provided for in Directive 2008/48/EC.

Students matching the required criteria can apply for a state-supported student loan in the Republic of Lithuania. This type of loan is provided by the bank that wins a public tender (in 2023 – Swedbank, AB).

The interest on the loan is covered by public funds, but such a contract is not considered a consumer contract.

No regulation of the consumer credit/credit agreements in the public interest has been enacted in the area of student financing in Lithuania as of 31 December 2022, so the exemption case (iii) is not applicable.

**Deferral of payment**

Deferral of payment falls under the general definition of consumer credit contained in the Act. There is no specific regulation regarding deferral of payment or any other definition of it. The Act applies to the provision of deferral of payment in full scope, i.e. the providers of deferral of payment are considered to be providers of consumer credit and, they must be included in the Public List of Consumer Credit Providers and comply with all other regulatory requirements prescribed by the Act mentioned above irrespective of their legal form.

However, if an education provider provides its students with deferral of payment for its services without any interest or fee, such provider could fall under the case of exemption under the Act mentioned above. Thus, such education provider would not need to obtain a license or meet most of the above-mentioned criteria for providers of consumer credit under the Act. A deferral agreement where the time value of money and administration is taken into account would likely not fit the exemption of credit agreements that are related to free deferred payment of an existing debt, in particular where the amount to be returned exceeds the tuition amount.

**Income share agreement**

If payments under an income share agreement are not deferred, the income share agreement would fall under the general definition of consumer credit contained in the Act as a similar financial service. There is no specific regulation regarding an income share agreement or any other definition of it. The Act applies on the implementation of income share agreements in full scope, i.e. as the providers of funds on the basis of an income share agreement are considered to be providers of consumer credit and, thus, they must be included in the Public List of Consumer Credit Providers and comply with all other regulatory requirements prescribed by the Act mentioned above irrespective of their legal form.

However, if an education provider provides financial funds to its students on the basis of an income share agreement without any interest or fee, such provider could fall under the case of exemption under the Act mentioned above. Thus, such an education provider would not need to obtain a license or meet most of the above-mentioned criteria for providers of consumer credit under the Act.

**General guidance for providers**

The main legal regulation concerning alternative schemes of student financing is the Law on Consumer Credit No. XI-1253. The Act covers definitions, the product itself, providers, intermediaries, administrative sanction, etc. The supervision under the Act is conducted by the Bank of Lithuania.

In addition to a standard bank providing consumer credit, there is a category of so-called non-bank providers (peer-to-peer lending platforms and other financial institutions) of consumer credit. Unfortunately, education providers would hardly fall under the definition of so-called non-bank providers given that they are not financial institutions. The providers must be included in the Public List of Consumer Credit Providers, and education providers could implement alternative schemes of student financing only in cases where they meet all the criteria for exemption or partial exemption. Natural

persons and non-profit entities do not have the right to engage in the activity of providing consumer credits.

In order to be able to provide the credits, non-traditional intermediaries must have the right to engage in the activity of providing consumer credit and it can be done only when the supervisory authority (The Bank of Lithuania) registers the undertaking in the Public List of Consumer Credit Providers. A person can be included in the Public List of Consumer Credit Providers if they meet the requirements of the Law on Consumer Credit and the legal acts of the supervisory authority and submit the following documents, data and information to the supervisory authority: (i) a request to enter a person in the public list of consumer credit providers, (ii) information about the public register, in which the supervisory authority can check basic personal data, (iii) information questionnaires about the managers of the consumer credit provider and the peer lending platform operator and persons who directly or indirectly own a share of voting rights or share capital equal to or exceeding 20 percent or who may have a direct and/or indirect decisive influence on the consumer credit provider or for the activities of the operator of peer-to-peer lending platforms, (iv) a prepared document confirming that the above-mentioned persons meet the requirements specified in Article 22, Part 2 of the Law, (v) information of the above-mentioned persons on the public register or a document confirming personal identity, (vi) rules for assessing the consumer credit provider's creditworthiness, (vii) information on registers and information systems, in which the creditworthiness of consumer credit recipients is checked, (viii) a list of consumer credit intermediaries acting on behalf of the consumer credit provider, if the person uses the services of consumer credit intermediaries, (ix) establishment documents of the consumer credit provider.

Consumer credit providers are subject to licensing requirements for their specific institution specified in their sector-specific regulation. The legal form of the consumer credit provider is either a public limited liability company or a private limited liability company. Natural persons and non-profit entities are not authorised to engage in the business of providing consumer credit. Requirements for registered capital are set only for peer-to-peer lending platforms and it shall be at least EUR 40,000.

In conclusion, the most efficient way for non-traditional intermediaries to implement alternative schemes of student financing, specifically in the form of deferral of payment schemes and income share agreement schemes, would be through a subsidiary established for the purpose of serving as a non-bank provider of consumer credit in the legal form of limited liability company. Most education providers in Lithuania are non-profit legal entities. According to the Law on Consumer Credit, non-profit legal entities are not authorised to engage in the business of providing consumer credit. Simply setting up a subsidiary as a consumer credit provider does not mean that education providers automatically become consumer credit intermediaries.

## 12. Netherlands

**Overview**

In the Netherlands, implementing alternative schemes of student financing, specifically in the form of deferral of payment schemes and income share agreement schemes, would generally be considered a provision of consumer credit and as such regulated. However, deferral of payment or income share agreements are not regulated separately under Dutch law.

The provision of consumer credit is mainly regulated by the Dutch Financial Supervisory Act ('DFSA') and Dutch Civil Code (in Dutch, Burgerlijk Wetboek, 'BW') that implements Directive 2008/48/EC into national jurisdiction.

According to article 2:60 and 2:80 DFSA, only licensed entities or intermediaries are allowed to provide loans to consumers. In order to obtain a license, the entity/intermediary must fulfil certain requirements such as reliability and/or suitability testing of the (supervisory) board, ensuring controlled and sound conduct of business and perform creditworthiness checks on consumers prior to granting the credit. These rules are further specified in the Decree on the conduct of financial undertakings (in Dutch, Besluit gedragstoezicht financiële ondernemingen, 'Bgfo'). This does not provide an exhaustive overview of all applicable legislation. In addition, a licensed consumer credit provider must comply with legislation regarding the establishment of a corporate entity, personal requirements, internal systems and further ongoing compliance obligations such as rules on advertising to consumer.

Nevertheless, DFSA also includes most of the cases of exemption as mentioned in article 2(2) Directive 2008/48/EC that have been either wholly or partially implemented in DFSA. The most important exemption is that loans with a short term (e.g. repaid within three months) of which the charged costs are insignificant, are exempted from the license regime in DFSA. This exemption is mentioned in article 1:20(1)l DFSA and article 7:58 (2)(e) BW. Additionally, providing credit to legal entities/businesses is also not a licensed activity. Namely, further to article 1:1 DFSA the provision of credit is defined as the provision of credit to consumers. Companies do not qualify as consumers.

In addition, DFSA also has an explicit exemption (article 1:20(1)(a) DFSA) for providing credit to consumers as long as it is in the best interest of the society. Based on the Dutch parliamentary history, this means that the government can provide credit to consumers/prospective students to finance their studies without triggering the credit provision license regime (this license is granted by the Dutch Authority for Financial Markets (in Dutch, Autoriteit Financiële Markten, 'AFM'). There are however some requirements which need to be met in order to operate or to fall under the exemption (i.e. a low interest rate and this interest rate must be lower than market rates). This exemption can only be used for 'limited public groups', such as students as defined in the Student Financing 2000 Act.

The student loan landscape in the Netherlands consists mostly of government loan schemes. Implementation of alternative schemes of student financing is not common practice. Approximately 95% of all students study at public universities or colleges. The Dutch government provides funding to acknowledged education service providers and makes education highly accessible for all students by providing student loan arrangements.

It is common practice in the Netherlands for students to use the student loan facility from the government. As far as is known, there are no other parties (e.g. education service providers or other private lending corporations) that have a license in accordance with DFSA to provide student loans. If a party intends to provide student loans, they will need to have a license granted by AFM since this will qualify as providing credit to a consumer, irrespective of the type of undertaking.

**Deferral of payment**

A deferral of payment scheme is uncommon in the Netherlands. However, looking at the definition of a credit agreement in article 7:57 (1)(c) BW and article 1:1 DFSA, deferred payments qualify as a form of consumer credit. This means that a license to provide credit to consumers must be obtained and the credit provider must comply with DFSA, Bgfo and BW.

The only exemption for deferral of payment in the Netherlands is mentioned in article 7:58 (2)(h) BW which exempts the applicability of the consumer credit directive for credit agreements that provide free deferral of payment of an existing debt. A deferral agreement where the time value of money and administration is taken into account would likely not fit the exemption of consumer credit in the form of

a free deferral of payment of an existing debt, in particular where the amount to be returned exceeds the tuition amount.

**Income share agreement**

An income share agreement is an unfamiliar contract in the Netherlands and is not offered as such. The Dutch parliamentary history does not mention income share agreements or any similar contractual agreements. If an income share agreement was offered, it would qualify as ‘a 'similar payment facility' as mentioned in the definition of credit agreement in article 7:57 (1)(c) BW and 1:1 DFSA. This means an income share agreement would trigger the license regime of DFSA which means the credit provider must comply with the legislation in DFSA, Bgfo and BW.

Income share agreement does not qualify as cases of exemption as mentioned in article 7:58 (2) BW or article 1:20 DFSA.

**General guidance for providers**

If the license regime for providing credit to consumers is triggered, the entity or intermediary must comply with rules laid down in DFSA, Bgfo and BW. The supervisory authority is the AFM. DFSA does not mention any restrictions on the legal form of the consumer credit provider. However, it is common practice that credit providers often have the legal form of a limited liability corporation, a public limited corporation or a foundation. The most common used legal form is a limited liability corporation (in Dutch, Besloten Vennootschap, ‘BV’).

In order to obtain a license, the consumer credit provider must comply with the requirements laid down in article 2:63 DFSA. These requirements are (i) the suitability and reliability testing of the board of directors and/or supervisory board, (ii) having a business integrity policy, (iii) prohibition to have an opaque/complex corporate structure in which supervision is obstructed, (iv) ensure the controlled and sound conduct of its business (i.e. careful treatment of consumers, advertising, creditworthiness checks and ensuring the correct provision of information).

Furthermore, the Student Financing 2000 Act is applicable to student credit agreements and it sets out all the requirements and the whole procedure of providing credits in accordance with this regulation, however, only the government can provide credit to consumers/prospective students to finance their studies under the Student Financing 2000 Act. In conclusion, it is uncommon for non-government parties to provide loans to students due to the favourable conditions of the government loan scheme. If education providers want to offer student loans, the most efficient way would be through a subsidiary established for the purpose of serving as a non-bank provider of consumer credit in the legal form of a BV that must obtain a license under DFSA. The reason for this is that only the subsidiary will need to undergo the process of obtaining the license that may otherwise be an onerous task for the non-traditional intermediary itself. Furthermore, the purpose of education providers is to provide education and not provide student financing support. Given the fact that the government provides funding to acknowledged education service providers and makes student loans highly accessible, there is no incentive for students to apply to other financing schemes. Additionally, it could be a sign of conflict of interest that an education service provider has a somewhat commercial interest in providing deferral of payment or income share agreement schemes to students.

## 13. Portugal

**Overview**

In Portugal, implementing alternative schemes of student financing, specifically in the form of deferral payment schemes and income share agreement schemes, would generally be considered a provision of consumer credit and as such regulated. However, deferral of payment or income share agreements are not regulated separately under Portuguese law.

Provision of consumer credit is mainly regulated by Decree-Law no. 133/2009, of 2 June, on Consumer Credit (the 'Consumer Credit Law') that implements Directive 2008/48/EC into national jurisdiction.

The rules of the Consumer Credit Law need to be read together with the legal framework applicable to the provision of banking and credit services, pursuant to which only a limited set of regulated entities may grant credit on an ongoing/professional basis. These include credit institutions (banks), financial companies entitled to grant credit, payment service providers and e-money institutions that are entitled to grant credit as an ancillary activity and EU banks, payment services providers and e-money institutions operating under a branch or on a cross border basis under the relevant legal frameworks.

Accordingly, the granting of consumer credit is subject to obtaining the relevant license or EU passporting under the applicable legal and regulatory framework.

Provided they meet the applicable requirements, non-traditional intermediaries may act as credit intermediaries but not grant credit on an ongoing/professional basis.

Nevertheless, the Consumer Credit Law also includes several cases of complete or partial exemption that exclude or limit its application. As a result, it may be argued that such agreements would not even constitute a form of credit, in which case providers of such consumer credit would not need to obtain the applicable regulatory license. For reference, the cases of full exemption of application of the Consumer Credit Law are the following: (i) credit agreements involving a total amount of credit less than EUR 200 or more than EUR 75,000, (ii) credit agreements where the credit is granted free of interest and without any other charges, (iii) credit agreements under the terms of which the credit has to be repaid within three months and only insignificant charges are payable, unless the lender is a credit institution, (iv) credit agreements which relate to the deferred payment, free of charge, of an existing debt or (v) credit agreements which relate to loans granted to a restricted public under a statutory provision with a general interest purpose, and at lower interest rates than those prevailing on the market or free of interest or on other terms which are more favourable to the consumer than those prevailing on the market and at interest rates not higher than those prevailing on the market.

No regulation of the consumer credit/credit agreements in the public interest has been enacted in the area of student financing in Portugal as of 31 December 2022, so the exemption case (v) is not applicable.

**Deferral of payment**

Deferral of payment falls under the general definition of consumer credit contained in the Consumer Credit Law. There is no specific regulation regarding deferral of payment or any other definition of it. The Consumer Credit Law applies to the provision of deferral of payment in full scope, i.e. the providers of deferral of payment would be considered to be offering consumer credit and, thus, be subject to obtaining the proper banking/credit or other license to act as a duly authorised financial entity.

However, if an education provider provides its students with deferral of payment for its services without any interest or fee, such an agreement would fall under the case of full exemption under the Consumer Credit Law mentioned above. The Consumer Credit Law does not set forth any rules on the time value of money. Although deferral of payment is only mentioned in this one specific case of exemption, in practical terms, one could expect credit agreements granted under the form of deferral of payment to also fall under other cases of exemption mentioned above, such as credit agreements where the credit is granted free of interest and without any other charges or credit agreements under the terms of which the credit has to be repaid within three months and only insignificant charges are payable, unless the lender is a credit institution. Accordingly, in case where these contracts are deemed not to be a form of credit agreement, the relevant provider would not be required to obtain a license to act as a provider of credit.

Unlike an income share agreement, the providers of deferral of payment shall also comply with several additional information obligations regarding deferrals (e.g. information on the price of the goods or services purchased included in advertisement, precontractual information and in the contract itself). The latter will not apply in case deferral of payment agreements in question fall – due to their features – within a different full exemption set forth in the Consumer Credit Law.

**Income share agreement**

An income share agreement falls under the general definition of consumer credit contained in the Consumer Credit Law. There is no specific regulation regarding an income share agreement or any other definition of it. The Consumer Credit Law appears to apply on the implementation of income share agreement in full scope, i.e. the providers of funds on the basis of an income share agreement would be considered to be offering consumer credit and, thus, be subject to obtaining the proper banking/credit or other license to act as a duly authorised financial entity.

However, if an education provider provides financial funds to its students on the basis of an income share agreement without any interest or fee such agreement would fall under the case of full exemption under the Consumer Credit Law mentioned above. Depending on the features of the income share agreement, an income share agreement may also indeed fall within the scope of other cases of the full exemption mentioned above, such as credit agreements involving a total amount of credit more than EUR 75,000, unless an unsecured credit is granted for more than EUR 75,000 with the intention of being used for property renovation, credit agreements under the terms of which the credit has to be repaid within three months and only insignificant charges are payable, unless the lender is a credit institution, and theoretically as credit agreements which relate to the deferred payment, free of charge, of an existing debt. Accordingly, in case these contracts are deemed not to be a form of credit agreement, the relevant provider would not be required to obtain a license to act as a provider of credit.

As of the date of this Factsheet, there are currently at least two different providers of income share agreements operating in Portugal. – including one large private foundation which has partnered with most major universities in Portugal – that have been offering income share agreements without being subject to the Consumer Credit Agreement nor such providers being treated as a financial entity. This should mean that these agreements are falling under some of the exemption(s) mentioned above, but without having further insight into the respective template agreements, it is not possible to state with any certainty which one(s). However, it does seem that the income share agreements are not capped to the funds provided, neither are they related to any employment relationships.

**General guidance for providers**

The Consumer Credit Law is not subject to any detailed regulations. The supervision of activities under the Consumer Credit Law is conducted by the Bank of Portugal.

Unlike in other European Union Member States, in Portugal it is not possible for non-financial institutions to provide consumer credit, unless the relevant credit agreements fall under an exception allowing them to be outside the scope of the Consumer Credit Law and not to be deemed a form of credit.

Non-financial institutions may apply to the Bank of Portugal to operate as credit intermediaries. This requires the fulfilling of certain organisational criteria and registering with the regulator. This registration is mandatory if deferral of payment arrangements or income share agreement being offered through non-traditional intermediaries fall within the scope of the Consumer Credit Law.

Should non-traditional intermediaries be allowed to offer the alternative schemes of student financing within the cases of exemption of the Consumer Credit Law, they should be able to do so without having to incorporate any subsidiary specifically for this purpose.

However, should non-traditional intermediaries intend to operate as credit intermediaries, the most efficient way would be through the incorporation of a subsidiary established for this particular purpose in the legal form of a limited liability company, prior to applying for the relevant registration with the Bank of Portugal. Under Portuguese law, consumer credit providers must be registered with the Bank of Portugal as either credit institutions or financial companies. For this purpose, among other requirements, these entities need to be set up as limited liability companies by shares (sociedades anónimas) and may not pursue any other corporate purpose rather than the envisioned financial activity(ies). In Portugal, higher education providers are usually set up as foundations or another type of civil entity (i.e. not for profit legal entities). Accordingly, if education providers would be interested in granting consumer credit, they would have to setup a specific subsidiary for that purpose, with the incorporation of this subsidiary being subject to the prior authorisation of the Bank of Portugal.

In conclusion, and especially in light of the existing market practice with income share agreements, it is key for non-traditional intermediaries to confirm with the local regulator whether any envisaged alternative schemes of student financing, specifically in the form of deferral payment schemes and income share agreement schemes, are deemed a form of credit. If not, they may offer the credit themselves or serve as intermediaries. Otherwise, they may only act as intermediaries and even so are required to register with the Bank of Portugal in advance.

## 14. Romania

**Overview**

In Romania, the implementation of alternative schemes of student financing schemes, specifically in the form of deferral of payment and income share agreements, would generally be considered a credit activity and as such regulated. However, deferral of payment or income share agreements are not regulated separately under Romanian law.

Deferral of payment and income share agreements granted to students by authorised lenders are not subject to any other specific regulation (different than the existing legislation applicable to loans) and fall under the provisions of Government Emergency Ordinance no. 50/2010 on credit agreements for consumers (‘GEO 50/2010’), that implements Directive 2008/48/EC into national jurisdiction.

The entities that intend to perform credit activity in Romania must comply with sector-specific regulations. This involves obtaining a license issued by the National Bank of Romania and meeting certain requirements, including legal form, initial capital, personal qualifications, ongoing compliance obligations related to internal control and risk management systems, as well as providing information and conducting creditworthiness assessments, as provided by Government Emergency Ordinance no. 99/2006 regarding credit institutions and capital adequacy ('GEO 99/2006') and Law no. 93/2009 regarding non-financial institutions ('Law 93/2009'). Therefore, the sole entities that are able to carry out lending activity ('Credit Providers') are (i) credit institutions, (ii) non-bank financial institutions ('NBFI'), (iii) payment service providers (only in relation to payment services) and (iv) foreign financial institutions that have passported their license in Romania.

It should be noted that GEO 50/2010 provides for several cases of partial or complete exemption, which exclude or limit its application. Particularly noteworthy are credit agreements related to loans granted to a restricted public under statutory provisions serving a general interest purpose. These loans are offered at lower interest rates than prevailing market rates, or they may be interest-free, or have more favourable terms for the consumer than what is generally available on the market, as long as the interest rates do not exceed prevailing market rates. In addition, the credit agreements where the credit is granted free of interest and without any other charges and credit agreements under the terms of which the credit has to be repaid within three months and only insignificant charges are payable and credit agreements concerning deferral of payment, free of charge, of an existing debt (excluding restructuring and rescheduling agreements) are also exempt under GEO 50/2010.

The Ministry of Family, Youth and Equal Opportunities has launched a financing programme through the state budget to support students and young families. The conditions and procedures for these lending programmes are regulated by Government Emergency Ordinance no. 95/2022 regarding the approval of the governmental lending programmes 'StudentInvest' and 'FamilyStart' ('GEO 95/2022'), and the role of lender may be held only by credit institutions. Non-traditional intermediaries are not allowed to grant loans, as these institutions are not Credit Providers, and no specific regulation exempts this category from the general rule according to which only the institutions authorised in this respect by the National Bank of Romania or whose license has been passported are allowed to grant loans to the customers.

**Deferral of payment**

Deferral of payment falls under the general definition of consumer credit, as provided by GEO 50/2010. Since there is no specific regulation for this type of service, providers offering deferral of payment will be considered providers of consumer credit and shall be authorised as Credit Providers.

Non-traditional intermediaries are able to provide deferral of payment in relation to their services (e.g. tuition fees), free of charge, without any specific license. This activity should not be considered a professional credit activity. If education providers were to charge interest for deferral of payment, this activity could be considered a lending activity, which may only be carried out by an authorised entity (i.e. Credit providers).

If deferral of payment is granted by a Credit Provider, it may be exempted from GEO 50/2010 provided that it falls on one of the exceptions (i.e. being free of charge). A deferral agreement where the time value of money and administration is taken into account would likely not fit the exemptions of credit agreements where the credit is granted free of interest and without any other charges or credit agreements concerning deferral of payment, free of charge, of an existing debt, in particular where the amount to be returned exceeds the tuition amount. The Romanian Civil Code provides that the debtor

of a sum of money meets its obligations if they repay the nominal amount (regardless of inflation). In the specific case of a loan, the debtor is obliged to repay the nominal amount, regardless of the change in the value of the currency unless the parties have agreed otherwise. In a binding decision of the High Court of Cassation and Justice of Romania (Decision 2061/2015), it stated that indexation of the principal with the inflation rate qualifies as compensatory damages, hence a contract that would provide for such indexation cannot be regarded as free of charge. Likewise, charging an administration fee for deferral of payment will qualify such credit as not being free of charge.

**Income share agreement**

Income share agreement is currently not regulated by any piece of Romanian legislation, which means that it would be considered an innominate agreement. However, income share agreement meets the criteria for being considered a credit activity according to Law 93/2009. As a result, only authorised Credit Providers may be allowed to provide such services.

Since income share agreements fall under the definition of a credit agreement, non-traditional intermediaries are not permitted to conduct such activity, as they cannot be authorised as Credit Providers. However, based on the provisions of Law no. 1/2011 on national education, universities are able to establish subsidiary companies that can be licensed as Credit Providers. These subsidiary companies would have the ability to conclude income share agreements with the students.

An income share agreement could potentially be completely exempt from the application of GEO 50/2010 if it were subject to a specific piece of legislation that regulates credit agreements related to loans granted to a restricted public under a statutory provision serving a general interest purpose. This exemption would be applicable if the loans provided have lower interest rates than those prevailing on the market, or if they are interest-free, or offered on terms more favourable to the consumer than prevailing market conditions, with interest rates not exceeding those prevailing on the market. However, in Romania, there is currently no such regulation in place that grants this exemption.

**General guidance for providers**

The main piece of legislation governing student financing is GEO 50/2010, as students are considered consumers. This law covers definitions, product specifications, legal requirements, exceptions, providers, intermediaries, sanctions, etc. The main supervisory body for Credit Providers and their activity is the National Bank of Romania. In addition, the National Authority for Consumer Protection has supervisory duties in relation to consumer protection issues.

GEO 99/2006 and Law 93/2009 provide for the legal requirements and procedures that shall be followed by a Romanian entity in order to be licensed as a Credit Provider. The licensing requirements are similar for banks and NBFIs, but the conditions are less strict for NBFIs.

As only Credit Providers are permitted to perform professional credit activity in Romania, non-traditional intermediaries cannot carry out student financing services. The only activity that an education provider may perform is deferral of payment in relation to their services, free of charge.

In order to facilitate student financing, non-traditional intermediaries may act as an intermediary in relation to financing offered by Credit Providers or they can establish a subsidiary company authorised to perform credit activity.

Additionally, GEO 95/2022 sets out a financing programme to support students. However, under this programme, the provider of the financing may only be a bank that meets certain conditions. According to the programme, the interest payments for the granted loans, as well as the expenses related to the

analysis and management commissions of the guarantees, are borne by the state budget, through the budget of the Ministry of Family, Youth and Equal Opportunities.

In conclusion, currently the most efficient way for non-traditional intermediaries to implement alternative schemes of student financing, specifically in the form of deferral payment schemes and income share agreement schemes, would be through a partnership with a Credit Provider. This may be considered a credit intermediary and as such regulated. According to Romanian legal framework, education providers may act as credit intermediaries if they carry out certain activities (e.g. present or offer credit agreements, assist consumers on preparatory activities regarding credit agreements, conclude credit agreements with consumers on behalf of the creditor), in exchange for a fee. In the case that a non-traditional intermediary acts as a credit intermediary in an ancillary capacity, it shall not bear the responsibility of pre-contractual information requirements. However, the ancillary credit intermediary shall provide consumers with specific information pertaining to the credit intermediation activity, establish the fee due by the consumer on a durable medium and inform the creditor of such fee.

## 15. Spain

**Overview**

In Spain, implementing alternative schemes of student financing, specifically in the form of deferral of payment schemes and income share agreement schemes, would generally be considered a provision of consumer credit and as such regulated. However, deferral of payment or income share agreements are not regulated separately under Spanish law.

Provision of consumer credit is mainly regulated by Act No. 16/2011 on consumer credit agreements ('Act 16/2011') that implements Directive 2008/48/EC into national jurisdiction.

In Spain, the granting of consumer credits is not a reserved activity, which means that both financial institutions and non-financial institutions can provide those credits. In this sense, a legal entity not authorised by a supervisor, such as the Bank of Spain, can provide consumer credits. In order for a non-financial institution to be able to provide consumer credit, the granting of credits shall be in the course of its trade, business or profession, as established by Article 2 of Act 16/2011. Therefore, different types of entities (e.g. public and private universities, vocational training centre) can provide credits, as far as they include the provision of consumer credits or study-related credits in the course of their trade, business or profession, and comply with applicable regulation and requirements.

According to Spanish law, there are no licensing or notification requirements for creditors. Nevertheless, consumer credit providers, both credit and non-financial institutions, will have to comply with the obligations regulated by Act 16/2011 such as (i) transparency obligations; and (ii) consumer rights, as well as other ongoing compliance obligations such as general publicity regulations, data protection regulation, anti-money laundering regulation, etc. Moreover, they will have to comply with additional applicable regulation, such as the Spanish Civil Code, as it regulates agreements between private parties; AML regulation (i.e. Act 10/2010 on the prevention of money laundering and terrorist financing), as creditors are considered obliged subjects; or the Spanish General Law for the Defence of Consumers and Users and other complementary laws. In addition, providers that are financial institutions (e.g. banks, payment institutions) shall also comply with their sector-specific regulation.

Normally in Spain, education providers[24], instead of functioning as consumer credit providers, they may channel funds to students as consumer credit intermediaries. Therefore, the simplest way for education providers to grant credits is to act as an intermediary of an existing consumer credit provider or a credit entity, such as a bank. In Spain, some private universities already have agreements with banks to provide financing to their students. Obligations of consumer credit intermediaries are regulated by article 33 of Act 16/2011, such as advertising limitations, information disclosing obligations, etc.

Nevertheless, Act 16/2011 also includes several cases of complete or partial exemption that exclude or limit its application. In particular, the cases of complete exemption, which may be applicable to deferral of payment and/or income share agreements, are the following: (i) credit agreements involving a total amount of credit less than EUR 200, (ii) credit agreements where the credit is granted free of interest and without any other charges, (iii) credit agreements under the terms of which the credit has to be repaid within three months and only insignificant charges are payable, and (iv) credit agreements relating to deferred payment, without interest, fees or other expenses, of an existing debt. Additionally, when there is a consumer contract of a total amount more than EUR 75,000, the applicability of the law is partial.

The exemption case regulated in Article 2(2)(l) of Directive 2008/48/EC, i.e. credit agreements which relate to loans granted to a restricted public under a statutory provision with a general interest purpose, and at lower interest rates than those prevailing on the market or free of interest or on other terms which are more favourable to the consumer than those prevailing on the market and at interest rates not higher than those prevailing on the market, has not been implemented into Spanish law in the area of student financing.

Apart from the above, no comprehensive regulation of the consumer credit/credit agreements in the public interest has been enacted in the area of student financing in Spain as of 31 December 2022.

**Deferral of payment**

Deferral of payment falls under the general definition of consumer credit contained in Act 16/2011. There is no specific regulation regarding deferral of payment or any other definition of it. Act 16/2011 applies to the provision of deferral of payment in full scope, i.e. the providers of deferral of payment are considered to be providers of consumer credit and, thus, they shall comply with all regulatory requirements prescribed Act 16/2011 mentioned above irrespective of their legal form.

However, if an education entity or organisation provides its students with deferral of payment for its services without any interest or fee, such a provider could fall under the case of total exemption pursuant Act 16/2011. Thus, Act 16/2011 would not be applicable and the provider would not have to comply with its obligations.

A deferral agreement where the time value of money and administration is taken into account would likely not fit the exemption of credit agreements relating to deferred payment, without interest, fees or other expenses, of an existing debt, in particular where the amount to be returned exceeds the tuition amount. As it would not comply with section j) of Article 3 of Act 16/2011, which establishes that exemption will be applicable to credit agreements relating to deferral of payment, without interest, fees or other expenses, of an existing debt. In this sense, it could be understood that that difference between

[24] Including public universities and other public education providers, private (privately owned) universities, vocational training centres, non-profit non-governmental organisations (e.g. foundations), aggregators providing directly or indirectly education and other privately or publicly owned education providers.

the tuition fee and the final amount paid is an extra cost, an interest or an expense, therefore, Act 16/2011 would apply.

Furthermore, Act 16/2011 will be partially applied in the following situations: (i) when there is a consumer contract with a total amount exceeding EUR 75,000.

**Income share agreement**

An income share agreement falls under the general definition of consumer credit contained in Act 16/2011 as a similar financial service. There is no specific regulation regarding an income share agreement or any other definition of it. Therefore, Act 16/2011 applies to the implementation of income share agreement schemes in its full scope, as its providers would be considered to be providers of consumer credit and, thus, they shall comply with all regulatory requirements regulated by Act 16/2011 and the additional ones (such as AML regulation, Spanish Civil Code, Consumer protection regulations, among others).

However, if an education institution provides financial funds to its students on the basis of an income share agreement without any interest or fee, such a provider could fall under the case of exemption under Act 16/2011, and therefore this regulation would not apply.

**General guidance for providers**

In Spain, there is no specific legal definition for student credit, as it is considered a form of personal credit and is regulated pursuant to Act 16/2011. Consequently, there are no specific regulations exclusively governing student credit. The supervision under this Act 16/2011 is conducted by the Bank of Spain.

The granting of consumer credits it is not a reserved activity in Spain. Therefore, a legal entity or a natural person, not authorised by a supervisor, such as the Bank of Spain, can provide consumer credits. Therefore, it is not compulsory to be a credit institution to provide consumer credits. However, a legal entity or a natural person can grant consumer credits only in the course of their trade, business or profession.

Creditors or providers are considered obliged entities pursuant to the AML regulation (i.e. Act 10/2010 on the prevention of money laundering and terrorist financing). Therefore, they will have to comply with AML obligations, including (i) due diligence obligations, (ii) internal control obligations and (iii) reporting obligations to the Spanish supervisor (i.e. SEPBLAC).

The provider must act in an honest and transparent manner and take the rights and interests of the consumer into account. Additionally, the provider must comply with the obligations established in Act 16/2011: (i) information and actions prior to the conclusion of the credit agreement; (ii) review the consumer's database to assess creditworthiness; (iii) comply with the minimum form and content of the consumer contracts (e.g. this information shall be on paper or on another durable medium and include all minimum content regulated by article 16 of Act 16/2011); and (iv) ensure consumer rights, such as the right of withdrawal or early repayment.

In conclusion, the usual practice in Spain is for educational providers to sign an agreement with the financial institutions that will in turn grant the credits to students, acting therefore as a consumer credit intermediaries. The recommendation for education providers to act as intermediaries rather than becoming consumer credit providers themselves is mainly due to the significant reduction in regulatory burdens as mentioned above. In other words, acting as an intermediary to facilitate consumer credit requires a lot less regulatory compliance, which allows them to focus on their primary mission of

providing education. Furthermore, by acting as intermediaries, education providers can leverage the expertise and resources of established credit providers. These providers have the infrastructure to efficiently manage credit services, offer competitive rates and ensure regulatory compliance. However, since the provision of consumer credits is not a regulated activity in Spain, it is up to the educational providers to decide whether to directly provide the consumer credit and to comply in any case with the requirements established in the regulations.

# Annex B – Local Tax Analysis

## 1. Belgium

**General overview**

In Belgium, there is no special tax regime connected to the provision of student financing. Student financing schemes are considered to be a standard provision of financial services for tax purposes. Belgian tax law does not contain any special provisions/regulations for either deferral of payment or income share agreement scheme.

From the perspective of the non-traditional intermediaries, no other Belgian taxes besides CIT / tax on legal entities and VAT should apply to the student financing activities.

For Belgian income tax purposes, the entities in the scope of the analysis will often be subject to the tax on legal entities as that tax applies to legal entities that do not seek to make a profit and the exclusive or principal objective of which is to provide or support education. The distinction between CIT and tax on legal entities is that the CIT affects the profits of legal entities that operate a business or engage in profitable operations, while the tax on legal entities affects the income of legal entities that do not engage in operations of a profitable nature.

The tax on legal entities only applies to a number of items that are specifically listed in the Belgian Income Tax Code, including proceeds from capital and moveable assets such as interest. The tax on interest is levied by way of a final withholding tax of 30%. That tax should be withheld by the person paying the interest (i.e. the student) and paid to the tax authorities within 15 days of the payment date. Reporting formalities also apply to the person paying the interest. It may be possible to make contractual arrangements with the person paying the interest and obtain validation from the tax authorities such that this administrative burden is taken over by the finance provider.

Finance providers that are not subject to the tax on legal entities (for instance, profit-seeking entities) are subject to the ordinary CIT regime. Under that regime, a taxpayer's accounting profit (subject to a number of tax-specific rules) is subject to the CIT. The CIT is due at a fixed rate of 25% (although a reduced rate of 20% applies to the first profit bracket of EUR 100,000 (referring to the annual taxable profit as determined under the applicable CIT rules) of small and medium-sized enterprises)

General VAT provisions and rules should apply. According to these rules, financial services such as payment and receipt transactions, lending or currency exchange are generally VAT exempt. This means that no VAT is charged on the price of these services, no VAT registration is triggered and no associated VAT compliance obligations.

**Deferral of payment**

Repayment of the principal (funds repaid by the student) in the case of student financing in the form of payment deferral does not represent taxable income for Belgian income tax purposes.

Any profit from student financing may qualify as taxable interest. If the finance provider is subject to the tax on legal entities, such interest is subject to a withholding tax at the rate of 30%. That withholding tax is a final tax, meaning that the recipient is not required to report the income in its annual tax return and that no further tax obligations arise. If the recipient is subject to the CIT, the interest qualifies as

taxable profit, subject to the ordinary 25% tax rate (which may be reduced to 20% in the case of small and medium-sized enterprises). In such cases, a withholding tax exemption is available at source.

As the student financing provider and recipient are unrelated for tax purposes, there are no specific requirements on compliance with market terms. As such, there should generally be no TP consequences from such a student financing setup.

In the case of default by the student (i.e. non-repayment of the student financing) the defaulted amount would be considered as bad debt and will be treated as follows from a tax perspective:

- If the financing provider is subject to CIT, then bad debt is deductible if it can be demonstrated that, in accordance with normal business practice, the claim is uncollectible (i.e. if the loss is certain and of a fixed amount). Claims where it is not yet certain, but merely probable, that the debt is uncollectible (doubtful claims) are only deductible on the condition that it concerns claims relating to transactions that form part of the enterprise's normal course of business, that it concerns losses that are clearly and individually defined, an' that the loss is the result of circumstances that have arisen during the tax year and that still exist at the end of the tax year.

- If the financing provider is subject to the tax on legal entities, there are no specific rules on bad debt or dubious claims. As, in this scenario, the tax is levied by way of a final withholding tax at source, no specific mechanism is necessary to account for bad debt or dubious claims.

The provision of financial services in the form of payment deferral should be treated as a supply exempt from VAT without an input VAT recovery right. If the education provider exclusively provides exempt supplies without a right of input VAT recovery, there is generally no obligation to register or file VAT returns.

**Income share agreement**

From the perspective of Belgian income tax and VAT, student financing in the form of income share agreement scheme is subject to similar tax treatment as student financing in the form of deferral of payment outlined above.

In particular, any interest (i.e. any sum paid to the finance provider in excess of the principal) qualifies as taxable income. If the finance provider is subject to the tax on legal entities, the interest is subject to a final withholding tax at the rate of 30%. If the recipient is subject to the CIT, the interest qualifies as taxable profit, subject to the ordinary 25% tax rate (which may be reduced to 20% in the case of small- and medium-sized enterprises). In such a case, a withholding tax exemption is available at source.

As regards TP issues and deductions for bad debt / dubious claims, reference is made to the analysis concerning deferrals of payments above.

The provision of financing under income share agreement should be treated as a supply exempt from VAT without input VAT recovery right. If the education provider exclusively provides exempt supplies without a right of input VAT recovery, there is generally no obligation to register or file VAT returns.

Generally, the Belgian tax legislation does not provide for any specific regime for the treatment of student financing in the form of deferral of payment or the income share agreement. Thus, the CIT and VAT treatment of the income share agreement would generally follow what has been observed above with respect to the payment deferral.

**General guide for providers**

A provider of student financing should be subject to the tax on legal entities if it does not seek to make a profit and its exclusive or principal objective is to provide or support education. A factual assessment is necessary to determine whether an entity is subject to the tax on legal entities. If the tax on legal entities does not apply, the entity is subject to the ordinary CIT regime.

Merely providing student financing should not affect the applicability of the tax on legal entities, provided that the activity is only pursued on an ancillary basis or is not pursued by using industrial or commercial methods. These requirements should be assessed on an annual basis and a factual assessment is necessary to ensure the correct application of the relevant rules.

There are no specific tax compliance obligations associated with providing student financing in the form of either payment deferral or income share agreements.

Providing the funds and repayment thereof should not have any tax impact from the perspective of the finance provider. Any profit from the financing activity (i.e. any payment by the student in excess of the principal) should be treated as taxable interest for Belgian income tax purposes. If the finance provider is subject to the tax on legal entities, interest is subject to a final 30% withholding tax at source. If the finance provider is subject to the ordinary CIT regime, interest qualifies as taxable profit, subject to the ordinary 25% tax rate (which may be reduced to 20% in the case of small and medium-sized enterprises).

If the financing provider is subject to the CIT, bad debt is deductible if it can be demonstrated that, in accordance with normal business practice, the claim is uncollectible. If the financing provider is subject to the tax on legal entities, there are no specific rules on bad debt (i.e. in case of a defaulted student financing transaction) since the tax is levied by way of a final withholding tax at source).

For VAT purposes, a taxable person is any person who habitually and independently, in the course of carrying out an economic activity, whether it be on a primary or ancillary basis, and whether or not it be with a view to profit, supplies goods or services, irrespective of the place where that economic activity is carried out.

A VAT exemption applies to the provision of education (including university education), as well as to the supply of services and goods closely related thereto, by bodies governed by public law or by other organisations recognised as having similar objects, provided that those entities do not systematically aim to make a profit and do no distribute any surpluses but assign them to the continuance or improvement of the services supplied.

The provision of student financing (either in the form of deferral of payment or income share agreement) would be considered as a financial service for Belgian VAT purposes which is generally exempt from VAT without an input VAT recovery right.

VAT taxable persons are typically required to register for VAT purposes and file VAT returns. However, no VAT registration is required if an entity exclusively provides exempt supplies without a right of input VAT deduction (although exceptions apply in relation to certain cross-border purchases). An exemption also applies to entities with annual turnover not exceeding EUR 25,000.

Entities providing student financing are generally not entitled to recover input VAT. If an entity also carries out non-exempt activities, the general rules on mixed activities apply. In principle, financial services that are merely incidental in nature should not be included in the pro rata coefficient, as such, any related input VAT is not recoverable. In the case at hand, it seems unlikely that the provision of

student financing by the entities in scope would qualify as an incidental activity, but a factual assessment is required in each case.

No specific VAT considerations apply in relation to bad debt in the scenarios discussed.

## 2. Bulgaria

**General overview**

Bulgarian tax legislation does not provide for any special regime for the treatment of student financing including deferral of payment or income share agreement schemes. Therefore, the general rules shall apply, and any taxable profit would be subject to 10% CIT, insofar that the entities under consideration do not fall under any of the exemptions discussed below.

It is not expected that the activities of non-traditional intermediaries are subject to any other Bulgarian tax rules other than those related to CIT and VAT with respect to student financing activities.

Specific tax regimes are provided for higher education institutions and non-profit organisations, and the profit of such entities could be exempt from CIT upon meeting certain conditions. The Bulgarian Higher Education Act provides for a specific tax rule with respect to universities which are regarded as higher education institutions under the meaning of the same legislative act (which could be both public and private). Namely, higher education institutions are not subject to CIT for their main activities: (i) training of specialists competent to develop and apply scientific knowledge in all various areas of human activities; (ii) boosting the qualifications of specialists; (iii) development of science, culture, and innovations.

On the other hand, the Bulgarian CIT Act provides that non-profit legal entities are subject to corporate taxation for their transactions under the Bulgarian Commerce Act (which includes, amongst others, the broad term of ‘bank transactions’), as well as any economic activity, including the leasing of movable and immovable property. Other income (such as donations) should not normally be subject to CIT. Furthermore, general expenses related both to the economic activity and the non-profit activity may be recognised for tax purposes on a pro rata basis for the proportion related to the economic activity.

General VAT provisions should apply. There is no special VAT regime for the local taxpayers, however it should be ascertained whether student financing could fall under the general VAT exemptions, specifically related to the financing services.

**Deferral of payment**

Generally, the repayment of a principal should not be regarded as income subject to Bulgarian CIT. If, under the applicable accounting standard (International financial reporting standards (‘IFRS’)) or National Accounting Standards), deferral of payment leads to the recognition of income for accounting and tax purposes it would be subject to 10% CIT (where a positive taxable result for the respective year is generated).

Any revaluation (impairment) and writing off of the receivables under the financing arrangement (e.g. in the case of a default on the student financing repayment by the student) are generally not recognised in the year of their booking, but in the year where one of the specific conditions is fulfilled: (i) Expiration of the enforceability limitation period with respect to the receivable (5 years from the due date for regular receivables and 3 years from the due date for periodic receivables); (ii) Transfer of the receivable for consideration; (iii) An insolvency procedure has been completed with an administration plan (under

which the creditors agree to reduce the amount of their receivables and the debtor continues its operations under the terms of the administration plan), up to the amount of the reduction in the receivable; (iv) An enforced court ruling has adjudicated the receivable or part thereof is not due (in the latter case up to the amount of the not due amount); (v) Prior to the elapse of the relevant period referred to in item (i), where the receivable has been extinguished by virtue of a law; (vi) Where the debtor is dissolved and the receivable or part thereof has remained unsettled.

The respective taxpayer should assess whether it would be regarded as a taxable person and whether it would meet the VAT registration turnover threshold, which from 1 January 2023 is BGN 100,000 (approximately EUR 52,000). The payment deferral could be regarded as a VAT exempt financial service. No input VAT credit is available for purchases directly used for the provision of exempt financial services. In case the entity performs other supplies, which are subject to VAT, a proportionate VAT credit could be claimed for general expenses, however a detailed analysis would need to be performed.

**Income share agreement**

As discussed, the Bulgarian tax legislation does not provide for any specific regime for the treatment of student financing in the form of deferral of payment or the income share agreement. Thus, the CIT and VAT treatment of the income share agreement would generally follow what has been observed above with respect to the payment deferral.

**General guide for providers**

Non-traditional intermediaries which would be involved in student financing should ascertain whether they could benefit under the CIT exemption regimes for higher education institutions or non-profit legal entities reviewed above. Where the taxpayer may not benefit under these rules, any profits derived under the payment deferral and the income share agreement could be subject to the general 10% CIT, insofar that the entity has generated a positive taxable result during the period.

Bulgarian taxpayers are required to file their respective CIT return on a yearly basis.

It is expected that impairments and writing off of receivables (e.g. out of defaulted student financing transactions) will have an effect on the entities' operations. Therefore, it should be considered that such expense is usually not recognised in the year of the booking, but rather when certain conditions under CIT are fulfilled (as discussed in detail above), which could lead to temporary tax differences.

The general Bulgarian VAT provisions should apply, specifically insofar as the entity is a taxable person then their supplies could be subject to VAT. A taxable person is regarded as any person, who independently carries out an economic activity whatever the purpose or results of that activity. Any activity for consideration, carried out on a continuing basis or as a regular occupation or business on a professional basis for the purpose of obtaining income therefrom, including the exploitation of tangible and intangible property, shall also be considered as an independently carried out economic activity.

If the financing was regarded as an economic activity, the entity may need to register for VAT purposes if it has not already done so. The VAT registration turnover threshold from 1 January 2023 is BGN 100,000 (approximately EUR 52,000). No VAT registration is generally required, if an entity exclusively provides exempt supplies without a right of input VAT deduction (university education services provided by higher education institutions under the Higher Education Act are in principle exempt without a right of input VAT credit). However, where part of the exempt supplies of the taxable person consist of exempt financial services which relate to its main activity, the amount of these financial services would be included for the purposes of calculating the registration threshold and the taxable

person may need to register for VAT purposes. Such turnover would not be included for the purposes of calculating the registration threshold. A separate review and assessment would need to be performed for each financing entity in order to establish, based on the specific facts and circumstances related to the financing transactions, whether the financial services would be considered as related to its main activity.

## 3. Croatia

**General overview**

In Croatia, there is no special tax regime connected to the provision of student financing. Based on Croatian CIT legislation, and confirmed with several opinions issued by the Croatian Tax Authorities ('CTA'), CIT treatment of incurred profits does not depend on the legal form of the taxpayer, but on the business activity of the entity.

Further to the above, to determine whether a legal entity is a taxable person from the CIT perspective, it is necessary to ascertain whether its activity is performed independently, permanently and for the purpose of achieving profit or other economically valuable benefits, irrespective of the type of activity and its legal status.

The Croatian CIT Act provides a list of types of entities for which it is presumed that they are non-profit entities, and which are therefore not considered to be CIT payers. However, if the respective entities performed economic activities, and non-taxation of the respective activities would lead to the gain of unjustified privileges on the market, they would be liable to CIT for this particular economic activity.

The Croatian tax law does not contain any special provisions/regulations for either deferral of payment or income share agreement scheme.

There is no special VAT regime for the listed entities, general VAT provisions should apply. According to general VAT principles, the application of exemptions does not depend on the legal form of the provider of the service but on the nature of the service being provided. According to the Croatian VAT Act, the education of children and young people, school or university education, vocational training, and retraining, including closely related services and goods, carried out by bodies governed by public law or other person, with similar goals are VAT exempt without the right of deduction.

**Deferral of payment**

Repayment of the principle (funds repaid by the student) in the case of student financing in the form of a payment deferral is generally booked via balance sheet accounts and, thus, does not represent a taxable income for Croatian CIT. If the entity was determined to be a taxable person for CIT purposes in relation to their whole activities or in relation to their student financing activities, profit from a provided student financing booked as revenue via P&L accounts would generally be taxable income for CIT purposes falling under 10% or 18% tax rate (depending on the annual revenues incurred by the entity). Non-profit entities determined as being liable for CIT on the basis of the provision of student financing can apply for special treatment, i.e. their profit from a provided student financing booked as revenue via P&L accounts could be taxable under a 10% tax rate on the CIT base calculated at a flat rate (if certain conditions prescribed by Croatian CIT legislation are met). There is no tax exemption applicable on interest received from individuals.

According to Croatian CIT legislation, a value adjustment of financial assets is in general treated as tax non-deductible until sold or otherwise disposed. In addition, the Croatian CIT legislation prescribes that

in cases of expenses arising from the write-off of non-performing loans, loans, or other financial assets in compliance with specific regulations can be treated as tax deductible provided the conditions for value adjustment of receivables are adhered to. Based on Croatian CIT legislation, a value adjustment of receivables is treated as tax deductible where the following criteria are met (i) the period from the maturity date to the end of the taxable period is longer than 60 days (ii) the receivables have not been collected 15 days before the submission of the tax return (iii) receivables were initially recognised as income and (iv) action to collect them was taken or will be taken before the statute of limitation expiration date. Bad debt (i.e. in case of defaulted student financing transaction) VAT relief is allowed by the Croatian VAT Act provided that the taxpayer has received a written confirmation from its customer that the customer has corrected the amount of input VAT in its VAT return.

The provision of student financing, in cases where a consideration (e.g. interest, fee) is received in return for the provision of financing, in the form of either deferral of payment or income share agreement, is generally regarded as financial services for Croatian VAT purposes. The provision of financial services is a supply exempt from VAT without the possibility of claiming input VAT.

If the provider of the financial service is registered for VAT, any consideration received for the provision of financial services on the basis of either deferral of payment or income share agreement, should be reported in the VAT return. If the provider is not registered for VAT, there is no obligation to register or submit VAT returns.

**Income share agreement**

From the perspective of Croatian CIT and VAT, student financing in the form of income share agreement scheme has a similar tax treatment/regime applicable for the financing providers as student financing in the form of deferral of payment.

Similarly to profit from deferral payment scheme (e.g. interest), profit from income share agreement scheme (e.g. multiple) should be reflected in P&L and included in the Croatian CIT base.

**General guide for providers**

The Croatian CIT Act provides a list of types of entities for which it is presumed that they are non-profit entities, and which are therefore not considered as CIT payers. According to the Croatian CIT Act, the following entities are generally not considered as CIT payers due to the nature of activities which are performed by them: state administrative bodies, regional self-government units, local self-government units and the Croatian National Bank, state institutions, institutions of regional and local self-government units, state institutes, religious communities, political parties, trade unions, chambers, associations, art associations, volunteer fire departments, technical culture communities, tourist boards, sports clubs, sports associations and federations, funds and foundations.

However, were the above listed entities to perform economic activities and non-taxation of the respective activities would lead to the gain of unjustified privileges on the market, these entities would also be obligated to register in the register of taxpayers kept by the CTA within eight days from the date of commencement of this activity, in order to determine CIT obligations on the basis of the performance of the particular economic activity.

The general CIT rates are 10% and 18%. For taxpayers with revenues not exceeding EUR 995,421.06 within a tax period a CIT rate of 10% is applied, while the 18% rate applies to taxpayers exceeding EUR 995,421.06. Generally, according to the Croatian CIT Act, the CIT base for a tax period is defined as accounting profit, adjusted for items increasing and decreasing the tax base. In the case of non-profit

entities that are liable for CIT for their specific economic activities, the CIT base can be calculated on a flat rate basis, provided that certain conditions prescribed by the Croatian CIT legislation are met.

There is no special VAT regime for student financing providers specified in the Croatian VAT law.

In general, for VAT purposes a taxable person is any person who independently performs any economic activity regardless of the purpose or result of that activity.

The provision of student financing in the form of either deferral of payment or income share agreement is generally regarded as financial services for Croatian VAT purposes. The provision of financial services is a supply exempt from VAT without the possibility of claiming input VAT.

The provision of financial services (incl. student financing) is generally exempt from Croatian VAT; however, it may trigger an obligation to register for VAT. The Croatian VAT Act establishes conditions under which a taxpayer must register for VAT – a legal person with headquarters, a permanent establishment, or a natural person with permanent or habitual residence in Croatia, whose value of supply of goods or services performed in the previous or current calendar year exceeds EUR 39,816.84 (as of 1 January 2024 the prescribed threshold is EUR 40,000). Please note that the value of goods and services includes the value of the supply of goods and services which are taxable but also the value of financial transactions which are exempt without the right to deduct unless these transactions are ancillary.

If the provider preforms other taxable supplies to which there is a right of deduction, there is an input VAT claim where the inputs are used for taxable activities. However, if the inputs are used for both taxable supplies with the right to deduction and exempt supplies without the right of deduction, it is necessary to calculate the pro-rata ratio. In this case it may be necessary for the provider to apply partial exemption. Please note that financial services which are considered to be performed only occasionally should not be included in the pro-rata ratio calculation for partial exemption. It will be considered that the financial services are occasional in cases where the taxpayer performs up to two such transactions per year. If the transactions are not occasional, they should be included in the pro-rata calculation in order to determine whether it is necessary to apply the partial exemption.

## 4. Czech Republic

**General overview**

In the Czech Republic, there is no special tax regime connected to the provision of student financing. Student financing schemes are considered to be a standard provision of financial services. Czech tax law does not contain any special provisions/regulations for either deferral of payment or income share agreement scheme.

From the perspective of the non-traditional intermediaries, no other Czech taxes besides CIT and VAT should apply on student financing activities.

For Czech CIT purposes, a special CIT regime may apply if the non-traditional intermediaries meet certain conditions for publicly beneficial taxpayers. This type of taxpayer is allowed (subject to further conditions) to lower their CIT base by 30%, provided that such a tax saving is used in the next tax period to cover the taxpayer's expenses incurred in relation to non-entrepreneurial activities. The maximum deduction is CZK 1,000,000 (approximately EUR 41,500) and in case of e.g. public universities, the deduction may be up to CZK 3,000,000 (approximately EUR 124,400). Further, some types of income generated by these taxpayers are excluded from the CIT base.

There is no special VAT regime for publicly beneficial taxpayers. General VAT provisions should apply (see General guidance for providers below).

**Deferral of payment**

Repayment of the principle (funds repaid by the student) in the case of student financing in the form of payment deferral is generally booked via balance sheet accounts and, thus, does not represent a taxable income for Czech CIT. Any profit from a provided student financing booked as revenue via P&L accounts is generally taxable income for CIT purposes falling under a 19% tax rate. There is no tax exemption applicable on interest received from individuals (even for the publicly beneficial taxpayers).

Czech CIT taxpayers are allowed to create tax provisions to receivables where the creation and its subsequent release are tax effective for CIT, provided the statutory conditions as per the Czech Act on Reserves and the Income Taxes Act are met. Creation of such tax provisions which meets the statutory conditions are tax deductible for CIT. There are generally two types of tax provisions which may be created by the student financing providers: (i) tax provisions to receivables allowed to be created by regular taxpayers and (ii) special tax provisions to receivables from consumer credit.

The provision of financial services in the form of payment deferral should be treated as a supply exempt from local VAT without an input VAT deduction claim. Should the education provider be not registered for Czech VAT, there is generally no obligation to register or file VAT returns.

**Income share agreement**

From the perspective of Czech CIT and VAT, student financing in the form of income share agreement scheme has a similar tax treatment/regime applicable for the financing providers as student financing in the form of deferral of payment.

Similarly to profit from deferral of a payment scheme (e.g. interest), any profit from income share agreement scheme (e.g. multiple) should be reflected in P&L and included in the Czech CIT base.

**General guidance for providers**

The ordinary CIT regime applies for all providers of student financing. A special CIT regime may apply only if the provider of student financing falls under the publicly beneficial criteria. A publicly beneficial taxpayer is a taxpayer who carries out an activity that does not conduct business as its main activity – i.e. generally non-profit organisations (e.g. public universities). Student financing may represent an activity which is not conducted primarily for business (e.g. for universities) but it is always necessary to assess each situation (on a case by case basis).

Taxpayers who are tax residents in the Czech Republic are obliged to register for Czech CIT with the tax authorities within 15 days from the day of its establishment. Publicly beneficial taxpayers are obliged to file the registration application within 15 days from the day they start carrying out an activity generating a (taxable) income.

Czech CIT taxpayers are required to file a CIT return on a yearly basis (for each tax period). Publicly beneficial taxpayers who record only income not subject to tax, income that is exempt from tax or income subject to withholding tax is not obliged to file a CIT return.

There are strict rules stipulated for publicly beneficial taxpayers. Not meeting the mandatory conditions for the special CIT regime may result in, among other measures, denial of the special tax base deduction for publicly beneficial taxpayers.

If the principal is not expected to be repaid, a provision for bad debt may be formed or a write off may be performed. Czech taxpayers are allowed to create tax-deductible provisions to bad debt receivables (in the case of a defaulted student financing transaction) should certain conditions be met. So called ‘other financial institutions’ (generally non-bank institutions providing consumer credit) are also allowed to create tax provisions to receivables from consumer credit (from the principal amount).

For VAT purposes, a taxable person is a person who independently carries out economic activities. The taxable person is also a legal entity that has not been established or set up for the purpose of business if it carries out economic activities for considerations. Assessment as to whether such an activity meets the criteria of economic activity for the purposes of the VAT Act is needed.

The provision of student financing would be considered a financial service for Czech VAT purposes which is generally exempt from VAT without an input VAT deduction claim.

The taxpayer is obliged to register for the VAT under the following conditions – registered office in the Czech Republic, turnover exceeding CZK 2,000,000 (approximately EUR 82,900) for 12 consecutive calendar months. The taxpayer is subsequently required to file a standard VAT return on a monthly basis. The obligation to register does not arise if a person provides only exempt supplies without an input VAT deduction claim (e.g. the provision of financial services).

Even in cases where the student financing provider is a non-profit organisation/entity, it may have the obligation to register as a VAT payer. Should the education provider provide only VAT exempt supplies (without the input VAT claim), the student financing activity should not generally lead to an obligation to register for VAT. However, if the entity also provides supplies which are subject to Czech VAT and not exempt from Czech VAT, inclusion of the considerations received for provision of student financing may in some cases lead to register for VAT.

Generally, bad debt VAT relief in the case of a defaulted student financing transaction should be allowed where the legal actions to recover the debt are unsuccessful or in the case of a bankruptcy or insolvency of the debtor. This, however, does not apply to supplies exempt from VAT without the input VAT deduction claim – e.g. financial services (including student financing).

## 5. France

**General overview**

There is no special tax regime connected to the provision of student financing in France. Student financing schemes are deemed to be a standard provision of financial services. The French tax law does not contain any special provisions/regulations for either deferral of payment or income share agreement scheme.

From the perspective of the non-traditional intermediaries, no other French taxes besides CIT and VAT should apply to student financing activities.

For French CIT purposes, a specific CIT regime may apply to public universities and other public education providers as well as non-profit / non-governmental organisations if they meet certain conditions. This type of taxpayer is not subject to CIT provided that they carry out a non-lucrative activity. Other taxpayers (such as private universities, vocational training centres, etc.) are in principle liable to CIT under the common rules.

For VAT purposes, a taxable person is a person who independently carries out economic activities. In principle, teaching activities fall within the scope of VAT. However, a large number of these are exempted by French Law. A distinction must be made between continuing vocational training ('Formation Professionnel Continue' in French) and other teaching activities.

Provision of student financing would be considered a financial service for French VAT purposes which is generally exempt from VAT without an input VAT deduction claim.

Teaching activities, vocational training activities and non-profit non-governmental organisations are VAT exempt (subject to certain conditions).

**Deferral of payment**

Repayment of the principle (funds repaid by the student) in the case of student financing in the form of payment deferral is generally booked via balance sheet accounts and thus, does not represent a taxable income for French CIT. Any profit from a provided student financing booked as revenue via P&L accounts is generally taxable income for CIT purposes falling under a 25% tax rate. There is no tax exemption applicable on interest received from individuals (except for non-lucrative entities which are not subject to CIT unless their income exceeds the threshold of approximately EUR 76,700 in 2022).

Generally in France, tax and accounting rules concerning loans are applicable to student financing. French CIT taxpayers are allowed to book tax provisions when there is an indication of probable loss (e.g. in the case of a defaulted student financing transaction). Such a provision is tax deductible under certain conditions. The amount to be provisioned is estimated on the basis of information to the end of the fiscal year of the event justifying the provision.

Provision of financial services in the form of payment deferral should be treated as a supply exempt from local VAT without an input VAT deduction claim. The obligation to register for VAT does not arise if a person only provides exempt supplies without an input VAT deduction claim (e.g. the provision of financial services).

**Income share agreement**

From the perspective of French CIT and VAT, student financing in the form of an income share agreement scheme has a similar tax treatment/regime applicable for the financing providers as student financing in the form of a deferral of payment.

Similarly to profit from a deferral payment scheme (e.g. interest), any profit from income share agreement scheme (e.g. multiple) should be reflected in P&L and included in the French CIT base.

**General guidance for providers**

In principle, an ordinary CIT regime applies for providers of student financing. A specific CIT exemption may apply to public universities and other public education providers as well as non-profit / non-governmental organisations if they meet certain conditions (non-lucrative activities).

French CIT taxpayers are required to file a CIT return on a yearly basis (for each tax period). Taxpayers who are not subject to CIT (exempt) are not obliged to file a CIT return.

There are strict rules stipulated for the taxpayers exempted from CIT. Not meeting the mandatory conditions for such CIT regimes may result in the application of CIT.

If the principal is not expected to be repaid, a provision for bad debt (i.e. in the case of a defaulted student financing payment) may be formed or a write off may be performed. French taxpayers are allowed to create tax-deductible provisions to bad debt receivables should certain conditions be met.

There is no specific VAT compliance obligation associated with providing student financing in France. The French tax rules establish the conditions under which a taxpayer must register for VAT (entities subject to VAT may be exempt if their annual turnover does not exceed approximately EUR 37,000 for provision of services). The obligation to register does not arise if a person provides only exempt supplies without an input VAT deduction claim (e.g. the provision of financial services).

Subject to certain exemptions, entities providing loans must file a specific form (#2062) when the loan exceeds EUR 5,000. There is no need to declare whether the state, the local government or a public institution is the borrower, lender or intermediaries to the transaction or if a credit institution under the supervision of 'l'Autorité de contrôle prudentiel et de resolution' (the French banking supervision body) is a borrower or a lender to the transaction.

## 6. Germany

**General overview**

In Germany, there are no special tax regulations to be considered in connection with the provision of student financing. which represents regular granting of loans. German tax law does not contain any special provisions or regulations for deferral of payment or for income share agreement.

For non-traditional providers of student financing (e.g. private universities and private education providers), no other taxes should be incurred in addition to CIT and trade tax. Insofar as non-traditional providers of student financing are legal entities under public law ('jPöR' – legal persons under public law) or non-profit organisations (e.g. public universities, public education providers and non-profit institutions, foundations, associations, gGmbH's), a tax relief for CIT and trade tax can be considered. In this case, the income from the financing is completely exempt from taxation if the loan is not granted from a business unit of legal person under public law ('BgA' – business units) or so-called economic business operations ('wGb'). The conditions for this are examined on a case-by-case basis.

German tax law imposes strict requirements on non-profit status. The purpose of the articles of association must be approved by the tax authorities. Particularly with regard to the statutory purpose of the lending, it is a prerequisite that the granting of the loan differs from commercial lending in that it is carried out on more favourable terms than on the general conditions on the capital market (e.g. interest-free, interest rate reduction). Violations of non-profit regulations can jeopardise the existence of the non-profit organisation, as they can be subject to severe sanctions. In individual cases, the persons involved may also be affected.

General VAT provisions should apply. The granting and brokerage of loans is VAT exempt in Germany without an input VAT deduction claim. This applies to all companies. If the 'entrepreneurial status' is fulfilled, then a VAT registration must be acquired. This means that advance VAT returns and VAT returns must be submitted. In individual cases, an exemption from submitting advance returns is possible. The turnover exempt from VAT must be stated in the annual tax return.

**Deferral of payment**

The funds repaid by the students consist of the repayment of the receivable and, if applicable, any interest income exceeding this amount. The redemption amount is recognised in the balance sheet without affecting the P&L statement. This does not generate taxable income. Any interest income is captured in the P&L statement and is subject to CIT (15%) and, if applicable, trade tax (approximately

15%, depending on the respective assessment rate of the municipality), insofar as the tax relief for legal entities under public law or non-profit organisations does not apply.

To reflect the general default risk (e.g. in the case of a defaulted student financing transaction), the provider may in principle make a uniform lump-sum value adjustment on a receivables portfolio that has not been depreciated individually. For receivables threatened with default, an individual value adjustment can generally be made (in the tax balance sheet). The recognition of the lower partial value presupposes a presumably permanent impairment of the receivable. The student financing provider has the obligation to provide proof. The value adjustments and depreciation reduce any potential taxable profit. If a profit arises from the payment of guarantees, it is taxable.

The granting and brokerage of loans is exempt from VAT in Germany. Due to the tax exemption, input VAT cannot be deducted for the inputs used for the provision of financial services. The tax-exempt sales generated – e.g. interest – may have to be shown in the advance VAT returns and in an annual VAT return.

**Income share agreement**

Student financing in the form of an income sharing agreement is equivalent to student financing in the form of deferral of payment for German CIT and VAT purposes.

**General guide for providers**

The general principles of CIT and trade tax apply to all providers of student financing. Special tax benefits apply to non-profit taxpayers and legal entities under public law. The requirements for this depend on the area of assets in which the income from student financing accrues and must therefore be examined in each individual case. Non-profit organisations can be limited liability companies, associations and other corporations. Legal entities under public law are, for example, local authorities or institutions like universities.

If an organisation aspires to be a non-profit organisation, this should be clarified in advance with the tax authorities by submitting the articles of association.

If the non-profit institution pursues its charitable purposes with the lending / income sharing agreement (e.g. as a scholarship), it is a prerequisite that this is done on more favourable terms than on the general capital market.

In the case of legal entities under public law that are not non-profit, advanced coordination with the tax authorities is recommended.

Non-profit taxpayers must prove their charitable purpose at regular intervals and legal entities under public law must always pay attention to the possible establishment of business units (‘BgA’).

There are strict rules for non-profit organisations. Failure to meet the mandatory requirements for the CIT relief can lead to the loss of non-profit status and thus to high tax payments and further sanctions.

In Germany, there are no special compliance obligations in connection with the provision of student financing.

In order to cover the risk of default, it is possible to make lump-sum and individual valuation adjustments at the expense of the result, if there is an expected permanent impairment. If a receivable is demonstrably uncollectible, the receivable must be depreciated in the P&L statement. The guarantee amount from the InvestEU guarantee also increases the taxable income.

In Germany, the granting and brokerage of loans generally constitutes a taxable other service within the meaning of German VAT law. However, this other service is explicitly exempt from VAT. Due to the tax exemption, input VAT cannot be deducted for intermediate services incurred in the context of the provision of financial services.

Insofar as the organisation is considered an entrepreneur, it is obliged to submit advance sales tax returns, annual sales tax returns and to submit a so-called recapitulative statement. The declarations must be submitted electronically. Taxable but tax-exempt services must also be declared. Non-entrepreneurs, such as legal entities under public law that only perform sovereign activities, do not have any declaration obligation. In the future, asset management activities may also lead to an obligation for legal entities under public law to file VAT returns.

## 7. Greece

**General overview**

In Greece, there is no special tax regime related to the provision of student financing. Student financing schemes shall therefore be considered as the regular provision of financial services. The Greek tax law does not contain any special provisions/regulations for either the deferral of payment or an income share agreement scheme.

In addition, there are no special taxes which specifically apply to non-traditional intermediaries.

For Greek CIT purposes, any taxpayer (legal entity / natural person, etc.) providing financing services (including civil non-profit companies of article 45 of the GITC 'Greek income tax code' pursuing business activity) is subject to CIT at a rate of 22% to the extent that no special provisions apply. Non-profit public or private legal entities (including associations and foundations) are subject to CIT, except for their revenue realised within the context of pursuing their non-profit cause (membership fees, governmental grants, donations from third parties, etc.), which shall not be subject to CIT. Respectively, the general provisions apply with regard to the deductibility of expenses, whereas expenses relating to non-taxable purposes are in general non-deductible for tax purposes.

Specific entities, such as the government and general governmental bodies/institutions, are CIT exempt (with the exemption of income from capital and capital gains). Public universities in Greece are included in the relevant governmental bodies list and therefore may enjoy favourable tax exemptions as per the above.

General VAT provisions should apply. For Greek VAT purposes the supply of financial services is considered VAT exempt without providing for a deduction right of the respective input VAT amounts. Depending on the legal nature of the provider, specific VAT exemptions may also apply.

In cases of taxable entities performing taxable transactions (taxable supplies of goods or services) in Greece (irrespectively of whether or such transactions are ultimately VAT exempt), during the course of their business activities, VAT registration and relevant VAT reporting obligations arise. It is notable that VAT law in Greece does not contain any provision for exemption from registration, as there is no registration threshold.

**Deferral of payment**

Repayment of the principal (funds repaid by the student) in the case of student financing in the form of payment deferral does not qualify as taxable income for Greek CIT purposes. Any profit from a provided

student financing booked as revenue in the accounts of the financing provider is generally taxable income for CIT purposes, falling under a 22% tax rate unless exemptions apply (depending on the legal nature of the provider).

Greek taxpayers may create tax provisions for receivables and the amount of the provision, depending on the amount and the maturity of the receivable. Specific conditions must be met in order for the write-off (deduction) of the receivable to take place (registration of the corresponding claim's amount as revenue, deletion from the taxpayer's books, undertaking of all legal actions required for the claim's collection as proof of the debtor's insolvency).

Provision of financial services in the form of payment deferral should be treated as a VAT exempt supply of services not giving rise to an input VAT deduction right. If the provider is a VAT registered entity liable to file VAT returns, the relevant amounts qualifying as outputs without the right for deduction should be included in its VAT returns. In addition, stamp duty (at 2.4% or 3.6%) may be imposed on the financing amount in cases where the latter is characterised as a loan within the course of a potential stamp duty audit.

**Income share agreement**

A similar tax treatment to that of a deferral of payment scheme is provided for student financing in the form of an income share agreement from a Greek CIT and VAT perspective, given that no specific provisions regulating the aforementioned agreements as standalone type of financing exist.

**General guidance for providers**

No specific provisions exist in the Greek tax legislation regulating the status of non-traditional providers of student financing. Therefore, the general CIT and VAT provisions shall be applicable.

From a direct tax perspective, any revenue of the student financing providers shall be subject to Greek CIT at 22% unless it is referred to CIT exempt providers or to taxable non-profit providers with revenue realised within the context of pursuing their non-profit cause.

From an indirect tax perspective, the supply of student financing would qualify as a financial service which is generally exempt from VAT without an input VAT deduction right. If the providers are public/governmental bodies, they may be treated as non-taxable persons unless the relevant exemption would lead to a distortion of competition.

No adverse local tax implications are expected to arise if the repayment of the principal by the students at a later stage qualifies as a sale of educational services on credit (payment at a later date). A potential risk could arise if the Greek tax authorities, within the course of a tax audit, reclassified the supply of the student financing as a loan (due to the long non-payment of the principal amount) and imposed stamp duty (at 2.4% or 3.6% depending on the legal nature of the providers).

The supply of financing, either in the form of deferral of payment or an income share agreement, shall be recorded in the accounting books of the provider as a receivable. Different accounting standards may be applicable depending on the legal nature of the provider (e.g. whether it is a public institution or a private entity).

If the principal is not expected to be repaid, a provision for bad debt (i.e. in cases of a defaulted student financing transaction) may be formed or a write off may be performed. Depending on the accounting standards applicable to the providers, the latter may be entitled to form bad debt provisions for any outstanding student debts. Specific requirements must be satisfied in order for the student financing providers to proceed with the write-off of the bad debt amounts.

It should be noted that if the provider entity is liable to declare its Greek Business Activity Codes (‘ΚΑΔ’ as per its Greek initials) activity before the Registry of the competent tax authority prior to engaging in its business, it shall ensure that financing activities are among its active Greek Business Activity Codes and add the relevant code if this is not the case.

## 8. Hungary

**General overview**

Public universities, universities operated as or maintained by trust foundations and non-profit organisations may qualify for special exemptions for Hungarian CIT purposes.

Non-profit organisations are subject to CIT, but if they do not generate income from business activity or do not account for costs or expenses related to such activity in a given tax year, they should not be required to pay the calculated CIT or submit a CIT return. In such cases, a declaration may be filed in lieu of the ordinary tax return.

Different rules apply to public benefit and non-public benefit non-profit organisations:

- A non-profit entity that qualifies as a publicly beneficial organisation should be exempt from CIT liability in the given tax year if the income from its business activity does not exceed 15% of its total income.
- A non-profit entity that does not qualify as a publicly beneficial organisation should be exempt from CIT liability in the given tax year if the income from its business activity does not exceed HUF 10 million (approximately EUR 24,984) and 10% of its total income.

General VAT provisions should apply. Educational services (providing education, vocational training, etc.) and services or goods closely related to them should be exempt from VAT. Financial services should be exempt from VAT without the possibility of deducting input VAT (unless services are provided to non-EU persons). Other services or sales of goods that are not related to education or are not exempted under other titles should be subject to the general VAT rules and be taxable at 27%. There is no special VAT regime applicable on the provision of student financing by the non-traditional student financing intermediaries. The provision of student financing should qualify as a financial service which is treated as a supply exempt from local VAT without the right to deduct input VAT.

Municipalities in Hungary are entitled to impose local business tax (‘LBT’) on companies that carry out permanent or temporary business activity at the territory of the respective municipality. Entities may be subject to LBT levied by municipalities at 0-2% (the rate is decided by the municipality) based on their net sales revenue (less a handful of decreasing items, e.g. COGS). LBT is deductible for Hungarian CIT purposes and is not treated as ‘income tax’ in the application of the tax treaties.

Public universities and universities operated or held by public trust foundations should not be subject to LBT (‘Local business tax’).

Public benefit non-profit entities should be exempt from LBT in a given tax year if they did not have any tax payment liability after their profit realised in the previous tax year.

**Deferral of payment**

Financing activities should be subject to the general CIT rules. An entity carrying out such activities may still qualify for the special exemptions provided it meets the criteria for its classification and the exemption thresholds detailed above.

While the repayment of the principal does not represent a taxable income, any profit from the student financing, e.g. in the form of interest, should be reflected in the P&L and included in the Hungarian CIT base. Interest should be taxed on an accrued basis.

If the financing activities are carried out by public universities, no CIT liability should arise, as these institutions are not subject to CIT. In the case of non-profit organisations, the tax treatment would depend on whether the profits of such activities exceed the exempted threshold.

Foreign exchange gains on assets and liabilities should be taxable, while losses should be tax-deductible for Hungarian CIT purposes. In the case of long-term investments (financial fixed assets), the entity should have the option to defer the CIT effect of the foreign exchange differences realised on the receivables.

If there is a permanent and significant difference between the book value and the market value of the assets, e.g. receivables, an impairment loss must be accounted for. Impairment loss is a non-recognised (i.e. non-deductible) expense for CIT purposes.

The write-off of outstanding receivables should not be deductible for CIT purposes unless they qualify as bad debt for Hungarian CIT purposes, or they have been waived in the favour of private individuals.

Bad debt should mean (i) any receivable that fits the definition of 'bad debt' as defined by the Hungarian Act on Accounting (e.g. cannot be recovered by means of an execution procedure, cannot be enforced in legal proceedings, has expired, etc.), as well as (ii) 20% of the historical cost of a claim that is not settled within 365 days of the payment due date, with the exception of claims shown under receivables that cannot be enforced in court or under barred claims. Bad debt deemed unrecoverable should be recognised for tax purposes.

Financing activities, whether they generate profit or not, should generally be exempt from VAT without the possibility to deduct related input VAT.

There is no specific VAT registration or compliance obligation associated with providing student financing in Hungary, the general rules should apply.

Generally, Hungarian tax resident corporations shall be regarded as taxable persons for VAT purposes. Entities providing student financing services should generally be registered for VAT purposes and subject to general VAT compliance obligations.

VAT-registered businesses are required to file periodic VAT returns, usually monthly or quarterly, even if nil. This also applies to taxpayers providing financial services.

Interest and other financial income are not part of net sales revenue based on the Hungarian accounting standards; thus, this type of income is not subject to LBT.

If the contemplated financing activities qualify as regulated financial activities, the entities may be subject to industry specific taxes (e.g. special tax on financial organisations and windfall tax on credit institutions and financial enterprises). In this case, the entities may be required to operate under a different entity classification (e.g. credit institutions and financial enterprises), as a result of which the net sales revenue should include interest income and, therefore, LBT may also be payable.

**<u>Income share agreement</u>**

The same rules apply to income share agreements as to deferral of payments (see above).

**General guidance for providers**

The fact that the entity begins to provide student financing does not automatically lead to the denial of eligibility for the special CIT regime. Eligibility for the exemption should depend on the category of the entity and/or the ratio of the revenues realised from economic-entrepreneurial activities to the total revenues realised in a given tax year.

If the financing activities are carried out by public universities, no CIT liability should arise, as these institutions are not subject to CIT. In the case of non-profit organisations, the tax treatment would depend on whether the profits of such activities exceed the exempted threshold. Any profit from provision of the student financing services in a form of interest or multiple should be reflected in P&L and included in the Hungarian CIT base.

If the principal is not expected to be repaid, a provision for bad debt (i.e. in the case of a defaulted student financing transaction) may be formed or a write off may be performed. Write-offs of outstanding receivables should not be deductible for CIT purposes unless they qualify as bad debts. Bad debts that were considered irrecoverable (supported by legally valid third-party documents) could be written off for tax purposes. Bad debts that have been outstanding for more than 365 days can be written off for tax purposes up to 20% of their original value in annual instalments.

Educational services and services or goods closely related to them should be exempt from VAT. Other services or sale of goods that are not related to education or are not exempted under other titles should be subject to general VAT rules and taxable at 27%.

No specific registration or compliance obligation should arise either for CIT or VAT purposes. The general rules should apply, i.e. entities providing educational and/or financing services may still be required to register for CIT and/or VAT purposes in Hungary, unless a special exemption (as detailed above) applies.

## 9. Ireland

**General overview**

In Ireland, there is no special tax regime connected to the provision of student financing and student financing schemes are considered to be a standard provision of financial services.

Irish tax law does not contain any special provisions/regulations for either deferral of payment or income share agreement schemes.

There is, however, a possibility that student financing providers can request that the Irish Department of Finance issue loans under the authority of the Irish Minister of Finance, which would mean that both the capital and the interest on any such security is exempt from income or corporation tax. This exemption would be applicable only where the beneficial owner of the security is a person who is not resident in the State. The exemption would also apply where securities are held by or for an Irish branch that is carrying on a financial trade in Ireland (Section 46 of the 'Taxes Consolidation Act' 1997 (TCA)).

For VAT purposes, general provisions should apply.

**Deferral of payment**

For student financing, repayment of the principal (funds repaid by the student) in the form of payment deferral is generally not taxable as the repayments do not flow through the P&L. However, where the

payments include any element of foreign exchange ('FX'), the FX gains/losses, whether realised or unrealised, will hit the P&L and should be deductible for Irish corporation tax purposes.

Irish CIT taxpayers will recognise interest payments as revenue, which will then be taxable at 12.5%. In certain cases, a 20% withholding tax may be imposed on interest payments by the individuals. No interest withholding tax applies where an entity is considered to be *'carrying on a bona fide banking business'.* To be considered a banking business a bank must accept deposits from and lend to the Irish public, this includes banks operating on a freedom of services basis.

The mere deferral of principal payments should not be regarded as the provision of a financial service. However, where repayments exceed the principal amount (i.e. interest or a fee for the deferral), then this 'interest' or 'fee' should be regarded as consideration for the granting/provision of credit i.e. a financial service.

There is no requirement to reflect any repayments / interest or fees in respect of the payment deferral on bi-monthly Irish VAT returns. An annual Return of Trading Details should be filed by all VAT registered businesses noting the total turnover earned under each VAT category. Any interest or fees earned in respect of the grant of credit should be reflected in this return. See general guidance below for details on when an Irish VAT registration may be required.

Ireland applies a stamp duty charge on the execution of transfer documents at 7.5%. No stamp duty should arise on the issuance of any student loan or on the deferral or repayment of loans where no transfer is made.

**Income share agreement**

From the perspective of Irish CIT and VAT, student financing in the form of an income share agreement scheme would be subject to a similar tax treatment/regime as applicable to student financing in the form of a deferral of payment.

Similarly, repayment of the principle in the case of student financing in the form of payment deferral is generally not taxable as it does not flow through the P&L.

Similarly to the above, stamp duty would arise on the income share agreement on the basis that the income share agreement is considered loan capital as outlined above or if the agreement is executed outside of the state.

**General guidance for providers**

Irish CIT taxpayers are required to file a CIT return on a yearly basis (for each tax period). A company must file its return and pay any tax due no later than nine months after the end of the accounting period. The company must make this payment on or before the 23rd day of the ninth month.

The entity should determine whether it should be considered as trading for Irish corporation tax purposes and as such be able to use the 12.5% corporation tax rate. A trade is defined for Irish tax purposes as 'every trade, manufacture, adventure or concern in the nature of trade'. There is a substantial body of case law around what it a trade for Irish tax purposes and the 'Badges of Trade', as outlined by the UK Royal Commission, are also considered as persuasive by the Irish Revenue.

For VAT purposes, a taxable person is any person who independently carries out a business in the EU or elsewhere.

Taxable persons are required to register for Irish VAT where:

- Turnover from VAT taxable services exceeds or is likely to exceed EUR 37,500 per annum (EUR 40,000 from 1 January 2024).
- Turnover from VAT taxable goods exceeds or is likely to exceed EUR 75,000 per annum (EUR 80,000 from 1 January 2024).
- Turnover from a mix of VAT taxable goods and services exceeds EUR 75,000 where 90% or more of the turnover is from the supply of goods.

Where a taxable person only supplies VAT exempt services, and does not receive goods or services from non-Irish suppliers that would have been VAT taxable if purchased from Irish suppliers, then they will not be required to register for Irish VAT. However, they will have no right to recover any VAT incurred (either VAT charged by local persons or reverse charge VAT accounted for on goods or services from non-Irish persons).

Taxable persons are, however, required to register and account for VAT on a reverse charge basis on the purchase of goods and services from non-Irish persons. Taxable persons will be required to register and account for Reverse Charge where it:

- Acquires VAT taxable goods from other EU Member States of EUR 41,000 annually.
- Purchases services from non-Irish persons that would have been taxable if purchased locally e.g. administration or legal services. There is no minimum threshold for the purchase of services.

Therefore, even if the student financing provider is a non-profit organisation it may be required to register for Irish VAT where it purchases goods or services from non-Irish persons.

## 10. Italy

**General overview**

In Italy, there is no special tax regime connected to the provision of student financing. Student financing schemes are considered to be a standard provision of financial services. The Italian tax law does not contain any special provisions/regulations for either deferral of payment or income share agreement schemes.

From the perspective of the non-traditional intermediaries, no other Italian taxes besides CIT, VAT and IRAP (‘Regional Tax on Productive Activities’) should apply on the student financing activities.

For Italian CIT purposes, the provision of student financing by non-traditional intermediaries would prevent them from benefitting from CIT exemption in relation to their institutional activities. Indeed, as mentioned in the legal analysis, the provision of such services is permissible only for certain authorised entities with specific legal forms and which are deemed to generate per se business income.

Also, from a VAT standpoint, any supply of goods or services made by such types of corporate entities is generally regarded as a business economic activity.

If the student financing activity represents a significant portion of the overall activities, specific VAT and IRAP consequences will arise.

**Deferral of payment**

Repayment of the principle (funds repaid by the student) in the case of student financing in the form of payment deferral is generally booked via balance sheet accounts and, thus, does not represent a

taxable income for Italian CIT. Any profit from a provided student financing booked as revenue via P&L accounts is generally taxable income for CIT purposes falling under a 24% tax rate. There is no tax exemption applicable on interest received from individuals (even for the publicly beneficial taxpayers).

Italian CIT taxpayers are allowed to create tax provisions to receivables where the creation and its subsequent release are tax effective for CIT, provided the statutory conditions as per the Italian Income Taxes Act are met. There are generally two types of tax provisions which may be created: (i) tax provisions to receivables allowed, and (ii) tax provisions to receivables to be created by financial intermediary taxpayers.

Provision of financial services in the form of payment deferral should generally be treated as a supply exempt from local VAT without input VAT deduction claim. Fully exempt taxpayers without an input VAT deduction claim (e.g. the provision of financial services), are also required to register for VAT (however they are exempted from certain administrative obligations) and file the VAT return.

Special IRAP rules apply for entities providing financial services (e.g. in the form of payment deferral) as the main activity. Namely, the taxable basis and the applicable rate are different compared to the ordinary regime applicable for commercial entities and the regime applicable for public entities and non-commercial entities.

**Income share agreement**

From the perspective of Italian CIT and VAT, student financing in the form of an income share agreement scheme has a similar tax treatment/regime applicable for the financing providers as student financing in the form of deferral of payment.

Similarly to profit from a deferral payment scheme (e.g. interest), any profit from an income share agreement scheme (e.g. multiple) should be reflected in P&L and included in the Italian CIT base.

**General guidance for providers**

Ordinary CIT regime applies for all providers of the student financing. Exemption from CIT in relation to the institutional activities would not be applicable as the provision of student financing is permissible only for authorised entities having certain legal forms which are deemed to generate per se business income.

Taxpayers which are tax residents in Italy are obliged to file a registration application for Italian CIT with the tax authorities within 30 days from the day of its establishment.

Italian CIT taxpayers are required to file a CIT return on a yearly basis (for each tax period). Eligible taxpayers – such as public universities, or non-profit/non-commercial entities – who records only income that is not subject to tax, income that is exempt from tax or income subject to withholding tax is not obliged to file a CIT return.

Italian taxpayers are allowed to create tax-deductible provisions to bad debt (i.e. in the case of a defaulted student financing transaction) receivables should certain conditions be met. So called 'financial intermediaries' are also allowed to create tax provisions to receivables from consumer credit (from the principal amount).

For VAT purposes, a taxable person refers to any individual or legal entity that supplies goods or services in the course of a business, or that performs an artistic or professional activity in Italy.

The occasional supply of goods or services is not generally within the scope of Italian VAT. However, any supply of goods or services made by a corporate entity is regarded as a business activity, unless it is specifically treated as a non-business activity by the Italian VAT law.

The provision of student financing would be considered a financial service for Italian VAT purposes, which is generally exempt from VAT without an input VAT deduction claim.

The taxpayer is obliged to register for VAT if it carries out a business, artistic or professional activity. The registration must be performed within 30 days of the commencement of the activity. The taxpayer is subsequently required to file a standard VAT return on a yearly basis. Taxpayers who provide only exempt supplies without an input VAT deduction claim (e.g. the provision of financial services), are also required to register for VAT (however they are exempted from certain administrative obligations).

Even in cases where the student financing provider is a non-profit organisation/entity, it may have the obligation to register as a VAT payer.

If the principal is not expected to be repaid, a provision for bad debt may be formed or a write off may be performed. Generally, a bad debt VAT relief should be allowed where the legal actions to recover the debt are unsuccessful or in the case of a bankruptcy or insolvency of the debtor. This, however, does not apply to supplies exempt from VAT without the input VAT deduction claim – e.g. financial services (including student financing).

For IRAP purposes, the taxable basis and the applicable tax rate for subjects providing financial services (such as student financing) is different from both the ordinary regime applicable for commercial entities and the regime applicable for public entities and non-commercial entities. In particular, interest income/expenses are included in the taxable basis and the tax rate is higher of approximately 1.5% than the ordinary rate (currently set at 3.9%).

## 11. Lithuania

**General overview**

In Lithuania, there is no special tax regime connected to the provision of student financing. Student financing schemes are considered to be a standard provision of financial services. The Lithuanian tax law does not contain any special provisions/regulations for either deferral of payment or income share agreement scheme.

From the perspective of the non-traditional intermediaries, no other Lithuanian taxes besides CIT and VAT should apply on the student financing activities.

For Lithuanian CIT purposes, a special CIT regime may apply if the non-traditional intermediaries meet certain conditions for non-profit entities. Non-profit entities must meet the criteria below:

- The purpose of its activity is not related to generating income. The activity of the non-profit entity should correspond with the purpose of the specific activity and requirements set for that activity (e.g. social, education, culture, sports and related) in law;
- The profit shall not be distributed to the participants.

Non-profit entities can reduce their taxable profit by the funds directly allocated in the current tax period or to be directly allocated in the two subsequent tax periods for financing activities related to the public interest.

There is no special VAT regime for non-profit entities. General VAT provisions will apply.

**Deferral of payment**

Repayment of the principle (funds repaid by the student) in the case of student financing in the form of payment deferral is generally booked via balance sheet accounts and, thus, does not represent a taxable income for Lithuanian CIT. Any profit from a provided student financing booked as revenue via P&L accounts is generally taxable income for CIT purposes falling under a 15% tax rate. There is no tax exemption applicable on interest received from individuals (for profit making entities).

For non-profit entities, if student financing is deemed to be a public interest activity, even profit (e.g. from interest earned) from this activity will be non-taxable if such profit is used to finance public interest activity (e.g. student financing without interest payments, offered to a wide range of students).

Provision of financial services in the form of payment deferral should be treated as a supply exempt from local VAT without input VAT deduction claim and not giving rise to a VAT registration obligation. Should the education provider be not registered for Lithuanian VAT, there is generally no obligation to file VAT returns.

**Income share agreement**

From the perspective of Lithuanian CIT and VAT, student financing in the form of an income share agreement scheme has a similar tax treatment/regime applicable for the financing providers as student financing in the form of deferral of payment.

Similarly to profit from deferral payment scheme (e.g. interest), any profit from income share agreement scheme (e.g. multiple) should be reflected in P&L and included in the Lithuanian CIT base.

**General guidance for providers**

An ordinary CIT regime applies for all providers of the student financing. A special CIT regime may apply only if the provider of student financing complies with non-profit entity rules and the purpose of the non-profit entity's activities is not related to generating income. The activity of the non-profit entity should correspond with the purpose of the specific activity and requirements set for that activity (e.g. social, education, culture, sports and related) in Lithuanian law.

Taxpayers which are tax residents in Lithuania are obliged to file a taxpayer registration application with the tax authorities within 5 days from the day of its legal establishment (the same rules apply for profit making entities and non-profit entities).

Lithuania CIT taxpayers are generally required to file a CIT return on a yearly basis by the 15$^{th}$ day of the sixth month following the end of the tax year (for each tax period). Also, companies must make quarterly advance payments of profit tax by the 15$^{th}$ day of the last month of each quarter (exceptions apply to newly registered enterprises in their first tax year and enterprises with taxable profit not exceeding EUR 300,000 in the preceding tax year).

Non-profit entities: the taxable profit, which is required to be reported by non-profit entities, is calculated as total income (earned from both commercial and public interest activities) minus non-taxable income minus tax deductible expenses minus the taxable profit amount that is directly allocated to finance public interest activities. CIT return filling obligations are the same as for profit making entities.

There are strict rules stipulated for the publicly beneficial taxpayers. Not meeting the mandatory conditions (please refer to section 'General overview' above) for the special CIT regime may result in e.g. denying the special tax base deduction for a non-profit entity.

Lithuanian taxpayers are allowed to create tax-deductible provisions to bad debt receivables should certain conditions be met.

Persons liable to VAT are:

- A taxable person, i.e. a business entity, an individual established in Lithuania or elsewhere or a collective investment undertaking (fund) that performs an economic activity in the course of its business in Lithuania.
- A legal entity that is not a taxable person with respect to intra-Community acquisitions of goods or any person with respect to the intra-Community acquisition of new means of transport.

The VAT registration threshold for Lithuanian entities is turnover in excess of EUR 45,000 in the preceding 12 months. The taxpayer is subsequently required to file a standard VAT return on a monthly basis. Turnover received from VAT exempt supplies is not included in the EUR 45,000 threshold calculation.

The provision of student financing would be considered to be a financial service for Lithuanian VAT purposes, which are generally exempt from VAT without an input VAT deduction claim and not giving rise to a VAT registration obligation.

If the principal is not expected to be repaid, a provision for bad debt (i.e. in the case of a defaulted student financing transaction) may be formed or a write off may be performed. Generally, a bad debt VAT relief should be allowed where the legal actions to recover the debt are unsuccessful or in the case of a bankruptcy or insolvency of the debtor. This, however, does not apply to supplies exempt from VAT without the input VAT deduction claim – e.g. financial services (including student financing).

## 12. Netherlands

**General overview**

In the Netherlands, there is no special tax regime available for non-traditional intermediaries. It is possible that the provider can apply a Dutch CIT exemption. CIT exemptions may for instance apply for educational institutions (or for educational activities), for certain activities of (indirect) public entities and for foundations. The CIT treatment of the provider of student financing is subject to further analysis.

The Dutch CIT rate is 25.8% (2022: for the first EUR 395,000 of profits a reduced rate of 15% applies; 2023: the first EUR 200,000 of profits is taxed against a 19% rate). The tax is in principle levied on a net basis.

In general, in the case of the issuance of loans or credit facilities, the provider may be required to provide details on, for example, the debtor, the amount and interest to the Dutch authorities on an annual basis (so-called 'renseignering'). This should be subject to further analysis in individual cases.

General VAT provisions should apply. There is no special VAT regime for publicly beneficial taxpayers specified in the Dutch VAT law for educational services. A VAT exemption applies to education services provided that it is either regulated education or recognised in a registry for short term professional education.

**Deferral of payment**

The repayment of principal (the nominal value of the student finance) would in general not represent a taxable income.

To what extent and at what moment a profit element should be included in the CIT base in relation to deferral of payment is subject to the further analysis of the agreement between the provider and the recipient (including general terms and conditions).

It is possible that a part of the repayments that are being received during the duration of the student finance are considered as taxable in the year of receipt (not only from the moment that the total amount of the repayments exceeds the principal amount). This depends upon the student finance agreement (and terms and conditions) and therefore subject to further analysis.

If the principal is not expected to be repaid, a provision for bad debt (i.e. in the case of a defaulted student financing transaction) may be formed or a write off may be performed. Subject to further analysis, such an event may reduce the taxable result (insofar as it is subject to CIT). The taxable result would increase insofar as the bad debt or write off would be considered recoverable at a later stage (in principle up to the nominal value and maximised to the amount that was previously deducted for CIT purposes). If a part of the loss is covered by the InvestEU Skills & Education Guarantee, this will have to be taken into account when determining a provision for bad debt or a write off for tax purposes (reducing the possibility of claiming a tax deduction).

Provision of financial services in the form of payment deferral should be treated as a supply exempt from local VAT without input VAT deduction claim unless the recipient/borrower is not an EU resident or not established in the EU. The granting of credit may cause an organisation to qualify as a taxpayer for Dutch VAT purposes. However, as this is an exempt activity it would not be reported in the Dutch VAT returns. This applies regardless of the place of residence of the student/borrower. If no other reportable transactions take place, a taxpayer can request to be relieved from Dutch VAT filing obligations.

**Income share agreement**

From the perspective of Dutch CIT and VAT, a similar tax treatment/regime applies for both student financing in the form of income share agreement schemes as well as for student financing in the form of deferral of payment.

**General guide for providers**

There is no special tax regime available for non-traditional intermediaries. It is possible that the provider can apply a CIT exemption. CIT exemptions may for instance apply for educational institutions (or for educational activities), for certain activities of (indirect) public entities and for foundations.

The providing entity should analyse upfront whether the student financing activity impacts its Dutch CIT position. Insofar as relevant, the provider can also try to enter into an upfront agreement with the Dutch tax authorities with regard to its tax treatment.

Dutch CIT taxpayers are required to file a CIT return on a yearly basis. A (fully) CIT exempt provider would in principle not be obliged to file a CIT return. As mentioned above, it is subject to further analysis as to whether a provider would be fully CIT exempt.

Taxpayers are obliged to file a registration application for Dutch CIT with the tax authorities within six months after the first tax year. It is also possible that the Dutch tax authorities pro-actively sends an invite to file a tax return.

For VAT purposes, a taxable person is a person who independently carries out economic activities. A taxable person is also a legal entity that has not been established or set up for the purpose of business

if it carries out economic activities for considerations. Assessment as to whether such activity meets the criteria of economic activity for the purposes of the Dutch VAT Act is needed.

Provision of financial services in the form of an income share agreement should be treated as a supply exempt from Dutch VAT which does not entitle the service provider to recover Dutch VAT incurred on costs unless the services are provided to non-EU recipients (in which case Dutch VAT on associated costs can be recovered).

If any of the educational services do not qualify for exemption (and do not fall outside of the scope of VAT), it is important that the financing activities are treated as a separate supply for VAT purposes. This requires that the remuneration for the financing is agreed separately (or defined separately in an agreement). Based on Dutch policy, such an agreement should not only state the remuneration for the financing separately but also state the applicable interest rate. However, if no interest rate is agreed upon, based on case law this should still be treated as a separate exempt supply of credit for VAT purposes.

Any taxpayer for VAT purposes resident/established in the Netherlands is obliged to register for Dutch VAT purposes. As a rule, taxpayers for VAT purposes are obliged to file VAT returns on a quarterly basis. The obligation to register for VAT applies even if a person provides only exempt supplies that do not entitle them to recover input VAT. However, if it does not need to report any transactions (e.g. no reportable purchases for which the VAT is reverse charged) a fully exempt taxpayer can request to be relieved from Dutch VAT filing obligations. A taxable person can also be relieved from VAT filing obligations if their (qualifying) revenue does not exceed EUR 20,000 per year and they apply for the Dutch VAT scheme for SMEs.

If the principal is not expected to be repaid, a provision for bad debt may be formed or a write off may be done. In general, a bad debt VAT relief in line with the Dutch VAT Act should be allowed where it can reasonably be assumed that the debt will not be paid and, in any event, if the payment is not received one year after it becomes due. Bad debt relief is only relevant if VAT is charged. If supplies are exempt (such as educational services) no VAT should be remitted on the supplies and therefore no bad debt relief would apply.

## 13. Portugal

**General overview**

In Portugal, there is no special tax regime associated with the granting of student financing. Student financing schemes are considered a standard provision of financial services. Furthermore, the Portuguese tax law does not contain any special provisions/regulations for either deferral of payment or income share agreement framework.

For Portuguese CIT purposes, a special CIT regime may apply if the student finance provider meets the requirements to qualify as an entity of public interest. The Portuguese CIT Code provides that the exemption is conditional on express recognition by the Portugal Minister of Finance by submitting an official application presenting the scope of the activities carried out, the harmony of these activities with the purposes pursued, and other supplementary information. If the conditions are not met, the exemption will not be granted (denied) or may be revoked, and for those entities (not a public interest entity) the standard CIT regime will be followed, falling under the general tax rates mentioned below:

- Standard rate in the mainland: 21%

- Standard rate in the Autonomous Region of Madeira and the Autonomous Region of the Azores, including Permanent establishments ('PEs') of foreign entities registered therein: 14.7%
- A reduced rate of 17% (11.9% in the Autonomous Region of Madeira and the Autonomous Region of the Azores) applies to SMEs and small-medium capitalisation (Small Mid-Caps) entities (resident entities and Pes in Portugal of non-resident entities) on the first EUR 50,000 of taxable income (the standard CIT rate shall apply on the excess).

The following surtaxes may also apply:

A local surtax ('derrama municipal') of up to 1.5% of taxable income, prior to the deduction of any available carry forward tax losses, is levied in certain municipalities. The local surtax is assessed and paid when filing the CIT return.

A state surtax ('derrama estadual') applies (before the deduction of any available carry forward tax losses) at the following rates:

- 3% (mainland) and 2.1% (autonomous regions) applicable to the taxable profit exceeding EUR 1.5 million and up to EUR 7.5 million.
- 5%(mainland) and 3.5% (autonomous regions) applicable to the taxable profit exceeding EUR 7.5 million and up to EUR 35 million.
- 9% (mainland) and 6.3% (autonomous regions) applicable to the taxable profit exceeding EUR 35 million.

Under Portuguese VAT law, there is no special VAT regime for entities with public utility status (no *subjective exemption*). Therefore, even if the student funding entity is a non-profit organisation/entity, it may still be obliged to register as a VAT-taxable person in Portugal. It is recommended that the entity's economic activities be monitored.

The provision of student financing in the form of either a deferral of payment or an income share agreement can be considered to be a financial service for VAT purposes, thus can benefit from a VAT *objective exemption* in the event of the granting and negotiation of credits in any form, including discount and rediscount operations, as well as their administration or management by the person who granted them. Therefore, financial services are generally exempt from VAT, without the possibility of deducting VAT.

The Portuguese legislation does provide a *subjective exemption* of Stamp Duty for entities with public utility status (an entity of public interest).

Without this status, when providing student financing in the form of a deferral of payment or an income share agreement, the entities that grant credits and guarantees or are creditors of interest, premiums, commissions, and other considerations are subject to Stamp Duty, the rate of which to be levied depends on the term of the credit and could be up to 0.6% in respect of the principal amount, and up to 4% in respect of interest and commissions that may be due.

On the other hand, if a credit institution such as bank is involved (e.g. acting as an intermediary for student financing) tax residents in Portugal or branches of credit institutions that do not have their headquarters in Portuguese territory could be subject to the banking sector contribution. The contribution is calculated as percentage from taxpayer´s liability. As per the tax rate, it can vary from 0.01% to 0.11% depending on the amount of liability.

If the lender is a financial institution, with eligible financial accounts, reporting obligations may arise to the Portuguese Tax Authorities.

**Deferral of payment**

Repayment of the principal (funds repaid by the student) in the case of student financing in the form of deferral of payment is generally booked in the balance sheet accounts as a receivable, with no impact on the P&L (income statement). It does not represent income subject to CIT in Portugal. Any profit from a provided student financing booked as revenue via P&L accounts is generally taxable income for CIT purposes. Therefore, if there is a profit resulting from the repayment (e.g. monetary correction or interest), accounted for as income through P&L accounts, it will be considered taxable income for CIT purposes, subject to the general tax rates mentioned above.

If the funds are provided in a foreign currency (other than EUR), the provider should record the credit in Euro currency and record the corresponding exchange differences. Exchange gains resulting from differences between the exchange rates prevailing at the time of the transaction are considered a profit and therefore taxable income for CIT purposes. On the other hand, exchange losses are considered deductible for CIT purposes.

According to Portuguese tax legislation, if the receivable is not paid, an impairment loss is generated by the provider. For such impairment losses to be tax deductible for CIT purposes, they must relate to the normal activity of the provider and such credits must be considered as bad debts (including interest for late payment), evidenced as such in the accounts. Also, the provider must have made attempts to collect these. For this purpose, the risk of non-recoverability of such debts must be duly justified. Therefore, taxpayers are generally allowed to create tax provisions. However, if the student debt financing provider is part of the InvestEU Skills & Education Guarantee, a risk-sharing instrument that will cover part of the amounts that may not be reimbursed by the student in the event of default, the credits covered by insurance are not considered bad or doubtful debts, except for the amount corresponding to the percentage of compulsory overdraft.

The concession of credit, as a financial banking operation, is considered a VAT exempt operation. Furthermore, financial intermediation will be VAT exempt, provided that the operation to which it is referred is itself an exempt operation[25].

According to the Portuguese legislation, in case of operations that are exempt from VAT it is not possible to claim any VAT. In case of operations that are subject to VAT it is possible to claim VAT deduction only on the condition that the recipient is established outside the EU.

Even if the student financing is provided without making any profit from it (from the provider's perspective), under the Portuguese legislation, the operation will be seen as a financial service, which does not depend on the profit generated by the entity which provides the credit.

Taxpayers may deduct the VAT related to bad debts, evidenced as such in the accounts, as well as VAT related to irrecoverable debts. For this purpose, the credits must be in default for more than 12 months since their due date, there must be objective evidence of impairment and the provider must have made attempts to collect them. However, this does not apply to supplies exempt from VAT without the input VAT deduction claim – e.g. financial services.

[25] According to Directive 2006/112/EC, as well as the Portuguese VAT legislation.

**Income share agreement**

From the perspective of Portuguese taxation, student financing in the form of an income share agreement scheme has a similar tax treatment/regime applicable for the financing providers as student financing in the form of deferral of payment (see above).

**General guidance for providers**

A standard CIT regime applies for all providers of student financing. A special CIT regime (*exemption*) may apply only if the provider of student financing falls under the public benefit criteria. A publicly beneficial taxpayer is a taxpayer who carries out an activity that is not a business as its main activity – i.e. generally non-profit organisations (e.g. associations, certain cooperatives, and foundations, such as the case of public universities).

The accounts of the taxpayers which are tax residents in Portugal must be organised in such a way as to enable the elements necessary for calculating taxes to be known. Also, Portuguese legislation provides for the application of penalties for failure or delays in submitting information returns (e.g. fines). Thus, entities, except a small group of exempted entities (governmental, as a rule), are obliged to keep in good order, for a period of 10 years, a tax documentation file ('tax file' or 'dossier fiscal') for each tax period, which must be established by the due date for submission of the Simplified Business Information ('IES'), with the accounting and tax elements defined by the Portugal tax authorities.

In order to be eligible to carry out professional activity in Portugal and, consequently, be able to pay or receive CIT, the entity must submit the declaration of commencement of activity within 90 days of registration with the National Register of Legal Entities or 15 days of registration with the Commercial Registry Office.

Entities with income not subject to CIT, as well as entities with income exempt from CIT taxation, are required to comply with the accessory tax obligation by submitting the annual CIT return, by the end of the fifth month following the year to which it refers (e.g. typically, by 31 May, in cases where the tax year coincides with the calendar year).

There is no specific rule regarding the revaluation of the receivable from the provision of financing in the form of payment deferral. If the International Financial Reporting (IFR) accounting framework applies (which is not mandatory for these types of entities), then the application of IFRS 9 could lead to the application of the fair present value calculations, on which different tax and accounting considerations may apply.

Additionally, the IES is a mandatory annual declaration for entities subject to the Portuguese tax regime, which must be submitted by 15 July, in ordinary situations. The IES is a common base of information for CIT, VAT, and Stamp Duty (the last two, if applicable) for statistical and inspection control purposes.

There are strict rules stipulated for the publicly beneficial taxpayers. Not meeting the mandatory conditions for the special CIT regime may result in, for example, denying the special tax base deduction for publicly beneficial taxpayers.

Portuguese taxpayers are allowed to create tax-deductible provisions to bad debt (i.e. in the case of a defaulted student financing transaction) receivables should certain conditions be met.

For VAT purposes, provision of the student financing would be considered to be a financial service, which is generally exempt from VAT without an input VAT deduction claim. In the event the operation is considered VAT exempt, a VAT deduction claim will only be allowed when the recipient is established outside the EU.

There is no specific VAT compliance obligation associated with providing student financing in Portugal.

Entities subject to VAT, even if exempt, must inform the Portugal tax authorities about their operations, by submitting the following declarative obligations:

- Annual VAT return (Simplified Business Information).
- Periodic return.
- Recapitulative Statement.
- Intrastat declaration.

## 14. Romania

**General overview**

In Romania, there is no special tax regime for entities providing student financing in the form of a deferral of payment or income share agreement.

As per the tax law currently in force, there are some special tax rules for pre-university education units and universities (both public and private) which are accredited and authorised. The revenues derived and utilised by these entities in the current year and following years, as per the provisions of the Romanian Education Law, should be non-taxable. If the provider does not fall under these categories, then normal CIT rules should apply.

Moreover, the Romanian Tax Code allows the deduction of the expenses incurred for the organisation and conduct of professional and technical education, dual pre-university, and university education according to the provisions of the Romanian Education Law.

General VAT provisions should apply. There is no special VAT regime for these entities (VAT exemption applies for education activities, under certain conditions). Student financing could be VAT exempt without credit (if seen as a standalone financing operation or as part of the taxbase for the supply of VAT exempt educational activities) or subject to 19% VAT (if seen as part of the taxbase for the supply of taxable educational activities). Please see details in the following point of our analysis.

**Deferral of payment**

Repayment of the principle (funds repaid by the student) in the case of student financing in the form of payment deferral is generally booked via balance sheet accounts and thus, does not represent a taxable income for Romanian CIT. Any profit from a provided student financing booked as revenue via P&L accounts is generally taxable income for CIT purposes falling under a 16% tax rate.

Bad debt provision expenses can be treated as deductible at the moment of their set-up within the limit of 50% of their value, provided that the receivables cumulatively meet the conditions stipulated in the Romanian Tax Code.

Provision of financial services for a consideration is generally exempt from VAT without the right to recover input VAT. Moreover, the VAT exemption does not depend on complying with a particular regulatory framework (e.g. authorisation under specific directives/regulations or not).

If the student financing in the form of payment deferral qualifies as a financial service or as part of the VAT exempt educational activity as an ancillary activity, no input VAT can be claimed by the provider, the activity being subject to VAT exemption without credit. If the educational activity is subject to VAT (if the requirements for applying the related VAT exemption for educational activities are not met), the

student financing when seen as ancillary to the educational activity will also be subject to VAT with the right of deduction of input VAT by the provider. The VAT exemption for educational activity may be applied by these entities as long as they are authorised to perform such activities and all the conditions provided under the Romanian VAT law for such VAT exemptions are met.

**Income share agreement**

From the perspective of Romanian CIT and VAT, student financing in the form of an income share agreement scheme has a similar tax treatment/regime applicable for the financing providers as student financing in the form of a deferral of payment.

Income share agreements are not a common approach in Romania. The Romanian Tax Code does not differentiate between these types of financing; therefore, the general rules should apply regardless of the envisaged method.

Similarly to profit from deferral payment scheme (e.g. interest), any profit from an income share agreement scheme (e.g. multiple) should be reflected in P&L and included in the Romanian CIT base.

**General guide for providers**

From a Romanian regulatory perspective, granting loans can be performed as a professional activity only by certain specific types of entities (e.g. credit institutions, non-financial institutions) under the supervision of the National Bank of Romania ('NBR'). As such, a need for confirmation would arise with the NBR if any authorisation is required for granting such loans.

The Romanian Tax Code provides a list of non-taxable revenues (e.g. membership fees, registration fees, donations, dividends, interest, etc.) applicable for non-profit organisations. In addition to these, other revenues not included in the list may be considered non-taxable with a cap at EUR 15,000 limit/fiscal year, but no more than 10% of the sum of the non-taxable revenues included in the list.

As mentioned above, there are some special tax rules for pre-university education units and universities (both public and private) which are accredited and authorised.

If the entity would be in a tax loss position, it would not be liable to pay CIT in Romania for the tax year in which the loss is incurred and the tax loss can be carried-forward for a period of seven consecutive years as per the current tax law provisions.

Entities providing student financing should follow the general CIT compliance obligations.

Based on the Romanian VAT legislation, a taxable person is any person that carries out economic activities, in an independent manner and regardless of the place, whatever the purpose or results of that activity. A natural person, a group of persons, a public institution, a legal person, as well as any entity capable of carrying out economic activity can be a taxable person. Economic activities shall comprise all activities of producers, traders, or service suppliers, including mining, agricultural activities and the activities of liberal professions or professions assigned to this category. The exploitation of tangible or intangible property for the purpose of obtaining income therefrom on a continuous basis shall also be considered an economic activity.

Financial services are generally exempt from VAT without credit.

The VAT exemption depends on the nature of the services provided and is assessed independently of the status or legal nature of the entity providing the service or the manner in which the service is provided.

There are no specific VAT compliance obligations associated with providing student financing in Romania. The VAT compliance obligations depend on its VAT regime – whether VAT exempt or taxable, as they should be declared on specific rows of the Romanian VAT return.

If VAT-able activities are performed generating an overall turnover above EUR 88,500 (RON 300,000), a VAT registration obligation would arise, also triggering VAT compliance and reporting obligations. Considering the method by which the VAT registration threshold is determined, the VAT registration obligation arises once a taxable transaction is performed (even immaterial in value). The obligation to register does not arise if a person provides only exempt supplies without an input VAT deduction right (e.g. the provision of financial services).

Based on the Romanian Fiscal Code, educational activities listed by the specific law on national education, the professional training of adults, as well as supplies of services and goods closely related thereto are VAT exempt provided that the supplier is a public institution or other authorised body (under certain conditions). Hence, educational activities are either VAT exempt without credit or subject to 19% VAT (if the conditions for applying the VAT exemption are not met).

Student financing could be VAT exempt without credit (if seen as a standalone financing operation or as part of the taxbase for the supply of VAT exempt educational activities) or subject to 19% VAT (if seen as part of the taxbase for the supply of taxable educational activities).

One should further analyse the VAT regime applicable to student financing based on the overall facts and relevant contracts, in order to determine if the student financing provided to individuals in the case at hand should be seen as granting a credit (a VAT exempt operation without deduction right) or deferral of payment ancillary to the educational activities (following the same VAT treatment as the educational activities, either VAT exempt without credit or taxable). In this respect, it would also be relevant as to whether any remuneration is received by the provider for the payment deferral from its client (the student) or a third party (the body dealing with the programme). The lack of specific remuneration directly linked to a distinct financing operation may indicate that the operation should bear the same VAT regime as the underlying supply (educational activities).

## 15. Spain

**General overview**

There is no special tax regime connected to the provision of student financing in Spain. Student financing schemes are considered to be a standard provision of financial services. The Spanish tax law does not contain any special provisions/regulations for either a deferral of payment or income share agreement scheme.

From the perspective of the non-traditional intermediaries, no other Spanish taxes besides CIT and VAT should apply on the student financing activities.

The Spanish CIT Law includes a partial exemption regime for ‘qualifying’ non-profit entities and institutions such as foundations (Law 49/2002 special regime), associations and non-profit organisations; public and private universities and education centres are eligible for this exemption regime, subject to specific legal conditions. Qualifying entities carrying business activities with a profit purpose are taxable under the general CIT rules but can apply for the special tax regime if certain conditions are met. Broadly, under the special regime:

- income from qualifying activities is generally exempt.
- the tax rate is reduced to 10% for income derived from non-qualifying activities.

There is no VAT regime for students financing activities specified in the Spanish VAT law and, thus, general VAT rules should apply. VAT is levied only on activities carried out by entrepreneurs, legal entities are deemed to be entrepreneurs and the supply of services will be subject to VAT. The standard VAT rate is 21% and is applicable to most supplies of goods and services.

Student financing activities under the deferral of payment or at the income share agreement should be exempt for VAT purposes. These transactions should fall under the definition of financial services.

**Deferral of payment**

Repayment of the principle (funds repaid by the student) in the case of student financing in the form of payment deferral is generally booked via balance sheet accounts and, thus, does not represent a taxable income for Spanish CIT. Any profit from a provided student financing booked as revenue via P&L accounts is generally taxable income for CIT purposes falling under 25% tax rate. However, income derived by qualifying entities under Law 49/2002 special regime will be tax exempt, non-qualified income will be subject to a 10% CIT rate.

Provision of financial services in the form of payment deferral should be treated as a supply exempt from VAT. Accordingly, the recovery of input VAT will be limited based on the number of activities exempt from VAT (e.g. financing, financial services).

**Income share agreement**

From the perspective of Spanish CIT and VAT, student financing in the form of an income share agreement scheme has a similar tax treatment/regime applicable for the financing providers as student financing in the form of deferral of payment.

Similarly to profit from deferral payment scheme (e.g. interest), any profit from income share agreement scheme (e.g. multiple) should be reflected in P&L and included in the Spanish CIT base.

**General guidance for providers**

Spanish tax resident companies are subject to Spanish CIT on their worldwide income derived in the fiscal year and regardless of the nature of the income so recognised (i.e. capital gains, rental income, interest income, etc.); hence, there are no different income baskets. The standard CIT rate is 25%.

Law 49/2002, of 23 December 2002, includes a special tax exemption regime for certain types of entities such as foundations, associations, and non-profit organisations; public and private universities and education centres are eligible to this exemption regime provided that the relevant conditions are met. This regime is voluntary, and the taxpayers shall formally opt for its application.

Qualifying entities carrying business activities with a profit purpose are taxable under the general CIT rules. Income derived from student financing activities that derives from qualified business activities will be exempt from CIT; expenses connected with exempt income are not deductible. Also, the CIT rate is reduced to 10% for non-qualifying activities.

There is no specific compliance obligation associated with providing student financing in the form of either a payment deferral or income share agreement in Spain.

Spanish CIT taxpayers are required to file a CIT return on a yearly basis (for each tax period) within the 25 calendar days immediately following the six-month period after the end of the tax period (from 1 July to 25 July if the Company's tax period matches with a calendar year).

Spanish taxpayers are allowed to create tax-deductible provisions to bad debt (i.e. in the case of a defaulted student financing transaction) receivables should certain conditions be met. Bad debt receivables that are written off for Spanish GAAP purposes (i.e. an expense is recorded from accounting purposes) will be deductible for CIT purposes in certain conditions. This approach applies in the case of student loans repayments that are more than six months overdue and are not covered by the InvestEU Skills & Education Guarantee programme.

There is no special VAT regime for student financing activities specified in the Spanish VAT law. Generally, Spanish tax resident corporations shall be regarded as taxable persons for VAT purposes.

Provision of student financing in the form of either a deferral of payment or income share agreement is regarded as financial services for Spanish VAT purposes. Financial services are generally exempt from VAT; accordingly, the recovery of input VAT may be partially or totally limited.

There is no specific VAT compliance obligation associated with providing student financing in Spain. Entities providing student financing services should generally be registered for VAT purposes and subject to general VAT compliance obligations.

If the principal is not expected to be repaid, a provision for bad debt may be formed or a write off may be performed. Generally, a bad debt VAT relief in line with the Spanish VAT Law should be allowed where the legal actions to recover the debt are unsuccessful or in the case of the bankruptcy or insolvency of the debtor. However, this rule does not apply in the case of VAT exempt services.

# Annex C – Applicable law (analysis of the regulatory requirements)

**Applicable Belgian law:**
Code of Economic Law

**Applicable Bulgarian law:**
Consumer Credit Act
Students and PhD Students Credit Act

**Applicable Croatian law:**
Consumer Credit Act – Official Gazette No. 75/2009 - 128/2022

**Applicable Czech law:**
Act No. 257/2016 Coll., on Consumer Credit

**Applicable French law:**
Law no. 2010-737 of 1 July 2010
Consumer Code
Civil Code
Monetary and Financial Code

**Applicable German law:**
Act on the Implementation of the Consumer Credit Directive
Civil Law Part of the Payment Services Directive
Reorganisation of the provisions on the Right of Withdrawal and the Right of Return (in German: *Gesetzes zur Umsetzung der Verbraucherkreditrichtlinie, des zivilrechtlichen Teils der Zahlungsdiensterichtlinie sowie zur Neuordnung der Vorschriften über das Widerrufs- und Rückgaberecht*)

**Applicable Greek law:**
Ministerial Decision Z1-699/2010

**Applicable Hungarian law:**
Act CLXII of 2009 on Consumer Credit
Decree No 56/2014 (XII. 31.) NGM
Government Decree 83/2010 (III. 25.)
Act CXXXIX of 2013 on the Hungarian National Bank
Government Decree 1/2012

**Applicable Irish law:**
European Communities (Consumer Credit Agreements) Regulations 2010
Consumer Protection Code 2012
Consumer Credit Act 1995

**Applicable Italian law:**
Legislative Decree No. 141
Legislative Decree No. 385/1993

**Applicable Lithuanian law:**
Law on Consumer Credit No. XI-1253
**Applicable Dutch law:**
Financial Supervisory Act
Student Financing Act 2000 (in Dutch: *Wet Studiefinanciering 2000*)
Civil Code (in Dutch: *Burgerlijk Wetboek)*
Decree on the conduct of financial undertakings (in Dutch *Besluit gedragstoezicht financiële ondernemingen*)

**Applicable Portuguese law:**
Decree-Law no. 133/2009, of 2 June, on Consumer Credit

**Applicable Romanian law:**
Government Emergency Ordinance no. 50/2010 on credit agreements for consumers
Government Emergency Ordinance no. 95/2022 regarding the approval of the governmental lending programmes 'StudentInvest' and 'FamilyStart'
Government Emergency Ordinance no. 99/2006 regarding credit institutions and capital adequacy
Law no. 93/2009 regarding non-banking financial institutions

**Applicable Spanish law:**
Law no. 93/2009 regarding non-banking financial institutions

# Annex D – Applicable tax law (tax analysis)

**Applicable Belgian law:**
Act of 10 April 1992 on Income Tax Code
Royal Decree of 27 August 1993 implementing the Income Tax Code
Act of 3 July 1969 on VAT Code

**Applicable Bulgarian law:**
Act No. 105/22.12.2006 on Corporate Income Tax Act
Act No. 63/4.08.2006 on Value Added Tax Act
Act No. 112/27.12.1995 on Higher Education Act
Act No. 95/8.12.2015 on Accounting Act
Act No. 48/18.06.1991 on Commerce Act

**Applicable Croatian law:**
Act No. 114/22 Coll., on Corporate Income Taxes
Act No. 33/23 Coll., on Value Added Tax
Act No. 114/22 Coll., on Financial Transactions and Accounting of Non-profit Organisations
Act No. 82/23 Coll., on Accounting

**Applicable Czech law:**
Act No. 586/1992 Coll., on Income Taxes
Act No. 235/2004 Coll., on Value Added Tax
Act No. 593/1992 Coll., on Reserves for determining the Income Tax Base
Act No. 563/1991 Coll., on Accounting

**Applicable Dutch law:**
Act No. BWBR0002672, Wet op de vennootschapsbelasting 1969
Act No. BWBR0002320, Algemene wet inzake rijksbelastingen
Act No. BWBR0002629, Wet op de omzetbelasting 1968

**Applicable French law:**
Code général des impôts (French tax code)
Plan comptable général (French General Chart of Accounts)
Livre des procédures fiscales (French tax procedure code)
Conseil d'Etat (French Supreme Tax Court)
Code de commerce (French commercial code)
BOI (French tax authorities guidelines)

**Applicable German law:**
KStG - Körperschaftsteuergesetz
Abgabenordnung
UStG - Umsatzsteuergesetz
KWG - Kreditwesengesetz
GewStG - Gewerbesteuergesetz
GrStG - Grundsteuergesetz
HGB - Handelsgesetzbuch

**Applicable Greek law:**
Act No. 4172/ 2013 - Income Tax Code
Act No. 2859/ 2000 - Value Added Tax Code
Act No. 54/2018 - General Government Accounting Standard
Act No. 4308/2014 - Greek Accounting Standard
Act of 28 July 1831 - Greek Stamp Duty Code
Circular POL. 1044/2015
Circular POL. 1123/2015
Circular POL. 1059/2015

**Applicable Hungarian law:**
Act C of 2000 on Accounting
Act LXXXI of 1996 on Corporate Tax and Dividend Tax
Act CXXVII of 2007 on Value Added Tax

**Applicable Irish law:**
Act No. 586/1992 Coll., on Income Taxes
Act No. 235/2004 Coll., on Value Added Tax
Act No. 593/1992 Coll., on Reserves for determining the Income Tax Base
Act No. 563/1991 Coll., on Accounting

**Applicable Italian law:**
Act No. 917/1986, on Income Taxes
Act No.. 633/1972, on Value Added Tax
Act No. 446/1997, on Regional Tax on Productive Activities,
Act No. 460/1997, on Non-Profit Entities,
Act No. 117/2017, on Non-Profit Entities,

**Applicable Lithuanian law:**
Act No. IX-675 on Corporate Income Tax
Act No. IX-751 on Value Added Tax

**Applicable Portuguese law:**
Act No. 442-B/88, of 30th November Coll., on Corporate Income Tax
Act No. 394-B/84, of 26th December Coll., on Value Added Tax
Act No. 150/99, of 11th September Coll., on Stamp Duty
Act No. 82-B/2014, of December 31st, on the regime of financial reporting communication
Act No. 55-A/2010, of December 31st, on banking sector contribution
Act No. 36/2021, of June 14, on a framework law on publicly beneficial status

**Applicable Romanian law:**
Act No. 227/2015 regarding the Fiscal Code
The Methodological Norms for the application of Law No. 227/2015 regarding the Fiscal Code, approved by Government Decision no. 1/2016

**Applicable Spanish law:**
Act No. 37/1992 of 28 December 1992, on Value Added Tax
Act No. 49/2002 of 23 December 2002, on associations and foundations
Act No. 27/2014 of 27 November 2014, regulating Corporate Income Tax
Royal Decree 1514/2007 of 16 November 2007, approving the General Accounting Plan

# Annex E – FX rates

| | |
|---|---|
| EUR/BGN | 1.95583 |
| EUR/CZK | 24.115 |
| EUR/RON | 4.9474 |
| EUR/HUF | 400.25 |