



Review of crowdfunding regulation and market developments for RES project financing in the EU

Unleashing the potential of Crowdfunding for Financing Renewable Energy Projects – CrowdFundRES

Osborne Clarke Germany – **September 2017**



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Partners



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I. Contributing Law Firms

I. Contributing Law Firms

Contributing law firms

- Austria – Tonninger Schermaier Maierhofer & Partner Rechtsanwälte
- Belgium – Thales Attorneys
- Bulgaria – Boteva & Kantutis Law Office
- Croatia – Babic & Partners
- Czech Republic – Kinstellar
- Cyprus – Neocleous
- Denmark – Gorrissen Federspiel

I. Contributing Law Firms

Contributing law firms

- Estonia – Sorainen
- Finland – Castren & Snellman Attorneys Ltd.
- France – Osborne Clarke France
- Germany – Osborne Clarke Germany
- Greece – Zepos & Yannopoulos
- Hungary – Kinstellar
- Ireland – Matheson

I. Contributing Law Firms

Contributing law firms

- Italy – Osborne Clarke Italy
- Latvia – Sorainen
- Lithuania – Sorainen
- Luxembourg – SJL Sedlo Jimenez Lunz
- Malta – Chetcuti Cauchi
- The Netherlands – FG Lawyers
- Poland – Wardynski & Partners

I. Contributing Law Firms

Contributing law firms

- Portugal – Sousa Machado, Ferreira da Costa & Associados
- Romania – Radulescu & Musoi Attorneys at Law
- Slovak Republic – Kinstellar
- Slovenia – Jadek & Pensa
- Spain – Osborne Clarke Spain
- Sweden – Hellström Advokatbyrå KB
- United Kingdom – Osborne Clarke UK

II. Summary / Dos and Don'ts

II. Summary

Country	Regulation		Prevailing Crowd-funding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Austria	✓	✓	equity	34%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Establishment of a legal basis for the financing of SMEs through Crowdfunding and citizen participation models. • Reduced regulation of the Crowdfunding platform. <p><u>RES:</u></p> <ul style="list-style-type: none"> • - 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Limitation of investment per investor per project, except professional investors. <p><u>RES:</u></p> <ul style="list-style-type: none"> • Increased regulation for new RES Projects discouraging small project developers and citizens participating in projects.

II. Summary

Country	Regulation		Prevailing Crowdfunding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Belgium	✓	✓	donation / reward	13%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Increase of thresholds under the Prospectus Act. • Exemption from most financial regulatory requirement and limitations under these thresholds. • No over-regulation of Crowdfunding Platforms. <p><u>RES:</u></p> <ul style="list-style-type: none"> • Preferential grid access • Support to various funding schemes adapted per sector in function of efficiency • Incentives for decentralised electricity generation and usage 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Thresholds for public offers are to low and limitation of allowed investment per investor even more so—not competitive in compared to other EU countries. EU harmonisation required. • Exemption from prospectus Act for cooperatives to be available to all cooperatives and not only subject to adhering to the too stringent regime applicable to registered cooperatives <p><u>RES:</u></p> <ul style="list-style-type: none"> • Stringent environmental and townplanning regulation hampering development of RES Projects due amongst other to NIMBY reactions. • Oversubsidizing less performant RES Project sectors in the absence of general renewable efficiency policy.

II. Summary

Country	Regulation		Prevailing Crowdfunding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Bulgaria	X	✓	donation / reward	16%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Adoption of explicit legal regulation of Crowdfunding in Bulgaria which shall set clear and simple rules and procedures • Measures for protection of the investors in Crowdfunding projects should be adopted • Measures for increase of people's trust in Crowdfunding projects should be taken having in mind the impact of the financial pyramid schemes which have caused substantial turbulence in Bulgaria and in the other Balkan countries in the 90s. <p><u>RES:</u></p> <ul style="list-style-type: none"> • Adoption of explicit legal regulation of Crowdfunding in Bulgaria which shall set clear and simple rules and procedures • Incentives for RES Projects • Adoption of citizen participation models for small RES Projects by explicit and simple rules 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Lack of legal framework, including clear rules about the protection of intellectual property over the Crowdfunding projects exposed in Bulgarian platforms, clear contractual rules between the platforms and the investors. • Decrease of the administrative burden for the investors and the business, including licensing exemption in certain cases. <p><u>RES:</u></p> <ul style="list-style-type: none"> • Lack of clear and simple rules • Lack of transparency in the Bulgarian energy sector • Lack of predictability for the investments in the RES Projects • Lack of control over the state authorities as regards proper implementation of the RES Projects in Bulgaria.

II. Summary

Country	Regulation		Prevailing Crowdfunding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Croatia	X	√	donation / reward	20%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • more legal certainty needed regarding Crowdfunding in Croatia <p><u>RES:</u></p> <ul style="list-style-type: none"> • system of incentives and additional benefits has certain effects, the premium prices as an instrument should contribute to a more market – oriented approach • further involvement of energy cooperatives 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • proper regulation must first be set forth in order to asses possible pitfalls <p><u>RES:</u></p> <ul style="list-style-type: none"> • complicating submissions for incentives • having unilateral bylaws and regulation which do not take into consideration different potentials of market actors, therefore discouraging the small and medium sized to participate

II. Summary

Country	Regulation		Prevailing Crowd-funding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Cyprus	X	✓	donation / reward	13%	<u>Crowdfunding:</u> <ul style="list-style-type: none"> There are no lessons that can be learned from Cyprus <u>RES:</u> <ul style="list-style-type: none"> There are no aspects that should be avoided that can be learned from Cyprus 	<u>Crowdfunding:</u> <ul style="list-style-type: none"> There are no lessons that can be learned from Cyprus <u>RES:</u> <ul style="list-style-type: none"> There are no aspects that should be avoided that can be learned from Cyprus

II. Summary

Country	Regulation		Prevailing Crowd-funding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Czech Republic	X	✓	donation / reward	13%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Light regulation of Lending Model and Rewards Model <p><u>RES:</u></p> <ul style="list-style-type: none"> • No special regulation of the RES Projects Crowdfunding 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Strict requirements of investor protection which do not take account of special features of Crowdfunding • Equity Model: certain administrative steps require written form and may not be completed electronically <p><u>RES:</u></p> <ul style="list-style-type: none"> • No exemptions applicable to Crowdfunding with respect to RES Projects

II. Summary

Country	Regulation		Prevailing Crowdfunding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Denmark	X	✓	donation / reward	35%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Disclosure of guidance for both investors and plat-form owners • Offering of guarantees <p><u>RES:</u></p> <ul style="list-style-type: none"> • Introduction of purchase scheme for local residents • Guarantee of borrowings related to the financing of feasibility studies for new wind projects • Subsidies given for establishment of test and demonstration facilities for new sustainable facilities 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • The lack of implementation of specific regulation of crowdfunding <p><u>RES:</u></p> <ul style="list-style-type: none"> • -

II. Summary

Country	Regulation		Prevailing Crowd-funding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Estonia	X	✓	lending	25%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> Considering the legal uncertainty on crowdfunding regulation in Estonia, it is impossible to make an assessment. <p><u>RES:</u></p> <ul style="list-style-type: none"> Financial incentives for renewable energy generation Simple, transparent and stable regulation 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> Considering the legal uncertainty on crowdfunding regulation in Estonia, it is impossible to make an assessment. <p><u>RES:</u></p> <ul style="list-style-type: none"> Insufficient level of regulation which gives TSOs too broad discretion over deciding exact conditions for connecting renewable energy production installations with the grid.

II. Summary

Country	Regulation		Prevailing Crowd-funding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Finland	X	√	equity / lending	38%	<u>Crowdfunding:</u> <ul style="list-style-type: none"> • Reduced regulation of the Crowdfunding platform. <u>RES:</u> <ul style="list-style-type: none"> • Facilitated access to electricity network. 	<u>Crowdfunding:</u> <ul style="list-style-type: none"> • - <u>RES:</u> <ul style="list-style-type: none"> • Contradictory guidance values regarding wind power noise-levels.

II. Summary

Country	Regulation		Prevailing Crowdfunding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
France	✓	✓	equity / rewards	23%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Specific statuses for crowdfunding operators less constraining and less costly than for other regulated activities, • Transparency and information obligation binding on the platforms towards the investors/donors, • Labelling of the platforms to increase the public's confidence in the platforms, • Investors' protection: <ul style="list-style-type: none"> ○ Cap on maximum investments, funds raised, ○ Specific crowdfunding related exceptions to banking monopoly, ○ Specific crowdfunding related exceptions to prospectus requirements. ○ Tax incentives such as compensation of the financial losses. <p><u>RES:</u></p> <ul style="list-style-type: none"> • There are no lessons learned from France 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Regulating that Lending-based crowdfunding under two different statuses (non-convertible bonds treated as equity instruments) • Imposing that Equity Model only provide for investment of the investors in mere shares(not preferred shares or convertible bonds), • Not adapting the proxy advisor regulations to companies financed by way of offering of shares on Equity Model platforms, • Limit tax incentives to loans only (not applicable to crowdlending supported by bonds). <p><u>RES:</u></p> <ul style="list-style-type: none"> • There are no aspects that should be avoided.

II. Summary

Country	Regulation		Prevailing Crowdfunding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Germany	✓	✓	lending	18%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> exception of Crowdfunding from most regulatory requirements (in particular prospectus requirement) three-page fact sheet (<i>Vermögensanlageninformationsblatt – VIB</i>) for investors reduced regulation of the Crowdfunding platform unlimited investment amounts for "professional" investors <p><u>RES:</u></p> <ul style="list-style-type: none"> preferential grid access and marketing of renewable energy generation with cost leverage mechanism on Federal level incentives for decentralised electricity generation and usage 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> limitation of the Crowdfunding Exception only to (profit-participating) subordinated loans (<i>partiarische Nachrangdarlehen</i>) or commercially comparable investments (<i>wirtschaftlich vergleichbare Anlagen</i>) limitation of EUR 1.000 per investor without additional statements regarding income / wealth for retail investors – should be increased. ban of combination (<i>Kombinationsverbot</i>) – makes parallel investments of professional investors and the Crowd difficult <p><u>RES:</u></p> <ul style="list-style-type: none"> increased regulation for new RES Projects, e.g. by implementation of a challenging public tender mechanism delay of implementation of a green electricity market model

II. Summary

Country	Regulation		Prevailing Crowdfunding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Greece	X	✓	donation / reward	18%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> exception of Crowdfunding from most regulatory requirements (in particular prospectus requirement) reduced regulation of the Crowdfunding platform especially regarding instruments or investments, which do not constitute securities <p><u>RES:</u></p> <ul style="list-style-type: none"> sustainable funding system to enable project financing of RES projects reliability of source of extra funding (i.e. currently market operator, LAGIE) to provide certainty for investment reasonable (not excessive) return on investment 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> limitation of EUR 1.000 per retail investor – it should be increased <p><u>RES:</u></p> <ul style="list-style-type: none"> increased regulation for new RES Projects retroactive implementation of laws (i.e. reduction of feed in tariffs) decreasing investor confidence implementation of new laws affecting turnover of project (i.e. recent law on additional charges to RES projects to compensate for interruptible supply) new stricter requirements for RES Projects (bureaucracy, financing etc.) which could reduce the number of participants in the market and consolidate the market to the hands of a few big players

II. Summary

Country	Regulation		Prevailing Crowdfunding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Hungary	X	√	donation / reward	14%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • There are no "do" recommendations in respect of the Hungarian legal framework <p><u>RES:</u></p> <ul style="list-style-type: none"> • - 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Lack of detailed regulations applicable to Crowdfunding methods should be avoided <p><u>RES:</u></p> <ul style="list-style-type: none"> • -

II. Summary

Country	Regulation		Prevailing Crowdfunding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Ireland	X	√	lending	16%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> The harmonisation would bring the protections applicable to investors in or consumers of other financial products into the Crowdfunding space. "Fintech" is becoming an increasingly important area of focus for business and regulatory attention which provides an opportunity to encourage a standardised approach across the common market Consideration for internal Member State company law positions <p><u>RES:</u></p> <ul style="list-style-type: none"> Increased integration of the wholesale market Pan-European approach to grid planning 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> Over-regulation leading to a lack of innovation and ability to adapt which sets Crowdfunding apart from traditional products. Ensuring that Crowdfunding regulation does not have the unintended effect of bringing it into scope of existing member state regulatory regimes <p><u>RES:</u></p> <ul style="list-style-type: none"> Delay in the introduction of the European Target Market.

II. Summary

Country	Regulation		Prevailing Crowdfunding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Italy	✓	✓	donation/reward	17%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Specific regulation on Crowdfunding • Exception from publishing a prospectus • Short investment memorandum for investors. • <p><u>RES:</u></p> <ul style="list-style-type: none"> • Complete the regulatory framework for electrical storage • Publish new non PV RES incentive scheme • Publish the new white certificates guidelines 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Limitation to specific type of companies for Crowdfunding • Limitation of EUR 5 Mio. for Crowdfunding investments <p><u>RES:</u></p> <ul style="list-style-type: none"> • Increase the grid related costs for energy generated locally and not withdrawn from the grid.

II. Summary

Country	Regulation		Prevailing Crowd-funding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Latvia	X	√	-	40%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • There is no special regulation governing Crowdfunding in Latvia <p><u>RES:</u></p> <ul style="list-style-type: none"> • Development of new state aid support systems for RES • Increase development possibilities for RES projects 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • There is no special regulation governing Crowdfunding in Latvia. <p><u>RES:</u></p> <ul style="list-style-type: none"> • Delay of implementation of new law on RES and related state aid mechanisms • Implementation of state aid support system that would impact the electricity prices for the electricity end users

II. Summary

Country	Regulation		Prevailing Crowd-funding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Lithuania	X	√	-	23%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> Considering the legal uncertainty on Crowdfunding regulation, it is impossible to make an assessment. <p><u>RES:</u></p> <ul style="list-style-type: none"> As the new Lithuanian National Energy Strategy will highlight the problems that Lithuania is facing in the field of RES projects regulations and will show what developments could be expected in the near future, it is impossible to make an assessment. 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> Considering the legal uncertainty on Crowdfunding regulation, it is impossible to make an assessment. <p><u>RES:</u></p> <ul style="list-style-type: none"> As the new Lithuanian National Energy Strategy will highlight the problems that Lithuania is facing in the field of RES projects regulations and will show what developments could be expected in the near future, it is impossible to make an assessment.

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Country	Regulation		Prevailing Crowd-funding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Luxembourg	X	✓	-	11%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> As there is currently no crowdfunding platform operating in Luxembourg, there are no lessons learned from Luxembourg <p><u>RES:</u></p> <ul style="list-style-type: none"> There does not exist any relevant RES regulation with regards to Crowdfunding in Luxembourg. 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> As there is currently no crowdfunding platform operating in Luxembourg, there are no aspects that should be avoided <p><u>RES:</u></p> <ul style="list-style-type: none"> There does not exist any relevant RES regulation with regards to Crowdfunding in Luxembourg.

II. Summary

Country	Regulation		Prevailing Crowd-funding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Malta	X	√	donation / reward	10%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> Reduced regulation in order to enhance investment through Europe and assist the intention behind the Capital Markets Union. <p><u>RES:</u></p> <ul style="list-style-type: none"> <u>N/A</u> 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> Onerous regulation which is not proportionate to the size of firms seeking funding. <p><u>RES:</u></p> <ul style="list-style-type: none"> <u>N/A</u>

II. Summary

Country	Regulation		Prevailing Crowdfunding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Netherlands	X	✓	lending	14%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Develop a harmonized European Crowdfunding regulation for Lending model and Equity model by means of a regulation rather than a directive. • Provide clear (broad) definitions for the Crowdfunding models and the relevant market parties. • The regime should provide for the requirement to obtain license for the platform only and provide for the possibility to easily passport it into other Member States. • Crowdfunding investments should be tradable without the platform be-coming subject to another regulatory regime. • Exceptions to license requirement in the event of certain conditions • No regulatory requirements applicable if the Donations or Rewards models are used subject to the above mentioned minimum set of rules. • No regulatory requirements applicable to the fundraiser (or the investor) except those to enable the platform to abide by the rules applicable to the platform. <p><u>RES:</u></p> <ul style="list-style-type: none"> • Crucial so far have been the provisions in the RES Directive as it has led to some sort of guaranteed access and more streamlining of administrative procedures. • The support schemes for RES. 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Limit the possibility for platforms to scale up and expand its business in other Member States. • Limit the possibility of tradability of Crowdfunding assets. <p><u>RES:</u></p> <ul style="list-style-type: none"> • The Dutch feed-in regime is 'national oriented' and has as effect that it is not possible to feed in a network of another Member State. This limits cross-border projects. • The Netherlands has not made use of the mechanisms included in the RES Directive for statistical transfer, joint support schemes and joint projects.

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	CF	RES			"Dos"	"Don'ts"
Poland	X	√	equity	15%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • exemptions from licencing for all types of Crowdfunding platforms in the Trading in Financial Instruments Act as well as in the Payment Services Act • exemption for project initiators from the prospectus requirement if the public offering is made through a Crowdfunding platform with a threshold of EUR 1,250,000 per issuer within 12 months • adapt existing regulations to the specific characteristics of Crowdfunding <p><u>RES:</u></p> <ul style="list-style-type: none"> • exempting smaller RES installations from regulatory requirements • ensuring grid connection priority for RES installations • preferential treatment of RES energy, especially as regards production from smaller RES installations 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • refrain from overly comprehensive regulation of Crowdfunding at this stage <p><u>RES:</u></p> <ul style="list-style-type: none"> • overregulation of RES Projects • instability and frequent changes of RES regulation and support systems

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Country	Regulation		Prevailing Crowd-funding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Portugal	√	√	donation / reward	32%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Possibility to implement the lending and equity models due to the approval of the Crowdfunding new legal regime. <p><u>RES:</u></p> <ul style="list-style-type: none"> • New legal regime applicable to Small Production Units has simplified the licensing procedures. The production units up to 1MW is only subject to prior registry (and needs an exploitation certificate). 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • CMVM project of regulation establishes investment limits to the investors with an income of less than EUR 100.000,00 • The project of Regulation also establishes a maximum limit for fund raising through Crowdfunding per each 12 months (by a single offer or by the total of offers within the European Union: EUR 1 Mio. Except if the offers are subscribed only by companies or investors with an income of EUR 1 Mio or more, in which case, the maximum limit will be of EUR 5 Mio. <p><u>RES:</u></p> <ul style="list-style-type: none"> • The new remuneration regime of Decree-law nr. 153/2014 dated October 20, establishes that the Producer must "deliver the entire energy produced in the UPP, net from the consumption of auxiliary services". It should also clarify the procedure in the event the energy consumed by auxiliary services is higher than the energy produced by the UPP.

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Country	Regulation		Prevailing Crowd-funding model	Share of renewable energy (target 2020)	Lessons learned	
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Romania	X	√	donation	24%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> Certain limitations on investment amounts protect the interest of small investors. <p><u>RES:</u></p> <ul style="list-style-type: none"> Opening of the GCs support scheme to imports of RES coming from other Member States to be implemented. 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> Regulation at European Union level should concentrate on removal of existing barriers between the member States. <p><u>RES:</u></p> <ul style="list-style-type: none"> Changes to the existing regulation to be implemented less frequently

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Slovakia	X	√	-	13%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> The new Public Collections Act – easy regulatory framework for publically beneficial purposes Crowdfunding <p><u>RES:</u></p> <ul style="list-style-type: none"> Preferential grid access and distribution; off-take and balancing by the DSOs 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> No clear regulatory and legal position on Crowdfunding in Slovakia; No explicit exemption of Crowdfunding from comprehensive regulation under the Securities and Investment Services Act, the Collective Investment Act and the Payment Services Act – only extensive interpretation of the relevant exemptions may lead to their application which still remains uncertain due to no practice standards. <p><u>RES:</u></p> <ul style="list-style-type: none"> Increased administrative constraints of RES Projects willing to benefit from the support scheme; Constant change of the eligibility conditions for support scheme; Uncertainty about the future of RES support scheme.

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Country	Regulation		Prevailing Crowd-funding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Slovenia	X	✓	donation / reward	26%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Portion of personal income tax may be donated by taxpayer to qualified recipients • Prospectus requirement exceptions based on threshold amount raised work for start-up companies <p><u>RES:</u></p> <ul style="list-style-type: none"> • Easily accessible information on the benefits of RES as well as ongoing RES support schemes/ public tenders (use of online platforms) 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Lack of crowdfunding-specific exceptions/ regulation <p><u>RES:</u></p> <ul style="list-style-type: none"> • Relying solely on public funds and public tenders to support RES Projects • Delays in implementing legislative changes

II. Summary

Country	Regulation		Prevailing Crowd-funding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Spain	✓	✓	donation / reward	20%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Unlimited investment amounts for "professional" investors. • Exception of Crowdfunding from the prospectus requirement. • Solid alternative to bank financing for entrepreneurs. <p><u>RES:</u></p> <ul style="list-style-type: none"> • Plans to encourage greater citizen participation. • Specific regulation in relation to RES projects 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Limitation of EUR 5 million maximum obtained by each project. • Limitation in the amount of investment for the non-accredited investors. • Strict financial requirements applied to Crowdfunding platforms. <p><u>RES:</u></p> <ul style="list-style-type: none"> • The amounts should not be restricted

II. Summary

Country	Regulation		Prevailing Crowd-funding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
Sweden	X	√	equity	50%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Fact sheet requirements for consumer protection • Credibility check on project owners • Amend the share spreading prohibition in the Companies Act to allow Crowdfunding <p><u>RES:</u></p> <ul style="list-style-type: none"> • Grid priority for renewable energy 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • Legislate any MiFID or prospectus requirements • Raise the limit of prospectus requirement from 2.5 million to 5 million • Harmonise the Swedish Payment Service Act <p><u>RES:</u></p> <ul style="list-style-type: none"> • Increased regulatory requirements

II. Summary

Country	Regulation		Prevailing Crowd-funding model	Share of renewable energy (target 2020)	Lessons learned	
	CF	RES			"Dos"	"Don'ts"
United Kingdom	√	√	equity	15%	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • "Light touch" regulation for crowdfunding platforms overall and in comparison to some other European jurisdictions. • Securities-based crowdfunding is able to operate under the existing regulatory regime • New regulated activity introduced for loan-based crowdfunding was established • The proposed inclusion of peer-to-peer loans (from April 2016) and debt-based securities (implementation date unknown as yet), will encourage individuals to lend in return for significant tax benefits on profits. <p><u>RES:</u></p> <ul style="list-style-type: none"> • Subsidies for renewable electricity and heat. • Legally binding climate change target – to reduce greenhouse gas emissions by at least 80% by 2050. 	<p><u>Crowdfunding:</u></p> <ul style="list-style-type: none"> • No "light touch" regime available for the financial promotion of crowdfunding opportunities through the medium of social media, which does not naturally lend itself to extensive risk warnings. • Lack of exemptions for Consumer Credit Lending • Increasing perception of crowdfunding platforms as comparative to alternative investment funds. <p><u>RES:</u></p> <ul style="list-style-type: none"> • Early reductions in subsidies for renewable electricity. • Renewable energy projects are not prioritised over conventional power when connecting to the electricity network.

III. Key Findings

III. Key Findings*

- RES project financing by Crowdfunding is more developed in Western Europe
- the market for RES Crowdfunding is at a very early stage in Eastern Europe
- 17 of 28 member states have Crowdfunding platforms which (also) present RES Projects
 - 9 of these member states have Crowdfunding platforms specialized exclusively on RES Projects
 - Germany, UK, France, Italy, Austria, Portugal, Spain, Netherlands, Finland
- ~~2 of 28~~ **now all** member states ~~do not have any~~ Crowdfunding platforms ~~at all~~ **
 - ~~Slovenia and Lithuania~~

* All statements are based on contributions if and as far as contributors provided input on the respective focus area.

** The data results from a web research dated 19 September 2017

III. Key Findings

- 8 (10)* of 28 member states have implemented a specific Crowdfunding regulation
→ Germany, UK, France, Italy, Spain, Belgium, Austria, Netherlands, **Finland and Lithuania**
- 5 (6)* of these 8 (10)* member states have structured this Crowdfunding regulation by means of a "Crowdfunding exception" which exempts Crowdfunding from (some or most) of the regular regulation
→ Germany, France, Italy, Spain, Belgium, **Lithuania**
- the other 3 (4)* member states opted for other solutions
→ in the Netherlands and the UK the specific Crowdfunding regulation (that applies in addition to the regular regulation) is left to administrative provisions published by the respective financial supervisory authorities (AFM/FCA)
→ Austria addresses Crowdfunding with a specific Crowdfunding Act providing for a legal framework for SMEs seeking for funding as well as Crowdfunding platforms (Alternative Financing Act)
→ **likewise Finland (Crowdfunding Act entered into force on 1 September 2016) enhances the growth of SMEs and the regulation of platforms, but no P2P lending***
- also the Eastern Europe member states have taken or plan steps to implement specific Crowdfunding Regulation – **especially Lithuania (Law on Crowdfunding entered into force on 1 December 2016)***
- donations and rewards model is prevailing in the Eastern Europe member states

* The data results from a web research dated 19 September 2017

III. Key Findings

- 3 Eastern Europe member states have small RES projects where Crowdfunding platforms were utilised as financing mechanism
→ Croatia, Estonia, Romania
- most member states without specific Crowdfunding regulation apply regular financial services regulation
→ Crowdfunding often does not fit properly into persisting regulatory regimes
- thresholds for exception from prospectus requirement very diverse throughout EU
→ e. g. EUR 100,000 in Greece, EUR 300,000 in Belgium, EUR 1 Mio. in France, EUR 2.5 Mio. in Germany/the Netherlands, EUR 5 Mio. in Italy/UK
- scope of exception from prospectus requirement also very diverse in EU, e. g.
→ exception in Italy only applicable to particular equity investments
→ exception in France/Belgium only applies to specific equity and lending instruments
→ exception in Germany is limited to specific lending instruments

III. Key Findings

- All member states implemented a renewable energies regulation
- Grid Access
 - In most member states, operators of RES power plants are not given priority in grid connection vis-à-vis conventional power plant operators
 - In the remaining member states operators of RES power plants can benefit from a priority in grid
- Feed-in of power into the grid
 - In approximately half of the member states, grid operators are obliged to take-off and prioritise the power produced in RES power plants (priority in dispatch) over the power produced in conventional power plants
 - In the other member states the principle of non-discrimination applies
- Subsidy system
 - Nearly all member states provide for a subsidy regime in favour of RES power
 - However, the regimes vary to a large extent
- Tender regimes
 - The implementation of tender systems for RES power capacities eligible for promotion has so far not been executed in many member states
- Update 2017
 - Since 2016, further member states implemented tendering schemes as sole or prior mechanism for renewable funding, also as consequence of Commission's Guidelines on State aid for Environmental Protection and Energy
 - Based on the Commission's Winter Package (proposals dated 30 November 2016), cross-border initiatives and interdependencies of systems and markets and harmonisation of renewable energies regulation throughout EU will increase